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Senate

The Senate met at 8:30 a.m. and was called to order by the President pro tempore (Mr. STEVENS).

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Eternal Spirit, remind us that the things that unite us are stronger than the forces that divide as You give us discipline for today.

Help us to discipline our desires, that we will live without regrets.

Help us to discipline our appetites, that we will avoid the pitfalls of self-indulgence.

Help us to discipline our speech, that our words will build up and not tear down.

Help us to discipline ourselves in our work, that we will focus on pleasing You.

Help us to discipline ourselves in our pleasure, that we will honor You even with our laughter.

Help us to discipline even our thoughts, that the meditations of our hearts will be acceptable to You.

Strengthen the Members of this body with the discipline to do Your will.

We pray this in Your strong Name. Amen.

PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

DEFICIT REDUCTION OMNIBUS RECONCILIATION ACT OF 2005

The PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of S. 1932, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1932) to provide for reconciliation pursuant to section 202(a) of the concurrent resolution of the budget for fiscal year 2006 (H. Con. Res. 95).

Pending:

Gregg (for Frist/Gregg) amendment No. 2347, to provide amounts to address influenza and newly emerging pandemics.

Conrad amendment No. 2351, to fully reinstate the pay-as-you-go requirement through 2010.

Enzi modified amendment No. 2352, to provide elementary and secondary education assistance to students and schools impacted by Hurricane Katrina and to lower origination fees.

Lincoln amendment No. 2356, to provide emergency health care and other relief for survivors of Hurricane Katrina.

Inhofe/Chambliss amendment No. 2355, to cap non-defense, non-trust-fund, discretionary spending at the previous fiscal year's level, beginning with fiscal year 2007.

Nelson (FL) amendment No. 2357, to hold Medicare beneficiaries harmless for the increase in the 2007 Medicare monthly part B premium that would otherwise occur because of the 2006 increase in payments under the physician fee schedule.

The PRESIDENT pro tempore. Under the previous order, the time until 6 p.m. shall be equally divided between the Senator from New Hampshire, Mr. GREGG, and the Senator from North Dakota, Mr. CONRAD.

Mr. REID. Mr. President, I know the majority leader is here to be recognized. I ask through the Chair to the distinguished majority leader if I could be recognized for a minute or two prior to his recognition. I know he has a right to do that.

Mr. FRIST. Mr. President, I would be happy to yield.

THE CHAPLAIN'S LOSS

Mr. REID. Mr. President, simply what I want to say is we have our Chaplain, whom I have grown to care a great deal about. He is part of the Senate family. He counsels, he prays for us every day. He suffered a loss in his family in recent hours; he lost his brother. I want him on behalf of his Senate family to know our thoughts go out to him. I wish I had his ability to counsel and speak with him as he does with all of us. All I can say is my thoughts are with him and, recognizing his strong faith, I know he will pull through, but I know it will be difficult.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, this morning we will be getting an earlier start than normal in order to resume the deficit reduction bill. Senators GREGG and CONRAD have agreed to an order for the next couple of amendments. We will continue to debate throughout the course of the day. At 6 p.m. all time is expired under the order. The Senate will then debate the Agriculture appropriations conference report under the 2-hour time limit reached last night. The vote on that conference report will not occur this evening and we will set the time for that vote later.

On Thursday morning we expect to come in early and begin the voting sequence with respect to the pending amendments to the deficit reduction bill. When the pending amendments are disposed of, it is in order for Members to offer additional amendments. However, no debate is in order and we would immediately vote on those amendments. This is what we call affectionately—maybe not affectionately—the vote-arama. I urge my colleagues to show restraint throughout the course of both today and tomorrow with regard to the number of amendments we are going to be voting on. It is going to be an extremely long day tomorrow with consecutive votes and Senators will not be able to wander far from the Chamber. We want to stay within the time limits for those votes in order to expeditiously deal with

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

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each and every one of them in an efficient way. We will be finishing this bill either tomorrow around 6 o'clock or Friday morning, depending on how many votes we have.

Mr. President, I think at this juncture I yield the floor.

The PRESIDENT pro tempore. Who yields time?

The Senator from North Dakota.

Mr. CONRAD. Mr. President, for the information of our colleagues, Senator GREGG and I entered into a unanimous consent agreement that the first amendment to be considered today will be the amendment on the Alaska National Wildlife Refuge. The time will be controlled by Senator CANTWELL on our side.

The second amendment will be an amendment by Senators GRASSLEY and DORGAN on payment limits. The third amendment today will be an amendment by Senators LOTT and LAUTENBERG on Amtrak.

I want to say to my colleagues, given the events of yesterday, our schedule has been somewhat altered. It is going to be exceedingly difficult to get debate time on all of the remaining amendments, even the significant amendments. We have previously agreed that we will end debate at 6 p.m. today and then tomorrow go into a sequence of votes on the remaining amendments. So I say this by way of urging colleagues to show restraint with respect to the use of time so a maximum number of amendments can be considered and debated.

With that, I yield the floor.

The PRESIDENT pro tempore. The Senator from New Hampshire.

Mr. GREGG. Mr. President, we will be going to ANWR here in a second, and then we will go to the Grassley-Dorgan amendment, and then the Democratic leader of the bill will, I presume, compose an amendment and then we will go to the Lott amendment on Amtrak. Is that the understanding?

Mr. CONRAD. Yes. We have a unanimous consent agreement that is in place with respect to CANTWELL, GRASSLEY, LOTT.

Mr. GREGG. But the understanding is we should put somebody in——

Mr. CONRAD. With the understanding we will try to insert an amendment in between the second and third.

Mr. GREGG. As a matter of fairness, that is the only way to approach it.

At this time the Senator from Washington is ready to go and we can proceed.

The PRESIDENT pro tempore. The Senator from Washington

AMENDMENT NO. 2358

Ms. CANTWELL. Mr. President, I send an amendment to the desk.

The PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Washington [Ms. CANTWELL], for herself, Mr. FEINGOLD, Mr. DAYTON, Mr. LIEBERMAN, and Mr. KERRY, proposes an amendment numbered 2358.

The amendment is as follows:

(Purpose: To strike the title relating to the establishment of an oil and gas leasing program in the Coastal Plain)

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

Ms. CANTWELL. Mr. President, I rise in support of my amendment that I think would reverse efforts to manipulate the budget resolution process to pass what I believe is a controversial energy policy. This policy is so controversial it doesn't even meet the bar for what I think is reasonable legislation. It couldn't even gain the 60 votes needed in this body.

I think it is important that we have a continued debate on drilling in Alaska that meets the environmental and permit processes that any drilling in America would have to meet. And that is not what we are discussing in the underlying bill.

My amendment is cosponsored by Senators FEINGOLD, DAYTON, LIEBERMAN, KERRY, and others, and would prevent oil and gas exploration and drilling within the pristine Arctic National Wildlife Refuge.

I appreciate that this debate over the Arctic Refuge coastal plain has continued for more than 2 decades. I know the Presiding Officer and my other colleague from Alaska have spent many hours on this legislation. But this issue has continued to stir the passions of many and polarized communities across our country. That is because this debate is more than just about the Arctic Wildlife Refuge. It is not simply about protecting one of America's last remaining great treasures. Rather, it is a debate that forces us to confront our priorities. It forces us to ask basic critical questions: Where do we go from here on the future of our energy policy? What inheritance do we want to leave our children from an environmental perspective?

We all must realize that God only granted the United States less than 3 percent of the world's remaining oil reserves and we as Americans need to do more with our own ingenuity to become less dependent on foreign oil.

Imagine a future where we don't turn a blind eye to oppressive regimes in the Middle East only because they happen to control the majority of the world's remaining oil reserves, or a future where Americans can drive hybrid or hydrogen-powered SUVs that get 40, 50, or even 100 miles per gallon. That is how we want to see our future. That is how we are going to save consumers who are being hurt at the gas pump today by these unbelievably high prices.

In the future we want Americans to have the opportunity to enjoy and appreciate this unique part of Alaska. That is why I believe the amendment I am offering today talks about our national priorities. That is why this is too important a question to slide into the budget bill. This bill circumvents the processes for permitting and environmental safeguards.

It is ironic that if this legislation passes we will actually be opening up drilling in a wildlife refuge with less protections than any other drilling in any other site in America. So instead of going to greater extremes to protect a particular wildlife refuge, we are going to have the weakest standard. The American people expect more.

I hope my colleagues appreciate that there are many flawed assumptions inherent in this drilling proposal. The simple act of putting a policy on a budget bill itself, I believe, is disingenuous.

But that is not all because section 401 will almost certainly never raise the $2.4 billion that drilling proponents claim it will. That is because the measure presumes to generate these funds by splitting revenues between Alaska and the Federal Government on an even 50–50 basis. But I think my colleagues might be surprised to learn that this 50–50 legislative language may not hold up in court. We just don't know right now. We do know the State of Alaska has long maintained it is due 90 percent of all the natural resource development revenue generated from Federal land within its boundaries, and we know this remains a controversial issue. Some have suggested this proposed 50–50 split in this legislation is merely a ploy to win passage. Some have suggested that once it passes, it will be followed by a court battle from the State of Alaska to force the Federal Government into a 90–10 split of revenue. So this $2.4 billion the United States might receive would be a much different picture.

My colleagues may be interested to know that even in June of this year, the Alaska legislature passed a joint resolution. It stated:

The Alaska legislature opposes any unilateral reduction in royalty revenue from exploration and development of the coastal plain of the Arctic Wildlife Refuge in Alaska and any attempts that could coerce the State of Alaska into accepting less than 90 percent of the oil, gas, and mineral royalties from Federal lands in Alaska that was promised at statehood.

That is something that was passed by the Alaska legislature, showing us they have every intention to fight for a 90–10 split.

Later this week I will also offer an amendment that will get at this issue of trying to guarantee a 50–50 revenue split. I hope my colleagues will be recorded on that amendment and show they truly intend to have a 50–50 split and that this not just a ploy in which later the revenue scheme is changed.

I am also concerned that many Senators may not support my amendment because they believe drilling in the refuge can be done in an environmentally benign way. They actually believe we should move forward because they think drilling in ANWR can be done in a way that is environmentally sensitive.

I think they are wrong. There is no real way to sugarcoat the fact that the oil company records on the adjacent

Prudhoe Bay have been shameful. The facts speak for themselves.

According to the Alaska Department of Environmental Conservation, the Prudhoe Bay oilfields and Trans-Alaska Pipeline have caused an average of 504 spills annually—annually—on the North Slope since 1996. Through last year, these spills included more than 1.9 million gallons of toxic substances, most commonly diesel, crude oil, and hydraulic oil. It takes one spill to permanently destroy a section of this fragile arctic ecosystem. The people know this.

To quote an official from the North Slope city of Nuiqsut:

> Development has increased the smog, haze, and is affecting the health and the beauty of our land, sea, and air.

I can only imagine how devastating that must be for someone whose culture and experience is so invested in the vast open spaces and abundant wildlife.

The news media has reported widely on these issues of oil spills. 2 weeks ago, the Wall Street Journal, and many other papers, have reported on some serious allegations. They have uncovered evidence that indicates there has been intentional dumping of untreated toxic mud, a dangerous contaminated byproduct common to Arctic drilling.

We have seen reports that the owner of an alpine field was forced to pay an $80,000 fine for releasing 215 tons of excess carbon monoxide annually. And, yes, this is the same field that some of my colleagues visited last March, along with the Secretaries of Energy and the Interior. Yet it is not the pristine area. There is already evidence of pollution in that area. This is the same field my visiting colleagues characterize as the cleanest in the world. And I note the Alpine field is just 8 miles from Nuiqsut.

I also want the American people to know that the tradeoff for destroying our Nation's last great wild frontier will not be relief from skyrocketing gas prices. Our sacrifice will do little to decrease our reliance on foreign oils from countries that don't have our best intentions in mind. Here is why. The Energy Department's latest analysis estimates that even when the refuge oil hits peak production 20 years from now, it will lower gas prices by just one penny. A penny, Mr. President. That is not an estimate that I have come up with, that is the Department of Energy's own estimate.

That is not very impressive considering the fact that the constituents in my State of Washington are now paying twice as much for a gallon of gas as they did just 3 years ago.

I also urge my colleagues to vote for an amendment that my colleague from Oregon plans to offer. This legislation would prevent any of this oil from going to foreign markets, such as China. Senator WYDEN has pointed out to us and many others, including those in the State of Oregon, that there is no guarantee that the Arctic Refuge oil would ever be used in the United States.

So if my colleagues think if we pass this legislation that somehow it is going to help the United States in the crisis we are in now, the Department of Energy analysis of the very little effect and the fact that this oil will not be kept in the United States are two reasons to support my amendment instead.

Mr. President, the American people feel strongly about drilling in the refuge and other protected areas of our country. They want to know that the Senate is working to pass appropriate legislation that manages these unique areas in a forthright and open manner. Our Nation must continue to preserve and protect the entire Arctic National Wildlife Refuge.

I understand that some of my colleagues believe it is appropriate to sacrifice this area for what will amount to about 6 months' oil supply, but I think all Senators today agree that these are questions that are not part of a budget policy. They are more fundamental about the discussions of what our national energy policy should be and the future of our country.

I hope my colleagues will also begin to finally start focusing on energy policies to diversify off fossil fuel, to recognize that God gave us only 3 percent of the world's oil reserves and that the best interest of the United States is to diversify off fossil and plan for a future that lowers gas prices, plan for a future that makes us more secure on an international basis.

Mr. CONRAD. Will the Senator yield for a moment?

Ms. CANTWELL. Yes, I will.

The PRESIDENT pro tempore. The Senator from North Dakota.

Mr. CONRAD. I thank the Chair. May I inquire, has the amendment been submitted?

The PRESIDENT pro tempore. The amendment is currently pending.

Mr. CONRAD. The ANWR amendment has been submitted. Are we taking time off the amendment?

The PRESIDENT pro tempore. Yes, we are.

Mr. CONRAD. We are taking time off the amendment. I thank the Chair. I excuse the interruption.

The PRESIDENT pro tempore. The Senator from New Mexico.

Mr. DOMENICI. Is the Senator finished? I notice she is still standing.

The PRESIDENT pro tempore. Does the Senator from Washington maintain the floor?

Ms. CANTWELL. Mr. President, I don't know what the agreed-upon order is this morning, whether we are supposed to use an entire hour or if we are going back and forth. I am happy to have the debate go back and forth and yield to my colleague.

Mr. DOMENICI. I don't think there is any agreed-upon order.

The PRESIDENT pro tempore. The Senator from New Mexico is correct, there is no order pending.

Mr. DOMENICI. Is it correct that the Senator from New Mexico may proceed on the hour in opposition to the amendment at this point?

The PRESIDENT pro tempore. The Senator is correct, if the Senator from Washington yields the floor.

Ms. CANTWELL. I do.

The PRESIDENT pro tempore. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I have a number of Senators on this side of the aisle who wish to speak, and they certainly are going to have their turn. I thank the occupant of the chair for being here this morning.

Obviously, this is an issue that some people think is very important to the State of Alaska, and there is no question that it is. But this is an issue that is important to the American people. Every day Americans are worried about our future. We just saw hurricanes in the States of Alabama, Texas, Louisiana, and Mississippi shut down oil production in that part of the Nation. All of a sudden, America found out that when we have that much less oil—the amount that the hurricanes took off the market—everything happens for the worst for America.

I want to start with a simple proposition. The minimal amount expected to be received by the U.S. people from ANWR is about equivalent to all of the oil that was shut down by the hurricanes. Just think of that. Everybody was listening to televisions were talking about and, newspapers were printing all of the oil rigs onshore and offshore that produce energy for America that were shut down causing this enormous problem for America. One estimate is that ANWR will yield that much oil or more, which is a pretty good starting point.

I am not going to go into much detail about this ANWR language that was produced by the Energy and Natural Resources Committee in response to a budget request made by the full Senate, and I am not going to talk about the $2.5 billion estimate, other than to say I do not believe anybody is going to challenge it successfully before the Senate. It has been arrived at by the Congressional Budget Office, the authenticator of numbers for the Senate. That number is not dreamt up. This is not the White House, this is not the Energy Committee, this is not the Alaskan Senators; this is the Congressional Budget Office, an independent entity that is supposed to do estimates that we assume should be used by us.

They say the legislation, as drafted, will produce at least $2.5 billion over the period of time recommended by the budget instructions.

That makes it relevant to the budget reduction bill that is before us. It will, when it happens, because of the bids that will be made, reduce the deficit by $2.4 billion. That makes it relevant to a big deficit reduction package of all of the actions that exceeds $39 billion.

Having said that, let me then say, since it is important and it is relevant

and it will yield revenues to the Federal Government, the next point I wish to make is how many votes are going to be required to pass this ANWR legislation. This is a majority-vote situation. Some say: Oh, this is not the right way to do it. We should leave it under what they call the normal proceedings. Normal proceedings would, I say to the opposition, require 60 votes, and we have done something that will only require a majority vote.

I ask the American people who are listening and those who are concerned about this, What do you as Americans expect the Senate to do when they are voting on a measure that affects the American people? Since your first and early days of being educated about the American system, did you not assume that a majority of Senators voting would pass a measure in behalf of the American people? Isn't that what we thought was the rule, 51 votes wins? They say: No, you shouldn't let this great reserve of oil that belongs to us, that we ought to use, you shouldn't let 51 votes pass it. You ought to use 60 votes under some filibuster rule.

The rules of this Senate say you do not filibuster this kind of bill. You go back to the old American way of voting, and 51 votes prevail.

I hope, finally, after decades of work, that we are rid of the 60-vote impediment to getting these assets, these reserves, these resources opened up for our people, and we are back to the old-fashioned 51-vote approach, and that finally America will say: These are our resources, they belong to us, and we ought to go up there and, under as strict environmental laws as can ever apply, because they are the American laws, produce oil there.

To put it in perspective as to how much property we are going to affect, if this bill, as propounded by the Committee on Energy, is passed by this Senate, we will use up to 2,000 acres. It will not be in one place. It will be in various places, but it will be 2,000 acres.

Mr. President, that is 2,000 acres out of a refuge that is being talked about regularly as something that we should preserve and keep for posterity, and this Senator—and I believe everyone who favors ANWR—says: Amen, preserve it.

How big is it? It is 19 million acres. And 2,000 acres, I say to the Senator from Illinois, are going to be used. The refuge is 19 million acres. I don't want to draw conclusions from that. People can see themselves, 2,000 acres. Or can they? I guess you can't even see it. Mr. President, 2,000 acres out of 19 million acres is hardly visible.

We can see the Arctic National Wildlife Refuge on this chart. The ANWR Coastal Plain is in green. The proposed development is that little tiny red square. I don't know if the TV cameras are good enough to see it, but that is the 2,000 acres, 3.13 square miles. It is on the green piece on the chart. That is the size of a piece of real estate out of that entire area—the green, the yellow, and the orange—that will be used for the production of oil out of ANWR.

I cannot believe the American people—if they understand after this debate is finished that that is what we are talking about—could conceivably believe that this vote should fail today and we should continue to say: Everything is wonderful in America. We can get our oil from Saudi Arabia. We can get it from Mexico. We can get it from around the world. But don't bother to get it from America. It is just not what we ought to do.

This country of ours has become dependent on our own States getting 80 percent of our oil from four States: Texas, 22 percent; Louisiana, 21 percent; California, 18 percent; and Alaska, 20 percent. That is just the way it is.

So, fellow Americans, our future, as far as American production, is tied to those States. We do have some new finds in the West, and they are exciting, but they are not going to be anywhere close to this.

Incidentally, mentioning Texas, some people say this is not very much oil. I heard somebody mention that the 10 billion barrels that are going to be produced there is not very much. Let me tell you how much it is: It is equal to the reserves of Texas. So for those who think it is not very much, maybe we ought to say to the American people the entire production of Texas is not very much. Maybe we could say we don't need the oil from Texas. If we go out there and find we don't like the way it is produced, just shut it down. It isn't important. There would be absolute turmoil in this country if somebody said, Take the oil from Texas and close it down, we don't need it; it is just what Texas produces, and we don't need it.

So the American people understand, when this 2,000 acres is producing, it is estimated by reliable estimators that it will cause the reserves under the ground to be the equivalent of those in the State of Texas. That is a pretty big piece of the oil future of the United States.

Let me talk a minute about a couple of other things that happen when you open ANWR. First, in the United States these days, we are all wondering what is happening to American jobs. How come everything is going overseas? How come the American working man, the American construction worker who used to make good money—how come there is not enough work in that field? How come big construction projects are not being done here anymore? How come it is just reported that out of the over 400 chemical plants that are worth more than $1 billion, each that is being built in the world, one of them is being built in the great United States of America and the rest of them all over the world? We are asking ourselves, What is happening to our country? What is happening is we do not develop our own resources, and thus they are developed elsewhere and there are no jobs in America to produce what we have.

I have another chart here behind me, and then that will be all that I will use. This is one prepared by the Wharton School. Some will say, and I will answer before they do, that this chart was produced a few years ago. It was. But do you know what Wharton School did when they produced it years ago? They used $55 a barrel. People on the floor of the Senate said: Throw it way. At $55 a barrel, they have to be wrong. We just asked them 2 years ago: Would you please bring it current? They said: Now we know we are right. We estimated $55, and I will tell you today it is $59-plus on the market in the United States. So the Wharton study is certainly as good as we can get.

Look what it says. If you develop ANWR, the United States of America, for Americans, will produce 128,000 manufacturing jobs; mining, including oil—all high-paying jobs—84,000; trade, 225,000 in various trade activities; the service industry, 145,000; construction per se, 135,000; and then a combination of finance, real estate, and others, which is that FIRE, 19,500. The total is 736,000 jobs.

Has anybody produced such a bill on the floor of the Senate? We say let's have a jobs bill. We introduce a bill to train people who are unemployed so they can go to another job. We introduce a bill that says when people are laid off, we will train them for another job, and this will produce a big number of jobs. Has anybody ever introduced a bill, had a proposal, made a suggestion, argued in favor of—anything on the floor of the Senate that could produce 736,000 jobs, new jobs for the people of the United States? Of course not, because we do not produce jobs in the Senate. We don't produce them with bills, either, job training bills. We produce them when we do things or eliminate things that cause entrepreneurial investment activity that produces wealth, and with wealth, jobs.

That is what we have here, no doubt about it. At $50 a barrel, which is the Wharton study, that is what it will yield. Anybody who thinks that by the time we get to ANWR it will not be $50 a barrel and it will not yield this I believe is hiding under their Senate desk as they vote no here in the Senate as far as ANWR is concerned.

Having said that, I want to take 3 minutes and tell the Senate about an experience I had. I went to Alaska, after many years. My friend, the occupant of the chair, and our new Senator from Alaska recently pushed me to do it. I went in about March of last year. It was awfully cold. I know that. I have one great picture—I cannot believe I survived.

But what I saw, every Senator who is against this proposal ought to honestly go see what is going on. There is one production pad called Alpine. In its completed stage, it is 60 acres of property. In its completed stage, it is 60

acres. On that 60 acres is the production capacity for 150,000 barrels a day. Got it? That is 150,000 barrels a day. The 60 acres, when we saw it, was solid ice. It had oil wells on it that were drilled, many of them, in less than 1 year, all close together, many of which were vertical and horizontal, meaning you drill a well down and then go out sideways and you go out for 3 or 4 miles, 5 miles. When we get around to ANWR, they are going to be drilling out 10, 15, 20 miles. So from one piece of real estate which we are worried about we will get literally scores of underground wells producing oil that is coming to the surface, unified, and then put in a distribution facility and delivered.

All of that work will be done in the dead of winter—the trucks, the tractors, the moving things, the supplies, all come on winter roads. We were there, so we could see the winter roads.

When the summer comes, the ice melts, the roads disappear, the tundra is right back where it was, and Alpine, the 150,000-barrel production wells are there, covered by whatever covers them from the weather, and out comes a spout from which the oil goes on stakes that hold up the pipeline, and there it is, delivered to a source to go to be used by Americans as they need oil to live, survive, make a living, and keep up their standard of living.

Some say we should not be dependent upon crude oil and carbons in the future. I submit there is nobody suggesting that we know how to get off of the transportation system we are currently using, in the short term. We are going to be on that for some time, even when we engage in the largest program we can, in terms of new ways to get our mobility, whatever it is—maybe hydrogen engines. It is going to take us many years, during which time we are going to import oil from overseas in huge quantities and send American bounty to foreign countries, greatly increasing our foreign trade balance, by the billions of dollars, all because we send our money overseas to acquire oil.

I beg the Senate to once and for all do the right thing regarding our future. Say no to sending more of our resources overseas. Say no to fewer jobs for the American people for the future. Say yes to the unions of the United States that represent these workers who are here en masse, begging us to pass this so they will have jobs. Say yes to American business that is frightened about our competitive future, and say at least we are going to take one step forward, not another step toward complacency, toward not caring about our future and standing on principles that are not applicable today.

We know how to drill for oil without damaging the tundra, without damaging the surface to any significant degree. We ought to say yes, today, to a very good budget reduction bill which in its totality will reduce the budget $39 billion—not a little pittance—of which ANWR will yield $2.5 billion. That is not too shabby a number.

It will require 51 votes for those who want to take this out. In the end, we will need 51 votes to pass the bill. I believe that is fair. It is such a huge resource for America. It should be passed or denied not by 60 votes but by 51 votes, the majority vote in the United States. Argue as you may in opposition to this. This is not the way to do it. Then what do you say the way to do it is? To require 60 votes? Who ever heard of that as an American principle? That is a procedure that does not apply here. The Senate has said it doesn't apply here. The old American way of 51 votes applies, and that is why we are here.

I want to close in one rebuttal. We are going to hear a lot that this oil doesn't do much. Whenever the amount of oil produced is equated to the total American picture, I want to answer it this way: Accepting a mean calculation of 10.4 billion barrels of oil in ANWR, it would supply every drop of oil for the entire State of Florida for 29 years. Hear that, the entire State of Florida for 29 years; the entire State of Arkansas for 146 years; Hawaii, 249 years. We will not be using oil that long, but people should surely get an idea that this is a pretty significant resource for our country.

I thank all those who helped put this bill together in our committee. I hope sometime during the day we will have a vote and it will be a vote where we say, for a change, we believe in America's future and we are going to do something about it.

I yield the floor.

The PRESIDENT pro tempore. Who yields time? The Senator from Washington is recognized.

Ms. CANTWELL. Mr. President, I am going to yield to my colleague, Senator FEINGOLD. Before I do, I point out there is a misrepresentation that somehow drilling in ANWR only covers a small area. Drilling in the refuge will really create a spider web of industrial activities over the entire 1.5 million acre coastal plain, so it is much larger than just a small footprint.

This legislation might also open up nearly 100,000 acres of native land on the Arctic coastal plain. So it is a much bigger impact than my colleague might have commented on. I want to make sure that point is clear.

The other issue is, I don't think there is anybody in America who still believes our future and the future security of America depends on fossil fuel. I have seen the television commercials from the oil industry. Even they are always talking about the future, and alternative fuels, and what they are doing to diversify our nation's energy supplies. I certainly hope they hurry up and do that because the high price we are paying at the pump and their exorbitant profits are not leading us to a better economic situation in America.

But at the same time, I don't think Americans believe our investments in the future should be about fossil fuel, they should be about diversifying to cleaner, more fuel free supplies. Instead we are now asking them to open up the Arctic National Wildlife Refuge for a very small amount of oil.

My colleague talked about a large number of jobs that may result from this. However, we have all heard the expectations for an energy economy of the future that invests in alternative fuels and various renewable energy sources. Some of those job investments can be more than 3 million jobs in America.

That is the energy economy that we want to see—not holding on to the past and exorbitant energy costs which the Department of Energy says is only going to give us a 1-penny reduction in gasoline prices—to get off fossil fuel.

I yield to my colleague from Wisconsin 7 minutes.

The PRESIDENT pro tempore. The Senator from Wisconsin is recognized for 7 minutes.

Mr. FEINGOLD. Mr. President, I rise in strong support of Senator CANTWELL's amendment to strike section 401 from the budget reconciliation bill. I thank her for her dedication to protecting the Arctic Refuge, for her great deal of work over the years on this very important issue, and especially for her leadership today.

As I have said numerous times, I am deeply disappointed that the budget process is being abused to open the Refuge to oil and gas activities.

The Senator from New Mexico said he is going to hear Senators come out and say this isn't the way to do it. He is right. This isn't the way to do it. I have tried to make this point in the Budget Committee for 2 years. This isn't the way to make policy relating to energy, and I deeply regret that we have to be out here on the floor dealing with this. It should have been disposed of in the Budget Committee, as it is a matter not appropriate for this setting.

Drilling in the Arctic Refuge is something that has been, and should continue to be, discussed in an open debate instead of as part a back-door maneuver. This is a debate about energy and environmental policy, as everybody knows. This is not about the Nation's budget. I believe that this back-door tactic is an abuse of the reconciliation process. It reflects poorly on this body, Mr. President, and invites greater mischief down the line.

Sadly, regardless of when or where we have this debate, we have it because of a failure, most recently encapsulated by this administration's flawed Energy bill, to provide the American public with an energy policy that actually looks to the future. There is no doubt that we, as a nation, face tough questions about our energy policy. However, it is clear that offering the Refuge as the solution points us in the wrong direction. Drilling in the Arctic National Wildlife Refuge is a short-sighted sacrifice of one of America's greatest natural treasures, all for a supply of oil that may not last more than a year, would not be available for

many years to come, and, as the Senator from Washington pointed out, would decrease gas prices by only a penny at its highest production. Instead of such a backward plan, we need a forward-looking national energy policy that responsibly moves away from our dependence on a finite resource such as oil and toward greater energy independence. I regret that the administration's only answer to our energy crisis is to attempt to drill their way out of it.

Beyond my objection to the abuse of process and to the failure of our energy policy, I have several concerns about the specific language included in this bill.

First, I have grave concerns that we are basing our revenue assumptions on false financial pretenses. To achieve the $2.4 billion required by the budget reconciliation, which, for comparison purposes, is equal to 3 weeks' worth of ExxonMobil's 2005 third quarter profits, we are proceeding on the assumption that companies will bid an average of $3,333 for each and every acre of the 1.5 million acres of Coastal Plain of the Arctic Refuge. However, over the last 15 years, bonus bids for acreage on Alaska's North Slope have averaged approximately $60 per acre, which is 98 percent less than what is required for purposes of this budget reconciliation. Assuming the leases on areas with unknown deposits will sell for more than 50 times the historical average is just plain fiscally irresponsible. Fundamentally, the reality of the leasing situation does not seem to coincide with the revenues we assume today.

Second, supposing that the revenues actually do reach the presumed level, the U.S. Treasury, and the U.S. taxpayer, may never see the money associated with opening the Refuge.

Both the State of Alaska and the Alaskan delegation have made it clear that the State is likely to sue to receive 90 percent of the leasing revenues instead of the 50 percent stated in this language. In fact, this spring, the Alaska legislature passed a resolution that said they opposed ''any attempt to coerce the State of Alaska into accepting less than the 90 percent of the oil, gas, and mineral royalties from the Federal land in Alaska that was promised to the State at statehood.'' The Alaskan resolution makes it clear, as I have stated before, that the debate over the Refuge is about energy policy and not about the budget, and it doesn't belong in the budget reconciliation package which is before us today.

Finally, the language included in this bill fails to grant the same fundamental protections to the Arctic Refuge as we grant to every square inch of the other Federal lands on which drilling occurs. Why does the bill fail to provide the Arctic Refuge with fundamental environmental protections? Simply because the Energy Committee argues that the Federal Government can meet the budgetary time constraints only by ignoring the established laws of the land. By slashing environmental protections so that they are lower than on any other Federal land, we are all but guaranteeing that the Coastal Plain will suffer unnecessary, preventable, and irreversible damage. This is no way to treat the crown jewel of our National Wildlife Refuge System.

Mr. President, the language of the underlying provision is based on risky lease bid assumptions, it leaves the door open to diminished Federal revenues, and it gives the Refuge fewer environmental protections than all other Federal lands that produce oil. It has no place in this reconciliation bill, and I strongly urge my colleagues to support Senator CANTWELL's amendment.

The PRESIDENT pro tempore. Who yields time?

Ms. CANTWELL. Mr. President, I yield to the Senator from Connecticut 3 minutes.

The PRESIDENT pro tempore. The Senator from Connecticut is recognized for 3 minutes.

Mr. LIEBERMAN. I thank the Chair and my colleague from Washington. I rise to support her amendment.

Mr. President, once again we are here on the floor of the Senate debating opening up the Arctic National Wildlife Refuge to drilling—a debate that began in 1985 and that has always been answered before now with a definitive ''no'' on this Senate floor.

Today's debate is on a motion to strike language permitting drilling that has been placed in the budget reconciliation bill—a back-door maneuver to avoid true, unlimited debate on a decision whose consequences will echo for generations with the fracturing of a unique ecosystem.

The language in the Budget Reconciliation Act fails its own two tests for success. It will not raise significant revenue for the Treasury and it will not lead us to energy security.

This is both the wrong way to make this decision. And it is clearly the wrong decision to make.

I strongly urge my colleagues to vote for the motion to strike. If this vote fails—and drilling is approved—then for that reason alone, I will vote against the Reconciliation bill.

Let me begin by explaining why it is wrong to even be debating drilling in the Arctic Refuge in the context of this reconciliation bill.

This past summer we debated and passed comprehensive energy legislation. Drilling in the Arctic Refuge was not even brought up in that thousand-page bill that we were told represented comprehensive energy policy.

The fact that the Senate spent no time whatsoever debating drilling in the Arctic Refuge as part of energy legislation, but now deals with it in budget legislation, tells us everything we need to know about the motive of its proponents.

They know they don't have the votes needed to authorize drilling if this proposal came to us in a proper debate in the proper context and are using this device of the reconciliation bill to get around Senate rules.

Is there anyone in this Chamber who believes that the purpose of this provision is to generate revenue for the budget? That in the context of a $2.6 trillion budget, we must force the opening of a wildlife refuge to get $2 billion in new revenue over 10 years? Of course not.

The real purpose of this provision is to frustrate the rules of the Senate—rules that protect the minority and the process of judicious deliberation—in order to jam through a provision through reconciliation that its proponents have been unable to pass for years.

Section 401—the Arctic Refuge Title of the reconciliation bill—flagrantly usurps the jurisdiction of the Environment and Public Works Committee, EPW.

EPW has sole jurisdiction over matters relating to the U.S. Fish and Wildlife Service and the management of the National Wildlife Refuge System—as well as over the National Environmental Policy Act of 1969, NEPA, and the National Wildlife Refuge Administration Act of 1966.

For example, the title would virtually preclude the National Environmental Policy Act's requirement that environmental impact assessments be performed before any leases can be granted.

Also, section 401 short circuits the all-important determination that the Fish and Wildlife Service is required by the National Wildlife Refuge Administration Act to make that drilling is compatible with the purposes of the refuge.

I ask my colleagues to consider that if this procedural sleight-of-hand can be used to stymie open and unlimited debate on drilling in the Arctic Refuge, what other areas now closed for drilling will be opened up under the pretext of generating Federal revenue?

The Great Lakes? Our coasts?

And what will we get in return for putting this fragile Arctic wilderness area at risk? Will we achieve energy independence?

No we certainly won't.

The Energy Information Agency tells us that peak production in the Arctic Refuge will be fewer than 1 million barrels per day. And that peak will not be reached until 2025 at the earliest.

At that point, if we continue our current oil-consumption trends, the refuge will be contributing no more than 4 percent of U.S. oil consumption.

Meanwhile, 70 percent of our oil needs will be met by imports, with our national security and economy remaining every bit as vulnerable to the economic dynamics and geopolitics of the global oil market as it is today.

If we were serious about facing up to the reality of our energy security challenge, we would be committing ourselves to changing the trend of ever-rising oil consumption.

That is why I will shortly be introducing—with colleagues from both sides of the aisle—legislation that will lower our national dependence on oil by reinventing our transportation system from the refinery to the tailpipe by using hybrid vehicles and homegrown biofuels and electricity to power our vehicles.

Destroying perhaps one of the greatest wilderness areas in the United States under the twin but barren banners of energy security and Federal revenue is unacceptable when you consider what is at stake.

On February 14 of this year, 1,000 leading U.S. and Canadian scientists called on President Bush to protect the Arctic National Wildlife Refuge from oil drilling and to ''support permanent protection of the coastal plain's significant wildlife and wilderness values.''

The signers categorically rejected the notion that the impacts of drilling could be confined to a limited footprint, as pro-drilling forces claim.

The effects of oil wells, pipelines, roads, airports, housing, processing plants, gravel mines, air pollution, industrial noise, seismic exploration and exploratory drilling would radiate across the entire coastal plain of the Arctic Refuge.

Given those inevitable environmental intrusions, is it any wonder, then, that the authors of this measure included provisions that would stymie the environmental protections that would normally apply under the National Environmental Policy Act and the National Wildlife Administration Act? And because they have all but eliminated these protections, drilling will go forward with virtually none of the environmental protections that the public expects to be in place for such activity on other federal lands.

It just makes no sense to destroy the Arctic Refuge for oil that won't lower prices to our consumers or give us true energy security.

The mark of greatness in a generation lies not just in what it builds for itself, but also in what it preserves for the generations to come.

Drilling in the Arctic for some short-term convenience in our time, will shortchange the legacy we should be building for the time of our children.

I urge my colleagues to vote to adopt the motion to strike.

I believe this is both the wrong way to make this decision, and it is clearly the wrong decision to make.

I urge my colleagues to vote for the motion to strike.

I say for myself, if the vote fails, for that reason alone I will vote against the reconciliation bill.

I want to add this one procedural point to the very strong arguments I think my colleagues have made in support of the motion to strike and about why this is an end run on the rules, and why this is not about a budget matter. This will raise a few billion dollars over 10 years; whereas, the annual budget of the United States projected for the next fiscal year is $2.6 trillion.

This is about drilling in the Arctic, not about the budget, and it doesn't belong here.

I want to make this additional procedural point, which I think strikes at the heart of some of the key provisions in this section.

Section 401—which is the Arctic Refuge title—flagrantly usurps the jurisdiction of the Environment and Public Works Committee in contravention of the rules. The EPW Committee has sole jurisdiction over matters relating to the U.S. Fish and Wildlife Service and the management of the National Wildlife Refuge System, as well as over the National Environmental Policy Act of 1969 and National Wildlife Refuge Administration Act of 1960.

For example, the title that would be struck would greatly limit to the point of preclusion the National Environmental Policy Act requirement that environmental impact assessments be performed before any leasing can be granted.

Also, section 401 shortcircuits the all-important determination that the Fish and Wildlife Service is required by the National Wildlife Refuge Administration Act to make sure the drilling is compatible for purposes of the Refuge.

I intend, at the proper time, to raise these procedural questions.

I thank my colleagues for giving me these few minutes.

This is a critical debate that I have been involved in since I came in 1989. I regret that it is happening this way. It is happening this way because the votes are not there in a full debate and in the parliamentary-appropriate context of drilling in the Arctic National Wildlife Refuge.

The PRESIDENT pro tempore. Who yields time?

The Senator from Alaska.

Ms. MURKOWSKI. Thank you, Mr. President.

I am pleased to be standing on the floor today about 8 months after the last opportunity that we had to debate the issue of development of a very small portion of the Arctic National Wildlife Refuge. During that time—during that 8-month intervening time—we have seen the price of a barrel of oil rise to as high as $73—now about $63. The chairman of the Energy Committee indicates that this morning it is about $59.

That rise has come because of a number of factors—continuing strong oil demand in China and India and other developing nations. It has come because of the effects of weather. We have seen the consequences of the hurricanes in the gulf. It comes also because the world fundamentally needs more oil.

Goldman Sachs, in August, predicted that oil will average $68 again next year.

Also, since the last time we debated the subject of ANWR, we passed an Energy bill. In that Energy bill, we addressed not only production, but we addressed conservation. We addressed renewable energy sources, alternative energy sources. But in terms of doing anything significant to directly increase domestic oil and gas production, we didn't do much in that Energy bill. We delayed that action until now.

I would like to take some time this morning to talk about why development of the Coastal Plain is not just necessary in light of the current events in the past few months, not just the price of energy but in light of what has happened up north in view of the technological change, the new data that has been developed in the past decade to prove, to establish, that we can develop ANWR oil without harm to the environment and to the wildlife that live there.

My colleague from Washington, who has proffered this motion to strike the ANWR provision, has said her amendment is really about national priority. I would suggest that the national priorities which are at stake with ANWR are priorities that relate to energy security, a priority that relates to environmental security, and a priority that relates to National and economic security.

These are what the priorities are about and this is what ANWR can do for us as a nation. It can help us with our reliance on foreign sources of oil, it can help us with jobs, it can help us build a stronger economy, and it can help us in terms of meeting our environmental obligation to our land.

Let me talk about some of these issues. First, national security. When we talk about the reliance we have as a nation on foreign sources of oil, it is not just talk. The reality is, this hits us, it impacts us in an incredibly significant way. Right now we are about 58 percent dependent on foreign oil. This dependency is expected to pass the two-thirds mark within the next 20 years. It threatens our national security. It threatens our economy.

When we see statements coming from Venezuela, for instance, one of our leading sources of imported oil, suggesting maybe they do not need to do business with the United States, and we recognize the competition for oil on the global market, competition from China, from India, we recognize we must do more domestically to meet our needs, to strike this balance between our need and what we are able to supply.

Chairman DOMENICI spoke to the jobs factor, the economic side, as well as what this means to our balance of payments. ANWR oil will help stabilize not only our national energy prices, but it will generate more than $30 billion in Federal revenues within 15 years.

We talk about reducing our balance of payments deficit all the time. People need to appreciate one-quarter of this Nation's trade deficit relates to what we pay other countries for our oil. Last year we paid $166 billion to buy oil overseas. We will pay even

more than that this year. We have to do something to address that balance of trade issue.

The jobs will be created. People associate jobs as drilling and exploration jobs. What they need to keep in mind is, when we have development of this size that we believe we can have on the Coastal Plain, this means jobs all over the country in terms of making the nuts and bolts, the pipes, the hauling, the shipping. This means increased commerce, increased job activity all over the country.

We throw around a lot of numbers, but look what it could mean to individual States: To my colleague from Washington, 12,000 jobs in Washington State; 80,000 jobs in California; 48,000 jobs in New York State; Pennsylvania gets 34,000; Florida, 34,000; Arkansas, 5,500. These are jobs associated with the activity that will go on up north. This is one of the reasons we have support across the country for opening ANWR, a small portion of the Coastal Plain, to oil exploration and development. People see the economic opportunity for them even in States that are thousands of miles away.

Farmers recognize this will help them with stabilizing what they need to do when they are planting the crops in the spring. Think of those products made from oil. We get so fixated on the transportation sector, but the reality is we derive much from petroleum. There are those that will say if we park every car in this country today, we would not have this incredible dependency on foreign sources of oil, we would not have this dependency.

However, I suggest we are a nation that is dependent on petroleum for many things. Transportation is incredibly important, but we have toothpaste, footballs, ink, life jackets, antiseptic, dentures, glue, clothing, food preservatives. So much of what we consume as a nation comes from petroleum products. We should not say, if we conserve a little bit more, we do not need to open ANWR. We need to face, as a nation, that we have a reliance on petroleum.

When we talk about the amount of oil available up north, again, we hear numbers floating all around. Some people say it is 6 months' supply; it is an insignificant supply. The fact of the matter is, and this is according to USGS estimates, ANWR's Coastal Plain has a 50–50 chance of containing the second largest oilfield in North America. As was stated before, what we anticipate to get out of ANWR would be the equivalent of the Texas oilfields. To those suggesting Texas is insignificant in terms of its contribution, we would say that is crazy.

Another example regarding what we anticipate to get from the reserves up North: the equivalent of what we have been receiving from Saudi Arabia for the past 25 years. Again, these are not insignificant amounts of oil.

What we anticipate we would receive from ANWR on a daily basis would have offset the oil we lost when the Gulf of Mexico was hit by the hurricane damage and we had all of the oil shut in.

If we are to discount the potential of ANWR, it is as shortsighted a viewpoint or perspective as we could ever have when it comes to our energy sources. This is akin to saying we should not open up Prudhoe Bay because, based on the reserves we know or expect to see there, we think it will only provide this country 3 years' worth of oil. That is what the estimates were. Prudhoe Bay has provided this Nation with up to a quarter of its domestic oil supply for the past 28 years.

We want to be given a chance on the Coastal Plain to demonstrate we can do something actively to reduce this country's reliance on foreign sources of oil.

Again, back to the national priorities. Care for the environment: We take that very personally in Alaska. I take it very personally. I was born and raised there. I am raising my kids there. I want my grandkids to be raised there. I want them to have the quality of life we as Alaskans enjoy. We take the obligation to not only create jobs and revenues for Alaskans, but we take the obligation to care for our land as one of our highest priorities. This is why it is significant. When Alaskans speak on this, 70 percent of Alaskans support developing ANWR. The residents who live on the Coastal Plain, the people of Kaktovik support opening ANWR because they can see the benefits to them, but they can also see they can have the benefits of jobs and revenues that can help them with their schools and their health clinics, that they can do that in balance with the environment, so their hunting, their subsistence, their whaling, is not sacrificed.

We like to talk up North about the gains in technology that have been made over the past 30 years. They are stunning. We are proud to speak of them. Earlier, Senator DOMENICI spoke to the trip we took up North with several Members and the Secretary of Interior and Secretary of Energy. We went to an exploration pad built up on an ice pad. They make an ice pad, and the ice pad is connected by an ice road. This road is almost a Zamboni-type machine. They roll it out over the very frozen tundra and they create this road of ice. The ice buildup is probably a foot or so thick, maybe higher in certain areas as you approach stream crossings. The exploration pad is a pretty compact unit and very impressive in terms of the size and scope of the equipment used. They have Rollagons with tires that are 15 feet high. They are huge, immense pieces of equipment. They go in, haul in the exploration equipment over the ice roads in the middle of the winter. Keep in mind, the State, in consultation with other agencies at the Federal and local level, make a determination for exploration. You cannot come in and explore at any time. You have to do it during the season that is allowed. They make measurements as to the thickness of the freeze before they will allow any activity to begin construction of the ice roads or any activity on the tundra.

This is an example. This is not the exploration unit we went to, this is in the National Petroleum Reserve. It is very similar in size. We have the exploration rig standing taller in this photograph with a few outbuildings that allow those working out there to stay warm, get a little bit to eat. You can see the ice road going out there on the tundra. That is what it looks like in the winter. This rig probably is out there for 2 to 3 weeks. Then they pack up and move it to the next exploration area the company might be looking to. This is what it looks like in the summer.

This photograph is the exact same area we saw, Rendezvous 2 well, National Petroleum Reserve. This is exactly what it looks like during the summer. The ice pad has melted. All of the equipment was removed during the winter when the ice roads were there. What is left is this stub of that exploration well. It is tough to tell from this picture because it actually looks pretty tall, but that stub is only about as tall as I am. It might be about 6 feet, a little taller. That is what is left.

This is what we do up North. We do it for a couple of reasons. First, because we know it is the right thing to do. We need to make sure we are caring for the environment. Second, we have the toughest, the strictest environmental standards for oil exploration and drilling anywhere in the country, and I would say probably anywhere in the world. We are proud of it. We are proud of the results that come out of this. We can do the exploration. We do it in a safe and sound manner. We try to leave as little footprint as possible. We are doing that because it is the right thing to do, but we are doing it because we are working with the Native people who live up there, who have lived up there for generations, who want to be able to continue to hunt and fish and whale.

The caribou are free to room. The central caribou herd near Prudhoe Bay in the 30 years since we have had oil development has grown 10 times. Some say we scare away the caribou and the Native communities will not have the subsistence source. The fact of the matter is, the reality proves otherwise. We are doing what we should be doing when it comes to care for the environment.

Polar bears have not been mentioned today, but they might later in debate so I will address them. There are some who are concerned that man's activity there will be driving the polar bear from the Coastal Plain. The fact of the matter is we have very healthy polar bear stocks up North in the Coastal Plain area where we are talking about the potential for ANWR development.

We have about 29 identified dens. We use infrared detection to determine where the polar bear are actually denning so we do not go near them. We are taking the steps needed and necessary to care for the animals and the environment.

Other things we are doing to recognize we need to work with the environment, with the animals, with those who would live there, include drilling restrictions during the summer months to prevent noise activity. There are prohibitions on any kind of seismic activity when the whales are migrating through. We are using directional drilling so we go into the ground and under the surface, and we are able to drill out 3 or 4 miles in every direction so there is no disturbance to the surface.

We are talking about a 2,000-acre limitation. I will go back to the map of the Coastal Plain to again put it in perspective. We are talking about 2,000 acres. That is about the size of an average size ranch in South Dakota, according to what the Senator from South Dakota tells me—2,000 acres in an area. The Coastal Plain on this map is the green area. The Coastal Plain is 1.5 million acres. We are asking to drill and explore in an area the size of 2,000 acres out of 1.5 million. The other colored areas on the map indicate the wilderness area and the Refuge itself.

The orange shown on the map is the Refuge. The wilderness area is the yellow part of it. The whole Arctic National Wildlife Refuge itself is an area the size of South Carolina. It is 19.6 million acres. Of that 19.6 million acres, we have 8 million that are dedicated wilderness. We cannot, will not, have no intention of going in and doing anything. That is entirely protected.

The balance in the orange is all Refuge. We are not talking about any exploration activity or development in that area. The only area we are looking at exploring is the green area, the 1.5 million acres. And within that we are talking about 2,000 acres.

For those of you who live and work in the Washington, DC, area, that is about the size of Dulles Airport. Actually Dulles Airport is a little bit bigger than that. So that kind of helps put in context what we are talking about.

Now, the Senator from Washington mentioned this legislation would also open up and allow the natives of Kaktovik to open up and be able to explore on their lands that are contained in the Refuge. The 2,000-acre limitation applies to the natives of Kaktovik, the Arctic Slope. It applies to all lands within the Coastal Plain—all lands within the Coastal Plain.

If there is oil that is discovered and explored and produced on native land, that part is part of the 2,000-acre limitation. So we are not expanding this from 2,000, plus whatever might be found on the native land itself.

Let me speak a minute to some of the other issues that were raised by some of my colleagues. The point was made there is nothing in this legislation that would prohibit Alaska oil from being exported. In fact, that is the case. But I should remind my colleagues that very little—very little—Alaskan North Slope crude has ever been exported. We do not anticipate that it would be exported, given the demand on the west coast, given the demand in this country. None is regularly exported now, and it has not been exported regularly in the past 6 years.

Now, it is true that back in 1995 we had a glut of oil on the American west coast, and Congress did, in fact, vote to permit the export of Alaskan oil. So from 1996 to 1999 there was about 5.5 percent of Alaska production that was being exported over to the Asian countries to relieve that glut.

We are now in a different time, a different place. There is no excess oil on the west coast. At this point, even though we are allowed to do so, there is no oil that is being exported. So where is it going? Fifty percent of all of Alaska's gas, coming from Prudhoe Bay, goes to the California refineries. This is near San Francisco and LA. We have 42 percent going to Puget Sound up in Washington State, and 8 percent goes to the State of Hawaii. There is a very fractional amount that stays in Alaska for in-State refinery needs.

But what you also need to keep in mind is that it is cheaper for us to ship the oil to the lower 48 than to the Far East. It is a matter of pure logistics. It is 2,056 miles to LA versus 3,401 miles to Yokohama, Japan. So the economics of it suggests that it does not make sense to ship any oil from Alaska overseas at this point.

Now, another issue that was raised was the issue of oil spills. This is something that when you hear the debate, these issues raised, you kind of have to take a deep breath and say the statistics on a piece of paper do not tell the whole story, unless you have the facts, the footnote, and the background that goes with it.

It has been suggested there have been all of these spills up North, and these spoil the Arctic tundra. But what they do not mention is, the companies that are operating up there have to report every spill—every spill—of any nonnaturally occurring substance. So if there is a spill of saltwater, it has to be reported—anything more than a gallon of oil or chemicals, such as lubricating oils, hydraulic fuels.

So when you go up North, you will see in the wintertime—and will in the summertime because the vehicles during the cold winter months are kept running for a good portion of the time—each and every one of the vehicles has what they call a ''diaper'' underneath the transmission to collect any leaking transmission fluid. Because if that were to get on the road, if that would get on the surface, that could be a reportable incident.

The vast majority of the spills at Prudhoe Bay have been of saltwater, saltwater used in water flooding to enhance oil recovery. They have not been oil spills.

Now, the other thing you do not hear is that the average oil spill was 89 gallons. This is the equivalent of about two barrels of oil, and that of that, those two barrels of oil, 94 percent of that oil was absolutely, totally cleaned up. According to DEC, which is the State Department of Environmental Conservation, 93 percent of all oil spills were of less than 100 gallons in volume, two-thirds were of less than 10 gallons, and less than a quarter barrel of oil.

So over the past decade, for the past 10 years, up North, there have only been 11 crude oil spills of more than 1,000 gallons, and 97 percent of that oil was fully recovered.

We can talk about the spills and reportable spills, but if you look at a number, it is important to know: A, what was it that was spilled; B, how much; and, C, how the cleanup was handled.

Prudhoe Bay is actually one of America's cleanest areas. ANWR development, given the technology we have, we know is going to be even better.

Now, I have to address the issue of too little oil to even bother exploring. I mentioned it very briefly at the beginning.

The USGS has recently updated its estimates. In fact, it was just within the past week or 10 days or so that USGS released its updated estimates for the amount of economically recoverable oil that will be found in ANWR. What they are now saying is that at the prices we are looking at—they peg it as $55 a barrel—93 percent of all the technically recoverable oil will be economically worth producing. That is up from a previous estimate of 83 percent. It means we have a 50–50 chance the Coastal Plain is going to contain 9.7 billion barrels of oil. Again, this would be the second largest oil field in North America.

When we talk about the amount that is available to us, I think it is important to put that in perspective. We are talking about the second largest field in North America. Currently, Prudhoe has been operating and supplying 20 percent of this country's domestic energy needs. It has for 30 years. We want to be able to supplement that with ANWR.

There is one other point I do feel is important to address. Several of my colleagues on the other side have suggested that because ANWR is contained in this budget reconciliation package, it is not the appropriate place, and that for a major policy decision such as this, it has not been given the time and the consideration and cannot be in this process.

As the senior Senator from Alaska, the occupant of the Chair, knows, this is something that has been debated and discussed for decades. ANWR has been the subject of dozens of bills, literally many dozens of congressional hearings. Legislation to open ANWR passed the Congress in the 1996 Budget Reconciliation Act. It was vetoed by President Clinton. But we have had several bills that have been introduced since then.

In the 106th Congress, we had legislation. Six bills were introduced in the 107th Congress. Legislation to open ANWR was approved by the House in the 108th Congress. In the 109th, also, the House introduced legislation. There have been countless tours of the Coastal Plain, where many Members of this body have had the opportunity to go up and see it for themselves. ANWR has probably been one of the most thoroughly researched, debated, and discussed issues pending before the Congress for the past 18 years.

I do not think any of us can stand here with a straight face and say that Congress is acting too quickly on this issue. It is something that has been aired very publicly, and over a great deal of time, with a great deal of public input.

I would like to conclude my remarks by speaking very briefly about those people who live in the Coastal Plain, the residents of Kaktovik. These are a very hardy people who have lived there for generations and generations, and who want to remain. But they are in a community where energy costs are extremely high. It is very difficult to find any kind of economic activity in the area. They are primarily a subsistence-based village. But they want to make sure, like all the rest of us, their kids get a decent education. They want to make sure they have some access to health care within their community. They want to have certain protections, if you will—whether it be a fire truck to help them when they have a house fire, as they had a couple years ago and had no way to provide for the protection of the property in that home.

They view the opening of ANWR as an opportunity for them to be participants. But they are also looking at this from the very critical perspective of being the only Alaskans who live in this area who would be affected by the development. They want a seat at the table. They want to be consulted. They want to be heard. They want to make sure that, in fact, the development that does take place is done in concert with their needs as the residents of this area for generations and their needs as people who live off the land.

We are working with the people of Kaktovik. I have introduced stand-alone legislation, along with my colleague from Alaska, and along with my colleagues from Hawaii, that would provide not only for environmental protections to be written into how we develop ANWR, but basically we codify all of those items we have discussed over the years, whether they are the environmental concerns, whether it is the 2,000-acre limitation on development, but also a provision to provide for economic impact aid to the residents of Kaktovik and any other Alaskans who may be impacted, to provide for a method of consultation with the natives of Kaktovik and the region.

What we are trying to do through the stand-alone legislation is provide for, I think it is fair to say, safeguards. For all those who may be concerned that, well, this budget reconciliation says ''open up ANWR, the only limitation is a 2,000-acre limitation,'' be aware that what we are providing for in the free-standing legislation, I think, is a very comprehensive set of guidelines for how we move forward positively, as we look to achieve that balance between development and care and concern for our environment up North.

With that, Mr. President, I yield the floor.

The PRESIDENT pro tempore. Who yields time?

The Senator from Washington.

Ms. CANTWELL. Mr. President, I yield 10 minutes to the Senator from Illinois.

The PRESIDING OFFICER (Mr. ENSIGN). The Senator from Illinois is recognized for 10 minutes.

Mr. DURBIN. Mr. President, I rise in support of the Cantwell amendment and in opposition to drilling in the Arctic National Wildlife Refuge. In 1960, under the leadership of President Eisenhower, we created this nearly 20-million-acre Refuge. President Eisenhower and Congress said to the American people: We are going to hold this piece of America in trust. It will be held for future generations because it is a special place. It is one of the few places in America where we are going to restrict development. We are going to protect it because we want generations to come to know that the Arctic National Wildlife Refuge is a special place, a place deserving of our honor, our respect, and our protection.

With the provision in this bill before us today, we will turn our back on that promise made by President Eisenhower and by our Nation 45 years ago. We will authorize, in this reconciliation bill, drilling in the Arctic National Wildlife Refuge. It is a sad day. It troubles me that some have come to the Chamber and argued that this really is not that big a deal. They are going to gingerly step into this Refuge, drill, and gingerly step out, and you will never know they were there. You might buy that argument if you hadn't been there.

Several years ago, during the course of debating the same issue, which has been debated here a long time, one of the Senators from Alaska said to me: What do you know about it? You have never been there. You have never seen it. How would you know what the Arctic National Wildlife Refuge looks like?

It was a worthy challenge. I accepted it. I took off and spent 2½ days camping out in the Arctic National Wildlife Refuge so I could see it. We left Arctic Village, a remote village in Alaska, flew in a Canadian Beaver aircraft that was almost 50 years old over the Brooks Range, down the North Slope, along the Canning River.

As we looked to the west, we could see the State lands that had been drilled for oil and gas, and then, to the east, the Arctic National Wildlife Refuge that had not been drilled. It was easy to tell the two apart because the scars that were left on that State land that had been drilled were still there years and years later. They didn't gingerly step in and drill and leave; they cut scars across that land that will be there forever. On the east side of the river, the Arctic National Wildlife Refuge was pristine. One might see the tracks of a little wildlife, and that was it. So to say that these oil and gas companies are going to go in there and discretely and innocently take out the oil and gas defies human experience.

How much is this worth to us? Why is it that we would turn our back on a 45-year-old promise by America to future generations? Why would we say now, for the first time, we are going to drill for oil and gas in this wildlife refuge that we promised would never be explored in this way?

Some argue we just need the gas. Come on, don't you know what is going on at gasoline stations in Illinois and across the country? Gasoline prices are going through the roof. We need more oil. If we don't have more oil, it is going to mean calling for greater sacrifice. Families and businesses will continue to be dependent on foreign oil.

There are two things to consider. The Arctic Coastal Plain will yield less than 1 year's worth of oil for America, and it won't be available for 10 years. This debate is about 1 year's worth of oil, not available for 10 years, and it may take 20 years to extract it. So what impact will that have, Mr. And Mrs. American Consumer? About 1 penny a gallon. That is why we are going into ANWR.

There is a bigger issue. We have heard it said over and over on the other side. This is about America's energy security. You can argue it is a small amount of oil, but even accepting the fact that even a small amount of oil will lessen our dependence on foreign oil somewhat, there is another interesting issue. Do you know there was an amendment before the committee when the ANWR issue came up, and that amendment said: Whatever oil we take out of ANWR, we are going to use in America? That oil will come down to be used in America, so it will benefit American consumers and motorists. But that amendment by Senator WYDEN from Oregon was defeated. In fact, the Senator from Alaska voted against the amendment which said the ANWR oil has to be used in America.

What are we really debating here? We are debating drilling in ANWR so that oil can be exported from a wildlife refuge to China and Japan and other parts of the world. This isn't about the energy security of America; it is about the energy security of China and Japan. We are going to defile this wildlife refuge to drill for oil that can be exported, that won't even benefit the United States. Why would we do that? There is only one reason—because the oil companies will make a huge profit off of it. Those struggling oil companies need our help today with this

amendment. They have had a tough 6 months.

Mr. STEVENS. Will the Senator yield?

Mr. DURBIN. No, I won't.

They have had a tough 6 months. They have had recordbreaking profits of $40 billion over the last 6 months, and now they want the option to go drilling for oil in a wildlife refuge we promised to protect 45 years ago so they can drill and export oil to other countries for their economy. Is that what this debate is all about? Sadly, I am afraid it is.

The argument that this is just going to affect 2,000 acres—I am sorry—having flown over this area, having seen what happens, I know and the Department of Interior knows it isn't just about the pad where you drill. It is about roads and airstrips and pipelines and water and gravel sources and base camps and construction camps, storage pads, power lines, powerplants, support facilities, coastal marine facilities—it is a huge undertaking. You may see that postage stamp of drilling, but there is a lot more in support of it that is going to have an impact on this environment.

This is an abdication of leadership. To say that we have no other place to turn in America other than to drill in a wildlife refuge is an abdication of leadership and a concession to greed by the oil companies. How have we reached this moment where the leadership in America cannot turn to the American people and say: We can't go this far. We can't cross this line and drill in a wildlife refuge that we promised for 45 years to protect. We have to find other ways to reduce our dependence on foreign oil to make the cost of gasoline more affordable.

And there are other ways. If we improve the miles per gallon on the cars and trucks we are driving today by 2 miles a gallon, it would make up for all of the oil we are talking about drilling out of the Arctic National Wildlife Refuge. This Senate, given a chance to vote for more fuel efficiency, refused so we can continue the habit of buying fuel-inefficient cars and trucks, driving gas guzzlers, saying we are going to drill our way out of our problems, that we will continue to be dependent on foreign oil. There has been no leadership from this administration to talk about efficiency and conservation and making our cars and trucks more fuel efficient which would make this debate absolutely unnecessary. America can do better when it comes to energy.

This White House argues that all we can do to get out of a problem is to drill our way out. Except the obvious, America has only 3 percent of the known oil reserves in the world, and we consume 25 percent. We cannot drill our way out of this problem. Today, we will sacrifice a wildlife refuge. Tomorrow, the oil companies want to drill off our coastlines. What comes next, the Great Lakes? Where will this end? It will end with leadership and vision for an energy policy for America that reduces our dependence on foreign oil with responsible environmental production, with conservation techniques, with energy efficiency, with renewable and sustainable fuels instead of drilling away in wildlife refuges we promised our children we would protect.

America can do better with leadership and with vision.

I urge my colleagues, support the Cantwell amendment. Understand that this is not the answer. Drilling for oil in Alaska to export it to China is no answer to America's energy security challenge.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. Parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. How much time remains?

The PRESIDING OFFICER. The time in opposition is 3 minutes. The Senator from Washington has 26 minutes.

Mr. DOMENICI. Senator, you have 26. We have 3. I would yield the floor, hoping that you all would speak, if you have more opposition. You have plenty of time. We don't have but 3 minutes.

The PRESIDING OFFICER. The Senator from Washington.

Ms. CANTWELL. Mr. President, I ask unanimous consent that Senators COLLINS, MIKULSKI, and JEFFORDS be added as cosponsors of amendment No. 2358.

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

Ms. CANTWELL. I yield 5 minutes to the Senator from New Mexico.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. BINGAMAN. Mr. President, I thank the Senator from Washington for her leadership on this issue and for yielding me some time.

I have long opposed the leasing and development in the Arctic Refuge for several reasons related both to energy policy and to environmental concerns. I have said many times that the most compelling reason for not opening the Arctic Refuge is that it would do very little to further our national energy security and will do nothing to address short-term energy prices or needs. There will not be any production from the Arctic Refuge for an estimated 10 years. The Energy Information Agency estimates that production from the Arctic Refuge would, at its peak, reduce our reliance on imports by only 4 percent, from 68 percent reliant to 64 percent. This would not happen until the year 2025.

I have a chart that puts things in some perspective. It talks about total oil demand. This line is 2005, today, total oil demand. As we can see, it is rising, has been rising, is expected to continue to rise. The next line is transportation demand. You can see the biggest part of our total demand is transportation demand. Then domestic production has been declining in this country since the early 1970s. It is on the decline now. It is expected to continue declining. If this provision becomes law and we go ahead with leasing and development of ANWR, there will be a slight uptick as we get into 2015 and that period. There will be a slight uptick in domestic oil production. That is the red line. What we see is that there will be a slight increase due to the opening of ANWR but a very slight increase.

I am disappointed that this issue is being taken up as part of a budget reconciliation bill. The policy issue is of great significance and complexity and cannot be adequately handled on a budget reconciliation bill. I also have concerns and questions about the legislation that is included in the reconciliation bill. This bill would open the refuge to oil drilling. It would do so with less protection than for any other wildlife refuge or other Federal land that is currently subject to oil and gas leasing. The only mention of the environment is a vague directive that the leasing program be ''environmentally sound.'' That is contradicted by other parts of the mark that contain broad waivers of environmental laws.

For example, the bill deems a 1987 environmental impact statement to be adequate under the National Environmental Policy Act, an 18-year-old environmental impact statement. It is deemed adequate for purposes of issuing regulations to implement the leasing program and other preleasing activities. This is despite the fact that there has been significant new information that has become available over the last 18 years related to the Refuge, related to its resources. The bill contains no requirement for public participation. It does have ambiguous new provisions that appear to limit judicial review. Even if one decided to go ahead with leasing this area, in my opinion the bill provides an inadequate framework and program within which to do that. There is no minimum royalty rate to be paid by oil companies provided for in this bill. There are no enforcement provisions. There are no required inspections. There is no limit on the size or the duration of the leases, no requirement that operational plans or surface-disturbing activities be approved, no requirement that oil companies post bond to ensure compliance with lease requirements, and there is no requirement that the land be reclaimed.

The PRESIDING OFFICER. The Senator's 5 minutes has expired.

Ms. CANTWELL. I yield to the Senator 3 minutes.

The PRESIDING OFFICER. The Senator is recognized.

Mr. BINGAMAN. And there is no requirement that the land be reclaimed or facilities removed.

Mr. President, these are fundamental components of a leasing statute. Members of this body are speaking out today about how we ought to impose windfall profits taxes on the oil and gas

industry. At the same time we are doing that we are proposing a series of provisions that put virtually no requirements on them. Perhaps the proponents for opening the refuge have omitted some of these elements because they recognize that including them would cause this to run afoul of the Budget Act. That is a very good reason why this kind of important issue is not intended to be dealt with as part of a budget reconciliation bill.

Mr. President, for these reasons I support the amendment of the Senator from Washington. I commend her for her leadership on this issue. I ask my colleagues to join me in voting in favor of the amendment. Opening the Arctic Refuge is not a necessary component of our national energy policy. We can do better in crafting a solution to the current problems, and we need to do that.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. Mr. President, I have only 3 minutes remaining, but I want to yield that 3 minutes to Senator SUNUNU, and then I will yield the floor for the other side to continue.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. SUNUNU. Mr. President, I think our energy policy and our approach to its provision ought to be driven by a need for balance, for evenhandedness, for a thoughtful approach, and that means not stepping forward and offering a lot of rhetoric, being careful about statements that might be misleading. And to that extent, earlier we heard a description about the Brooks Range and flying over the Brooks Range, and I think it is important for Members to understand the Brooks Range is not in the 1001 area, the 1.5 million acres that would be made available to leasing. It is not in there, not contained, not part of it.

So we can talk about the beauty of the Brooks Range, but it has nothing to do with this provision. We make tradeoffs all the time. You build a road, you make tradeoffs. You have to take land to build that road. You grow crops, you have to clear land and affect the environment for growing crops and food, growing cotton for clothing. You drive your car, you are using gasoline. You turn on your computer, you are using electricity. You have to build the lines to shift electricity around the country, build transmission. All of these choices in our modern society involve tradeoffs, and we should be balanced and thoughtful about how we weigh these costs and benefits.

When you look at this provision, first you can't help but look at the size—19 million acres in the Wildlife Refuge that we are talking about, three times the size of the State of New Hampshire, and this provision allows 2,000 acres to be used for production and exploration. That is an area equivalent to the size of the Manchester Airport, the airport that serves much of my State of New Hampshire. It is three times the size of New Hampshire, and we are talking about 2,000 acres to take advantage of what is by all estimates the second or third largest find of oil in our Nation's history—a million barrels per day as was pointed out, equal to all the production that was lost due to Hurricane Katrina.

Some of the critics have said, Well, yes, but if we only used energy from this source it would only supply all of the needs of America for 1 year. If you buy into that argument, then you would never support drilling another gas well anywhere in the country because it would not supply all of our energy needs for 10 or 20 or 30 years, or another oil well in east Texas or anywhere else in the country. If you buy into that argument, you basically are saying we want permanent energy dependence on imports, and that is the real goal of many of the interest groups behind this.

We need to strike a reasonable balance. Setting aside 2,000 acres in this part of the northernmost part of Alaska for the second or third largest oil find in our country's history is a reasonable, thoughtful, balanced approach. It is critical that we support this provision.

I did not support the Energy bill because I did not think it was fiscally responsible. But I think this is a rational and balanced approach, and one that I hope my colleagues will support. I yield back my time.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time?

The Senator from Washington controls all the time that remains.

The Senator from Washington.

Ms. CANTWELL. Mr. President, how much time remains?

The PRESIDING OFFICER. Nineteen minutes.

Mr. CONRAD. Mr. President, how much time remains on the Republican side?

The PRESIDING OFFICER. There is no time remaining.

Mr. CONRAD. Mr. President, how much time does the Senator seek?

Mr. TALENT. I can do it in about 5 minutes.

Mr. CONRAD. Mr. President, I make a unanimous consent request that we give the Senator 5 minutes that will come off the Republican side when we agree to extend the time for this debate momentarily.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. DOMENICI. We understand it, and there is no objection.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. TALENT. I thank the Senator for his ingenuous unanimous consent request allowing me to go forward, and I will just take a few minutes to talk about ANWR in general.

I am going to offer an amendment relating to this portion of the bill later, but right now I just want to tick this down for a minute as to what I see as the essentials of this issue.

With the greatest respect to those who oppose this operation, the exploration of oil, I don't understand what coherent philosophy—regardless of whether you are a liberal or a conservative, I don't understand what coherent philosophy would advocate cutting your own nation off from oil within its borders.

Now, I know I have heard the argument that we need an energy future that is not anywhere near as dependent on traditional sources of energy, and I agree with that. I am the last person in the world to argue with that. I led the fight on this side of the aisle for the renewable fuels standard, which mandates that by the year 2001, 27.5 billion gallons of ethanol and biodiesel be in the Nation's fuel supply to replace oil and gasoline.

I am a huge believer that within a few years we are going to be filling up with fuel that we get from corn and from soybeans and other sources. I think that is the future of our country, but we are still going to need some oil, and certainly in the short term we are going to need oil and, to me, it makes sense to be able to produce it ourselves.

Concerns have been raised about the environment, and if we were not requiring that it be done in the environmentally most sensitive way, I would not support it. But the same people who raise those concerns place tremendous confidence in the ability of American technology to create alternative sources of energy, the technology of which is embryonic—hydrogen or wind. Now, I support those, as well, but if you believe that technology can get us to the point where we can do those things and create a lot of energy in that fashion, and that is a long way down the read, you have to believe the technology is adequate to be able to explore for this oil in a way that will be sensitive to the environment. We are already using that technology here and around the world. If we don't get the oil in the Arctic using the most environmentally sensitive means, we are going to have to import it from countries where I have no confidence in what they are doing to the environment.

Concerns have been raised about the oil companies. Whatever you think we should do with the oil companies, whatever restrictions we should put on them or other kinds of measures to make sure they don't gouge for the price of oil, we still need the oil. Socialist countries explore for oil within their own boundaries.

So I am down to the point of saying, Mr. President, I do not see why we should not do this, and I do know it is going to create jobs. I did want to rise and make that point because this makes a lot of difference to people in Missouri. The Senator from Alaska talked very compellingly about the difference it makes on the ground for people in Alaska. It makes a difference in

Missouri, too. An estimated 14,000 new jobs, good jobs will be created in Missouri alone if we explore for oil in the Arctic because of the collateral-related jobs around the country. That is one of the reasons the Missouri Laborers Council, the Carpenters' District Counsel of St. Louis, that represent, respectively, 13,000 and 22,000 members, strongly support this measure.

Mr. President, we should do it carefully. We should do it with a view toward the concerns that have been raised, but the concerns are not a reason not to do it. I know people have said, well, it is not going to produce much oil. A conservative estimate is 10 billion gallons. I think it will be a lot more than that.

Prudhoe Bay was estimated to hold only 9 billion barrels of oil. The production today is at 13 billion, and it is still producing. I think there is a lot of oil in the ANWR to get, but even if there is not so much there, it is no reason not to get it. We can do it the right way. We should have done it a long time ago, and we certainly should do it now.

I yield back any time I have not used.

The PRESIDING OFFICER. Who yields time?

The Senator from Washington should be advised that time is running against her time.

The Senator from North Dakota.

Mr. CONRAD. How much time remains on our side?

The PRESIDING OFFICER. Nineteen minutes.

Mr. CONRAD. Mr. President, through the Chair I would like to say to the Senator from Washington that at this point, because the only time remaining is her time, and we are not yet prepared to enter into the unanimous consent request to extend the time, although I hope that will happen momentarily, it would be in her best interest to use the time.

Ms. CANTWELL. Mr. President, through the Chair, if I could inquire what the Senator from North Dakota is trying to propound in the unanimous consent request?

Mr. CONRAD. The unanimous consent request the manager of the bill and I will offer will extend the time until noon.

Ms. CANTWELL. I thank the Senator.

I would like to go over what I think are the important reasons we should not drill in the Arctic Wildlife Refuge and why my colleagues should support the Cantwell amendment to strike this language from the Budget Reconciliation Act.

As my colleagues have said earlier, we should not be doing this in the Budget Reconciliation Act, and it really does set a precedent for what I hope is not further attempts to drill in other parts of the United States, whether it is off the coast of Washington, the coast of Florida, or anywhere else by simply thinking you can come to the budget process and open up drilling in various parts of the United States. It is a very dangerous precedent. It also lays aside very important environmental regulations that should be met by any drilling efforts in the United States. So here we are, about to allow drilling in the Arctic Wildlife Refuge, and it is going to have the less protection than any other public land.

Let me go through the 10 reasons I think we should not be doing this.

First, the Arctic Wildlife Refuge does not solve our current gasoline or heating oil supply problems, and I guarantee you, my colleagues are going to hear a lot about home heating oil and other problems when they go home after we break for this year and people see their high heating bills and the enormous cost increases they are paying. So this is no solution for our immediate problem. In fact, even if oil were flowing today from the Arctic National Wildlife Refuge, who is to say that OPEC would not lower its supply and keep prices high? Moreover, the fact we are talking about something that is not going to happen for 7 to 12 years from now is clearly not going to help us in the near term.

Second, the oil supplies in the Arctic Wildlife Refuge are not going to help us be any less dependent on foreign oil. We already know that our biggest problem is that this country is 50 percent dependent on foreign oil, and moving forward in the next 15 years that dependency will grow to over 60 percent. To me, that says the way to get off fossil fuel and foreign consumption is to diversify, something this bill is certainly not doing.

The third issue is that we really do need to get off fossil fuel. So how are we going to do that? That answer is that we need to diversify into alternative fuels, such as Brazil and other countries have done, to look at a biofuels strategy and become more self-sufficient. The United States only sits on 3 percent of the world's oil reserves. To plan a strategy that continues to focus on this is just shortsighted.

Fourth, drilling in the Arctic will not translate into savings at the gas pump. Let me repeat that. It will not in the near term translate into savings at the gas pump. The Energy Department, its own energy information administration, said that even when the Arctic Wildlife Refuge oil supply is at peak production, it will only reduce gas prices by a penny a gallon. So we are going to open this pristine wilderness area for a penny a gallon 20 years from now.

Moreover, I believe it is important for my colleagues to get about the real debate and pass legislation that focuses on the price-gouging activities that could be occurring in America. Instead of passing this on a budget bill, why don't we bring up by unanimous consent or on some other piece of legislation a price-gouging bill that gives the Federal Government the same power that 23 States have in prosecuting oil companies or others who are involved in manipulating the price of gasoline at the pump? That is what we should take extraordinary measures in the Senate to do, not this.

Fifth, there is no guarantee that the oil from the Arctic Wildlife Refuge will be used in the United States. My colleague, Senator WYDEN, I am sure is going to talk more about this issue, but there is nothing under the current laws and regulations that is going to say that this oil is going to stay in the United States. So as my colleague from Illinois said, here is this product we are going to get from a wildlife refuge, and there is no guarantee that it is going to help our national security at all, that it won't be exported to the highest bidder.

Sixth, oil leasing in the Arctic Wildlife Refuge will not bring significant revenues to the Federal Treasury as a certainty. Right now, there is a big debate. There is a debate between the State of Alaska and the Senate about how royalties from the Arctic Wildlife Refuge should be divided. The State of Alaska has been very clear. They think they get 90 percent of those royalties. This bill tries to say they are going to get 50 percent. We know the State of Alaska is going to pursue that in court. The difference is a lot of money. If Alaska is successful, that means they will get 90 percent of the revenue assumed by this budget bill. This proposal says that the United States might get $2.4 billion. The State of Alaska is saying: No, no, no, you are only going to get $480 million. The difference between $480 million and $2.4 billion is a lot of money, and I would like to see clarity that if this have to happen we are not going to move forward without the guarantee that, in fact, we are going to see 50 percent of that revenue.

Seventh, the oil leasing in the Arctic National Wildlife Refuge, as one of my colleagues said, is about giving the oil companies something more of profits. The notion that they have had $30 billion in profits in the last quarter—$30 billion in profits in the last quarter—and yet they are not helping to diversify at a time when it is very clear to the American people that being overdependent on foreign oil and fossil fuel in general is not the right direction for our country.

Eighth, drilling in the Arctic National Wildlife Refuge will harm its ecosystem. Wildlife is going to be harmed. The fact that people think these things can work together is amazing. We should consider the reason the Wildlife Refuge was established in the first place, because it is a unique area. There is a lot of drilling that goes on in Alaska and a lot of area that is consumed by this. The original designation of the Arctic Wildlife Refuge was for the purpose of preserving this area.

Ninth, drilling in the Arctic Wildlife Refuge cannot be assumed to be environmentally benign. I know my colleagues would like to think that. But the fact is, in Prudhoe Bay and the oilfields of the Trans-Alaska Pipeline, there have been 4,532 spills from 1996 to 2004. In fact, the current rate of reportable spills on the Alaska northern slope is about 1 every 18 hours.

My colleagues would like to say this can be done in an environmentally sensitive way or that the environment is not going to be impacted. I don't believe that is true. I believe the number of oil spills that have been reported show that is not the case.

Mr. President, I ask unanimous consent to print in the RECORD a copy of the recent North Alaska oil company fines and penalties, the amount of money in penalties that have been paid by various companies over the last couple of years for either clean air violations or pipeline leak detections or other reasons for which various oil companies have been fined.

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

NORTH SLOPE, ALASKA: RECENT OIL COMPANY FINES AND PENALTIES

ENVIRONMENTAL

$80,000 civil penalty. ConocoPhillips. March 2004. Alpine Oil Field—Clean Air Act Violations. ADEC imposed civil penalty for high carbon monoxide emissions from turbines used to re-inject natural gas at the Central Processing Facility that exceeded the air quality permit by 215 tons over a year-long period. On Nov. 14, 2004 ADEC issued Compliance letter to CP for continued violations of excess Carbon Monoxide emission levels at the injection turbine from August 24 to October 2, 2004 (no fines). On March 5, 2005, Senator Domenici (R–NM) Senate Energy & Natural Resources Chair, toured the Alpine Oil field with Interior Secretary Norton, Sen. Lisa Murkowski and others. On March 7, 2005, ADEC closed the November compliance letter. However, problems with Carbon Monoxide levels exceeding permitted levels persisted at the Alpine production facility. On July 11, 2005, BP requested changes to the standards for all the combustion turbines but to date, ADEC has not taken such action.

$35,000 Fine. BP. Sept. 19, 2003. Badami Oil Field. Clean Air Act violations. ADEC compliance orders show that for nearly five years (from October 1998 to August 2003), BP operated Badami operated in violation of carbon monoxide emission permit limits. From May 1999 to August 2000 and in April & May 2001, Badami operated in violation of permit conditions for oxide of nitrogen emissions. On Feb. 23, 2004, ADEC issued a new air quality permit with revised BACT limits for the turbines (i.e. weakening the standard).

$75,000 Civil Penalty. BP. Feb. 21, 2003. Northstar Oil Field. Clean Air Act violations. ADEC compliance order for violations of earlier compliance order (2001), operating equipment not covered by permit and exceeding the NOx emission limits in its permit (only $40,000 fine paid). As of April 26, 2005, BP remained out of compliance with the permit, including excessive flaring rates.

$45,000 fine. BP. Feb. 21, 2003. Badami Oil Field. Clean Air Act violations. ADEC compliance Order for violations of Carbon Monoxide emission limits for nearly two years, higher nitrogen oxides emissions for over a year and for continuing violations at the Badami Central Production facility (fine reduced to $10,000).

Criminal Probation Conditions. BP. December 2002. Prudhoe Bay. Leak Detection, Monitoring and Operating Requirements violations. U.S. District Court found BP had not installed a leak detection system that could promptly detect Prudhoe Bay pipeline spills, and failed to comply with Alaska Department of Environmental Conservation requirements for best-available technology for crude oil pipelines. The Court ordered probation conditions allowing the state agency unrestricted access to the corporation's records and oil fields to verify compliance with environmental, health, and safety regulations. This action resulted from a July, 2001 a petition to the court submitted on behalf of 77 BP employees.

$130,000 penalty. Arctic Utilities Inc. and TDX North Slope Generating Inc. December 2002. Deadhorse. Clean Air Act violations. ADEC penalty at Prudhoe Bay power plant. The company failed to obtain air quality permits for installing new emissions sources and constructing upgraded facilities for this major source of nitrogen oxides pollution.

$675,000 civil assessments and costs. BP. November 14, 2002. Prudhoe Bay. Spill Violations. Fine for spill cleanup problems for 60,000 gallon pipeline spill ($300,000 waived by ADEC if spent on environmental project to increase using low-sulfur fuel use in school buses). Crude oil spilled to wetlands and leaked through ice cracks to a drinking water lake.

$300,000 fine. BP. June 2002. Prudhoe Bay. Pipeline Leak Detection Violations. BP paid fine for delays in installing leak detection systems for Prudhoe Bay crude oil transmission lines.

Zero Fine. ConocoPhillips. December 24, 2001. Alpine Oil field. Clean Air Act violations. ADEC issued Notice of Violation for high carbon monoxide levels at primary power turbine. Some issues were not resolved until 2003.

$75,000 fine. BP. December 21, 2001. Northstar Offshore field. Clean Air Act violations. ADEC imposed penalties and damages for violations of air quality permit for high carbon monoxide emissions, exceeding daily flaring limits, and operating equipment that had not been permitted. ($35,000 suspended conditionally). The violations continued for years; the compliance order was repeatedly extended. On June 22, 2004, ADEC wrote a Compliance Letter that BP was out of compliance with its permit, the 2001 compliance order and state regulations.

$80,000. BP. July 27, 2001. Badami Oil Field. Clean Air Act violations. ADEC compliance order for past and continuing violations of air quality permits for exceeding carbon monoxide and Nitrogen oxides limits and violations of certain provisions of March 15, 2001 compliance order. This compliance order was extended numerous times until February 14, 2003.

$412,500 fine. BP. April 17, 2001. Prudhoe Bay, Endicott. Clean Water Act violations. From 1996 to 2000, BP failed to properly analyze discharges from the Prudhoe Bay Central Sewage Treatment facility and the Endicott Offshore field and Prudhoe Bay Waterflooding operations. EPA reduced the total penalty down to only $53,460 because BP voluntarily disclosed violations of the Clean Water Act.

$110,000 fine. BP. March 15, 2001. Badami Oil Field. Clean Air Act violations. ADEC compliance order for 2 violations of permit conditions relating to excess levels of Carbon Monoxide, two past violations of oxides of nitrogen limits, and one ongoing violation of source test requirements (fine conditionally reduced to $70,000). On Aug. 1, 2001, BP paid an additional $10,000 for BP two months that the turbine engines exceeded emission limits specified in the compliance order.

$16,875 fine. Phillips. January 10, 2001. Alpine Oil Field. Clean Air Act violations. ADEC Compliance Order allowed Phillips Alaska Inc. to operate secondary power turbine on diesel fuel, instead of natural gas, until 2003 even though emission testing showed this would result in exceeding permit Best Available Control Technology limits for NO_X. (Fine reduced to $5,000)

Zero Fine. BP. February 7, 2000. Northstar offshore field. Clean Air Act violations. Voluntary disclosure to EPA of violations of the Clean Air Act, New Source Performance Standards from drilling prior to start-up of field. EPA did not seek penalties for these violations, according to a letter of February 23, 2000.

$22 million penalties and fines. BP. February 2000. Endicott offshore field. Superfund violations. The federal court ordered BP to pay $6.5 million in civil penalties, $15.5 million in criminal fines, and to implement a new environmental management program, and ordered five years of probation. BP was late to report hazardous dumping down Endicott production wells, required by the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), commonly known as Superfund (also see Doyon Drilling, below).

$5,000 Fine. ARCO Alaska Inc. Dec. 20, 1999. Alpine Oil Field. Clean Air Act violations. Drill rigs operated by Doyon Drilling exceeded total emissions allowed under permit conditions (fine reduced to $500).

$5,000 fine. ARCO Alaska Inc. Nov. 22, 1999. Alpine Oil Field. Clean Air Act violations. ADEC issued compliance order for excess emissions from the drilling mud plant heater in violation of Air Quality Construction permit conditions (fine reduced to $500).

$14,000 fine. ARCO Alaska Inc. Nov. 7, 1999. Alpine Oil Field. Clean Air Act violations. ADEC issued compliance order for excess emissions from engines associated with drilling that violated permit conditions (fine reduced to $3,500).

$13,000 fine. Aug. 31, 1999. BP. Badami Oil Field. Clean Air Act violations. ADEC compliance order for excess emissions of Carbon Monoxide from turbines and crude oil heaters (fine reduced to $5,000).

$50,000 fine. Alyeska Pipeline Service Co. March 17, 1999. Trans-Alaska Pipeline System. U.S. Dept. of Transportation pipeline violation. Two instances of over-pressurization of the Pipeline which risks leaks and spills led to federal fine. Since 1992, Alyeska had over-pressurized the pipeline 5 times resulting in another $100,000 in fines.

$3 million fine. Doyon Drilling. 1998. Endicott offshore field. Oil Pollution Act violations. The BP contractor pled guilty of 15 counts of violating the Oil Pollution Act of 1990 for dumping hazardous wastes down Endicott wells for at least three years. Three managers paid $25,000 fines and the Health, Safety, and Environmental coordinator went to prison for a year.

Southcentral Alaska: $485,000 civil penalty. ConocoPhillips. August 2004. Offshore drilling platforms in Cook Inlet, Alaska—Clean Water Act violations. EPA imposed penalties for 470 violations of the rig's National Pollution Discharge Elimination System Permit over a five-year period, and six unauthorized discharges of pollutants to Cook Inlet, in Southcentral Alaska.

HEALTH AND SAFETY

$1.3 million civil fine. BP. January 2005. Prudhoe Bay. Alaska Oil & Gas Conservation Commission had originally proposed $2.53 million fine for safety violations at a Prudhoe Bay well accident caused by excessive pressure in 2002. Explosion and fire seriously injured a worker. The Commission said

BP put production ahead of shutting down and repairing wells. BP agreed to pilot feasibility study on remote monitoring of well pressure levels for $549,000 fine waiver.

$102,500 civil fine. BP. January 2005. Prudhoe Bay. Alaska Oil & Gas Conservation Commission fined BP for violating rules drawn up after the well explosion on preventing dangerous pressure from building up in Prudhoe Bay wells.

$6,300 civil fine. BP. January 2003. Prudhoe Bay. Alaska OSHA proposed fine for violations of state's worker safety law in failing to protect workers in an explosion that killed a worker.

$67,500 civil fine. Houston/Nana (owned by Arctic Slope Regional Corporation & NANA Regional Corporation). March 2002. Trans-Alaska Pipeline. Alaska OSHA proposed fine to this Trans-Alaska Pipeline Contractor for failing to report 142 instances of worker injuries or illnesses from 1999 to 2001, in violation of state and federal laws.

Ms. CANTWELL. Mr. President, lastly, on these reasons why we should not move forward, is the notion that the Arctic National Wildlife Refuge is a symbol of this country's desire to protect and preserve wildlife areas and that somehow people would like to assume that long-term damage has not already been done to other parts that have been opened up for drilling.

In fact, a Environmental News Service article that summarizes a 2003 National Academy of Sciences report that says for three decades of oil drilling on the Alaskan North Slope, while it has brought economic benefits, for sure, it has also caused lasting environmental damage ''and a mixture of positive and negative changes to that area.'' The report found that some environmental damages will last for centuries.

Mr. President, I ask unanimous consent that this article be printed in the RECORD.

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

[From the Environmental News Service]

NORTH SLOPE REPORT FUELS ALASKA DRILLING DEBATE

(By J.R. Pegg)

Three decades of oil drilling on Alaska's North Slope has brought economic benefits to the region, but has caused lasting environmental damage and a mixture of positive and negative social change, says an independent panel of experts.

The National Research Council report released Tuesday is the first official assessment of the cumulative environmental, economic and social effects of some 30 years of oil drilling on Alaska's North Slope, which covers 89,000 square miles.

The report, ''Cumulative Environmental Effects of Oil and Gas Activities on Alaska's North Slope,'' does not offer any policy recommendations on the issue of oil drilling within the Arctic National Wildlife Refuge (ANWR), which is east of the established North Slope oil fields and remains the only part of the nation's Arctic coast not open to drilling.

The Bush administration and some Republicans in Congress are moving to open ANWR to drilling, despite fierce opposition from environmentalists, Democrats and a handful of Republicans.

''That is a policy decision, not a science decision,'' University of Washington zoology professor Gordon Orians told reporters. Orians served as chair of the 18 member committee that produced the report.

Even so, the report was immediately hailed by opponents of drilling in ANWR, while at the same time it was labeled as biased and flawed by some supporters.

The report is ''just another attempt by the people who have been opposed to development in Alaska,'' said Senator Ted Stevens, an Alaska Republican.

''To hear them talk, you would think it would be in the best interest of the country to turn the clock back and put Eskimos back in igloos and deny them energy, deny them any assistance of the federal government, and deny them any income from the production of their lands.''

Stevens alleged that at least three committee members are on record opposing increased drilling and said this undermines the impartiality of the report.

Orians denied charges of any bias within the final report, noting that the panel included individuals with ties to the oil and gas industry, along with members linked to environmental and conservation groups.

''This is a unanimous report,'' Orians said. ''Everyone agreed to this, even the members whose research has been funded by the oil industry for years. The claim that particular biases have slanted the committee's view cannot be sustained.''

The study was mandated by Congress and carried out by the research arm of the National Academies, which is a private, nonprofit institution charged with providing science and technology advice under a congressional charter. Members of its committees are not compensated for their work.

The report finds that efforts by oil industry and regulatory agencies have reduced many environmental effects, but have not eliminated them. Some of the environmental damage will last for centuries or longer because of the costs of cleanup and fragile nature of the Arctic environment.

Oil was first discovered on the North Slope in 1968. Oil production on the slope and along its coast accounts for some 15 percent of the nation's oil production.

There are concerns about the haphazard development of oil and gas on the slope, driven by a consistent ''lack of planning'' by different agencies and regulatory bodies with oversight of the area, Orians said.

''There has been no vision or planning on where things ought to go,'' he said.

But scientific advances are helping to reduce some environmental impacts. Smaller oil drilling platforms cause less harm to the tundra, as does the trend that more roads and drilling sites are now being constructed with ice instead of gravel.

Fewer exploration wells are needed to locate and target oil deposits. The use of remote sensing has reduced off road travel, an activity the panel cited as having notable environmental consequences. Off road trails for seismic exploration have harmed vegetation, caused erosion and degraded the aesthetic beauty of the tundra.

It is ''difficult to fully determine the impacts of off road activity,'' Orians said, because the oil industry refused to release information on where and when it had conducted seismic explorations.

For some areas of concern, in particular oil spills, the committee found no evidence that environmental effects have accumulated.

''Oil spills have not accumulated over time because spills have been small and relatively contained,'' Orians said.

''But if there were to be a major spill offshore in the ocean, current technology cannot remove but a fraction of the oil spilled.''

The report offers a mixed review of the impact of the oil and gas industry on wildlife. There have not been large declines in the caribou herds within the slope, but their geographical distribution and reproductive success has been altered. The animals avoid some traditional areas used for calving and for protection from insects because of oil development, and the report finds the spread of industrial activity could increase this trend.

Some animals and birds, including bears, foxes, ravens and gulls, have benefited from development on the North Slope. These scavenging species have thrived with the addition of food sources from human refuse. But these species prey on eggs and nesting birds, some of which are threatened and endangered. The report finds some bird species are struggling to maintain stable populations because of this increased threat.

The panel suggests that if oil activities expand, these predator populations must be controlled if the impact to some bird species is to be contained.

Bowhead whales have altered their migration patterns to avoid noise from offshore seismic activity, the report says. The extent of this detour and the impact to the species is not fully understood, panelists said, but it is impacting the indigenous societies of the slope.

The Inupiat Eskimos, for example, have a long tradition of hunting bowhead whales, but are now finding they have to travel much further out to sea to catch the whales. And the Gwich'in Indians, who rely on caribou, are concerned about changes to caribou herds and their migration patterns due to oil drilling.

''There is no question in the minds of the native community that have been positive and negative impacts from oil development,'' said committee member Patricia Cochran, executive director of the Alaska Native Science Commission.

Money from oil development has improved schools, health care and housing. But these improvements appear to have a cost, the report finds, including increased alcoholism and diabetes.

The report suggests the negative social impacts could be mitigated by increased involvement of these communities within the planning process for future oil and gas development and for when oil and gas production declines on the slope.

What will happen when production of oil and gas on the North Slope has ceased is something that has not been addressed, the report finds. It will take billions of dollars to clean up and remove the infrastructure put in place to drill oil and gas, costs that neither the government nor the industry has said it is willing to absorb.

The panelists said further research into the environmental effects of drilling should rely more on locals, explore air pollution and contamination of water and food sources, as well as the possible implications of climate change.

The report is intended to help policymakers with their decisions, committee members said, and reflects that there are environmental, economic and social tradeoffs for the future of oil development on the North Slope.

''When industrial development goes into an area there will be some associated changes in the environment and society has to face that, whether it is in Alaska or in the lower 48 states,'' said panelist Chuck Kennicutt, director of the Geochemical and Environmental Research Group at Texas A&M University's College of Geosciences.

''We are simply saying that there is change that will occur. It is always a question of balance between the benefits and the costs and these are perceived differently by different people,'' Kennicutt said.

Bush administration officials said they welcomed the report and highlighted its findings that technology is lessening the environmental impact of drilling.

The report shows that, ''We can protect wildlife and produce energy on the North Slope,'' said Department of Interior Secretary Gale Norton.

Protections that the administration supports, Norton said, include mandated ice roads and runways, limits for exploration areas to no more than 2,000 acres, analysis of each proposed exploration site to avoid sensitive waters and a mandate the exploration only occur in the winter.

Environmentalists and some Democrats believe the report demonstrates that governmental oversight of drilling and its environmental effects has been lacking.

''The National Academies' report reveals what we have suspected all along, that oil and gas exploration and development have significant impact on wildlife and their habitat and is leaving a legacy of pollution on one of America's most pristine areas,'' said Congressman Ed Markey, a Democrat from Massachusetts.

''Oil companies haven't set aside the money required to clean up their current infrastructure, let alone any potential expansion,'' Markey said. ''It seems likely that the restoration of the North Slope, if it is restored at all, will fall on the taxpayer's shoulders.''

Ms. CANTWELL. Mr. President, I think it is known that the environmental damage to the region has been done, that leaks and clean air issues are prevalent in the area, that oil companies are being fined for those violations, and that we cannot just go about drilling in the Arctic National Wildlife Refuge and think we are solving our problems.

In fact, I would like to show my colleagues a copy of a map of what we are talking about. Here is the Arctic National Wildlife Refuge. Here is the rest of northern Alaska. One can see the various designations of existing Federal and State leases. The active Federal leases are in yellow. This is the area under discussion. So all the rest of Alaska in this particular area—in yellow and red, and even in this beige, proposed Federal leasing plan—a lot of territory that is already involved in oil and gas production. Why not leave this last slice of Alaska's Northern coast alone and pristine?

A Washington resident, just to give my colleagues an idea, actually took some pictures of this area of the wildlife refuge. One can see it is a very pristine area with wildlife and streams running through it. We can imagine why someone wanted to preserve this area and why it is so important to the United States.

This happens to be, in my mind, a pretty infamous picture because when my colleague, Senator BOXER, and I were on the floor discussing this issue a few years ago, there was a copy of this picture that was at the Smithsonian, part of an exhibit done by a Washington photographer, a retired Boeing engineer who visited this area and took some pictures and had a public display at the Smithsonian. As soon as these pictures were used on the floor of the Senate, somehow his exhibit was sent to the basement of the Smithsonian and got a lot less attention because somehow, I guess, this picture portrays for the American people something some people didn't want to see or didn't want to have advertised so specifically.

Here is another picture of the area that depicts what an unbelievable, pristine resource this is for the United States. We can see how delicate the ecosystem of this region is and how challenging oil drilling activity in this region can be.

I say to my colleagues that I believe the American people, and certainly the news media around the country, have gotten the gist of what this debate is about because they have expressed their opinions about this as well. I think they have been right on track about this issue. I would like to talk about some of those opinions.

The Milwaukee Journal Newspaper said:

. . . This effort may succeed, not because it's good public policy but because supporters are trying to sneak it into a budget reconciliation bill . . . supporters of good government should not allow that to happen.

That is one newspaper in the Midwest.

Another from the South, the Atlanta Journal-Constitution:

. . . As always, drilling advocates are using distortions and half-truths, claiming that awarding extractive leases on protected lands will significantly reduce the Nation's dependence on imported oil while having minimal impact on the region's fragile ecology.

That from a newspaper in the South.

From the Philadelphia Inquirer, another newspaper that has followed this issue. I thought they hit it right on the head in today's debate because they say:

Congress has wasted years trying to enact this single proposal when, by now, ingenuity and investment in technology could have developed better answers. Whether the United States drills in the Arctic Refuge or not, this country has no comprehensive plan to wean itself from oil. That's what's really needed.

Mr. CONRAD. Mr. President, might I interrupt the Senator for a moment so we might propound a unanimous-consent request?

The PRESIDING OFFICER. The Senator from Washington has the floor.

Ms. CANTWELL. If I can finish for a second, and then I will yield to the Senator to make his request.

The Milwaukee Journal Sentinel is a summation of what this debate is about. We have debated this for years, and the reason it has been contentious is because a lot of people have concerns about this direction and proposal. But now to do this on the budget where the environmental safeguards that are applied to other drilling, where the NEPA process and other safeguards are ignored, where we are not sure what oil revenue the United States is really going to get to recognize in this budget, when we don't know whether we are going to keep this oil for economic security reasons, I agree with the Sentinel which said:

The reconciliation bill should be used to settle budget matters, not to abuse the public's trust.

I will yield now to the Senator from North Dakota for his proposal.

Mr. GREGG. I appreciate the Senator from Washington yielding and the Senator from North Dakota for allowing us to proceed here, also in arranging for this.

At this time, I ask unanimous consent the debate time on the pending Cantwell amendment be extended to 12 noon and that the time from 10:45 to 12 noon be equally divided, except that the Senator from Washington shall, within that time, receive an additional 5 minutes; that any amendments to the language proposed to be stricken be limited to the time specified above and any second-degree amendments would be limited to the time specified under the agreement: that within the time allocated, Senator TALENT shall have the right to offer an amendment relative to ANWR; that the following first-degree amendments are to be offered during today's session within the time limits specified, all time equally divided: Senator GRASSLEY's amendment re: agriculture, from 12 to 1:30; Senator BINGAMAN's amendment relative to FMAP, from 1:30 to 2 p.m.; Senator BYRD amendment re: VISAS, from 2 to 3; Senator LOTT and Senator LAUTENBERG amendment relative to Amtrak, from 3 to 3:30; Senator MCCAIN amendment re: spectrum date change, from 3:30 to 4:15; Senator MURRAY's amendment re: dual eligibles, from 4:15 to 5 p.m.; Senator ENSIGN's amendment re: DTV, 5 to 5:30; and Senator LANDRIEU's amendment on coastal impact or a Senator CONRAD-designated amendment, from 5:30 to 6 p.m.

The PRESIDING OFFICER. Is there objection?

Mr. CONRAD. Reserving the right to object—and I hopefully will not be objecting, I am sure we can work this out—in terms of the time for Senator BYRD's amendment, did we have that?

Mr. GREGG. From 2 to 3.

Mr. CONRAD. Very well. I have no objection.

The PRESIDING OFFICER. Is there objection?

Mr. DOMENICI. Reserving the right to object, I want to ask a question. With reference to the pending amendment, would you refresh my recollection here, Senator TALENT has a right to offer an amendment?

Mr. GREGG. During the period of pending debate from now until 12:00.

Mr. DOMENICI. Is that the time in which it would be debated?

Mr. GREGG. That is correct.

Mr. DOMENICI. We have no additional time. Has that been checked with him?

Mr. GREGG. As I understand it, that is acceptable to Senator TALENT.

Mr. DOMENICI. I am not sure.

The PRESIDING OFFICER. Is there objection?

Mr. DOMENICI. I reserve my right to object only because I am not sure that is what he wants.

Is there any way the Senator can fit it in later on for 10 minutes?

Mr. GREGG. No.

Mr. DOMENICI. Is that the only other amendment in the list that applies to ANWR? On that list?

Mr. GREGG. That is correct.

The PRESIDING OFFICER. Is there objection?

Mr. CONRAD. Mr. President, reserving the right to object because I want to make certain we also got in the language that second-degree amendments would be permitted during the above times and their debate would be limited to the time specified under the agreement.

Mr. GREGG. That is applicable to the ANWR language.

Mr. CONRAD. And any others as well.

Mr. GREGG. All right.

The PRESIDING OFFICER. Is there objection to the agreement, as modified?

Without objection, it is so ordered.

Mr. CONRAD. I thank the Senator from Washington for her courtesy in allowing us to proceed and interrupting her statement.

Mr. DOMENICI. Even though Senator CANTWELL has an extra 5 minutes, is it all right that we go and the Senator accumulate that time?

I yield myself 3 minutes, and then I will yield the management of the time to the senior Senator from Alaska for the remainder of our time.

The PRESIDING OFFICER. The Senator is recognized for 3 minutes.

Mr. DOMENICI. I want to respond to one of the issues raised by pointing to the map here. I have conferred with the Senator from Alaska and others about this Coastal Plain. If you see, it is in green and you see these words, it says:

Not wilderness. Creation of the coastal plain oil and gas exploration area.

This little box is within that, 20 acres. It is not within a wilderness area. It is not a wilderness. It was established by President Eisenhower, and contrary to what was said on the floor, it was done that way for the very reason it was thought to have an abundance of natural resources; to wit, oil and gas. Therefore, it was set aside for an exploration area, the future use of which was to be determined by the Congress.

Isn't that interesting? Contrary to what has been said, we are doing exactly what President Eisenhower's set-aside intended. It intended it to be an oil and gas exploration area, for that purpose, to be determined in the future. By whom? Us. The very thing we are doing here.

My last observation: For anybody in the United States who is worried about America and its natural gas future, its natural gas price that is going through the roof, that this particular winter Americans are going to be terribly upset when the price goes up dramatically, with gasoline at the pump so high. It was a month ago that Americans were beginning to worry about their future. It is interesting to note that the State of Alaska, one of ours—not Russia, not some country that we don't know about—actually contains sufficient natural gas that if we would have been on our toes, we would have had sufficient natural gas from our own State to where this crisis would not be occurring.

There are a lot of reasons. But one of them is the constant carping that we can't do it because of environmental reasons, when we can. We know how to do it. We do not have to destroy the wilderness. We don't have to destroy the tundra. But if we keep doing what we are doing, we can destroy our economy. That is the issue.

I am pleased to be part of this. I hope we will vote before the day is out on this issue, and we will finally prevail. I yield the floor.

The PRESIDING OFFICER. Who yields time? The Senator from Alaska.

Mr. STEVENS. Mr. President, I have sort of a unique role in this argument, since I was in the Interior Department in the Eisenhower administration and helped create the Arctic Wildlife Range. It was specifically on this Coastal Plain, specifically specified it was subject to oil and gas leasing.

Then I was here at the time that Senators Jackson and Tsongas offered the amendment that created the 1002 area and, as this chart shows, it was specifically excluded from the Refuge. It is not wilderness. It never was wilderness, and it has never been closed to oil and gas exploration. Their amendment required approval of Congress of the action—of the results of the environmental impact statement required by the Jackson amendment.

Mr. President, I am wearing an Alaska bolo tie today because two of my friends, Laura and Crawford Patotuck, brought this to me and asked me to wear it when ANWR was up before the Senate. They are part of the Alaskan Native group that is here to support this bill and support proceeding with the oil and gas leasing.

I have heard some comments this morning about whether this is right, to have this provision in this bill. The Constitution of the United States does not require 60 votes to pass a bill. That is only a procedural rule of the Senate on how to end filibusters.

Filibusters plague the Senate. They continue to plague this Senate, and that is why the Budget Act was passed, to prevent filibusters on items that would bring about increased income of the United States.

Many people are talking about the 50–50 split between the Federal Government and the State of Alaska under the Mineral Leasing Act. It so happens I was the one who suggested it to Delegate Bartlett at the time the Statehood Act was before the Congress, that we add to that, the Statehood Act, the provisions of the Mineral Leasing Act which guaranteed to Alaska 90 percent of the returns from oil and gas leasing in Alaska because we were not subject to the Reclamation Act.

The Reclamation Act no longer has any application. So Congress has, for many years now, divided these receipts on a 50–50 basis, and this bill, when it becomes law, will specifically so divide it. That is not an issue that would be appealable to the courts. What would be appealable would be the original change in the law by the Congress if we ever decided to file that lawsuit. Alaska has never filed such a lawsuit.

I hope we will not hear anymore about whether this provision of this bill applies to Alaska as it applies to all Western States that have public lands. There is a 50–50 split on the royalties that are derived from oil and gas leasing.

One of my real joys this year was to receive a letter from my old friend, James L. Buckley, Judge Buckley, former Senator from New York.

I ask unanimous consent that a copy of this letter be placed on each desk because I think all Senators should read it.

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

Mr. STEVENS. Let me read it:

DEAR TED: Twenty-six years ago, after leaving the Senate, I was a lead signatory in full-page ads opposing oil exploration in the Arctic National Wildlife Reserve that appeared in the New York Times and the Washington Post. I opposed it because, based on the information then available, I believed that it would threaten the survival of the Porcupine caribou herd and leave huge, long-lasting scars on fragile Arctic lands. Since then, caribou populations in the areas of Prudhoe Bay and the Alaskan pipeline have increased, which demonstrates that the Porcupine herd would not be threatened, and new regulations limiting activities to the winter months and mandating the use of ice roads and directional drilling have vastly reduced the impact of oil operations on the Arctic landscape.

In light of the above, I have revised my views and now urge approval of oil development in the 1002 Study Area for the following reasons:

1. With proper management, I don't see that any significant damage to arctic wildlife would result, and none that wouldn't rapidly be repaired once operation ceased.

2. While I don't buy the oil companies' claim that only 2,000 acres would be affected, even if all of the 1.5 million-acre Study Area were to lose its pristine quality (it wouldn't), that would still leave 18.1 million acres of the ANWR untouched plus another five million acres in two adjoining Canadian wildlife refuges, or an area about equal to that of the States of Connecticut, Massachusetts, Vermont, and New Hampshire combined. In other words, it is simply preposterous to claim that oil development in the Study Area would ''destroy'' the critical values that ANWR is intended to serve.

3. In light of the above, it is economic and (to a much lesser degree) strategic masochism to deny ourselves access to what could prove our largest source of a vital resource.

I emphasize this:

Having visited the Arctic on nine occasions over the past 13 years (including a recent camping trip on Alaska's North Slope), I don't think I can be accused of being insensitive to the charms of the Arctic qua Arctic. I just don't see the threat to values I cherish.

With best regards,

Sincerely, Jim.

There is a man who has changed his views. I do believe we should all take

into consideration the fact that he led the movement, started the movement against the exploration and development of this Arctic Plain.

I must express my amazement that our colleague from Washington has introduced an amendment to strip this provision from the budget reconciliation. In 1980, former Washington Senator, and my great friend, Henry ''Scoop'' Jackson wrote a letter discussing the importance of ANWR.

He wrote this about ANWR:

> Crucial to the Nation's attempt to achieve energy independence. One third of our known petroleum reserves are in Alaska, along with an even greater proportion of our potential reserves. Actions such as preventing even the exploration of the Arctic Wildlife Range, . . . is an ostrich-like approach that ill-serves our Nation in this time of energy crisis.

I say this: Not only does ANWR serve our important national security interest, it also serves the economic interest of the State of Washington.

The economic health of Puget Sound is tied directly to Alaska as illustrated in a report commissioned by the Tacoma-Pierce County and Greater Seattle Chambers of Commerce. Of particular importance is oil production from the North Slope.

Washington's refining industry purchases almost its entire crude oil stocks from Alaska. The report states that ''direct impacts from the refining of Alaska crude oil within the Puget Sound region include 1,990 jobs and $144.5 million in labor earnings. In 2003, oil refineries in Puget Sound imported $2.8 billion worth of crude oil from Alaska.'' Alaska oil provided 90 percent of the region's refinery needs.

Washington's refineries provide much needed gasoline and jet fuel supplies to the Pacific northwest. Without the opportunity to expand production at the Cherry Point refinery, more than 300,000 gallons of fuel per day are lost. This is fuel desperately needed by consumers in both Washington and Oregon.

Oregon has no refining. The refinery I mentioned is the one running Alaskan oil. Oil development is a major contributor to the health of Washington's economy. As oil wealth in the State of Alaska increases, so does the demand for Puget Sound goods and services. Perhaps this is why the chambers of commerce support balanced development of ANWR.

They understand that with Prudhoe Bay declining—it today only produces around 950,000 barrels a day from a high of 2.1 million barrels—additional oil resources must be developed to ensure the continued economic viability of the Puget Sound region.

The development of Prudhoe Bay contributed more than $1.6 billion into the Washington economy. ANWR alone is estimated to create over 12,000 new jobs in Washington alone, in addition to the revenues it will generate for the State.

None of these benefits will take place if Senator CANTWELL's motion is allowed to pass.

Not only are decreasing oil output and declining revenues affecting the health of Washington, its major businesses are feeling the heat—particularly the aviat1on industry.

The rise in fuel prices is greatly impacting our aviation industries. Our airline industry has lost over $25 billion in the last 3 years.

Sustained high jet fuel costs of $1.50 per gallon—which is almost triple that of 1998 and 1999—continues to hamper the health of this critical industry. Every dollar per barrel that the cost of oil rises costs the airline industry an additional $2 million per month.

High energy prices also prevent job creation in the transportation sector. The Air Transport Association estimates that for every dollar increase in the price of fuel, they could fund almost 5,300 airline jobs. This should be particularly worrisome to those members who represent constituencies in the airline industry and those businesses that support the airline industry.

At a time when Boeing, America's leading aerospace company, is struggling to reassert its dominance in the aviation field, the high prices of oil are devastating.

Fuel costs are the second biggest costs for airlines. Given these high costs, airlines can not afford to purchase additional aircraft.

And air transport, which generated revenues of $1.5 billion in 2003, are also at risk from high fuel prices.

Washington State consumes 17.6 million gallons of petroleum per day, including 7.3 million gallons for gasoline and 2.5 million gallons per in jet fuel. It produces none of its oil.

I ask the Senator from Washington, where will your constituents get oil if they do not get additional supplies from ANWR, when the pipeline in Alaska—the only known producing area—is declining almost daily?

Twenty-four years ago, during the debate on Anilca, I worked closely with Senator Scoop Jackson and Senator Paul Tsongas to ensure part of the coastal plain of Anwr remained open for oil and gas development.

Senator Jackson and Senator Tsongas promised oil and gas activity would take place in the coastal plain subject to an environmental impact statement which would have to be approved by Congress. In the spirit of compromise, they created section 1002 of Anilca, which set aside 1.5 million acres along the coastal plain of Anwr for oil and gas exploration and development.

It is not wilderness. It has never been wilderness. It has never been withdrawn. It has always been available for oil and gas development. It was once passed by the Senate, and President Clinton vetoed the bill.

I have fought now for 24 years to make sure that the promise made to me personally—made here on the floor of the Senate by Senators from Washington State and Massachusetts, Senator Jackson and Senator Tsongas—and that promise has never been fulfilled.

The Arctic National Wildlife Refuge is 19 million acres.

It is shown on this chart. The area set aside for oil and gas exploration the 1002 area, or the coastal plain is 1.5 million acres. Because of advances in technology, only 2,000 acres of this 1.5 million will be needed for production.

To put this in perspective, ANWR is about the size of South Carolina. The area needed for development is about the size of Dulles Airport. Development in the Coastal Plain is the equivalent of building an airport in South Carolina.

I want to go to chart 2 and show the Coastal Plain.

According to the U.S. Geological Survey, the Coastal Plain holds between 5.7 billion barrels and 16 billion barrels of oil.

Again, I emphasize that people are talking about 2 percent of the known reserves. We have a lot of unknown reserves, particularly in Alaska and the West, which have not been explored, and the area off our coast going toward Russia on the Outer Continental Shelf. Two-thirds of the Outer Continental Shelf of the United States has not been explored.

We are capable of producing, as the Senator from New Mexico said, a lot more oil and gas. We can produce 876,000 to 1.6 million barrels a day by developing the Coastal Plain. That would fulfill our pipeline backup. It is our country's single largest prospect for future oil production.

And, the actual amount of recoverable oil could be much larger. Remember, the first estimates at Prudhoe Bay were that there would be 1 billion barrels of recoverable oil. In the last 30 years, we have recovered 14 billion.

In 1973, at the time of the oil embargo, our country imported one-third of its petroleum. We now import almost 60 percent of our oil. By 2025, we will import almost 70 percent.

American dependence on foreign oil threatens our national security. We now rely on unstable and unfriendly regimes to meet our energy needs.

The coastal plain can produce over 36 million gallons of gasoline, jet and diesel fuel, heating oil, and other products a day. It can heat over 8.1 million homes, or provide all of the gasoline that Californians consume each day. America needs American oil.

America needs this American oil.

People who say it is only a day's supply are talking about if there were no other source of oil. It is a preposterous statement to say this area contains very little oil.

In 2004, our merchandise trade deficit was $651.52 billion, 25.5 percent of this deficit came from net imports of crude and petroleum products, which cost over $166 billion.

We are paying higher prices to meet our energy needs, and we are flushing jobs and money out of our economy.

Americans are paying more for gasoline, heating fuel, and consumer products. In the past 4 years, the average

price of gasoline has increased by $1.84 a gallon—that's a 75 percent increase!

For every $1 billion we spend to develop our domestic resources, we create 12,500 jobs. This means in 2003 we lost over 1.3 million jobs by importing oil instead of producing it here—1.3 million jobs outsourced in order to bring oil from other sources.

By developing our resources on the coastal-plain, we will create between 700,000 and 1 million American jobs. We will put up to $60 million back into the U.S. economy each day instead of sending it to foreign countries.

Probably one of the things most important to me is that our Alaska Native people overwhelmingly support development on this Coastal Plain. Out of the 231 Alaska Native villages, only one has opposed this. Yet they are the poster children for all of these environmental ads you see. One, the Gwich'in Village, opposes the initiative in this bill.

Alaskans overwhelmingly support development in the Coastal Plain; they know we can develop this resource in an environmentally responsible way.

Alaska natives overwhelmingly support development on the Coastal Plain. Of 231 Alaska native villages, only one—the Gwich'in—opposes development.

And the tide of public opinion among all Americans has begun to turn; they know development in the Coastal Plain will help lower energy prices, reduce our dependence on unstable and unfriendly regimes, and grow our economy.

Let me turn to charts 4 and 5 because I think this is very important.

We constantly hear that this is a pristine place, the most beautiful place on Earth. That is the area in wintertime. I defy anyone to say that is a beautiful place that has to be preserved for the future. It is a barren wasteland, a frozen wasteland, and there are no porcupine caribou at all there during that period of time.

The Coastal Plain is a frozen, barren land for 9 months of the year with an average temperature of minus 50 degrees.

A majority of wildlife species use the foothills of the Brooks Range, about 60 miles from the Coastal Plain.

Put up the other chart, please.

This is what it looks like in the summertime.

My colleague, Senator MURKOWSKI, the great partner I have, showed where there was one well drilled with a 6-foot pipe sticking up. The rest of it is constant, constant tundra, no trees, no beauty at all.

The porcupine caribou herd uses the Coastal Plain for only 6–8 weeks per year, when development will not take place.

The herd spends the majority of its time in Canada, which has no seasonal or bag limits for native residents. It is estimated that an average of 2,900 caribou are harvested in Canada each year.

There is no evidence that oil development will harm the porcupine herd. In fact, all evidence points to the contrary. The central Arctic herd at Prudhoe Bay has grown ten fold, from 3,000 in 1974 to over 30,000 today.

There is no evidence that oil development has harmed the reproductive activities of polar bears, a replica of which I proudly wear on this tie.

Resource development and conservation are not mutually exclusive.

Oil and gas companies use ice pads and roads to protect tundra and the ecosystem. They employ directional and multi-lateral drilling to reach reservoirs of oil and gas, which reduces the impact to the land.

In fact, the Clinton administration issued a report which demonstrated that oil and gas can be removed in an environmentally sensitive manner.

Development of the Coastal Plain will be subject to the strictest environmental standards in the world. With these standards and our advanced technology, responsible development and conservation can coexist.

Very clearly, a vote for this motion is a vote for the status quo, which my good friend Ronald Reagan used to say ''is Latin for 'the mess we're in.' ''

A vote for this motion closes our domestic energy resources to production. It's a vote for continuing to import more than 60 percent of our Nation's oil. It is a vote for outsourcing more than 1.3 million American jobs a year.

A vote for this motion is a vote to increase home heating bills and transportation costs. It's a vote to diminish our national security by relying on rogue nations and unstable regimes for our energy needs.

Who would expect a Senator to come to this Senate floor and offer an amendment that exports 1.3 million American jobs every year, will cost us $200 billion annually by 2025, and leaves our national security vulnerable to the whims of unfriendly regimes. But that's exactly what this motion does.

A vote for this motion is not just a vote against developing our domestic resources on the Coastal Plain. It's a vote for closing our Nation's single greatest prospect for future oil production and backing out of the promise that was made to Alaskans—and all Americans—when Senators Scoop Jackson and Paul Tsongas created section 1002 of the Alaska National Interest Lands Conservation Act.

A vote for this motion is a vote against Alaska Natives, who overwhelmingly support development on the Coastal Plain because they know we can balance stewardship and conservation with resource development.

We cannot continue to increase our dependence on foreign oil. We have the capability to continue to increase our production of oil and gas.

When you look at this proposal, this is an amendment to export 1.3 million American jobs overseas. It will cost us $200 billion annually by 2005. Why is it in this bill? That is the reason we want to stop that. We want to stem the flow of jobs leaving this country. We do not want to go beyond 60 in importing our oil. As a matter of fact, we want to reverse that. We want to go back to the promise that Senators Jackson and Tsongas made when they created this portion of this area, a reserve for exploration and development. The Coastal Plain has been set aside for exploration and development.

I close with this: An old bull is what they call us when they reach my age in the Senate, World War II type. We remember when a Member's word meant something in the Senate and when the word of a Member who has left the Senate was still fulfilled. We remember when the Senate would do everything in its power to honor a promise.

In our State, we quote Robert Service: ''A promise made is a debt unpaid.'' This is a debt unpaid to this Senate, to the country, to Alaska, to proceed with what Senators Jackson and Tsongas outlined in 1980, to explore for and develop that oil in the area, if it is possible to do so.

I understand other Senators wish to be yielded time.

How much time would the Senator like to have?

I yield 5 minutes to the Senator.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. THOMAS. Thank you, Mr. President. I thank the Senator. I appreciate the time.

Regarding bull moose and bull elk, it is good to hear from an old bull on the floor as well.

I wanted to talk briefly about it in a fairly broad sense, and obviously the Senators from Alaska have talked about the details. I am impressed with what they said.

I remind everyone we have recently completed an energy policy, one we worked on for a number of years. We worked on it partly as a base for the need we see in this country for energy, partly over the fact we have not had a long-term plan of where we will go. Whether it is energy, medicine, whatever, we need to start looking at the future and how we will fill our needs, how we will be able to provide for growth in the economy, provide for our families, provide for our communities. Energy is very much a part of that.

The energy policy has been very important. It looks to the future. It looks to filling our needs in a balanced policy. Policy looks to increased production, new ways of production, and more technological ways, such as horizontal drilling. In my State, they are looking at new ways of exploring for oil without having to disturb the surface. It is not what we had in the past.

I live in a place where we have areas that need to be preserved. We have lots of areas, some for double utility, so we can use it for various things, and not set it aside. We are talking here about 20 million acres and using 2,000 acres. We are edging in close to Prudhoe Bay. I have been there. It is not a wilderness area.

We have the same experience in Wyoming. We have areas that need to be set aside. There are millions of areas—from the mountains in the Refuge, on down, and there will still be ocean front—and we can have utilization of the lands, combining the two in an economically and environmentally sound way. That is what is set up here.

In our policy we included opening of ANWR as another place. We are in energy production heavily in my State, but we cannot produce enough for everyone. We need to expand that.

There are other Members who want to speak. I speak on this topic generally. We have looked at this everywhere and we should look in Alaska, as well. No. 1, we can do this without taking away the value of the Refuge; No. 2, we need to do it for the economy of the people who live there. Indian lands are right in this land. There are things that need to be done there. We need to do it to fulfill our promise to ourselves regarding the energy policy we have. I urge we continue to pursue the policy we have in place now, to increase our domestic production.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator does not control the time.

The Senator from Washington.

Ms. CANTWELL. How much time remains on each side?

The PRESIDING OFFICER. Senator has 37½ minutes.

Ms. CANTWELL. On each side?

The PRESIDING OFFICER. There is 4 minutes 21 seconds for the majority and 37½ minutes for the minority.

Ms. CANTWELL. Mr. President, I'll take a few moments as I wait for my colleagues to come to the Senate.

I ask unanimous consent Senators DURBIN and SALAZAR be added as cosponsors to this amendment.

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

Ms. CANTWELL. Mr. President, I ask unanimous consent to have printed in the RECORD a National Congress of American Indians resolution that states their opposition to opening up drilling in the Arctic Wildlife Refuge.

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

THE NATIONAL CONGRESS OF AMERICAN INDIANS RESOLUTION #BIS–02–056

Title: Supporting the Subsistence Lifeways of Alaska Tribes, Gwich-in, Inuplat, Tlinglit and Saint Lawrence Island Native Peoples, and of Related Indigenous Cultures in Canada and Russia, and Opposing Efforts by Multinational Economic and Political Interests that Would Endanger these Lifeways

Whereas, we, the members of the National Congress of American Indians of the United States, invoking the divine blessing of the Creator upon our efforts and purposes, in order to preserve for ourselves and our descendants the inherent sovereign rights of our Indian nations, rights secured under Indian treaties and agreements with the United States, and all other rights and benefits to which we are entitled under the laws and Constitution of the United States, to enlighten the public toward a better understanding of the Indian people and their way of life, to preserve Indian cultural values, and otherwise promote the health, safety and welfare of the Indian people, do hereby establish and submit the following resolution; and

Whereas, the National Congress of American Indians (NCAI) was established in 1944 and is the oldest and largest national organization of American Indian and Alaska Native tribal governments; and

Whereas, the subsistence traditions of Alaska Native peoples and other related indigenous peoples vary considerably among regions and cultures, but are tied together by the common strands of their importance for indigenous cultural survival, and their vulnerability to attack from outside interests that lack respect for these subsistence traditions and would destroy or endanger these traditions in pursuit of their multinational economic or political objectives; and

Whereas, like the Yup-ik people of the Akiak Native Community and the Yukon-Kuskokwim Delta of southwest Alaska, the Gwich-in Athabascan people of eastern Alaska and Canada's Yukon Territory, the Inuplat people of northern and western Alaska, the Saint Lawrence Island Natives of the Bering Sea, the Siberian Yup-ik familial relatives of Saint Lawrence Islanders who live on the Russian side of the Bering Sea, and other indigenous peoples of eastern Siberia, all depend on the perpetuation of their various subsistence traditions across the generations for the very survival of their indigenous cultures; and

Whereas, legal barriers and ecologically destructive practices imposed by multinational political and economic interests can and have disrupted indigenous hunting traditions in places around the world, and even where these disruptive actions may have ultimately proven temporary in nature, they have interfered with the perpetuation of indigenous subsistence traditions across the generations, thereby threatening the very survival of indigenous cultures; and

Whereas, the cultural survival of the Gwich-in is so tied to the survival and continuation of the migratory cycle of the Porcupine caribou herd of Canada and Alaska that the Gwich-in are known as the People of the Caribou; and

Whereas, the Inupiat people have likewise been referred to as the People of the Whale because of their profound cultural relationship with the bowhead whale, which provides the foundation of their subsistence diet, and serves as a central organizing factor for a culture that is largely structured around whaling crew affiliations and associated familial relationships; and

Whereas, the Saint Lawrence Island Natives are likewise dependent upon whaling for their cultural survival, and the Native peoples of eastern Siberia have only recently begun the difficult task of trying to reclaim and reinvigorate subsistence whaling traditions suppressed under decades of Soviet rule; and

Whereas, the people of Southeastern Alaska are likewise dependent on herring for their subsistence lifeways; and

Whereas, all Alaska Natives dependent on the riverways for their traditional lifeways related to the salmon; and

Whereas, all of these subsistence traditions are currently threatened by multinational political and economic interests that place them at risk; and

Whereas, the cultural survival of the Gwich-in people is threatened by multinational oil companies and pro-industry officials in the highest ranks of the United States government forces that would callously place the survival of the Porcupine caribou herd at risk, by gambling that oil exploration and development on the herds calving grounds in the Arctic National Wildlife Refuge of Alaska would not have the devastating effects on the herd that many biologists and people with indigenous knowledge of the caribou believe such actions would; and

Whereas, the cultural survival of the Inupiat people, the Saint Lawrence Island Natives, and the indigenous peoples of eastern Siberia is likewise threatened by recent developments before the International Whaling Commission. where Japan succeeded in blocking the allocation of whaling quotas for Alaska Natives and indigenous Siberians, beginning in 2003. and did so solely out of a desire to retaliate against the United States for its opposition to the resumption of a commercial whaling Industry in Japan; and

Whereas, it is morally wrong and a violation of basic human rights for multinational corporations and national governments to place the survival of indigenous cultures at risk, especially to pursue excess wealth or international political advantage, and it is important that the NCAI oppose these assaults on indigenous lifeways that are currently being perpetrated on the international stage.

Now therefore be it resolved, That the NCAI does hereby oppose the efforts of multinational oil companies and certain high ranking federal officials, to open the Arctic Refuge to all exploration and development in complete disregard of the risks such actions would create for the cultural survival of the Gwich-in people of Alaska and Canada, and calls upon the government of the United States to reject any and all proposals that might create such risks; and

Be it further resolved, That the NCAI similarly opposes the efforts of commercial fishing interest which adversely affect the subsistence salmon and herring traditional and customary fishing rights of all Native Tribes of Alaska: and

Be it further resolved, That the NCAI similarly opposes the efforts of the government of Japan and Japanese commercial whaling interests, to play international power politics by shutting down indigenous whaling in Alaska and Siberia at the expense of indigenous cultures that must be allowed to survive and perpetuate their way of life, and calls upon the governments of the United States, Russia and Japan to take appropriate steps to end this callous and abusive mistreatment of indigenous cultures on both sides of the Bering Sea border; and

Be it finally resolved, That this resolution shall be the policy of NCAI until it is withdrawn or modified by subsequent resolution.

Ms. CANTWELL. Mr. President, while I am waiting for some of my other colleagues to speak, I point out a couple of things about this process. I showed a chart earlier that Americans across the country, and certainly the news media covering this, say this budget process is not the way to go about the opening up of the Arctic National Wildlife Refuge. More importantly, there are issues that are precedent setting and raise concerns such as, do my colleagues want to debate the fact that they think 50 votes versus 60 votes is the way to do this policy?

As a Senator from a State that now has to endure a survey for drilling off the coast of Washington, off the coasts of Oregon and California—and the Energy and Natural Resources Committee has been discussing opening drilling off the coast of Florida—this policy in the

underlying reconciliation bill is a very dangerous precedent. That is, that if you can go to a budget process and open up drilling, why can't you open up drilling in any other part of the country through this process?

I guess it is no surprise that the House of Representatives has actually already moved on legislation trying to open up drilling in other areas of the country. It is not a fantasy on my part that other Members of the other side of the aisle could be promoting drilling and could use a budget process for the same maneuver being used here. It sets a very bad precedent, a backdoor scheme.

Because what we are basically saying is that those oil interests are above the public interests, and they do not have to meet the same requirements. For example, the National Environmental Protection Act. I have heard a lot about Scoop Jackson today. My colleagues should remember who wrote the National Environmental Protection Act and got it passed. It was Senator Scoop Jackson. We are very proud of that. Why would we take NEPA and limit the alternatives that could be considered under this bill for proposal impacts to the environment? That is what it does. By throwing this language in the budget resolution instead of a normal process, we are limiting NEPA. We are limiting judicial review. Why should we limit judicial review? We do not do that in other areas of oil drilling, but for this more pristine of areas we will limit judicial review? All because we are doing it through the Budget process.

We will also be limiting the role of the Fish and Wildlife Service. Aren't they an integral part of planning for production in various parts of the country? Why can't current Bureau of Land Management regulations that provide for the Fish and Wildlife Service be used to provide for the protection of fish and wildlife? The answer is the Bureau of Land Management and Fish and Wildlife Service are out of their normal role because we put this in the budget process.

What about compatibility? Why does this legislation assume that oil and gas activities cannot be undertaken in a manner compatible with the Arctic Wildlife Refuge?

Transportation. The chairman has removed consideration in this underlying bill authorizing oil and gas from the coastal regions, which is unusual language considering there is a whole range of issues, including pipelines, ports, and systems. Again, NEPA, judicial review, Fish and Wildlife, Bureau of Land Management, transportation, and other compatibility issues are not being addressed because we are throwing this in the budget process.

What about the leasing provisions? I have talked a lot about this and I would love it if my colleagues from Alaska would support an amendment I plan to offer that specifies this cannot go forward until we verify that it is a 50–50 split or that it isn't going to go forward. This Senator would love to know that my colleagues from the other side of the aisle are so certain this is going to be a 50–50 revenue split that they are willing to support clarifying in the language that the actual opening up of the Arctic National Wildlife Refuge cannot go forward unless it is a 50–50 split. If they are so certain that is going to happen, they should be willing to support my amendment.

As far as the economic issues, I guarantee my State constituents know very well where their oil comes from. In fact, that has been the big complaint for a good part of the last 36 months, the fact that the FTC and other entities keep reminding the Northwest they are an isolated market getting oil from Alaska, yet our prices have gone up to over $3 a gallon.

My constituents, who are getting squeezed at the gas pump, want two things. They want us to have a price investigation and make sure that price gouging is not going on and do something to protect them. And, two, they want something that will bring true competition to the price of fossil fuels and help them in not facing high fuel costs in the future.

Even the Energy Department says it is not going to help my constituents. The Energy Department says in the peak years of production it would reduce prices a penny a gallon. I guarantee my constituents want more than a penny a gallon reduction in gas prices. They are not going to wait 20 years to get that. My constituents want to see real action on a price-gouging bill that we can push out of here that gives the authority to pursue the activities of record profits and make sure price gouging is not going on. They want us to get about diversifying the sources of energy we use.

Diversification will mean a lot to our economy. I can say high gas prices are costing our economy today plenty. If you want to talk about the airline industry, which has seen a 293-percent increase in fuel costs over a 5-year-period of time, yes, there are people in Washington State who are losing their jobs because of that. They want aggressive action today. They do not want to see 10 years from now 6 months of an oil supply that is not going to help them.

I want my constituents to understand a budget process that is a backdoor scheme that basically does not leave them any better off today or in the future than they are today is not a responsible solution to our energy needs. They want to see us truly come up with something that is going to get us diversified off our dependence on fossil fuels. With 3 percent of the world's oil reserves, the writing is on the wall. The United States needs to take a more aggressive action than drilling in the Arctic National Wildlife Refuge.

I remind my colleagues what the Milwaukee Journal pointed out:

> The reconciliation bill should be used to settle budget matters, not to abuse the public's trust.

That is what we are doing in this bill, trying to pass a wildlife refuge off as an oil field drilling opportunity when we are not addressing important issues. We are not addressing the environmental protections, the judicial review, fish and wildlife, the transportation issues, or the Native Alaskan issues.

We are setting down a very dangerous precedent. I don't want to see the same gimmick used for Washington State, for Florida, or other areas when this Senate thinks by sticking something in a reconciliation bill they can open up leasing of oil in the United States.

Some of my colleagues, I know, are going to talk about an important issue as part of this debate, whether this oil that is produced out of the Arctic Wildlife Refuge should remain in the United States. If this Senate believes this debate is about oil and making America more secure, getting off of our 50-percent dependence on foreign oil is what we need to do. To do that, most people will say we have to get off the fossil fuel consumption.

If my colleagues who want to support this amendment want to drill in Alaska, they ought to be willing to say the oil ought to stay in the United States. If you think it is part of our national security plan, then say it is part of our national security plan and keep it in the United States. I would go further to even say, why not create a refined product, like a jet fuel reserve, as they have in Europe? The Europeans figured out jet fuel is expensive. They have not only a strategic petroleum reserve, they have a jet fuel reserve. They figured out they do not want their airline industry subject to and their economy ruined by sudden price spikes.

I would go further than many of my colleagues in saying not only can the oil not be exported, let's put it in a specific reserve dedicated to a particular, important sector of our U.S. economy—transportation and aviation.

I look forward to my colleagues who, in committee, did not think it was such a great idea, who certainly thought that oil should be exported, who now say it shouldn't be. I am glad to see that change of opinion if that is what is going to happen in the Senate. This budget process is a backdoor end to opening a 6-month oil supply we will not see for 10 years and will not do a darned thing to help consumers now or when it is at peak production.

We shouldn't fool the American people by giving them false choices in what is not a solution, and false budget choices when we cannot even guarantee to them the $2.4 billion that is assumed in this budget.

The difference between Alaska winning and the United States winning on this debate is the difference between $2.4 billion and $480 million. So I hope my colleagues, besides looking at this

export issue and saying this oil should stay in the United States, will also look at the commitment in saying that, yes, we only think this should be opened up if the United States actually gets $2.4 billion. Because otherwise this whole scheme is a matter of false choices, false budget choices, false security choices, and false choices for the consumer. In the end, Americans are still paying high energy prices.

Mr. President, while my colleagues sort out who is going to potentially offer a second-degree amendment, I will yield the floor to discuss with my colleagues that process.

Mrs. FEINSTEIN. Mr. President, I rise today in support of Senator CANTWELL's motion to strike the provision to open the Arctic National Wildlife Refuge, ANWR, for drilling from the Budget Reconciliation Act.

Let me be clear: I am opposed to drilling in the Arctic. I am also opposed to attaching this provision to the budget reconciliation bill. ANWR is a prominent national issue, arousing the deep passions of people on both sides. Regardless of one's view on the issue, the question of whether to open the refuge to drilling warrants an independent debate on the floor of the U.S. Senate.

The refuge's coastal plain, which is what would be opened up for drilling, is the ecological heart of the refuge, the center of wildlife activity, and the home to nearly 200 wildlife species, including polar bears, musk oxen, and caribou.

Today, the Senate is going to vote to open ANWR in the most environmentally harmful way. Rather than protecting this unique habitat, the legislation before us directs the Secretary of Interior to open the Refuge for drilling based upon an environmental analysis conducted 18 years ago, in 1987.

This environmental analysis was controversial when it was originally published. It was then challenged in court in the early 1990s. However, the claims were dismissed because at the time, Congress was not actively considering legislation to drill the Arctic Refuge.

As a result, this legislation would bypass the environmental process that all drilling projects must undergo. It would also waive the normal judicial review requirements. In other words, the Senate is going to authorize opening the Refuge, and is going to make sure that there are absolutely no impediments to drilling, including the normal course of environmental and legal review.

This is simply unacceptable.

And why are we destroying this refuge? The Department of Energy estimates that opening the Refuge would lower gasoline prices one cent per gallon 20 years from now.

Let's not fool ourselves. Opening the Arctic Refuge will not lower energy prices.

If we were serious about helping people with rising energy costs, we would be talking about helping low-income Americans pay their heating bills this winter. Yet the Senate continues to vote down fully funding the Low Income Home Energy Assistance Program, LIHEAP.

If we truly wanted to bring down gasoline costs, we would be talking about increasing fuel economy standards in our heaviest, most polluting vehicles.

Yet, instead, we are talking about opening one of our Nation's last pristine environments.

This giveaway comes at a time of record profits for the oil industry. Late last week, the oil companies reported their third quarter profits. The top five oil companies reported huge profit increases in the third quarter of 2005:

ExxonMobil reported third quarter profits of $9.92 billion, an increase of 75 percent from the third quarter in 2004;

ConocoPhillips reported third quarter profits of $3.8 billion, an increase of 89 percent from the third quarter of 2004;

Shell reported third quarter profits of up $9.03 billion, an increase of 68 percent from the third quarter of 2004;

ChevronTexaco reported third quarter profits of $3.6 billion, an increase of 12 percent from the third quarter in 2004; and

BP reported third quarter profits of $6.53 billion, an increase of 34 percent from the third quarter in 2004.

If Congress is truly serious about addressing the issue of high gasoline prices, then we need to take a look at why oil companies continue to make increasingly high profits and how they can reinvest those profits into improving our Nation's energy infrastructure.

Gas prices will not be lowered by opening the Refuge. At its peak, oil production from the Refuge would only be about 1 percent of world oil production.

It is not worth damaging the Nation's only Refuge for less than 1 percent of the world's oil output. This Refuge encompasses a complete range of arctic ecosystems and that provides essential habitat for many species.

It is clear to me that drilling would not give us energy security and would, in fact, carry huge environmental costs.

And this country does not even need this source of oil in order to reduce gas prices. The most effective way to reduce gas prices is to increase fuel economy standards. In a 2001 report, the Congressional Research Service wrote, according to the Energy Efficiency and Renewable Energy Fuel Equivalents to Potential Oil Production from the Arctic National Wildlife Refuge, ANWR:

> The Energy Information Administration (EIA) says that a technology-driven projection for cars and light trucks could increase fuel economy by 3.6 miles-per gallon by 2020. The fuel economy improvement through the first 20 years would generate average daily oil savings equivalent to four times the low case and three-fourths of the high case projected for ANWR oil production. Extended through 50 years, the fuel economy savings would range from 10 times the low case to more than double the high case for ANWR.

And that is an extremely modest assumption for the technology that exists today to increase fuel economy standards.

Imagine if we implemented a 30 percent increase in fuel economy standards, which is technologically feasible, according to BusinessWeek, September 26, 2005.

If this Congress were serious about increasing our energy security, reducing our dependence on oil, and lowering gas prices, we would be working on legislation that would increase fuel economy standards, not trying to drill our way out of the problem as we are doing today.

We need to find real solutions to the problems of high energy prices, energy security, and global warming. We should be encouraging energy efficiency, promoting the development of new and alternative fuels, and supporting the invention and commercialization of new vehicle technologies. This provision accomplishes not even one of these goals.

I hope my colleagues will join me in supporting Senator CANTWELL's motion to strike the provision to open ANWR to drilling.

Mr. JEFFORDS. Mr. President, I rise today in support of the amendment offered by Senator CANTWELL to strike title IV of the bill before us, the title that opens the Arctic National Wildlife Refuge to oil drilling. I do not support drilling in the refuge. But even if a Senator did, they should not support taking this action through the reconciliation process. It is inappropriate to make management decisions regarding one of our Nation's largest and most ecologically important wildlife refuges in a fast-track, procedurally limited bill. Doing so restricts the ability of the Senate and the administration to ensure that drilling is done in an environmentally sound way.

I have to agree with the ranking member of Energy Committee, Senator BINGAMAN, who stated during the markup of this title, that this title does not just open the refuge to oil drilling, it also does so in the least environmentally sensitive way possible. And, Mr. President, it does so in a manner that treats the Arctic Refuge differently than any other Federal lands or wildlife refuges.

Arctic Refuge drilling proponents repeatedly profess that oil development in the refuge would be done in an environmentally sensitive way. As the ranking member of the Environment and Public Works Committee, I want to inform the Senate that title IV of this bill is actually riddled with clauses that weaken existing environmental standards, exempt drilling from key rules, or otherwise allow oil development activities to sidestep environmental protection laws.

Let me list some of the more blatant examples for my colleagues. First, the title exempts parts of the proposed Arctic oil and gas leasing program from environmental review requirements. In particular, it declares that

the Department of Interior's Environmental Impact Statement, EIS, prepared in 1987 satisfies the requirements of the National Environmental Policy Act, NEPA, for preparation of the regulations that will guide the leasing program. NEPA is supposed to ensure that public and Federal decision makers have the most recent, accurate information concerning the environmental impacts of projects, but this clause seems to ensure the opposite. In fact, as long ago as 1991, in a case called NRDC v. Lujan, a Federal court found that due to new scientific information, Interior should have supplemented this very same 1987 EIS analysis before recommending to Congress that it allow development on the Coastal Plain.

In 2002, some 15 years after the 1987 EIS, the U.S. Geological Survey released a significant report detailing 12 years of study about the potential impacts of oil drilling on the wildlife of the Arctic Refuge. This information can, and should be incorporated as the Interior Department's consideration of drilling.

Many now question whether the existing final legislative environmental impact statement, prepared in 1987 to comply with the National Environmental Policy Act, is adequate to support development now, or whether a Supplement or a new EIS should be prepared. As I mentioned, a court in a declaratory judgment action in 1991 held that the Interior Department should have prepared a Supplemental Environmental Impact Statement, SEIS, at that time to encompass new information about the Coastal Plain. Therefore, without the language of title IV, it seems clear that either an SEIS or a new EIS would have to be prepared before drilling could begin.

The bill before us states that the Congress finds the 1987 EIS adequate to satisfy the legal and procedural requirements of NEPA with respect to the actions authorized to be taken by the Secretary of the Interior in developing and promulgating the regulations for the establishment of the leasing program. This language explicitly eliminates the need to redo or update the EIS for the leasing regulations.

There is no question that this language substantially weakens environmental review requirements. It significantly diminishes the comprehensive analysis traditionally required by NEPA, by stating that the Secretary of the Interior need consider only its preferred action and a single leasing alternative. The ''alternatives analysis,'' which is all but eliminated by this section of the bill, is the heart of NEPA. Senators supporting this provision should be fully aware that these limitations strike at the core of our country's environmental review process and requirements.

Further, this title undermines the U.S. Fish and Wildlife Service's authority to impose conditions on leases. This title states that the oil and gas leasing program is ''deemed to be compatible'' with the purposes of the Arctic Refuge. According to the Congressional Research Service, this provision ''appears to eliminate the usual compatibility determination process for purposes of refuge management.'' CRS notes that without the compatibility process, the authority of the Fish and Wildlife Service to impose conditions on leases is called into question.

Mr. President, we can do better, and we should. Reconciliation constrains the way in which Senators who are concerned about these issues, and who do not serve on the Energy Committee or the Budget Committee, are able to address them on the floor.

I would caution all Members of the Senate who have committed to support Arctic drilling only in certain cases, or only if certain other legislative or regulatory actions take place, to think seriously about whether reconciliation serves their interests and their constituents' interests. I would also caution all members, as Senators BINGAMAN and DURBIN have done, that if this language remains in the bill, it opens the door for further attempts through reconciliation to override the requirements of environmental or any other law under the guise of ensuring that we obtain revenue.

Finally, I oppose using reconciliation to open the Arctic Refuge Coastal Plain to oil drilling because I believe it is being used to limit consideration of a controversial issue. The American people have strongly held views on drilling in the refuge, and they want to know that the Senate is working to pass legislation to manage the area appropriately in a forthright and open process. Senator CANTWELL's amendment is the best way to ensure that open process is followed, and I urge Senators to support her amendment.

Mrs. BOXER. Mr. President, once again, the Senate will vote on whether to allow drilling in the Arctic National Wildlife Refuge. If it passes now, this may be the last time we vote on the issue. This may be the last chance we have to save one of America's most pristine areas. So, I want to talk about what our Nation will lose if we allow drilling to go forward.

In 1960, when President Eisenhower set aside 8.9 million acres to form the original Arctic Range, his Secretary of the Interior, Fred Seaton, noted that the area was ''one of the most magnificent wildlife and wilderness areas in North America . . . a wilderness experience not duplicated elsewhere.''

And the Coastal Plain, where oil drilling is proposed, is the area's ''biological heart''—a crucial habitat for hundreds of species of animals.

The Porcupine Caribou herd migrates through the Coastal Plain each year, and—with a population of 130,000—it is the world's largest caribou herd. Its 800-mile-long migration between Canada and the United States is second only to the wildebeests of Africa. The Coastal Plain is the principal calving ground for the porcupine caribou, so they are especially vulnerable to oil drilling.

The Arctic Refuge has the highest concentration of land polar bears on Alaska's North Slope. Polar bears are particularly sensitive to oil development because they den in winter—exactly the time oil companies want to drill.

Millions of migratory birds—over 130 species—journey thousands of miles each spring to nest and feed in the wetlands on the Coastal Plain. The birds travel from six continents and every State in America.

Oil drilling—with its associated roads, pipelines, processing plants, airstrips, and other industrial facilities—would disturb these species' nesting and foraging habitats. The birds in the backyards and skies in every one of our States could become fewer and fewer in number if we disturb the area they have depended upon for millions of years.

Finally, I want to mention the muskox, which live year-round in the refuge. Oil development would displace them from their preferred feeding areas and would reduce calving rates.

Mr. President, this is one of America's—indeed, one of the world's—wilderness treasures. It is unique, pristine, and unspoiled.

Why would we risk that? We don't even get that much oil—6 months worth of oil—and not until 10 years from now.

But don't take my word for it—just look at the reaction from America's oil companies. BP, Conoco-Philipps, and Chevron-Texaco have all pulled out of Arctic Power, the lobby group trying to open up the Refuge to drilling.

If the very companies that would put up the capital and resources do not care about drilling in the Refuge, how can anyone argue that we will be able to improve our oil supply?

If we were really concerned about energy security, we would require better replacement tires on cars, close the SUV loophole on fuel economy standards, and increase those standards overall.

Closing the SUV loophole alone would save us, in 7 years, the same amount of oil we would get from the Refuge. That is saving an Arctic National Wildlife Refuge every 7 years. Let me put it another way. In 20 years, we would save the equivalent amount of oil that we would get from three ANWRs.

Given that there is only about 6 months of oil in the Arctic Refuge and that the oil companies do not want to go there, what is this really all about?

I believe it is really about establishing a precedent for opening up other areas around the country to oil drilling.

That means off the coast of California, the Carolinas, and Florida. That means in our national parks, the Rocky Mountains, and our wetlands.

Ever since the Senate voted to pave the way for oil drilling in the Refuge

back in March, this is exactly what we have seen—repeated attempts to allow drilling in areas previously off limits. If we can open an area as pristine, as unique, and as precious as the Arctic National Wildlife Refuge, what couldn't be opened up?

And so I say to my colleagues, watch out: your backyard may be next.

Mr. President, I urge my colleagues to support the Cantwell amendment, which will protect the Refuge for our children and grandchildren.

Ms. CANTWELL. Mr. President, I ask how much time is left on each side.

The PRESIDING OFFICER (Mr. ALEXANDER). There is 22 minutes 10 seconds for the Senator from Washington and 4 minutes 21 seconds for the Senator from Alaska.

Ms. CANTWELL. Well, it is my understanding that one of my colleagues wants to offer an amendment that was part of the previous unanimous consent agreement. I would ask unanimous consent, until they figure that out, that time during a quorum call be equally divided between both sides.

Mr. STEVENS. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. STEVENS. We have only 4 minutes left.

Ms. CANTWELL. Mr. President, I am happy to debate whatever amendment. Part of the previous consideration was to have a debate on a related amendment. I do not know where the Senator is in offering that amendment. Do we have a time period in which he might—if I can inquire through the Chair, does the Senator who is controlling the time on the other side know when the Senator might be available to offer his amendment?

The PRESIDING OFFICER. The Chair would have no such knowledge.

The Senator from North Dakota.

Mr. CONRAD. Mr. President, might I inquire of the Chair, does the Senator from Washington have the floor?

The PRESIDING OFFICER. She does.

Mr. CONRAD. Without jeopardizing her right to the floor, might I make a parliamentary inquiry?

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

Mr. CONRAD. Mr. President, in terms of the time remaining, I think the Senator from Washington, as I hear her question, is wondering about the disposition of the Talent-Wyden amendment or the Wyden-Talent amendment, however it is, that was previously reserved in the unanimous consent agreement; was it not?

The PRESIDING OFFICER (Mr. GRAHAM). The agreement acknowledged that the Talent amendment would be offered but did not address a time agreement.

Mr. CONRAD. No, I don't think that is correct. I think the Talent agreement was to be within the time to noon, to be considered within that time. Is that correct?

The PRESIDING OFFICER. That is correct, but not a specific amount within that period of time.

Mr. CONRAD. Right. Mr. President, what is the time remaining on both sides at this point?

The PRESIDING OFFICER. There is 19½ minutes for the Senator from Washington—and time is running—and 4 minutes 20 seconds for the Senator from Alaska.

Mr. CONRAD. So the time for the Talent amendment or the Talent-Wyden amendment or the Wyden-Talent amendment would be controlled by the two sides who still have time remaining; is that correct?

The PRESIDING OFFICER. That is the Chair's understanding of the agreement.

Mr. CONRAD. So it would depend on the Senator from Washington and the Senator from Alaska to relinquish time for the purposes of considering the Talent-Wyden amendment; is that correct?

The PRESIDING OFFICER. For yielding time for that purpose, that is correct.

Mr. CONRAD. I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. STEVENS. Are we still on the parliamentary inquiry?

The PRESIDING OFFICER. Yes, sir.

Mr. STEVENS. We could enter into a time agreement now, could we not, on the Wyden-Talent amendment?

The PRESIDING OFFICER. That is my understanding, yes.

Mr. STEVENS. The current time agreement refers to a Talent amendment. I ask unanimous consent that be the Wyden-Talent amendment.

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

Mr. STEVENS. Therefore, that is for the purpose of the Senator being able to yield time to Senator WYDEN to start the process.

The PRESIDING OFFICER. The Senator from Washington.

Ms. CANTWELL. Mr. President, I think my colleague from Oregon, who has been a champion on this issue throughout the committee process, is prepared to call up the Wyden-Talent amendment and to speak on it at this time.

How much time does the Senator from Oregon wish to have?

Mr. WYDEN. Mr. President, would up to 5 minutes be acceptable?

Ms. CANTWELL. Mr. President, I yield the Senator from Oregon 7 minutes.

The PRESIDING OFFICER. The Senator is recognized for 7 minutes.

Mr. WYDEN. Thank you, Mr. President.

AMENDMENT NO. 2362

Mr. WYDEN. Mr. President, I thank Senator CANTWELL for her excellent work and concur with her remarks.

Mr. President, you cannot look the public in the eye and say you are going to drill in ANWR and then ship this oil to China or one of the highest bidders around the world. That is, in my view, exactly what would happen without the Wyden-Talent legislation that is going to be offered now.

Under the legislation, the Secretary could adopt oil lease terms that ensure what is described as the receipt of fair market value. The legislation does not make any mention whatsoever of what we have heard constantly for months and months; and that is this is somehow supposed to reduce our Nation's dependence on foreign oil or increase our energy security.

So what you would have is a situation where if the highest price is in South America, Arctic oil would go to South America; if the highest price is in the Far East, Arctic oil would have to go to the Far East; and, certainly, given the insatiable demand for energy in China, I think, with the dollar being weak, as sure as the night follows the day, without the Wyden-Talent amendment, this oil would end up going to the highest bidder in the Far East, particularly the Chinese.

I do think this amendment is the very least the Senate can do to put a Band-Aid on what I think is a fundamentally flawed decision. I hope, as colleagues look at this—we had the debate in the Energy Committee—they get a sense of exactly what is involved.

With the inflated revenue projections of $2.4 billion from oil leases in the Arctic included in the budget, the Federal Government is going to be forced to sell the oil to the highest bidder to even come close to that amount. In fact, the Congressional Budget Office estimates that net Federal proceeds, over a 10-year period, would be $2.6 billion, with the initial royalties from production near the end of the decade. The budget assumes nearly all of those revenues in the next 5 years alone.

So what that means is, if we are going to have any prospect of making sure this oil goes to the United States, we have to have this legislation.

I also point out that the distinguished senior Senator from Oregon—we still describe him as the senior Senator—Mark Hatfield, shared this position for years. He was a supporter of the oil industry, but he said: By God, aren't we going to keep this oil here at home? Yet what we heard in the Energy Committee is we are concerned about the Mercantile Exchange, we are concerned about all kinds of questions about trade law. This is not about the Mercantile Exchange. This is not about trade law. This is about whether the pledge that has been made by supporters, that this oil is going to stay in the United States, gets honored.

I would like to tell my colleagues, particularly my good friend from Alaska, who said, ''Oh, it is a sure bet this oil will stay in the United States,'' that I specifically asked—I have the transcript with me—executives from BP, when they came to the Senate Commerce Committee, whether they would make a commitment to keep Alaskan oil in the United States. According to the official Senate transcript that I have, they would not make that commitment. That is why this legislation is needed. To allow

drilling, and then shipping it overseas, in my view, is a case of two wrongs making a colossal wrong.

So I hope the Senate now will accept this amendment. In my view, it is the very least that can be done to address the needs of consumers in our country.

I thank my friend from Missouri, who contacted me about his interest in this issue. With supporters of oil drilling claiming oil is needed to reduce our Nation's dependence on foreign oil, we ought to recognize that in this Senate budget reconciliation bill we are not increasing U.S. energy security by one drop of oil—not one drop of oil—unless we have the assurance that this amendment provides that the oil would stay in the United States.

I thank my colleague from Washington State for giving me this time. I appreciate the cooperation of the Senator from Missouri, who I think is prepared to speak at this time.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. TALENT. Mr. President, let me make a parliamentary inquiry. How much time do I have now?

Mr. STEVENS. Mr. President, I yield the Senator such time as he requires.

The PRESIDING OFFICER. The Senator has 3 minutes 46 seconds.

Mr. TALENT. Mr. President, that is the time remaining on our side?

The PRESIDING OFFICER. That is correct.

Mr. TALENT. Mr. President, I understand we are under time constraints, and I will be brief.

I think the Senator from Oregon has made the case very persuasively. I congratulate him for raising this important issue in committee. I was concerned that if we attached this provision in committee, it might subject the whole provision relating to the ANWR part of the bill to a budget point of order, and I did not want to imperil that part of the bill.

As I said before, when I spoke on the Senate floor, I simply do not see any reason why we should cut ourselves off from accessing oil in our own country. But I think the Senator's amendment, and my amendment, is a natural supplement to the underlying purpose of exploring for oil in the Arctic. It is to increase our national security. It is to lower prices in the United States. It is to make certain we have access to oil when we need it.

In order to do that, I think we have to be certain that the oil does not go on the world market but, rather, is reserved for the needs of the United States.

Not only is this right economically because, as the Senator said, it is important, if we are going to meet the budget targets in this bill, that we have access to this oil here in the United States, it is also very important as a hedge against foreign boycotts or threats or oil blackmail that somebody may want to use against the United States. The Senator is correct, this is not something the oil companies are going to like, but this is something that is in the interest of the national security of the United States. I am grateful to him for bringing forward this idea and happy to support him in it and grateful also to the bill managers for their attitude toward it.

I yield back my time.

Mr. STEVENS. How much time remains on our side?

The PRESIDING OFFICER. The Senator has 2 minutes 8 seconds.

Mr. STEVENS. Mr. President, I state for the record, we are prepared to accept this amendment, provided it waives the Byrd rule for further consideration by the Senate and also waives the Byrd rule as applied only to this amendment in a conference report when it returns to the Senate.

I reserve the remainder of our time.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, I want to inform colleagues, I will not be able to agree to such a unanimous consent request. I want everybody to know we will not be able to agree to waive this throughout the process. We might agree to waive it for Senate consideration, but we would have no assurance this would not be altered. There is no way to guarantee it might not be altered.

Mr. STEVENS. Will the Senator yield?

Mr. CONRAD. Let me finish. Then I would be happy to yield. There is no way to assure that other provisions might be added, and so we cannot agree to eliminating points of order through the whole process.

I am happy to yield.

Mr. STEVENS. Mr. President, if the Senator will yield for an inquiry, we are prepared to accept the amendment which specifically says the Byrd rule is waived for this amendment only, and this amendment, if totally unchanged, as it returns from the conference, but only this. But I am informed that—and I inform the Senator—if this goes to conference, any Senator could raise the Byrd rule against the whole report if it remains in there, unless we also waive it as to this section.

Mr. CONRAD. Let me say that the problem, my counsel informs me, is other provisions could affect this one and I cannot agree to waive all budget points of order throughout the whole process on this amendment.

We can conclude debate on this issue right now, and we are not going to vote on it until later. So maybe there is time to work through this. I want to make it clear. I have been informed by counsel I could not agree to a waiver at this point.

Mr. TALENT. Will the Senator yield for a moment?

Mr. CONRAD. I am happy to yield.

Mr. TALENT. As always, the Senator speaks with candor, and I very much appreciate that. I want to hone in on the last point the Senator made. We are not voting on this now, and we don't have to consider it now. If we can keep an open mind to see if there is some way we can work this out in the meantime, I am sure the Senator from Oregon feels the same way. I understand entirely his reservations.

Mr. STEVENS. Has the amendment been filed?

The PRESIDING OFFICER. The amendment has not been proposed.

Mr. STEVENS. Mr. President, must it be filed now to comply with the existing time agreement?

Mr. WYDEN. Mr. President, I call up the amendment.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Oregon [Mr. WYDEN], for himself and Mr. TALENT, proposes an amendment numbered 2362 to the language proposed to be stricken by amendment No. 2358.

Mr. CONRAD. Mr. President, I ask unanimous consent that reading the amendment be dispensed with.

Mr. STEVENS. I object.

The PRESIDING OFFICER. Objection is heard. The clerk will continue reading the amendment.

The legislative clerk continued the reading of the amendment:

(Purpose: To enhance the energy security of the United States by prohibiting the exportation of oil and gas produced under leases in the Arctic National Wildlife Refuge)

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.

Mr. STEVENS. Parliamentary inquiry: Can that amendment be amended later, if it is left alone right now?

The PRESIDING OFFICER. The amendment is an amendment to the language proposed to be stricken. As such, it is a first-degree amendment subject to a second-degree amendment.

Mr. STEVENS. I thought we had a time agreement to ban second-degree amendments.

Mr. CONRAD. That is not correct. There is no ban on second-degree amendments. This second-degree amendment specifically provided for it.

Mr. STEVENS. Another parliamentary inquiry: Is that amendment subject to a Byrd rule point of order now?

The PRESIDING OFFICER. At this point the Chair is not aware of any reason why this amendment would violate the Byrd rule.

Mr. STEVENS. I didn't hear the Chair. Yes or no?

The PRESIDING OFFICER. At this point there is no violation. The Chair doesn't see a violation at this point with this amendment.

Mr. STEVENS. Further parliamentary inquiry: If that is adopted and brought back in the conference report, it would be subject to the same consideration?

The PRESIDING OFFICER. It would be subject to the same consideration, but there have been no arguments made to the Chair for or against a violation of the Byrd rule.

Mr. STEVENS. Another parliamentary inquiry: That is an amendment to the Cantwell amendment?

The PRESIDING OFFICER. It is an amendment to the section of the bill proposed to be stricken by the Cantwell amendment.

Mr. STEVENS. It is an amendment to the provisions in the bill.

The PRESIDING OFFICER. Yes.

Mr. CONRAD. Parliamentary inquiry.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Has the Parliamentarian made an actual ruling with respect to the Byrd rule?

The PRESIDING OFFICER. No.

Mr. CONRAD. I want to make clear to my colleagues, what I hear happening and what I think colleagues may think just happened may be two very different things. As I understand it, the Parliamentarian has not made a ruling or a determination on this matter at this moment.

The PRESIDING OFFICER. That is correct.

Mr. STEVENS. That is correct.

Mr. CONRAD. I thank the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, is it possible to pose a question through the Chair to the Parliamentarian as to whether, if adopted, it would be subject to the point of order under the Byrd rule?

The PRESIDING OFFICER. Once it is adopted to the bill, it is not subject to a point of order, when contained in the bill.

Mr. STEVENS. I seem to be hearing that it is because of the condition of the bill right now, that the time has not expired, et cetera. Is the Parliamentarian ruling because of the time situation or giving us an actual ruling now on application of the Byrd rule to this amendment?

The PRESIDING OFFICER. The Chair is reserving a decision on the merits of the Byrd rule as applied to this amendment because no such argument has been made.

Mr. CONRAD. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. In part, the question of the Byrd rule violation here would turn on the question of whether this scored; is that correct?

The PRESIDING OFFICER. That is part of the analysis.

Mr. CONRAD. And that part of the analysis has not yet been done, I assume, in terms of the Parliamentarian making a final determination. He has not had the evidence put before him; is that correct?

The PRESIDING OFFICER. That is correct.

Mr. CONRAD. So in terms of making a decision, the Parliamentarian simply does not have all the information before him to make a judgment.

The PRESIDING OFFICER. That is correct.

Mr. CONRAD. I thank the Chair.

Mr. STEVENS. Do I have any time remaining?

The PRESIDING OFFICER. There is 1 minute 48 seconds.

Mr. STEVENS. I will use 30 seconds.

I intend to raise a point of order against this amendment unless it is clearly ruled at the time the vote takes place that the Byrd rule will not apply to this amendment here on the floor of the Senate now, during consideration of this bill, or when the bill comes back as a conference report.

I reserve the remainder of the time.

The PRESIDING OFFICER. Who yields time?

The Senator from Washington.

Ms. CANTWELL. Mr. President, how much time remains on each side?

The PRESIDING OFFICER. There is 4 minutes 40 seconds for the Senator from Washington; 1 minute 28 seconds for the Senator from Alaska.

Ms. CANTWELL. Is the Wyden amendment the pending amendment?

The PRESIDING OFFICER. That is correct. The Wyden amendment is pending.

Ms. CANTWELL. Mr. President, does the Senator from Oregon wish more time?

Mr. WYDEN. No.

Ms. CANTWELL. I will make a couple of comments in closing as we sort out the last on the Wyden-Talent amendment. This budget reconciliation act, as it stands now, without the Cantwell amendment striking the ANWR language, is a false promise to the American people. It is a false promise that they are going to have cheaper gas prices now or significantly cheaper gas prices in the future. It is a false promise on the amount of revenue that is going to be raised in the budget. It is a false promise that somehow this can be done in an environmentally sensitive way and that the area we have called for so long the Arctic National Wildlife Refuge can be preserved as it is. It is a set of false promises, and the American people deserve better. They know this is a time in which our country should be making serious plans to diversify our overdependence on fossil fuel and change, and they certainly don't want environmental considerations that have been long the standard for oil drilling in America to be tossed aside by a budget resolution.

They certainly don't want the fact that there have been, as one organization, the Alaska Department of Environmental Conservation said, 405 spills annually in the North Slope since 1996. They don't want to continue the trend in Prudhoe Bay and other Trans-Alaska Pipeline areas of causing 4,532 spills since 1996. The American people want to have responsible production moving forward that meets the standards that production in America has lived by. That is, by the same standards of the National Environmental Protection Act, judicial review, fish and wildlife, transportation issues, compatibility issue, protection of indigenous rights. They don't want a backdoor gimmick into helping the oil companies, who have already been making record profits, continue to make record profits on something that is going to offer very little for the American people.

I urge my colleagues to support the Cantwell amendment and to support the Wyden amendment when it comes up so we can be true to this issue and say we don't want to drill in the Arctic Wildlife Refuge as a way to get out of our problems. We want to make an investment in the right process and have oil companies live by the environmental standards they are required to today.

With that, I yield the floor.

The PRESIDING OFFICER. Who yields time?

If neither side yields time, time will be charged evenly between both sides.

Mr. CONRAD. Parliamentary inquiry: How much time remains on this amendment now?

The PRESIDING OFFICER (Ms. MURKOWSKI). The Senator from Washington has 58 seconds. The Senator from Alaska has 1 minute 28 seconds.

Mr. CONRAD. Time is running evenly at this point?

The PRESIDING OFFICER. That is correct.

Mr. CONRAD. The Chair has informed us the Senator from Alaska has 1 minute 28 seconds remaining. The Senator from Washington has 58 seconds remaining. Right now they are charging the time equally.

Mr. STEVENS. I am prepared to yield back the balance of our time if the Senator is. I yield back the balance of my time conditioned on the Senator yielding back the balance of her time.

Ms. CANTWELL. I yield back the balance of my time.

The PRESIDING OFFICER. All time is yielded back.

The Senator from New Hampshire.

Mr. GREGG. Madam President, at this time we will move to the amendment offered by Senator GRASSLEY and Senator DORGAN. Hopefully they will both be here in short order to get that one started.

I suggest the absence of a quorum.

Mr. CONRAD. Will the Senator withhold for a moment?

Mr. GREGG. I will withhold that.

Mr. CONRAD. Madam President, I think it might be useful for the purposes of informing our colleagues where we are now. We have completed the debate on the ANWR issue. We now go to the Grassley-Dorgan amendment that is on payment limitations. We will then go to the Bingaman amendment on the subject of FMAP. We will then go to the Byrd amendment from 2 to 3 on the issue of visa reform. We will then go to the Lott-Lautenberg amendment on Amtrak; that is from 3 to 3:30. From 3:30 to 4:15, we will be on the McCain amendment; from 4:15 to 5 on the Murray amendment on dual eligibles; then an Ensign amendment on DTV from 5 to 5:30; then the Landrieu amendment or an amendment that I

might designate from 5:30 to 6. That uses up all of the time.

If we could alert colleagues, we have a very restricted schedule. These are the only amendments we could schedule time for and get unanimous consent. We apologize to our colleagues who wanted additional opportunities to offer amendments. It simply was not possible given the very tight time limitations of reconciliation and given the events of yesterday.

I ask unanimous consent that Senators HARKIN, OBAMA, and MIKULSKI be added as cosponsors to my pay-go amendment.

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

Mr. CONRAD. I yield the floor.

Mr. GREGG. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GRASSLEY. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

AMENDMENT NO. 2359

Mr. GRASSLEY. Madam President, I yield myself 15 minutes.

The PRESIDING OFFICER. Does the Senator have an amendment he wishes to call up at this time?

Mr. GRASSLEY. Yes, the amendment by GRASSLEY, DORGAN, ENZI, HARKIN, HAGEL, THUNE, JOHNSON, BROWNBACK, and FEINGOLD. It is the amendment on payment limits.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Iowa [Mr. GRASSLEY], for himself and Mr. DORGAN, Mr. ENZI, Mr. HARKIN, Mr. HAGEL, Mr. JOHNSON, Mr. BROWNBACK, and Mr. THUNE, proposes an amendment numbered 2359.

(The text of the amendment is printed in today's RECORD under ''Text of Amendments.'')

Mr. GRASSLEY. Madam President, since we are talking about farm payments and since I am involved in agriculture, I want to be totally transparent that on the side I am a family farmer, I have income from that farm, and I crop share with my farmer son Robin Grassley. We don't hire labor. So whatever farm payments go with our crops, I receive 50 percent of those farm payments from the Federal farm program.

This amendment is about the family farmer. Farm programs are not just about the 2 percent of Americans who farm for a living. Farm programs are about several things, but, most importantly, they are about national security because Napoleon said ''an army marches on its belly,'' so obviously a secure food supply is very important for our national security.

Second but not often said, it is about the social stability of our Nation because any society is only nine meals away from a revolution, so a certain food supply has something to do with the stable society of any country.

The American people recognize the importance of the family farmer to our Nation and the need to provide an adequate safety net for family farmers. That is why we have had a farm program for 70 years. In recent years, however, these farm payments have come under increasing scrutiny, particularly from people who do not understand agriculture. And when you spend the taxpayers' money, there is nothing wrong with scrutiny. Critics of farm programs have argued that the largest corporate farms reap most of the benefits of these payments.

Mr. CONRAD. Madam President, might I inquire through the Chair if the Senator would allow an interruption for a unanimous consent request with respect to who controls the time in opposition?

Mr. GRASSLEY. Yes, I will.

Mr. CONRAD. I very much appreciate that.

Madam President, I would like to yield 45 minutes, the time in opposition, to the Senator from Georgia, Mr. CHAMBLISS, for his control.

The PRESIDING OFFICER. The Senator has that right.

Mr. CONRAD. I thank very much the Senator from Iowa for yielding.

Mr. GRASSLEY. That brings up a situation I wasn't aware of. I thought we had an hour equally divided. There was 45 minutes there, so do we have 1½ hours and I have 45 minutes on my side?

Mr. CONRAD. The Senator is correct.

Mr. CHAMBLISS. Would the Senator like to reduce that to an hour?

Mr. GRASSLEY. No, at least not right now. Maybe later.

Madam President, I still would stay within my 15 minutes because I don't want to use floor time that other Members might want to use.

But anyway, farm payments have come under increasing scrutiny, and that is legitimate because we are spending taxpayers' money. Critics of farm payments have argued that the largest corporate farms reap most of benefits from these payments. What is more, farm payments that were originally designed to benefit small and medium-sized family farmers have contributed to the demise of those smaller farmers as well because unlimited farm payments have placed upward pressure on land prices and cash trends and have contributed to overproduction and lower commodity prices, driving many family farmers off the farm.

The law creates a system that is out of balance. This is pointed out in this first chart I have here that basically indicates—and you can look at the different lines, but the bottom line is the one I most often use—10 percent of the largest farmers in America get 72 percent of the benefits that we appropriate to help family farmers with their safety nets. I have to ask: How long are city taxpayers going to support a farm program for family farmers when 10 percent of the biggest farmers are getting 72 percent of the benefits? That is something we in rural America need to be thinking about when we are anticipating just 2 years from now—less than 2 years—having a debate on the renewal of the 2007 farm bill. Are we going to be able to maintain support in the urban-dominated House of Representatives for a farm safety net when 10 percent of the biggest farmers in America are getting 72 percent of the benefits?

I believe we need to correct our course and modify the farm programs before those programs cause further concentration and consolidation in agriculture. Today, most commodities are valued off demand. Markets dictate profitability. When farmers overproduce by expanding rapidly because of the impact of Government farm payments, then markets are not functioning. Federal farm programs are influencing even land prices across the country. Iowa land is selling between $4,000 and $5,000 an acre in counties surrounding my home at New Hartford, IA.

This amendment will revitalize the farm economy for young people across the country by making land prices and cash trends more affordable, and that is going to be most important if we are going to revitalize American agriculture by getting young people in it when you consider today the average age of a family farmer is 50 years.

My amendment will put a hard cap on farm payments at $250,000. That is the same as what is in the President's budget, meaning the Republican President's budget, meaning Republican President Bush's budget. This will take it down from the current payment, $360,000, that is allowed under existing law, under the 2002 farm bill.

Just to remind everybody, I voted against the conference report on the 2002 farm bill, and the lack of farm payments, of responsible hard caps was the reason that I did. I worked back then with Senator DORGAN, who is the main sponsor of this amendment, on a similar measure in 2002, and it passed by a bipartisan, bipartisan support of 66 to 31. The amendment, of course, was taken out in conference.

One section that was added in the 2002 farm bill set up the Commission on the Application of Payment Limitations. This was a substitute for the fact that we didn't get payment limitations; we are going to have a commission study it. This study concluded that payment limitations affect the largest producers and these producers generally have lower per-unit production costs than other producers. But the study also says smaller, less efficient producers may be able to expand production and become more efficient under further payment limitations.

Congress enacted in 1987 the Agricultural Reconciliation Act, more often

referred to as the Farm Program Integrity Act, to establish eligibility conditions that are not being abided by today for recipients and to ensure that only entities actively engaged in farming receive payments. To be considered actively engaged in farming, this act requires an individual or entity to provide a significant contribution of inputs—capital, land, equipment, labor—as well as significant contributions of services, particularly labor, or active management to the farming operation. But people have been able to find loopholes around this act, and that has facilitated these huge payments that go beyond the limits that are in law today.

Last year, I held a hearing through the Finance Committee on the GAO report that was released April of 2004. The GAO report recommended that measurable standards and clarified regulations would better assure that people who receive payments are actively engaged in farming. Of course, our USDA under both Republicans and Democrats does not want to write these regulations, does not want to enforce them, and that is why we have this legal subterfuge of getting around the payment limitations that are higher but would be effective, and I wouldn't be arguing with them if they were.

Of the $17 billion in payments that the USDA distributed to recipients in 2002, $5.9 billion went to just 149,000 entities. Corporations and general partnerships represented 39 percent and 26 percent of these entities.

I want my colleagues to look at another chart from the Washington Post of March of this year:

> If the purpose of the farm subsidies is to make family farms viable, it's hard to see why payments of more than $400,000 apiece should have gone to 54 deceased farmers between 1995 and 2003, or why the residents in Chicago should have collected $24 million in farm support over that period.

This type of arrangement, and others like it, raise questions about the interpretation and enforcement of the 1987 act that requires each partner be, according to the law, actively engaged in farming.

This is why I wrote the General Accounting Office to conduct a study. I encourage Members of this body to look at that report.

Earlier this year, the Senate went on record supporting a reform of Federal farm subsidies.

During the markup of the Senate budget resolution, I was able, with the ranking member of the committee, Senator CONRAD, to include a sense-of-the-Senate amendment expressing support for stronger farm payment limits; hence, this amendment. That amendment passed the Senate Budget Committee 15 to 7.

The committee agreed that any reconciled mandatory agriculture savings required under the resolution should be achieved through modifications to the payment limitation provisions of the 2002 farm bill.

The budget resolution also instructed Congress to find $3 billion in savings over 5 years in agricultural programs. I supported that resolution coming out of committee without offering my amendment in committee because we have a responsibility to support the chairman in moving the budget resolution along. In the Agriculture Committee, it was bipartisan. These savings consisted of cutting commodity programs, and we achieved the $3 billion savings.

The proposed amendment before the Senate would cap farm commodity farm program payments at $250,000 a year. This would encompass direct payments, countercyclical payments, loan deficiency payments, and marketing loan gains. Gains from commodity certificates would be counted toward the limitation, closing another abusive loophole.

By tightening up loopholes, this amendment would save $1.1 billion in savings over 5 years. With these savings, the Grassley-Dorgan amendment would restore 50 percent of the CRP acres cut by the committee and restore up to 75 percent of the Conservation Security Program money that was cut during the Agriculture Committee markup of reconciliation.

These savings will allow us also to prevent a 2-percent reduction in across-the-board commodity cuts that this resolution before us calls for in the 2006 crop year.

Obviously, with all the increased costs of energy, farming, and everything else, we ought to do what we can to strengthen the safety net and not weaken it. This would help prevent that 2.5-percent cut in farm programs.

Not only has the Senate agreed to some type of payment limit reform in the past, but the President in his budget, as I said, included this $250,000 cap.

The Secretary of Agriculture recently at the Commodity Club luncheon on October 6 said he has heard from producers all over the country. I attended such a forum at the Iowa State Fair, and I understand the type of feedback he received.

The concerns that have been expressed to the Secretary of Agriculture are that farm payments have been causing an increase in land values and the greatest benefits going to the largest farmers.

I have been hearing directly from producers for years exactly what the Secretary is hearing at his farm bill forums. We are hearing that young producers are unable to carry on the tradition of farming because they are financially unable to do so because of high land values, high land prices, and cash rent.

Neil Harl, a distinguished agriculture economist, now retired, from Iowa State University and one of the contributors to the commission report I referred to, has come out with another report. Dr. Harl's statement says:

> The evidence is convincing that a significant portion of the subsidies is being bid into cash rents and capitalized into land values.

If investors were to expect less Federal funding or not at all, land values would likely decline, perhaps as much as 25 percent.

I have a number of editorials supporting my position. The third one I put up comes from the Des Moines Register. Again, it refers to responsibilities I have as chairman of the Senate Finance Committee, assuming I can control every committee in the Senate, and I am willing to inform the Des Moines Register that no Senator who is chairman of the Finance Committee does. They said, in regard to me as chairman of the Finance Committee and Congressman NUSSEL as chairman of the House Budget Committee:

> Both could make a difference for Iowa's farmers and rural communities by steering adoption of payment limitations for farm subsidies. Nearly three-fourths of Federal farm payments go to 10 percent of the farms.

A fourth editorial is from a newspaper that the chairman of the Senate Agriculture Committee, I know, respects very well, the Atlanta Journal-Constitution. The Atlanta Journal-Constitution says:

> As time has gone by, smaller farmers most in need have received less and less of government's support and corporate-like farms more and more.

Their arguments for payment limitations.

By voting in favor of this amendment, we can restore the cuts that have been made to the commodity and conservation programs and lessen Government support to corporate farmers.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. GRASSLEY. Madam President, I ask for 15 seconds.

We can restore what we cut to family farmers in the resolution. We can allow young farmers to get into farming and lessen dependence on Federal subsidies. I hope my colleagues will support this commonsense amendment.

I yield the floor and reserve the remainder of my time. I ask people who want to speak in support of the amendment to please come to the floor so we can expedite this debate.

I might say that I have all sorts of respect for the Senator from Georgia. He is a tough competitor.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. CHAMBLISS. Madam President, I don't take that as a sign of weakness, but I appreciate the comment from my fellow Senator from the great State of Iowa who, like myself, comes from a strong agriculture production State. I will have a little bit more to say about that in a minute.

Madam President, I rise today to make a few remarks, first, about S. 1932, the Deficit Reduction Omnibus Reconciliation Act of 2005, that is being considered by the Senate this week.

According to the Congressional Budget Office, this bill would reduce mandatory spending by a total of $39 billion over 5 years as compared to current

law. As chairman of the Senate Agriculture Committee, I know very well that restraining the growth of Federal spending is a very challenging task. It is a difficult job that most Senators, including myself, would prefer we not tackle, yet we must tackle. We must reduce growth of mandatory spending to get the deficit under control because that is increasingly where the bulk of Federal spending occurs.

This is the first bill in 8 years that reduces the growth of such spending. Most importantly, this bill achieves these savings mainly by reforming mandatory programs rather than cutting benefits to low-income individuals families.

The fiscal year 2006 budget resolution instructed the Committee on Agriculture, Nutrition, and Forestry to reduce outlays by $173 million in fiscal year 2006 and by $3 billion over the 5 years covering the fiscal years 2006 through 2010 within mandatory spending programs under the committee's jurisdiction.

CBO estimates that title I of this bill reduces mandatory outlays in the Agriculture Committee's programs by $196 million in fiscal year 2006 and $3.014 billion over 5 years.

The fiscal year 2006 savings amount is actually $23 million more than our instruction for that year, and the 5-year savings is $14 million higher than the committee's instruction.

As a result, title I of the bill fully complies with the Agriculture Committee's reconciliation instruction under the fiscal year 2006 budget resolution.

Title I of the bill reflects the thoughts and suggestions of a broad array of agriculture conservation and nutrition groups, all of whom care deeply about the Agriculture Committee's mandatory spending programs. The Congress worked hard to write a farm bill in 2002. This title achieved savings from the farm commodity programs, but does so in a way that leaves the structure of farm programs unchanged. The title achieves savings in our conservation programs, but it does this in a way that does not impact existing multiyear contracts in any program. The title achieves modest savings in our research programs, but it does this in a way that allows the basic structure to remain intact and recognizes past funding levels.

Also, importantly, the title preserves budgetary resources for the upcoming 2007 farm bill debate generally suspending spending reductions in fiscal year 2011. None of the outlay savings in the Agriculture Committee's title of the bill comes from the Food Stamp Program, despite the fact that this program accounts for nearly half of the mandatory spending in the committee's jurisdiction.

I have heard concerns about achieving savings from the Food Stamp Program from Senators on the Agriculture Committee, off the Agriculture Committee, and from Senators on both sides of the aisle, and we reacted.

My view is that the Food Stamp Program supports poor and low-income families trying to put food on the table and helps farmers by increasing the food purchasing power of those families. It is a win-win program for American agriculture and for America.

As we move forward in the reconciliation process, I intend to oppose attempts to make any substantial cuts in the funding to the Food Stamp Program. I have made that very clear from day one, and I continue to maintain that position today.

While I support the reconciliation bill, I would like Senators and others to know that we plan to work, hopefully in a bipartisan manner, to provide disaster assistance to farmers and ranchers and others in need of separate legislation in the wake of Hurricanes Katrina and Rita and other adverse weather events.

In the aftermath of these dramatic events, farmers are struggling with production losses, sharply higher energy prices, and lower farm prices. I will oppose amendments that attempt to address disaster assistance for agriculture in this bill.

It is my hope that the Senate will support this bill and, in particular, will not seek to make any changes in the provisions of title I.

I adamantly oppose any amendments that will change farm policy. We made a contract with our farmers in the 2002 farm bill, and we, as legislators, have an obligation to honor that contract that we made with our farmers in 2002. We owe it to our farmers that the structure of this farm bill does not change until 2007, when reauthorization will be considered in Congress.

My colleagues need to understand that if we have to redebate major provisions of the farm bill every time we engage in a budget reconciliation process, then we will rapidly reach a point where it will be impossible to gain needed support from U.S. agriculture.

I reiterate that under the circumstances of the current deficit, I do not relish making these spending reductions, but I believe that we owe it to the American people to help reduce the growth of mandatory spending.

With respect to the amendment offered by Senator GRASSLEY, my goal in crafting the agriculture title of this reconciliation bill was to trim spending of agriculture programs rather than make sweeping policy changes. Senator GRASSLEY's amendment makes significant policy changes. This debate should occur during reauthorization of the next farm bill. It is a complex issue that deserves thorough discussion when all of our farm policies are reviewed in 2007, not on the Senate floor during budget reconciliation.

Let me first say that the chart that Senator GRASSLEY put up I have no doubt is correct, when he says that 10 percent of the farmers in this country received 72 percent of all payments. The fact of the matter is, 10 percent of the farmers in this country produce more than 72 percent of the products that come off the farm. It is not surprising that the folks who produce crops are the farmers who are getting Government payments. That is what farm policy—good farm policy—is all about. Poor farm policy will provide payments to those folks who are not producing. But we have a good farm policy in place today.

The Farm Security and Rural Investment Act of 2002 authorized a commission on payment limitations for agriculture. This has been alluded to by Senator GRASSLEY in his comments.

The purpose of the Commission was to conduct a study on the potential impact of further payment limitations on direct payments, countercyclical payments, marketing assistance loan benefits on farm income, land values, rural communities, agribusiness infrastructure, planning decisions of producers affected, and supply and prices of covered and other agricultural commodities. This is a very broad array of issues which was to be looked at by this Commission.

Here is the first recommendation that the Commission stated, the Commission that Senator GRASSLEY previously alluded to:

> The 2002 farm bill establishes farm payment programs including payment limits through the 2007 crop year. While farm bills can be changed, their multiyear nature provides stability for production agriculture. Producers, their lenders and other agribusiness firms make long-term investment decisions based on this multiyear legislation. Consequently, if substantial changes are to be made in payment limits, payment eligibility criteria, or regulations administering payment limits, such changes should be part of the reauthorization in the next farm bill.

Basically what the Commission that Senator GRASSLEY alluded to is saying is in 2002 we entered into a contract with farmers all across America—in Iowa, in Georgia, in Arkansas, in California—wherever they may be. Based upon the contract this body agreed to with farmers across America, those farmers went to their bankers, to their equipment manufacturers or retailers, to any number of other individuals who own land, they entered into rent agreements, they entered into loan agreements and long-term purchase agreements for farm equipment.

I might mention, farm equipment today, whether it is in Iowa or Georgia, is not cheap. A cotton picker in Georgia costs about $250,000. I am sure a soybean combine costs just about that much also, even though you can use it for corn and, by changing heads, other commodities such as wheat. A cotton picker can be used for one thing, and that is to pick cotton.

But we made a contract with those farmers, and they, in turn, made obligations with other individuals based upon the contract we had given them. Now some of my colleagues want to go back and reopen the farm bill and have the debate which we had in 2002, the last time there was a vote on the Senate floor. The House has not taken up

this issue. The House understands what the obligation of their body is. But here we are, trying to reopen this bill one more time.

Let me tell you specifically what farmers are going to be faced with if this amendment should pass. Senator GRASSLEY refers to the fact that he is reducing payment limit caps from $360,000 down to $250,000 per year. That is right. That is a debate that we had during consideration of the 2002 farm bill. It is an issue we will debate again in 2007. In fact, because of comments from Senator GRASSLEY as well as others who feel strongly about this, we reduced the caps in the 2002 farm bill from $450,000 in the 1996 farm bill down to $360,000; we reduced it by $90,000. We will have that debate in 2007. That is the time to argue for lower payment limits.

In addition to that, the lower payment limits that are provided in this amendment will reduce direct payments from their current level of $40,000 down to $20,000. So whether you are an Iowa corn farmer or you are a Georgia peanut farmer or a California cotton farmer, your direct payments are going to be cut in half in the middle of the stream, even though you have made commitments out there which you are going to have to honor. You signed notes with your banker, with John Deere, AGCO or whoever it might be, to purchase equipment. Your direct payments are going to be cut in half.

Let me tell you exactly how that works. Last year, there were $12.5 billion in farm payments made. Guess where 10 percent or $1.3 billion of those farm payments went. It went to the State of Iowa, to farmers in Iowa, because they had a tough year last year. Because of the high yields of corn, the price dropped significantly, and under the countercyclical programs, Iowa farmers got 10 percent of all payments.

Under the rationale Senator GRASSLEY has put up on this chart here, that this is unfair because 10 percent of the farmers get 72 percent of the payments—10 percent of the payments went to one State. Do I think that is unfair? Absolutely not. Because that is the way the farm bill was designed.

When Iowa farmers have it tough, we have an obligation to extend a helping hand to them. When folks in Georgia have a tough time in agriculture, or in Arkansas or in Texas, we have an obligation to extend a helping hand.

When times are good, yields are good and prices are good, farm payments are very low. In fact, when the 2002 farm bill was passed, there was a lot of criticism coming from the same newspaper editorials to which Senator GRASSLEY just alluded. One of them is in my State. I wear any negative editorial from the Atlanta Constitution as a badge of honor because they are anti any major industry in our State, including the No. 1 industry, which is agriculture.

In the 2002 farm bill, we established good policy for the countercyclical payments to be made in those tough years. It was projected by CBO that we would spend $52 billion over the first 3 years of the farm bill, and that is the figure that was continually alluded to by editorials and those who were critics of the farm bill—not necessarily for the first 3 years, but that was a provision in the farm bill that was the most criticized.

The fact is, even though it was projected that we would spend $52 billion, we had good yields and good prices all across farm country, and our farmers and ranchers only received $37 billion. So we had savings of $15 billion. Have you seen any of these editorials from these newspapers saying thank you to the American farmer and the American rancher for saving us $15 billion? Absolutely not. But here again we are, in spite of the fact that we have had these savings, we are coming back now and saying: Sorry guys, we want to dip into your pocket a little bit more. We want to change your program, irrespective of what commitments you have made, and we are going to change your farm program and we are going to change your farm bill in midstream instead of letting it run through 2006 and 2007 and renegotiate the farm bill in 2007 as we are required to do right now.

I have strong objections to this amendment, not just because I think good agricultural policy is going to be affected by this, because I as a Member of the Senate do not think it is fair to look American farmers and ranchers in the eye and say: Look, I know we made a commitment to you, but sorry, ladies and gentlemen, we are going to change the way we do business. We are not going to honor the commitment we made to you.

That is wrong. It is wrong for America, and it is certainly wrong for American agriculture.

With that, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. COCHRAN. Will the Senator yield time to me?

Mr. CHAMBLISS. I am happy to yield as much time as he may consume to Senator COCHRAN, the chairman of the Appropriations Committee.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Let me congratulate the distinguished Senator from Georgia for his leadership in our committee as the chairman of the Agriculture, Nutrition, and Forestry Committee in bringing to the Senate a section of this reconciliation bill that contains changes in current law that will help achieve the goals of the Budget Act. I hope we will not be sidetracked now by an amendment that suggests that there is a better way to do what we have already done. In fact, to approve the amendment offered by my good friend from Iowa would reinvade and urge the Senate to reconsider a farm bill that was passed 3 years ago. It has a life of 5 years. It is the framework for decisions that are made on farms all over America about what to plant and how to arrange financing, and these plans are made in advance. You cannot just change the rules from one year to the next and expect to have a dependable source of revenue to sustain an economy, a farm economy that is so important to our Nation.

This issue of payment limitations was debated fully during consideration of the farm bill 3 years ago. Payment limitations were included in that bill. It is now the law of the land. Farm plans, including planting decisions and financing decisions, have been made in reliance on that law. The payment limit structure within the law is a provision that was fully discussed and incorporated after careful deliberation. This proposal to change that law in the name of reconciliation under the Budget Act undermines the objectives of the Congress to provide a stable and predictable farm policy. The payment limit amendment offered by my friend will have a serious and adverse effect on farmers in Southern States in particular.

Farmers in my State are suffering from the consequences of Hurricanes Katrina and Rita. Add to that the record-high energy prices, and you have a recipe for total disaster. This amendment would be a fatal blow to an already beleaguered sector of our State's economy. This is not the time to make such a significant change in agriculture policy.

Incidentally, the World Trade Organization Doha Round in Hong Kong this December might result in the need to restructure U.S. farm policy. But the appropriate time to consider possible changes resulting from international trade agreements will be when we debate the next farm bill, which will be 2 years from now.

I urge Senators to oppose this amendment.

The PRESIDING OFFICER. Who yields time? The Senator from Iowa.

Mr. GRASSLEY. Madam President, I hope it is not wrong for me to say who wants to speak. Senator HARKIN wanted 10 minutes, and Senator DORGAN wanted me to save him 10 minutes. I urge they or anybody else who would want time from me to come over. That is all the time I am going to use right now.

The PRESIDING OFFICER. Who yields time?

Mr. CHAMBLISS. Madam President, will you tell us what time is remaining on each side, please?

The PRESIDING OFFICER. The Senator from Georgia has 22 minutes 19 seconds remaining. The Senator from Iowa has 24 minutes 23 seconds.

Mr. CHAMBLISS. Thank you.

The PRESIDING OFFICER. Who yields time?

Mr. BUNNING. Madam President, I rise today to express my support for the Deficit Reduction Act of 2005.

This bill is an attempt to finally make a dent—even a small one—in the

mandatory spending that is threatening to engulf the Federal budget.

With mandatory spending currently accounting for over 50 percent of all Federal spending and projected to grow higher—it must be on the table whenever we examine the budget and the deficit.

In addition to serving on the Budget Committee, I also serve on three of the committees that passed language that is now part of the bill that we have before us.

I can tell you that in each of those committees, it took a lot of hard work and a lot of compromise to arrive at the language in this bill.

Difficult compromise means that hardly anyone is 100 percent happy with the final product.

For instance, I am disappointed that the Finance Committee did not include restrictions on intergovernmental transfers in its package.

Intergovernmental transfers are financing schemes that some States use to pull down more Federal Medicaid dollars than they are entitled to.

For example, some States overpay local government health care providers, and then require the providers to return the excess funds to the State.

The Finance Committee missed an important opportunity to curtail these abuses, and I hope we can rectify this as the bill moves through Congress.

There are, however, parts of this bill that I think are of staggering importance to this country.

In particular, I worked with Senator DOMENICI and others in the Energy Committee to see that ANWR language was included in this reconciliation bill.

As prices continue to rise at the gas pump, and a barrel of oil continues to be high, America needs to increase its domestic supply of energy and reduce our reliance on foreign oil.

Several months ago, I traveled to ANWR and saw firsthand how energy companies will develop it into a viable energy source.

After visiting sites in Alaska, there is no doubt in my mind that we can develop ANWR in a safe and effective manner.

Once developed, ANWR will provide the United States with nearly 1 million barrels of oil a day or 4.5 percent of today's consumption for the next 30 years.

This nearly matches the oil that we import from Saudi Arabia each and every day.

I also want to address the fact that much of the debate here on the senate floor yesterday, and last week in the Budget Committee, was not about this bill that we have before us today.

The ranking member of the Budget Committee wants to talk about a bill that we will likely mark up in the Finance Committee next week—the growth package.

The ranking member and his colleagues are constantly talking about how we can't afford the ''tax cuts'' that the growth package is expected contain.

My answer to that is this: The growth package will not be about tax ''cuts''. It will be about stopping tax increases.

Let me say that again: The growth package will not be cutting taxes; it will be stopping tax increases that will affect American families.

Although my friends on the other side of the aisle may not want to admit it, there are large tax increases on the horizon unless this Congress acts.

I am referring to the tax increases our constituents will feel in their pocketbooks and wallets if we fail to extend current tax law.

The so-called ''tax cuts'' the other side keeps refering to are really nothing more than just keeping current tax law in place.

There are over 40 provisions that American families and employers have come to rely on that will expire at the end of this year if we do nothing.

These are provisions in current law that are important to our constituents and to our economy.

Let's take a look at the items that the Finance Committee, which I serve on, will likely examine soon.

First, there is the alternative minimum tax hold-harmless provision. That one alone will cost about $30 billion to extend for just 1 year.

Madam President, 80,000 Kentuckians face a tax increase if that provision is not extended. And, looking at our neighbors, 235,000 Ohioans and 30,000 West Virginians will also face tax increases if it is allowed to expire.

The R&D tax credit will expire at the end of this year unless we act.

This is an important provision of the Tax Code that spurs innovation and new technologies and one that I and many others here support.

In fact, the bill introduced in the Senate in the last Congress to make this provision permanent had 40 cosponsors, including 22 Senate Democrats.

A lot of other important provisions will also expire if we do not act:

The deduction of tuition expenses—affects 36,000 Kentuckians;

The low-income savers credit—affects 94,000 Kentuckians;

The tax deduction for teachers for their classroom expenses—affects 38,000 Kentucky teachers;

And the low-income savers credit which, in 2003, affected 94,000 low-income Kentucky taxpayers.

These are Kentuckians who do not deserve a tax increase. And I am going to do all within my power to make sure that they do not get one.

But again, our friends on the other side of the aisle will say that I am just telling half the story.

What about the dividends and capital gains 15 percent rate extension, they will ask.

After all, they argue, you Republicans want to extend that and that only helps the rich.

Well, first of all, it is really hard to dispute the positive impact that the 15 percent rates have had on the macroeconomy.

Dividends paid by companies in the S&P 500 are up 59 percent since the tax cut was implemented, and capital gains tax revenue to the Federal Government is set to exceed the CBO forecast by $16 billion in fiscal year 2006.

But let's talk about which taxpayers are benefiting from these 15 percent rates.

In my State, 18 percent of taxpayers benefited from the reduced rate on dividend income and 13 percent benefited from the lower rate on capital gains income in 2003.

Again, to look at some of our neighboring States, in West Virginia 17 percent of taxpayers reported dividend income and 11 percent reported capital gains income.

In Ohio, 24 percent reported dividend income and 16 percent reported capital gains income.

This is especially interesting when you consider that both Kentucky and West Viriginia have median incomes below the national average.

And yet a large number of our taxpayers report receiving capital gains and dividend income.

And this does not even count the workers and retirees who hold these assets inside their 401(k)s and other tax-deferred saving vehicles.

The fact is, dividends are important to millions of families.

According to 2002 irs data, nearly two-thirds of the taxpayers reporting dividend income had adjusted gross incomes below $75,000.

And the average dividend received by those with A.G.I.'s below $75,000 was over $1,700.

As we all know, these dividends are very important to the elderly.

Many of our retired folks rely on dividends to supplement their fixed incomes from pensions and Social Security.

While it is true that these lower rates don't sunset until the end of 2008, it is important that we send a message to the economy by extending these rates this year.

Investors and financial markets will grow increasingly uncertain about the future tax treatment of dividends and capital gains as 2008 gets closer, if we have not done our job by making these provisions permanent.

We just cannot risk adding unwanted volatility into the markets and the economy—which continues to grow.

So, again, let me be clear—the proposals that we are talking about extending in the growth package that we will likely see soon are not new tax proposals—this is simply current law.

If we do not extend these provisions we will cause a substantial increase in the tax bills of American families and businesses.

In closing, I wanted to say a word to those who are complaining about the ''cuts'' in spending contained in this deficit reduction package on the floor today.

The facts show that spending has grown rapidly in the last few decades.

In just 3 years, from 2001 to 2004, total Government spending increased by 23 percent—an increase of over $400 billion in just 3 years.

Despite what we might hear today, we have greatly increased spending in a number of areas—including education and veteran's health care, in addition to homeland security.

Let's keep that in mind as complaints are being made about the bill before us today.

I urge my colleagues to pass this bill and I look forward to further debate.

Mr. GRASSLEY. I yield myself a minute and a half.

Madam President, this amendment and this discussion both are not about the cost of production of agricultural commodities. This amendment and this discussion are about payment limits and the need to prevent public funds from being used by the biggest producers to become even larger by bidding up cash trends and capitalizing their extra profits from production into land values.

There is public interest in this being the result of Federal farm programs, and all except the very largest farmers know that and support this effort.

Focusing on costs of production is totally meaningless, unless one also includes the revenue from production.

Every crop has a different set of numbers on cost and a different set of numbers on revenue produced. Those numbers vary from crop to crop, and, to a degree, vary from region to region and year to year.

The farm program support levels have never been set on the basis of cost of production or on profitability, taking revenue into consideration. Support levels have been set by the Congress, not by some index based on cost of production.

Moreover, this is not about inefficiency, as some have argued for years. The largest producers, with extra profit from their size or scale, from discounts received in input, and from premiums received for volume production are not passed along to consumers. Those extra profits are used to bid land away from midsize and smaller operators.

Keep in mind that these programs are not entitlement programs. The purpose is to stabilize the sector and provide an income supplement when commodity prices are low.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. CHAMBLISS. I am pleased to yield such time as she may consume to my good friend from Arkansas, Senator LINCOLN.

The PRESIDING OFFICER. The Senator from Arkansas.

Mrs. LINCOLN. Thank you, Madam President. I thank the chairman of the Agriculture Committee for offering leadership on this issue and certainly his friendship.

I rise today in opposition to the underlying amendment regarding further payment restrictions on the farm safety net.

This issue of payment limitation is not a new topic of debate. Unfortunately, it remains a largely misunderstood issue for many—both inside and outside the beltway.

As a member of the Senate Agriculture Committee, I suppose I take for granted that not everyone pays close attention to farm policy that we set. But they certainly pay attention to the fact that the grocery store shelves in this great country are always full and that they get the safest and most abundant and affordable food supply in the world. They pay less per capita than any other developed nation on the globe for this incredible food source.

Our producers do it with all of the many things that Americans want to be taken into consideration, whether it be the environment or the economics, and they take into consideration the regulations. Our farmers, our producers in this great land, are the most productive, the most efficient of any across this globe.

I have to say, as a farmer's daughter, that I take pride in telling others about the farmers I represent and what American farmers provide this Nation and the entire globe.

Today, I come to the floor of the Senate to attempt to provide some clarity to this issue that has been misunderstood.

Above all else, our farm policy seeks to do one thing for producers of commodities: That is to provide a strong level of support to producers against low prices brought on by factors completely beyond their control, including foreign subsidies—some that are five and six times higher than the help that we provide our farmers in this country.

Think about that. I wish I had Senator CONRAD's charts that always show the disproportionate share of subsidies of the EU, in particular, but other countries which provide their producers to remain competitive in a global marketplace.

As I have traveled my State since we enacted the 2002 farm bill, I can tell you that Arkansas farmers view our agriculture policy as a contract, an agreement, that they have made between themselves, their lenders, and their government. They should. They should be able to look their government in the eye when an agreement such as the 2002 farm bill is made and say, We have a deal. We understand that in the next 5 years we are going to work as hard as we possibly can with all of the variables that we get, whether it is weather that we have no control over or trade that we have no control over, whether it is multiple, different variables that they have no control over. But they know that their government has made an agreement with them and that their government will stand by that agreement as they make their plans for the enormous amounts of capital investment they have to invest in those five crop years, knowing that some will be better than others but that they can figure out there will be some consistency in the agreement they have made with their government on the program that will allow them to be competitive in a global marketplace.

I am here to urge my colleagues in this Chamber that today is neither the time nor the place to break that contract and agreement that we have made with our farmers.

This budget reconciliation process should not be used to make a policy change of this magnitude. The underlying amendment will effectively do exactly that for the producers in my State of Arkansas and many States across this Nation.

But my colleagues don't have to take my word for it on this matter.

A bipartisan commission established as a part of the farm bill to conduct a study on the potential impact of further payment limitations raised the same cautionary note. This 10-person commission was comprised of 3 members appointed by the Secretary of Agriculture, 3 members appointed by the Senate Agriculture Committee, 3 appointed by the House Agriculture Committee, and finally the chief economist of the Department of Agriculture.

These facts alone should be enough for each of the Members of this body to take their recommendation seriously.

I have taken the time to become familiar with their backgrounds and with their report, a report that was nearly 2 years in the making—not something that popped up overnight but something that was thoughtfully done to recognize how important a safe, abundant, and affordable food supply is to this Nation.

As a member of the Senate Agriculture Committee and someone who has intimate knowledge of the farm operations in my State, I was pleased to discover the commission's top two recommendations support my position that no change should be made in the farm safety net until the current law expires.

First, it specifically states that any substantial changes should take place with the reauthorization of the next farm bill.

Some of you may be asking yourselves, What is substantial?

In strictly monetary terms, I can tell you that conservative estimates say that further payment limitations would cost my State alone almost $80 million a year. The overall economic impact to our State of Arkansas is estimated at nearly $500 million annually, a price far too high to pay when our farmers are looking at unbelievably high gas prices, unbelievably high costs in terms of fertilizer and application that has to be made, not to mention the trade implications that exist out there for our producers.

The commission's second recommendation was, if changes are to be

made, there should be an adequate phase-in period.

Not only does this team of experts, appointed by our Government's leaders in agriculture, urge that no changes be made to our current farm safety net until the appropriate time, but they also urged that, should that day come, our farmers need to be given an adequate period of time to avoid unnecessary disruption in their production, marketing, and business organization.

This is not something that happens once a month. Planning a crop, not only for that year but the understanding of the implication of the crop you plant this year on future crops you may plant, taking care of your land in a way that will make sure that land is sustainable for future generations, is not a 1-month-at-a-time operation.

In short, the commission acknowledges the complexity of this issue and recommends to each of us that we wait to proceed at the appropriate time and then only proceed with caution.

This amendment takes the exact opposite approach and will send shock waves through farm country, particularly in the South. In fact, the mere discussion of such a dramatic change creates an abnormal level of anxiety in my home State.

One of the fatal flaws of the previous farm law was its lack of an adequate safety net in the face of foreign subsidies and tariffs that dwarf our support of U.S. producers.

Again, Senator CONRAD's chart says it better than anybody.

That level of subsidy that other nations provide their producers, their growers, is phenomenal compared to what we do for ourselves. The new farm law corrected that mistake.

The amendment now before us would limit that very support at a time when producers need the help the most, creating a new and gaping hole in the safety net.

Furthermore, during hearings on the new farm bill, virtually every commodity and general farm organization testified in opposition to further payment limitations.

Here we are today, once again, debating this issue of payment limitations.

Proponents of tighter limits continue to sensationalize this issue by citing misleading articles about large farm operations receiving very large payments as a reason to target support for smaller farmers. But, unfortunately, sensationalized stories only serve to cloud their misunderstood issue even further.

Senators truly need to understand that this amendment has very serious implications.

Let me attempt to provide some clarity on the issue of farms.

First, payment limitations have disproportionate effects on different regions in this country. Simply put, the size of farm operations is relative to regions, but even more simply, what a small farm is in Arkansas may be a huge farm in another State, which leads me to my next point.

This amendment continues to unfairly discriminate on a regional basis because it does not differentiate between crops that are extremely cost-intensive and those that are not cost-intensive in the South where we grow what we are suited to grow. That is what farmers do. You would be a fool not to. To try to grow a crop that you are not equipped to grow or intended to grow would be unbelievable.

What do we grow? We grow cotton and rice, which are highly capital-intensive crops. They require disproportionately more capital input per acre than any other crop.

What happened? You have to grow on an economy of scale, have a farm of an economy of scale so you can afford those capital inputs and still be competitive in a global marketplace.

This amendment would lump cotton and rice with the same category of crops that require half as much input cost. It absolutely does not take into consideration the great diversity of this Nation, which is our real strength. That is something we should recognize.

Finally, on the issue of size, farmers of commodities are not getting larger to receive more payments. They get larger in an attempt to create an economy of scale to remain competitive internationally.

At a time when we are telling our farmers to compete in a global market, we now debate an amendment that would discourage farmers from acquiring the economies of scale that they will need to compete in that global marketplace.

Certainly, my colleague from Iowa, who chairs the Finance Committee and has jurisdiction over international trade, can appreciate that. He has talked about it many times.

This amendment affects the cornerstone of support for our Nation's farmers because it prevents the marketing loan from working correctly.

These limitations would lead to loan forfeitures and huge Government inventories of commodities if steps are not taken to ensure that producers can market their commodities.

If you limit the amount of support farmers may receive, you are placing on them a substantial domestic disadvantage before sending them out to compete in an international market that is already unfair for our producers.

This is not the case in Europe, where agriculture is subsidized at a level six times higher than we have here in the United States and in the case of Japan, where agriculture is subsidized at a whopping 92 times more than we do in the United States.

Finally, I say to those who believe that farmers are getting rich at the expense of the taxpayers, there is a reason why our sons and daughters are not rushing back to the farm and their family heritage. It is because farming is a very tough business, with lots of challenges.

In the South, we face many of those, as farmers all across this Nation do.

I hope that my colleagues will take into consideration that this is not the time nor the place to deal with this issue. We made a contract with our grocers, our farmers, and our producers. And we want to make sure that as a government we make good on that contract, and if, in fact, the time comes when we review it, we do it at the appropriate time.

I yield my time to Senator CHAMBLISS.

The PRESIDING OFFICER. Who yields time?

Mr. GRASSLEY. Madam President, I yield 2 minutes to the Senator from North Dakota and 15 minutes to the other Senator from North Dakota.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CHAMBLISS. Madam President, before the Senator from North Dakota moves forward, I want to make sure that we are going back and forth. Does the other Senator from Arkansas need time?

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Madam President, I thank my colleague from Iowa for this time.

Let me indicate that there are really three abuses which are occurring in the current system.

No. 1, there is no effective limit on the marketing loan benefit. Current law does not limit gains received through commodity marketing loan forfeitures or commodity certification transactions. The fact is there is no limit on marketing loan benefits. That was never the intention.

No. 2, payments are not attributed to the individual who receives the benefits. Producers may create multiple entities, such as corporations, to increase the total amount of payments received.

In the last farm bill debate in the conference committee—and I was one of the negotiators on the conference committee—I took to my colleagues an example from a State that will remain unnamed that involved 49 different entities that represented only 5 people. This was an incredible shell game to avoid and evade any kind of reasonable payment limits. This is the kind of abuse that will be shut down by the Grassley-Dorgan amendment.

No. 3, the definition of ''actively engaged'' has been weakened. A cottage industry of lawyers and accountants has developed to create shell organizations to allow nonfarmers to qualify for farm program payments because they have a minimal interest in a farming operation. In some cases, participation in a farm management conference call once a year now qualifies them as ''engaged.''

The PRESIDING OFFICER. The Senator has used 2 minutes.

Mr. CONRAD. These are the three critical points I hope my colleagues will focus on.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Madam President, some things in the Senate are heavy

lifting and tough to deal with. This is the easiest decision ever to be offered to this Senate. The question is, for what purpose do we offer a farm program in this country? The answer is, because family farmers cannot make it over the valleys of despair. With precipitous drops in international prices, devastating weather disasters, we will not have family farmers left unless we have a basic bridge across the valleys.

That is the purpose of the farm program. Instead of a bridge across valleys to help family farmers populate the prairies of this country, the farm program has become a set of golden arches for the biggest and the wealthiest farms in the country.

Senator GRASSLEY and I proposed something that is kind of novel here. We proposed that the farm program be redirected to help family farms. What we say is this: At a time when we are going to cut price supports and cut the safety net for family farmers, we say maybe the better approach would be to restore those cuts and get the money by shutting down the millions of dollars in checks going to the corporate agrifactories in our country. Is that a novel solution? No. It is what the farm program was supposed to have been.

Let me describe what we have in this country. This is from a story in the Washington Post a couple years ago.

> A prominent and well-respected businessman who lives in a million-dollar home, sits on a local bank board and serves as a president of a tractor dealership with sales last year of $30.8 million . . .

He is also, by some definitions a farmer—the principal landlord of a 61,000-acre spread, $38 million from the Federal Treasury in 5 years.

> Like other large operations this farm was structured to get the most from government programs.

In other words, this was farming the farm program. A novel idea, farming the farm program. Perhaps we ought to stop people from farming the farm program.

Some of my colleagues say you have to be big in some parts of the country. That does not mean the taxpayer has to be shipping checks totaling $68 million or $38 million to those operations. Want to farm the whole country? God bless you. You have every right in this country to do so and we sure hope you are successful. But I don't see that the taxpayer ought to be the one who bankrolls the financing operation if you want to farm the entire county. That is all this is about.

My colleague Senator GRASSLEY and I offer this not to penalize any part of the country. It is to refocus the farm program to where it ought to be, to help family farmers through tough times.

I mentioned that millions of dollars go to corporate megafarms. I also pointed out this is not what I came to the Congress to fight for. I want good support prices to go to family farms to help them through tough times so that in the long run we still have yard lights around this country with families living on the farm producing America's food. That is the purpose of a safety net.

Now, I described some of the megafarms, the corporate agrifactories getting millions of dollars. The Grassley-Dorgan amendment says, let's put some limits on it. We asked the USDA, who gets the farm program payments? Do we have some evidence about how much goes to the big interests? It is interesting, the USDA does not know to whom it is making the farm program payments. It does not know. In our piece of legislation, we require it to know. When they are shoveling millions out the door at USDA, they should figure out where they are sending them.

I was thinking about the payments that are made to farmers in the country. We care about family operations. That is the whole purpose of this. By the way, if the purpose is not to support family farming, we ought not have a farm program. We ought to get rid of it if it is not the purpose. I believe it is the purpose and should be the purpose.

Remember that movie, ''Weekend at Bernies,'' while they haul around a dead guy for the whole weekend? They put him in the car, by a swimming pool with sunglasses on, and hauled around a dead guy. The movies don't have anything on the USDA. The USDA sees dead people on farm subsidy rolls. In fact, you have to be ''actively engaged,'' the law says, in farming. And yet they are making payments to dead people. How can you be ''actively engaged'' as a farmer if you are dead? But the USDA does not know who it is sending money to so we could not expect them to answer this question: Why are 55 dead farmers receiving more than $400,000 each in farm program payments?

I understand my colleagues exerting a lot of muscle trying to help live farmers. Maybe at least we could agree on dead farmers not receiving nearly half a million each.

Let's back up for a moment. Let's try to ask ourselves, why do we have a farm program? Of what value is it to our country? My great-grandmother actually ran a farm. She lost her husband, an immigrant from Norway, took a train to Eagle Butte Township, and with six kids, pitched a tent, worked a farm, had a son who had a daughter who had me, which is how I came to southwestern North Dakota. It was a family farm. Think of the courage to run this family operation.

Over time, this country said we will not have them left on the prairie if we do not provide some basic support over tough times, a bridge over price valleys. So we did. It is called price supports, to try and help family farmers.

Boy, has that grown. This little price support program trying to help family farmers through tough times has grown to become a huge boon to some of the biggest operators in the country, having nothing to do with families, having to do with corporate agrifactories. Is that what we want the program to be?

The choice Senator GRASSLEY and I offer is a simple choice. The committee brings to the Senate a proposition that says let's cut farm program payments for every farmer. Let's cut farm program price payments for every farmer. We say there is a better way. How about rather than pull the rug out from other family farmers, we decide to do what we should have done long ago, and that is, shut off the spigot on the money that is going to the big corporate agrifactories that have nothing at all to do with families. I am not suggesting they are unworthy, the corporate agrifactories. I am not suggesting that at all. I am saying if they want to farm the whole county, half a State, or they want to get bigger and bigger and bigger and decide to separate into 49 or 69 or 89 entities in order to farm the farm program, God bless them. I just don't think there is a requirement that the American taxpayer or the Federal Government has to bankroll them. I don't think that is our requirement.

The urge and the urgency for Congress should be to want this country to maintain a network of family farms for the people who risk everything. We are not trying to define exactly what a family farmer is. Some are quite large. But I know what it isn't. Michelangelo was asked, how did he sculpt David? He said, I took a piece of marble and chipped away everything that wasn't David. We can have a family farm and chip away that which it is not.

That which it is not, which we are defining today in some respects, represents the enterprises that do not need the Federal Government's help to grow. They have already grown to the point where they are farming a substantial part of our counties around the country.

This is a choice. We can decide to cut farm program payments for everybody and pull the rug out from under a lot of families out there barely making it, given energy costs and the price of grain, or we can provide the kind of program payments over tough times that we told family farmers we would provide and get the money to do that by limiting the payments that go to people who are getting $38 million in the case of the first enterprise I talked about. That is sensible.

The question is very simple: What do you think the purpose of the farm program is? Whose side are you on? Who are you trying to help?

I suppose my discussion about dead farmers was tongue-in-cheek, but it raises an important question. If we had 55 farmers who are dead who receive $400,000-plus, each of them, nearly half a million each, it raises a pretty important question about the golden arches that exist here for some of the biggest enterprises out there in rural America.

This is not difficult. I understand, and I don't denigrate my colleagues

who are forced to support the biggest corporate farms and to support the way things are. I understand that. Everyone has a constituent interest here. But our interest, the interest of Senator GRASSLEY and myself, is not to try to injure anybody or injure any part of the country. Our interest is to say this country should aspire to say to family farmers, You matter in America; we want you to be able to make it through tough times. That is why we have a farm program.

When the choice is, do we pull the rug out from under you with the cuts coming from the proposal today, or is there a better way by which we can limit payments to the largest corporate farms and use that money to restore the kind of help we have always said we wanted to provide family farmers, isn't that a smart thing to do? Isn't that the right thing to do? Isn't that what public policy was designed to do, to help America's family farmers?

Take a poll, any time, any place in America, and ask the question about whether they value family farmers. They do. Farmers and ranchers who live on the land risk everything. Every spring all they have is hope, the hope that maybe they will get a crop. Maybe it won't hail. Maybe it won't rain too much. Maybe it won't rain too little. Maybe somehow they get a crop, after they put all the money in, in the spring. And when they harvest it, the hope they get a price and maybe they will make a living. That is all they have, is hope.

That is why this Congress has in the past said, let's try to make sure they have some capability with a safety net to make it across these price valleys and these tough times. That is what Senator GRASSLEY and I are trying to preserve. Every year people try to chip away more and more and more. We are trying to preserve that hope, trying to preserve a way of life, something we think is important to the future of this country.

We can have corporations farm from California to New York, I suppose, big agrifactories. But what are the consequences of that? We lose something very important in this country when we lose America's family farm producers and family ranchers.

How much time did I consume?

The PRESIDING OFFICER (Mr. THUNE). The Senator has consumed 11 minutes.

Mr. DORGAN. I reserve the final 4 minutes of my presentation.

The PRESIDING OFFICER. Who yields time?

Mr. CHAMBLISS. I yield to the Senator from Arkansas 4 minutes.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. Thank you, Mr. President. I ask that you tell me when my 4 minutes is up, if that is at all possible.

Mr. President, I rise today in opposition to the Grassley amendment. It is hard for me to do that in the sense that I agree with Chairman GRASSLEY on so many things, but I disagree with him on this amendment.

The 2000 farm bill is a contract, something the Congress entered into, and I think it is a terrible mistake to change the terms of that contract in midstream.

In fact, the USDA had a bipartisan payment limit commission. They looked at it. They concluded the same thing: Don't change the rules in the middle of the game. I do not think any business, much less our family farmers, can have any kind of business plan when the rules change and the rules become very unpredictable.

I thank my colleague Senator CHAMBLISS of Georgia, the chairman of the Agriculture Committee. He has done an outstanding job of trying to be fair when we look at this issue to make sure not one crop or one section of the country is being singled out to carry a disproportionate amount of the pain.

Recently, the WTO made a decision in a cotton case involving Brazil, so our cotton farmers have lost an important program known as Cotton Step II. We are going to add to the burden of our cotton farmers, and add to the burden of our peanut producers and our rice farmers. The biggest concern I have other than that, in addition to the concept of this, is the idea of timing. It could not be worse. When you look at the Southern States—Louisiana, Arkansas, Mississippi, Alabama, Texas, Florida—we are reeling from hurricanes right now, all over that section of the country. In fact, the University of Arkansas Extension Service has estimated there is $900 million worth of hurricane-related crop damage in our State alone—$900 million worth.

Then we look at our farmers. They are paying record energy prices. They have these meritless WTO challenges. They have had storm damage. They have had the worst drought in my State that we have had in 50 years. I think it is a terrible time for us to be adding to their burden.

Of course, there are also many myths that have been perpetrated by people who do not like some of these farm programs. One of these groups—I don't know exactly anything about this group—but the Environmental Working Group says there is a farmer in my State, some guy named Riceland, who is taking boatloads of Federal dollars and subsidies.

Who is Riceland? Riceland is not one farmer. There is not one guy down there named Riceland. Riceland is a farm-owned cooperative. There are 9,000 family farmers who are members of this one cooperative. So, sure, if you bundle all 9,000 up and look, that is a lot of money. But when you look at all these 9,000 separate, independently owned farming operations, you get to see a more accurate picture.

So let's stick with the facts. The facts are this country has the most stable, the most abundant, the safest, the most affordable food and fiber of any country in the world. One thing I would hate to see is us be dependent on foreigners for our food supply. Right now, unfortunately, we are dependent on energy. I think that is a matter of national security. If we ever become dependent on foreign countries for our food, that would be a matter of national security.

Our trade deficit is at an all-time high. We are witnessing—this set of Senators—our manufacturing base in this country evaporating before our very eyes. Do we want to do this to our farm economy? I say no. I say we need to understand we get a big return on the investment we make in our agriculture programs. In fact, all the programs combined—everything total—is less than one-half of 1 percent of the Federal budget.

One of the great strengths America has is we are able to feed ourselves and, if we are given the opportunity, to feed the world.

I urge my colleagues to oppose this amendment.

The PRESIDING OFFICER. Who yields time?

The Senator from Georgia.

Mr. CHAMBLISS. Mr. President, I yield 3 minutes to my colleague from Georgia, Senator ISAKSON.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. ISAKSON. Mr. President, I thank the distinguished senior Senator from Georgia, my dear friend. I appreciate his guidance and I associate myself with his remarks. The distinguished Senator from North Dakota made an admittedly tongue-in-cheek analogy about 55 dead farmers. To change this program in midstream could put a lot of family farmers in the South on life support, and that is not tongue-in-cheek. It would not only cripple the agriculture economy of communities across the Nation, but it would have a most devastating effect on farmers in my State and in the Southeast.

Make no mistake, adoption of this amendment would result in many traditional family farms going out of business—plain and simple.

We had this debate in 2002, when we passed a carefully crafted farm bill. We debated farm payment limits extensively at that time, and it is absolutely wrong to seek to change those rules in midstream. That debate takes place in 2007, when the bill is up for reauthorization.

Our farmers have made business decisions based on that farm bill. They have had significant investments based on that farm bill. We cannot pull the rug out from under them in midstream.

This amendment punishes the farmer whose livelihood depends solely on the farm. In my part of the country, a farmer must have a substantial operation to make ends meet. Why would we seek to punish family farmers at a time when they have made large investments in order to become competitive in an international marketplace? Now is not that time.

Mr. President, on behalf of farmers in my State of Georgia and across the

Southeast, I urge my colleagues to oppose the Grassley amendment.

I yield back.

The PRESIDING OFFICER. Who yields time?

Mr. GRASSLEY. Mr. President, I yield 2 minutes to the Senator from North Dakota.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, how much time is remaining for the entire debate?

The PRESIDING OFFICER. Seven minutes 35 seconds on your side, and 2 minutes 18 seconds on the other side.

Mr. DORGAN. Mr. President, I want to correct, I think, an impression that was made. I do not think it was intentional, but the impression was that the Grassley-Dorgan amendment would prohibit the largest corporate farms from getting payments. We do not do that. They are limited in the payments they would receive. We do put a limit on it. We do not prohibit them. They will still get payments right up to the top limit. But that is all.

To further make my point, in one case, a Mississippi cotton farmer set up a web of 78 corporations and partnerships that collected $11 million in subsidies. The name of one of his companies was Get Rich Farms.

The farm program is not about getting rich for anybody. The farm program is to try to provide some protection and some help for family farmers, who are left to the vagaries of a marketplace that whipsaws up and down with weather, natural disasters. This is not about getting rich. It is about getting through tough times. That is what Senator GRASSLEY and I wish to do.

Now, Mr. President, my colleague from Iowa has arrived. I know he wishes some time. We have very little time left, but I will truncate my remarks so the remaining time will be available to Senator HARKIN, who is also a cosponsor of this legislation.

Mr. President, how much time remains on our side?

The PRESIDING OFFICER. Six minutes.

Mr. DORGAN. Mr. President, let me provide the 6 minutes that is available to Senator HARKIN.

I say to Senator HARKIN, there are 6 minutes available on this debate. I will yield my time at this point in order to make that available.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. HARKIN. Mr. President, I want to be clear about how much time I have.

The PRESIDING OFFICER. The Senator from Iowa has 5 minutes 39 seconds.

Mr. HARKIN. Mr. President, I welcome this opportunity to cosponsor this amendment offered by Senator GRASSLEY and Senator DORGAN.

Again, let's be clear why we are here debating this amendment. It is because the President's budget proposal called for taking away substantial funding that had previously been dedicated to agriculture and nutrition assistance. Accordingly, the congressional budget resolution requires cutting $3 billion out of programs in the jurisdiction of the Committee on Agriculture, Nutrition and Forestry over the next 5 years. These cuts could come from farm income assistance, conservation, Federal nutrition assistance, or several other mandatory programs.

Fortunately—and I commend the chairman of our committee, Senator CHAMBLISS, for this—his mark did not cut Federal nutrition assistance, and neither does the committee-reported measure, although such cuts are probably almost certain after we go to conference with the House.

Along with many of my colleagues, I opposed the cuts to agriculture from the time President Bush proposed them because I do not think they are justified. Three years ago we crafted a new, bipartisan farm bill, which the President praised and signed into law. We were given a budget allocation to deal with it. We stayed within it. The farm bill has in general been working as intended. In fact, in for fiscal 2002 through 2005, since the bill was signed, our Federal commodity programs are estimated to have saved the taxpayers of this country $14 billion compared to the cost estimates right after the bill was enacted. We have spent $14 billion less in those 4 years than we were entitled to spend in the farm bill.

So now we have the budget reconciliation bill before us. I don't believe there is any justification for cutting any funds out of agriculture, but the fact is, the budget resolution requires it. Congress is going to cut funds. The question is, how are we going to do it? How are we going to do it? Well, I am supporting the Grassley-Dorgan amendment because it contains a much more equitable and sound way to achieve the $3 billion in cuts over the next 5 years.

Basically, the amendment says there will be a more reasonable set of limits on the amount of Federal farm program payments that any one individual is able to draw from the Federal Treasury. By obtaining the savings in this way, the burden of budget cuts on the vast majority of America's farmers and ranchers will be lessened.

Now, my colleagues—Senator GRASSLEY, Senator DORGAN, and others—have described very well how farm commodity program payments are heavily concentrated on a relatively small percentage of Americans who control our Nation's largest farm operations. They have described how these operations can be reorganized, manipulated, using various partnerships, corporations, and entities, to skirt the payment limitations that are supposedly in the law now.

Again, let me remind my colleagues, the Grassley-Dorgan amendment we have before us is basically what the Senate adopted in the debate on the 2002 farm bill, by a vote of 66 to 31. This amendment was adopted in the farm bill. Of course, it was rejected in conference, because of strong opposition from the House don't you know, but we adopted it here. The Grassley-Dorgan amendment tracks the proposal in the President's budget.

Again, this amendment Senator GRASSLEY and Senator DORGAN have offered is not onerous. It provides for a basic overall payment limit on all benefits of $125,000 an individual. If you have a spouse, that could be $250,000 for the couple. That is a pretty generous amount of money from the Federal Government to support a farming operation in anybody's book. So this is a modest proposal.

The other thing this amendment does is it cuts through all the confusion and murkiness about the ''three-entity rule.'' This amendment would track payments through to the actual individuals who receive the benefits, and then apply the payment limitations directly and straightforwardly. Now we will know exactly who is getting what. This amendment will establish a stronger requirement of active personal management of a farm or ranch before an individual is eligible to receive farm program payments.

The reasonable payment limitations in the Grassley-Dorgan amendment are a better, fairer way to obtain the budget savings. Those savings are then applied in this amendment to mitigate the most damaging aspects of the measure reported by the committee and which is in the bill before us.

The Grassley-Dorgan amendment delays for 1 year the 2.5 percent across-the-board reduction in commodity program payments and benefits which applies to all recipients.

One other thing this amendment does is it lets us go back and lessen the cuts to the farm bill's conservation title. What it does is it restores conservation funds that the bill before us would take out of the Conservation Reserve Program. It gets us back up to 38.45 million acres, close to the farm bill's 39.2 million acres. So this amendment supports conservation.

It also puts money back into the Conservation Security Program, which was cut by some 30 percent in the measure reported by the committee. That is on top of cuts already imposed on the Conservation Security Program in previous legislation.

So again, the Grassley-Dorgan amendment is fairer—more fair—than the bill before us. It is straightforward, and it responds to the real needs we have in rural America today. I commend Senator GRASSLEY and Senator DORGAN for their amendment.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Georgia.

Mr. CHAMBLISS. Mr. President, let me wind up with a couple of responses to some of the comments that have been made.

First, Senator DORGAN got up and said we had one farm that had gotten

$37 million over 5 years. That is preposterous. It is wrong. It is simply incorrect. The Senator from Arkansas made it very plain there is one cooperative that has 9,000 members, called Riceland. The entity which Senator DORGAN was talking about was not an individual farmer. There is no provision in the current law that would allow such payments to be made. That is simply wrong.

Secondly, there was a statement made that 55 dead farmers received payments. Let me tell you what happened so the American people understand. A farmer goes into the Farm Service Agency at the beginning of the year, and he fills out a form.

That form says how much he is going to plant of each specific crop. They then know what payments they qualify for. Those checks are sent out during different times of the year and even into the next year after the farm season is over. It is unfortunate that 55 farmers died during that year before they got their checks. I am sorry about that. But those farmers were family farmers. Their families deserve that income because that family member was actively engaged in farming at the time he went into the office and made the application. I kind of resent that. We talk about the fact that we want to continue the family farm. The way we can continue the family farm is to take those folks who do unfortunately pass away and eliminate the estate tax. But, unfortunately, our friends on the other side don't agree with us about that.

Let me just say the commission to which Senator GRASSLEY referred, and others have referred, was a commission created in the 2002 farm bill made up of farmers from Kansas, Texas, Mississippi, Illinois, North Dakota, Iowa, Georgia, Arizona, as well as USDA. That commission made strong recommendations that we should not change this payment limitation provision during the course of this farm bill. That is a discussion that should be held in the next farm bill debated in 2007. I submit that is when it ought to be.

I urge my colleagues to vote against the amendment.

The PRESIDING OFFICER. The time of the Senator has expired.

The Senator from New Hampshire.

Mr. GREGG. Mr. President, is it now in order to move on to the amendment of the Senator from New Mexico?

The PRESIDING OFFICER. The Senator is correct.

The Senator from New Mexico is recognized to offer his amendment, with time equally divided in the next 30 minutes.

Mr. BINGAMAN. Mr. President, I appreciate the opportunity to speak. Before I do, I yield 2 minutes to my colleague from North Dakota.

Mr. DORGAN. Mr. President, I thank my colleague for yielding. The chairman of the Agriculture Committee used the word ''resent''—I don't remember the exact context—and suggested that somehow what has been presented on the floor of the Senate about the size of the corporate agrifactories sucking money out of this farm program is inaccurate. I stand by my statement and say there is plenty of evidence. I will put even more in the RECORD about the size of these enterprises that are sucking massive amounts of money out of the farm program at a time when family farmers are seeing their farm program payments cut. That is the purpose of our amendment.

I don't wish to extend this any great length. I only respond because the Senator used my name. I will be happy to put in the RECORD the specific and exact representations about the size of family farmers, the largest corporate agrifactories taking massive amounts of money out of the program trough. I want family farmers to be available to have access to that farm program payment that they need in order to survive. That is the purpose of the amendment.

I thank the Senator from New Mexico for allowing me to respond.

AMENDMENT NO. 2365

Mr. BINGAMAN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Mexico [Mr. BINGAMAN], for himself, Mr. ROCKEFELLER, Mrs. LINCOLN, Mr. PRYOR, and Mr. LEAHY, proposes an amendment numbered 2365.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To prevent a severe reduction in the Federal medical assistance percentage determined for a State for fiscal year 2006 and to extend rebates for prescription drugs to enrollees in Medicaid managed care organizations)

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.

Mr. BINGAMAN. Mr. President, the amendment I am offering today is very similar and essentially the same as the bipartisan language in S. 1007, entitled the Medicaid Formula Fairness Act of 2005. That bill, as we introduced it, had Senators SNOWE, ROCKEFELLER, HUTCHISON, REED, JEFFORDS, LINCOLN, LEAHY, CHAFEE, PRYOR, and JOHNSON as cosponsors. This amendment provides 30 States with protection from serious decreases in the amount of Federal funding that they would otherwise receive in fiscal year 2006 in the Medicaid Program.

Let me put up this chart to give Members an idea of who I am talking about. This chart shows the States that are going to see cuts in their Medicaid Program in the current fiscal year. That is the fiscal year that started the 1st of October.

Let me point to Alaska. The bill before us today provides that Alaska has a full hold-harmless from the estimated $135 million they were scheduled to lose over the next 2 years under Medicaid because of the demographic changes that Medicaid has calculated in a somewhat archaic way. That is in the current bill. The amendment I am offering does not change that. The amendment I am offering leaves that alone. It does not deal with the State of Alaska. My amendment tries to deal with the other 30 States, the red ones shown on this map, the other 30 States that are adversely affected by these

cuts in Medicaid in the current fiscal year.

In the case of Alaska, the underlying bill says we are going to hold Alaska totally harmless from any cuts over a 2-year period. My amendment says we are going to reduce the size of the cuts for these other 30 States so that they will not take as much of a cut as they otherwise would. We say they can have up to a half of a percent of cut but not more than that. It is a 1-year amendment. It is not a 2-year amendment, as the underlying bill provides for the State of Alaska.

Currently, due to a technical change made in the calculation of per capita income data, which is a major component of the calculation of the Medicaid Federal Medical Assistance Percentage, or FMAP, there are 30 States that are scheduled to lose over $800 million in Federal Medicaid matching funds. This is for the year we are already in. My amendment would limit the negative impact that the loss of Federal Medicaid funds would have on the 30 States, the vulnerable populations that they serve, and the safety net providers who serve Medicaid patients. It does so by holding those States to no more than a .5 percentage point drop in their matching rate.

Let me emphasize: The amendment does not even hold States fully harmless. We are not asking to do that. We are not urging that the States should not take some cut. The amendment also allows States to receive the better of either the current FMAP or an FMAP formula that does not re-benchmark per capita income data for fiscal years 2001 and 2002. States should not be taking a loss in hundreds of millions of dollars in their Medicaid matching funds due to a technical revision to their per capita income calculations made by the Department of Commerce in 2004 but being retroactively applied to data in 2001 and 2002. And that is exactly what is happening under current law. The approach makes little sense. Both the States and the low-income beneficiaries across this Nation should not have to bear the negative consequences of this kind of a technical change.

For those who are still not persuaded, let me give additional reasons we should not allow the 30 States that are in red on this map of the United States to lose over $800 million in Federal matching funds.

The first reason is, as the chart indicates, of the 30 States that benefit from the amendment, 27 have received emergency declarations due to Hurricane Katrina. That includes the States of Mississippi, Louisiana, and Alabama, and 24 other States that received similar emergency declarations due to the influx of evacuees.

Second, States are also absorbing costs with respect to the implementation of the Medicare prescription drug benefit right now. They will continue to absorb those costs throughout fiscal year 2006. Although States are expected to receive a benefit in the long run, in the short run they are being hit with hundreds of millions of dollars in costs. In fact, the Congressional Budget Office estimated that States will absorb an additional $900 million in added costs in fiscal year 2006 due to the prescription drug bill's implementation. The FMAP drop to our States that I am talking about in my amendment compounds the problem for our States.

One of the arguments against the amendment is, we don't have enough money. We can't afford this. Anyone who has really looked at this bill knows that is not the case. One item that I will mention as an example is this extension of the milk program, the dairy subsidy program that is going to cost another billion dollars, according to the provisions of this bill. The justification for this is minimal. It is something for which most of the benefit will go to four States. It is not a good expenditure of taxpayer dollars. It is just one example. I am sure there are many others I could cite.

We have this amendment fully offset. We have found an offset that we believe the Parliamentarian agrees will more than cover the cost of the amendment. The benefits to my State are substantial. The amendment does not restore all of the $79 million that we are expected to lose in Medicaid funds because of this change in the Federal matching percentage next year, but it does reduce the size of that reduction so that instead of a $79 million cut in Medicaid funding to New Mexico, we would see a reduction of $13 million. This is more manageable. This would allow our State to reverse the policies it has put in place that have resulted in more uninsured children. I am sure a similar circumstance exists for most of the other States, or all of the other States I am mentioning.

The amendment would provide substantial benefits to each of the States that are in red on this chart. Since I know Members are listening, some of them in their offices and some of their staffs, let me elaborate on the extent of the relief that the amendment would provide to the 30 States I mentioned: In the case of Alabama, there is $34 million in relief; in the case of Arizona, $22 million; Arkansas, $14 million; Delaware, $2 million; Florida, $25 million; Georgia, $8 million; Idaho, $5 million; Kansas, $2 million; Kentucky, $2 million; Louisiana, $43 million; Maine, $35 million; Michigan, $2 million; Mississippi, $22 million; Montana, $6 million; Nevada, $17 million.

As I mentioned, the cut would be reduced for New Mexico in the amount of $66 million. Fourteen million would be preserved in North Carolina; $6 million in North Dakota; $52 million for Oklahoma; $6 million for Oregon; $8 million for Rhode Island; $6 million for South Carolina; $3 million for South Dakota; $27 million for Tennessee; $113 million for Texas; $14 million for Utah; $10 million for Vermont; $27 million for West Virginia; $9 million for Wisconsin; and $13 million for Wyoming.

This is a good amendment. It does not say the States should not cut back on their Medicaid or should not suffer some cut in Federal Medicaid funding, but it says that cut should not be as significant as would otherwise be the case.

We can afford this. This is an amendment that is offset. I believe it is a very meritorious amendment and one that should be adopted as part of the underlying bill, and I hope my colleagues will support it.

At this point I yield the floor. I see my colleague is anxious to speak, so I yield the floor and reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I yield myself such time as I might consume.

First of all, the Senator from New Mexico works very closely and very hard as a member of the committee I chair. I appreciate his hard work and he should not take personal anything I am saying about his amendment.

Let me remind people what the Federal medical assistance percentage is all about. We call that FMAP for short. It sets the amount of money that the Federal Government contributes toward the costs of a State's Medicaid Program.

When States are doing well economically, their Federal share goes down. Then when States need more help, when their economy is not doing so well, their Federal share goes up. That is the way the formula was designed. That is the way it has worked. It seems it has worked well for a long period of time. It helps States that need more resources because they have more low-income individuals who will qualify for Medicaid.

Of course, that is another part of the formula. And that makes a lot of sense because it targets scarce Federal resources to States with the largest number of people enrolled in Medicaid. That is the way the program has been on the books since 1965 when it was first enacted.

The Federal contribution, the FMAP, is recalculated each year. As it turns out, at the beginning of the current fiscal year many States saw their Federal share go down, but other States saw their Federal share go up.

So what is the argument that 2006 should be different than any other year? The argument apparently is that this is different because the Census Bureau updated data and that made the FMAP in a few States go down. But the data from the Census Bureau is designed to make the Federal share amounts more accurate. We should seek accuracy in any formulas we have and the statistics that back up those formulas. That is just good common sense, the way Government ought to operate. And, of course, the Census Bureau goes through this very same exercise not just recently—I mean recently but not just for the first time—every 5

years, so this is not something new, and this is done to make sure the rate for Federal contributions to Medicaid, or the FMAP, is set accurately.

Of course, that is what we want. The Federal share should be set according to an accurate formula, and the amount of money that goes to each State ought to be a very accurate amount of money. This is the goal and that is what has happened with the improved data of the Census Bureau.

The States that are affected do not want, of course, to see their Federal share go down, and it is very obvious that Senators, accordingly, would fight for the interests of their States. But Congress—if you look at the responsibility of all of us for the entire country—cannot come in every year and override the FMAP formula, because that defeats the whole purpose of having a formula in the first place.

The Federal share went down in these States this year because, oddly enough, it was supposed to go down. In some years, the Federal share goes up in a majority of the States instead of going down. And surprise—that is the way it is supposed to work. When the Federal share goes up, I can't recall anyone lobbying me as chairman of the committee to override the formula to lower their Federal share instead of increasing it.

If your general argument is that the formula is broken, it is going down for 29 States, doesn't that mean it is not broken for the other 21 States? Is it your argument that the formula only works when the States get more money?

It is true that the fluctuation in the Federal share calculation can create problems in States. I don't doubt that. If the States want to limit the amount of decreases—and the increases in Federal funding—then that is something that I would be willing to discuss further. I would be willing to work with anybody in this body in the future to bring greater predictability to the process.

This summer, as an example, I worked on a proposal to do that with my counterpart on the Democratic side of my committee, Senator BAUCUS of Montana. This proposal would put limits on how far the FMAP could go up or go down in any given year—in other words, to smooth out the peaks and valleys. It gives States predictability on their Federal share, and it would certainly bring stability to the process. I would be willing to introduce the Federal share corridor proposal that Senator BAUCUS worked on over the summer and have anybody in this body join us as cosponsors.

Finally, increasing the Federal share for 29 States this year necessarily means that we create an even bigger problem in the year 2007. This is then trying to solve one problem and creating another problem. We will be back here next year to solve that problem—create a bigger problem in 2008 and be back here to solve that problem in 2008. Most of the States are projected to see slight increases in 2007. By holding all States harmless this year, their decreases the following year will be greater. Are these States going to come back again next year and ask for another temporary fix to get more money for their Medicaid Program? I guess I don't have to tell you the answer to that question. You know what the answer is. They are not going to be here to voluntarily give up something.

I also question the offset included in this amendment to pay for the new spending. This amendment would further increase the rebate paid by drug manufacturers. It would do this by forcing manufacturers to pay States rebates for drugs dispensed through the Medicaid managed care plan.

The bill we are considering today already increases the rebate paid by drug manufacturers from 15.1 to 17 percent. The bill also makes the drug manufacturers pay millions more in rebates by closing a pair of loopholes in the rebate program. All together this bill already increases the rebates drug manufacturers are forced to pay by $1.7 billion. So this was not a source of revenue that my committee overlooked.

I understand my colleague might not think that is enough, but I would encourage him to look at the CBO report put out this past June examining the price of name-brand drugs. That report shows that the effective rebate being paid by drug manufacturers is actually 31.4 percent and not 15 percent.

I am also concerned about the substantive implications of the amendment. These Medicaid health plans are private businesses that can negotiate low drug prices. Yes, that is the way it was set up, so plans would negotiate lower drug prices. They already negotiate the best price of the marketplace. The States already get the benefit of those lower drug prices that these plans negotiate. Making the manufacturers then pay rebates for drugs on top of what is already negotiated is the same as making them pay a double rebate for those drugs. Of course, that makes no sense.

Yes, I do realize that the Medicaid Commission accepted this amendment in its recommendations, but I am quite certain the Medicaid Commission's stamp of approval would not win support from Members of this body for other proposals that we are considering today.

We have looked at this area. We have come up with responsible policies that address loopholes, and I don't think we need to further increase the rebate beyond what is already included in this bill. Therefore, with due respect for my colleague from New Mexico, I urge my colleagues to oppose the amendment and the offset that funds it.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. What is the situation relative to time?

The PRESIDING OFFICER. The time is 5 minutes on the side of the Senator from Iowa and 2 minutes for the Senator from New Mexico.

Mr. GREGG. Mr. President, I will yield myself time off that of the Senator from Iowa, and I would simply say that I think the Senator from Iowa has summarized the reasons this proposal should be opposed. I want to reinforce that.

We have a formula in place. The whole theory of the formula, especially the one adjusted annually on the basis of census figures, is that there are going to be different States that win and different States that are adjusted downward, and this formula specifically is adjusted based on income. If some States have an increase in the income of their Medicaid population, then clearly they are going to receive less in the area of Medicaid. If other States have people in the Medicaid population whose income goes down, they are going to receive more. But if every year we step forward and those States which happen to have lost money under this formula are going to be held harmless, there would be no point in having a formula and we would end up in basic chaos as we moved into the outyears because of the fact you would have built in so many grandfathered baselines.

So the Senator from Iowa is absolutely right. The responsible thing to do here is support the law as it is presently structured. More importantly, the Senator from Iowa is correct in saying that the offsets which are proposed here really are a little illusory. First off, they have been proposed to be used in three other amendments already. I don't know how many more amendments we are going to get, but these offsets are becoming the custom fees of this round. It is really incredible to claim this offset.

In addition, of course, this offset by its very nature is punitive in that it basically double-taxes those people who are supplying pharmaceuticals to low-income individuals and we know that somebody is going to have to pay that. And that is probably going to be the States again. They are going to have to renegotiate their pharmaceutical contracts, and so you are going to take from one hand and give to one set of States and basically gerrymandering a formula that had already been put in place and put in place through reasonable allocations, while at the same time you are going to create an offset, should it pass, that would essentially cost other States money or maybe the States getting the new money. It may be a wash for some States in the end.

So as a practical matter, although the amendment, obviously, is well-intentioned—and clearly the Senator from New Mexico doesn't want his State to be impacted by the adjustment in the formula—it ignores the reality on the ground, which is that this formula is exactly that, to be adjusted for change in the population and the economic status of that population.

So I do hope we would oppose it when we get around to voting on it tomorrow sometime. At this point I would reserve the remainder of our time, if the distinguished Senator from New Mexico wishes to wrap up.

Mr. BINGAMAN. Mr. President, I have 2 minutes; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. BINGAMAN. Mr. President, let me just say about all of the talk about how this formula is sort of inviolate and we don't want Congress to in any way change it, the underlying bill says it doesn't apply to Alaska. We are just writing into this bill there is going to be no cut in Alaska regardless of what the formula says. So all I am saying is let's at least do something to lessen the extent of the burden we are putting on these other 30 States that I am talking about.

I don't think that is too much of a change. The underlying bill also changes the formula with regard to Katrina victims, which is appropriate, 100 percent Federal matching funds for Katrina victims under Medicaid. I think that is entirely appropriate. We have changed this formula five or six times in the last few years. It would be appropriate to do this again. I think it is the right thing to do. It will not only help our States, but it will help the people our States are trying to serve through the Medicaid Program. We have a great many in New Mexico. We have over 400,000 people in our State who depend upon Medicaid. It is absolutely essential that the State have the resources, including Federal resources, to provide the services, to continue to provide the services for the children and the adults who are eligible under that Medicaid Program.

So I believe this is good legislation. This is a good amendment.

I hear that the offset would be an extra burden on the States. CBO says this is a savings for the States, that this offset saves money for the States. So, in fact, I think it is a good amendment. I urge my colleagues to support the amendment.

I yield the floor.

Mr. GREGG. Mr. President, I would note the next amendment will be that of Senator BYRD, who I understand is on his way, and he has the floor beginning at 2 o'clock. I make a point of order that a quorum is not present.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. CONRAD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SUNUNU). Without objection, it is so ordered.

Mr. CONRAD. Mr. President, we are making very good progress. It is very important that we stay on track.

The next amendment is a Byrd amendment on visa reform. That is to be followed by a Lott-Lautenberg amendment on Amtrak, followed by a McCain amendment in the 3:30 to 4:15 p.m. timeframe, then a Murray amendment on dual eligible from 4:15 to 5 p.m., an Ensign amendment from 5 to 5:30 p.m., and finally a Landrieu amendment or an amendment by someone I might designate from 5:30 to 6 p.m.

We only have 4 hours of debate left on the reconciliation matter. All of the time has been allocated.

I am informed that Senator BYRD is on his way.

I very much hope that Senators understand, because of the events of yesterday and because of the very tight time limitations under reconciliation, there simply was not additional time for other amendments.

Obviously, we will be going to votes on amendments tomorrow. I think we already have some 15 amendments. That means at least 5 hours of voting tomorrow. I hope colleagues will think about that very carefully: 5 solid hours of voting tomorrow with just the amendments so far.

I see Senator BYRD now entering the Chamber. His amendment is next.

I know the chairman of the committee shares the view that we need to move through the rest of these amendments expeditiously and then Senators recognize that tomorrow we are going to be casting a lot of votes. With what is already scheduled, already lined up, we will have 5 solid hours of voting.

We are glad to see the senior Senator from West Virginia, who will offer his amendment. I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. BYRD. Mr. President, we have almost completed the First Session of the 109th Congress and, incredibly, no serious debate about our immigration policies has occurred. Not a word. No serious debate.

The number of aliens residing illegally in the United States stands between 8 and 12 million. Let me say that again. The number of aliens residing illegally in the United States stands between 8 and 12 million—an alarming figure given the terrorism threat that confronts our country.

The level of legal and illegal immigration combined has surpassed historic records, causing increasing concern about the ability of our Nation to absorb the influx. Our roads, our schools, and our health care systems are overwhelmed and underfunded.

Go to any hospital in the area or in the surrounding area. Take a look at what is going on. The waiting rooms, the emergency rooms are overcrowded. Our infrastructure is just not ready for these influxes. We are being overwhelmed. Go to the emergency rooms at the hospitals. Go over to Fairfax Hospital, for example, one of the finest hospitals in the country. There they are on cots in the aisles. I know because I have been there. Our schools—how can we teach children when the schoolrooms are so overcrowded? What about our poor teachers?

Our infrastructure is just not prepared for this influx. Our roads are not prepared. And that infrastructure is being further worn away with the budget cuts included in this reconciliation bill. Right here.

Immigration is an issue that demands the attention of the Congress. Regretfully, we have been told that tougher enforcement actions will have to wait until next year. So imagine the surprise of Senators to find provisions buried deep, deep, deep in this budget bill that would authorize the Government to issue more than 350,000 additional immigrant visas each year to foreign labor seeking to live and work permanently in the United States.

This is baffling. Baffling. Baffling. It is baffling, I say. If we don't have the time to address the illegal immigration that threatens our national security, then how do we explain to the American people out there that we somehow found the time to raise the level of imported labor each year? How do we do that? How do we do that?

On pages 810 through 815, separate from the deficit reduction measures related to immigration fees, are provisions in the reconciliation bill that would raise the annual cap on employment-based visas and exempt the spouses and children of employment-based immigrants from that cap. In addition, those pages include provisions to increase temporary H–1B visas for high-tech workers by 30,000 each year. These are massive and destabilizing immigration increases, and they are hitching a free ride—hitching a free ride—on this reconciliation bill; a free ride on this reconciliation bill. Hitch on it to get a free ride.

It is bad enough that so many American jobs are moving overseas and wages and benefits here at home are being curtailed to compete with Third World labor and unfair trade practices. Now these provisions would make it more likely that working Americans will find themselves in competition with foreign labor for work in their own country and—and—is being done through this reconciliation process right here where the immigration increase is clouded by budget provisions and where debate and amendments are severely limited.

We are told that an immigration reform debate will take place early next year. Senators are casting themselves as tough—tough, man. Senators are casting themselves as tough on enforcement and wanting to protect American jobs. Well, that pronouncementstands in stark, stark contrast to this effort under the cover of procedural protections and the guise

of deficit reduction to increase the number of immigrants authorized to work in the United States by an astonishing 350,000 visas per year.

These immigration provisions are not necessary for the Judiciary Committee to comply with its reconciliation instruction, nor are they necessary to achieve the spending cuts embraced by the congressional budget. The House Judiciary Committee reported legislation to assess a $1,500 fee on L–1 visas for executives and managers of multinational corporations and that savings provision more than satisfies the budget's reconciliation instruction. So I hope that Senators will join me in striking these unrelated immigration increases and limiting the judiciary portion of this bill solely to an increase in the L–1 visa fee.

So the amendment that I will send to the desk is identical to the House language, excluding the provisions related to new judgeships, and would raise the L–1 visa fee to $1,500 per application. Again, this amendment simply strikes the unrelated immigration provisions and would still allow the Senate bill to meet its reconciliation targets.

My amendment has the support of the professional employee unions of the AFL–CIO, as well as immigration enforcement groups like Numbers USA and the Federation for American Immigration Reform.

AMENDMENT NO. 2367

I send that amendment to the desk and I ask Senators for their support.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from West Virginia [Mr. BYRD] proposes an amendment numbered 2367.

Mr. BYRD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To replace title VIII of the bill with an amendment to section 214(c) of the Immigration and Nationality Act to impose a fee on employers who hire certain nonimmigrants)

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.

Mr. BYRD. I see my friend, my bosom friend from Alabama, on the floor. I am told that he is going to speak at this point. I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. I thank Senator BYRD for offering the amendment. There is a legitimate national interest in deciding how many of these visas should be allowed, and in deciding how much the numbers should be increased, if any. The matter came up before the Judiciary Committee, of which I am a member, within the last 2 weeks, the week before last. There was a good deal of discussion and disagreement and my amendment, almost identical to the amendment Senator BYRD is offering today, did not fully come out of committee. The Judiciary Committee is not a committee that is in any way backward looking and is not a committee that has no interest in having a fair immigration policy, but we had very strong disagreements within our committee regarding whether increases in H–1B visas and other permanent work visas were justified.

Senator BYRD is correct in raising the matter now and objecting and offering this amendment to fix it—what came out of the Judiciary Committee. The current bill language will increase the H–1B visa cap by over 30,000 a year and increase the number of permanent employment-based immigrants, not temporary, by 90,000 a year. Additionally, the current bill language allows all family members of the workers to immigrate to the U.S. and exempts family members from being subjected to the cap. They are currently allowed to immigrate, but are subjected to the annual cap. These changes compose a huge, important policy statement. These extra visas will indeed increase revenue, because an additional fee will be charged for each of these additional visas, but this is not just a budget decision.

Now let's be frank. We are in a national discussion about immigration. We need to be honest with ourselves. We need to do the right thing. We need to be compassionate. We also need to consider what is just, fair, and reasonable for our national interests. Any nation that aspires to be a great nation has every right, indeed it has a responsibility, to determine how many people come into their country and under what circumstances. We are into the process of debating how our immigration system should be reformed.

One of my first, biggest, and most important concerns is the timing of this policy change we might as well do this kind of thing as part of our overall immigration reform debate. We are going to continue it this year and probably in the beginning of next year we will be full-fledged into this discussion. To ram this language through as part of the Budget Reconciliation Act is unfortunate, and I do not think it is appropriate. That is why I support Senator BYRD's amendment.

What we come out with after we fully hear all of these issues discussed, how many the numbers would be, I do not know, but what the American people are concerned about is all we ever pass is something to increase the legal visa numbers, or to forgive people who have violated the law or that kind of thing. That is what we pass and pass and pass, and they are wondering and have been asking firmly and repeatedly in polling numbers and when we go home to townhall meetings and talk to our people, in the phone calls and letters we get, they are simply asking, why do we not have immigration laws that are enforced? Why do we not create a legal immigration system that actually works? Once that is done, they say, then you can talk to me, Mr. Senator, about how many more people ought to be allowed in every year. Let us get this thing under control.

So I think we are getting ahead of ourselves. I am not at all certain that these numbers are necessary. In fact, I do not think they are at this point. Just because somebody might be hired does not mean that this country fully and totally needs them in the coming year as a source of labor for our country.

Our Nation has been enriched by immigrants, talented, hard-working immigrants. For the most part, that is exactly what we are talking about. I do not dispute that we need to be discussing this issue. I do not dispute that we may need to raise that number that we have today to a higher number. I believe, though, the appropriate way to do it is after hearings, after discussion, as part of the overall fix and at the same time we can tell the American people not only have we been more generous to talented people who want to come and work but we have created a

system that keeps those who cheat, go around the law, undermine the law, to stop that from occurring. I believe that would be the appropriate, responsible approach to deal with it. I therefore will support the Byrd amendment.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I want to thank the distinguished Senator from Alabama for his strong statement and for his support of the amendment. His statement is very convincing, persuasive, and timely. I am very grateful for his coming to the floor and his joining in the support of this amendment. I hope all Senators will read his statement and learn therefrom and support the amendment.

I reserve any time that I may have remaining, and I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, what is the time situation?

The PRESIDING OFFICER. The Senator from New Hampshire controls 28 minutes. The Senator from West Virginia controls 9 minutes.

Mr. GREGG. Mr. President, first I congratulate the Senator from West Virginia for bringing forward a thoughtful amendment, as always, and especially for the fact that it actually, I believe, adds to the savings, if I am not correct. So I cannot argue with that.

To be honest, I am not engaged in this issue. The bill was reported out of the Judiciary Committee. We have heard from Senator SESSIONS, who is a member of the Judiciary Committee. I understand Senator SPECTER is not going to have the opportunity to come over and debate this because he is involved in a variety of other issues today. I am sure he has thoughts and opinions on this because it was part of the package they reported.

I would like to speak briefly about the topic which the Senator from West Virginia has raised because I think it is such a critical one, which is the issue of our borders and how we deal with it. I do have the good fortune, along with the Senator from West Virginia, to have a responsibility for the Homeland Security Agency, he being the ranking member and I being the chairman of that appropriations subcommittee. We know that we simply have borders which are too porous.

This year, with the significant assistance of the Senator from West Virginia, we were able to increase the funding relative to the number of Border Patrol agents to add another 1,500 agents when we count the supplemental, and we were able to increase the number of detention beds taking it up to about 20,000. We were able to add significantly to the number of immigration enforcement officials, and we were able to expand technology. We are nowhere near where we want to be. In fact, I asked my staff what we need in this area and we really need a lot more. We need about another 8,000 Border Patrol agents. We need about another 10,000 detention beds. We need a significant expansion of the technology capability, satellite capability, unmanned vehicle capability, helicopters, transportation facilities for our agents and physical housing facilities. We need training facilities. There are a lot of resources that need to be committed.

As a result, basically, of the ramp-up time, it is very hard to get a lot of agents in place quickly because we want to get the right type of folks. It takes awhile to hire them. We are only able to hire and train about 1,500 a year. Hopefully, we can improve that.

Over the next 4 years, this is something I know the Senator from West Virginia and I are going to spend a significant amount of time and effort to try and make sure our borders are secure and that we do have borders where we can expect the people who cross those borders are crossing legally. Part of it, of course, is making sure that people who get visas pay for the cost of issuing that visa. This is what this amendment is about.

So I congratulate the Senator from West Virginia for his strong effort in this area. I appreciate his support as the ranking member on the Homeland Security Subcommittee and of course the ranking member on the Appropriations Committee. I look forward to continue working with him on this issue.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I thank my chairman for his sage remarks. Let me thank him also for the leadership that he demonstrates daily in the Senate and in committees. I have great respect for him. I serve on the Homeland Security Committee with him. He is a far-seeing, wise Senator. He acts in the service of his people and he too is concerned about the protection of our country and its security. I thank him from the bottom of my heart. I thank him for yielding.

Mr. GREGG. I obviously appreciate those generous comments coming from a man who is truly a legend in the Senate and has done an extraordinary service for this Nation over his many years in the Senate. I thank him. Those are very kind and generous comments.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. VITTER). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. BYRD. Mr. President, several of the unions are very supportive of the amendment I have just offered. Among these unions, it should be mentioned that the American Federation of Government Employees is very supportive; the American Federation of State, County and Municipal Employees; the American Federation of Teachers; the American Federation of Television and Radio Artists; the American Guild of Musical Artists; the American Federation of Musicians; the American Federation of School Administrators; the Communications Workers of America, including the Newspaper Guild, the National Association of Broadcast Employees and Technicians, the International Union of Electrical Workers; the Federation of Professional Athletes; the International Association of Machinists and Aerospace Workers; the International Alliance of Theatrical Stage Employees; the International Brotherhood of Electrical Workers; the International Federation of Professional and Technical Engineers; the Office and Professional Employees International Union; Plate Printers, Die Stampers and Engravers Union of North America; the Screen Actors Guild; the Seafarers International Union; the United Steelworkers; the Writers Guild of America, East. These unions are trying to protect the health benefits and the wages of working Americans, and they say that American workers are available to fill these jobs.

The Department for Professional Employees, AFL–CIO, has a letter addressed to all Senators endorsing the amendment. Just to quote a few words from the letter:

> The 22 national unions represented by our organization strongly support the Byrd amendment and urge your vote for it.

Continuing, I speak again of the letter and call attention to these excerpts:

> There is absolutely no economic justification for expanding the H–1B program. Unemployment among professionals in H–1B occupations remains high . . .
>
> Finally, it is worth pointing out that industry apologists for off-shore outsourcing of American jobs have long proclaimed that one of the benefits of globalization would be the creation of high end, high skilled technical and professional jobs for workers in the United States. These same industries now seek to contract the number of these very same high end job opportunities that should otherwise be available to highly skilled American workers by once again expanding the H–1B visa program.
>
> On behalf of the 4 million professional and technical workers that are members of our unions, we urge you to oppose any action that would have the effect of making it more difficult for unemployed U.S. professionals to find work.

Mr. President, Senators will please take note of these words on behalf of these unions and the workers in the industries with which they are concerned.

Mr. President, I yield the floor.

Mr. GREGG. I yield the Senator from Georgia 10 minutes.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. CHAMBLISS. Mr. President, I thank the Senator from New Hampshire, the distinguished chairman of the Budget Committee. I rise today in support of the budget reconciliation package passed by the Senate Judiciary Committee and in opposition to

this amendment. The Senator from West Virginia knows what great respect I have for him and his long-term service in this great institution. But I chaired the Subcommittee on Immigration, Border Security and Citizenship in the Senate Judiciary Committee during the 108th Congress. During that time, I worked very closely with my friends and colleagues, Senator KENNEDY and Senator GRASSLEY, to enact H–1B reform legislation. That is the part of the amendment I wish to address.

One of the most important aspects of that reform was to increase the H–1B visa fee to $1,500 per application to fund education and training programs for U.S. workers. In addition to the application fee, the legislation added a $500 anti-fraud fee to every H–1B visa application to detect and prevent fraud in the visa program.

The reconciliation package passed by the Senate Judiciary Committee, by a vote of 14 to 2, will generate $45 million annually from H–1B visa fees that will go toward scholarships and training programs for U.S. workers. It will also generate $15 million annually to enhance government enforcement of the H–1B program requirements that are designed to protect the U.S. workforce. These excess funds provide even more muscle to the Department of Labor's enforcement and U.S. worker education and training programs.

The Judiciary Committee's reconciliation package will allow for the recapture of up to 30,000 H–1B visas that were authorized and made available by Congress but went unused in previous years, provided the employer pays a $500 fee for each recaptured visa.

I believe this proposal injects much-needed flexibility into current law by allowing the flow of these highly educated and highly skilled workers to be driven by supply and demand rather than by an arbitrary cap each fiscal year.

Currently, only 65,000 H–1B workers are allowed into the U.S. each year. Over the past 3 fiscal years, 2004–2006, the H–1B cap was reached before the end of the fiscal year. A similar shortage occurred in the mid–1990s when demand for high-skilled workers outpaced supply due to the high-tech boom. Congress responded to the needs of the U.S. economy in the 1990s by increasing the H–1B cap to 115,000 for fiscal years 1999 and 2000 and then increasing it again to 195,000 for fiscal years 2001–2003.

By allowing the recapture of up to 30,000 H–1B visas for the next 5 years, Congress will only be returning the total number of H–1B visa holders allowed to come to the U.S. to the fiscal year 1999 levels. I know that many companies, in my home State of Georgia, ranging from the biggest beverage companies and airlines in the world, down to small businesses, rely on access to these H–1B workers to effectively compete in the global economy.

Other companies rely on the expertise of foreign specialists to perform much-needed services their companies provide. For instance, recently, a small company with 60 employees—all U.S. citizens—was awarded a contract with the Pentagon to improve rapid response communications between agencies in the event of a natural disaster or terrorist attack.

Not only are innovations like these critical to the security of citizens of my home State, but they also can help create jobs for Americans everywhere as demand for the innovation grows and the company expands.

This company wanted to bring in a specialist from Northern Ireland to lead its development efforts. The company applied on behalf of this specialist in August 2005 to come in on one of the available H–1B visas for fiscal year 2006. However, there were no remaining H–1B visas available for fiscal year 2006 and as a result, this company will have to wait until fiscal year 2007—14 months—to bring this specialist to the U.S.

I am supportive of the increased flexibility provided in the Judiciary Committee's reconciliation package. When adequate U.S. worker protections are in place, as they are in the H–1B visa program, with strict wage requirements and labor market tests, Congress should facilitate the success of U.S. businesses with our immigration laws.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. BYRD. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from West Virginia has 1 minute 3 seconds.

Mr. BYRD. Mr. President, the National Research Council has estimated that the net fiscal cost of immigration ranges from $11 billion to $22 billion per year, with most government expenditures on immigrants coming from State and local coffers.

Mr. President, how much is enough? How much is enough? In 2000, the Congress increased H–1B visas to 195,000 per year for 3 years, authorizing over half a million new visas. Last year, the Congress authorized 20,000 new H–1B visas each year, every year. The Immigration Act authorizes more than 140,000 employment-based visas each year. How much is enough? How much is enough? I say enough is enough.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. GREGG. Mr. President, I join once again with the ranking member of the Budget Committee to remind Members that we now have pending approximately 15 amendments and that it will take us 5 hours tomorrow to vote those amendments. Tomorrow evening, we are going to adjourn at 6 o'clock under any scenario, so if we cannot complete voting, we will be here on Friday. I do hope Members will be conscious of that as we move forward into the rest of this evening.

I understand when this amendment is over we will then be proceeding to the amendment by Senators LOTT and LAUTENBERG relative to ANWR.

At this point, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CONRAD. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

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

Mr. CONRAD. Mr. President, perhaps this is a good time to remind colleagues of the lineup and encourage those who have remaining amendments to come to the floor. If there is anyone wishing to speak during the next 15 minutes, there is time available.

Now that we have gone to the Byrd amendment, the next amendment up from 3 to 3:30 is the Lott-Lautenberg amendment, to be followed by the McCain amendment from 3:30 to 4:15, from 4:15 to 5 the Murray amendment on dual eligibles, to be followed by the Ensign amendment on DTV from 5 to 5:30, and then the Landrieu amendment or an amendment to be designated from 5:30 to 6.

I hope very much that colleagues who have requested time watch the floor closely. We are down to the last 3¼ hours on the reconciliation bill in terms of debate time.

If there are those who have not had a chance to speak, if they watch the floor closely—a number of these amendments may not take the full amount of time—that would be their opportunity to talk.

As I have indicated, we have a few minutes left before 3 p.m.

If there are Senators listening or staff listening and their Senator would like a chance to speak, either on the Republican side or on this side, this is their opportunity. This is one of their opportunities. There may be a few more left, but it is a fleeting opportunity.

Mr. GREGG. Mr. President, I think it is important for people to appreciate what the Senator from North Dakota has said. Tomorrow, we will a have a minimum of 5 hours of votes. Some of these votes are going to get fairly complicated because there will be points of order of various nature. People will have to be here all day and ready to vote.

If our membership remembers, during the Budget Committee, the Senator from North Dakota and myself took a position that we should move quickly through the votes, and we will take the same position tomorrow. Members should be on the floor tomorrow all day.

Mr. CONRAD. Mr. President, if I could revisit the point, I hope colleagues understand what we are headed for tomorrow. It is not going to be fun. We already have 5 hours, at least, of voting tomorrow. We hope people take

that into consideration as they think about their schedules tomorrow.

The chairman might remind us. We start tomorrow at 9 o'clock and we will go right to votes; is that not correct?

Mr. GREGG. That is correct.

Mr. CONRAD. Colleagues should be aware that tomorrow is going to be a day of voting one vote right after another. Votes have already been scheduled for 5 solid hours, at least. This is a time for restraint. This is a time for colleagues to realize what it is like when we go into these vote-aramas and to try to reduce the number of votes that colleagues are asked to take.

When you get into this vote-arama, it almost becomes hard to fully appreciate and understand the votes you are casting. These votes come so fast and so furiously.

I hope colleagues are thinking about that as they consider how we conduct the business of the Senate tomorrow.

I thank the Chair. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GREGG. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

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

Mr. GREGG. Mr. President, I yield such time as he may consume to the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. CORNYN. Thank you, Mr. President. I thank the manager of the bill and the ranking member.

I wanted to speak in opposition to the amendment filed by the distinguished Senator from West Virginia that would strike the Judiciary Committee's H–1B visa provisions and insert a prior amendment, the Sessions amendment, that actually was defeated in the Judiciary Committee.

This, of course, is an attempt by the Judiciary Committee to comply with the reconciliation instructions to generate some additional funds to meet the budgetary requirements of the budget resolution.

This is a part of the reconciliation process with the Judiciary Committee to come up with some savings funds to meet the instructions of the Budget Committee. The Judiciary Committee decided to sweep all of the unused H–1B visas for the last few years and to use that as a means to satisfy the reconciliation instructions.

The ability to track and retain the best talent around the world is a major factor in American competitiveness. Arbitrary caps on employment-based green cards and temporary visas for highly trained workers hurt our ability to track and keep that talent and ultimately jobs here in the United States.

In other words, for all of those who are concerned about outsourcing jobs out of America to other countries ought to be in favor of this Judiciary Committee provision and be opposed to the amendment filed by the distinguished Senator from West Virginia. It will keep jobs here in America rather than export them to places like India and China.

The Judiciary Committee in the House met its budget reconciliation obligation by imposition of a $1,500 fee on L–1 visas. The L–1 visa is used by multinational companies to transfer executives, managers, and employees with specialized knowledge. This additional fee would not be used to improve processing or otherwise provide relief on other pressing immigration issues such as the H–1B cap being reached 2 months before the fiscal year even began or 2 months after it began.

That proposed solution by the distinguished Senator from West Virginia will do nothing to address that critical need of the American economy.

Restoring access to the previously allocated H–1B visas will not only make significant strides toward deficit reduction through the additional fees that will be charged but also raise significant additional sums for scholarships and training of U.S. workers. It will also provide additional money for enforcement against fraud in the immigration system.

The fact of the matter is the United States of America is not training a sufficient number of engineers and scientists. In 2001, only 8 percent of all degrees awarded in the United States were in engineering, mathematics, and the physical sciences, which is more than a 50-percent decline since 1960.

Today, more than 50 percent of all engineering doctoral degrees awarded by U.S. engineering colleges are to foreign nationals.

The United States must find a way to increase the pipeline of U.S. engineers. I know many companies already partner with U.S. universities and colleges, and indeed this is a long-term challenge of our economy—to create a sufficient number of homegrown engineers and scientists to meet the demands of our innovative economy. But in the short term, we must ensure that our immigration policies do not unnecessarily restrict access to highly trained individuals, the kinds of employees that will create those additional jobs here in America.

Once again, the demand for high-tech temporary visas far exceeds the statutory cap imposed by Congress.

As I mentioned a moment ago, the fiscal year 2006 visas were gone 2 months before the fiscal year even began. They ran out in August 2005.

There is also a shortage of green cards, even for certain multinational managers and executives. That means that in addition to the years of processing delays, many immigrants must now wait several more years for a visa to be available.

We need comprehensive immigration reform in this country. We need to do more, a lot more, to strengthen our borders, to make sure that we know who is coming into our country and why they are here.

Indeed, this body, I am confident, will be addressing that need for comprehensive immigration reform in the near future.

But it is more than border enforcement—it is interior enforcement. It is enforcement at the workplace. But it is also making sure that by sensible immigration laws we provide the trained workforce necessary for American businesses to thrive and prosper and create additional employment here in America.

On the other hand, the distinguished Senator from West Virginia has proposed no raising of the cap to keep unused H–1B visas from previous years but instead to put a tax on the L–1 visa of $1,500 each. These L–1 visas are issued pursuant to trade agreements with countries such as Chile, Australia, Singapore, and other countries so that when they conduct business operations in the United States, pursuant to these free trade agreements, their managers and high-level employees can actually come here pursuant to that free trade agreement.

Likewise—this is the important part—our managers and high-level employees can go to their country, pursuant to the free trade agreement, so that the benefits of this free trade agreement can be reached in the fullest.

It doesn't take much of an imagination to imagine that if we put a $1,500 tax on each L–1 visa issued to employees of some nation that has a free trade agreement with the United States, they will simply turn around and retaliate and impose the same fees on American workers in those countries.

Rather than producing additional revenue, this will, in essence, be a wash. In other words, this amendment does nothing to solve the problem about a shortage of highly trained engineers and scientists who come here because we simply don't have enough on a temporary basis so that jobs can stay here.

This amendment does not solve that problem. This amendment, also, I believe, creates additional problems and distortions in our relationships with countries with whom we have negotiated and authorized a free trade agreement.

It is not only not helpful to the cause that we are seeking to cure by the Judiciary Committee's proposal, it is positively harmful in that it creates the potential for retaliation.

I wish we lived in a world where all of the good, high-paying, innovative jobs we create in this country could be satisfied by American workers. Indeed, the H–1B visa program requires that companies advertise for Americans first and that they pay people who get H–1B visas comparable wages with what an American worker would make so that there is no manipulation of this visa to pay perhaps a foreign worker far less and undercut the wages of

American workers. There are already protections built into our immigration laws to make sure that doesn't happen.

In conclusion, I urge my colleagues to vote against the Byrd amendment. And I urge my colleagues to uphold the reconciliation bill, and vote it out as part of this package through the Budget Committee.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. Mr. President, parliamentary inquiry: What is the situation now? I was told that we needed to call up an amendment at 3 o'clock. We are ready to go on. Senator WYDEN, is he commenting on the subject at hand?

Mr. WYDEN. Mr. President, that is correct. I want to propound a unanimous consent request.

Mr. LOTT. I withhold recognition.

Mr. WYDEN. Mr. President, I ask unanimous consent once the Senate has completed its business on this legislation for tonight to be able to speak for up to 45 minutes on the issue of bargaining power for the Medicare Program to hold down the costs of prescription medicine.

Mr. GREGG. Reserving the right to object, I have no problem, but there are a couple of folks we have to clear that with. We will try to do that promptly so we can arrange this.

Mr. WYDEN. If the Senator from New Hampshire has given me his response, I gather you would like me to hold off on my unanimous consent request.

Mr. GREGG. I appreciate that; or if we clear these, you do not have to stick around and we will make the request for you.

Mr. WYDEN. I appreciate the offer from the Senator from New Hampshire.

When the distinguished Senator from New Hampshire and the Senator from North Dakota have completed the processing of the various amendments, I would like to have the opportunity to speak for up to 45 minutes. Perhaps other colleagues will want to participate on the question of holding down the cost of prescription medicine.

I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

AMENDMENT NO. 2360

(Purpose: To reauthorize Amtrak and for other purposes)

Mr. LOTT. I call up amendment 2360 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Mississippi [Mr. LOTT] proposes an amendment numbered 2360.

Mr. LOTT. I ask unanimous consent the reading of the amendment be dispensed with.

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

(The amendment is in today's RECORD under ''Text of Amendments.'')

Mr. LOTT. I take a few moments to talk about Amtrak and the intercity passenger rail. Several years ago, during the 1990s, I worked with colleagues on both sides of the aisle to pass Amtrak reform. We got it done. It provided some improvements in Amtrak. It gave the Amtrak board some additional authorities, some of which they have used successfully and some of which they have not taken advantage of. I even said at that time I was convinced they could become self-sufficient, that they could make enough changes, they could make enough off revenue that we would not have to continue to pass funds each year through the appropriations project for Amtrak.

I now am prepared to admit that is not going to happen. If we want a national rail passenger system, we have to figure out exactly what we want, how much are we willing to pay for it, and how that will happen. I don't think we can do it with appropriations bills each year. We are going to have to think more broadly and be innovative in what we allow the Amtrak board to do. Some of the lines will probably have to be shut down and some of the services curtailed. We have to make that decision.

In the appropriations bill that passed a week or so ago, the Treasury, Transportation, Housing and Urban Development appropriations bill, funds were included and some small reform provisions. We have to go beyond that. We have to have some broader reform. In fact, the administration has made it clear they will be in a position of having to oppose annual appropriations for Amtrak, the national rail passenger system, unless we have some reforms.

I started back in January trying to work through that and tried to see if we could get some reforms. I did what I think is due diligence. I worked with the ranking member on the Subcommittee on Surface Transportation. I worked with the chairman of the full committee and the ranking member, Senator STEVENS from Alaska and Senator INOUYE from Hawaii, and Senator LAUTENBERG, my colleague from New Jersey, who is in the Chamber. We talked about what we needed to do.

We also reached out and talked to the Amtrak board members, the Inspector General, the Secretary of Transportation, we talked to labor, we talked to the users, and we started moving toward developing some reform. We came to the conclusion of what is in this amendment. It is S. 1516, the Passenger Rail Investment and Improvement Act. The bill was reported by the Commerce Committee in July after having had hearings. By the way, it passed with only one dissenting vote. It is a bipartisan bill. It is ready to be taken up by the full Senate.

I tried to help the leader find time to have this legislation considered in regular order, but have not been able to get it cleared. Because of the way the Treasury-Transportation appropriations bill is written, I guess we could move to try to get this additional language in the appropriations bill, but I would like the Senate to know what we are doing here and have a chance to look at it and have a chance to vote on it.

I assume there is broad support for a national rail passenger system, including the Northeast corridor and for interstate rail service. But we want some reform, too. That is why I am offering it here so it can be considered, within reasonable time limits, and so our colleagues will have a chance to take a look at it and actually express themselves. I emphasize it was developed with input from the administration, input we continued to include up until very recently. The Inspector General, Department of Transportation, has been very helpful in this regard.

The bill makes a number of important reforms to Amtrak. There are three major themes: reform and accountability, cost cutting, and creating funding options for States. By increasing executive branch oversight over Amtrak, which they wanted and which I agree is acceptable, this bill ensures that taxpayers' money is used more effectively.

Under the current president, David Gunn, Amtrak has made some improvements in its management but more needs to be done. They need us to give them the authority to do that. Amtrak must be run more like a business. This bill requires Amtrak to develop better financial systems and to evaluate its operations objective. It forces Amtrak to improve the efficiency of long-distance train service. People are not going to ride a long-distance train if they are going to wind up arriving 12 hours late to their destination. Some people say we should cut out food service and sleeper trains. Are you going to get on a train traveling overnight from Florida into Washington, DC, and not have any food, not have a sleeper option? Maybe we will have to evaluate that, but before we start cutting out services, we need to see if we can't find other ways to be efficient and make Amtrak attractive.

The bill reduces Amtrak's operating subsidy by 40 percent by 2011 by requiring Amtrak to use its funding more effectively. The bill requires a greater role for the private sector by allowing private companies to bid on operation Amtrak routes. Some people have reservations about that. We have to think about ways we can provide better service at a savings. This is one area we should consider.

The bill also creates a new Rail Capital Grant Program States can use to start new intercity passenger rail service. As a matter of fact, there is a real need for this intercity passenger rail service within States. It is being done in several States, being done pretty well, but in order to expand it we need a program that specifically provides funds for it. This will not be the first time the States will have a Federal program they can use for passenger rail. But it will be a very important improvement putting intercity passenger rail on a similar footing with

highways, transit, and airports—all of which have Federal assistance through infrastructure. Some people say, my goodness, we cannot help Amtrak. Do we help the highways? Do we help the airlines? If we want a complete system of infrastructure and transportation, America needs to include rail as well as highways and air. States do not want to rely only on Amtrak for intercity rail service.

It is unusual to add this to a bill that is intended to reduce the deficit. I appreciate the work that has been done. I don't want to delay it or encumber it, but time is running out. If we do not get some reform to go with the money, we may not be able to get the money. Do we want Amtrak to wither on the vine? Do we want it to die because of our incompetence or failure to act? This is part of the process.

The administration has indicated it will not support any funding for Amtrak this year unless we do that. This gives an opportunity to look at it and speak on it. I hope my colleagues will allow us to add this amendment to the deficit reduction package.

I yield to Senator LAUTENBERG for any comments, unless the chairman has some action he needs to take.

Mr. GREGG. If the Senator from Mississippi would allow me to inquire as to the time remaining.

The PRESIDING OFFICER. The Senator from Mississippi has 6½ minutes remaining.

Mr. GREGG. I assume the Senator from New Jersey will take the 6½ minutes. The Senator from Oregon wished to speak on the bill generally. It does not appear there will be a number of people speaking in opposition. After the Senator from New Jersey uses the 6 minutes, I suggest yielding part of the opposition time, should no one come in opposition, and I will yield that to Senator SMITH from Oregon. That is not a unanimous consent request; that is a game plan.

Mr. LAUTENBERG. Mr. President, what is the distribution of time? I thought we had 15 minutes.

Mr. GREGG. You do, and you have 6 minutes left.

Mr. LAUTENBERG. Six of our 15? Was that the arrangement, I ask the Senator from Mississippi? I thought we had a clear 15 minutes on our side.

Mr. LOTT. I was under the impression we had 15 minutes on each side. I used about 9 minutes of our time and there is 6 minutes left, so I believe you have 15 minutes if you want to use it. I thought it was 15 minutes on each side.

Mr. GREGG. But I understand Senator LAUTENBERG is a cosponsor, so he does not get 15 minutes.

Mr. LAUTENBERG. I am not hearing the Senator from New Hampshire.

Mr. GREGG. It is my understanding you are a cosponsor of the amendment.

Mr. LAUTENBERG. But I thought it was clearly understood. I ask unanimous consent we have 30 minutes, except for the time used already, divided in the presentation. This is an important amendment. I ask unanimous consent we be allowed 30 minutes, minus the time the Senator from Mississippi has already used.

Mr. GREGG. Mr. President, that means there would be no time in opposition.

The PRESIDING OFFICER (Mr. MARTINEZ). That is correct.

Mr. GREGG. Obviously, when the amendment was structured, it was that there be half the time in opposition and half the time for the proponents. Right now there does not appear to be any Member here actively in opposition. Senator SMITH would like to speak on the bill. I was thinking some of the opposition time could go to Senator SMITH.

How much time does Senator SMITH desire?

Mr. SMITH. I probably would not need more than 15 minutes.

Mr. GREGG. Fifteen minutes.

Mr. DODD. Will the Senator yield for a further request?

Mr. GREGG. For the purpose of a question.

Mr. DODD. Is it possible in some order here after the Senator from Oregon, could I be heard for 10 minutes on the bill itself on another amendment?

Mr. GREGG. I don't think so, to be honest. It appears we do not have any time, either, for Senator SMITH.

Mr. CONRAD. Parliamentary inquiry: Who controls the time in opposition?

The PRESIDING OFFICER. The majority manager controls the time in opposition.

Mr. CONRAD. The majority manager controls the time in opposition and the majority manager is not in opposition.

Mr. GREGG. The majority manager is going to control the time in opposition.

Mr. CONRAD. I understand.

I ask the manager, is there a way we can perhaps parcel out the time in a way that would be acceptable to the manager?

Mr. GREGG. I suggest that the Senator from Oregon can do his statement in approximately half the time, 7½ minutes. Is that possible?

Mr. SMITH. I will certainly try.

Mr. GREGG. And we take the balance and parcel it between the Senator from Mississippi and the Senator from New Jersey since they were already here.

As for the request of the Senator from Connecticut, hopefully, there is another window coming along so we can hear the Senator's concerns.

Mr. LAUTENBERG. How much time is still available to the proponents of the legislation?

The PRESIDING OFFICER. Six minutes 22 seconds.

Mr. LAUTENBERG. Six minutes 22 seconds.

The PRESIDING OFFICER. The opposition has 10½ minutes.

Mr. LAUTENBERG. We have several requests for time to speak on this amendment. I wonder whether it is not possible to give us the opportunity to have those who would speak on behalf of the amendment offset by any opposition, in an equal amount of time, to give us 15 minutes to let the proponents make the case.

We will try to be as brief as we can. We will try to be as brief as we can, so we can develop high-speed service for Amtrak and scoot along.

The PRESIDING OFFICER. There is 9 minutes 22 seconds in opposition.

Mr. GREGG. Mr. President, I suggest we get started and have the Senator from Oregon speak for 7½ minutes, and then the remainder of the time will be available to Senator LAUTENBERG and Senator LOTT as they decide to divide it.

The PRESIDING OFFICER. The Senator from Oregon is recognized for 7½ minutes.

Mr. GREGG. Seven and a half minutes.

Mr. SMITH. Mr. President, it is always difficult for Congress to save money. As the keepers of our Nation's checkbook, our main responsibility lies in allocating our resources where they are needed most. Instinctively, we as Senators like to send help to those who are in need, improve our infrastructure, and prepare for future crises. Yet, in order to adhere to our budget, we are considering a reconciliation bill that requires us to save a significant amount of money.

While saving money during a time when there is so much need in our country is a very arduous task, the reconciliation package we are considering today is not only fiscally responsible but also morally defensible. This is a bill that protects the less fortunate among us. It takes pains to preserve the vital safety-net programs that millions of Americans rely on for such basic needs as feeding their families and receiving proper medical care.

The package before us represents the work of five different committees and contains many hard-fought compromises. As is true with most pieces of legislation, it is not perfect, especially when considering the many interests involved in an undertaking of this size and complexity. Yet when you consider the policies that are not included in this bill, I believe even many of my Democratic colleagues will have to agree that this bill represents a true victory for our Nation's poor because we found efficiencies through government and did so in a manner to protect people from harm.

In recognizing this victory for America's poor, I would be remiss if I did not thank Chairman GRASSLEY for his diligent work in compiling this bill. He managed to unite Members with diverse views and goals, many of whom were skeptical of the process. For this, Chairman GRASSLEY is to be congratulated.

I also commend Leader FRIST for his tenacious efforts to hold this delicate agreement together and shepherd it through the full Senate. The same can

be said for Chairman JUDD GREGG who has, likewise, been patient with me and others and persistent in trying to accomplish this very important piece of legislation. To be sure, it is quite a challenge, but one which I am confident we will succeed in achieving.

Our greatest victory in this bill lies not in what is included in the reconciliation package but what we succeeded in keeping out of it. While all components of this bill are important, there are two areas that if done incorrectly would have unraveled the very fabric of our Nation's safety net system—Medicaid and food stamps.

Since March, I have worked with leadership to ensure that proposals intended to undermine the programs were not included in this bill. I established five very straightforward criteria on which to judge the package.

First, the $10 billion in savings the Finance Committee was instructed to find would come from both Medicare and Medicaid; second, that any savings achieved through policy would not impact beneficiary access or coverage under Medicaid; third, that we did not simply cost-shift to the States; fourth, that food stamps should be protected from reductions; and finally, that we would not utilize flawed and unjustifiable policies that result in cuts to services for the poor to pay for spending on providers or people at higher income levels.

When you review this package, I believe you will agree with me that it meets all of these principles. This reconciliation bill protects our most vulnerable and achieves savings by utilizing system efficiencies rather than placing an undue burden on our poorest citizens.

For instance, we did not put forward cost-sharing requirements in Medicaid. While some of my colleagues will argue that the poor get a free ride under Medicaid and Congress should require them to contribute to their health care, studies actually show this to be a fallacy. In fact, according to the Bureau of Labor Statistics' Consumer Expenditure Survey, people with annual incomes under $20,000 contribute far more toward their health care—15.2 percent, to be exact—compared to Americans with annual incomes above $70,000, who contribute just 2.6 percent.

Additionally, because those who receive assistance through Medicaid have such diverse needs, we should not assume a one-size-fits-all policy will work for all States. In fact, looking at the experience of my home State of Oregon, it is clear that cost-shifting does not generate money to be reinvested into the system; rather, it acts as a barrier to care. Now, this may be the objective of some. It is certainly not my objective.

Following Oregon's move to implement what they thought were modest premiums and copayments, the State only saved money because 50,000 Oregonians lost Medicaid coverage. The State's own research shows no savings were generated from the actual premiums or copayments. Implementing such a policy nationwide would result in millions of Americans losing Medicaid coverage and joining the ranks of the uninsured and shifting the cost of their care to private insurance plans.

Another critical program the Senate protected from cuts—and for this I must commend my colleague, Senator SAXBY CHAMBLISS of Georgia—is food stamps. According to a report released last week by USDA's Economic Research Service, the number of households nationwide that were food insecure increased to 11.9 percent, and those who are considered hungry increased to 3.9 percent. The major assistance received by these families comes through the Food Stamp Program, which on average helped about 23.9 million people each month in fiscal year 2004. It is also important to note that most food stamp recipients are children or elderly in poor families with a gross income of $643 per month.

Oregon has made bigger gains than any other State in the Nation in its fight against hunger, drastically reducing its hunger rate. USDA's report showed that Oregon's food insecurity rate dropped from 13.7 percent of households in 1999 to 2001 to 11.9 percent for 2002 to 2004. The report further showed that Oregon's hunger rate dropped over the same period from 5.8 percent to 3.8 percent—the biggest decline in America. Oregon's policy analysts and food relief leaders believe that the State's aggressive food stamp outreach is to credit for the decline in Oregon's hunger rate. By 2002, 81 percent of those eligible, or more than 427,000 Oregonians, received food stamps—the highest rate in the Nation. I am proud of Oregon's achievement and pleased this bill does not include any cuts which would jeopardize the tremendous progress we have made in recent years.

We also excluded policies that, while cloaked as a crackdown on fraud, waste, and abuse, simply are known to result in cost-shifting to States and private plans. One such proposal is called Intergovernmental Transfers or IGTs. Some have argued we should draw a hard line in Federal statute to prevent the use of IGTs. However, if you step back for a moment and review the rules presently governing these policies, you will find that the Centers for Medicare and Medicaid Services already has the authority to enter into these types of agreements with States and to force States to change their arrangements. In fact, CMS has required 26 States to adjust their so-called IGTs to better reflect what CMS believes is appropriate and has just 7 others to go in which it wants to make adjustments.

I fear that by drawing a hard line on this policy, we will remove CMS's flexibility to work with States to ensure that access and coverage are not impacted. After all, some of the biggest recipients of aid from these arrangements are children and public hospitals. Those facilities are on the front lines serving the people in need.

We also rejected policies that would have abdicated the Federal Government's responsibility to ensure certain levels of access and coverage for Medicaid beneficiaries. Many of the Governors support instituting broad authority for States to restructure their programs by changing benefit packages and eligibility standards.

As a former president of the Oregon State Senate, I am a staunch advocate of States being the test bed of ingenuity. Over the history of Medicaid, we have seen numerous examples of States finding new and innovative solutions to make their programs more efficient and able to serve more people. In fact, Oregon's creation of the Oregon Health Plan is just such an example of a success. However, I feared that in a rush to complete the budget reconciliation process Congress would simply provide too much open-ended flexibility that ultimately would undermine the cornerstone of Medicaid—ensuring access to a comprehensive benefit package for those with diverse health care needs. That is why I worked to ensure that these types of proposals are left for when we take a comprehensive review of the program that is based on a thorough understanding of the implications.

In developing this package, consideration was given to Medicaid's long-term care program. It is unfortunate that our Nation has not done more to prepare for the needs of an aging population. Medicaid currently is the long-term care provider for most Americans, regardless of their wealth. However, some policies were put forward that I could not support. They would not have solved the problem, which is that some people try to hide their assets so they can be passed on to heirs upon their death. Rather, I believe they would have succeeded only in penalizing unknowing seniors with limited money because of transfers they made with good intentions to some of their family members or charities. Instead, I continue to advocate for reviewing this system thoroughly and develop policies that encourage Americans to seriously plan for their long-term health care needs. Only then will we truly address the growing challenge of an aging population.

Many of us have worked extremely hard to craft a reconciliation package that is morally defensible and achieves savings through sound policy decisions instead of arbitrarily cutting aid to those who need it most. By passing this bill as it stands we are sending a strong message that the U.S. Senate will fight vigorously for those who cannot fight for themselves. The policies we adopt as they relate to Medicaid and food stamps will be and must be the basis for any reconciliation bill that is ultimately considered by this body. We owe it to the American people to let them know that their Congress will not

turn its back on our less fortunate citizens.

Hubert Humphrey once said:

> The moral test of government is how that government treats those who are in the dawn of life, the children; those who are in the twilight of life, the elderly; and those who are in the shadows of life—the sick, the needy, and the handicapped.

In light of this standard, the reconciliation package before us is a success and I offer it my full support.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time?

Mr. LAUTENBERG. The Senator from Mississippi, I assume, yields time.

Mr. LOTT. Mr. President, I yield such time as he may consume to the distinguished Senator from New Jersey, provided it is not more than the time we have allocated.

The PRESIDING OFFICER. The Senator is recognized for 6 minutes.

Mr. LAUTENBERG. Mr. President, I thank the Senator from Mississippi and commend him for the development of this amendment.

Mr. President, I rise to echo the sentiments of Senator LOTT, who serves so ably as chairman of the Commerce Committee's rail subcommittee. Like him, I believe it is critical that we act to improve passenger rail service in our country.

One of the lessons we learned on 9/11 was that our Nation cannot afford to rely entirely on one mode of transportation. When our aviation system shut down that day, Amtrak was able to reunite thousands of travelers with their families. We also saw chaotic evacuations during the recent hurricanes, with motorists stuck in traffic for hours, and those without cars left behind. We need rail service to help move our citizens to safety during emergencies.

And, of course, congestion isn't just limited to our roads. The DOT has had to cap the number of flights at Chicago's O'Hare airport cutting 37 flights a day because of congestion. Even between here and New York City, ground delays can be as much as an hour, when the flight itself is only 39 minutes of air time. We all know flight delays and cancellations are common. Coupled with long security lines, they make air travel increasingly stressful.

If we give people a choice that is viable and reliable, many will choose rail. Amtrak enjoyed record ridership last year—more than 25 million passengers—and about as many travelers ride the train between here and New York City as fly.

Other nations understand the importance of rail. Unfortunately, we have been lagging behind. I remember a NATO trip I took from Paris to Brussels. There are 18 trains a day between these two cities. The 210-mile trip takes about 85 minutes.

The Europeans aren't any smarter than we are. They simply have made a smart investment in passenger rail. Germany, with its modern, high-speed rail system, invested $9 billion in 2003 alone. And the benefits of their world-class system are obvious to anyone who travels there. We need a similar world-class system in our country.

States are in need of Federal leadership to help make improved intercity passenger rail service a reality, but the infrastructure needs are prohibitive.

Our amendment authorizes funding for Amtrak's capital needs, as well as State grants for passenger rail. We make a significant Federal investment in roads—$35 billion a year. By comparison, we spend almost half that amount on airports and air traffic control towers.

This bipartisan amendment will ultimately provide millions of Americans with more transportation choices.

So Mr. President, in the interests of less congestion, lower fuel demands, and an improved environment, I ask my colleagues to support the Lott-Lautenberg amendment.

With that, Mr. President, I yield the remainder of my time back to my colleague from Mississippi, should he need it.

Mr. LOTT. Mr. President, parliamentary inquiry: How much time do we have remaining?

The PRESIDING OFFICER. One minute 28 seconds.

Mr. LOTT. One minute. Mr. President, I have no requests for time. It is such a good bill and such a great amendment, I just cannot believe there would be any Senator who would rise to oppose it.

Mr. LAUTENBERG. Mr. President, I would like to be as accommodating to the manager of the bill, the Senator from New Hampshire, as I can be, so I relinquish the floor.

I relinquish the time.

Mr. CARPER. I would like to thank Senator LOTT and Senator LAUTENBERG for working so hard to find a way for this important legislation to be considered by the Senate. The lack of authorizing language governing Amtrak—and all the entities with oversight over the railroad—has lead to sporadic, uncoordinated, and often contradictory actions by the administration, the Amtrak board of directors, and Congress.

The year began with the President proposing to reform Amtrak through bankruptcy. Thankfully, this was answered by strong support for continued stable Amtrak funding in the House.

And here in the Senate, we have provided $1.45 billion for the railroad in fiscal year 2006, allowing Amtrak to continue their capital improvement program.

Much of this capital improvement program is designed to bring the Northeast corridor into a state of good repair. This is so badly needed because the Federal Government has ignored its responsibility to maintain the corridor for decades.

There were also several authorizing provisions in the transportation spending bill, including language addressing food service and State contributions to the Northeast corridor. While these provisions were removed on the Senate floor, they were initially included because of strong interest in improving Amtrak service and making the railroad work better.

We may disagree on how to reform Amtrak, but that is the motivation. And we turn to appropriations bills when there is no opportunity to consider a more comprehensive reauthorization bill.

Adding to the confusion, the Amtrak board of directors proposed their own reform package last spring. But since then, the board has changed direction on some issues. For example, the board claimed in their reform package that separating the Northeast corridor from the rest of the railroad's operations would be too complex and would not improve operations.

Then in late September, that same board adopted a resolution calling for the creation of a wholly owned subsidiary to manage the Northeast corridor infrastructure.

It is clearly time to pass a new reauthorization bill and set out a comprehensive, steady policy for Amtrak. An Senator LOTT and Senator LAUTENBERG have introduced an excellent one.

The Passenger Rail Investment and Improvement Act, S. 1516, was passed by the Commerce Committee in July by a vote of 17 to 4. It has strong bipartisan and broad geographical support, including Senators from Alaska to Hawaii and Delaware to Montana.

The Passenger Rail Investment and Improvement Act would reduce Amtrak's operating subsidies by 40 percent but would also authorize capital funding for the States to invest in passenger rail infrastructure. This is modeled on the incredibly successful system we employ to support our highway and airport infrastructure.

Through the Passenger Rail Investment and Improvement Act, we hope Act, we hope to create a national rail policy that allows Governors to make transportation decisions for their States based on what the State needs, rather than which mode of transportation is more highly subsidized by the Federal Government. This is essential if we are going to have an integrated and efficient national transportation system.

I wish this legislation could have been considered on its own. But it has been 3 years since the last authorization bill expired, and it is time Congress prioritize our Nation's passenger rail system.

We need to move this legislation quickly or continued confusion is likely at Amtrak. This confusion reduces the railroad's ability to provide good service, troubles creditors and riders, leads to short-term decision making and deferred maintenance, and costs the Federal Government more in the long run.

I urge support for this amendment.

Mr. BURNS. Just a few weeks ago, the Senate passed the Transportation

appropriations bill, which included $1.45 billion in Amtrak funding.

This amendment today represents the next step in continuing the fight to reform Amtrak in a way that preserves passenger rail as a necessary component in our Nation's transportation system.

The Empire Builder, which runs through Montana, serves an important public need, and I appreciate the work of Senators LOTT, INOUYE, and LAUTENBERG on developing this reauthorization bill.

This bill provides needed reforms to help Amtrak operate more efficiently but does so in a way that enhances, rather than harms, existing service.

Amtrak is a key component of Montana's infrastructure, and folks feel pretty strongly about keeping the Empire Builder operational. Conservative estimates indicate that the Empire Builder brings roughly $13 million annually into Montana.

Recently, Amtrak announced record ridership numbers for the past fiscal year—a trend we saw in Montana as well. Given the high fuel prices folks are facing these days, preserving alternate forms of transportation is even more critical.

Amtrak continues to have widespread support throughout the country, and Congress needs to ensure that Amtrak remains a part of our Nation's infrastructure. Part of Congress's duty is to make sure that Amtrak is responsible with the Federal dollars it receives.

This legislation provides important reforms for Amtrak, including audits on amenities like food and beverage service, and sleeper cars. On a train like the Empire Builder, those amenities are critical. On other trains, maybe some changes can be made. Each route needs to be evaluated for potential reforms.

Amtrak must work to reduce its reliance on Federal spending and improve performance across the board. This amendment today moves Amtrak in that direction, and I am pleased to be a cosponsor.

I recognize that attaching authorizing language to the budget reconciliation is not the preferred method to move this bill. However, Amtrak needs to be reauthorized, and Congress must do its duty to direct passenger rail reform.

So I hope that the Senate can agree to include this amendment today and take action on the important reforms that Amtrak needs.

Mr. INOUYE. Mr. President, I rise today to speak in support of the Lott-Lautenberg amendment to add S. 1516, the Passenger Rail Investment and Improvement Act of 2005, to the Budget Reconciliation package. The Commerce Committee favorably reported this bill in July of this year, but we have been unable to get floor time for its consideration. As I said during our markup, I believe this is the most comprehensive reauthorization of Amtrak ever attempted by this body and I commend Senators LOTT and LAUTENBERG for their hard work in putting it together.

Amtrak and intercity passenger rail are critical elements of our national transportation system, and it is time for Congress to devote the attention to Amtrak and passenger rail that we have given to our airports, highways, and other surface transportation modes. Amtrak's critics and supporters alike agree that it is time to reauthorize the corporation so that Amtrak has Congressional guidance on how to proceed with important reform initiatives needed to improve service, grow revenues, and cut costs. With time running out this year, adding our amendment to this reconciliation package is probably the only opportunity for the Senate to vote on this important proposal. Senate passage of S. 1516 will signal our commitment to strengthen and reform Amtrak to the House and the administration, and hopefully, lead to enactment of a reauthorization this year.

Mr. LOTT. We yield the remainder of our time, Mr. President. Good luck, Mr. Chairman. You are going to need it.

The PRESIDING OFFICER. The Senator from New Hampshire has 58 seconds remaining.

Mr. GREGG. I appreciate the Senator from New Jersey and the Senator from Mississippi being so concise and effective in their arguments.

The next amendment will be the McCain amendment beginning at 3:30.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GREGG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. GREGG. Mr. President, consistent with the prior discussion we had with the Senator from Oregon, I ask unanimous consent that after the time has expired for this bill, which occurs at 6 o'clock, the Senator from Oregon have 45 minutes as in morning business without the right to offer an amendment.

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

The Senator from Arizona.

AMENDMENT NO. 2370

(Purpose: To move forward the date on which the transition to digital television is to occur)

Mr. MCCAIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona [Mr. MCCAIN], for himself, Mr. SUNUNU, and Mr. ROCKEFELLER, proposes an amendment numbered 2370.

On page 91, line 6, strike ''April 7, 2009'' and insert ''April 7, 2008''.

Mr. MCCAIN. Mr. President, the amendment would do one very simple thing: It would move the DTV transition date forward by 1 year, making the completion date April 7, 2008, rather than April 2009. This would accomplish the crucial goal of providing first responders with critically needed spectrum one year sooner than is required in the reconciliation bill. This amendment, if adopted, could provide a greater benefit to the American public than perhaps any other provision in this bill.

We know that first responders' ability to communicate during times of tragedy can be literally a matter of life and death for them and the victims of natural and manmade catastrophes. This is a lesson that has been presented to us over and over again, well before Katrina and even several years after 9/11. Yet to this date, we have not made a commitment to allocate the needed spectrum as soon as possible.

Almost 10 years ago, a coalition of public safety groups issued a report asking Congress and the Federal Communications Commission for additional first responder spectrum. In 1996, Congress promised first responders would be provided with adequate spectrum for communications by December 31, 2006. However, shortly thereafter, Congress effectively reneged on that promise and set a bar for its fulfillment that would be unobtainable for decades. During a hearing held just last year by the Senate Commerce Committee, then-chairman of the FCC, Michael Powell, predicted it could be even ''multiple decades'' before the turnover of spectrum to first responders under existing law. That provision, which required 85 percent of homes to be available for high-definition television, would have effectively prevented the analog spectrum from ever being returned, and that provision was never run through the Commerce Committee that I was chairman of at the time. It was never debated or discussed. It was snuck into a bill by individuals at the request of the National Association of Broadcasters. It could have been no one else. That is a terrible way to do business. Unfortunately, more and more we are doing business by adding little lines into appropriations bills which never see the light of day.

I am sick and tired of it, and the American people are sick and tired of it. We are sick and tired of all the earmarks, and we are sick and tired of the billions of dollars of pork-barrel spending that occurs. We are sick and tired of mortgaging our children's futures.

I am, most of all, sick and tired that the National Association of Broadcasters is able to prevent this transition from taking place at the risk of American lives, our bravest Americans, our first responders.

I will tell you what the Fraternal Order of Police say:

As Hurricane Katrina so clearly demonstrated, the ability to communicate and transmit information can often mean the difference between life and death. Congress should no longer delay public safety access

to this spectrum. Every year we wait is another year too late. We cannot wait any longer for Congress to deliberate over this issue. Therefore, we ask you to support a transition date as close to December 31st, 2006, as possible.

That plea comes from the Congressional Fire Services Institute, the International Association of Arson Investigators, International Association of Firefighters, International Fire Service Training Association, National Fire Protection Association, the National Volunteer Fire Council, the North American Fire Training Directors, and the International Association of Fire Chiefs.

Every day police, fire, and emergency personnel face communications problems due to dangerously congested radio communications systems. We need Congress to pass legislation to complete the transition to digital TV and free the spectrum for public safety use. The lives of first responders and the citizens we serve are at risk.

That is signed by Chief Mary Ann Viverette, president of the International Association of Chiefs of Police.

Here we are, the lineup again, our first responders, the brave men and women who put their lives on the line in defense of the lives of their fellow citizens who have already given their lives, who have performed so magnificently, who want to be able to talk to each other, who want the spectrum freed up. And what do we do here in Congress? We delay it as long as possible. It is disgraceful conduct on our part.

Let me tell you what the NAB says, the National Association of Broadcasters:

On behalf of America's local television broadcasters, I am writing to urge your support for the digital transition provisions included in the Senate reconciliation package. In particular, we are concerned about floor amendments that would harm television VIEWERS by either moving forward the hard date or reducing the revenue allocated to assist consumers in making this transition.

Get it? ''We are concerned about floor amendments that would harm television viewers.'' They are worried about harming television viewers when the heads of the policemen, the firemen, all of the first responders, everybody is worried about saving lives. So we are going to decide, again, whether the National Association of Broadcasters carries the day or whether we take care of those men and women who literally are putting their lives on the line every single day.

I have a quote here from Tom Kean, Chairman of the 9/11 Commission, concerning his frustration and that of the 9/11 Commission, probably one of the most respected persons in America:

What's frustrating is it's the same thing over again. I mean, how many people have to lose their lives? It's lack of communication, our first responders not being able to talk to each other. . . . Basically it's many of the things that, frankly, if some of our recommendations had been passed by the United States Congress, could have been avoided. But on the ground, the people that get there first can't talk to each other because radio communications don't work. They haven't got enough of what's called spectrum. So there is a bill in Congress to provide first responders spectrum. The bill has been sitting in Congress, nothing has been happening and, again, people on the ground—police, fire, medical personnel—couldn't talk to each other. That's outrageous and it's a scandal and I think it costs lives.

I will repeat what Tom Kean, Chairman of the 9/11 Commission says:

That's outrageous and it's a scandal and I think it costs lives.

I would like to have it earlier than 2008. I would prefer to offer an amendment to set a date of 2007, as I did during the Commerce Committee's executive session on this matter. Prior to that session, the Congressional Budget Office expressed concerns about the revenue impact of that earlier 2007 date. By the way, I don't begrudge the Congressional Budget Office for expressing fiscal concerns about perhaps not as much revenue as they can get. But is it revenue we are worried about or people's lives? The amendment failed very badly in the Commerce Committee. However, I am informed that a date of April 2008 would likely generate considerably more revenue than the committee's reconciliation instruction of $4.8 billion, much closer to the level of revenues expected under the April 2009 date than the January 2007 date that I proposed in committee.

As such, this amendment's 2008 date should not raise any potential violation of the budget rules. It is the best option we have at this time.

I have a memorandum from the following organizations in support of establishing a firm DTV transition date as soon as possible to clear the megahertz ban for public safety use nationwide, the 700 megahertz ban: Association of Public-Safety Communication Officials, International; Congressional Fire Services Institute; International Association of Chiefs of Police; International Association of Fire Chiefs; the Major Cities Chiefs Association; Major County Sheriffs' Association; and the National Sheriffs' Association.

Their memorandum is to Members of the U.S. Senate, dated November 2, 2005. Subject: DTV transition.

The Senate Commerce Committee, in addressing DTV transition, has set a hard date of April 7, 2009 by which television broadcasters must vacate the 24MHz of spectrum and the 700MHz band allocated to public safety. We applaud the efforts of the Commerce Committee to address this critical issue. Now, Senator John McCain will introduce an amendment to set the date one year earlier—April 2008.

In 1997, as part of budget reconciliation, Congress set December 31, 2006 as the date for broadcasters to vacate the four television channels allocated to public safety. The above listed organizations have sought ever since to assure that date. Senators are well aware of the urgent need for this spectrum to be made available, nationwide, to public safety and our quest for the earliest transition date possible. Senator MCCAIN's amendment is an improvement in that regard, and it has our support.

Here we are again, as we have been in the past. All of the brave men and women who don't stand to make a penny from this transition. There is no revenue that accrues to the National Association of Chiefs of Police, to the sheriffs, to all of the medical personnel. They are not going to make a dime out of this. What they are going to do is carry out their mission, which is to save lives.

It is their view and that of the 9/11 Commission and, frankly, that of any objective observer that these people are unable to save people's lives because of a lack of ability to communicate with each other, and the National Association of Broadcasters is again flexing its muscles to the point where it can very likely cost people's lives. So I hope for once when we go home and talk about how much we support all these great public servants and what a great job they do—our chiefs of police, our sheriffs, all of the people who guard us every day—maybe the best way we can show our appreciation to them is to approve this amendment and get them the spectrum they need in order to be prepared to save lives in the event of another disaster.

I do not have a lot more to say on this except that I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

At this moment there is not a sufficient second.

At this moment there is not a sufficient second.

Mr. MCCAIN. Then I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MCCAIN. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

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

Mr. MCCAIN. Mr. President, I ask for the yeas and nays on the McCain amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays are ordered.

Mr. MCCAIN. I thank the Chair. I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from North Dakota.

Mr. CONRAD. Could the Chair alert us as to the time remaining?

The PRESIDING OFFICER. The Senator from Arizona has 6½ minutes. The time in opposition is 21 minutes.

Mr. CONRAD. And who controls the time in opposition?

The PRESIDING OFFICER. The Senator from New Hampshire would control the time in opposition if in fact he is opposed to the amendment.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I would be prepared to set aside the pending

amendment until such time as anyone else wants to come and talk on it or that my time expires so the other Members may proceed with Senate business.

I ask unanimous consent that my amendment be set aside pending the arrival of another Senator who may want to speak on this amendment. In the meantime, other Senators may be recognized.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, first I thank the Senator from Arizona for his graciousness and indicate that there are Senators who have expressed an eagerness to speak, and what we have been trying to do on both sides here is fit in Senators as they come to the floor. So this may be a good time to alert Senators there are a few moments here that would be available conceivably until 4:15 if Senators on either side want to come and have a chance to make a comment. Perhaps it is also a good time to alert Senators after this amendment we will go to the Murray amendment on dual eligibles from 4:15 to 5, the Ensign amendment from 5 to 5:30, and the Landrieu amendment from 5:30 to 6.

With that, I yield the floor. I thank the Chair. Again I want to thank the Senator from Arizona.

Mr. ALLARD. Mr. President, I also thank the Senator from Arizona for putting us in a position where the Members can speak. I have not had an opportunity to speak on the bill as a whole, so I would like to take time on that, and if someone shows up in opposition to the amendment, I will yield the floor to them to speak.

Now that the amendment has been laid aside, I rise today to speak on the pending business of the Senate, which is the Deficit Reduction Omnibus Reconciliation Act of 2005, which is an extension of the budget resolution we adopted earlier this year.

I am very pleased that we have a budget and cannot express enough how important it is that Congress craft and follow a fiscal plan every year. I have long advocated for a fiscal plan that includes strict rules for controlling the appetite of big Government and reins in spending. We are beholden to the taxpayer and to future generations of taxpayers. The annual budget process should reflect that responsibility. We must bear that in mind today as we debate this very important piece of legislation before us.

The 2006 budget resolution set forth a reconciliation instruction for savings of $34.7 billion over the 5-year period of the resolution. Congress has not attempted to restrain mandatory spending through reconciliation since 1997. As my colleagues are well aware, mandatory spending represents the portion of the Federal Government that is on autopilot. Annual appropriators in the House and Senate allocate funds accounting for roughly one-third of the Federal Government's expenditures as fully two-thirds of the spending is on cruise control. I am encouraged we are making an attempt to rein in even a modest amount of mandatory spending. This entire process is, indeed, a test of the body's willpower and integrity. Can we manage to make a few hard choices today to protect the interests of our grandchildren?

Since 1974, Congress has passed 19 different reconciliation bills, and 16 of those survived Presidential veto to become law. Since 1990, reconciliation has been used three times to trim mandatory spending. In 1990, mandatory spending was reduced by $100 billion; the 1993 spending reconciliation cut $96 billion; and the 1997 bill, $118 billion over a 5-year period. According to the Congressional Budget Office, the bill before us today will reduce mandatory spending by $39.1 billion from 2006 to 2010 and $108.7 billion from 2006 through 2015. By recent historical standards and contrary to the doom and gloom of several statements made today on this floor, this is a modest reduction, no matter how you slice it.

Once we adopt this reconciliation bill, we will be free to move on to do the two other reconciliation bills allowed under this year's budget resolution. One of those instructions will increase the statutory debt limit, a move I do not take lightly. The other of those reconciliation bills represents an instruction to the Senate Finance Committee to reduce the tax burden by up to $11 billion in fiscal year 2006 and up to $70 billion for the coming 5-year period.

This reconciliation bill will extend a variety of existing tax policies that are very popular among the American public. For a change, I believe the popularity of these tax cuts is reflected in this body and I believe we will find a way to extend these important provisions.

While this is a debate we will have in the near future, I can't help but express my feelings about that tax reconciliation. America's families are relying upon us to extend these new tax policies that have buoyed this economy in recent years. When considering the global war on terrorism, the broad economic impact of Hurricane Katrina, and the current cost of energy in this country, one might expect the economy to be sluggish. Economic data suggests the very opposite. It would be foolish for this body to try to tinker with the policies that have put more dollars in the pockets of America's workers to save, invest, or spend.

Some colleagues may disagree with my assessment and with the desire our citizens have to hold on to more of their earnings. I look forward to taking part in that discussion in the future. And that is a discussion for the future. The resolution we have in the Chamber today is not a tax extension bill. The Senate must discuss and debate the merits of raising the debt limit and of extending the kinds of tax relief that keep this economy humming along in such a healthy way. But that debate will come later. Today we are talking about the first deficit reduction bill since 1997. This is a major effort. It has been 8 years since the Congress attempted to exercise any discretion over mandatory spending. There should be no illusions that this is a defining resolution. We are not just defining this Congress or our careers or the next series of campaign commercials; we are defining the scope of policies that will impact future generations. We must demonstrate that mandatory programs are not destined to grow willy-nilly and without thought for those who have to pay for them.

We have heard a parade of statements these last 2 days that suggests there is simply no way to reduce these programs, that too many people are dependent on these programs for them to undergo any sort of scrutiny. I say to my colleagues we are not only accountable to those who benefit from these programs, but we are accountable to those who work every day in America to pay for these programs. We must be accountable to those who are on the brink of entering the workforce, who will face a greater tax burden if mandatory spending grows unchecked. The modest scope of this legislation suggests to me we can meet the myriad obligations to those drawing on these programs while righting the fiscal ship.

Since 1997, we have made no substantive step to control runaway entitlement spending. This year's budget directed eight different Senate committees to take a stab at it through instructions totalling $34.7 billion in savings. The committees were free to find greater savings, and I am pleased to report that they did, to the tune of more than $39 billion. All eight Senate committees exceeded their instructions. This is no easy task and I commend the leaders of each of these eight committees.

The Agriculture Committee's reduction has been scored by CBO at approximately $3 billion over the next 5 years. The package adopted by the committee leaves unchanged the structure of the farm program created in the last farm bill while achieving some savings in the farm commodity programs. Conservation programs are trimmed without impacting landowners' or farmers' existing contracts in any program. Agricultural research programs and the food stamps program are completely untouched.

The Banking and Housing and Urban Affairs Committee portion of the bill is scored by CBO at a savings of $570 million. This legislation will streamline and simplify the Bank Insurance Fund and the Savings Association Insurance Fund, combining the two entities into the Deposit Insurance Fund. Additional provisions modify the policies of the FDIC to reflect inflation and the growing size of deposits by increasing the retirement fund size the FDIC can insure from $100,000 to $250,000.

Further, the Banking Committee has included provisions dealing with the

Federal Housing Administration's inventory of defaulted mortgages. Today, in an effort to preserve a defaulted property as affordable housing, the FHA may sell the property at below-market rates. The foregone proceeds from these sales may total $10 million a year. This legislation will end FHA's permanent authority to sell such properties at below-market prices and authorize funds to support the rehabilitation of these properties.

The Commerce, Science, and Transportation Committee section of this legislation has been scored at $5.98 billion by CBO. The bulk of these savings are generated by the auction of spectrum recovered from broadcasters currently in the midst of the transition to digital signal broadcasting. This spectrum, a long held and used public resource, will enhance public safety communications and advance the long-awaited transition to DTV, or digital TV. Under this legislation, the FCC will be directed to auction licenses for this spectrum in early 2008 in anticipation of the full conversion to DTV in April of 2009.

CBO scores the Energy and Natural Resources Committee title of this legislation at $2.5 billion, achieved largely through the long-needed opening of the Arctic National Wildlife Refuge Coastal Plain area. Careful development and production of oil and natural gas in ANWR will increase our national security and energy policy and do so with a minimal amount of impact on this remote region of Alaska.

The Secretary of the Interior is directed to implement an environmentally sound and competitive oil and gas leasing program to ensure the fair market value for the resources to be leased. I applaud the Energy Committee for its efforts.

The Environment and Public Works and Judiciary Committees each contribute somewhat more humble yet important titles to this legislation. The EPW portion, which is focused on the reform of the Equity Bonus Program, a part of the overall highway program, carries a CBO score $30 million.

The Judiciary Committee title scores a deficit reduction of $578 million, largely through the recapture and subsequent sale of authorized but unused immigrant visas.

The lion's share of savings in this legislation is contained in the titles belonging to the Health, Education, Labor and Pensions Committee and the Finance Committee. These provisions also include those provisions that are probably most exaggerated or vilified by the opponents of this package.

According to CBO, the Finance Committee reconciles a deficit reduction of $10 billion over 5 years through a variety of complex and important changes under Medicaid and Medicare. These two programs, combined with Social Security, make up the bulk of our mandatory obligations that currently exist on autopilot. Today, mandatory spending accounts for 56 percent of all Federal spending.

On the brink of the baby boomer retirement, that number is expected to grow to more than 62 percent in 10 years unless we can find the courage to do something about it. The path we are walking today is not sustainable.

As I have mentioned, this reconciliation bill attempts to deal with this perfect storm by making minor adjustments to Medicaid and Medicare. CBO estimates that fiscal year 2005 outlays for Medicaid will total $184 billion. CBO's estimate for Medicare in 2005 is $332 billion, for a total between the programs of more than $515 billion—more than half a trillion dollars—for fiscal year 2005. The estimated 5 year cost of these two mandatory programs is more than $3.4 trillion The Finance Commitee's reduction in this legislation is $10 billion.

There is $3.4 trillion in mandatory spending reduced by $10 billion over 5 years. Our fiscal house is on fire, and we are talking about taking a gallon of water out of the river to fight it, and you would think we were drying up the river.

So the Finance Committee title of this deficit reduction bill includes a net savings that some members of this body are exaggerating to mean the end of services as we know them. What very few opponents of this bill are talking about is that in addition to this savings there are some very wise spending initiatives that will serve to make Medicaid and Medicare more responsive to the needs of those who depend on them. As much as the doom and gloom set would like to talk about the deficit reduction we make in this resolution, we must also discuss the improvement and preservation of Medicaid and Medicare.

While achieving significant spending reduction the Finance Committee language also reduces wasteful spending and targets resources to improve Medicaid, achieving savings at both the State and Federal level. These savings will enhance our ability to serve vulnerable populations. The language contained in this bill ensures continuity of coverage for low income children by shoring up funding for States facing shortfalls in the State Children's Health Insurance Program, SCHIP, and expanding enrollment activities. This bill will also expand Medicaid benefits to encourage the parents of severely disabled children to go to work and earn above-poverty wages while maintaining the services needed by their child.

This legislation also cracks down on fraud in Medicaid. This bill closes loopholes in current Medicaid law concerning the transfer of assets to limit circumstances under which persons may intentionally shelter assets in order to qualify for Medicaid.

New requirements are included for States to apply partial month penalties and to accumulate transfers in computing the period of ineligibility. Language in this bill creates useful new tools for existing third party recovery programs by implementing State false claims acts, which at the Federal level is the single most important tool taxpayers have to recover the billions of dollars stolen through fraud each year.

The Medicaid section of this act also includes some prescription drug repayment reforms. This has been a hot topic in recent years, and I am pleased to see us take action. Under this bill, the average manufacturer price, AMP, is redefined to reflect discounts and rebates available to retail pharmacies and then uses that definition for payments to pharmacies and for the calculation of best price. The legislation before us further defines the weighted average manufacturer price, WAMP, as the basis for a new payment system for these drugs and for a new Federal upper limit for multiple source drugs.

These reforms go beyond what was asked of the Finance Committee and reflect a commitment by this Senate to enact sensible reforms to better serve the public. I appreciate the efforts of the chairman and the Finance Committee on this matter.

This legislation also makes a down-payment to respond to the health care needs of low income families affected by Hurricane Katrina by providing $1.8 billion to protect Medicaid benefits in Alabama, Louisiana, and Mississippi. These are among the important provisions that will serve our Medicaid population and the taxpayer in this bill—and these are provisions being ignored by the other side.

Similarly, we see some commonsense initiatives in the Medicare portion of this bill. Of primary interest is the one percent increase in the Medicare Physician Fee Schedule instead of a 4.4 percent cut in 2006.

This is of paramount importance to those individuals on Medicare because it provides incentives for physicians to stay with the system. We are staring down the barrel of a punitive change in the Medicare system in the form of a fee reduction that is corrected in this bill—that is good news for doctors and great news for patients. For Members of this body who represent rural populations, there are some very important provisions, including: an extension of the hold-harmless provisions for small rural hospitals and sole community hospitals from implementation of the hospital outpatient prospective payment system, an extension of the Medicare Dependent Hospital program that provides financial protections to rural hospitals with less than 100 beds that have a greater than 60 percent share of Medicare patients, and an expansion of coverage for preventative benefits under Federal Qualified Health Centers. This is good news.

The Health, Education, Labor and Pensions portion of this bill, which contains a significant savings and deficit reduction, accomplishes a great deal of reform and enhances service similar to the Finance portion. This title contains significant savings and deficit reduction. CBO estimates a savings of $9.8 billion, while priming our

education infrastructure for the challenges of this new century. The Provisional Grant Assistance Program contained within this bill provides approximately $8.2 billion in grant assistance to Pell Grant eligible students studying math, science, technology, engineering and certain foreign languages. This is a very exciting provision that represents that ability of the HELP Committee and this Senate to listen. The rest of the world is gaining ground on America's sophisticated, high technology work force. For decades our technology and innovation has been the envy of the world and this provision seeks to ensure that we will continue to maintain that dynamic edge.

A well-educated work force creates high-wage jobs and expands our horizons in every aspect of our culture. Again, this is a provision opponents of this bill seek to ignore, refusing to believe that there are noble programs among our sensible and necessary deficit reduction provisions.

That is an all too brief summary of some of the provisions the eight committees receiving reconciliation instructions contributed to this legislation. The constant mischaracterization of this bill amazes me. I hope in some small way that I have been able to clarify some of these issues for the public.

Under this bill, spending for low-income students, families, and patients will increase, and by no small margin. Without passage of this bill, more than $17 billion in loans, grants, sensible reforms, and new programs to benefit families, students, and patients disappears. That is money to aid in the education of 5.3 million low-income students.

That is money to make Medicaid eligible 1.1 million low-income and disabled children. That is money for 700,000 low-income children to continue to receive benefits under SCHIP. Not only is this bill not the end of the world, it appears to me it is an enormous reform and expansion of numerous programs.

It is a credit to the authors of this bill that there is still a gross savings to the taxpayer. Ninety percent of that savings for deficit reduction comes from a reduction in Federal programs that either do not impact low-income families or from receipts from the Federal Government's business relationships. The remaining 10 percent in reductions represents a serious restoration of fiscal responsibility in these programs—closing loopholes and preventing the unscrupulous gaming of the Medicaid system.

Before I yield the floor, I feel it is important to remind my colleagues that this bill should be seen not as a landmark victory but as a good start.

If we are to do anything to seriously address the policy and entitlement burdens our children and grandchildren are likely to inherit we must start today and must continue in the future with reforms and sensible reductions in spending.

We are running a deficit of $319 billion. The deficit, while much lower than last year's, still represents our inability as policymakers to make tough decisions. Our failure to address the deficit, in this bill today and in the future, could have catastrophic consequences for this Nation. Every day we allow spending to grow, either through discretionary programs or through the unchecked growth of mandatory programs, increases our national debt. Today that debt stands at about $8 trillion, the debt held by the public accounting for $4.6 trillion. This is a drain on our economy, and it gets worse every day that we do nothing.

I would urge my colleagues to join me in supporting this good start. The Deficit Reduction Omnibus Reconciliation Act of 2005 strikes me as being the least we can do for future generations. In the coming weeks I hope we will continue this discussion. I hope we will take seriously the harm we can do by simply doing nothing.

I thank Chairman GREGG and the members of the Senate Budget Committee for all their hard work on this legislation. The bill before us today represents a tremendous amount of work that began almost a year ago. As I mentioned at the start of my comment, this reconciliation deficit reduction legislation is a part of this year's budget plan, and I think it speaks to the power and importance of having a blueprint for our fiscal course. I look forward to working with the chairman and with my colleagues to ensure that this legislation represents the beginning of new, fiscally responsible, ongoing agenda to address our fiscal responsibilities.

Mr. President, the Senator from New Hampshire wishes to speak in opposition to the McCain amendment. Do I need to call up the amendment?

The PRESIDING OFFICER (Mr. COBURN). The Senator does not. The Senator from New Hampshire.

Mr. SUNUNU. Mr. President, first I ask unanimous consent that the 45 minutes allocated to Senator WYDEN occur after the debate on the Agriculture appropriations conference report this evening.

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

Mr. SUNUNU. Second, Mr. President, I would like to correct the record. I appreciate the Senator from Colorado yielding to me, but I wish to speak in support of the McCain amendment, of which I am a cosponsor. One might imagine Senator MCCAIN would be enormously disappointed if I came down to speak against his amendment.

Mr. ALLARD. Mr. President, will the Senator from New Hampshire yield?

Mr. SUNUNU. By all means.

Mr. ALLARD. There is a certain amount of time in opposition and in support of the amendment. I am not sure that we have it balanced.

Mr. SUNUNU. Any time I use should be taken from time allocated in favor of the amendment, if there is any time remaining.

The PRESIDING OFFICER. Senator MCCAIN still has 5½ minutes under his control.

Mr. ALLARD. How much time do we need for opposition statements? We have until 4:15 p.m. allocated for debate on this amendment.

The PRESIDING OFFICER. The Senator from Colorado is correct. We will proceed until 4:15 p.m. on this amendment. There is 6 minutes in opposition, as we stand at the present time.

Mr. SUNUNU. Mr. President, I ask unanimous consent that I be allocated 3 minutes to speak in favor of the amendment and that the remainder of the time until 4:15 p.m. be reserved for those who wish to speak in opposition to the amendment.

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

The Senator from New Hampshire is recognized for 3 minutes.

Mr. SUNUNU. To speak in favor of the amendment, which I cosponsor.

Mr. President, I rise in support of this amendment which moves the date for returning spectrum that was allocated for the transition to digital television ahead by 1 year. So instead of that spectrum being returned to the Federal Government for use for other purposes in April of 2009, it will be returned in April of 2008.

I think this makes sense for a number of reasons. First, it moves forward this process of transition. We are technologically able to make this transition. Many, if not most, of the facilities across the country are on a timetable to retrofit their equipment so they can broadcast using the digital standards. It would certainly bring revenue to the Federal Government, the American taxpayers sooner because this spectrum that is available for auction could be auctioned earlier and then put into the public domain used for new technologies, new products, for consumer safety, and that would certainly benefit consumers. But it also provides a very real benefit to public safety because moving this timeframe up by 1 year would ultimately make the portion of the spectrum, about 20 percent of the entire spectrum coming back, available for use for public safety sooner. I am sure this is a point that was strongly emphasized by Senator MCCAIN in his remarks.

Those who support or oppose moving up this timetable would probably agree this process has taken much longer than anyone anticipated when it began back in the early 1990s. I don't think it serves the American people well to drag it out any longer. I am sure there may be some concerns about the precise date, but I think once we set a date sooner rather than later, markets will react, the companies that are providing services will react, and public safety will certainly react because goodness knows they can use the additional spectrum to meet the needs of

State, Federal, and local first responders who are dealing with public safety needs every day.

I believe this is a commonsense amendment. I was pleased to support it in committee, and I am pleased to support it on the floor.

I yield back the remainder of my time to those who are prepared to speak in opposition to the amendment.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, I rise to speak in opposition to this amendment. This amendment puts what we call a hard date only 2 months after the January 28, 2008, auction required by the bill. That is when the auction will commence. It is too soon to move immediately to a hard date in April. The auction could take weeks to conduct, and even after it ends, there are several months necessary for the FCC to decide to whom to award the final licenses. Without the licenses, new wireless providers cannot build their systems, so a tremendous amount of spectrum would not be in use during this period of time.

Importantly, the auction proceeds will not be available until the final licenses are issued. That would mean consumers would face having their analog TVs shut off before the converter box program could be implemented, as is suggested by our bill. American consumers will have to pay more to watch television if this amendment is adopted because the analog cutoff date Senator MCCAIN's amendment requires is premature.

The General Accounting Office and the Consumers Union estimate there are 20 million U.S. television households that rely upon over-the-air reception for their television signal. Broadcasting systems are ready to convert, but we cannot get this done until we have the converter sets so they can continue to watch their TVs. Their old sets will not respond to the converted signal. Over-the-air reliant households disproportionately represent America's most vulnerable. Low-income senior citizens are disproportionately dependent on over-the-air TV; 43 percent of Latino households rely solely on analog television; and African-American households are 22 percent reliant.

We have picked this date based upon the recommendations of the Congressional Budget Office to maximize the return from the sale of the spectrum. It is money that is necessary.That is why this portion of the bill is here—to raise money.

To the extent the money is not used for consumer boxes, a provision in our bill requires all money not used raised by the spectrum goes to reduce the deficit. It is a major deficit reduction concept. Having the hard date out to 2009 is going to raise more money. We need that additional money to add to the interoperability portions of the reconciliation bill before us.

The April 7 date is simply too close, as I said in the beginning, to the auction date of January 28. There has to be time between the auction date and the hard date to ensure that the communications capability is there, the set-top boxes will be there, and that a portion of the television spectrum reserved for the first responders is going to be the first date available.

Moving this date is not going to make it available sooner because of the time delay that will take place after the auction on January 28. It is just not physically possible to have a hard date that close to the auction date because of the time necessary to compute the value of these offers, to go through the process of accepting the high bids and having the people bring forth the money to assure they are sound. The whole concept of this bill has been to maximize the return.

The House date is December 31, 2008. Ours is April of 2009. We moved it there to get away from the Christmas season, to get away from things such as the Super Bowl. The longer it goes, the longer people will buy new digital-ready televisions and will not have to rely upon the transponders—the set-top boxes, we call them—that will be purchased with this money. Our combination is, if we can get this bill passed this year, we will have Christmas 2006, 2007, and 2008 before we get to the point where we have to buy these set-top boxes. The more sets sold to new purchasers, the less it will cost to buy these boxes.

I do hope the Senate will see the wisdom in what we have done. We are working closely with House Members on this issue. We believe we will reach an accommodation on the time, and it will be a 2009 date.

I urge the Senate not to adopt the McCain amendment because it will destroy the process we are in, a very calculated process of ensuring that the auctions take place, and then following those auctions, there is enough of a period to satisfy the goal of raising the money in order that we may get to the total transition through the set-top boxes, 8911, interoperability, and all the things that follow in the amendment. For those who read our amendment, it is partially amended by the McCain provision.

I don't know if there is anyone else to speak in opposition, but I urge the Senate not to adopt the amendment.

Mr. President, is there any time left?

The PRESIDING OFFICER. There is 2 minutes remaining.

The Senator from Colorado is recognized.

Mr. ALLARD. Mr. President, I don't believe there is anybody left to speak on the McCain amendment. I ask unanimous consent that we proceed to the Murray amendment.

Mr. STEVENS. I yield back the remainder of the time.

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

The Senator from Washington.

AMENDMENT NO. 2372

Mrs. MURRAY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Washington [Mrs. MURRAY] proposes an amendment numbered 2372.

Mrs. MURRAY. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To provide a 6-month transition period for coverage of prescription drugs under Medicaid for individuals whose drug coverage is to be moved to the Medicare prescription drug program)

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.

Mrs. MURRAY. Mr. President, I ask unanimous consent to add Senators ROCKEFELLER, BINGAMAN, KENNEDY, CLINTON, and LAUTENBERG as cosponsors of this amendment.

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

Mrs. MURRAY. Mr. President, I have some serious concerns about the budget that is now before us.

To make our country strong again, we need to invest at home. What I see in this budget is a $35 billion cut from America's priorities, and I see that it will burden our children with a massive debt.

I am especially concerned this afternoon about what this bill will do to our most vulnerable in this budget and in the new Medicare prescription drug plan that is going to be implemented very soon.

This budget cuts $27 billion from Medicaid. That is a health care program, and it is a safety net for our country's most vulnerable and sickest. I think that cutting their health care is the wrong thing to do.

As I look ahead to this new Medicare prescription drug law, I see a time bomb that is ticking for more than 6 million Americans. A time bomb is ticking for our communities and for our health care providers. That fuse is set to detonate on January 1, 2006, in a few short months. We cannot stand by and let low-income seniors and the disabled lose their drug coverage. We cannot leave doctors, hospitals, and nursing homes unprepared for the biggest change in decades, and we cannot push hundreds of thousands of people who need care on to our local communities.

We cannot wait. We need to fix this problem today. That is why I am offering this amendment. I have been working with Senators ROCKEFELLER, BINGAMAN, and NELSON to address this immediate crisis, and I want to thank them for their leadership.

I have also introduced my own bill to protect our most vulnerable. It is called the Medicare HEALS Act, S. 1822. I have been traveling around my home State of Washington this past month and meeting with people in Seattle, in Lakewood, Yakima, out in Aberdeen, and Olympia. Everywhere I have gone they have been angry, confused, and very worried and with good reason. Here are some of the concerns I heard. One senior told me:

> Everyone I have talked to is totally confused—my doctor, my pharmacist, even the Medicare number you are supposed to call.

Another said:

> If we can't understand this, this whole plan is going to fail.

Everywhere I went, people were confused. There were questions I could not answer. When I turned to the doctors sitting next to me, they did not know the answer and neither did the pharmacists or the patient advocates that were there with us.

If Senators, doctors, and experts do not understand this bill, how can we expect an 80-year-old person with serious medical problems to understand this complicated new Medicare prescription drug plan? We cannot. So I believe we need more time and more resources to make this work.

One person I met with said:

> Please give us more time, give us the chance to understand this so we don't make a mistake when we sign up.

One panelist said to me:

> Taking something away from those that need it the most . . . is not the American way.

I could not agree more, and that is why today I am offering this amendment on this budget bill.

I have a lot of concerns with the Medicare prescription drug law. I was one of those who voted against it in 2003 because I think seniors deserve better, and I think America can do better for our seniors. I am very concerned about the complexity. I am concerned about the coverage gap, and I am concerned about whether needed drugs will actually be covered. I am concerned about the retirees who are losing the good coverage they have today, and I am concerned about the late enrollment penalty that is going to punish seniors who need more time to pick the right plan for themselves.

I am working with many other Senators to address those specific concerns. Today, the most urgent problem is the way that this new Medicare prescription drug law treats our most vulnerable: People with low incomes, the disabled, and those who face serious medical challenges such as AIDS.

This Medicare prescription drug law takes away the critical drug coverage that these people have today and puts them into this new program that could charge them more money in exchange for less drug coverage. If they do not sign up for a plan, they are going to be randomly assigned one. Either way, the prescriptions they need may not be covered. Because these are Americans who are living on the financial brink, an interruption of their drug coverage or a new copayment could keep them from getting the drugs they need to live. These people who are being affected do not know this is even going to happen to them. Their doctors and their pharmacists do not understand it and this entire mess is going to burst into the open on January 1, a few short weeks away.

This Senate needs to take action now so we can prevent this catastrophe, which is just a few months away. To understand this problem, let us look at how our most vulnerable are getting their prescription drugs today and how that is about to change.

Today, about 6.4 million Americans with low incomes get help from two programs: Medicare at the Federal level and Medicaid at the State level. These individuals are what we call in Washington, DC, dual eligible because they are eligible for assistance from both Medicaid and Medicare.

What Medicare does not cover, States cover. For example, since the Federal program did not cover prescription drugs, the State programs filled that gap. This State coverage is often called wraparound coverage, and it is very critical for these vulnerable families. As a result, these individuals got the drugs they need, often without copayments or deductibles.

Now there is a big problem coming on January 1. The new prescription drug bill will prohibit States from providing this extra help these people need. Instead, what it does is take these people and move them into this new Medicare Program alone, which will require of them higher out-of-pocket payments and will probably cover fewer drugs.

To me, it does not make sense to take away the good coverage these vulnerable families have today, force them into a program that might not meet their needs, charge them more money in the process and then prohibit our States from helping out these most vulnerable residents. It does not make sense, but that is exactly what this new drug program will do, unless we fix it before January 1.

In fact, the new Medicare prescription drug program changes the coverage for our most vulnerable families in five ways: First, it is going to impose higher costs, higher premiums, copayments, and deductibles. These are our low-income families. They do not have the extra dollars.

Secondly, it is going to cover fewer drugs. Those drugs that they rely on right now for their health care, their mental health, may not be covered in the plan they are randomly assigned to.

Third, it blocks our States from providing extra help as they do today, and our States are the end here. They are the ones who are going to see the fallout if these people do not get the prescriptions they need.

Fourth, it provides no transition period to make sure that these low-income residents do not face gaps in their coverage.

Finally, it penalizes people who simply need more time to understand and pick the right plan for them. These are real people that we are talking about. I am going to introduce two of them.

Earlier this month in Seattle, I met a woman named Kathryn Cole. She is 36 years old. She is disabled, and she is living on Social Security disability. She fills about 15 prescriptions every month. Her monthly income is $757. That is what she lives on. Well, she told me: Even if this copay were only $5, that adds up to $75 a month out of her $757. She said:

> I don't have that kind of extra money to squeeze out of my budget.

Kathryn looked at me and she said, which week am I not supposed to eat?

People like Kathryn across this country today are living on the financial edge. They cannot afford to pay more for their medication. That is what America is about, making sure that the least among us are able to succeed in this country. Kathryn is one of those people.

In Olympia, in my State, I met a man named William Havens. He is 50 years old, and he is living with HIV/AIDS. He takes 43 pills a day. William told me:

> For the first time I realize I'm going to have to make a choice between pills and food.

It is outrageous that this Medicare prescription drug law is going to make

life so much harder for these people that I have met, such as Kathryn and William.

In addition to hurting these people, this new drug program, if enacted the way it is right now, is going to hurt our health care system. It is going to have a costly impact on our nursing homes, our doctors, our pharmacists, and our hospitals.

Many of these dual-eligible individuals live in nursing homes. Nursing homes are going to have to navigate through all of these new plans. In my home State of Washington, there are at least 14 of these new plans that the dual eligibles are going to be assigned. Each one of these plans has different costs and different formularies. Nursing home managers are going to have to see which plan their patient has and if the needed drugs are covered.

In Olympia, I met with a doctor named David Fairbrook. He is in private practice, and he is also the medical director at two of these skilled nursing facilities. He cares for about 150 patients. He is very concerned about his patients being randomly assigned to plans that do not meet their medical needs. He said patients may be denied needed drugs. They could be forced to change their medications, and they could very well face a time-consuming, stressful appeals process.

Dr. Fairbrook predicted to me that there is going to be chaos for nursing staff regarding coordination of multiple suppliers, further duplicating their paperwork and documentation requirements. Chaos, he called it. There is a tremendous new administrative burden for understaffed and underfunded nursing homes and care providers.

In addition, unless we act, this new program is going to make the work of our pharmacists across the country a lot harder. Pharmacists, as we all know, are literally going to be on the front lines. They are going to be forced to deny coverage to these patients. CMS is telling us that pharmacists will be able to look up and see what plan someone has randomly been assigned to so when one of these patients comes into their pharmacy and says, I do not know who is covering me now, they are supposed to be able to look it up and tell them.

Frankly, given all the errors and mistakes that CMS has made so far, I do not have a lot of confidence that this is going to be a flawless transition. Remember, these people whom we are talking about do not have a financial cushion. So if they go into the pharmacy and all of a sudden they find out, much to their surprise, that they have to have a copay of $5 per prescription or more, they are living on fixed incomes, they do not have an extra $20 or $30 to say, fine, okay, I will pay this. They will turn away from the pharmacy counter, and they are not going to have the funds to pay for their drugs now and get reimbursed later when some kind of paperwork system gets sorted out. So we are going to see a huge impact at our pharmacies, and we are already hearing about it from them.

Doctors are going to be on the front line. Doctors are going to have to know which drugs are on the formulary, and they may need to help their patients appeal any denials. I remind my colleagues, most of the plans out there right now do not have a formulary. So people who are looking at this and making conscious decisions about which prescription drug plan they are going to sign up for cannot make a reasoned decision yet because they do not even know which plans cover what drugs. So doctors are telling us that they are going to have a real challenge as they try to help their patients work their way through these plans to make sure that their plan covers the prescriptions that are actually given to them.

One doctor I met with told me if doctors do not have the information they need on this yet, if their patients pick the wrong plan and their medicine is not covered, it can have serious medical harm.

Hospitals are also going to be impacted by this. They are going to have to navigate all of these new plans that are being offered. They are going to have to deal with patients who have not been able to get their prescriptions. In fact, for many of these poor families, the only place to get needed medicine is going to be the emergency room, and that is going to increase the cost of health care for all of us.

So this new drug law is going to impose an expensive and confusing administrative burden on doctors, on pharmacists, on hospitals, and on nursing homes. I think we can do a lot better than this. My amendment simply says let us fix this problem before people realize that they cannot get the prescriptions that they need.

The Murray-Rockefeller-Bingaman amendment simply provides a 6-month transition for low-income, dual-eligible beneficiaries. It does not delay the implementation of the Medicare Part D Program. It simply gives States, CMS, and the Social Security Administration 6 more months to ensure that all of those who currently have access to prescription drugs through Medicaid or who are eligible for Medicaid assistance are not lost in this transition.

Surely we can at least do that for these people.

According to CBO, this amendment could cost $130 million over 5 years. I say that is a very small price to pay when we are talking about the lives of 6.4 million Americans. In this budget, we are being asked to cut $27 billion from health care for the poor. I think it is worth spending less than 1 percent of that amount to make sure our most vulnerable do not lose their drug coverage in this transition.

Today we got another example of how easily our most vulnerable can fall through these cracks. Just today, CMS announced it is going to be sending a mailing to 86,169 dual eligibles in my home State of Washington. But according to the numbers I got from my State, there are actually 95,000 of these dual-eligible patients. So somehow 8,831 vulnerable people are not being counted. They are not going to get a letter. They are not going to get signed up for a plan. They are going to get lost in this transition, and on January 31 they will have no drug coverage. That is exactly why I am offering this amendment and telling my colleagues that we need to have a transition period to allow this to work.

I urge my colleagues to support this amendment and give our most vulnerable a few extra months to make sure they do not get lost in this transition.

This is a life-or-death issue for many people. We cannot rip away the last remaining safety net for these people. We owe them at least this one very small fix. Time is running out. On January 1, millions of vulnerable Americans are going to be forced into a new system they do not understand and that does not meet their needs. I believe we can avoid this train wreck. People's lives are hanging in the balance, and I urge my colleagues to at least allow these people who are dual eligible a transition period so they are not lost as this plan is implemented.

I retain the remainder of my time.

Mr. ALLARD. I yield 10 minutes to the Senator from Utah.

The PRESIDING OFFICER. The Senator from Utah is recognized for 10 minutes.

Mr. HATCH. Mr. President, 98 percent of all drugs are covered by the Medicare Modernization Act. And HIV/AIDS drugs are covered. So I am having trouble understanding the need for this amendment. It makes no sense for dual eligibles to have coverage for prescription drugs in both the Medicare and Medicaid Programs.

I have listened to the arguments the proponents of the amendment have used, primarily that the new Medicare prescription drug benefit will be very confusing to those beneficiaries who are used to having their coverage through the Medicaid Program. I personally believe providing coverage through both programs will make it much more confusing for beneficiaries. Instead of helping these vulnerable seniors, I believe the Murray amendment would confuse them and not provide the help they need with their drug coverage.

CMS is there. They will help. They know what to do. They are there for these people. We have provided they would be there.

In addition, I don't understand why these beneficiaries would need a Federal match for Medicaid coverage because they cannot navigate the exceptions process or the transition process. If an individual has problems with his or her drug coverage, there will be help available to them through CMS, congressional offices, State government

agencies, and community organizations such as the AARP that is so strongly behind this bill. There is no need for duplicative drug coverage.

I might add, if I am not mistaken, I think the distinguished Senator from Washington supported the Rockefeller amendment to the Medicare prescription drug bill that we fought so strongly over, that is now law. This particular amendment would have had the duals' drugs covered by Medicare, not Medicaid—this was included in the Medicare Modernization Act of 2003. I don't know what brought about the change of mind.

CMS recognizes the transition from Medicaid drug coverage to Medicare is enormous and has been diligently working to ensure the process for beneficiaries is as quick and efficient as possible. Protections are in place to ensure that no full-benefit dual-eligible beneficiary will go without coverage when the new Medicare prescription drug benefit starts on January 1, 2006. All Part D plans that CMS approves must meet strict Medicare regulations and standards guaranteeing that Medicare beneficiaries receive drug coverage that best fits their needs.

Part D plans are required to have a coverage determination process which includes an exceptions process and appeals processes that provide enrollees with opportunities to challenge the exclusion of a particular drug from a plan's formulary. Each plan must have a procedure for making timely coverage determinations on standard and expedited requests made by enrollees. Plans must also make their determinations as expeditiously as an enrollee's health care condition requires, but no later than 24 hours for expedited decisions involving enrollees who will suffer from serious health conditions, and 72 hours for standard decisions.

These formulary and appeal procedures are in place to ensure that there are no instances where a beneficiary is in need of a drug and cannot get it.

To address the needs of individuals who are stabilized on certain drug regimens, Part D plans are required to establish an appropriate transition process for new enrollees who are transitioning to Part D from other prescription drug coverage and whose current drug therapies may not be included in their Part D plan's formulary. Additionally, this amendment presents an unfair situation for States who have already agreed to pay ''clawback'' payments to the Federal Government. By mandating that State Medicaid Programs also pay for drugs, we would essentially increase the financial burden on the States.

I hope our colleagues will not vote for this amendment. In all honesty, when we talk about the issue of choosing between food and drugs, the Medicare Modernization Act provides a substantial subsidy for low-income seniors for their drug coverage. These seniors will not have to choose between food and drugs, basically because their drugs will be covered. They will not have to choose, as has been stated here, between having enough food to eat and drugs. That is one of the things we tried to take care of when we did the Medicare Modernization Act. Saying that you have to choose between food and drugs is not only wrong, it unfairly scares our senior citizens, and it confuses them. As I said at the beginning of my remarks, 98 percent of all drugs are covered, and that includes HIV/AIDS drugs.

In fact, beneficiaries can use the plan finder tool to find plans that cover specific drugs.

I want to clarify one thing. Seniors who are dual eligibles will receive their Medicare drug coverage on January 1, 2006. It is not true they will not be covered. They will be covered, and they will receive their drug coverage. That is what this bill is supposed to do, and that is what it will do.

I hope our colleagues will vote this amendment down because I think it not only confusing to seniors, but frankly, the way the benefit is devised by CMS, beneficiaries should be able to get all the drug coverage they need.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. GRASSLEY. Mr. President, I seek time, but I do not have the authority from the floor manager.

The PRESIDING OFFICER. Who yields time?

Mr. GRASSLEY. Mr. President, I yield myself 10 minutes.

The PRESIDING OFFICER. There is 17 minutes left in opposition to the Murray amendment.

Mr. GRASSLEY. I will yield myself 10 minutes of that.

The PRESIDING OFFICER. Without objection, the Senator from Iowa is recognized for 10 minutes.

Mr. GRASSLEY. Mr. President, first of all, I want to make very clear, regarding some of the concerns that have been expressed in support of this amendment, I thought we took them into consideration 2 years ago—did take them into consideration in their policy. I think now that things are rolling out I am even more confident of what we did. So that would apply also to the issues raised here, whether or not beneficiaries have the ability to make decisions about their care, the type of plan they want to be in.

We knew beneficiaries would need to have good resources to learn about the benefits. We have, for instance, a State Health Insurance Information Program that has counselors who can provide one-on-one counseling. CMS has developed a network of community-based organizations to do the same thing. AARP is holding meetings—all over the country, I believe, but I see them noticed in our newspapers all the time. It seems like a massive number of meetings that my senior citizen constituents have gone to.

Do I think nobody could fall through the cracks? Perhaps so. But I think they would have to be people who are very isolated. I know CMS is taken through the mail, and presumably everybody has an address that gets mail. We have taken very good care to make sure people are notified through the mail. If there is one place where there might be a problem, that is the extent to which States might not have everybody in their files. But I have even been satisfied that CMS has been working on that problem for a long period of time.

So because we have thought about these things, I rise to oppose the amendment by the distinguished Senator from Washington.

When we worked on the Medicare Modernization Act, which established this drug benefit program, every State Governor wanted beneficiaries who have Medicaid and Medicare coverage, dual eligibles, to get their prescription drugs through Medicare.

Members of both sides supported this approach. They said Medicare has been a universal benefit, available to all beneficiaries since its inception. The Medicare drug benefit should then be no different.

Those who supported covering dual eligibles under the Medicare drug benefit noted that these beneficiaries would have nothing, no prescription drug coverage, if a State chose to end its Medicaid prescription drug benefit, which it could do. As Senator HATCH said, we even considered an amendment, supported by 47 Senators, to make the benefit available to all Medicare beneficiaries, including Medicare beneficiaries with Medicaid coverage.

For those of us who ultimately supported this approach in the final bill, did we think that we could just wave a magic wand to make the transition happen? As I said, we did not think that. Transitions like this are not easy. We knew that. The Centers for Medicare and Medicaid Services, the agency responsible for making this transition happen and administering the program over a long period of time, knew it would be a big task to transition all those folks into Medicare.

That is why the agency started working on a transition plan—with States and advocacy groups—more than a year ago. In May, the agency issued a 44-page strategy for transitioning this group of beneficiaries into the Medicare drug benefit. That strategy lays out in great detail the steps that the agency will take to ensure continuity of coverage for this vulnerable group of beneficiaries.

First and foremost, these beneficiaries will be assigned to a Medicare prescription drug plan with their coverage effective on January 1st. Folks refer to this as auto-enrollment. This process will prevent any gap in coverage for these beneficiaries. The agency worked with States to develop lists of dually eligible beneficiaries. These lists have undergone rigorous scrutiny to ensure their accuracy and completeness.

Letters informing beneficiaries about the upcoming changes went out today. It clearly states that beneficiaries should choose a plan, but if they don't, they will be assigned to the plan listed in the letter.

The agency included some additional information in a question and answer format. The first question is, ''What should I do now?'' Among other things, the answer says that beneficiaries should find out which plans cover the prescriptions they take and the pharmacies they want to use.

I know that folks are concerned that a beneficiary might toss aside their letter—we have all done that with mail. That is why pharmacists will have access to the beneficiaries and their assigned plan. So on January 1st, when a beneficiary goes to a pharmacy, the pharmacist can fill that prescription under that plan.

Now, some people are concerned that a beneficiary will be assigned to a plan that doesn't cover a drug they need, and they won't find out until they go into the pharmacy. In its transition guidance to plans, the agency strongly recommended that plans provide for temporary ''first fill'' of 30 days to provide a transition supply to meet the immediate need of a beneficiary. This is a common practice today.

Any plan that chooses not to do this, had to provide the agency with sufficient detail on how it would ensure that new enrollees stabilized on a drug not on the plan's formulary would continue to have access to the drugs they need. For example, a plan not using the first-fill could have procedures in place to contact enrollees in advance of their initial effective date in order to identify their needs. All of these alternative plans were subject to the agency's approval.

In addition the agency carefully reviewed all of the plans' formularies to ensure that dually eligible beneficiaries would have good access to the drugs they need. Many plans around the nation cover nearly all of the top 100 drugs used by seniors. The agency also required plans to cover all or substantially all drugs in six classes that include drugs most commonly used by seniors.

I also know there is concern that a dually eligible beneficiary might be assigned to a plan that doesn't cover a drug they need or include their pharmacy in its network. That is one reason why the Centers for Medicare and Medicaid Services sent the letters out now. Dually-eligible beneficiaries can still pick whatever plan they want for their coverage on January 1st, but if the don't make an affirmative decision, then they will have coverage through the plan to which they been assigned.

And if that plan doesn't work for them, they can switch plans at any time throughout the year. Any time.

I was among the Senators who voted against the amendment in the Senate, but I obviously agreed to the provisions hammered out in the conference committee.

Now is not the time to change the provisions. Letters have gone out to beneficiaries. Plans have submitted their proposals to the government based on the specifications in the law. Changes now could lead to increased cost for all beneficiaries and Government.

Members argued with great passion as to why this group of beneficiaries should have their drug benefit covered by Medicare. Members of the conference committee worked to make that happen.

The Senate bill was bipartisan and it passed by a vote of 76 to 21. The bill that emerged from conference was bipartisan and passed by a vote of 54 to 44 with the support of 11 Democrats and 1 Independent.

The bill passed because we recognized that if we asked seniors to wait for a perfect bill, that they were going to be left waiting for a long, long time.

The AARP and more than 300 patient advocacy and health care organizations endorsed the final product. The AARP said the final bill ''helps millions of older Americans and their families,'' and is ''an important milestone in the nation's commitment to strengthen and expand health security for its citizens. . . .''

The prescription drug benefit is affordable and universal. It will cover about half the cost of prescriptions for the average beneficiary. Dually-eligible beneficiaries will have almost all their drug costs paid.

After years of hard work on both sides of the aisle, Republicans and Democrats came together to pass the Medicare Modernization Act. Now is not the time to reopen this issue.

The Centers for Medicare and Medicaid Services has worked hard to implement the new program. Any changes at this point will almost certainly delay the drug benefit from implementation.

In thinking about the months of negotiating this package, I can tell you that there is no interest from this Senator to reopen and renegotiate the new Medicare drug benefit now.

The time for delay is over. The new Medicare drug benefit was a bipartisan product, it is law, and it is set to begin for all beneficiaries, who have waited long enough for this important benefit.

I agree that every step needs to be taken to ensure that there is no disruption in coverage for these vulnerable beneficiaries.

I believe those steps are being taken. It is my understanding that a number of folks think that this transition will be too confusing for beneficiaries. In my opinion, having some drugs covered by Medicare and some by Medicaid will be even more so.

I urge my colleagues to vote against this amendment.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, how much time remains?

The PRESIDING OFFICER. Four minutes 30 seconds.

Mrs. MURRAY. Mr. President, I will have more to say on this issue, but I would like to use my remaining time to enter into a colloquy with the Senator from Wyoming.

I ask unanimous consent to set the pending amendment aside.

The PRESIDING OFFICER. Is the time being charged?

Mrs. MURRAY. With time being charged. We can charge it against our side. That is fine.

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

Mrs. MURRAY. Mr. President, I rise today to talk about an issue I have been working on for the past year—ending a runaway subsidy in the student loan program.

I ask unanimous consent that Senators DURBIN and CLINTON be added as cosponsors to amendment No. 2353.

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

Mrs. MURRAY. Mr. President, currently students are enjoying low interest rates on their loans.

That was not always the case. In the 1980s, lenders were promised a rate of return at 9.5 percent on their loans when interest rates were high, but we were trying to keep costs down for students. In 1993, when interest rates were coming down, extra payments to lenders on 9.5 percent loans were supposed to phase out. However, they did not start phasing out and were rapidly increasing until I took action with my colleagues to end this practice.

Last year, I along with my colleagues, including Senators KENNEDY and DURBIN, who support closing this loophole passed the Teacher-Taxpayer Act. The Teacher-Taxpayer Act took aim at some of the most egregious abuse of this runaway subsidy and returned that money to student's pockets. However, while the Teacher-Taxpayer Act took great strides forward on this issue, the Federal government is still paying out $1 billion a year on the 9.5 percent loans. I believe we are far overdue in ending this practice.

I have filed an amendment to fully and permanently end the remaining 9.5 percent subsidy loophole, which according to the Congressional Budget Office will provide a savings of approximately $500 million. I have stated my intent repeatedly to finally close the remaining loophole. The Higher Education Act reauthorization bill moving through the House of Representatives closes this loophole and Education Secretary Spellings have called for the ending this remaining loophole.

Mr. ENZI. Will the Senator yield?

Mrs. MURRAY. Certainly.

Mr. ENZI. I thank my colleague from Washington for her work on higher education and for her passion about this issue in particular. She has been very interested in the higher education bill that we approved in committee, and was among those who supported its unanimous approval. My colleague mentioned the Taxpayer-Teacher Protection Act, which I support and which

the committee acted to make permanent. I would add that the Taxpayer-Teacher Protection Act has reduced holdings of these loans by more than $1.2 billion in only 6 months since its enactment.

While various estimates have been given about savings attached to ending recycling, it would also put an end to an estimated $840 million in student benefits provided by non-profit lenders over the next 5 years. By some estimates, that could mean a net loss of nearly $550 million in student benefits. Because of the efforts among lenders to provide the most competitive benefits, it is likely that the net loss in student benefits would be much greater. It is also important for me to point out that the Senator's amendment does not capture these savings for students, it only ends the practice of recycling, so the net loss in student benefits would likely exceed $1 billion.

I would also note that Federal tax law prohibits non-profit lenders from retaining these subsidies that the Senator has described. I ask my colleague if she agrees with my assessment, that Federal tax law prohibits non-profit lenders from retaining the 9.5 percent subsidy, and that excess funds must be returned to the Treasury, or be used to provide student benefits.

Mrs. MURRAY. I would agree with that assessment, yes.

Mr. ENZI. I thank my colleague for her commitment to continue to work with me on this issue in conference and look forward to reaching a compromise on this issue. I believe it is important that we get this issue right, so we can best serve students.

Mrs. MURRAY. I thank the Senator. We may not fully agree on this issue but I commend my colleague's efforts to develop a bipartisan Higher Education Act reauthorization and the challenges in moving such a bill through the Senate on a reconciliation bill.

I thank my colleague Senator KENNEDY for his leadership on this issue, and I look forward to working with him and the chairman through conference on this issue. I appreciate the chairman's commitment to work with me through that process to make sure my voice is heard and interests are met. I think it is critical that, as we work with the House in conference on this issue and others, that we ensure protection and improvement of student benefits, and that any savings generated on this issue be returned to students. We must also work to advance and protect diversity in the lending market, which leads to the competition that provides for improving student benefits in lending.

I thank my colleague for his commitment to working with me and look forward to working with him and Senator KENNEDY through that process.

Mr. KENNEDY. I am pleased to join my colleagues, Senator MURRAY and Senator ENZI, discussing the important issue of ending the practice of providing lenders a 9.5 percent interest rate on student loans. I thank Senator MURRAY for her leadership on the issue. We have been working together to close this loophole for several years now. As she mentioned, we passed the Taxpayer-Teacher Protection Act last year, and that was a good first step in the right direction.

I would also like to thank Chairman ENZI for his willingness to work with us in extending that important piece of legislation in the context of the reauthorization of higher education and for his commitment to continue to work on the issue as we move to conference on that bill.

As Senator Murray pointed out, the Federal Government will spend $1 billion annually in additional interest on recycled loans through this program unless we end the practice completely. There is no doubt that some of the lenders—particularly the nonprofits—are putting that excess profit to good use, but we need to make sure all of this funding is being used in the best way possible to make college more accessible for the neediest students. The best way to do this is to end the practice of recycling. Currently the taxpayers are spending $2.7 million each day that we allow the recycling of these loans, and too much of that is going to line the pockets of for-profit lenders. Too much of that money is adding to the enormous salaries of CEOs instead of helping low-income students realize their dream of going to college. We need to make a conscious choice to help students and not banks.

I look forward to continuing to work with my colleagues, Chairman ENZI and Senator MURRAY, on this issue as we move into conference with the House.

The PRESIDING OFFICER. Five minutes remain in opposition.

Who yields time?

Mr. GREGG. Mr. President, I suggest that by unanimous consent we begin the process of debating the Ensign amendment and that 5 minutes be added. He is here and ready to speak.

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

Mr. ENSIGN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ENSIGN. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

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

Mr. ENSIGN. Mr. President, I ask unanimous consent to set aside the pending amendment.

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

AMENDMENT NO. 2368

Mr. ENSIGN. Mr. President, I call up amendment No. 2368 at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. ENSIGN], for himself and Mr. DEMINT, Mr. SMITH, Mr. SUNUNU, and Mr. MCCAIN proposes an amendment numbered 2368.

Mr. ENSIGN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To cut $2,000,000,000 from the converter box subsidy program)

On page 94, line 7, strike ''$3,000,000,000'' and insert ''$1,000,000,000''.

Mr. ENSIGN. Mr. President, first, I want to talk about the general part of the Deficit Reduction Act we have before us, and which the Commerce Committee dealt with a major part of. It has to do with the transition to digital television.

It is a confusing issue for a lot of people, the issue of analog television versus digital television. Digital television will bring far superior quality to our television. We hear about high definition. We hear about digital television today. There is a lot of confusion out there.

In 1996, we set out to transition our television sets—actually by the end of this year—over to the digital age, basically the 21st century in television, in which we would have a much higher quality picture for our television.

Because of a lot of reasons—I think a lot of them are political—we aren't to that point. But what we are doing today in this bill is we have all agreed we are going to have a hard date to actually transition to digital television. What is good about it is everybody can start planning. We will know exactly the time we need to transition from the current television signals the broadcasters are using. Actually, many of them are already broadcasting in both digital and analog, but they will know there will be a hard date where they have to get fully geared to broadcast only in digital.

What does this mean for the consumer out there? A lot of people are afraid: Is my television set going to be turned off when this hard date comes into effect? If we do this right, their television will actually work better than it does today. Even their normal analog television will work better when the hard date comes than it actually works today. With the purchase of a little converter box, they will be able to receive that digital signal. Even if they do not have cable television, with their current analog television—which most televisions are today in the United States—they will be able to receive more television channels free without rabbit ears, without the basic cable that they have today. Because of the way technology works today in the digital age, for each one of those stations which they now have, they will get several stations of digital. There will be a lot more programming which they will actually get free over the air. They will not have to pay for it. This is an advantage for people who aren't on

cable or satellite when we go to this hard date.

There are a lot of reasons for wanting to have that hard date. For those who know anything about the Internet, we always hear about high-speed Internet, or broadband access.

The United States is falling further and further behind the rest of the world when it comes to broadband or high-speed Internet access. We used to be 11th in the world a couple years ago when it comes to broadband. Today, we have slipped to 16th in the world. Eleventh was unacceptable for the United States, but 16th makes us less competitive in this highly technological world we are in in this global marketplace. We have to do everything we can to advance the United States getting up to speed to the Internet.

If you live in a rural area, one of the things this bill will do today, thanks to the good work by Senator STEVENS, chairman of the Commerce Committee, one of the good things about having a hard date is that we will be able to free up some spectrum when the broadcasters go off analog. There is valuable spectrum they will go off when they convert to digital. When they go off the spectrum, the spectrum will be auctioned and used for a lot of good uses.

If you live in rural America and you want broadband coming into your home, this spectrum will allow broadband to go throughout the United States with very cheap ways of setting up the infrastructure. Today, it is very expensive to wire, to lay down cables or fiber optics in the ground to rural America. This spectrum is going to make it much more affordable to bring broadband or high-speed Internet access to rural America. That is another one of the huge advantages we have for making a hard date.

First responders need the spectrum that the broadcasters currently occupy as well. It will make the radios work better. It penetrates, for instance, stairwells. On September 11, the first responders' radios did not work as well as they should because they do not have the same kind of spectrum they need to make the radios work better. Getting the broadcasters off this analog spectrum will also make their radios work better.

In the bill, we give $3 billion to convert these analog televisions, these little converter boxes that people will need to get for their televisions to work properly if they do not have cable or if they do not have satellite. Three billion dollars, by many experts I have talked to in looking at the experiences of countries such as Germany that have done similar things, $3 billion is not going to be necessary.

First of all, I don't believe that everyone who has one of these television sets should get a subsidy. We should have that subsidy for low- or low-to-moderate-income families only. For somebody who has a lot of money, why should a middle-income taxpayer have some of their tax dollars going to subsidize somebody who happens to have a bunch of TVs in their house that wants a converter box? The average cost is estimated between $45 and $60 when they are in mass production. I don't think it is unreasonable for somebody of means to buy that on their own. Most people buy a new computer for their home every few years for a lot more money than what this converter box will cost.

It is very reasonable to cut the amount we have from $3 billion down to $1 billion for the subsidy. That is exactly what our amendment does. At this time of runaway Government spending, it is important to look at every place we can to save money.

Our amendment says instead of spending $3 billion on converter boxes to give subsidies to everybody in America, we will only spend $1 billion. Right now, we cannot set the policies in place, but we can set the amount in place. Later on, we can come back with the policies that will reflect the billion. The House of Representatives put in their bill $990 million, right around $1 billion, which is what we reflect. They went through the whole committee process. They did the same thing. It is difficult to get our bill out of committee at the $3 billion level, but it is the responsible thing to do for this Senate, instead of subsidizing those who can afford to buy their own converter boxes, to take $2 billion of that and put it toward offsetting some of the spending in other areas with higher priorities at this time.

I reserve the remainder of my time.

Mr. STEVENS. What is the time situation on this amendment?

The PRESIDING OFFICER. The opposition has 16 minutes 30 seconds; the Senator from Nevada has 8 minutes 24 seconds.

Mr. STEVENS. Mr. President, I will use the time in opposition if I need it, and some others may want to speak.

Our committee worked hard on this bill, our portions of this bill, and the $3 billion associated with the converter box funds was derived from a CBO estimate based upon the problems that exist in the so-called analog world. There are an estimated 73 million analog TV sets not connected to cable or satellite.

Our reconciliation measure ends all analog broadcasts on April 7, 2009. By that date, all televisions that rely on antennas have to be equipped with a digital analog converter box. We call that the set-top box. The cost to the consumers to purchase the box is estimated to be $3 billion. This amendment would cut that to $1 billion. That is not enough to meet the problem of these 73 million analog sets.

I call attention to the Senate that there is a difference between the House approach and the Senate approach. The House would use a voucher system. The House estimates there are fewer sets than our estimate of 73 million.

We believe by using the date—that is also subject to a question on an amendment that has been offered by the Senator from New Hampshire—by using the hard date of April 2009, we estimate we will raise a considerable amount more money than a date closer to the present day. The impact of this far date is we have three periods where television sets are bought in great quantities, and during the Christmas period.

To the extent the analog sets are retired by digital-ready televisions, we will not need money. This $3 billion is up $2 billion. We do not automatically throw in the $3 billion. This merely makes available the estimate of $3 billion and earmarks that.

However, I call attention to the Senate that money not spent is earmarked in this bill to go to deficit reduction. It is not going anywhere else. There are specific items.

There will be some amendments offered. I specifically refer to the amendment on page 94, line 10, that any amounts unexpended, unobligated at the conclusion of the program shall be used for the program described in paragraph 3, which is, in fact, the basic debt reduction system.

There are some other complications here that I have gone into before. One of them is, we ought to be able to take this bill to the House for conference and work out with them the best way to deal with the set-top boxes. One of the great problems is that there currently is a range of estimates, as the Senator has mentioned, from $40 to $60. If it is $60, we do not have enough money. If it is $40, we have a little bit left over, and it will automatically go to debt reduction.

I personally think we have problems in the areas that were devastated by Katrina, Rita, and Wilma. The problem there is the televisions were destroyed altogether. It may well be that the cost in those areas will be substantially more than the costs of the set-top boxes. We have to decide that. Someone has to decide to what extent and where the money is coming from to help those people who are not able to buy their television sets, not able to replace them. Will FEMA do it? Are any other agencies going to do it? We will hear arguments that some of this money should be reserved for that. I, personally, support that. This is a fund that is designed to make sure we stay connected with these people.

One of the real problems about the devastated areas—and having lived in an area that was devastated one time by a monstrous earthquake—it is hard to stay in touch without the local news without television, without connection with the outside world. We should think about earmarking some of this money to go into the devastated areas.

Does the Senator from Montana wish time?

Mr. BURNS. Will the Senator yield?

Mr. STEVENS. I am pleased to yield.

The PRESIDING OFFICER. Eleven minutes 25 seconds remains.

Mr. BURNS. If all of the money is not used for the set-top box and there is money left over, yes, it does go to

debt reduction, but isn't it also earmarked in there for first responders and spectrum? Did we not talk about them? Basically that is why we are trying to free up a lot of the 700-megahertz block of spectrum.

I understood that was the case. The Senator said it all goes to deficit reduction, but I thought some of it was held in reserve for emergency responders?

Mr. STEVENS. The Senator is right. There are a series of items held in reserve: $200,000 for converting low-power television stations and television translators; $1.5 billion for emergency communications, which includes $1 billion for interoperability, $250 million for the national alert system, $50 million for tsunami warning and coastal vulnerability problems; we have $250 million to deal with the Senator's E911. But after that, the provision strictly says if the proceeds of the auction exceed the sums of payments under all of those, that amount has to go to deficit reduction.

Mr. BURNS. I thank the Senator.

Mr. STEVENS. Again, it is an estimate.

I appeal to let us go to conference and work this out. I favor putting as much money as possible into debt reduction, but there are some people who are going to have to have help in these disaster areas beyond the moneys we have already provided in the other systems. That argument will come to the Senate. I intend to support the concept of using a portion that we have earmarked, $250 million, and there is a move for that to become $1 billion. We are not spending the money. We are authorizing expenditures up to this amount. What is not expended for the programs goes to debt reduction. That is very important for the Senator to remember.

If the Senator wishes to comment on my comments, I will yield.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada is recognized with 8 minutes 24 seconds remaining.

Mr. ENSIGN. Mr. President, the Senator from Alaska always makes very good and important points.

I emphasize a couple of things. First of all, I ask unanimous consent that this GAO report be printed in the RECORD.

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

Table 1 provides the cost of a subsidy program under the assumption that cable and DBS providers downconvert broadcasters' signals at their facilities in a manner that enables them to continue to transmit those signals to subscribers as they currently transmit broadcasters' signals. In this case, cable or DBS subscribers do not require any new equipment, so only over-the-air households—approximately 21 million American households—would need new equipment. As shown in table 1, there is considerable variation in the cost of the subsidy program depending on the level of a means test and the price of the set-top box.

TABLE 1.—ESTIMATED COST OF SET-TOP BOX SUBSIDY, ASSUMING CABLE AND DBS DOWNCONVERSION, ONLY OVER-THE-AIR HOUSEHOLDS ARE SUBSIDIZED

Assumption about means test	Percent of over-the-air households eligible	Number of households subsidized (in millions)	Cost of subsidy, by estimated cost of set-top box (dollars in millions)	
			$50 set-top box	$100 set-top box
Means test at 200% of poverty level	50	9.3 (7.8–10.7)	$463 ($391–534)	$925 ($782–1,068)
Means test at 300% of poverty level	67	12.5 (10.9–14.1)	626 ($545–707)	1,252 ($1,090–1,415)
No means test	All	20.8 (19.1–22.6)	1,042 ($954–1,130)	2,083 ($1,907–2,259)

Source: GAO.
Notes: Ninety-five percent confidence intervals in parentheses.
Analysis based on the status of television households in 2004.

Mr. ENSIGN. Mr. President, the reason I hold up this report, partly to respond, during the hearings we had on transitioning from the analog spectrum to digital, we had the Germany experience where parts of Germany transitioned, and they had a program to subsidize some people who would need to make their analog sets operate in a digital world. When they had this program in Germany, not nearly as many people participated in it as their government expected to happen.

The GAO report said if there were no means test, it would cost about $1 billion for all of the over-the-air broadcast televisions, one per household for all of those who do not have cable and who do not have satellite television. This is for, on average, about $50 per set-top box.

Now, what I have said, and what I would like to see happen, is that we means test this, that anybody, let's say, who is up to 200 percent of poverty would be the only ones subsidized for a set-top box. If we did that, we could buy every one of those households two set-top boxes for under $1 billion, and we would have enough money left over to administer the program. And that is if 100 percent of the homes participate—100 percent.

Now, I think it is reasonable for us to expect that not 100 percent of the homes are going to participate, but that is even with 100 percent of the low-income homes participating. Even if they do, we will have enough money in the program to buy every household, of 200 percent of poverty or below, two of these set-top boxes to make sure their analog television works when we transition over to the digital age.

So I think it is very reasonable for us to only have $1 billion—which ''only $1 billion'' around here is a low number, I guess, but it is still a lot of money. I think that is plenty of money for us to transition.

Let us not forget that their televisions are going to be working better. It is not like we are just giving them the same service. They are going to get more services. First of all, their TV sets will work better. The picture will be clearer. When you have over-the-air broadcasts today, and you have rabbit ears, it is not a very clear picture. There is a lot of fuzz, and a lot of times it is not great reception.

In the digital age, your television will be much clearer. And for every one of those television stations you currently have, you will also have other stations—weather channels, news channels—broadcasting over the air for free. You will get a lot more services for less money. So I don't think, for anybody making above 200 percent of the poverty level, it is unreasonable for us to ask them to buy their own set-top boxes. That is why I think there will be plenty of money, even at the billion-dollar level, to be able to handle these things and some of the other things that may be needed down in the gulf coast.

But I look forward to working with the chairman of the committee. I always hate to go against him because he is so accommodating on the committee. But this is something we will look forward to working with the chairman on as we move through this process.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, how much time remains in opposition?

The PRESIDING OFFICER. There is 9 minutes 4 seconds.

Mr. STEVENS. Mr. President, I think we ought to make certain that the people are providing service to these analog sets now. The National Association of Broadcasters opposes this amendment. Furthermore, I oppose it for the main reason that we are bringing into this country enormous supplies of what are called digital television sets now, but they are not digital-ready. They are still analog, in effect.

We wanted to put on this bill a provision that said you cannot bring into

this country or manufacture in this country a set, from a certain date—say, 90 days from now—that is not digital-ready.

It cannot operate without a converter box. The difficulty is, consumers are buying thousands and thousands and thousands—into the millions now—of sets, believing they are ready, but they are not ready. They are digital, but they are not digital-ready. They will not operate without a converter chip or converter box. Under the circumstances, we rely on the estimate of 73 million sets.

Now, it isn't an argument: How many converter boxes should there be? Every set that is out there needs a converter box to operate. I am told by my staff, 20 million sets are sold annually, and still more than half of them are analog. There are a few of the very high-priced sets that are digital-ready. Some of these sets are in the bedrooms of the elderly. They are in elderly care centers. Every room has a little set.

Now, who are we to say there are sets out there that don't get converter boxes? That may be determined at a later date by the Congress in a bill we have to bring forward, a new communications bill. But for this estimate now, we have to rely upon the estimate we have, that there are at least 73 million sets out there that need a converter box, once we reach the hard date. So that is where the $3 billion came from.

Again, I thank my friend from Nevada for his kind comments. But we have to operate on the basis of dealing with the worst case in terms of providing money. We have done that. This is the worst case we can face, this $3 billion. So we have authorized up to $3 billion. To the extent it is not used, and not used for 9/11, not used for interoperability, not used for first responders, not used for disaster areas, it will go to debt reduction.

Our committee has raised far more than was requested of us, and that is the problem.

We have the luxury of an estimate that says the spectrum auction will bring in more than $10 billion. That may be conservative. Many of my people tell me, once we reach that hard date, the demand for this spectrum is going to be so large that we cannot even estimate the amount of money that is going to be there. So $3 billion is not out of hand.

I urge my friend from Nevada to realize we are not appropriating the money. We are saying up to $3 billion. I urge the Senator not to change that now. Let us go to the House. Let us work with the best available information. Let us try to get this bill back to the Senate as a conference report before this year ends.

If we do not do it and get that other amendment in there somewhere that limits the future production of analog, or less-than-digital-ready sets, this demand for money is going to go up. All those sets are being bought now. Those new sets need a converter box. They are not digital ready.

So again, I thank my friend. I do not think there is anyone else who wants to speak on this amendment. I am prepared to yield back my time, based upon the Senator's comments.

I yield the floor.

Mr. ENSIGN. Mr. President, how much time do I have?

The PRESIDING OFFICER. Four minutes.

Mr. ENSIGN. Mr. President, I will take a couple more minutes.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. ENSIGN. Mr. President, first of all, I want to explain to everybody how important it is what the chairman of the Commerce Committee has done in getting us a hard date. Less than a year ago, in the Commerce Committee, there was no way we were going to have a hard date. People were talking maybe it would be 3, 4, 5, 6, 7 years from now. Some people said we would never have a hard date to convert from the analog TV over to digital. So the committee chairman deserves a great deal of credit for actually getting us to this time, where we are going to have a hard date.

But the reason I think this is a reasonable amendment—and I would just reemphasize to my chairman—is I believe this program should be means tested, that it should not be for everybody in America, millionaires and the like, to be able to get a digital converter box. If they do not have cable in their homes, it is because they choose not to. So they should be able to buy their own converter boxes.

As I talked about this GAO study I have, if we limit it to people who are at 200 percent of poverty and below, we can buy every one of those households two converter boxes for less than $1 billion. If we do not cut the money down from $3 billion to $1 billion, I am afraid we will subsidize every income level home in America, and this money will not go for deficit reduction, that we will actually spend up to the $3 billion.

So that is the purpose for offering this amendment. It is to try to guide the policy in the future, not just the money today.

Mr. President, I yield back the remainder of my time.

Mr. INOUYE. Mr. President, I rise in opposition to the amendment by Senator ENSIGN that would reduce the maximum amount authorized for the converter box subsidy program from $3 billion to $1 billion. A similar amendment was considered by the Commerce Committee and was soundly defeated by a vote of 19 to 3.

The consumer converter box subsidy program is an essential part of making sure that those consumers who today rely on over-the-air analog television are able to make a smooth transition to digital television that does not render their existing analog TV sets obsolete.

Without a robust subsidy program, over-the-air households—which are disproportionately minority, elderly and poor—will face a significant burden. Moreover, because the Commerce title transfers any unobligated funds from the converter box subsidy account to the account that will fund interoperable public safety equipment, this amendment would end up hurting first responders in their ability to get new equipment that can use this newly cleared spectrum.

Because of significant uncertainty as to consumer demand and the expected cost of converter boxes, we must leave the fund at $3 billion and err on the side of caution.

For this reason, I must oppose this amendment. I am joined in my opposition to the Ensign amendment by the AARP, Consumer Federation of America, Consumer's Union, U.S. PIRG, National Hispanic Media Coalition, Mexican American Legal Defense and Educational Fund, League of United Latin American Citizens, and the Puerto Rican Defense & Education Fund, among others.

The PRESIDING OFFICER. Who yields time?

Mr. GREGG. Mr. President, I believe all time has expired on this amendment. I believe the Senator from Alaska yielded back his time.

The PRESIDING OFFICER. That is correct.

Mr. GREGG. Mr. President, in a few minutes, I think Senator LANDRIEU is going to be over here to offer the final amendment of the day.

AMENDMENT NO. 2392

Pending that, I ask unanimous consent to strike the language on page 41, beginning on line 3 through line 11.

The PRESIDING OFFICER. That is of the bill.

Mr. GREGG. Yes.

This is a unanimous consent request to strike the language.

The PRESIDING OFFICER. Is there objection?

Mr. CONRAD. No objection.

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

The Amendment (No. 2392) was agreed to as follows:

On page 41 of the bill, strike lines 3 through 11.

Mr. GREGG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CONRAD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. CONRAD. Mr. President, very briefly, we now are going to go to the Landrieu amendment. I understand Senator LANDRIEU is on her way to the floor. She will have from 5:30 to 6 o'clock. At that time, we will be done.

I see Senator LANDRIEU now in the Chamber. We will then be finished with the debate on reconciliation, which means we then go to votes on the

amendments. I want to again alert our colleagues, we have 15 amendments already pending. That is 5 hours of solid voting. We would like to send the message, as clearly as we can, to our colleagues: 15 amendments is probably enough. We do not need to add to the time of the Chamber with additional amendments.

I think we have had a very good, full debate on reconciliation. We hope very much that 5 hours of solid voting will be sufficient.

I thank the Chair and yield the floor.

Mr. President, I ask unanimous consent, if the Senator from Louisiana is ready, that we could begin on her amendment at this point.

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

The Senator from Louisiana is recognized.

AMENDMENT NO. 2366

Ms. LANDRIEU. Mr. President, I ask unanimous consent to call up amendment No. 2366.

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

The clerk will report.

The legislative clerk read as follows:

The Senator from Louisiana [Ms. LANDRIEU] proposes an amendment numbered 2366.

Ms. LANDRIEU. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To provide funds for payments to producing States and coastal political subdivisions under the coastal impact assistance program)

On page 95, line 21, before the period at the end insert the following: '', of which $1,000,000,000 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))''.

Mr. GREGG. Mr. President, we will support an effort to pass legislation to make the technical change deleted from our bill in a more appropriate vehicle.

Ms. LANDRIEU. Mr. President, thank you very much. I appreciate the leaders providing me with an opportunity to speak, briefly, about this amendment.

There have been very important amendments that have been offered and debated throughout the day. As the managers have expressed, we will be voting probably into the night and tomorrow to try to finish budget reconciliation. But one of the amendments I have brought today to speak about is one of the most important things we are going to need as a foundation for the recovery of the gulf coast.

We have had many discussions about the aftermath of Hurricanes Katrina and Rita—two major hurricanes that have hit the gulf coast. And, of course, Wilma hit Florida recently. And there was the subsequent breaking of a levee system that just devastated a major American city and region—one we are still reeling from, as our local officials, our business leaders, our university presidents, our general community struggles to try to provide a framework for rebuilding. We are in the midst of that great debate.

The reason it is so difficult—as you can imagine from your own experience as a leader, I say to the Presiding Officer—is that when this has never happened before, there is no textbook. The tragedy is of such magnitude and is unprecedented in nature that there is no textbook you can go to, to say: Here is step one, step two, step three, as to how to rebuild south Louisiana, southern Mississippi, parts of Alabama and Texas.

We have had some expedience with hurricanes before. I am not suggesting we have not. But we have not had the experience of a devastation, the kind we are experiencing right now in the New Orleans metropolitan area region—including Saint Bernard Parish, Plaquemines Parish, Saint Tammany Parish, Jefferson Parish, Washington Parish, Tangipahoa Parish—and all along the southern part of Mississippi, and the southwestern part which was hit by Rita.

I am going to be showing some pictures of it in a moment so that my colleagues can continue to see—not just hear, but to see—pictures of the devastation.

So I come to the floor today to offer an amendment for this body to consider that will move some money we have identified in reconciliation to our coastal restoration program.

In the last Energy bill, by a bipartisan vote of the House and the Senate, with the support of the administration, we were able to secure a downpayment, if you will, on a new coastal plan that will help not just Louisiana, but the producing States that generate so much money for the general fund through oil and gas production off of our shores.

It was a significant step in the right direction. It happened a few weeks before Katrina and Rita hit, and it gave a spark of hope to people in our part of the country that Congress was listening and understood that the Federal Government had to provide not just mandates, not just plans, not just studies, but real money to help us secure better coastal protection. I only wish we had done this 20 years ago because maybe we could have prevented some of the damage from Katrina, but we didn't. And we can talk about why we didn't and what the consequences are, but it is more productive to talk about what we can do now.

As we debate how to prioritize our money through reconciliation—some for increased investments, some for tax cuts, some for deficit reduction—I wanted to come to the floor to offer an amendment that would provide an additional billion dollars for coastal restoration.

In Louisiana, we are the hub of the oil and gas industry, along with Texas and Mississippi. This is a picture of one of the major pipelines that comes off of our shore through the marshland. I am not sure if this pipeline is oil or gas, but it is one or the other because they have to be in separate pipelines. They are laid down through our marsh. These are the lifelines, if you will, to light up the country, whether it is Chicago or New York or California. The price of gas is extremely high. The price at the gas pump is high. We don't have enough of these pipelines in the country, and we are not conserving enough. We are working on both—increasing production and conserving more. But right now, this pipeline exists.

As you can see, when the hurricane struck, the levee systems of this pipeline were broken and water started moving and gushing into this marsh. Saltwater comes in and the marsh starts fading away. It is basically eaten up by saltwater coming in. We need to be constantly vigilant about maintaining proper levee systems. Some of this work has to be done by the private companies that laid down the pipelines, but the Federal Government has a great role to play in investing wisely and strategically to help keep this marsh healthy. It protects the city of New Orleans and, most importantly, it protects the whole region and, most importantly, it protects the mouth of the Mississippi which serves as such a trading hub for the Nation.

This is another picture that shows the devastation of the wetlands loss that was in National Geographic. It is particularly moving. This is a man who is holding up a picture of a camp that his grandparents—right off of Empire, LA—used to have when he was a child. This is probably 40 to 45 years ago, maybe a little bit longer. It is small, but you can see the healthy marsh that once existed behind this home.

This is what it looks like now. You can't see marsh for miles and miles. It has been eaten up. We have been here now year after year saying: Every investment that we can make, we can restore this marsh. We can't restore every acre we have lost, but we know that our scientists and our engineers can restore a lot of this marshland. The marshland serves—south of Louisiana, south of New Orleans, and in the southern part of our State—as a great protective barrier. It protects not just people and businesses, but the energy infrastructure, the pipes, the refineries that exist to help our Nation continue to grow.

Investments of this nature are quite important.

Without a continuing affirmation from this Congress that we understand investments in coastal protection are important and we are giving real money to it, I am afraid anything we do will be for naught to rebuild the New Orleans region. Because people have told me—poor, middle income,

and wealthy, business people and workers—Senator, I cannot bring my family back. I won't bring my family back. I can't build my business back unless I have some security or sense that the administration and this Congress are going to help us build a levee system so we don't wash away again.

Think about that. Why would someone who lost their home or their business, even if they received an insurance check—which some people have, not all people, and we are working on that—even if they received a $250,000 insurance check to rebuild their building, why would they, if they think this is what their house or their neighborhood might look like? This is a little dramatic because, of course, this is not what New Orleans looks like. This is outside of the city, but this is what Plaquemine and St. Bernard look like. Why would someone take an insurance check? To be clear, we wouldn't give someone an insurance check to build a house such as this in this area because we are going to build smarter, better, and higher. There will be some places people can't go back and rebuild.

But in the middle of the metropolitan area, in a neighborhood that never flooded before, people have checks. And they are saying: I am afraid to rebuild my house. What if a big rainstorm comes or another hurricane and washes us away.

Anything we can do, whether it is a half a billion, a billion, next year coming back with some more—we are not expecting $20 or $40 billion in one shot. We know that is a lot of money. But we have to get a little bit every year so we can give people hope that this can be done.

Basically, that is what the amendment does. We have had great support from Chairman DOMENICI, from Ranking Member BINGAMAN. We have had good support from Senator STEVENS, an understanding from Senator STEVENS and Senator INOUYE on the Commerce Committee, because they share jurisdiction, although the Energy Committee has jurisdiction over the Outer Continental Shelf. Most certainly, the Commerce Committee understands the importance of coastal because it is under their jurisdiction. That is basically what the amendment does. We will be voting on it tomorrow. I am hopeful we can get good support for the amendment and lay an additional downpayment on top of that money that we did for energy and get that done.

AMENDMENT NO. 2352

I see my colleague Senator KENNEDY here. We wanted to speak for a moment on another amendment that is pending. I yield a minute to Senator KENNEDY to speak on the education amendment of Senator ENZI.

How much time do we have left, please?

The PRESIDING OFFICER. The Senator has 5 minutes 20 seconds.

Ms. LANDRIEU. Shall I yield some time to Senator KENNEDY of that 5 minutes? I am happy to yield about 3 minutes to him.

Mr. KENNEDY. That would be fine.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. If the Chair would let me know when there is 1 minute remaining.

In a bipartisan way, our Health and Education Committee, under the leadership of Senator ENZI, has found some $2.7 billion that can be used for education. Under the Landrieu amendment, $1.1 billion of that will be used to reduce origination fees that help students all over the country. The rest, $1.6 billion, would be used to help the 370,000 children who have been displaced as a result of Hurricane Katrina.

This will be the only opportunity in the Senate to help children who have been displaced from their education. This is the only opportunity for the Senate to take action. On August 29, when that hurricane came through the gulf and flooded Louisiana and caused havoc along the coast, schools were decimated. Hundreds of thousands of children have all been displaced. Schools—public, private, and also church-related—have welcomed these children into their midst, across the Nation. This amendment is one-shot, one-time, temporary assistance to those schools that are accepting displaced children and need support.

There are some who have said: We can't do this because this is a voucher program. I have been opposed to vouchers because we have scarce resources. And if we have scarce education resources, we ought to use them for public schools. We don't have that choice today. There are no public schools. This was an equal opportunity disaster for children, Protestant, Catholic, Jewish, across the gulf. We have one opportunity, only one opportunity, to provide some help, and it is our amendment. We provide all kinds of protections to ensure this aid is temporary and for the schools that opened their doors to displaced students. This is about children. It is simple. These children, these schools, need assistance.

I reject those arguments that say this is a foot in the door. I was around here when we passed Medicare, and they said: This is socialized medicine. That was poppycock then. It is poppycock now.

Let us help those children. Let's say for those children who were impacted by this disaster, let us provide help to the schools that have opened their arms to embrace these children for a limited period of time.

I thank the Senator from Louisiana for sponsoring the amendment with my distinguished colleagues on the Education Committee and myself, and I urge the Senate to approve the amendment.

The PRESIDING OFFICER. The Senator from Louisiana.

Ms. LANDRIEU. Mr. President, I thank the Senator from Massachusetts for his strong advocacy and support. Without his leadership and that of Senator ENZI, we would not be where we are today on the Enzi-Kennedy-Alexander-Landrieu amendment.

How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 2 minutes.

Ms. LANDRIEU. Mr. President, I reserve that time. There may be opposition. I am hoping not. I would be happy to yield back all the time if the manager wants to move on.

The PRESIDING OFFICER. The Senator may reserve the time.

Who yields time?

The Senator from New Hampshire.

Mr. GREGG. Mr. President, I am sympathetic to the concerns of the Senator from Louisiana relative to the needs of the children who have been affected so significantly by the event. I especially appreciate the fact that Senator KENNEDY has come to the floor and supported essentially a program which will allow the dollars to follow the children versus a program which would be more school centric and, therefore, you could call it a voucher. Whatever you want to call it, I call it good sense to allow these dollars to follow the children. Hopefully, that will be the way the final package is arranged.

The only issue is whether the money comes from the additional savings which came out of the HELP Committee or whether the money comes from the $40 billion which has already been appropriated as a part of the original Katrina supplementals, the additional supplementals that may follow. So where the money comes from is the issue. As the amendment process goes forward tomorrow and we determine whether these dollars are still available and whether it is appropriate to use these dollars or whether we should look toward the supplemental, in any event, the program should be paid for.

At this point, I am going to move on to another subject, unless the Senator wants to respond to my comments with her 2 minutes.

The PRESIDING OFFICER. The Senator from Louisiana.

Ms. LANDRIEU. Mr. President, I will respond. I thank the Senator for his interest in helping out in this extraordinary circumstance with 370,000 children displaced. I wanted the Senator to know, of course, I have been in and out of the city many times. I spoke to one of my relatives and asked, how is the neighborhood looking?

She said: Mary, it is so strange. There are no children anywhere in the city of any age. You don't see any children.

As Senator KENNEDY said, the reason is because we have no school system. Three-hundred and seventy thousand children have moved to other public and private systems, grateful to anyone who would take them in.

I thank our colleagues for coming together in this bipartisan way—Senator ENZI, Senator KENNEDY, Senator ALEXANDER, Senator DODD—to put together

an amendment that is not a voucher program, not a traditional ''help public schools only.'' It truly is a bipartisan compromise to try to help in an extraordinary situation.

I hope tomorrow, when we have this vote, we will get a positive vote. I thank the Senators for allowing us to offer the coastal amendment. We have a lot of support for this. Again, it will add to the money we already have. We will need more over time, but every little bit at this point helps to give people hope that they can come back to this region, live safely and securely with floods and rainstorms, hurricanes, and other disasters.

I yield back the remainder of my time.

Mr. DODD. Mr. President, I rise in support of the amendment introduced by Senator ENZI. This amendment is designed to do two things: provide additional savings to postsecondary students by lowering origination fees on student loans and provide immediate relief to K–12 students affected by Hurricane Katrina. The K–12 portion of the amendment is based, in part, on the Hurricane Katrina Elementary and Secondary Education Recovery Act introduced by Senators ENZI, KENNEDY, ALEXANDER, and myself just weeks ago. Like the bill, the amendment is designed to provide much needed relief to the children, families and schools devastated and affected by Hurricane Katrina.

Two months ago, hundreds of thousands of children were displaced by Katrina. Schools in the Gulf States were damaged and in many cases, destroyed. But schools in the Gulf States were not the only ones affected.

In response to this unprecedented crisis, schools across the country took Gulf State students in, offering them a safe haven, a place to learn and some sense of normalcy and routine. The willingness of these schools to take students in without hesitation point to the education system as an integral part of our communities. The amendment before us assists these schools and the schools directly impacted in a number of ways.

First, it provides immediate aid to restart school operations in the districts devastated by Katrina. In the wake of the hurricane, the HELP Committee held a hearing on the devastating affects of the storm. At this hearing, the superintendent of Jefferson Parish Schools in Louisiana said that if ''you rebuild the schools, they will come.'' Through these comments, she helped us understand that rebuilding schools will have a major impact on the economic viability of the communities directly impacted by the storm. She reminded us of something that we already knew, that schools are the heart and soul of communities.

The amendment also provides financial assistance for displaced students wherever they are currently enrolled in school. Through these provisions, public and nonpublic schools will receive assistance for specified purposes as long as materials purchased and services provided are secular and neutral in nature and are not used for religious instruction, indoctrination or worship. This provision recognizes that in taking students in, schools around the country may need a little extra support in getting these students the services that they need and the education that they deserve.

Additionally, the amendment also allows the Secretary of Education to delay for up to 1 year the highly qualified provisions within the No Child Left Behind Act for teachers affected by Katrina. This provision recognizes that like students, teachers and paraprofessionals have been displaced and should not be professionally penalized because of this.

Mr. President, collectively these provisions provide temporary, emergency impact aid for displaced students. It is temporary in that it sunsets at the end of the current school year, emergency in that it is necessary because of the extraordinary circumstances that we have been presented with, and impact aid as it is assistance for those schools that have been impacted as thousands of children and their families have left the devastated areas.

Most importantly, by attaching this legislation to reconciliation we are providing students with assistance now. It has already been 2 months since the hurricane devastated the Gulf region. These children cannot and should not have to wait another day for the assistance that we promised in the wake of the storm 2 months ago.

Today, we are reaching out to all students because it makes sense, because it gets kids back on their feet as quickly as possible. As I have said before, we are not changing the generic laws. The level of assistance we are providing to nonpublic schools is being authorized solely because of the unprecedented nature of the crisis, the massive dislocation of students, and the short duration of the assistance. I cannot underscore this enough—The provisions in this bill are a departure from Federal law but they are a temporary departure in light of extraordinary events.

Next school year, in terms of assistance to nonpublic schools, we will go back to the ways things are. For now, we will get students the assistance they need. They deserve as much.

Mr. CONRAD. Mr. President, I ask unanimous consent that the following material be printed in the RECORD.

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

PROVISIONS OF S. 1932 EXTRANEOUS PURSUANT TO THE BYRD RULE

(Prepared by the Senate Budget Committee Democratic Staff)

TITLE I AS REPORTED BY COMMITTEE ON AGRICULTURE

No apparent violations.

TITLE II—AS REPORTED BY BANKING, HOUSING, AND URBAN AFFAIRS COMMITTEE

Provision	Violations	Description of provision
Section 2001	Sec. 313(b)(1)(A)—no chg in OL/revs	Short title.
Section 2002	Sec. 313(b)(1)(A)—no chg in OL/revs	Definitions.
Section 2003	Sec. 313(b)(1)(D)—any change in outlays or revenues is merely incidental.	Merges Banking Insurance Fund (BIF) and Savings Association Insurance Fund (SAIF) into one fund. Merging funds has negligible, if any, budgetary effect.
Section 2004	Sec. 313(b)(1)(D)—any change in outlays or revenues is merely incidental.	Establishes new ''Deposit Insurance Fund'' to replace separate BIF and SAIF. Merging funds has negligible, if any, budgetary effect.
Section 2005	Sec. 313(b)(1)(A)—no chg in OL/revs	Technical and conforming amendments to merging two trust funds.
Section 2006	Sec. 313(b)(1)(A)—no chg in OL/revs	Other technical and conforming amendments to merging two trust funds.
Section 2007	Sec. 313(b)(1)(A)—no chg in OL/revs	Effective date.
Part of Sec. 2014, p. 77 lines 11–25	Sec. 313(b)(1)(A)—no chg in OL/revs	Requirement to report to Congress.
Sec. 2018	Sec. 313(b)(1)(A)—no chg in OL/revs	Studies of potential changes to the Federal Deposit Insurance System.
Sec. 2019	Sec. 313(b)(1)(A)—no chg in OL/revs	Effective date.
Sec. 2025	Sec. 313(b)(1)(A)—no chg in OL/revs	Authorization of appropriations.

TITLE III—AS REPORTED BY COMMERCE, SCIENCE, AND TRANSPORTATION COMMITTEE

Provision	Violations	Description of provision
Subsections 3005(c)(2)–(5)	Sec. 313(b)(1)(E)—increases deficit in fiscal years 2011 & 2012.	Authorizes spending by the Secretary of Commerce or the Secretary's designee on a number of activities. Spending occurs outside the five-year budget window.
Subsection 3005(d)	Sec. 313(b)(1)(A)—does not produce a change in outlays or revenues.	Directs the Secretary of Commerce to transfer $5 B from the new Digital Transition and Public Safety Fund to Treasury's general fund. Provision does not score and has not net effect on the budget (intragovernmental transfer).
Subsection 3005(f)	Sec. 313(b)(1)(A)—does not produce a change in outlays or revenues.	Directs that excess savings be transferred to Treasury's general fund. Provision does not score and has no net effect on the budget (intragovernmental transfer).

TITLE IV—AS REPORTED BY ENERGY COMMITTEE

Provision	Violation	Description of provision
Title IV	313(b)(1)(D)—merely incidental	Authorizes oil and gas drilling in the Arctic National Wildlife Refuge (ANWR).
Sec. 401(a)(2)	313(b)(1)(D)—merely incidental	Defines ''Secretary.'' The phrase ''acting through the Bureau of Land Management'' transfers authority over ANWR to the Bureau of Land Management from the Fish and Wildlife Service.
Sec. 401(c)(2)	313(b)(1)(D)—merely incidental	Deems ANWR to be compatible with uses of National Wildlife Refuge. Overrides existing framework for determining compatibility.
Sec. 401(c)(3)	313(b)(1)(D)—merely incidental	Overrides requirements of National Environmental Policy Act (NEPA) for pre-lease activities. Deems 1987 impact statement to be sufficient to satisfy NEPA requirements.
Sec. 401(c)(4)	313(b)(1)(D)—merely incidental	Overrides NEPA requirements regarding identification of leasing/nonleasing alternatives.
Sec. 401(c)(5)	313(b)(1)(D)—merely incidental	Expedited judicial review. Must file within 90 days of action being challenged.
Sec. 401(e)	313(b)(1)(D)—merely incidental	Rights of way requirements. Overrides Alaska National Interest Lands Conservation Act's procedures for transportation rights of way within the Alaska refuges.

TITLE V—AS REPORTED BY THE ENVIRONMENT AND PUBLIC WORKS COMMITTEE

Provision	Violation	Description of provision
Sec. 5001(b)	Sec. 313(b)(1)(E)—increases deficit in a year after 2010	Delays effective date of a highway bill provision that allows the State of Alaska to spend its federal-aid highway contract authority without a limit on obligations.

TITLE VI—AS REPORTED BY THE FINANCE COMMITTEE

Provision	Violation	Description of provision
Sec. 6012(b)	Sec. 313(b)(1)(A)—no chg in OL/rev	Requires HHS Secretary to develop uniform standards for Long Term Care Partnerships and make recommendations to Congress.
Sec. 6012(c)	Sec. 313(b)(1)(A)—no chg in OL/rev	Requires annual report to Congress re: Long term Care Partnerships.
Sec. 6022	Sec. 313(b)(1)(A)—no chg in OL/rev	Limits state Medicaid Agencies' use of contingency fee arrangements with consultants and contractors.
Sec. 6026(c)(3)	Sec. 313(b)(1)(A)—no chg in OL/rev	Requires HHS IG annual report to Congress regarding use of appropriated funds.
Sec. 6036(e)	Sec. 313(b)(1)(A)—no chg in OL/rev	Requires reports and recommendations.
Portion of Sec. 6055 on p. 230, lines 21–23	Sec. 313(b)(1)(A)—no chg in OL/rev	Reporting requirement.
Sec. 6103(c)(d)	Sec. 313(b)(1)(A)—no chg in OL/rev	Requires HHS study and report.
Sec. 6103(d)	Sec. 313(b)(1)(A)—no chg in OL/rev	Establishes rehabilitation advisory council; requires reports/recommendations to Congress.
Portion of Sec. 6110 on p. 284, lines 5–22	Sec. 313(b)(1)(A)—no chg in OL/rev	Authorization of appropriation.
Sec. 6113(d)	Sec. 313(b)(1)(A)—no chg in OL/rev	Requires report to Congress to evaluate rural PACE pilot sites.

TITLE VII—AS REPORTED BY HEALTH, LABOR, EDUCATION AND PENSIONS COMMITTEE

Provision	Violation	Description of provision
Sec. 7101(b)	Sec. 313(b)(1)(A)—no chg in OL/rev	Sense of Senate Language.
Part of Sec. 7102, p. 371, line 19—p. 372 line 19	Sec. 313(b)(1)(A)—no chg in OL/rev	Findings and purpose for the National Smart Grant Program.
Part of Sec. 7102, p. 374 lines 6–11	Sec. 313(b)(1)(A)—no chg in OL/rev	Allows schools to provide matching assistance.
Sec. 7107(c)	Sec. 313(b)(1)(A)—no chg in OL/rev	Provides additional loan deferment from repayment for Perkins Loan borrowers serving on active duty during a war or other military operation or national emergency.
Sec. 7109	Sec. 313(b)(1)(A)—no chg in OL/rev	Repeals the single holder rule, which requires borrowers to obtain consolidation loans from current lender if that lender owns all their loans.
Sec. 7122(b)	Sec. 313(b)(1)(A)—no chg in OL/rev	Requires an evaluation of the simplified needs test.
Sec. 7153(d)(3)	Sec. 313(b)(1)(A)—no chg in OL/rev	Waives requirement for return of Perkins Loans that have been disbursed at institutions impacted by Hurricane Katrina.
Sec. 7153(h)	Sec. 313(b)(1)(A)—no chg in OL/rev	Allows Secretary to modify the teacher quality enhancement grants program.
Sec. 7153(i)	Sec. 313(b)(1)(A)—no chg in OL/rev	Provides Secretary waiver authority to modify authorized uses of grant programs including TRIO, GEAR UP, & teacher quality.
Sec. 7153(j)	Sec. 313(b)(1)(A)—no chg in OL/rev	Allows the Secretary to extend or waive certain data reporting deadlines and requirements.
Sec. 7154–7157	Sec. 313(b)(1)(A)—no chg in OL/rev	Allows Sec. to waive HEA provisions/regs; waives statutory requirements; & requires inspector general audit and report.
Sec. 7201(d)(3)	Sec. 313(b)(1)(A)—no chg in OL/rev	Provides that the bill's premiums do not take effect if comprehensive pension reforms achieving same savings are enacted this year.
Sec. 7311	Sec. 313(b)(1)(A)—no chg in OL/rev	Updates the names of the House and Senate authorizing committees.
Sec. 7314	Sec. 313(b)(1)(A)—no chg in OL/rev	Includes provisions dealing with student speech and association rights.
Sec. 7315	Sec. 313(b)(1)(A)—no chg in OL/rev	Extends the National Advisory Committee on Institutional Quality and Integrity.
Sec. 7316	Sec. 313(b)(1)(A)—no chg in OL/rev	Reauthorizes higher education drug and alcohol abuse prevention programs.
Sec. 7317	Sec. 313(b)(1)(A)—no chg in OL/rev	Provides authorization of appropriations.
Sec. 7318	Sec. 313(b)(1)(A)—no chg in OL/rev	Requires the Secretary to make public information about the costs of higher education.
Sec. 7319–7320	Sec. 313(b)(1)(A)—no chg in OL/rev	Amends the Performance Based Organization, which administers student aid programs.
Sec. 7331	Sec. 313(b)(1)(A)—no chg in OL/rev	Reauthorizes the teacher quality enhancement grants program.
Sec. 7341–7351	Sec. 313(b)(1)(A)—no chg in OL/rev	Reauthorizes programs supporting Historically Black Colleges & Universities, Native Hawaiian & Alaskan Institutions, Tribal Colleges & Universities, & professional/grad institutions for minority serving institutions.
Sec. 7362–7370	Sec. 313(b)(1)(A)—no chg in OL/rev	Reauthorizes federal student aid grant programs, including TRIO, GEAR UP, SEOGs, LEAP, Byrd scholarships, etc.
Sec. 7386–7389	Sec. 313(b)(1)(A)—no chg in OL/rev	Requires lenders to provide borrower repayment info to credit bureaus & more consumer info.
Sec. 7391–7395	Sec. 313(b)(1)(A)—no chg in OL/rev	Reauthorizes federal work-study program.
Sec. 7412–7413	Sec. 313(b)(1)(A)—no chg in OL/rev	Amends terms of Perkins loans. Provides loan cancellation for early childhood educators, instructors at Tribal Colleges or Universiteis, and librarians with master's degrees serving in Title I schools or libraries.
Sec. 7432	Sec. 313(b)(1)(A)—no chg in OL/rev	Requires the Secretary to provide schools with a calendar of regulatory requirements.
Sec. 7437–7439	Sec. 313(b)(1)(A)—no chg in OL/rev	Requires schools to provide students with description of credit transfer policies and makes other transfer policy changes. Requires early assessments to students of financial eligibility.
Sec. 7442–7443	Sec. 313(b)(1)(A)—no chg in OL/rev	Extends experimental sites. Amends provision allowing schools to transfer funds between Perkins loans, Work-study, & SEOG.
Sec. 7445–7448	Sec. 313(b)(1)(A)—no chg in OL/rev	Reauthorizes Advisory Committee on Student Financial Assistance. Amends regional meetings and deletes Year 2000 requirements.
Sec. 7451–7453	Sec. 313(b)(1)(A)—no chg in OL/rev	Amends expanded due process procedures of accreditation & online/distance ed courses. Amends provisions re: admin capacity of education institutions. Requires Sec. to give schools info under program review & opportunity to review & respond.
Sec. 7501–7507	Sec. 313(b)(1)(A)—no chg in OL/rev	Reauthorizes programs that support Hispanic Serving Institutions.
Sec. 7601–7622	Sec. 313(b)(1)(A)—no chg in OL/rev	Reauthorizes international education programs.
Sec. 7701–7716	Sec. 313(b)(1)(A)—no chg in OL/rev	Reauthorizes graduate & postsecondary education programs.
Sec. 7801	Sec. 313(b)(1)(A)—no chg in OL/rev	Misc.—Authorizes new programs, including merit-based math & science scholarships; job skills training in high-growth occupations; support for Teach for America; student retention grants; & fellowships for minority math & science scholars. Authorizes study on cost of postsecondary education.
Sec. 7901–7913	Sec. 313(b)(1)(A)—no chg in OL/rev	Reauthorizes the Education of the Deaf Act.
Sec. 7921	Sec. 313(b)(1)(A)—no chg in OL/rev	Reauthorizes the United States Institute of Peace.
Sec. 7931–7932	Sec. 313(b)(1)(A)—no chg in OL/rev	Repeals HEA programs. Amends Workplace & Community Transition Training for Incarcerated Youth Offenders grant program.
Sec. 7941	Sec. 313(b)(1)(A)—no chg in OL/rev	Reauthorizes the Tribally Controlled College or University Assistance Act.
Sec. 7945–7946	Sec. 313(b)(1)(A)—no chg in OL/rev	Reauthorizes the Navajo Community College Act.

TITLE VIII—AS REPORTED BY JUDICIARY COMMITTEE

Provision	Violation	Description of provision
Portion of Section 8001 on p. 812 line 12 through page 814 line 3.	Sec. 313(b)(1)(A)—no chg in OL/rev	Revises application procedure for immigrants already in U.S. who seek to change their immigration status.

Mr. JOHNSON. Mr. President, I rise today to offer my thoughts on the Deficit Reduction Omnibus Reconciliation Act currently pending before the Senate.

On its own, this bill would cut about $39.1 billion from mandatory spending programs over the next 5 years. But it is a mistake to look at this bill on its own because the reconciliation process under which this bill comes to the floor is made up of three parts that when put together will cut funding for critical programs, implement irresponsible tax cuts, and actually increase both the deficit and national debt.

Today we are considering the first part of the reconciliation process, a package of spending cuts. As a member of the Budget Committee, I opposed this bill in committee and will oppose it when the full Senate votes on it later this week. While I am pleased the bill contains provisions related to FDIC reform that I have fought for, overall this bill simply takes us in the wrong direction.

I believe, in the interest of providing more tax cuts for wealthy Americans, the leadership in the Senate is cutting funding for programs, many of which are critical in my home State of South Dakota. For example, the bill includes $4.57 billion in cuts to Medicaid that are the result of changes in the way pharmacies are reimbursed, something that may harm community pharmacies in my State.

There are new restrictions placed on State Medicaid targeted case management programs, which have created much concern among consumer advocacy groups. Also included is a provision that reduces payments to long-term care providers for unpaid beneficiary payments or ''bad debt,'' a provision that is being opposed by leading nursing home and consumer groups.

Further, I am very troubled by the $3 billion in cuts to agricultural programs, including a 2.5 percent across-the-board cut in commodity programs and $1.1 billion in cuts to conservation programs over the next 5 years. This proposal would weaken the essential safety net that we need to foster economic development in rural America and would be especially difficult in this time of weak commodity prices. The 2002 farm bill, our contract with rural America, has already come in at $14 billion under projected costs. Simply put, agriculture has paid enough.

If this Senate proposal were not bad enough, I have little doubt that the package that will be brought back after conference with the House will be worse. The House is considering a proposal to cut at least $50 billion in spending over the next 5 years. The Washington Post notes that the House package will ''cut back Federal aid to State child-support enforcement programs, limit Federal payments to some foster care families, and cut welfare payments to the disabled.''

In addition, the House bill includes $3.7 billion in cuts to farm programs, including $844 million in cuts to food stamps.

Budgets are about priorities, and I understand the need to bring spending under control. But it seems irresponsible to do so at the expense of ordinary people and struggling family farmers when huge agribusinesses continue to reap millions without effective payment caps in place, and tax cuts for multimillionaires are being preserved.

I recently received a thoughtful letter on the budget from Bishop Mark S. Hanson, the presiding bishop of the Evangelical Lutheran Church in America, ELCA, and signed by all 66 ELCA bishops. I am a member of the ELCA, and while I do not take directions on how to vote from my church, my religious faith and the values it instills in me do impact my views. As the letter states, ''Programs such as Food Stamps, Medicaid, the State Children's Health Insurance Program (SCHIP), and Temporary Assistance to Needy Families (TANF) help to keep struggling families together and assist low-income working families in moving to higher economic ground. This is not the time to cut such important programs while using the cuts to pay for tax breaks for those who don't need them.''

The country faces a series of challenges that Congress is failing to address. Instead of cutting domestic programs to pave the way for additional tax cuts, the Congress should focus on solving the problem of soaring energy costs. High energy prices are a tax on the middle class and drain disposable income, causing the public to spend less and make painful tradeoffs all in order to keep the car or truck filled with gas. The Democrats have a plan to reduce gasoline prices and help families with high winter heating costs. Unfortunately, the congressional leadership is not focusing on the real needs of Americans in choosing to devote an entire week to a package of budget cuts as part of a larger plan to push a tax cuts for the rich agenda.

If this truly was a deficit reduction package, or even if the savings were going to pay the costs of hurricane relief, that would be one thing. However, when this bill is approved, the Senate is expected to begin working on the second piece of the reconciliation process, an irresponsible tax cut bill. The reconciliation instructions approved as a part of last spring's budget resolution provided for an additional $70 billion in tax cuts.

While the tax bill has not been finalized, early indications are this bill will not result in tax breaks for middle and working class Americans, but will once again reward the wealthiest in our society. And when these tax cuts are included, the Republican's deficit reduction omnibus reconciliation plan will actually increase the deficit by $20 billion to $30 billion over the next 5 years. So what many in the majority party in Washington will call trimming the fat actually increases the limit on the national credit card.

This leads to the final piece of the Republicans' reconciliation plan—Congress will be required to pass legislation to raise, yet again, the Federal debt ceiling by $781 billion. It may surprise many Americans to learn that a large portion of our Nation's public debt is actually held by foreign countries like Japan and China. By further increasing our debt and the need for more foreign financing of that debt, we give other countries substantial leverage over our economy and threaten our Nation's economic well-being. Make no mistake, the decisions we are making in enacting this legislation will have long lasting consequences for our economy.

As I said earlier, budgets are about priorities. The budget proposal we have before us simply sets the wrong priorities by cutting programs for the most vulnerable in our society to make way for additional tax cuts for millionaires, all the while increasing the debt burden we will pass on to our children and grandchildren. These are not priorities that I—or the vast majority of Americans—can support.

Mrs. MURRAY. Mr. President, to make our country strong again, we need to invest here at home, and that is why I oppose this budget. It is a bill that will cut $35 billion from America's priorities and burden our children with massive debt. Simply put, I think America can do better.

I will vote against this flawed budget, just as I did in the Budget Committee last week, because it starves our highest priorities. Not only that, this bill opens up the Arctic National Wildlife Refuge to oil drilling, which will not solve our energy problems. And I have serious concerns about a House proposal—which could be added to the House version of this bill—to split the Ninth Circuit into two smaller circuits.

Mr. President, a budget is a statement of priorities. As I look at the challenges facing our country—and as I listen to people in my home State of Washington—it is clear that our top priority now must be making America strong again. To do that, we need to invest here at home.

Today, too many people don't feel secure. They feel like they are one step away from losing their job or their pension or their healthcare. They are worried about high gas prices and how they are going to heat their homes this winter. They are worried about the men and women in uniform, who are returning home and can't find a job or healthcare. They are worried they won't be able to afford college tuition for their children. Many people are worried about the new prescription drug program, which will make life harder for so many vulnerable families.

Today people across America worry about being safe here at home. They look around their communities and see aging and unsafe highways, roads and bridges. After what happened in the Gulf Coast with Hurricane Katrina, they are worried their own communities are not protected. There is a coastline, or a volcano, or a fault line, or an aging dam in every State in this

Nation, and this budget doesn't make the right investments in prevention or protection.

This budget has the wrong priorities. I believe we should be providing greater investments in the tools that spur economic growth and help all Americans—education, health care, transportation, and job training. In short, we should be making Americans more secure. Unfortunately, the package before us today does just the opposite. It cuts $35 billion from areas like healthcare and education.

And what is more, this is only the first step in the reconciliation process. You will not hear much about it from the other side of the aisle, but in the coming weeks, the Senate is scheduled to take up the next piece of the reconciliation process—a massive tax giveaway that's even bigger than the cuts we're considering this week.

So what's happening here today is we're being asked to make painful cuts for average Americans so that in a few weeks we can turn around and give massive giveaways to the most well off. That is what's really going on here.

The massive tax cut package that's coming soon would give billions away to the richest people in our country. Multi-millionaires and special interests will reap the benefits from these budget-busting tax breaks, including capital gains and dividends tax breaks. In fact, the upcoming tax breaks exceed the spending cuts we're considering this week by more than $30 billion.

And who benefits? 53 percent of the benefits of capital gains and dividends go to those with incomes greater than $1 million. Listen to the facts. On average, those who make more than $1 million would get tax cuts of more than $35,000. But those with income under $50,000 would get just $6.

Something is clearly out of whack.

The Senate leadership wants to impose painful cuts on average families today. Why? So that in a few weeks they can give massive tax cuts to the most well off. That is wrong.

Today people are hurting on the Gulf Coast. People are concerned for their safety—be it by terrorist attack or flu epidemic and instead of meeting these important priorities, the Senate will cut spending, give away tax cuts, and increase the amount of debt each American owes.

Taken together, these efforts represent the core values and priorities of the Republican Congress, but not of the American people. America can do better. The bill before us this week cuts important programs while doing almost nothing to address the real priorities facing our nation.

First let me talk about Medicaid—a health care program, a safety net for our country's most vulnerable and sickest. This bill cuts Medicaid spending for those least among us by $27 billion. At the same time, Republican members of this body are refusing to take up and pass bi-partisan Medicaid relief for Americans affected by Hurricane Katrina, they want to slash spending on the program here today.

What about agriculture—programs that make sure we can feed our Nation? This bill also cuts agriculture investments by $3 billion, and that will have a painful impact on our family farmers who are struggling today. Just last week, I sat down with farmers from Washington State, and I can tell you they are reeling from drought and high fuel and fertilizer prices. This bill makes their lives even harder by retracting the support that helps family farms get by and will impact our country's ability to ensure we will be able to feed our Nation and keep our country strong. These farm families need our help, but Republicans just say no.

This bill also undermines the pension plans of millions of hard-working Americans. This is a top anxiety for people everywhere I go. Is my retirement gone? What happened to my security?

This bill will increase the financial burden on companies and drive more employers into bankruptcy and out of the defined benefit pension system. It more than doubles the Pension Benefit Guaranty premiums, and it will index those payments in the future. This budget we are debating today undermines the carefully crafted bipartisan pension reform bill that the HELP Committee bill recently passed unanimously. America's pension policy should be driven by what is best for American workers, retirees and employers—not by the need to meet an arbitrary budget target.

And of course, this budget opens ANWR up to shortsighted drilling. This misguided effort is especially troublesome, and is worth a few minutes of time here on the Senate floor. We are all concerned about the high cost of energy. It's a tremendous burden for families, businesses and farmers. We should use that concern to make wise choices that will actually help our country. Instead, this bill takes shortsighted steps in the wrong direction. The responsible way to address our energy problems is to focus on long term solutions like reducing our need for oil, and investing in clean, renewable energy sources.

I oppose drilling in ANWR because the potential benefits do not outweigh the significant environmental impacts. The Arctic National Wildlife Refuge is an important and unique national treasure. It's the only conservation system in North America that protects a complete spectrum of arctic ecosystems. It's the most biologically productive part of the Arctic Refuge. And it's an important calving ground for a large herd of caribou, which are vital to many Native Alaskans. Energy exploration in ANWR would have a significant impact on this unique ecosystem.

Further, development will not provide the benefits being advertised. Proponents claim that energy exploration has become more environmentally friendly in recent years. While that may be true, there are still significant environmental impacts for this sensitive region. Exploration means a footprint for drilling, permanent roads, gravel pits, water wells, and air strips. We recognize that our economy and lifestyle require significant energy resources, and we are facing some important energy questions. However, opening ANWR to oil and gas drilling is not the answer to our energy needs.

And let's keep in mind that drilling in ANWR will not make us less dependent on foreign oil. As a Nation, the only way to become less dependent on foreign oil is to become less dependent on oil overall. The oil reserves in ANWR are not enough to significantly reduce our dependence on foreign oil.

There are better ways to meet America's energy needs—including boosting fuel efficiency, expanding the use of homegrown renewable and alternative fuels, investing in new technologies like fuel cells, developing and deploying more energy efficient technologies, and improving conservation and energy efficiency. Drilling in ANWR is not a serious answer to our country's serious energy challenges, and it should not be included in this budget bill.

Another reason I am voting against this bill is because it will clearly get much worse in conference—through steeper cuts in critical investments. This budget bill already cuts $35 billion from America's priorities. And on the House side, leaders are working to cut an additional $15 billion from infrastructure, education and healthcare. That would move this bill even further in the wrong direction.

Finally, I am very concerned about a possible attempt in the House—which we may see next week—to split the 9th Circuit.

As a member of the West Coast delegation, I strongly oppose this change. The House proposal is not warranted by the facts and is not supported by the judges on the circuit. Back in 1980, when Congress split the 5th Circuit, all of the judges supported that move. But today, that is not the case. I understand that a majority of judges on the 9th Circuit oppose the split. I've spoken with some of them, and they have said a split could create new problems.

They pointed out that splitting the circuit would impose new costs for facilities, staff and administration. The efficiency we have today would turn to duplication tomorrow if the circuit is divided. There would be significant costs to establish a new circuit headquarters and to create a duplicate administration system. In an era of limited budgets, this makes little sense. As the ranking member on the subcommittee that funds the Judiciary, I know we don't have extra money to spend to duplicate administrative services.

A split would also lead to a duplication of cases. Today, by deciding cases for nine States, the circuit provides

clear, uniform guidance to district courts. That prevents a duplication of cases. If the circuit is divided, issues decided in the new 9th Circuit would have to be decided again in the new 12th Circuit, doubling the use of judicial resources and costing even more money. And in addition to the massive cost associated with splitting the 9th Circuit, the change would split the West Coast Technology Corridor into two different circuits. That could have a paralyzing effect on IT and technology growth since there would be a weaker judicial foundation.

I share my concerns about this because next week there may be an effort in the House of Representatives to attach the judicial provision to the House version of this bill. I want House Members to know that as a member of the affected delegation—and as the ranking member of the subcommittee that funds the Judiciary—I oppose this change.

Mr. President, this budget plan has the wrong priorities and that is why I am voting against it. We need to make America stronger and invest here at home. This budget does just the opposite—cutting key investments in the things that our people need. Why? To have money for tax cuts for the wealthiest. America can do better. I urge my colleagues to reject these flawed priorities and work to invest in that which will make our country and our people strong.

Mr. SMITH. Mr. President, more and more our country's fight against HIV/AIDS is being hindered because we are not focusing enough of our resources on treating individuals who have been diagnosed with HIV so we prevent their illnesses from progressing to full-blown AIDS. This is especially true for those with low-income who may lack stable access to potentially life-saving pharmaceutical treatments and other health care services.

While Medicaid is an important provider of health care to vulnerable Americans living with AIDS, they generally must be disabled before they can qualify for coverage. In a sense, we require them to become sicker before they can get treatment, and that is simply not right.

Full-blown AIDS is an incredibly costly illness and it has much more of an impact on an individual's quality of life than HIV. That is why it is important for us to focus our resources on providing early treatment to individuals with HIV.

Earlier this year, I, along with 27 of my colleagues, filed legislation that would have allowed states the option of providing Medicaid coverage to low-income individuals who have been diagnosed with HIV. The initiative, known as the Early Treatment for HIV Act, or ETHA, was modeled after the successful breast and cervical cancer benefit added to Medicaid program several years ago. My amendment would provide the care in the same ''early is better'' fashion, so that more HIV cases are prevented from reaching the point of full-blown AIDS.

Like the breast and cervical cancer benefit, ETHA would provide States the incentive of an enhanced Federal Medicaid match to extend coverage to those individuals living with HIV—the same rate that is paid to them to operate their S-CHIP programs.

Realizing the tight budget constraints we are currently facing, I have restructured my original ETHA proposal into a 5-year demonstration project that is capped at $450 million. States will apply to the Centers for Medicare and Medicaid Services to offer Medicaid coverage to low-income individuals who have been diagnosed with HIV.

This scaled back version would provide Congress and CMS the opportunity to learn more about the cost-saving benefits of providing treatment to those with HIV in the early stages of their illness. It is expected that in addition to Medicaid, other Federal programs—like SSI and Medicare—will realize significant long-term savings by preventing individuals from being disabled by full-blown AIDS.

Additionally, with more and more states having financial difficulties with their AIDS Drug Assistance Programs—such as North Carolina, Nebraska, Missouri and Minnesota—it is important that we provide alternative methods of delivering treatment to those individuals with HIV/AIDS who may be living in poverty.

Most importantly though, the assistance authorized by this proposal will help individuals with HIV lead healthier, longer lives, so that they can remain active participants in both the community and the workforce and improve their chances of living to one day see a cure for their illness.

As I mentioned, the cost of this amendment is $450 million over 5 years. That amount would be offset with a .8 percent increase in the brand-name prescription drug rebate. I realize that the package already includes an increase in the drug rebate, but the additional request made in this amendment, less than one percent, will have an enormous payoff in the long-run. I don't believe it's too high a price to pay for the benefits that ETHA will provide the Federal and State governments, as well as individuals living with HIV.

Mr. President, I ask my colleagues to support this amendment. I understand that there is concern over keeping the underlying package that was passed by the Finance Committee intact. I assure you that this amendment will not affect the bottom-line savings Chairman GRASSLEY and other members—including myself—worked so hard to achieve in title VI of the Deficit Reduction Act.

In fact, in the long-term, my amendment should increase savings to the Federal Government by providing targeted, effective care to those individuals who genuinely need it, which will help them maintain active, healthy lives. That is a strategy I fully support.

I will be working with the leadership as the debate moves forward today to schedule a vote on this amendment. At the appropriate time, I ask for my colleagues' support on this bill that is not only fiscally responsible, but the right thing to do.

AMENDMENT NO. 2351

Mr. CARPER. The last time I came to the floor to discuss the benefits of reinstating the pay-as-you-go rules, I related to everyone the theory of holes.

As much as I like talking about Dennis Healey, who used to be Great Britain's Chancellor of the Exchequer, I was hoping that I wouldn't have to again remind my Senate colleagues of his wisdom.

The theory of holes is simple. It says, when you find yourself in a hole, stop digging. Not only are we still digging, we also seem to be digging more furiously, taking ourselves to new fiscal depths.

Last year, we dug our way to a $319 billion budget deficit, which is the third worst deficit in the history of our country. That number, by itself, is a clear indicator of our current fiscal misfortunes.

What is more telling is that number—again, a $319 billion deficit—was hailed as good news by some in the current administration. Why? Well, because, at the beginning of the year, everyone expected the deficit to be over $400 billion. An improvement from worse to bad is still bad.

It is no wonder that many Americans think Washington, DC is no longer in touch with reality. Where they live—in towns large and small across Delaware and across America—this kind of fiscal recklessness is not an option. To the contrary, the vast majority of the people we serve strive to live by two simple rules: Live within your means and pay as you go.

In turn, families demand that their State and local governments live by the same rules. We in Congress used to live by those same rules. Unfortunately, they were allowed to expire in 2002.

We have been close to reinstating pay-as-you-go budgeting on two occasions since 2002. A year ago, the Senate voted to reinstate it. Unfortunately, it did not survive conference and was dropped out of the final compromise. Then, earlier this year, we fell one vote short of again passing pay-as-you-go budgeting.

With this amendment, Senator CONRAD is giving us another opportunity to again live within our means and to pay for the things we find worth doing.

Pay-as-you-go budgeting requires that proposals to increase spending would have to be offset, either by cutting other spending or by raising revenue. Likewise, if I were to propose a tax cut, I would have to come up with an offset to make sure the hole we are in was not dug deeper.

Pay-as-you-go budgeting served us well during the 12-year period it was in force. And, it is important to note that during that time it applied to both the spending and tax sides of the ledger. That kind of across-the-board fiscal discipline eventually lead to our eliminating the deficit, establishing budget surpluses and even beginning to pay down a significant portion of the publicly held debt.

That is not a bad record. In fact, it is a good one. And, it looks especially good when compared to our current period of record deficits and a national debt of over $8 trillion.

We cannot continue down the fiscal path we are currently on. A fiscal policy based on cutting taxes, on increasing spending and then on borrowing whatever is needed to make up the difference cannot be sustained.

Moreover, today's borrow-and-spend policies are as immoral as they are unsustainable. We are running up bills that will be left for our children and grandchildren to pay.

However, we still have time to do the right thing. We still have time to begin to put our fiscal house in order. Voting for Senator CONRAD's amendment to reinstate pay-as-you-go budgeting would be a good start to that end.

AMENDMENT NO. 2352

Mr. ENZI. Mr. President, the amendment that I have offered along with several of my colleagues be explained very simply—it commits the education savings above the HELP Committee reconciliation target to students.

As chairman of the Committee on Health, Education, Labor, and Pensions, my committee received the largest reconciliation instruction—$13.65 billion in spending cuts over 5 years. That is nearly 40 percent of the overall target. We exceeded that target and reported legislation with net savings of $16.4 billion over 5 years. That is an additional $2.75 billion beyond HELP's reconciliation target.

This amendment ensures that extra savings generated from education will be returned to students. Let me be clear, education savings should be for students.

The amendment makes higher education more affordable for students by reducing the cost of college by lowering the origination fees students pay on Federal student loans. The current origination fee of 3 percent would be reduced to 2 percent under my amendment. This change of 1 percent can save students at least $500 over the 10-year life of the loan. For independent and graduate students, these savings are even greater.

Why is it important that higher education be more affordable? Because education beyond high school and lifelong learning opportunities are vital to ensuring that America retains its competitive edge in the global economy. Technology, demographics, and diversity have brought far-reaching changes to the U.S. economy and the workplace, including an increased demand for a well-educated and highly skilled workforce. If we continue on the path we are on, we will not have people with the talents and the skills we will need to fill the jobs that will be created over the next few years. In this decade, 40 percent of job growth will be in positions requiring a postsecondary education.

If our students and workers are to have the best chance to succeed in life and employers to remain competitive, we must ensure that everyone has the opportunity to achieve academically and obtain the skills they need to succeed, regardless of their background. For many, acquiring a postsecondary education or training will be the key to their success.

This amendment also provides fiscally responsible temporary aid for more than 300,000 students displaced by Hurricane Katrina. As soon as they could, both public and nonpublic schools in neighboring communities, regions, and States enrolled these students. Many of these displaced students are still enrolled in schools that are not the ones they would have been attending had Hurricane Katrina not struck.

This amendment includes provisions from the Hurricane Katrina Elementary and Secondary Education Recovery Act, S. 1904, a bipartisan compromise that accomplishes the common goal of providing relief to support the instruction and services that the students displaced by this terrible storm need in order to continue their education, regardless of whether it is in a public or nonpublic school.

With this amendment we will be providing one-time, temporary, emergency aid on behalf of these students. These displaced students deserve help to continue their education under these extraordinary circumstances caused by a disaster of unprecedented scope. At the same time these States and schools need realistic, fiscally responsible assistance from the Congress to accommodate the students they have taken into their education system, who came to them without any property tax base or tuition payment which had already been made. Our top concern was to make sure that all displaced students continued their education.

Some students are already returning home as their schools reopen, but severe problems of displacement remain. Many schools will remain closed for the entire school year. This amendment is a one-time temporary solution that sets aside ideological differences to make sure that children are not harmed unnecessarily by the impact of this unprecedented disaster. It focuses on the immediate needs of students with the expectation that they will return home to their local school.

Let me briefly describe what this amendment does. First and foremost, it provides support for all displaced students, ensures accountability, and is fiscally responsible by sending the funds through regular channels to local school districts and accounts established on behalf of students attending nonpublic schools.

The amendment helps schools directly impacted by the hurricane reopen their doors by providing $450 billion in grant assistance. These grants are meant to supplement FEMA funding to ensure the effective use of Federal funds and can be used to assist those who are working to reopen these schools.

The largest portion of the funding under this amendment is focused on easing the temporary transition of students into new schools, both public and nonpublic, through one-time emergency aid. These funds will be used to help defray the additional costs incurred as a result of enrolling displaced students and provide assistance to schools in a nonideological and responsible way.

Quarterly payments are made based on the head count of the displaced students temporarily enrolled in schools. The total for these four payments is $6,000—$7,500 for students with disabilities—per displaced student or the cost of tuition, fees, and transportation for nonpublic students, whichever is less.

Parents of displaced students verify that they have made the choice for their child to attend a nonpublic school, and the nonpublic school must attest to the use of funds and the numbers of displaced students in attendance.

The assistance provided through this amendment is temporary—it sunsets at the end of this school year. This amendment is necessary because of the extraordinary circumstances and the emergency nature of this situation.

Our efforts must be focused on ensuring that the educational needs of the children affected by this unprecedented emergency are addressed, and I believe that this amendment achieves that goal. I am sure that some of you have heard from school groups opposing this amendment. I am surprised that groups representing the very schools and students that have been most impacted by this disaster are now opposing efforts to provide relief to their students, teachers, and administrators. It is important that we provide this much-needed relief to those who are working to make sure our displaced students don't suffer even more than they already have by this extraordinary disaster.

I urge my colleagues to support this amendment. Education savings should go to students. An investment in our students is an investment in our future.

Mr. GREGG. Mr. President, we have now completed, for all intents and purposes, all of the debate on the deficit reduction bill, 20 hours. That will be effective as of 6 o'clock.

I would note once again, as the Senator from North Dakota has noted and I have noted, tomorrow we begin a fairly complex and lengthy process of voting on the amendments that have been

offered. There are 16 or so amendments already pending, which represents many hours of voting, and there may be additional amendments offered. Obviously, we hope they will be limited because there is a desire, I believe, by most people to complete this bill tomorrow. But if we do not finish all the voting by 6 o'clock, then we will move the events over until Friday because this bill will be completed under either scenario.

At this time I want to thank again the Senator from North Dakota and the staff for their courtesy, their professionalism, their effort to move this bill along in a very constructive way as we moved through the debate process. I also especially wish to thank my staff, which has done a great job of getting us to this point. Tomorrow is going to be a fairly intense period for these folks and we appreciate them in anticipation of all the work they are going to have to do.

Mr. President, I will yield back the remainder of the time on this amendment and ask unanimous consent that for the purposes of this bill, all time be deemed to have expired relative to debate.

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

Mr. GREGG. Mr. President, I understand the next item of business will be the Agriculture appropriations conference report.

I make a point of order that a quorum is not present.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CRAIG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

AGRICULTURE APPROPRIATIONS CONFERENCE REPORT

Mr. CRAIG. It is my understanding that for the remainder of the day, we have completed work on budget reconciliation and we are about to move to the Agriculture appropriations conference. I understand Chairman BENNETT is on his way to the floor, and as soon as he gets here I will yield, but I thought for the few moments that remain prior to that, I would discuss that very important appropriations conference we will soon be discussing.

The reason I want to do that is because I made an effort during the appropriations conference to deal with what I believe is a major issue threatening American agriculture today that the Congress has largely ignored at this moment, and the courts are now working their will and the trial bar is working its will at the moment to try to change the intent of law.

The agricultural industry is, I think, very concerned about litigation actions being taken to apply the Superfund law, referred to as CERCLA, and its counterpart, the Community Right to Know Act, better known as EPCRA, to emissions or discharges primarily from livestock and poultry waste produced during the normal course of farming operations.

Someone would say, You mean a dairy farm or a poultry operation ought to be plunged into Superfund? Well, that is exactly what is being attempted at this moment and, of course, we would say no. The reason we say no is because when those laws were created by Congress, agriculture was clearly exempt. It was intended to be and it was exempt at that time. If you were to put agriculture into the CERCLA/EPCRA issue, according to EPA's own description, then you have changed the whole dynamics.

According to the EPA's own description, the Superfund law is ''the Federal Government's program to clean up the nation's uncontrolled hazardous waste sites. Under the Superfund program, abandoned, accidentally spilled, or illegally dumped hazardous wastes that pose a current or future threat to human health or the environment are cleaned up.''

That is the responsibility of EPA under that issue. Are dairies and feedlots uncontrolled and abandoned hazardous waste sites? That is what we are talking about at this moment.

EPA goes on to say that ''the Superfund law created a tax on the chemical and petroleum industries and allowed the Federal Government to respond to releases or potential releases of hazardous wastes that might harm people or the environment. The tax went to a trust fund for cleaning up abandoned or uncontrolled hazardous waste sites.''

The question is, if we allow the courts and the legal process to drive those in agriculture into EPCRA and into CERCLA—again the Superfund law and the Community Right to Know law—is Congress then ready to appropriate moneys for other concentrated herd releases that might result? Should dairies, poultry farms, farmer-owned cooperatives, and others be required to pay into Superfund as the nuclear laboratories and the petroleum industry do?

That was never the intent of Congress, and in trying to speak to that issue, Congress has to date been silent because environmental groups have moved in and are standing at the doors of some of my colleagues, wringing their hands and saying oh, no, no, communities have the right to know and it ought to be included in all of this, even though the law says not.

Now, that is not to say that these agricultural entities of the day are not responsible for clean air and clean water. They are under the Clean Water Act and the Clean Air Act. They work with EPA in those standards. They work with their State environmental councils and environmental departments to meet those kinds of standards.

What we are talking about is a legal issue attempting to shift, if you will, these responsibilities away from the intent of the law, as spoken to so very clearly by this Congress in the creation of those two entities, EPCRA and CERCLA.

Another provision of the Superfund law allows EPA to fine violators up to $27,500 per day. Does that sound like a sum tailored to fit a farmer? Environmental groups would have you think that, well, you know, this is only for the big boys, the big operators. But then they do not define big. They say, well, large concentrated herd areas. It is the small versus large issue. Once it is well established that large operators in American agriculture are required to comply under these acts and meet the standards of the acts, any of us who have ever watched the progress or the evolution or the migration of law through the courts over time know it is only a moment in time before the small operator is included.

I made an effort during Agriculture appropriations and Agriculture appropriations conferences to clarify this issue and to say once again very clearly to the American public the intent of the laws of Superfund and Community Right to Know, and those intents were very clear—not to include American agriculture. It isn't the big versus small issue at all. It is where do you rest the responsibility on the issue. It is not to say that American agriculture doesn't have a responsibility. Of course, they do. And they are fulfilling that responsibility under State law, under county zoning, under EPA, under the Clean Water Act and the Clean Air Act. These are issues that I hope this Congress will soon address.

As to my amendment that I attempted, that the Republicans in the Senate did support in the conference, the conference collapsed itself so that it would not have to deal with this ''thorny issue'' of the moment; it walked away from the National Association of State Departments of Agriculture that supported our effort and the Southern Association of State Departments of Agriculture because at the State level, State Departments of Agriculture get it, they understand it, and they know this has to be clarified. We cannot let the trial bar, if you will, and communities of interest try to rewrite public policy through the court process. That is exactly what is going on today. Several lawsuits have been filed in this effort.

I am certainly going to be back, as I know many of my colleagues will, in attempting to deal with this very important issue. I do respect what Chairman BENNETT had to do to move the Agriculture appropriations conference forward. I had hoped we could get the CERCLA and EPCRA amendment into the conference, but it is not here. The conference is silent to it. The conference did good work. I am pleased to see that we could get as far as we could get in a variety of issues.

The chairman and the ranking member are now in the Chamber. They had

a tough road to meet budget reconciliation with what they were allocated. I know that was difficult, and I appreciate the work my staff was able to do with the chairman and the ranking member's staffs to get where we got with what we have today. I wish we had my amendment. I don't want those who say they stand for agriculture walking away from this issue and allowing the courts to rewrite public policy. If we are responsible practitioners of public policy—and that is what we are—then this is an issue we well ought to take on. Every State in the Nation has this problem today, and we ought not let the bar, the courts, and a few interested parties rewrite our laws.

I hope we can address this again at another time.

I do appreciate the work that was done. There were a lot of issues left on the table in this conference I hoped we could have addressed, that we could then get to, certainly those which dealt with healthy forests, categoric exclusions, and other issues, but that is debate for another day.

The chairman is in the Chamber. It is 6 o'clock. It is his time to bring forth the Agriculture appropriations conference report. I thought I would use some of the limited time we have to debate this important appropriations conference report.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

APPROPRIATIONS FOR AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2006—CONFERENCE REPORT

Mr. BENNETT. Mr. President, I ask unanimous consent that the Senate now proceed to the conference report to accompany the Agriculture appropriations bill; provided further that following the completion of that debate it be laid aside, that the vote occur on adoption of the conference report tomorrow morning immediately following the remarks of the two leaders.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BENNETT. Mr. President, it is my understanding we now have 2 hours equally divided to discuss the conference report.

The PRESIDING OFFICER. Once the clerk reports the conference report by title, that is correct.

The clerk will now report.

The assistant legislative clerk read as follows:

The Committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2744) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes, having met, have agreed that the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment and the Senate agree to the same, signed by a majority of conferees on the part of both Houses.

The PRESIDING OFFICER. The Senate will proceed to the consideration of the conference report.

(The conference report is printed in the proceedings of the House in the RECORD of October 26, 2005.)

The PRESIDING OFFICER (Mr. DEMINT). The Senator from Utah is recognized.

Mr. BENNETT. Mr. President, I ask unanimous consent that at the conclusion of my remarks, the following Senators on our side be allowed to speak on the conference report: Senator BURNS for up to 15 minutes; Senators ENZI, CRAIG, and THOMAS for up to 10 minutes each; Senator THUNE for up to 7 minutes; and Senator CORNYN for up to 5 minutes.

Mr. DORGAN. Reserving the right to object, I assume the request means we will go back and forth in rotation across the aisle.

Mr. BENNETT. Mr. President, that is my understanding. This is the reservation of time on my side so that Senators will know the time is reserved for them, and if one Senator might otherwise be tempted to run on, the order can be called so that every Senator will have his right for speaking reserved. It does anticipate time will go back and forth between the two sides.

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

Mr. BENNETT. Mr. President, I am pleased to present to the Senate the conference report to accompany H.R. 2744, which provides funds for the Department of Agriculture, Food and Drug Administration, and the Commodity Futures Trading Commission for fiscal year 2006.

I will mention a few highlights of the bill to demonstrate why it benefits not just farmers and ranchers but every constituent of the Members of the Senate.

On nutrition, this bill provides for more than $12.6 billion in child nutrition programs, $5.2 billion for the Women, Infants and Children nutrition program, and nearly $108.3 million for the Commodity Supplemental Food Program.

I know particularly in response to Katrina that there has been great concern about WIC in the country as a whole. This bill funds WIC.

For the farmers, ranchers, and conservation, there is more than $2 billion in farm ownership and operating loans, $840 million for conservation operations, and more than $1 billion total for all USDA conservation programs.

For those of us who are concerned about research, there is more than $2.5 billion for research on nutrition, crop and animal production, bioenergy, genetics, and food safety.

There is funding for cooperative research with agriculture and forestry schools in every State and with Native Americans, Hispanic, and historically Black centers of learning, and extension programs that teach nutrition in low-income communities.

In pest and disease control, there is more than $820 million to protect American agriculture, forests, and horticulture from plant and animal diseases.

For those interested in rural development, the bill provides for nearly $5 billion in single and multifamily housing in rural areas, and more than $6 billion in electric and telecommunications loans.

Turning to the Food and Drug Administration, there is a $62 million increase over fiscal year 2005, with key increases of $10 million for drug safety, $7.8 million for medical device review, and $10 million for food safety. Overall, however, the spending level remains consistent with the previous year and does not represent for the entire bill a major spending increase.

I ask for the support of all Senators for this conference report.

I reserve whatever time may be left after the Senators have exercised their rights.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KOHL. Mr. President, I rise today in support of the appropriations conference report for Agriculture, Rural Development, FDA, and related agencies.

Our conference allocation of just over $17 billion was a $258 million reduction from the Senate-passed level, but I think we did a good job preserving the Senate priorities. This bill contains funding vital for research, conservation, nutrition programs, rural development, and the Food and Drug Administration. Some of the bill's highlights include the following:

For research programs, including the Agricultural Research Service and the Cooperative State Research, Education, and Extension Service, the bill provides an increase of nearly $66 million to support work on solutions to many problems faced by farmers—including research programs for BSE or mad cow disease, Johne's Disease, soybean rust, and countless other programs.

The conservation title of this bill contains funding for important watershed improvements, including soil and water erosion control, flood control, and watershed dam rehabilitation. The Natural Resources Conservation Service received an increase in this conference report of more than $12 million over last year.

Nutrition programs also received increases over last year in this conference report. Child nutrition programs receive $12.6 billion, an increase of more than $870 million to provide school lunches to low-income kids. The WIC program received $5.257 million, an increase of nearly $22 million, and language proposed by the administration to restrict eligibility and cap administrative funds was not included.

The Food Stamp Program received an increase of more than $5.5 billion, and the Commodity Supplemental Food Program received an increase over last year as well.

In the rural development title, more than $700 million is provided for the Rural Community Advancement Program. The Rural Housing Service received an increase of $105 million above last year's level, bringing the total loan authorization level of more than $5 billion to provide housing to low-income rural Americans.

The Food and Drug Administration received nearly $1.5 billion this bill, an increase of nearly $40 million over last year's level. This includes increases for medical device review, drug safety, food defense and BSE.

The bill Senators have before them is a product of multiple hearings, regular proceedings in both the House and Senate, nearly a 3-hour conference meeting, and countless staff hours. While this may seem unremarkable, it is, in fact, the first time since the fiscal year 2002 bill that the Agriculture appropriations bill has come through this process in the regular order.

At the end of the day, while not perfect, I believe we have produced a good bill, one that comes as a result of much hard work and compromise on all sides.

I thank Senator BENNETT and his staff—John Ziolkowski, Fitz Elder, Hunter Moorhead, Dianne Preece, and Stacey McBride—for once again working with my staff as closely as they did.

On my side, I thank Galen Fountain, Jessica Arden, Bill Simpson, and Tom Gonzales worked very hard as well. Together both sides made every effort to protect Democratic priorities, as well as Republican priorities, for the good of everyone. I believe the strong bipartisan relationship we have on this subcommittee has resulted in a bill for which all Senators should be proud to vote.

I urge Senators to do just that and vote in favor of adopting this conference report.

Before I yield the floor, I ask unanimous consent that time be allotted for the following Senators to speak on this conference report on the Democratic side: 5 minutes for Senator MURRAY, 10 minutes for Senator DORGAN, and 15 minutes for Senator HARKIN.

I yield the floor.

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

The Senator from Wyoming.

Mr. THOMAS. Mr. President, I rise to talk about an issue that did not survive the conference, and I am hopeful we can replace it. I am talking about the country-of-origin labeling. As we know, a couple of years ago we put that provision in our Agriculture bill. I was one of the original sponsors of the country-of-origin labeling. It is reasonable and something we ought to do.

In the meantime, we seem to have delayed it, we seem to have set it back. That is what has happened again in this bill. It seems to me we ought to move back to the original purpose and get it back in place.

It is very important that we deal with this issue as we look forward to the trade meetings. We are shortly going to be going to Doha and we have gone to Hong Kong. This is one of the issues being talked about in agriculture and agricultural trade and, quite frankly, the nature of trade in this world is such that we are going to see more and more trade of agricultural products. As that happens, it is legitimate for the consumers in this country to say: I want a product that was made in the United States and to be able to know that.

We do this on lots of products. We do it now on fish and shellfish, and it appears to be working. We ought to do it as well on livestock. There is a variety of products that have come in. We will see more and more of it around the world as time goes on.

We are very proud of our livestock program in the United States, certainly the healthy part of it, the acceptable part of it for markets. I think we are going to see more of a tendency toward marketing these products because of the health issues, so there is no reason why they cannot be marked as well for their country of origin. It is important we do that, that we get away from this idea of simply prolonging it and setting it off, and that we come to grips with letting the bill that has already been passed and accepted come into place.

This business of delaying does not seem to be right. It was supposed to have been implemented in 2004, and it was designed to do that. It was delayed for 2 years, until 2006. The appropriations bill before us delays it again until 2008.

There are two points I wish to make. One, it is a valid concern and something we should be doing. It is good for the market, it is good for agriculture, it is certainly good for consumers, it helps us be stronger in the international trade situation, and it is something we ought to do.

Furthermore, it is not proper to be simply setting it back, to have it as an amendment on these bills and move it back another couple of years.

The last time the Senate voted on COOL was in November of 2003. The vote was 58 to 36 in support of mandatory COOL.

This has been very disappointing. I happen to know there are other Senators in the Chamber who would like to talk about this topic, so I will not take any longer.

I close by saying we need to take a look at the future of agriculture, we need to take a look at the future of world trade, and we need to take a look at the opportunity for consumers in this country to choose where their products come from.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, I rise this evening to talk about an issue that affects Americans all across the country, and that is the credibility of the FDA.

I thank Senator BENNETT and Senator ENZI, who are both here, for their work in a bipartisan fashion on the language that was put into the Agriculture appropriations bill. I also thank Senator KOHL for his help.

Every time I come to the floor to talk about the FDA and plan B, I hope it will be the last time. I continue to hope that the FDA and HHS will do the right thing and put science, safety, and efficacy over politics. Unfortunately, over the past couple of years, I, along with millions of Americans, have been disappointed time and time again.

I have always supported a strong and independent Food and Drug Administration. It is the only way in which the FDA can truly operate effectively and with the confidence of American consumers and health care providers. Americans have to have faith that when they walk into their pharmacy or their local grocery store that the products they purchase are safe and effective and that their approval has been based on sound science, not on political pressure, not on pandering to interest groups.

That is why the application process for plan B emergency contraceptives has been so troubling to me.

Back in December 2003, 2 years ago, the FDA's own scientific advisory board overwhelmingly recommended approval of plan B over-the-counter application by a vote of 23 to 4. But the FDA has not adhered to its guidelines for drug approval and continues to drag its heels.

In fact, Alastair Wood, who is a member of that advisory panel, said:

> What's disturbing is that the science was overwhelming here, and the FDA is supposed to make decisions based on science.

It is obvious to me—to many of my colleagues—and to millions of American women that something other than science is going on now at the FDA, and it is far past time to get to the bottom of it.

That is why I am especially pleased that I have been able to secure bipartisan language in the Agriculture appropriations conference report that expresses the sense of both bodies of Congress that enough is enough.

The language simply says:

> The conferees remain concerned about the legal and regulatory issues relating to approval of drugs as both prescription drugs and over the counter products, and urge the FDA to expedite rulemaking on this topic.

If the leaders of FDA and HHS refuse to take the steps to restore the confidence of the American consumers and FDA's ability to promote safe treatments, then Congress has to step in. The health and well-being of the American people should not blow with the political winds. Caring for our people is an American issue, and part of that goal is ensuring we have access to safe, effective medicines in a timely fashion.

How can we trust the FDA to move quickly on vaccines for global pandemics if they continue to operate the way they have on plan B?

Time and time again, I, along with Senator CLINTON of New York and others, have asked simply for a decision on plan B. We have not asked for a yes or a no, just a decision. This continued foot-dragging is unusual, it is unwarranted, and it is unprofessional. This continued delay goes against everything the FDA's own advisory panel found nearly 2 years ago: that plan B is safe, effective, and should be available over the counter. There is no credible scientific reason to continue to deny increased access to this safe health care option, but there is even less reason to deny an answer.

Yesterday marked another deadline in the approval process for plan B. Yesterday was the last day of the highly unusual 60-day comment period that was asked for by FDA. Senator CLINTON and I joined with nearly 10,000 Americans in calling on the FDA to take a real step toward closing the agency's credibility gap by making a prompt decision based on scientific evidence.

I am on the floor tonight to say I hope the FDA does just that. The language we secured in this conference report is a good step, but it is not the last word on this issue. The problem with politics subverting the FDA's adherence to science and its integrity is so profound and so urgent that I intend to use every tool available to me as a Senator to make sure this discussion about our priorities and our future is not lost.

I yield back my time.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BURNS. I will assume I was next in the queue. I thank the chairman of the Subcommittee on Agriculture for bringing this conference report up. You know, I just want to point out to the American people that even though the total of this bill is $100 billion—That's—I rounded that off a little bit—only $25 billion gets to production agriculture. We could add in some conservation programs and watershed and this type of thing and probably get that up a little higher but not a lot.

What I am trying to say, better than half of this bill does not go to the farm and ranch producing community in this country, and yet the bill is $100 billion.

I have been on the Appropriations Committee since 1993. For 12 years, I have served with my colleagues in this body and have gone through a lot of conferences. I have chaired some. I have been ranking in some. There are a lot of good things in this bill that help my State of Montana and agriculture across this Nation, but if there is one shortcoming—I say, not very much of it gets to the farmers and ranchers out of this $100 billion. I was a county commissioner. I understand WIC. I understand nutrition programs. I understand food stamps for those folks who really need help. I'll tell you what, it is born in every one of us who comes out of the farm and ranch community: we do not like to see people hungry. We have always been like that.

With regard to this conference, we had four or five items that were very important that we have to address in this body, and we were closed down. Categorical exemptions, which my friend from Idaho just spoke on a few minutes ago, in forest rehabilitation, forest legacy, forest health—all of those programs are designed to help our timber communities take advantage of the great resource that is around them, and also it does a lot for fire prevention.

Another thing about this amendment we had on the prevention of the slaughter of horses for human consumption, we did not get that resolved. I invite any of my friends who voted for that amendment to come to my office and answer the phones because I'll tell you what, last Saturday there was a horse sale in Billings. If anything prompts some calls, just let somebody go to the next horse sale.

Then we got down to the country of origin labeling that was put into law and signed by the President of the United States in the 2002 farm bill. It is the law of the land, and an overwhelming majority of both this body and the House of Representatives voted to put it there. Yet we are denied the money to write the rules and regulations and implement the law and put it into effect.

This year, they just said: We are going to go voluntary for 2 more years. I am going to tell you something, that has not worked. Now, there is nothing done here that is done in the dark of night. It is the law. Did we accomplish getting it implemented in this bill? No, we are delayed for two more years.

What is even worse, there was no debate and no vote in the conference committee while the conference was going on. Just like I said, I have chaired conference committees on appropriations, and we did not leave that room until all of the issues that were still on the table were dealt with, folks got to debate them, we listened to them, and we got an up-or-down vote.

I am not really concerned about the results of a vote; I am concerned about a vote. So this was something that was done that absolutely was beyond my belief.

We know that our cattle producers are pretty proud of their product. They produce a good product. We do not feed a lot of cattle in Montana, but we raise a lot of feeder cattle. They go to Colorado, Kansas, and Nebraska to be finished out. They produce a great product for America's dinner tables, the greatest source of protein we have in our diet. They also want to know where it comes from, and that is being denied our producers today.

I heard from my colleagues who say they should delay COOL until the farm bill. They say the law will not work and we need to rewrite it. I agree with some of that, but there are provisions right now that are in the current labeling law that need to be implemented.

So I seriously doubt that any of my cattle producers can be convinced at this point that Congress intends to make a good-faith effort to improve the law as it stands today. We have had three years to work on that law, and the only thing Congress has delivered to the hard-working ranchers in my country is one delay after another, and that is unacceptable.

We have given the meat packers years to volunteer and voluntarily label the meat. Not one packer has done that. Now, we have labeling on that. We have certified Angus beef, and we have a lot of house brands and house labels and some breeds of cattle promote their production, but nothing says ''USA.'' These delays are not designed to help us improve this important law; they are just a way that the packers get their way.

In all likelihood, this evening the Senate will debate this issue, and tomorrow we will pass this conference report. I did not sign the report, and I shall vote against it tomorrow even though there are some very good things in here, but enough is enough.

Given the hysteria of the meat packers, one would think that COOL assistance would destroy the whole industry, and one would think origin labeling is some outlandish, unheard of concept when it has been around for the last four years. Packers whine about labeling products in the United States, and the packers are engaged in country-of-origin labeling in foreign markets. I do not see what the difference is? It feels to me like you have been discriminated against for your product? And those who do not want labeling, are you not proud of your product? Are you afraid to put your brand on it? Afraid to put a label on it? What is the problem?

Most of our major trading partners require country-of-origin labeling on imported beef and beef products. I could go all night about the situation in which we find ourselves in regarding to beef trade with Japan. We took a pretty tough stand. I believe that it is time that markets be opened.

New Zealand passed a COOL law just last week at the very same time that this conference was shirking its duty to the American cattle producers.

By the way, New Zealand is not afraid to put a label on their lamb. One can go to any grocery store, and the package says, ''New Zealand lamb.'' They are proud of that product. Yet we do not want to do that. Consumers in the United States do not deserve to know where their beef comes from, but foreign consumers do. That is the message we are sending on this conference report tonight.

We know that foreign consumers demand U.S. beef. It is pretty plain. I have talked to the consumers in Japan. They are getting ready to serve these beef bowls. It is the most desired product we ship there. Yet by their standards, they have decided to keep

our product off of their market. They have nerve enough to come here and expect us to accept theirs when they have a larger problem than we do in that arena. So Congress is telling the producers that they lose out again in this conference report with a delay provision put in at conference with no debate and no vote.

I will cast a vote against the conference report when it comes up tomorrow. This is a terrible way to do business in the Senate. We can do better in this body. We can respect everyone's opinion and everybody's amendment and everybody's bill, but give them a vote.

We are going to talk about a judge one of these days, and we are going to say he deserves an up-or-down vote. This issue does, too. There is no difference. And we were denied it.

So I am disappointed, but yet we move along and there will be another day when again we will saddle up and try to get this legislation implemented, which basically is the law of the land. Make no mistake about it, this hurts our credibility. We better start taking our job very seriously. Instead, we are taking ourselves too seriously.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. I believe I am yielded 10 minutes per the instructions of the Senator from Wisconsin.

The PRESIDING OFFICER. The Senator is correct.

Mr. DORGAN. Mr. President, first I will say a word about the leadership of this subcommittee, Senator BENNETT from Utah and my colleague, Senator KOHL, from the State of Wisconsin. I appreciate the work they have done. This is not easy to do. The product that came out of the Senate was a good subcommittee bill. To the chairman, the ranking member, and their staffs, I thank them for all of the work they have done on this legislation.

As they might know, while they are complimented, there is something that comes behind the compliment. They both know that I did not sign the conference report, having nothing to do with their actions or their activities. I refused to sign the conference report because of what happened in the conference. I wish to describe just a little of that.

The process by which we went to conference with the U.S. House was one in which we expected we would be treated with some respect and we would, through the normal course of things, make judgments and decisions and have votes. That did not happen. It did not happen on the issue especially of the country-of-origin labeling for meat—something my colleague just described. This is a commonsense, farmer-friendly, rancher-friendly law that has always been opposed by the big meat-packing plants and those who do their bidding. The fact is, it is the law of the land and should have been implemented last year.

One day, I brought a porterhouse steak to the floor of the Senate. I had to ask consent to show it on the Senate floor. I held up a porterhouse steak and I said: I would like to know if anybody can tell me where this piece of meat came from. Anybody? Well, nobody could tell where the piece of meat came from. It is just a piece of raw meat in cellophane. It comes from the store.

I asked the question: Might it have come from this particular packing plant? This packing plant, by the way, was only inspected once by a USDA inspector. It happens to be in Mexico. Here is what he said he found. This is a packing plant sending meat to our country. The inspector found:

> Shanks and briskets were contaminated with feces, a U.S. Department of Agriculture official later wrote of his tour of the plant on the floor. In the refrigerator, he wrote, a diseased, condemned carcass was observed ready for boning and distribution in commerce.
>
> The audit noted paint and viscera containers, condensation from dirty surfaces dripping into the exposed product . . .

Did anyone know if that piece of meat came from that plant? No one could tell because it was not labeled.

I thought then about something I read when I was in school. Upton Sinclair wrote the book ''The Jungle'' in 1906. He described the conditions in the packing plants of Chicago. He said:

> There would be meat stored in great piles in rooms; and the water from leaky roofs would drip over it, and thousands of rats would race about on it.

Then he described how they would lace loaves of bread with poison and lay them around, and the rats would eat the poison and die, and they would shove it down a hole and grind it up and ship it out as meat.

People read ''The Jungle'' written by Upton Sinclair and demanded something be done in this country, and it was. We have a wholesome supply of meat in this country that we are proud of. Our farmers and ranchers who produce it have a wholesome supply that is inspected. We are proud of it.

''The Jungle,'' 1906—I just read what he said in the book. May 1999, one inspector goes to Mexico—by the way, he has never gone back. This plant was closed, opened immediately thereafter with new owners and a new company name, and has never been inspected since. Condensation from dirty surfaces dripping into the exposed product . . . Carcass shanks and briskets [were] contaminated with feces. . . .

Does it sound like 1906? Sound like ''The Jungle''? Or if you are reading ''The Jungle,'' 1906, by Upton Sinclair:

> There would be meat that had tumbled out on the floor, in the dirt and sawdust, where the workers had tramped and spit uncounted billions of . . . germs.
>
> The employees' feet touched carcasses . . . a diseased condemned carcass . . . was observed in the chilling room ready for boning and distribution in commerce.

How much progress have we made?

So we go to conference and there is a requirement there be meat labeling, and the big packing houses and those that do their bidding in this Congress say it would be way too complicated.

We can drive a remote car on the surface of the planet Mars, and we can't stick a label on a piece of meat, for god's sake? We did require that of seafood. Go to the local grocery store and buy some seafood and you will find a label.

Let me tell you what the manager of the meat department at a supermarket had to say about implementing labeling for seafood. On April 4, 2005, asked about labeling seafood, this fellow at a supermarket said, ''It's just a matter of putting a sticker on the package.''

Not a problem. So why, then, are the American consumers now told, as a result of this conference, that not only are you not going to get country-of-origin labeling last year when you were supposed to have had it—and then we extended it, the folks over there on the House side extended it—so now they extended it 2 more years. And they did that after they recessed the conference and extended the date for implementation of this law—and it is a law—by 2 years, never having a vote, never notifying anybody.

I would expect the chairman and ranking member of this subcommittee should be furious about that. They probably are. I wrote, by the way, the chairman of the conference and said to the chairman of the conference: That will only happen once because you will not have a second conference in which we sit around and somewhere between the issue of thumb-sucking and daydreaming, believe there is a crevice to do the right thing.

If you decide you are not going to allow votes and then get rid of the conference and go behind a closed door with one party from one side of the Capitol and decide you are going to change the law and shove it down everybody's throat, you are only going to get to do that once. The next time you go to a conference like that, it is going to be a much different circumstance because we now know how at least some are willing to treat others in the conference.

It wasn't so much about treating us, it was about how you are treating farmers and ranchers who are proud of what they produce, and it is about how you are treating consumers in this country. Oh, in this Congress, regrettably, the big interests still have a lot of sway, a lot of influence. They somehow at the end of the day get their way. They especially get their way when the door is closed, when the lights are out; the door is closed, and it is done in secret. And that is exactly what happened here. People should be furious about what has been shoved down the throats of the Congress as a result of a few people in that conference.

So the result will be bad public policy. The result will be consumers consuming food, consuming meat that they do not know the origin of. Why? Because the Congress said: You don't

deserve to know the origin of that meat.

There is much to say about this subject. My colleague from Montana described his disgust. My colleague from Iowa will as well. I probably should, in the middle of this angst, say again that this is not the fault of the Senator from Utah, Mr. BENNETT. It is not the fault of the Senator from Wisconsin, Mr. KOHL. They did not do this.

My guess is—I have not talked to them at great length—they would have provided a conference that is the regular order: have debate and have a vote, have a debate and have a vote, and you count the votes and, in this system of ours, determine who has the votes and what policies prevail.

That is not what happened with respect to this conference with the House, and I regret that. We will have another opportunity. In the meantime, the consumers lose, the ranchers lose, the farmers lose because those, whose names I don't have in this statement, behind closed doors, in secret, decided to pull the rug out from under all of those interests.

I assume they are applauded today by the big economic interests, as is always the case in this Congress. But one day soon, I think consumers and others will say: There is no cause for applause for you. In fact, you really should be doing something else.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. I am going to keep the litany going on country-of-origin labeling because I am upset, too. I want to speak in opposition to that specific provision in the conference report, H.R. 2744, which is the Agriculture appropriations bill for fiscal year 2006.

The report before the Senate includes an additional 2-year delay—until September 30, 2008—for the implementation of mandatory country-of-origin labeling for covered commodities, except for fish. Fish was taken care of earlier.

I am highly frustrated that implementation funding has been stripped because this is not the first time the conference committee has traveled beyond the scope of its conference. The House bill stripped funding for implementation of country-of-origin labeling for meat and meat products for fiscal year 2006. The Senate bill did not include a delay. However, the conference result is a new 2-year delay that will keep consumers in the dark about the origin of their food.

Mandatory country-of-origin labeling was included in the 2002 farm bill, yet consumers and producers, except those that catch, raise, or eat fish, will not see any benefit from country-of-origin labeling before the next farm bill is written. The opponents of labeling claim it will cost too much to implement. If we do not provide any funding for implementation, they will be right because any cost would be too high. I have heard the concerns of those who have responsibilities under the law, but those concerns can be addressed.

I wish to point out I asked how much country-of-origin labeling would cost and was told it would be $1.5 billion to keep track of the cows so we would know where they came from. There are much simpler systems that can be put in place. Canada keeps track of all of this now. But when we started having problems with other animals, I asked how much an identification system for all animals would cost, and was told that it would only cost half a billion. Tell me, how can you keep track of every animal in the country for a third of what it costs just to keep track of cows? It is bad accounting, if you ask me. It is a plain, blatant statement they don't want to do country of origin. Why wouldn't they want to? I guess to increase the sale of beef from other countries.

As I discussed this matter with my colleagues, it has become clear there is a need for education regarding country-of-origin labeling. Many of them were not here when the last farm bill debate was done. For those who were, the issue of country-of-origin labeling may not be familiar because it was not debated on the Senate floor. Country-of-origin labeling was included in the bill by way of an Agriculture Committee vote, and the final details of the law were worked out during a conference with the House.

For those of my colleagues who were not personally familiar with the topic, they should not excuse themselves from consideration of this important issue because their State doesn't have significant numbers of livestock producers or farmers. I have livestock producers in my State, but I care about country-of-origin labeling because I am a consumer of agricultural products. I am sure that all of us have a lot of consumers of agricultural products in our States, so it should be a concern of every State. Everybody ought to be researching this. Everybody ought to be concerned that we do not have labeling.

Country-of-origin labeling is relevant for agricultural producers, for consumers, and even for the Members of the Senate. In fact, the country-of-origin labeling law is based on the Consumer Right To Know Act of 2001, which I cosponsored. The law requires the U.S. Department of Agriculture to put in place a system for U.S. retailers to inform their customers, when they buy beef, lamb, pork, or other perishable agricultural commodities, from what country the product originated.

Food labeling can help increase consumer confidence by assuring consumers they are making informed and knowledgeable decisions about the products they buy. People know that the United States has the best, cleanest, and safest system for processing beef. Consumers should know if the meat they are bringing home to feed their family has been produced here or if it was imported from a country that may have fewer environmental, health, or safety regulations on livestock production.

The country-of-origin labeling law is not a new concept in the world. Most U.S. trade partners, including the EU, require country-of-origin labeling for food. Many of the laws in other nations are more rigorous than the U.S. law. Virtually every other item a consumer buys in the United States indicates a country of origin.

I understand that some people say we do not need to have country-of-origin labeling when the USDA is already moving forward on a national animal identification program. I have mentioned that I am fascinated by its cost. This is simply not the case. A national ID program will be useful for health safety reasons. It will help pinpoint and track the spread of disease, but this information will not be passed on to the consumer. Tracking disease is not the only concern. Providing information to consumers should also be a priority, and the only consumer-focused program is country-of-origin labeling. That is a priority for me.

After the first 2-year country-of-origin implementing delay was added during an appropriations conference almost 2 years ago, I joined other Senators in cosponsoring legislation to move the implementation date closer to the present. With this second 2-year delay, it is readily apparent that opponents of country-of-origin labeling are using this delay tactic to gut country-of-origin labeling. Rather than meeting us for an open debate on the merits of the law, they continually put it off and allow it to work through the House process. By saying we need more time to implement the law, they are making the law voluntary.

Time is one thing that the debate surrounding country of origin has had. This issue was debated in the years before its inclusion in the farm bill. Since the law was passed, 2 years were granted for rulemaking to ensure its thorough implementation. We have already had a 2-year delay. Removing funding for implementation did not improve the process, it stopped the process cold. For those who have genuine concerns regarding implementation of the country-of-origin labeling, the answer is not to put off implementing the law but to implement it properly.

I wish to remind my colleagues why mandatory country-of-origin labeling passed in the farm bill. Consumers and producers want the information that it will provide. Consumers want to know.

Personally I am more of a food consumer than a food producer, but as a shoe store owner, I could tell you where the shoes I sold were from. It was required.

My dad used to travel on the road and sell some shoes. They were Ball-Band rubber footwear. There was a little dispute that came up at one point in time on that because they had to be labeled if they were made in the United States, and other countries were not allowed to use that label. But in Japan, they started another little town, and they named it Usa, U-S-A with no dots

after the letters. Then they could say their boots were made in USA, which looked like U.S.A.

Other people are jealous of the labeling that we have. We require that kind of labeling so our consumers know where their shoes or boots or shirts or hats—things that don't hurt them nearly as much as what goes inside their body—are from. As a father, I could tell you where the clothes I bought for my children were made. I have to say, I would rather have known more about what I was putting into my growing kids than what I was putting on my growing kids.

It is really simple. Artists sign their work, authors pen their books with pride, and American ranchers and farmers want to sign their work, too. They want consumers to know they are proud of what they have produced. They are convinced the people of this country want U.S. beef, U.S. pork, and U.S. lamb.

Although I appreciate the work done by this conference on other important provisions for agriculture, and I appreciate the work they did on some of the issues that have already been mentioned, because of this critical issue to a huge industry in my State, I will be voting against final passage.

I thank the Chair. I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. HARKIN. Mr. President, how much time do I have?

The PRESIDING OFFICER. Fifteen minutes.

Mr. HARKIN. I hope not to use all time because others want to speak, also.

I want to take a few minutes to lay out my reasons for my vote on this conference report tomorrow.

First of all, there are many aspects of the bill that I do support and which I believe should become law. I believe Senator BENNETT and Senator KOHL worked very hard to get this bill through.

I supported the bill as it was reported from committee and as it passed the Senate. I believe it was a good bill given the subcommittee's allocation when it passed the Senate, and I said so on the Senate floor. But, unfortunately, the conference process with the House was seriously flawed and resulted in a seriously flawed report as a result.

In some instances, it is as if the House were negotiating with the administration rather than allowing the Senate any meaningful role.

My greatest concern is the continued assault on the farm bill's mandatory conservation programs, particularly the Conservation Security Program. As passed by the Senate, this bill included no annual cap on CSP spending. That is as it is in the 6-year farm bill which was passed in 2002 and signed by the President: no annual cap on CSP funds. So the Congressional Budget Office's baseline estimate for CSP spending in fiscal 2006 was $331 million based upon the program's mandatory funding and no set annual spending cap, as was passed in the farm bill.

While the other body included an extremely low cap of $245 million for CSP in 2006, traditionally, we usually attempt to kind of split the difference on matters such as this. But in this instance, rather than splitting the difference between the House and Senate—the conferees evidently chose to split the difference between the President's budget proposal to cap CSP at $274 million and the $245 million cap in the House bill for a conference level of $259 million. That is far below the $288 million that would have resulted from splitting the difference between the House and Senate figures.

In effect, the will of the Senate as expressed in the bill that we passed by a vote of 97 to 2 was totally thwarted.

Since the farm bill was enacted in 2002, the USDA conservation programs have taken a real beating year after year. They have been used repeatedly as a source offsets to fund other needs.

Including this conference report, the annual appropriations measures from fiscal year 2003 through fiscal year 2006 have cut $1.13 billion in mandatory funds that we dedicated to conservation in the farm bill.

In addition to that, last fall, a further $3 billion was taken out of the Conservation Security Program to pay for disaster assistance. And in the Senate budget reconciliation measure now pending a further $1.78 billion would be taken away from conservation over the next 10 fiscal years—over $1.2 billion of that from the Conservation Security Program alone.

Again, here is a chart that illustrates what we are talking about.

If you look at Agriculture appropriations, those bills have cut, from fiscal year 2003 through 2006, $1.13 billion. Here on the chart is $3 billion which was an offset taken out of the Conservation Security Program to pay for disaster assistance.

Mind you, prior to the past few years, when we have had disasters in this country that require extraordinary amounts of disaster assistance we have paid for the assistance out of the general fund. When there is a tornado, a hurricane, or a flood—whatever it might be—we don't rob programs that are particularly important to one group of Americans in order to pay for the disaster assistance. We paid for the disaster assistance out of the general fund.

Yet when we had a drought disaster in this country that affected many States in the West and Midwest, the money to pay for disaster assistance was taken from the Conservation Security Program to pay for it. That was strongly pushed by the administration and the House. Many times on the floor I said that was wrong. I objected to it. But that is what happened. They took the money out of agriculture conservation to pay for disaster assistance. It was wrong then; it is wrong now to do that.

Then on top of those cuts, in the Senate budget reconciliation measure, another $1.78 billion would be taken out of conservation.

So what we have here is cumulative, $5.9 billion taken out of conservation programs in measures before us just since fiscal year 2003.

Again, I might add that conservation is part of the bill that was loudly praised by President Bush when he signed the farm bill. I was there at the signing. The President said this is a great bill, especially the conservation provisions. The Department of Agriculture put out publications on the farm bill highlighting conservation. Yet since the farm bill as passed, in measures passed or now before the Senate $5.9 billion will be taken out of conservation programs.

Again, I want to emphasize this conservation funding taken away is mandatory spending in the farm bill as to which we met all of the budget requirements when we passed the farm bill. We met all of the budget requirements. It was within the budget allocation provided to us when we passed the farm bill.

In earlier debate today on the reconciliation bill, I heard a lot of talk about the importance of not reopening the farm bill. That was the debate on the amendment offered by Senator GRASSLEY and Senator DORGAN on payment limitations. I heard a lot of talk about not reopening the farm bill. Sorry folks. The farm bill has already been reopened many times regarding on conservation, and other programs for that matter.

To complain about an amendment limiting payments to those getting hundreds of thousands of dollars annually from farm programs, to complain that this is reopening the farm bill is a bogus argument.

Where were their voices last year, the year before, and the year before when all of this money was being taken out of the farm bill, out of mandatory spending? Why didn't I hear their voices on the Senate floor saying we can't reopen the farm bill? There was not a peep from them.

But now when it is proposed to limit payments to the largest farmers in America to meet some of our budget reconciliation requirements, they don't want to reopen the farm bill. We should never have reopened it to take money out of it to pay for disasters.

I have a number of other concerns. I joined with those who are upset about the country-of-origin labeling provision. During the debate on the 2002 farm bill—I was chairman at the time—there was a bipartisan effort. We included country-of-origin labeling for meats, fruits, vegetables, peanuts, and fish. I supported it then, and I support it now. It makes sense. Producers in our country ought to be able to add value by differentiating the origin of their products. Consumers ought to have the power of information of

choice. Unfortunately, the will of producers and consumers has been ignored, behind closed doors, without debate, without a hearing, without votes. Country-of-origin labeling for meats, fruits, vegetables, and peanuts has now been delayed until September 30, 2008, after this farm bill expires.

They just want to kill country-of-origin labeling altogether, in the next farm bill—and in the meantime by rewriting the farm bill in the appropriations process. It has gotten out of hand. It is making a mockery of the both the authorization and the appropriations process.

I happen to serve on both authorizing committees and the appropriations committee. They both have a legitimate role to play. To have the authorization committee usurp the power of the appropriations committee is just as wrong as to have the appropriations committee undercut and make a mockery of the authorization process. But that is what the House did.

I don't mind losing if you have fair debate and if you have fair votes. If you lose, you lose. To me, that is democracy. I don't mind that. What I object to is when the House of Representatives, the chairman of the House subcommittee, bangs the gavel and says we will meet subject to the call of the Chair, and we never meet. They go behind closed doors and they do this. They take away country-of-origin labeling, they put limits on conservation, and I don't even get a chance to vote on it. No one gets a chance to vote on it. They say, take it or leave it. That is what I object to.

I am also concerned that the same back-door process I am describing was used to amend the Organic Foods Production Act. Earlier this year, the First Circuit Court of Appeals struck down three final rules for the National Organic Program. I urged the organic community to come together and reach a consensus on what was needed to respond to the court decision. That didn't happen. Some people were left out of the process.

Last month, Senator LEAHY offered an amendment to our Agriculture appropriations bill as a placeholder in the hope that the organic community would have more time to discuss these proposed changes in the law, and reach a consensus which we could then put into the conference report. Unfortunately, this conference report complicates what was already a complicated and sticky issue.

Again, behind closed doors, without a single vote or debate, the Organic Foods Production Act was amended at the behest of large food processors without the benefit of the organic community reaching a compromise.

To rush provisions into the law that have not been properly vetted, that fail to close loopholes, and that do not reflect a consensus undermines the integrity of the National Organic Program.

The Agriculture appropriations conference report also strikes a provision adopted by the full Senate that would limit contracting out to private companies to carry out the Food Stamp Program.

Again, this amendment was adopted without objection by the full Senate. It was reaffirmed by Senate conferees. We did have a vote. The Senate conferees voted to uphold the Senate side. The issue went to the House conferees, and that was the end of it. Usually you work these things out in conference. Again, the chairman gaveled the conference shut, went behind closed doors, and threw out the provision.

Here is the hypocrisy of that. In the Agriculture appropriations bill, there is a limit, a prohibition against any money being used to contract out to private companies for the operation of the rural development programs or farm loan programs. So those programs can't be privatized. But already the Department of Agriculture is approving private contracting for Federal food assistance applications.

Again, I guess the needs of the poor don't warrant the same kind of protection other clients of USDA receive.

There are other problems with this bill. I am disappointed that the measure eliminates or reduces funding for a variety of programs in the farm bill's rural development title. For example, there is a major reduction in the value added development grants.

Fortunately, the bill does call for revamping the rural broadband loan program. Clearly this is a technology that needs to be available. We need to have rural broadband access for economic development.

I am thankful to the chairman and others for the inclusion of numerous projects that help promote biofuels and bioproducts, which have a lot of promise for this country. I also commend them for including funding for the national animal disease facilities at Ames, IA.

One last thing I would mention is that Congress provides money in this bill for Public Law 480, the title II Food for Peace Program, the largest foreign food aid program of the U.S. government. The funding in this conference report is the same as last year, but that was not enough to meet both massive emergency food aid needs and to provide the needed funding for development assistance. Quite frankly, I am concerned that the administration in its budget proposal—which is the basis for this appropriations measure is seriously shorting the development assistance projects under Food for Peace.

In many cases, investment in mitigating chronic food needs in developing countries in 1 year may avert the need for much higher emergency food aid in later years.

For example, one of the countries where USAID development projects were cut back earlier in 2005 was Niger, a country which by summer was experiencing a serious shortage in food availability, which prompted a flash appeal for emergency assistance by the U.N.'s World Food Program in August.

On the other hand, I am pleased that funding for the McGovern-Dole Food for Education Program has been boosted to $100 million for fiscal year 2006.

Again, there are good things in this bill. The bill is not totally bad. But I have a lot of objections to the process on which the House proceeded and the outcomes in the conference report that resulted from the process. This is not the way to do things.

This sort of sort of one-sided process, behind-closed-doors process is a sharp break from the normal practice in appropriations conference deliberations. It sets a terrible precedent.

For the reasons I have outlined, especially for all of the money being taken out of conservation, for the further delay of COOL, the country-of-origin labeling, and other problems I mentioned, it pains me, and I don't like to vote against the conference report. I have great respect for the chairman and the ranking member. As I said, they did a good job. But what came back from the House is not good for our farmers or rural communities, it is not good for consumers, and it is not good for conservation.

For those reasons, I will sadly have to vote against this conference report.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. Mr. President, country-of-origin labeling has been an issue in the Senate for quite awhile, and yet, after all this time, we're no closer to promoting U.S. products than we were a decade ago. In reviewing the storied history of this issue, it is clear that there is no shortage of viewpoints. One view that has been overwhelmingly vocalized is that U.S. producers of beef and pork want to market and promote their products as born and raised in the United States of America. They are proud of what they produce, and they should be: the U.S. produces the safest, most abundant food supply at the most affordable price, and our livestock producers want to capture the value they add to the market.

But just like every other debate in Washington, the debate over country-of-origin labeling has been about the means to accomplish the goal. It is not that we are fighting about whether or not promoting U.S. products is a good idea. We are fighting about how to do it. Some in the U.S. Senate, and some around the country have said: ''If it isn't mandatory, it's not labeling,'' or that the current mandatory labeling law that passed in the 2002 Farm Bill is the only way labeling will work. I strongly disagree.

The current mandatory law is an example of a good idea gone awry. The warning signs of the negative impact of this law have long been on the horizon. On a number of occasions the U.S. Department of Agriculture, the Government Accountability Office, and the Office of Management and Budget have

published reports and studies, and testified before Congress about the burdens of mandatory country-of-origin labeling.

In 1999, GAD testified before Congress that ''there is going to be significant costs associated with compliance and enforcement'' of mandatory labeling.

The next year, GAO released another study indicating that.

> U.S. Packers, processors, and grocers would . . . pass their compliance costs back to their suppliers . . . in the form of lower prices or forward to consumers in the form of higher retail prices. And when USDA issued its proposed rule, they included a cost-benefit analysis that said implementation could cost up to $4 billion—with no quantifiable benefit. The rule was followed by a letter from the Director of Office of Information and Regulatory Affairs at OMB, Dr. John Graham, which said ''this is one of the most burdensome rules to be reviewed by this Administration.''

Not surprisingly, these predictions were recently realized when several processors, preparing for implementation of mandatory labeling in September 2006, sent their suppliers letters spelling out the arduous procedures that would be employed to verify animal origin, ensure compliance, and indemnify the processors from liability for inaccurate information.

Given these ominous warnings, many of my constituents are rightly concerned about the financial and record keeping burdens this law will impose on them. They ask:

> How can something so popular, like marketing and promoting U.S. products be so expensive?

There has to be a better way to market and promote U.S. products. I am pleased that the conference report for the Fiscal Year 2006 Agriculture Appropriations Act contains a provision that will delay implementation of mandatory country-of-origin labeling until 2008 because it gives us 2 more years to enact a meaningful, cost-effective labeling program like the Meat Promotion Act of 2005, which I introduced with 13 of my colleagues earlier this year. This bipartisan, commonsense legislation would establish a voluntary country-of-origin labeling program driven by the free-market, not the rigid legal interpretations of Federal bureaucrats.

I stand with livestock producers that want to market and promote the products they proudly raise. I believe they should be able to market and promote their products as born, raised, and processed in the United States, and I believe the Meat Promotion Act of 2005 provides the most effective and efficient opportunity for them to do so, while adding value to their bottom line and helping the economy of rural America.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. THUNE. Mr. President, I rise, too, on behalf of South Dakota's cattle producers to voice my support for country-of-origin labeling and also to express my profound disappointment in the tactics that were employed to derail country-of-origin labeling in the bill under consideration this evening.

I have been a supporter of mandatory country-of-origin labeling since first being elected to the House of Representatives in 1996. I offered the country-of-origin labeling amendment in the House Agricultural Committee 2002 farm bill deliberations. Figuratively speaking, that was a bloody battle. Anyone who was in the room will tell you we spent 4 hours fighting over this issue about whether to include country-of-origin labeling in the 2002 farm bill. The truth of the matter is, even though at that particular point in the process we were not able to get included in the House farm bill, we were later on, when the bill went into conference with the Senate, the Senate adopted a provision, and we were able to retain that provision. So when the 2002 farm bill conference report was reported to the floor of the House and the Senate, it included mandatory country-of-origin labeling. It was passed overwhelmingly by the House and the Senate, put on the President's desk and signed into law. In fact, it was signed into law by the President back on May 13, 2002.

I assumed at that time that we had achieved a major victory for the ranchers that we represent, the cattle producers in places such as South Dakota and other areas of the country. Unfortunately, I was wrong.

Even though country-of-origin labeling has been the law of the land since that day, it has been on the receiving end of an onslaught of attacks and delays. Where I come from, a deal is a deal. The Congress, the elected Representatives of the people of this country, through the 2002 farm bill, adopted a provision that would implement mandatory country-of-origin labeling. Under the 2002 farm bill, country-of-origin labeling was set to be implemented by September in 2004. The fiscal year 2004 agriculture appropriations bill—and at that time I was not in the Congress—delayed implementation until September of 2006. And now the conference report we have before the Senate today will delay it even further, until 2008.

It always ends up being done in the dark of night. As was noted earlier by several of my colleagues in the Senate, the House negotiators came to this process and walked away from the table, not even giving us an opportunity to debate this in the light of the day. It would be great to have the debate on the floor, but even in the conference there was not an opportunity for Members of the Senate to have their voices heard through a vote on that particular provision.

If you want to rewrite the 2002 farm bill, don't do it in a conference committee, for crying out loud. Let's do it in the light of day. Let's at least give the members in the conference committee an opportunity to vote up or down on this issue. I believe if the members of that conference committee had that opportunity, those in favor of country-of-origin labeling would have prevailed.

I have heard the arguments against mandatory country-of-origin labeling more times than I can count. While I respect my colleagues and their views, I disagree with those who oppose this program and wish to delay it to death.

My colleague from Texas suggested this is a bad thing, we cannot implement this. How do we know? We have not implemented it yet. We passed the law. The people's representatives of the Congress spoke out in favor and made it part of the 2002 farm bill. We have lots of people, naysayers, now saying it will never work. How do we know? It has never been implemented.

The deal we struck back in 2002, and the commitment we made to the producers of this country and to the consumers of this country, has now been derailed not once but twice. Literally, it is death by a thousand cuts to the producers across this country who believe the Congress had taken their side and made a commitment to implement this legislation.

My colleague from Texas—again, whose views on this I certainly respect—suggests we just have a voluntary system. The people who are opposed to doing this mandatory country-of-origin labeling, how do you expect them to come out and voluntarily say, we are going to do it. They are the very folks who are fighting, resisting, opposing, trying to delay and ultimately kill the country-of-origin labeling provision that was a part of the 2002 farm bill that ought to be the law of the land today.

Everything that we have in this country has a label on it. The tie I am wearing this evening says ''Made in China.'' The glasses, as I get older, I need for reading purposes, say ''Made in China.'' Even the holder for the glasses has a labeling on it. The pen I hold in my hand says ''Made in Japan.'' Literally everything we purchase in this country has a label. We know where things come from, where they originate. In the last farm bill, we even implemented for fish, for fruit and vegetables. Yet we do not want to know where the meat comes from that the consumers of this country consume on a daily basis? Does anybody understand or recognize the inconsistency in that argument?

It will not be very far from here that producers in this country will be forced to implement an animal ID system, and somehow we cannot implement a country-of-origin labeling system. Yet we are going to ask producers to trace the origin of those animals as a food safety precaution.

I argue, again, that country-of-origin labeling is an opportunity for our producers to differentiate their product from those products raised elsewhere in the world. We have the highest quality, and our producers are proud of what they raise in this country. They want

to be able to differentiate it, but they are going to be required in the not-too-distant future, as a food safety measure, to implement an animal ID. We have a number of pilot programs underway across the country today. When one of those is adopted as some sort of a national standard, producers will be expected to trace the origin of those animals. The only question is, Who is going to pay for it?

It is a slap in the face to this Nation's livestock producers and consumers. This recent delay is unacceptable. It is unwarranted. Who loses? The livestock producers who grow and raise quality products in this country, who want an opportunity to market and differentiate their products, and ultimately, the consumers of this country who have a right to know where the meats they purchase, day in and day out for consumption by themselves and their families, comes from. Special interests have won out this day over the will of our producers, our consumers, and the elected representatives in the Senate. That is a sad day.

I will oppose this Agriculture appropriations conference report for that reason.

I yield back my remaining time.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Mr. President, I have listened to this debate with interest. There are a few things perhaps to get on the record so we have it clear if someone wishes to go back in historic fashion and look at all this and say what really happened. I would like to make a few comments to that extent with respect to country-of-origin labeling.

Conferences are for the purpose of resolving differences. The Senate had no statement at all with respect to country-of-origin labeling, so the Senate bill would have allowed the law to go forward in the way that many of the speakers here tonight have asked. The House bill would have killed it—not delayed it, killed it. The House voted overwhelmingly to eliminate country-of-origin labeling.

We had to come up with a compromise. We could either have the Senate position—that it goes forward—we could have the House position—that it dies—or we could have something in between. In the spirit of most conferences, we came up with something in between.

We have not killed the program in this conference report. We have delayed the implementation. So the Senate did not get what it wanted, which was full speed ahead. The House did not get what it wanted, which was to kill the program. We have a compromise.

I think we should understand that so those who say, We caved in to the House, the House did it to us, without any consultation or conference with the Senate—well, understand that is not true. We arrived at a compromise between two very different positions. It does not satisfy the people in the Senate, and it probably does not satisfy the people in the House.

Now, I will say from a personal point of view, I am getting tired of this debate. It came up when I became chairman of the subcommittee the first time. We have had to deal with it several times now. I think this is an issue that should be resolved in the authorizing committee. I think the authorizers should come to the conclusion it is a good idea and we should go ahead with it or they should come to the conclusion we made a mistake in the farm bill and we should kill it. They should not ask us in the appropriations process to make the decision that the authorizers need to make.

The point has been made here that the date we set on this, with this compromise between the House and the Senate, carries to a point beyond the expiration of the current farm bill. That is true. That means the authorizers will have an opportunity, before we visit this issue again on the Appropriations Committee, to make their decision. The authorizers will have an opportunity to either re-endorse the idea or to kill it.

So I say to those who feel so strongly on both sides: Talk to the authorizers when it comes up in the farm bill and make the decision—do we really want to go ahead with this or do we really want to kill it?—and not ask those of us in the appropriations conference to have to deal with it. Get it off our plate and put it in the place where it belongs.

I make one other comment. As I have looked at the issue, I find myself on the side of those who think it is a mistake. I have no pressure from consumers who want a label on meat that says where it comes from. I do not think they would pay that much attention to it. The history of country-of-origin labeling for virtually every other product is that consumers are mildly interested but that it does not significantly affect their purchasing.

If someone really believes this would make meat more attractive to customers, he or she has the opportunity to put that label on right now. A voluntary program would make it available everywhere. But if someone wants to promote Iowa beef, they have the opportunity right now as a marketing device to say, This is Iowa beef, without having to go through all of the regulatory requirements that are connected with this law.

So once again, this is an issue that the authorizers should look at. This is an issue that those of us who have been forced to deal with it are tired of. We hope this is the last time we will have to deal with it in an appropriations bill.

Mr. President, I ask unanimous consent that a letter sent to me from the USDA Acting General Counsel regarding sections 794 and 798 of the fiscal year 2006 Agriculture Appropriations Act be printed in the RECORD.

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

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE GENERAL COUNSEL,
Washington, DC, October 28, 2005.

Hon. ROBERT F. BENNETT,
Chair, Subcommittee on Agriculture, Rural Development, and Related Agencies, Committee on Appropriations, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: This will respond to the inquiry made today by members of your staff for the interpretation of the Department of Agriculture (USDA) regarding sections 794 and 798 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2006 (Act), as that measure was approved by Senate and House conferees on October 26, 2005.

If enacted, section 794 would provide that, effective 120 days after the date of enactment, no funds made available by the Act may be used to pay the salaries and expenses of personnel to inspect horses under section 3 of the Federal Meat Inspection Act (FMIA), 21 U.S.C. §603, or under guidelines issued by USDA under section 903 of the Federal Agriculture Improvement and Reform Act of 1996 (FAIR Act), 7 U.S.C. §1901 note. If enacted, section 794 would prohibit the use of appropriated funds to pay the salaries and expenses of USDA employees to perform inspections of horses under either section 3 of the FMIA or the guidelines issued under section 903 of the FAIR Act.

If enacted, section 798 would (1) amend the FMIA by removing the list of species, i.e., ''cattle, sheep, swine, goats, horses, mules, and other equines'' at every place where it presently occurs in the FMIA and replace such list with the term ''amenable species''; (2) provide that the term ''amenable species'' means those species subject to the provisions of the FMIA on the day before the date of enactment of the Act, as well as ''any additional species of livestock that the Secretary considers appropriate''; and (3) make similar amendments to section 19 of the FMIA regarding the marking and labeling of carcasses of horses, mules, and other equines and products thereof. Section 798 would become effective on the day after the effective date of section 794.

Having reviewed these sections, it is our opinion that section 798 does not nullify or supersede section 794 and that, if both sections are enacted as written, barring further amendment the prohibitions effected by section 794 would become effective 120 days after the date of enactment of the Act.

Please let us know if you have any further questions regarding this matter.

Sincerely,

JAMES MICHAEL KELLY,
Acting General Counsel.

Mr. BENNETT. Mr. President, I ask unanimous consent that all time be yielded back on the conference report.

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

MORNING BUSINESS

Mr. BENNETT. Mr. President, I ask unanimous consent that there now be a period of morning business, with Senators permitted to speak for up to 10 minutes each.

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

LOCAL LAW ENFORCEMENT ENHANCEMENT ACT OF 2005

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. Each Congress, Senator KENNEDY and I introduce hate crimes legislation that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society. Likewise, each Congress I have come to the floor to highlight a separate hate crime that has occurred in our country.

On November 20, 2002, in Scottsdale, AZ, a gay man was attacked while leaving a bar. According to police the man was leaving a bar when two men approached him. One man said, ''you offend me . . . you are an insult to straight men.'' He then attacked the victim punching him twice in the face.

I believe that the Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

TRIBUTE TO ROSA PARKS

Mrs. FEINSTEIN. Mr. President, I rise today to pay tribute to one of the truly legendary and enduring figure of the 20th century, Rosa Parks, who dedicated herself to fighting for equality and justice.

Rosa Parks, the matriarch of our Nation's civil rights movement, died last Monday at the age of 92. An American icon who changed the course of the 20th Century, Rosa Parks believed that men and women, regardless of color, should not be treated as second class citizens. Sixty years after the name Rosa Parks first made headlines, her courageous acts continue to symbolize the cause of freedom in America.

As we mourn the passing of Rosa Parks, we are reminded of the power and integrity of her spirit. Her quiet dignity and fearless strength shaped and inspired the civil rights movement in the United States over the last half-century.

Most historians date the beginning of the modern civil rights movement in the United States to December 1, 1955. Tired and weary not only from a long day of work, but from years of discrimination and racial inequality, an unknown seamstress in Montgomery, AL, refused to give up her bus seat to a white passenger. On that momentous day in history, Rosa Parks was arrested for violating a city ordinance, but her lonely act of defiance sparked a movement that ended legal segregation in America.

The subsequent bus boycott by African Americans created a national sensation. Led by Reverend Martin Luther King, Jr., the Montgomery bus boycott lasted nearly 13 months and inspired the Nation's civil rights movement.

The boycott led to the Supreme Court questioning the legality of the Jim Crow law that mandated the discrimination of African-Americans on the public bus system. And on November 13, 1956, in the landmark case Browder v. Gayle, the Supreme Court banned segregation on buses. A tremendous victory for the cause of freedom and equality.

Throughout her long life, Rosa Parks possessed an innate ability to lead. Her quiet acts of courage illuminated for Americans the disgrace and moral injustice of segregation. She continued to inspire non-violent protests in the name of civil rights throughout the 20th century and changed the face of America forever.

Rosa Parks was born in Tuskegee, AL, in 1913, a time when black and white America seemed destined to remain perpetually divided. In 1932, she married civil rights activist Raymond Parks. Together, they worked for the Montgomery chapter of the NAACP, where she worked as a secretary for the Montgomery branch and as its youth leader.

In the summer of 1955, while working for the NAACP, Rosa Parks attended an interracial leadership conference. She later said that it was at this conference where she ''gained strength to persevere in my work for freedom, not just for blacks but for all oppressed people.''

Rosa Parks had a distinguished career of public and community service. In 1965, Rosa Parks began to work as a receptionist and office assistant for Congressman John Conyers in his Detroit office, where she continued to work until 1988. Later, she established the Rosa and Raymond Parks Institute for Self-Development. Its ongoing mission is to motivate and direct youth to achieve their highest potential.

Rosa Parks once remarked that she wanted to be remembered ''as a person who wanted to be free and wanted others to be free.'' She lived each day by this mantra and inspired countless individuals in America and throughout the world to take up the mantle of freedom.

But although our country has come a long way since the days of the Jim Crow laws, it doesn't mean that we still don't have even more to accomplish. We must protect the advances made by America's minorities, and also further those advances in the years ahead.

Today, we honor the life and legacy of Rosa Parks, a great champion of freedom, equality and justice, and prosperity for all people. I believe that it was especially fitting that she was given the distinct tribute of lying in honor in our Nation's Capitol. An icon who changed America, there is no doubt that Rosa Parks will remain etched forever in our memories.

THE RECENT ELECTIONS IN ZANZIBAR

Mr. FEINGOLD. Mr. President, I am deeply concerned about the situation in Zanzibar, Tanzania.

Just last month, Zanzibaris went to the polls in Presidential and parliamentary elections. I commend the strong voter turnout and the understandable desire of Zanzibaris that their votes be counted. Unfortunately, the people of Zanzibar have so far been denied the accountable and transparent election process they deserve. This is a cruel repeat of the Presidential and parliamentary elections held in 1995 and 2000, which were widely considered to have been mismanaged, resulting in serious irregularities. Credible allegations were made after the 2000 elections that votes were manipulated to deny the opposition Civic United Front, CUF, victory in Zanzibar.

Even more disturbing was the violent aftermath of the 2000 elections. In 2001, demonstrators protesting election abuses in Zanzibar and Pemba met with a brutal police response in which 32 people died, hundreds were arrested, and countless others fled to neighboring countries for asylum. These events were deeply troubling and underscored the need for real reform to ensure that violence and serious irregularities in the electoral process were not repeated. I traveled to Pemba in the aftermath of these troubling events, and in my conversations with local residents and leaders, I sensed real frustration with the failure of the Tanzanian authorities and the international community to speak out on behalf of the civil and political rights of the people of Zanzibar.

The Mukata II agreement established in 2002 gave rise to hope for change. Reforms under this agreement, agreed to by all parties and implemented in the 2003 local elections in Pemba, gave further reason to believe that the rights of the Zanzibari people would now be respected. Unfortunately, while the Mukata II agreement set out to improve transparency and ensure that election results are credible to parties, it appears today that Zanzibari voters' rights are again being ignored.

Once again, serious allegations of voting irregularities and unfair preelection conditions have surfaced, including double voting, inaccurate voter lists which prevented eligible voters from casting ballots, and media bias. Once again, reports speak to the use of excessive force against civilians protesting these injustices.

The Government of Tanzania and the Government of Zanzibar have a responsibility to pursue accountability for past abuses and transparency in the political process. The U.S. Government has a responsibility, too. To turn a blind eye to the abuses that have taken and are taking place in Zanzibar is inconsistent with our principles, and it is, frankly, inconsistent with our interests. Zanzibar's population is nearly entirely Muslim. Given all the hostility, all of the suspicion, and all of

the resentment of American foreign policy that exists in the Muslim world, we cannot afford to be indifferent to this kind of injustice. I call on the administration to provide Congress with a plan to work with the rest of the donor community to send strong, unmistakable signals to the Tanzanian Government that the disenfranchisement of the people of Zanzibar is simply unacceptable.

SUPERB PERFORMANCE OF THE COAST GUARD

Mr. KENNEDY. The October 31 issue of Time magazine contains a brief and extraordinary article about the Coast Guard's brilliant efforts to assist the devastated people of New Orleans in the wake of Hurricane Katrina, when the Federal agencies were so incompetent in their efforts to provide relief.

As one local official noted, the Coast Guard ''was the only Federal Agency to provide any significant assistance for a full week after the storm.''

The Coast Guard deserves great credit for its superb performance and I ask unanimous consent that this article may be printed in the RECORD.

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

[From Time Magazine, Oct. 31, 2005]

HOW THE COAST GUARD GETS IT RIGHT

WHERE DID THOSE ORANGE HELICOPTERS COME FROM, ANYWAY? THE STORY OF THE LITTLE AGENCY THAT COULD

(By Amanda Ripley)

Wil Milam, 39, is a rescue swimmer for the U.S. Coast Guard in Kodiak, Alaska, which means he spends most of his time jumping out of helicopters to help fishermen who break bones and pilots who crash their private planes. ''We're pretty much the area ambulance service,'' he says. Before he was dispatched to New Orleans in the aftermath of Hurricane Katrina, Milam had never been called out of Alaska for a mission and had never done urban search-and-rescue work. But like thousands of other personnel, he was brought to Louisiana to do what the Coast Guard does best: improvise wildly.

Milam made his first rescue late one night near a warehouse outside New Orleans. After dropping him into the black miasma below, his helicopter did something he had never seen in his entire 13-year career: it flew away—so that he' could hear the cries for help. He looked around through his night-vision goggles and saw what looked like caskets—in fallen trees, on porches. Yes, they were caskets, dislodged from a nearby cemetery. That night Milam found a man and four dogs and helped hoist them all safely into the helicopter when it returned. The man's pig, however, Milam left behind. ''No way I'm taking a pig. The pig will be O.K.,'' he says. And so it went for 11 days, with Milam experiencing such firsts as flying over a semitrailer sitting on the roof of a house, seeing alligators undulating in the water below and finding himself surrounded by four men with shotguns in a dark, empty hospital. (They were security guards, as it turned out, and just as frightened as he was,) ''I'm like, man, they didn't teach me this in swimmer school.''

In Katrina's aftermath, the Coast Guard rescued or evacuated more than 33,500 people, six times as many as it saved in all of 2004. The Coast Guard was saving lives before any other, federal agency—despite the fact that almost half the local Coast Guard personnel lost their own homes in the hurricane. In decimated St. Bernard Parish east of New Orleans, Sheriff Jack Stephens says the Coast Guard was the only federal agency to provide any significant assistance for a full week after the storm. Coast Guard personnel helped his deputies commandeer boats and rescue thousands. So last week, when two representatives from the U.S. Government Accountability Office came to ask how he would fix the Federal Emergency Management Agency (FEMA), he had his answer ready: ''I would abolish it,'' he told. them. ''I'd blow up FEMA and ask the Coast Guard what it needs.''

In one sense, that has. already happened. After the implosion of FEMA director Michael Brown, President George W. Bush placed Coast Guard Vice Admiral Thad Allen in charge of the federal response to Katrina. Before Hurricane Rita even hit land, the Administration placed a Coast Guard rear admiral in charge of that recovery. These are essentially urban-planning jobs—not something men and women who spend much of their professional lives on water are exactly trained to do.

So how is it that an agency that is underfunded and saddled with aging equipment—and about the size of the New York City police department—makes disaster response look like just another job, not a quagmire? How did an organization that, like FEMA, had been subsumed by the soul-killing Department of Homeland Security. (DHS), remain a place where people took risks? And perhaps most important, can any of these traits be bottled?

TRIBUTE TO DR. RICHARD E. SMALLEY

Mrs. HUTCHISON. Mr. President, I rise today to pay tribute to Dr. Richard Errett Smalley of Rice University.

On October 28, 2005, Texas and America lost a brilliant mind, a great American and a dear friend, Richard Smalley.

Early in his life, Dr. Smalley developed a love for science as he collected single-cell organisms with his mother at a local pond and studied them with a microscope.

He took this love of science with him to the University of Michigan where he graduated in 1965 with a bachelor's degree in chemistry.

After working at a Shell Chemical Company manufacturing plant in New Jersey for 4 years, Dr. Smalley continued his education at Princeton University, graduating with an M.S. in 1971 and his Ph.D. in 1973.

He moved his family to Chicago to begin a postdoctoral period with Donald H. Levy at the University of Chicago.

While there, Dr. Smalley's work began to elevate when he pioneered what has become one of the most powerful techniques in chemical physics, supersonic beam laser spectroscopy.

In 1976, Dr. Smalley joined the Department of Chemistry at Rice University as an assistant professor, where he, along with his colleague, Dr. Robert F. Curl and British chemist Sir Harold Kroto, discovered a new class of carbon molecules called the fullerene, or ''buckyballs.''

This discovery led to the team's 1996 Nobel Prize in chemistry, and spurred the development of nanotechnology as a revolutionary area of science capable of solving global problems in fields ranging from medicine to energy to national security.

Dr. Smalley's accomplishments in the field of nanotechnology have greatly contributed to the academic and research communities of Rice University, the State of Texas, and the entire country.

He, along with Nobel Laureate Michael Brown, was a founding cochairman of the Texas Academy of Medicine, Engineering and Science, which has played an instrumental role in enhancing research in Texas.

Dr. Smalley devoted his talent to employ nanotechnology to solve the world's energy problem, which he believed could ultimately solve other global problems such as hunger and lack of water.

His devotion to science and its application to solving world issues earned him numerous honors and accolades, including the Distinguished Public Service Medal from the U.S. Department of the Navy and the Lifetime Achievement Award from Small Times Magazine.

While Dr. Smalley may no longer be with us, his legacy will continue to grow as scientists build upon his work and all of us around the world reap the benefits of his discoveries.

My condolences go out to his wife Deborah, two sons, Chad and Preston, and the rest of his family and friends.

TRIP DIARY ON BEHALF OF THE HURRICANE KATRINA FARMWORKERS DISASTER RELIEF EFFORT

Mr. ENZI. Mr. President, I ask unanimous consent to have printed in the RECORD the trip diary of Dr. John Arnold on behalf of the Hurricane Katrina Farmworkers Disaster Relief Effort.

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

TRIP DIARY HURRICANE KATRINA FARMWORKERS DISASTER RELIEF EFFORT (THE LARGEST INTERSTATE NON-GOVERNMENTAL RELIEF EFFORT OF THE KATRINA/RITA/TORNADO AFTERMATH DISASTERS)

Trip log of Dr. John David Arnold on his 6-day trip to the Hurricane Katrina Disaster States of Mississippi and Alabama from Friday, September 9, 2005 to Wednesday, September 14, 2005—His debriefing trip to federal

agencies and Congressional Representatives in Washington, D.C. September 29 and 30, 2005.

INTRODUCTION

Why go to the Mississippi and Alabama? Perhaps because they are rural states with many farmworkers that are consistently ignored and would be forgotten about in the Hurricane Katrina/Rita relief efforts. Also, because of the abject poverty these workers are in. They would be hard pressed to find resources to evacuate. Most had no credit cards, no bank accounts, no gas, nor cars to put it in. A key concern was the remoteness of these rural agricultural states and the lack of adequate infrastructure to deal with Hurricane disasters. Another key factor is that the coastal region infrastructure was all but compromised by the storms. Our long-term relationship with two sister farmworker organizations, Mississippi Delta and Telamon Alabama farmworker councils as contacts would facilitate our relief assistance as their headquarters are located far inland and their infrastructure was intact. This was an opportunity to move much needed relief supplies to that region for present needs as well as establish for the future a permanent emergency relief supply distribution and training center. The following is my diary of the 6 days spent in the Gulf States region from September 9th—September 14, 2005, and subsequent events.

PRE-WEEKEND COLLECTING PHASE

SEPTEMBER 7, 2005: INITIAL CONTACT PHASE WITH GULF STATES REGION PARTNERS

A. Initial contact with sister agencies Mississippi Delta and Alabama Telamon Farmworker Councils.

B. Conference call LULAC Executive Board to secure $5,400.00 to pay for the costs of the first convoy of three (3) trucks with emergency relief supplies from Arizona to Clarksdale, Mississippi

SEPTEMBER 8TH: PPEP KATRINA RELIEF EFFORT IN TUCSON, AZ

I spent most of the day (AM) arranging for transport vehicles and volunteer laborers to load the (3) 26′ Penske rental trucks with emergency relief supplies. By noon trucks had been secured as well as 12 students from PPEP TEC Charter H. S., Fernandez Learning Center. Initially the donated items came from both of the 13 PPEP TEC Charter High Schools, the general public, and later the bulk of the items from World Care. Lisa and Pam, from World Care were most generous with the relief supplies they had collected as well as with volunteers, trucks and drivers. The students of PPEP TEC were also great and we worked loading the 3 26′ trucks for about 4–5 hours in 107° heat. One of the young ladies passed out and was taken to urgent care—she was fine. The hungry student volunteers were treated to the Home Town Buffet all you can eat buffet. The media was great; CBS Channel 13 showed up and interviewed us about what we were doing as well as the Tucson Citizen photographer Gary Gaynor. During the loading, I was interviewed by Maria Garza live on her Hispanic radio network program. One of about a dozen such interviews daily while I was in the gulf state region. The Washington Post tracked me down in Clarksdale on the abuses to the immigrant workers. We spoke about the need for mobile medical clinics, bilingual volunteers to translate for Spanish speaking volunteers wanting to fill out FEMA Emergency relief applications. There was discussion about Wal-Mart and Home Depot making discounts and jobs for Katrina low income victims to repair their home—of course many do not even have homes to fix nor are the insurance companies willing to pay for it if they did have insurance. The students that helped us load the trucks were impressed with that because of their hard work they were ''now humanitarians—they showed there is hope for the future generations.''

SEPTEMBER 9TH: MOBILIZING VOLUNTEERS, RESOURCES, DEPARTURE TO CLARKSDALE, MISS.

A press conference was held at 10:30 a.m. Friday, September 9, 2005 to thank everyone involved with the relief effort as well as a send off for those 7 individuals on the PPEP staff that volunteered to make the some 25 hour 1,500 mile drive from Tucson to Clarksdale, Mississippi to our drop off point and then fly back to Tucson. They were Art Benge, Olivia Bernal, David Green, Suzette Hamill, George Long, and Samuel Lopez. I flew down ahead of time to make preparations for their arrival and visit farmworker camps in the region. George Long from PMHDC would head up the first convoy. The press conference was attended by the Arizona Star, Tucson Citizen and Channel 4 (NBC) provided coverage. About 35 students and staff along with Representative Ted Downing participated in the send off. Representative Ted Downing spoke of the loss psychologically that Katrina victims have sustained. This includes disorientation because the landmarks are gone, time of day no longer matters, whether it's Sunday or Saturday is meaning less. Despair, poverty, disease, loss of family members and possessions blur everything. Time seems to stand still until the shock wears off, relief or rescue arrives, if ever. During Maria Garza's live radio broadcast, I brought up these points and others; such as need for volunteer bilingual psychological counseling, legal assistance for the victims, bio-hygiene was also discussed as crucial, just to feel clean again. Among the items transported were health, personal hygiene kits, canned food, clothing of all ages, bedding, water, crutches, walkers, infant needs, and even pet food there was need for insect repellent as the mosquito population was exploding carry diseases. Clorox is a priority as the monster mold that sets in afterwards.

My flight to Clarksdale was rerouted to Little Rock, Arkansas 2 hours away from Clarksdale. My purpose for flying ahead of the relief convoy was to make preparations in Clarksdale to set up the proposed storage facility to be used later for distribution of the contents of the three trucks of donated items. Furthermore, we were to have a press conference and tour on Saturday the local emergency shelter with Hector Flores, President of LULAC, Congressman Benny Thompson as well as consult with local emergency officials.

Initially, LULAC contributed the $5,400 to cover rental of the 3 trucks, airfare for drivers to return home, gas and lodging. PPEP, Inc. contributed the staff hours, logistics on both ends of the trip. My flight arrived at Little Rock at 10:24 p.m. where I was greeted by Mr. Nathan Norris a representative from Mississippi Delta Farmworker Council who drove me to Clarksdale. Because of several detours we arrived in Clarksdale at 4:00 a.m.

SEPTEMBER 10TH CLARKSDALE, MISSISSIPPI TOUR/PRESS CONFERENCE/OUTREACH TO FARMWORKERS, MORNING

Don Green picked me up from the Best Western and we had breakfast and talked over strategies for recovery the efforts including microbusiness and housing development. Afterward we went to the Mississippi Delta Farmworker Council office in Clarksdale and greeted Barbara Thompson and met the other staff. I located Hector Flores President of LULAC that had flown into Jackson, Mississippi, and rented a car. During the morning, two groups of Mexican farmworkers came into the office and I translated for them as there were no Spanish speaking workers there or anywhere I went. We made arrangements to go visit the farmworkers that evening where they lived as well as present the services available in Don's job training organization. Don and I went out to Stovall Farms where we saw some farmworkers and also promised to return with Pizza's in the evening and talk to the rest of the group. Back at the office we made preparations for the press conference at 1:30 p.m. Mr. Hector Flores arrived with assistant Mr. Briones and he talked to some of the farmworkers whom had come into the office and took photos with them. We then took off to the local shelter located at the Clarksdale Expo Center. The center was being toured by the local, State, and congressional representative Bennie Thompson. The center was very well organized, equipped, and supplied all with local resources—mainly none governmental. After the shelter tour, we went back to the Mississippi Delta office for the press conference. Hector, myself, and Congressman Thompson spoke to the press and the group assembled there. The balance of the afternoon was devoted to making flyers in Spanish, which I translated, and ordering 60 pizzas and sodas for the evening farmworkers meetings.

At 5 p.m. went back to Stovall Farms passing the Indian burial mounds. We found the farmworkers playing volleyball behind one of the houses. Corn, barley, marlo, cotton, soybeans, rice, and catfish farming are common to the area. There are also some casinos along the river. Some of the people say the once rich soil is being depleted and contaminated by overuse of pesticides. The farmworkers at Stovall listened to our presentation of services, ate pizza, and we took pictures together. Don's group played volleyball with the farmworkers, an important bonding between two diverse cultures yet with the same farm work background. We then left for a trailer park near Clarksdale that housed farmworkers, unlike Stovall farms most spoke English. We ate pizza together with these workers whom were interested in computer, CDL, and technical classes. The Stovall farmworkers wanted English classes. Both types of classes were going to be looked into by Barbara Thompson from Delta.

The last stop was to visit some farmworkers was at Vance, Mississippi, about 15 miles south of Clarksdale. One group of male farmworkers invited us into their home where we exchanged pizza and a Mexican dish prepared by the farmworkers. Afterwards, we took the balance of the pizza to the shelter for the evacuees whom were mostly out for the evening in town. We spoke to the sheriff safety officers at the shelter and they advised us if we were going to the coastal cities of Biloxi and Gulfport we should take extra gas rations as supplies were non-existent. Also, suggested we travel with armed guard or get Military Police escort while in the immediate coastal area as there are armed gangs, car jacking, and looting. Once there, I saw none of that, only people whose dreams were shattered and praying that relief would arrive soon. Also suggested, was that we must leave before it gets dark because it is extremely dangerous and the military has a curfew and will snipers shoot at you. I then returned to my hotel. Most all the hotels in Mississippi are completely filled with evacuees. The first available reservations were in December.

SEPTEMBER 11TH: TRIP TO GULF COAST REGION—PPEP CONVOY ARRIVES

We left Clarksdale at 6 a.m. and traveled down Highway 49 through Indianola, Jackson, and Hattiesburg to 1–10 and Gulfport. One of Don's staff personal that drove was armed in case of an emergency. We arrived

in Jackson and stopped for fuel to ensure we could get in and out of the Gulf area. From that point on we began to see damage of trees uprooted and buildings in disrepair.

As we got closer to Biloxi and Gulfport, there was evidence of military personnel, shelter tents and relief stockpiles in the open, mainly donated items that were being distributed. People were returning and the areas inland north of the US–90 were congested with vehicles. Perhaps loading up with supplies, rebuilding materials, and families returning to survey what was left if anything. Some of the gas stations were open (long lines) and a few restaurants were all very busy. As we got closer to downtown Gulfport the road was blockaded and cars were screened by the Military Police. The Downtown was abandoned as far as business activity since most of them were damaged, many beyond repair or blown away.

As we approached US–90 the buildings were leveled and the large hotels facing the beach were blown out and only their structural frames remained. Once on US–90 we were stopped again and screened carefully to continue westbound. Once heading west, the evidence of the magnitude of the storm was alarming. The floating casinos were beached. One casino had rested atop what was once a 3-story motel and flattened it. All the businesses along the route were swept away and barely a trace left where they once stood. The large oaks were leveled and stripped of their leaves. Most were up rooted. The banana industry warehouses and trucks near the docking areas were gone. Their mangled and twisted trailer truck frames were scattered everywhere. I took several hundred digital photos with one hand and attempted to videotape the unbelievable devastation with the other hand. As we proceeded east on US–90 in Gulfport, I noticed only empty spaces where many stately mansions I remembered previously seeing were swept away. All that was left was mangled truck frames, vehicles, scattered railroad cars, and enormous uprooted oak trees. Occasionally there were cement steps that once led up to the houses otherwise there was no evidence of some ones home ever being there.

The only structure that remained with some semblance in its former state was the Gulfport Girls College where my mother once attended school, now Mississippi State College. However, upon closer inspection only the walls remained. The building had been gutted by the wind and water surges that were some 30 feet high and winds up to 200 mph. The newer school structures were gone. One heartening thing was the 300-year-old oak tree known as the Friendship Tree apparently survived. I took some photos there and called my daughters Chaska and Tika and let them know the tree they played on was still there. In order to enter the area we had to have a military escort as helicopters were flying overhead watching closely for looters. Military Humvees were patrolling the area and checked on our presence. I took so many photos because I knew I could never describe what I saw nor would anyone believe me. These photos were some of the first taken as we were admitted to the areas shortly as it was opened up to public access. The roadway was not stable in some places and washed away in others. I was careful not to take photos of any families' victims of Katrina that might be surveying the damage. We headed back east on US–90 towards Biloxi, Miss. Once again the former business district was totally devastated or washed away. All the homes were devastated or completely gone. All that was left in some cases were the foundations and front steps. Some owners had left an American flag where there house once stood. One sign said ''Pray for Us'' others said ''looters will be shot.'' We stopped at the Biloxi Fire station to pick up Jacobo Brado from the Mexican Consulate. He was on loan from the Mexican Embassy to provide relief, cash, and airfare back to Mexico for certain evacuees. Also, they were running interference with the local military base that had arrested some illegal workers of one of the re-constructions contractors. He took us to a small Hispanic-owned grocery store where we talked to the owner and patrons whom came into the store about conditions in the Latino community. We also visited a nearby apartment complex where many Latinos live that worked in the casinos that were now damaged. It will take 9 months to a year, weather permitting to get them open again. Most of the tenants at the apartments lost their furniture and personal items during the Hurricane. We also went to a barrio we were told once housed hundreds of immigrants with their businesses and homes. Nothing was left but mounds of rubble, tree fragments, foundations, and heavily damaged vehicles. Some of the rubble was piled 20–30 feet high. It was total devastation. There was a terrible smell of sewage, perhaps rotting flesh, etc. I just could not imagine the once happy neighborhood now devastated beyond recognition. Proceeding west on US–90 in Biloxi was most difficult as the roadway was washed out in several places. Along the beach was a grouping of military tents called ''camp recovery'' I we also saw a hovercraft beached as well as some navel vessels docked. There was also a Mexican Navy ship with medical personnel and portable water purification units there. They were being delayed we were told because of U.S. Customs red tape. After our coastal tour we went and had lunch, there we left Jacobo and his three cell phones and headed back toward Clarksdale, Mississippi. All totaled it was a 6-hour drive from Clarksdale to Gulfport; we stayed 5 hours on the coast and 7 hours returning as we stopped in Indianola, Miss. to see Clanton Beaman.

Clanton heads up the Mississippi Delta Housing programs for farmworkers. I have known him for over 30 years and we talked about the funding of the programs and what would be needed for the reconstruction. Ironically USDOL had cut of all of his emergency and temporary housing funds this year.

We had dinner there and arrived at the Best Western in Clarksdale shortly after midnight. We also were informed that the PPEP relief convoy of 3–26' Penske rental trucks and the 1998 Pontiac van loaded with computers (donated by PPEP Inc) had arrived safely that evening. The Mississippi Delta staff had greeted them and provided a dinner. The sheriff also escorted them from the Arkansas/Mississippi border into Clarksdale.

SEPTEMBER 12TH: UNLOADING RELIEF SUPPLIES FROM TUCSON, AZ

We met the PPEP drivers at 8:00 a.m. and went to the Clarksdale Hospital Café, which provided us a free breakfast and lunch. That morning we drove the trucks to the Mississippi Delta distribution point but it was too small. So the Chamber of Commerce provided us a 60,000 sq. ft. warehouse with 3 loading bays free of charge. It took several hours for the local crew to unload the trucks. We contacted World Care in Tucson about the increased storage space for a regional distribution center and Pam from World Care immediately dispatched a 53 semi loaded with more relief supplies. Mississippi Delta received that day 130 calls for relief. They desperately need Spanish speaking personal to reach the Latino Community and farmworkers. We made pleas through the media to get Spanish speaking volunteers to come to Clarksdale. LULAC responded and will send someone and Mississippi Delta will provide housing.

The media, local, national, and international was great. Everyday at noon I provided an update over Maria Garza, Miami based National Hispanic Radio Program. The Washington Post called as did the Hispanic Magazine. The Arizona Daily Star also did a story and photo. These all helped us get more relief supplies and donations to World Care.

Once the trucks were un-loaded, Mississippi Delta treated the PPEP workers to a trip to the ''Rhythm and Blues'' Museum as Clarksdale, as it is the nation's capital for contributions to that music. Many of the greatest blues singers are from that region. Afterwards we returned to the Mississippi Delta office for the signing over of the 1998 (6) passenger van being donated by PPEP along with 5 computers for use in the emergency relief and re-training the farmworkers. We also visited the Chamber of Commerce to see if they would sell the warehouse we are using to distribute the emergency relief supplies. They are asking $650,000 for the property which is an about 10 acres and has railroad and 3 loading docks.

SEPTEMBER 13TH: TRIP TO MOBILE AND BALDWIN COUNTY—AGRICULTURE REGION ALABAMA

I left Clarksdale for Memphis to catch a Delta flight to Mobile, Alabama via Atlanta, Georgia. The purpose of the Alabama visit is to identify farmworkers Katrina disaster relief victims and find their whereabouts and needs. On my way to Mobile, I spoke to LULAC and obtained an additional $4,000 to transport two more 53′ semi-trucks to Clarksdale. World Care said they would match several more 53′ semi-trucks eventually making it 9 semi-trucks, and 3—26′ foot delivery. trucks to Clarksdale. Also, I spoke to Hector Flores to see if he could help Mississippi Delta purchase the warehouse as a permanent regional emergency relief center. LULAC will secure appointments with USDA, HUD, Commerce, and other agencies for my upcoming trip to D.C.

Once in Mobile, Alabama, I headed to the Mexican Consulate located in the Hispanic Ministries building on Dolphin Island Parkway. After briefing the Mexican consulate staff we waited for Michelle Coel of the Alabama Telamon Farmworker Council and her assistant Elizabeth. We all then went to a very crowded Olive Garden Restaurant to have a late lunch and exchange information about what each was doing. Afterwards we went with the Mexican Consulate staff to Fairhope located in Baldwin County. This is a major agricultural region for peanuts, cotton, peaches, etc. Names of the Mexican Consulate staff were: Alberto Diaz (Atlanta), Alfonso Joule (Chicago), David Peñaflor (Florida), and Astrid Diaz (SRE. D.F.), Enrique Maldonado (Consul General), Jorge Cesar (Atlanta).

When we arrived one of Michelle's contacts greeted us and took us to a grocery store where farmworkers shop. There were 75 farmworkers there waiting for us. I translated for Michelle as she explained what Telamon Alabama Farmworker Council does and the services they offer. The Mexican Consulate team that included Enrique Maldonado from the Mexican Consulate in Atlanta, Georgia and staff from other branches of the SRE. They made presentations of their government's services. The farmworkers raised a number of concerns such as;

1. Abuses by local law enforcement officers stopping, citing, and harassing Hispanic drivers to a point they are afraid to drive.

2. Landlord abuses of charging high rents and surcharges along with steep fines if late. Shutting off water arbitrarily. Also having vehicles towed off and throwing out their furniture in the street. Non-refundable deposits of $1800 are required to move into dilapidated trailers.

3. Abuses by employers refusing to pay workers for their labor. Threatening to call immigration and have them deported if they complained.

4. Fear of government and law enforcement to the point they do not report crimes against them such as robberies, assaults, rapes, etc.

5. No recreation available for the youth, which breeds drinking and drug abuse.

6. No one to turn to for help or to be their advocate.

7. Need for picture identification cards and classes to learn English were top priorities.

8. Expressed the desire to be working and helping with the reconstruction efforts in the region.

Both the Mexican Consulate and Telamon Alabama staff gave out checks for rental assistance, and other emergency needs that surfaced from the workers. The Mexican Consulate and I visited a family in a trailer park that needed to be repatriated to Mexico. Airfare was made available as well as the logistics to get to the airport. There was mention that the US Immigration Authorities were honoring an Amnesty directive to not arrest Katrina victims. Maybe someone in Washington got smart and realized we might need these workers to repair the devastated Gulf States. Later I found out this was contradicted by numerous arrests of illegal workers. The message from Washington on this issue was not clear. Also, it was reported in the newspaper that several victims whom applied for disaster assistance were in deportation hearings. This experience pointed out how poorly we are prepared to make accessible emergency relief services or even to notify and evacuate these workers when danger is eminent. Also, it pointed out the greed that drives abuses and discrimination and harassment directed towards our farmworkers. Also, the need for Spanish speaking workers at hospitals, schools, banks, police forces, county, state, and federal offices. Ironically, it was at the Mexican Consulate I found that they were the only governmental agency on the scene along with the USDOL NFJP WIA 167 grantees that provided Spanish speaking services. They also rescued me and provided lodging in Mobile as there were no hotels available. We crashed with the Mexican media and staff in a 4–bedroom house.

SEPTEMBER 14TH: TOUR OF BAYOU LA BATRE AND PASCAGOULA, MISS. DISASTER REGIONS

I got up early and called the airport transportation dispatcher and told her I wanted to tour the coastal disaster areas. I left at 8:00 a.m. from the Mexican Consulate house and proceeded west to Bayou Batre. I was told this is one of the most important gulf shrimp and fishing areas mostly run by Cambodian and Vietnamese immigrants. There were reports that Latinos were moving into the area as well. I noticed at the local store ''Jurritos sodas'' and other favorite food of Latinos. However neither the Asians nor Latinos could be found because there homes were wiped out.

As for the fishing port area it was heavily damaged and well as the residential and business districts. There is grave concern about the water quality for the shrimp and fish. Government workers were on rafts testing the waters. The stench was almost nauseating. The driver took me along the coastal area where the fisherman once lived. There were very few structures left as the storm surge was up to 30 feet. The fishing peers were just poles in the water and none of the infrastructure survived. I could see the water line on the trees as well as debris high up on the limbs. There were fishing ships overturned and some pushed far inland. Upon returning to highway 90 I proceeded to Pascagoula, Mississippi. By the way, the driver ''James'' pointed out the alligator farm that made the national news because of the 200 alligators that had escaped. We stopped and I saw an enormous bull alligator still in his confinement.

However, across the parking lot in a shallow pond, there was a small alligator that peered up at me, when I approached him he lunged forward at me.

Once in Pascagoula, Mississippi, I observed much of the devastation I saw in Gulfport and Biloxi, but on a much larger scale. The devastation on the waterfront neighborhoods was total. Some huge homes had been pushed inland, others destroyed on their foundations. Most of the lots had only their concrete front steps. Otherwise, their lots were swept clean by the force of the winds and 20′ to 30′ water surges. Some locals said that the gusts of winds got up to 200 miles an hour. In the interior neighborhoods the people were just returning and you could see clothing drying out and mounds of ruined furniture and appliances piled up, tagged, out front for removal. Some streets were still blocked because of the debris, service trucks, and removal equipment.

Everywhere there were utility vehicles restoring power, dump trucks, cranes, front loaders, and emergency vehicles. There was definitely a bustle of activity to restore some semblance of the community. There were some gruesome stories such as before one hardware store could open 5 dead bodies had to be removed from the roof. As for comparisons to Hurricane Camille the old timers said Katrina by far was the worst. Even the elevated railroad bridge and Highway 90 were breached this time. I had to hurry back to Mobile to catch a plane, but the driver said there was not enough time so we continued on the Pensacola, Florida to catch a flight to Tucson, Arizona via Dallas, Fort Worth. On the way to Pensacola, Maria Garza gave me 25 minutes on her program to discuss the aforementioned negative situations with the farmworkers we found in Baldwin County, Alabama.

Upon my return to Tucson we had a press conference to debrief and thank the volunteers and our partners such as LULAC, PPEP TEC Charter High School students, and World Care. By then five more 18–wheelers from World Care had arrived in Clarksdale, Miss. In Mobile, Alabama, we have located another warehouse as a sub regional distribution center. Yes there was another Hurricane since then, ''Rita'' who spawned high winds, water, and tornados in the Clarksdale region. Both Hurricanes were category 5 and three weeks apart.

After Rita, the only indoor relief center was in Clarksdale as most others were left to the elements and ruins. Don and I made plans to travel to Washington, D.C. to hopefully meet with government officials; USDOL, USDA, HUD and Commerce to find resources to keep the relief center permanent for economic development and training. We also will attend the National LULAC Board meeting while there and thank them for their donations. We will show a PowerPoint we developed showing the relief efforts, the devastation, as well as a photo album and this trip diary.

SUMMARY

What was accomplished on this short trip to the Gulf States was the following:

1. Collection and transporting of emergency relief supplies from Tucson, Arizona that included 6 53' semi-trucks, 3 26' semi-trucks, donation of 1998 (6) passenger van with (5) computers. PPEP, INC. staff which drove these trucks came from our school, property management, finance, and housing divisions. World Care whom we owe the greatest thank you provided 9 semis and CDL drivers. Lisa and Pam of World Care get 3 gold stars! They never said ''No''—just that ''more trucks are on the way.'' LULAC earns a gold star for providing $10,000 to cover the cost of 3 drivers' food, 2 semi's, lodging, 3 rental trucks, gas and associated costs.

2. Establishing in Clarksdale, Mississippi a permanent regional emergency relief distribution, training, and economic development center. We secured free of charge a 10 acre 60,000 sq. ft. modern warehouse with 3 truck bays, railroad spur for securing storing and distribution of emergency supplies. We need $650,000 to purchase the building.

3. We helped bond relationships between the African American community and the Latino community everywhere we went. Jesse Jackson and Hector Flores of LULAC have named this the ''New South'' partnership.

4. We have helped surface the abuses and discrimination that is on going in the region against Latinos. We owe much gratitude to Maria Garza and her national Hispanic radio program that aired my updates each day. As well as the Mexican Consulate staff from Atlanta, Georgia.

5. We have given the local farmworkers staff and the farmworkers our love and concern and the knowledge that there are many of us out there that care about them and this forgotten region.

6. Learned to appreciate what it means to lose all your earthly possessions, pets, including loved ones.

7. Set the foundation to continue supporting the long-term recovery efforts long after FEMA, Red Cross, and the Salvation Army, which never arrived for the farmworkers and other relief agencies, depart the region.

8. We found out great and lasting relief efforts for those forgotten really do work—even without federal dollars.

An important thought came to me; President James Madison once said ''those societies that honor the workers that toil the fields shall endure.'' I observed that in the Katrina crisis brought out the best and worse in our society. If all the dedicated efforts I witnessed made during the aforementioned relief efforts are any indication—then President Madison would be proud of them.

THE DEBRIEFING IN D.C.—POST KATRINA/RITA/TORNADO AFTERMATH

On Friday, September 30, 2005, Don Green and myself made several visits in D.C. on Capitol Hill as well as meeting with federal officials to present our Katrina/Rita emergency relief report and recommendations on what is needed not to help provide much needed relief as will as re-construction of the rural agriculture regions.

Furthermore, the important of the Clarksdale facility as a permanent emergency relief distribution training center, we also presented our concerns on civil rights violations, and wide spread abuse by tenant landlords and the failure of FEMA, Salvation Army, and the Red Cross to reach farmworkers hurricane victims. Perhaps a good reason not to give to the Red Cross or Salvation Army because at it never will get to farmworkers. Best give to local charities and relief organizations that have on going contacts with farmworkers. We presented the fact that these agencies had they found the farmworkers there were no Spanish speaking field workers. We also discussed the failure of federal agencies medium of communication to warn farmworkers of eminent danger as well as relief efforts. Most federal agencies were putting the word out over their websites or in the media but in English. Of course farmworkers do not have computers and when electricity was out so were the radios.

USDOL MEETING

We raised the concern with USDOL that by sending all its relief monies to the State Work Force Investment Boards the relief does not get to the farmworker community or the organizations that serve them. We also made note that USDOL contracting with privately owned personnel agencies that have no previous experience providing job referrals to farmworkers. Furthermore, we made mention that the government and relief agencies bypassed the USDOL WIA 176 NFJP farmworker job training grantees in Alabama and Mississippi that had a combined 40 years experience serving local migrant and seasonal populations. Don Green submitted a proposal to USDOL for $80,000 to hire 3 Spanish speaking outreach workers to assist the farmworkers victims. USDOL is to get back with him on that request. We also requested USDOL for funding to create a training program for operating an emergency relief warehouse and distribution center. Training would include forklift operations, CDL truck drivers, warehouse management, inventory, receiving and distribution, accounting, computer, and English classes.

HUD MEETING

Meeting took place in the office of the Deputy HUD Secretary Roy A. Bernardi, whom we presented the need for acquiring the $850,000 needed to purchase and renovate the Clarksdale facility. Our Katrina/Rita Relief Report was also presented and we requested that Secretary Jackson take this report to his briefing at the White House later in the day.

USDA MEETING

Met with Deputy Secretary of Agriculture Charles F. Conner and his assistant Annabelle J. Romero and also presented the need to provide funding to obtain the Clarksdale Relief Facility. We also presented to the Civil Rights Deputy Assistant and presented the civil rights and blatant abuses of farmworkers in Baldwin County, Alabama.

US DEPARTMENT OF COMMERCE

We met with Secretary Gutierrez and presented him the Katrina/Rita Report. He was most interested and indicated that we would contact HUD and USDA and see how the 3 agencies could be of assistance in obtaining the Clarksdale Facility.

DIRECTION OF OFFICE PERSONAL MANAGEMENT

We met with Director Carol Springer and staff regarding Spanish media outlets to get the word out to farmworkers during emergencies. Also, requested her to talk to FEMA and other governmental agencies about the need for hiring and training Spanish speaking workers to interface with farmworkers and others in the workforce.

ON CAPITOL HILL

We were able to also present our Katrina/Rita Relief Reports to Arizona Congressman Raul Grijalva, Senator John McCain, and Ken Salazar (Col) directly. We also spoke to the staff of Senator Mike Enzi (WY); Senator Lieberman of Connecticut, Senator McCain took special interest in the report because of family roots in Mississippi.

LULAC

Don Green and I were recognized at the LULAC luncheon, and allowed to give our profound thanks for the $10,400 LULAC contributed for trucking of relief supplies from Tucson to Clarksdale, Mississippi. Don Green received the LULAC Presidential Citation Award by President Hector Flores for the job he and his agency had done to help farmworkers in Mississippi.

That evening Leticia Aragon, President of LULAC Council 1091 of San Luis, Arizona, presented Don Green a check for $1,075 which was collected by the farmworkers adult and youth from her hometown to help fellow farmworkers in Mississippi. Eight farmworker youth who were attending the National LULAC Leadership Conference in D.C. joined in the presentation. On Saturday, I officially presented the Katrina/Rita Relief report to the LULAC National Board meeting and thanked them for their generous support both financially and other support including opening doors to the government agencies to hear our case.

ADDITIONAL STATEMENTS

HONORING WERNER FORNOS

• Mr. SARBANES. Mr. President, today I would like to honor Werner Fornos, who is retiring after 23 years as president of the Population Institute. Across his long and productive career, Werner has worked tirelessly to improve the lives of Marylanders and people around the world.

Werner has been a dedicated public servant. He and I served together in the Maryland House of Delegates from 1966–1970. As a delegate he fought many important legislative battles—to protect the State's natural resources, to strengthen civil rights and to ensure open government. He served as Maryland's Manpower Administrator and as Assistant Secretary of Human Resources. At the Federal level he served as Special Assistant to the U.S. Assistant Secretary of Labor for labor-management relations and Deputy Assistant Manpower Administrator.

Over the past three decades, Werner broadened his focus to the international arena, fighting to expand access to voluntary and affordable family planning information, education, and services to couples across the globe. He has spoken to college and university audiences and service and community organizations in all 50 States and has addressed virtually every major international population and development conference. He has written numerous opinion articles for newspapers and magazines worldwide, and is the author of the book, ''Gaining People, Losing Ground.''

His numerous awards and honors include the Humanist of the Year Award of the American Humanist Association; the University of Maryland University College Alumnus of the Year Award; Germany's Order of Merit, the highest distinction granted by the German Government; Rotary International's 2005 Service Above Self Award; and the 2003 United Nations Population Award.

Werner Fornos' efforts for more than a quarter of a century have aimed to provide a better quality of life for people everywhere. I ask my colleagues to join me in commending his extraordinary record of achievement and public service.•

FAYETTEVILLE PUBLIC LIBRARY

• Mr. PRYOR. Mr. President, it is with the greatest pleasure that I today honor the Fayetteville Public Library which was recently named the 2005 ''Library of the Year'' by Thomson Gale and Library Journal. The Library of the Year Award honors the library that is most dedicated to community service through its creativity and leadership. Thompson Gale and Library Journal will present a check for $10,000 to the Fayetteville Public Library later this month during the American Library Association's annual conference in Chicago, IL.

I would like to recognize Louise Schapter, executive director of the Fayetteville Public Library, and her outstanding staff, for their commitment to providing such a quality community resource to the citizens of Northwest Arkansas. During Ms. Schapter's tenure, library usage has soared. Visits have increased from 192,179 to 576,773, checkouts have risen from 271,187 to 718,159, program attendance has grown from 14,448 to 41,658, and cardholders have leaped from 15,662 to 48,419. What a remarkable accomplishment!

I would also like to mention that the Library has more than 160 regular volunteers, who deliver books to the homebound, shelve and cover books, staff the computer lab and conduct various programs. This involvement by the community is truly commendable and makes all of us in Arkansas proud.

Mr. President, I ask my colleagues to join me in congratulating the Fayetteville Public Library on receiving this well-deserved honor.•

HONORING SAM MOORE

• Mr. BUNNING. Mr. President, I proudly rise today to recognize Mr. Sam Moore for his outstanding contribution to Kentucky Agriculture.

Mr. Moore has served as president of the Kentucky Farm Bureau Federation since December 1998 following 7 years of service as first vice president. He has been a member of the Kentucky Farm Bureau Federation board of directors since 1975 and is a distinguished member of the American Farm bureau board of directors. Mr. Moore, a Butler County native and father of six has been an active member of Kentucky's agricultural community all his life. In 1973, Mr. Moore was selected an outstanding young farmer by the Kentucky Jaycees, and the following year he won a similar designation from the Kentucky Farm Bureau. As Kentucky's representative in the 1974 national young farmer competition, he received a special citation as one of the top entrants. In 2003, he was selected as Man of the Year in Kentucky Agriculture by Progressive Farmer Magazine.

Mr. President, Mr. Moore has announced he will retire after 30 years of outstanding service to the Kentucky Farm Bureau. The people of Kentucky are extremely fortunate to have had Mr. Moore's leadership over the years. I have had the honor and privilege of working with Mr. Moore on a variety of

issues and have found his dedication and commitment to agriculture admirable. He and his wife Helen serve as a wonderful example to the citizens of Kentucky and I would like to take this moment to recognize his service to the Commonwealth.

Mr. Moore, the citizens of Kentucky are grateful for all you have done for Kentucky and for the agricultural community.●

150TH ANNIVERSARY OF INDIANAPOLIS HEBREW CONGREGATION

● Mr. LUGAR. Mr. President, I rise today to acknowledge an important milestone in my home State. I am pleased to join with the more than 1150 families who are members of Indianapolis Hebrew Congregation as they commemorate their year long sesquicentennial celebration.

On November 2, 1856, fourteen Jewish men in Indianapolis signed the constitution and by-laws to create Indianapolis Hebrew Congregation, the first Jewish congregation in the growing city of Indianapolis. IHC, the largest congregation in Indiana, has played an important role as the spiritual home of the Jewish community in Central Indiana.

I strongly believe that a religious community cannot thrive without the active participation of its members. Indianapolis Hebrew Congregation's long and distinguished history of significance in the Indianapolis community is the result of members' hard work, dedication, and enthusiasm for their congregation. This celebration provides a special opportunity to recognize the many members who have put forth their time and energy to serve the congregation throughout the last 150 years.

I would like to extend to Indianapolis Hebrew Congregation my own personal mazel tov on celebrating this simcha. I am hopeful they will continue to celebrate many more years of fellowship and service in the Indianapolis community.●

AMERICAN LEGION AUXILIARY POST 62

● Mr. THUNE. Mr. President, today I wish to honor the ladies of American Legion Auxiliary Post 62 from Humboldt, SD. These ladies ranging from 60 to 80 years of age have not only been active supporters of our young men and women serving abroad but have dedicated themselves to providing support for their community and Nation.

This small group of dedicated members holds an annual fundraiser where this year they raised a considerable sum. The ladies of Post 62 were able to give an average of $150 to the following organizations: the West Central FFA, the Community Club Fund, the Volunteer Fire Department, Buddy Walk, the Special Olympics, and the Creative Arts Festival for Veterans. In addition to donating to this long list of charitable organizations they also purchased new dictionaries for all third graders in South Dakota's West Central School District.

I am proud to highlight the accomplishments made by the Ladies of Post 62 in Humboldt, SD, and I gladly congratulate them on their many and generous contributions to the State of South Dakota and to our Nation.●

MESSAGE FROM THE PRESIDENT

A message from the President of the United States was communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGE REFERRED

As in executive session the Presiding Officer laid before the Senate a message from the President of the United States submitting a nomination which was referred to the Committee on Finance.

(The nomination received today is printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE

At 2:58 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 2413. An act to designate the facility of the United States Postal Service located at 1202 1st Street in Humble, Texas, as the ''Lillian McKay Post Office Building''.

H.R. 3548. An act to designate the facility ofthe United States Postal Service located on Franklin Avenue in Pearl River, New York, as the ''Heinz Ahlmeyer, Jr. Post Office Building''.

H.R. 3989. An act to designate the facility of the United States Postal Service located at 37598 Goodhue Avenue in Dennison, Minnesota, as the ''Albert H. Quie Post Office''.

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 2413. An act to designate the facility of the United States Postal Service located at 1202 1st Street in Humble, Texas, as the ''Lillian McKay Post Office Building''; to the Committee on Homeland Security and Governmental Affairs.

H.R. 3548. An act to designate the facility of the United States Postal Service located on Franklin Avenue in Pearl River, New York, as the ''Heinz Ahlmeyer, Jr. Post Office Building''; to the Committee on Homeland Security and Governmental Affairs.

H.R. 3989. An act to designate the facility of the United States Postal Service located at 37598 Goodhue Avenue in Dennison, Minnesota, as the ''Albert Harold Quie Post Office''; to the Committee on Homeland Security and Governmental Affairs.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–4490. A communication from the Chairman, Occupational Safety and Health Review Commission, transmitting, pursuant to law, a report of the Commission's updated Strategic Plan for 2006–2011; to the Committee on Homeland Security and Governmental Affairs.

EC–4491. A communication from the Special Counsel, Office of Special Counsel, transmitting, pursuant to law, the Fiscal Year 2005 Report on Agency Management of Commercial Activities under the Federal Activities Inventory Reform (FAIR) Act; to the Committee on Homeland Security and Governmental Affairs.

EC–4492. A communication from the Executive Director, Interstate Commission on the Potomac River Basin, transmitting, pursuant to law, the Sixty-Fourth Financial Statement for the period of October 1, 2003 through September 30, 2004; to the Committee on Homeland Security and Governmental Affairs.

EC–4493. A communication from the District of Columbia Auditor, transmitting, pursuant to law, a report entitled ''Audit of Advisory Neighborhood Commission 3F for Fiscal Years 2003 Through 2005, as of March 31, 2005''; to the Committee on Homeland Security and Governmental Affairs.

EC–4494. A communication from the District of Columbia Auditor, transmitting, pursuant to law, a report entitled ''Audit of Advisory Neighborhood Commission 4D for Fiscal Years 2003 Through 2005, as of March 31, 2005''; to the Committee on Homeland Security and Governmental Affairs.

EC–4495. A communication from the District of Columbia Auditor, transmitting, pursuant to law, a report entitled ''Audit of Advisory Neighborhood Commission 5A for Fiscal Years 2003 Through 2005, as of March 31, 2005''; to the Committee on Homeland Security and Governmental Affairs.

EC–4496. A communication from the Secretary of the Treasury, transmitting, pursuant to law, a six-month periodic report on the national emergency with respect to Iran that was declared in Executive Order 12170 of November 14, 1979; to the Committee on Banking, Housing, and Urban Affairs.

EC–4497. A communication from the Director, Financial Crimes Enforcement Network, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Financial Crimes Enforcement Network; Amendment to the Bank Secrecy Act Regulations—Anti-Money Laundering Programs for Insurance Companies'' (RIN1506–AA70) received on October 31, 2005; to the Committee on Banking, Housing, and Urban Affairs.

EC–4498. A communication from the Director, Financial Crimes Enforcement Network, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Financial Crimes Enforcement Network; Amendment to the Bank Secrecy Act Regulations—Requirement that Insurance Companies Report Suspicious Transactions'' (RIN1506–AA36) received on October 31, 2005; to the Committee on Banking, Housing, and Urban Affairs.

EC–4499. A communication from the Administrator, Environmental Protection Agency, transmitting, pursuant to law, a report entitled ''Annual Report to Congress on Implementation of Public Law 106–107''; to the Committee on Environment and Public Works.

EC–4500. A communication from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled ''Price-Anderson Act Financial Protection Regulations and Elimination of Antitrust Reviews'' (RIN3150–AH78) received on October 31, 2005; to the Committee on Environment and Public Works.

EC–4501. A communication from the Principal Deputy Associate Administrator, Office

of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Colorado; PM10 Designation of Areas for Air Quality Planning Purposes, Lamar'' (FRL7983–4) received on October 31, 2005; to the Committee on Environment and Public Works.

EC–4502. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; State of Utah; State Implementation Plan Corrections'' (FRL7987–9) received on October 31, 2005; to the Committee on Environment and Public Works.

EC–4503. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans; Tennessee: Nashville Area Second 10-Year Maintenance Plan for the 1-Hour Ozone National Ambient Air Quality Standard'' (FRL7990–3) received on October 31, 2005; to the Committee on Environment and Public Works.

EC–4504. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans; North Carolina: Approval of Revisions to the Control of Visible Emissions Rule'' (FRL7988–2) received on October 31, 2005; to the Committee on Environment and Public Works.

EC–4505. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Revisions to the California State Implementation Plan, Ventura County Air Pollution Control District'' (FRL7986–8) received on October 31, 2005; to the Committee on Environment and Public Works.

EC–4506. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Standards and Practices for All Appropriate Inquiries'' (FRL7989–7) received on October 31, 2005; to the Committee on Environment and Public Works.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. GRASSLEY, from the Committee on Finance, without amendment:

S. 1953. A bill to amend the Internal Revenue Code of 1986 and the Employee Retirement Income Security Act of 1974 to protect the retirement security of American workers by ensuring that pension benefits are funded and that pension assets are adequately diversified and by providing workers with adequate access to, and information about, their pension plans, and for other purposes (Rept. No. 109–174).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. STEVENS for the Committee on Commerce, Science, and Transportation.

*Mark V. Rosenker, of Maryland, to be a Member of the National Transportation Safety Board for a term expiring December 31, 2010.

*Kathryn Higgins, of South Dakota, to be a Member of the National Transportation Safety Board for a term expiring December 31, 2009.

*Shana L. Dale, of Georgia, to be Deputy Administrator of the National Aeronautics and Space Administration.

Coast Guard nominations beginning with Rear Adm. (1h) Jody A. Breckenridge and ending with Rear Adm. (1h) Timothy S. Sullivan, which nominations were received by the Senate and appeared in the Congressional Record on October 25, 2005.

Mr. STEVENS. Mr. President, for the Committee on Commerce, Science, and Transportation I report favorably the following nomination lists which were printed in the RECORDS on the dates indicated, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar that these nominations lie at the Secretary's desk for the information of Senators.

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

Coast Guard nominations beginning with David K. Almond and ending with Jeffrey Saine, which nominations were received by the Senate and appeared in the Congressional Record on September 8, 2005.

Coast Guard nominations beginning with Steven J. Andersen and ending with Vann J. Young, which nominations were received by the Senate and appeared in the Congressional Record on September 15, 2005.

Coast Guard nomination of Louvenia A. McMillan to be Lieutenant.

National Oceanic and Atmospheric Administration nominations beginning with John W. Humphrey, Jr. and ending with Mark H. Pickett, which nominations were received by the Senate and appeared in the Congressional Record on July 29, 2005.

National Oceanic and Atmospheric Administration nominations beginning with Melissa M. Ford and ending with Jamie S. Wasser, which nominations were received by the Senate and appeared in the Congressional Record on September 28, 2005.

By Mr. LUGAR for the Committee on Foreign Relations.

Donald A. Gambatesa, of Virginia, to be Inspector General, United States Agency for International Development.

*Jeffrey Thomas Bergner, of Virginia, to be an Assistant Secretary of State (Legislative Affairs).

James Caldwell Cason, of Florida, to be Ambassador to the Republic of Paraguay.

Nominee: James Caldwell Cason.

Post: U.S. Ambassador to Paraguay.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, amount, date, and donnee:

1. Self: None
2. Spouse: Carmen Cason: None
3. Children and Spouses: William T. Cason, James C. and Michelle Cason: None
4. Parents: Arthur Cason, Marion Cason (deceased): None
5. Grandparents: None living last 20 years
6. Brothers and Spouses: William and Chris Cason: None
7. Sisters and Spouses: Linda & Tim Godell: None; Nancy & Doug Eckert: None; Susan Cason: None.

*Roland Arnall, of California, to be Ambassador to the Kingdom of the Netherlands.

Nominee: Roland E. Arnall.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, amount, date, and donee:

1. Self: Roland E. Arnall—See attached.
2. Spouse: Dawn L. Arnall—See attached.

Date, Amount, Donee:

10/9/2001, $1,000.00, Friends of Jane Harman;
3/29/2002, $2,000.00, Colorado Senate 2002;
6/20/2002, $1,000.00, Committee To Elect Artur Davis to Congress;
6/25/2002, $250,000.00, Democratic National Committee;
6/30/2002, $1,000.00, Katrina Swett for Congress Committee;
6/30/2002, $1,000.00, Katrina Swett for Congress Committee;
8/14/2002, $1,000.00, Denise Majette for Senate;
8/14/2002, $1,000.00, Denise Majette for Senate;
8/26/2002, $1,000.00, Ed Royce for Congress;
10/24/2002, $1,000,000.00, Republican National State Elections Committee;
3/26/2003, $25,000.00, Republican National Committee;
4/25/2003, $2,000.00, Tom Lantos for Congress;
4/25/2003, $2,000.00, Tom Lantos for Congress;
8/20/2003, $250.00, New Majority FEDPAC;
9/23/2003, $1,000.00, Republican National Committee;
9/25/2003, $2,000.00, Bush–Cheney 04;
10/13/2003, $500,000.00, California Republican Party;
12/11/2003, −$1,000.00, Republican National Committee;
2/10/2004, $2,000.00, Friends of Jane Harman;
2/17/2004, $22,250.00, Republican National Committee;
8/4/2004, $1,000,000.00, Progress for American Voter Fund;
8/18/2004, $4,000,000.00, Progress for American Voter Fund;
8/18/2004, $1,000.00, FEDPAC Tribute to Laura Bush;
10/20/2004, $2,000.00, Bush Cheney 04 Compliance;
10/20/2004, $4,500.00, 2004 Joint Candidate Committee II;
10/20/2004, $10,000.00, Joint Candidate Committee II;
10/20/2004, $15,000.00, Joint Candidate Committee II;
3/4/2005, −$1,000.00, California Republican Party;
6/17/2005, −$10,000.00, California Republican Party;
5/8/2001, $1,000.00, Berman for Congress;
5/8/2001, $1,000.00, Berman for Congress;
6/15/2001, $1,000.00, Tom Lantos for Congress;
10/9/2001, $1,000.00, Friends of Jane Harman;
3/29/2002, $2,000.00, Colorado Senate 2002;
4/2/2002, $1,000.00, Cardoza for Congress;
5/27/2002, $1,000.00, Feinstein for Senate;
5/29/2002, $2,500.00, LA PAC;
6/7/2002, $5,000.00, PAC to the Future;
6/20/2002, $1,000.00, Committee to Elect Artur Davis to Congress;
6/24/2002, $1,000.00, Cardoza for Congress;
6/25/2002, $250,000.00, Democratic National Committee;
6/30/2002, $1,000.00, Katrina Swett for Congress Committee;
6/30/2002, $1,000.00, Katrina Swett for Congress Committee;
8/14/2002, $1,000.00, Denise Majette for Senate;
8/14/2002, $1,000.00, Denise Majette for Senate;
8/26/2002, $1,000.00, Ed Royce for Congress;

3/21/2003, $10,000.00, DCCC;
4/25/2003, $2,000.00, Tom Lantos for Congress;
4/25/2003, $2,000.00, Tom Lantos for Congress;
4/30/2003, $1,000.00, Friends of Harry Reid;
9/25/2003, $2,000.00, Bush–Cheney 04;
10/13/2003, $500,000.00, California Republican Party;
2/2/2004, $2,000.00, Jim Costa for Congress;
2/10/2004, $2,000.00, Friends of Jane Harman;
3/2/2004, $2,000.00, Committee to Reelect Loretta Sanchez;
4/23/2004, $1,000.00, The Sherman for Congress Committee;
6/4/2004, $2,000.00, Friends of Katherine Harris;
6/4/2004, $2,000.00, Friends of Katherine Harris;
6/4/2004, $10,000.00, DCCC;
10/20/2004, $2,000.00, Bush–Cheney 04 Compliance;
10/20/2004, $2,500.00, 2004 Joint State Victory Committee;
10/20/2004, $9,500.00, 2004 Joint Candidate Committee II;
10/20/2004, $10,000.00, 2004 Joint Candidate Committee II;
10/22/2004, $10,000.00, RNC—Presidential Trust;
10/22/2004, $15,000.00, RNC—Presidential Trust;
11/5/2004, $312.00, Republican Federal Committee of Pennsylvania;
3/4/2005, −$1,000, California Republican Party, refund;
6/17/2005, −$10,000.00, California Republican Party, refund.

3. Children and Spouses: Daniel M. Arnall (Spouse: Judith Arnall), Michelle A. Arnall: $0

4. Parents: (Deceased)—$0

5. Grandparents: (Deceased)—$0

6. Brothers and Spouses: Claude E. Arnall (Spouse: Etty Arnall): See attached

Contributions, amount, Date, donee:

Jim Gerlach for Congress Committee, $450.00, 11/1/2004, Jim Gerlach;
Republican Federal Committee of Pennsylvania, $3,750.00, 11/5/2004, Republican Federal Committee of Pennsylvania;
Louie Gohmert for Congress Committee, $450.00, 10/20/2004, Louis B Gohmert, Jr.;
Walcher for Congress, $1,000.00, 12/31/2004, Greg Walacher;
Walcher for Congress, $1,000.00, 12/31/2004, Greg Walcher;
Tom Lantos for Congress Committee, $2,000.00, 4/25/2003, Tom Lantos;
Tom Lantos for Congress Committee, $2,000.00, 4/25/2003, Tom Lantos;
Gephardt for President Inc., $2,000.00, 9/30/2003, Richard A Gephardt;
Terrell for Senate, $1,000.00, 11/27/2004, Suzanne Haik Terrell;
Terrell for Senate, $1,000.00, 11/21/2002, Suzanne Haik Terrell;
Bush-Cheney '04 (Primary) Inc., $2,000.00, 8/7/2003, George W Bush;
New Hampshire Republican State Committee, $714.00, 10/27/2004, New Hampshire Republican State Committee;
Bush-Cheney '04 Compliance Committee Inc., $2,000.00, 10/20/2004, George W Bush;
Republican National Committee, $25,000.00, 2/25/2004, Republican National Committee;
2004 Joint Candidate Committee II, $20,000.00, 10/20/2004, 2004 Joint Candidate Committee II;
2004 Joint State Victory Committee, $30,000.00, 10/20/2004, 2004 Joint State Victory Committee;
Fitzpatrick for Congress, $450.00, 10/24/2004, Michael G Fitzpatrick;
Jeff Fortenberry for United States Congress, $450.00, 10/15/2004, Jeffrey Lane Fortenberry;
Wohlgemuth for Congress, $450.00, 10/18/2004, Mrs. Arlene Wohlgemuth;
Arkansas Leadership Committee 2004 FCRC, $1,071.00, 11/4/2004, Arkansas Leadership Committee 2004 FCRC;
Richard Burr Committee, $1,500.00, 10/23/2004, Richard Burr;
Missouri Republican State Committee-Federal, $1,965.00, 11/4/2004, Missouri Republican State Committee-Federal;
Nevada Republican State Central Committee, $894.00, 11/5/2004, Nevada Republican State Central Committee;
Porter for Congress, $450.00, 11/2/2004, Jon C Porter, Sr;
Friends of Dave Reichert, $450.00, 10/20/2004, Dave Reichert;
Republican Party of Florida, $4,821.00, 10/20/2004, Republican Party of Florida;
John Swallow for Congress Inc., $450.00, 10/20/2004, John Swallow;
Tauzin for Congress, $450.00, 10/20/2004, Wilbert J Tauzin III;
Walcher for Congress, $450.00, 10/20/2004, Greg Walcher;
Walcher for Congress, $1,000.00, 11/10/2004, Greg Walcher;
Washington State Republican Party, $981.00, 10/19/2004, Washington State Republican Party;
Geoff Davis for Congress, $450.00, 11/2/2004, Geoffrey C Davis;
Diedrich for Congress, $450.00, 11/22/2004, Larry William Diedrich;
Nancy Naples for Congress, $450.00, 10/15/2004, Nancy A Naples;
Ohio State Central & Executive Committee, $3,570.00, 10/25/2004, Ohio State Central & Executive Committee;
Ashburn Congress Committee, $450.00, 10/29/2004, Roy Ashburn;
Republican Party of Minnesota, $1,518.00, 11/22/2004, Republican Party of Minnesota;
Republic Party of Wisconsin, $1,785.00, 10/19/2004, Republican party of Wisconsin;
WV Republican State Exec Committee, $894.00, 10/22/2004, Republican State Exec Committee;
Bernard Parks for City Council, $500.00, 8/23/2002, Bernard Parks;
Bernard Parks for City Council, $500.00, 8/23/2002, Bernard Parks;
Jim Gerlach for Congress Committee, $450.00, 11/1/2004, Jim Gerlach;
Republican Federal Committee of Pennsylvania, $3,750.00, 11/5/2004, Republican Federal Committee of Pennsylvania;
Louie Gohmert for Congress Committee, $450.00, 10/20/2004, Louis B Gohmert, Jr.;
Walcher for Congress, $1,000.00, 12/31/2004, Greg Walcher;
Walcher for Congress, $1,000.00, 12/31/2004, Greg Walcher;
Tom Lantos for Congress Committee, $2,000.00, 4/25/2003, Tom Lantos;
Tom Lantos for Congress Committee, $2,000.00, 4/25/2003, Tom Lantos;
Gephardt for President Inc., $2,000.00, 9/30/2003, Richard A Gephardt;
Terrell for Senate, $1,000.00, 11/27/2002, Suzanne Haik Terrell;
Terrell for Senate, $1,000.00, 11/21/2002, Suzanne Haik Terrell;
Bush-Cheney '04 (Primary) Inc., $2,000.00, 8/7/2003, George W Bush;
New Hampshire Republican State Committee, $714.00, 10/27/2004, New Hampshire Republican State Committee;
Bush-Cheney '04 Compliance Committee Inc., $2,000.00, 10/20/2004, George W Bush;
Republican National Committee, $25,000.000, 2/25/2004, Republican National Committee;
2004 Joint Candidate Committee II, $20,000.00, 10/20/2004, 2004 Joint Candidate Committee II;
2004 Joint State Victory Committee, $30,000.00, 10/20/2004, 2004 Joint State Victory Committee;
Jeff Fortenberry for United States Congress, $450.00, 10/15/2004, Jeffrey Lane Fortenbery;
Wohlgemuth for Congress, $450.00, 10/18/2004, Mrs. Arlene Wohlgemuth;
Arkansas Leadership Committee 2004 FCRC, $1,071.00, 11/4/2004, Arkansas Leadership Committee 2004 FCRC;
Richard Burr Committee, $1,500.00, 10/23/2004, Richard Burr;
Missouri Republican State Committee-Federal, $1,965.00, 11/4/2004, Missouri Republican State Committee-Federal;
Nevada Republican State Central Committee, $894.00, 11/5/2004, Nevada Republican State Central Committee;
Porter for Congress, $450.00, 11/2/2004, Jon C Porter, Sr;
Friends of Dave Reichert, $450.00, 10/20/2004, Dave Reichert;
Republican Party of Florida, $4,821.00, 10/20/2004, Republican Party of Florida;
John Swallow for Congress Inc., $450.00, 10/20/2004, John Swallow;
Tauzin for Congress, $450.00, 10/20/2004, Wilbert J. Tauzin III;
Walcher for Congress, $450.00, 10/20/2004, Greg Walcher;
Walcher for Congress, $1,000.00, 11/10/2004, Greg Walcher;
Washington State Republican Party, $981.00, 10/19/2004, Washington State Republican Party;
Geoff Davis for Congress, $450.00, 11/2/2004, Geoffrey C. Davis;
Diedrich for Congress, $450.00, 11/22/2004, Larry William Diedrich;
Nancy Naples for Congress, $450.00, 10/15/2004, Nancy A. Naples;
Ohio State Central & Executive Committee, $3,570.00, 10/25/2004, Ohio State Central & Executive Committee;
Ashburn Congress Committee, $450.00, 10/29/2004, Roy Ashburn;
Republican Party of Minnesota, $1,518.00, 11/22/2004, Republican Party of Minnesota;
Republican Party of Wisconsin, $1,785.00, 10/19/2004, Republican Party of Wisconsin;
WV Republican State Exec Committee, $894.00, 10/22/2004, Republican State Exec Committee;
John Thune for U.S. Senate, $1,500.00, 10/13/2004, John Thune;
David Vitter for U.S. Senate, $1,500.00, 10/20/2004, David Vitter.

$243,076.00

7. Sisters and Spouses: N/A.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. KENNEDY (for himself and Mr. DEWINE):

S. 1951. A bill to amend the Public Health Service Act to help individuals with functional impairments and their families pay for services and supports that they need to maximize their functionality and independence and have choices about community participation, education, and employment, and for other purposes; to the Committee on Finance.

By Mr. COLEMAN (for himself, Mr. BAYH, Mr. CORNYN, and Mr. LUGAR):

S. 1952. A bill to provide grants for rural health information technology development

activities; to the Committee on Health, Education, Labor, and Pensions.

By Mr. GRASSLEY:

S. 1953. A bill to amend the Internal Revenue Code of 1986 and the Employee Retirement Income Security Act of 1974 to protect the retirement security of American workers by ensuring that pension benefits are funded and that pension assets are adequately diversified and by providing workers with adequate access to, and information about, their pension plans, and for other purposes; from the Committee on Finance; placed on the calendar.

By Mr. CRAIG (for himself and Mr. AKAKA):

S. 1954. A bill to amend the General Notes of the Harmonized Tariff Schedule of the United States to give products imported from United States insular possessions the same treatment as products imported from countries with which the United States has entered into a free trade agreement; to the Committee on Finance.

By Mr. ENZI (for himself, Mr. NELSON of Nebraska, and Mr. BURNS):

S. 1955. A bill to amend title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce costs through the creation of small business health plans and through modernization of the health insurance marketplace; to the Committee on Health, Education, Labor, and Pensions.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. SCHUMER (for himself, Mr. LAUTENBERG, Mr. DURBIN, Mrs. CLINTON, Mr. CORZINE, Mr. SALAZAR, Mr. KENNEDY, Mr. LIEBERMAN, Mrs. FEINSTEIN, Mr. DODD, Mr. KERRY, Mr. OBAMA, Mrs. BOXER, Mr. FEINGOLD, Mr. KOHL, and Ms. STABENOW):

S. Res. 294. A resolution expressing the sense of the Senate on the retention of the Federal tax deduction for State and local taxes paid; to the Committee on Finance.

By Mr. LUGAR (for himself, Mr. FRIST, and Mr. MCCAIN):

S. Res. 295. A resolution expressing the sense of the Senate on the arrest of Sanjar Umarov in Uzbekistan; considered and agreed to.

By Mrs. HUTCHISON (for herself and Mr. CORNYN):

S. Res. 296. A resolution honoring the life of and expressing the condolences of the Senate on the passing of Dr. Richard Errett Smalley; considered and agreed to.

By Mr. FEINGOLD (for himself and Mr. KOHL):

S. Res. 297. A resolution marking the dedication of the Gaylord Nelson Wilderness within the Apostle Islands National Lakeshore; considered and agreed to.

ADDITIONAL COSPONSORS

S. 368

At the request of Mr. LAUTENBERG, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 368, a bill to provide assistance to reduce teen pregnancy, HIV/AIDS, and other sexually transmitted diseases and to support healthy adolescent development.

S. 406

At the request of Ms. SNOWE, the name of the Senator from Pennsylvania (Mr. SANTORUM) was added as a cosponsor of S. 406, a bill to amend title I of the Employee Retirement Security Act of 1974 to improve access and choice for entrepreneurs with small businesses with respect to medical care for their employees.

S. 632

At the request of Mr. SANTORUM, his name was added as a cosponsor of S. 632, a bill to authorize the extension of unconditional and permanent nondiscriminatory treatment (permanent normal trade relations treatment) to the products of Ukraine, and for other purposes.

S. 633

At the request of Mr. JOHNSON, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 633, a bill to require the Secretary of the Treasury to mint coins in commemoration of veterans who became disabled for life while serving in the Armed Forces of the United States.

S. 855

At the request of Ms. COLLINS, the name of the Senator from Minnesota (Mr. COLEMAN) was added as a cosponsor of S. 855, a bill to improve the security of the Nation's ports by providing Federal grants to support Area Maritime Transportation Security Plans and to address vulnerabilities in port areas identified in approved vulnerability assessments or by the Secretary of Homeland Security.

S. 908

At the request of Mr. MCCONNELL, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 908, a bill to allow Congress, State legislatures, and regulatory agencies to determine appropriate laws, rules, and regulations to address the problems of weight gain, obesity, and health conditions associated with weight gain or obesity.

S. 912

At the request of Mr. FEINGOLD, the name of the Senator from Rhode Island (Mr. REED) was added as a cosponsor of S. 912, a bill to amend the Federal Water Pollution Control Act to clarify the jurisdiction of the United States over waters of the United States.

S. 994

At the request of Mrs. FEINSTEIN, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 994, a bill to authorize the Attorney General to make grants to improve the ability of State and local governments to prevent the abduction of children by family members, and for other purposes.

S. 1184

At the request of Mr. BIDEN, the name of the Senator from Virginia (Mr. ALLEN) was added as a cosponsor of S. 1184, a bill to waive the passport fees for a relative of a deceased member of the Armed Forces proceeding abroad to visit the grave of such member or to attend a funeral or memorial service for such member.

S. 1190

At the request of Mr. SALAZAR, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 1190, a bill to provide sufficient blind rehabilitation outpatient specialists at medical centers of the Department of Veterans Affairs.

S. 1191

At the request of Mr. SALAZAR, the name of the Senator from Louisiana (Mr. VITTER) was added as a cosponsor of S. 1191, a bill to establish a grant program to provide innovative transportation options to veterans in remote rural areas.

S. 1272

At the request of Mr. NELSON of Nebraska, the names of the Senator from New York (Mr. SCHUMER) and the Senator from Montana (Mr. BAUCUS) were added as cosponsors of S. 1272, a bill to amend title 46, United States Code, and title II of the Social Security Act to provide benefits to certain individuals who served in the United States merchant marine (including the Army Transport Service and the Naval Transport Service) during World War II.

S. 1315

At the request of Mr. LUGAR, the names of the Senator from Illinois (Mr. OBAMA) and the Senator from Rhode Island (Mr. CHAFEE) were added as cosponsors of S. 1315, a bill to require a report on progress toward the Millennium Development Goals, and for other purposes.

S. 1417

At the request of Mr. CRAIG, the names of the Senator from Missouri (Mr. TALENT) and the Senator from Missouri (Mr. BOND) were added as cosponsors of S. 1417, a bill to impose tariff-rate quotas on certain casein and milk protein concentrates.

S. 1440

At the request of Mr. CRAPO, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 1440, a bill to amend title XVIII of the Social Security Act to provide coverage for cardiac rehabilitation and pulmonary rehabilitation services.

S. 1512

At the request of Mr. SARBANES, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 1512, a bill to grant a Federal charter to Korean War Veterans Association, Incorporated.

S. 1791

At the request of Mr. SMITH, the names of the Senator from Texas (Mrs. HUTCHISON) and the Senator from Minnesota (Mr. COLEMAN) were added as cosponsors of S. 1791, a bill to amend the Internal Revenue Code of 1986 to allow a deduction for qualified timber gains.

S. 1815

At the request of Mr. ALEXANDER, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 1815, a bill to amend the Immigration and Nationality Act to prescribe the binding oath or affirmation

of renunciation and allegiance required to be naturalized as a citizen of the United States, to encourage and support the efforts of prospective citizens of the United States to become citizens, and for other purposes.

S. 1922

At the request of Mr. CONRAD, the name of the Senator from Oklahoma (Mr. COBURN) was added as a cosponsor of S. 1922, a bill to authorize appropriate action if negotiations with Japan to allow the resumption of United States beef exports are not successful, and for other purposes.

S. 1925

At the request of Mr. KENNEDY, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 1925, a bill to provide for workers and businesses during the response to Hurricane Katrina and Hurricane Rita, and for other purposes.

S. 1947

At the request of Mr. SUNUNU, the names of the Senator from Georgia (Mr. CHAMBLISS) and the Senator from Ohio (Mr. DEWINE) were added as cosponsors of S. 1947, a bill to amend chapter 21 of title 38, United States Code, to enhance adaptive housing assistance for disabled veterans.

S. RES. 219

At the request of Mrs. FEINSTEIN, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of S. Res. 219, a resolution designating March 8, 2006, as ''Endangered Species Day'', and encouraging the people of the United States to become educated about, and aware of, threats to species, success stories in species recovery, and the opportunity to promote species conservation worldwide.

AMENDMENT NO. 2351

At the request of Mr. CONRAD, the names of the Senator from Maryland (Ms. MIKULSKI), the Senator from New York (Mrs. CLINTON) and the Senator from Delaware (Mr. BIDEN) were added as cosponsors of amendment No. 2351 proposed to S. 1932, an original bill to provide for reconciliation pursuant to section 202(a) of the concurrent resolution on the budget for fiscal year 2006 (H. Con. Res. 95).

AMENDMENT NO. 2353

At the request of Mrs. MURRAY, the names of the Senator from Illinois (Mr. DURBIN) and the Senator from New York (Mrs. CLINTON) were added as cosponsors of amendment No. 2353 intended to be proposed to S. 1932, an original bill to provide for reconciliation pursuant to section 202(a) of the concurrent resolution on the budget for fiscal year 2006 (H. Con. Res. 95).

AMENDMENT NO. 2354

At the request of Mr. NELSON of Florida, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of amendment No. 2354 intended to be proposed to S. 1932, an original bill to provide for reconciliation pursuant to section 202(a) of the concurrent resolution on the budget for fiscal year 2006 (H. Con. Res. 95).

AMENDMENT NO. 2355

At the request of Mr. INHOFE, the names of the Senator from South Carolina (Mr. DEMINT), the Senator from Georgia (Mr. ISAKSON), the Senator from Arizona (Mr. KYL) and the Senator from Oklahoma (Mr. COBURN) were added as cosponsors of amendment No. 2355 proposed to S. 1932, an original bill to provide for reconciliation pursuant to section 202(a) of the concurrent resolution on the budget for fiscal year 2006 (H. Con. Res. 95).

AMENDMENT NO. 2357

At the request of Mr. NELSON of Florida, the names of the Senator from New York (Mrs. CLINTON), the Senator from Minnesota (Mr. DAYTON), the Senator from Maryland (Ms. MIKULSKI) and the Senator from Wisconsin (Mr. KOHL) were added as cosponsors of amendment No. 2357 proposed to S. 1932, an original bill to provide for reconciliation pursuant to section 202(a) of the concurrent resolution on the budget for fiscal year 2006 (H. Con. Res. 95).

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. KENNEDY (for himself and Mr. DEWINE):

S. 1951. A bill to amend the Public Health Service Act to help individuals with functional impairments and their families pay for services and supports that they need to maximize their functionality and independence and have choices about community participation, education, and employment, and for other purposes; to the Committee on Finance.

Mr. KENNEDY. Mr. President, it's a privilege to join Senator DEWINE in introducing this bipartisan legislation to build on the promise and possibilities of the Americans with Disabilities Act.

Our bill, the Community Living Assistance Services and Supports Act—the CLASS Act—will help large numbers of Americans who struggle everyday to live productive lives in their communities.

Too many Americans are perfectly capable of living a life in the community, but are denied the supports they need.

They languish in needless circumstances with no choice about how or where to obtain these services.

Too often, they have to give up the American Dream the dignity of a job, a home, and a family—so they can qualify for Medicaid, the only program that will support them.

The bill we propose is a long overdue effort to offer greater dignity, greater hope, and greater opportunity.

It makes a simple pact with all Americans—''If you work hard and contribute, society will take care of you when you fall on hard times.''

The concept is clear—everyone can contribute and everyone can win. We all benefit when no one is left behind.

For only $30 a month, a person who pays into the program will receive either $50 or $100 a day, based on their ability to carry out basic daily activities.

They themselves will decide how this assistance will be spent—on transportation so they can stay employed, or on a ramp to make their home more accessible, or to cover the cost of a personal care attendant or a family caregiver.

It will help keep families together—instead of being torn apart by obstacles that discourage them from staying at home.

The bill will strengthen job opportunities for people with disabilities at a time when 70 percent are unemployed. They have so much to contribute and the bill will help them do it.

It will save on the mushrooming health care costs for Medicaid, the Nation's primary insurer of long-term care services, which also forces beneficiaries to give up their jobs and live in poverty before they become eligible for assistance.

The CLASS Act is a hopeful new approach to restoring independence and choice for millions of these persons and enabling them to take greater control of their lives.

It's time to respect the rights and dignity of all Americans, and I look forward to working with Senator DEWINE and other colleagues to see this bill enacted into law.

I ask unanimous consent that a summary of the CLASS Act legislation be printed in the RECORD.

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

SUMMARY OF THE DEWINE-KENNEDY CLASS ACT OF 2005—(COMMUNITY LIVING ASSISTANCE SERVICES AND SUPPORTS ACT)

PURPOSE OF THE BILL

To help adults with severe functional impairments obtain the services and supports they need to stay functional and independent, while providing them with choices about community participation, education and employment.

BACKGROUND

Currently there are 10 million Americans in need of long term services and supports, and the number is expected to increase to near 15 million by 2020.

Most private-sector disability or long-term care insurance plans are constrained in the insurance protection they can offer at an affordable price, and neither Supplemental Security Insurance (SSI) nor Old, Age, Survivors, and Disability Insurance (OASDI) programs have any benefit differentials related to the extent and character of the disability.

Thus, most Americans who have or develop severe functional impairments can only access coverage for the services critical to their independence (such as housing modifications, assistive technologies, transportation, and personal assistance services), through Medicaid. Their reliance on Medicaid for critical support services creates a strong incentive for them to ''spend down'' assets and remain poor and unemployed. With Medicaid paying 50 percent of the costs of long term services, increased expenditures on long term services are expected to add $44 billion annually to the cost of Medicaid over the next decade.

OVERVIEW OF THE LEGISLATION

The CLASS Act will offer an alternative path. It will create a new national insurance

program to help adults who have or develop functional impairments to remain independent, employed, and stay a part of their community.

Financed through voluntary payroll deductions of $30.00 per month, without enrollment like Medicare Part B, this legislation will help remove barriers to independence and choice, e.g., housing modification, assistive technologies, personal assistance services, transportation, that can be overwhelmingly costly, by providing a cash benefit to those individuals who are unable to perform 2 or more functional activities of daily living.

The large risk pool to be created by this program approach will make added coverage much more affordable than it is currently, thereby reducing the incentives for people with severe impairments to ''spend down'' to Medicaid. It will give individuals added choice and access to supports without requiring them to become impoverished to qualify.

The CLASS Act is an important step in the evolution of public policy toward a new focus on helping individuals overcome barriers to independence that they may confront due to severe functional impairments. It is an important extension of concepts embodied in the Individuals with Disabilities Education Act (IDEA), the Americans with Disabilities Act of 1990 (ADA), and Ticket to Work and Work Incentives Improvement Act of 1999.

SPECIFICS OF THE BILL

Scope

The CLASS Act will establish a national insurance program, financed by voluntary premium payments to be collected through payroll withholding and placed in a ''National Independence Fund.'' The Department of Health and Human Services will manage the Fund as a new insurance program, and may enter into contractual agreements with those entities that states direct to assume administrative/program implementation roles.

Enrollment in the Program

Any individual who is at least 18 years old and actively working will be automatically enrolled, unless they opt out, and pay their premiums through payroll deduction or another alternative method. Any non-working spouse may enroll in the program and pay their premiums through an alternative payment procedure.

Triggering the Benefit

To qualify for CLASS Act benefits, individuals must be at least 18 years old and have contributed to the program during at least 5 years. Eligibility for benefits will be determined by state disability determination centers and will be limited to: 1. individuals who are unable to perform two or more activities of daily living (ADL) e.g. eating, bathing, dressing, or 2. individuals who have an equivalent cognitive disability that requires supervision or hands-on assistance to perform those activities, e.g. traumatic brain injury, Alzheimer's disease, multiple sclerosis, mental retardation.

Benefits

To account for differences in independence support needs, there will be two cash benefit tiers.

Tier 1 benefits $50/day, will be payable to eligible individuals who are unable to perform 2 or more ADLs or have the equivalent cognitive impairment.

Tier 2 benefits $100/day, will be payable to individuals who are unable to perform 4 or ore ADL's or have the equivalent cognitive impairment.

The monthly case benefit will be posted monthly to a debit account or a ''Choice Account''. Individuals who do not use the full monthly amount may roll it over from month to month, but not year to year.

However, once an individual becomes ineligible for CLASS benefits (by improvement in functional status or death), CLASS Act benefits will cease. Any residual balance of available services remaining on the individual's account will not be payable. If an eligible individual does choose to move into an institutional facility, CLASS Act benefits will be used to defray those associated expenses.

Relationship of CLASS Act Insurance Program to Social Security Disability Insurance

Eligibility for CLASS Act benefits will be independent of whether or not an individual is eligible for SSDI, so participation in the CLASS Act insurance program will not impair an individual's ability to remain qualified for SSDI.

Relationship of CLASS Act Insurance Program to Social Security Retirement Benefits

Similarly, eligibility for CLASS Act benefits will be independent of retirement benefits eligibility.

Relationship to Medicaid

If an individual is eligible for CLASS Act benefits, and are also eligible for the long term care benefit under Medicaid, CLASS Act benefits can be used to offset the costs to Medicaid, thus producing Medicaid savings for the state.

Relationship to Private Long Term Care Insurance

The ''Class'' program benefit does not replace the need for basic health insurance—it provides a mechanism to pay for those nonmedical expenses that allow a disabled person to remain independent,

The ''Class'' program benefit can be an addition to long term care insurance. It provides a consistent, basic cash benefit to glove with the insurance products that provide more intense medical services over a shorter period of time.

Mr. DEWINE. Mr. President, I am pleased to join Senator KENNEDY today in introducing the Community Living Assistance Services and Supports Act—or the CLASS Act.

Unfortunately, most Americans are not prepared for the costs of long-term services and supports when they arise. High premiums have discouraged many Americans from purchasing long-term care insurance in the private market. Furthermore, underwriting practices have excluded individuals with existing disabilities from purchasing plans.

Right now, 10 million people suffer from severe functional impairments and by 2020 that number will have increased to 15 million. Therefore, in the next 15 years, we will experience a 50 percent growth in the number of persons with severe functional impairments. Some of those people will be struck suddenly—through accidents or sudden illness. And the reality is that any one of us here today could face sudden impairment and disability. We won't see it coming until it happens, and most of us will not be prepared to provide for necessary, long-term care needs.

Some people may end up with a degenerative disease, such as Parkinson's disease, which leads to increased impairments. They may know now what their needs will be, but are unable to purchase private insurance due to this pre-existing condition. Others will age and develop other physical or cognitive impairments, such as Alzheimer's disease.

Although we know that age is inevitable, we are not properly preparing for this eventuality or the possibility of sudden accidents and many people are financially unable to purchase available insurance due to the high price. However, the fact remains that millions of Americans will need the services that the CLASS Act seeks to provide.

The CLASS Act will help Americans to remain independent in their communities by creating a new long-term care insurance program. This program will be available to all working Americans above the age of 18. For only $30 per individual each month, and a minimum of 20 quarters of payments, the CLASS Act will help those who do not have adequate long-term care insurance due to cost or current disability. This bill will allow people to choose the supports they need when and if they become severely impaired. It will help them remain independent. It will help them remain in their communities. It will help them remain with their families.

This is a good bill. I thank Senator KENNEDY for his work on this bill, and I encourage my colleagues to support it.

By Mr. COLEMAN (for himself, Mr. BAYH, Mr. CORNYN, and Mr. LUGAR):

S. 1952. A bill to provide grants for rural health information technology development activities; to the Committee on Health, Education, Labor, and Pensions.

Mr. COLEMAN. Mr. President, as United States Senators, we are well aware of the rising cost of health care and the difficulty of health care access in rural areas. Through the improvement of health information technology, we will see overall productivity and quality improvements to our health care system. New technologies make the system more efficient and effective by diagnosing diseases sooner, providing preventive and ongoing managed care.

Today, I am proud to be joined by my friends, Senators BAYH, CORNYN, and LUGAR, in introducing the Critical Access to Health Information Technology Act to help Critical Access Hospitals compete for health information technology grants.

Our legislation would give smaller rural health hospitals a competitive edge for health information technology grants. A health system technology infrastructure should be encouraged and facilitated as broadly and rapidly as possible to help reduce medical errors, improve quality of care and reduce rising health care costs.

A recent American Hospitals Association study shows that while 9 out of 10 hospitals are using or considering using health information technology

for clinical uses, most cite cost as a major impediment to broader adoption, especially for small or rural hospitals. The study suggests that the use of health information technology in caring for patients is evolving as hospitals adopt specific technologies based on their needs and priorities, size and financial resources.

The Critical Access to Health Information Technology Act creates a grant program administered by the Secretary of Health and Human Services in conjunction with State agencies for improving health information technology in our Nation's rural areas. In addition, this legislation supports the next generation of coding system, ICD–10, that will modernize and expand Centers for Medicare and Medicaid Services' capacity to keep pace with changes in medical practice and technology. ICD–10 was developed as an improvement to ICD–9 which has not been updated since 1980. The adoption of ICD–10 will allow for far more accurate, detailed and descriptive coding, and will allow the system to adapt as future changes are warranted. The transition to ICD–10 is time-sensitive, as the number of available ICD–9 codes is rapidly dwindling.

Earlier this Congress, I, along with Senator PRYOR, introduced the bipartisan ''Rural Renaissance II Act.'' This is a bipartisan piece of legislation, based on earlier legislation introduced last year, which would establish a private-public partnership to provide bonds that will finance grants that will fund key rural development projects to address critical rural infrastructure problems. I am pleased that Chairman GRASSLEY has agreed to include our Rural Renaissance Act II in his tax reconciliation package later this year.

These bonds will be made available to small rural communities of 50,000 or fewer for: water and waste facilities, affordable housing, community facilities, including hospitals, fire and police stations, and nursing and assisted living facilities, farmer-owned value-added agriculture or renewable energy projects, including ethanol, biodiesel and wind, distance learning and telemedicine and high speed internet access and rural teleworks projects.

I urge my fellow colleagues to join me in ensuring Critical Access Hospitals have the opportunity to keep pace with health information technology by supporting the Critical Access to Health Information Technology Act.

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

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

S. 1952

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Critical Access to Health Information Technology Act of 2005''.

SEC. 2. HEALTH INFORMATION TECHNOLOGY GRANT PROGRAM.

(a) IN GENERAL.—The Secretary of Health and Human Services (referred to in this section as the ''Secretary'') shall establish and implement a program to award grants to increase access to health care in rural areas by improving health information technology, including the reporting, monitoring, and evaluation required under this section.

(b) STATE GRANTS.—The Secretary shall award grants to States to be used to carry out the State plan under subsection (e) through the awarding of subgrants to local entities within the State. Amounts awarded under such a grant may only be used in the fiscal year in which the grant is awarded or in the immediately subsequent fiscal year.

(c) AMOUNT OF GRANT.—From amounts appropriated under subsection (k) for each fiscal year, the Secretary shall award a grant to each State that complies with subsection (e) in an amount that is based on the total number of critical access hospitals in the State (as certified by the Secretary under section 1817(e) of the Social Security Act) bears to the total number of critical access hospitals in all States that comply with subsection (e).

(d) LEAD AGENCY.—A State that receives a grant under this section shall designate a lead agency to—

(1) administer, directly or through other governmental or nongovernmental agencies, the financial assistance received under the grant;

(2) develop, in consultation with appropriate representatives of units of general purpose local government and the hospital association of the State, the State plan; and

(3) coordinate the expenditure of funds and provision of services under the grant with other Federal and State health care programs.

(e) STATE PLAN.—To be eligible for a grant under this section, a State shall establish a State plan that shall—

(1) identify the State's lead agency;

(2) provide that the State shall use the amounts provided to the State under the grant program to address health information technology improvements and to pay administrative costs incurred in connection with providing the assistance to local grant recipients;

(3) provide that benefits shall be available throughout the entire State; and

(4) require that the lead agency consult with the hospital association of such State and rural hospitals located in such State on the most appropriate ways to use the funds received under the grant.

(f) AWARDING OF LOCAL GRANTS.—

(1) IN GENERAL.—The lead agency of a State shall use amounts received under a grant under subsection (a) to award local grants on a competitive basis. In determining whether a local entity is eligible to receive a grant under this subsection, the lead agency shall utilize the following selection criteria:

(A) The extent to which the entity demonstrates a need to improve its health information reporting and health information technology.

(B) The extent to which the entity will serve a community with a significant low-income or other medically underserved population.

(2) APPLICATION AND APPROVAL.—To be eligible to receive a local grant under this subsection, an entity shall be a government-owned or private nonprofit hospital (including a non-Federal short-term general acute care facility that is a critical access hospital located outside a Metropolitan Statistical Area, in a rural census tract of a Metropolitan Statistical Area as determined under the most recent version of the Goldsmith Modification or the Rural-Urban Commuting Area codes, as determined by the Office of Rural Health Policy of the Health Resources and Services Administration, or is located in an area designated by any law or regulation of the State in which the hospital is located as a rural area (or is designated by such State as a rural hospital or organization)) that submits an application to the lead agency of the State that—

(A) includes a description of how the hospital intends to use the funds provided under the grant;

(B) includes such information as the State lead agency may require to apply the selection criteria described in paragraph (1);

(C) includes measurable objectives for the use of the funds provided under the grant;

(D) includes a description of the manner in which the applicant will evaluate the effectiveness of the activities carried out under the grant;

(E) contains an agreement to maintain such records, make such reports, and cooperate with such reviews or audits as the lead agency and the Secretary may find necessary for purposes of oversight of program activities and expenditures;

(F) contains a plan for sustaining the activities after Federal support for the activities has ended; and

(G) contains such other information and assurances as the Secretary may require.

(3) USE OF AMOUNTS.—

(A) IN GENERAL.—An entity shall use amounts received under a local grant under this section to—

(i) offset the costs incurred by the entity after December 31, 2005, that are related to clinical health care information systems and health information technology designed to improve quality of health care and patient safety; and

(ii) offset costs incurred by the entity after December 31, 2005, that are related to enabling health information technology to be used for the collection and use of clinically specific data, promoting the interoperability of health care information across health care settings, including reporting to Federal and State agencies, and facilitating clinic decision support through the use of health information technology.

(B) ELIGIBLE COSTS.—Costs that are eligible to be offset under subparagraph (A) shall include the cost of—

(i) purchasing, leasing, and installing computer software and hardware, including handheld computer technologies, and related services;

(ii) making improvements to existing computer software and hardware;

(iii) purchasing or leasing communications capabilities necessary for clinical data access, storage, and exchange;

(iv) services associated with acquiring, implementing, operating, or optimizing the use of new or existing computer software and hardware and clinical health care information systems;

(v) providing education and training to staff on information systems and technology designed to improve patient safety and quality of care; and

(vi) purchasing, leasing, subscribing, integrating, or servicing clinical decision support tools that integrate patient-specific clinic data with well-established national treatment guidelines, and provide ongoing continuous quality improvement functions that allow providers to assess improvement rates over time and against averages for similar providers.

(4) GRANT LIMIT.—The amount of a local grant under this subsection shall not exceed $250,000.

(g) REPORTING, MONITORING, AND EVALUATION.—The lead agency of a State that receives a grant under this section shall annually report to the Secretary—

(1) the amounts received under the grant;

(2) the amounts allocated to State grant recipients under the grant;

(3) the breakdown of types of expenditures made by the local grant recipients with such funds; and

(4) such other information required by the Secretary to assist the Secretary in monitoring the effectiveness of activities carried out under this grant.

(h) REVIEW OF COMPLIANCE WITH STATE PLAN.—The Secretary shall review and monitor State compliance with the requirements of this section and the State plan submitted under subsection (e). If the Secretary, after reasonable notice to a State and opportunity for a hearing, finds that there has been a failure by the State to comply substantially with any provision or requirement set forth in the State plan or the requirements of this section, the Secretary shall notify the lead agency involved of such finding and that no further payments to the State will be made with respect to the grant until the Secretary is satisfied that the State is in compliance or that the noncompliance will be promptly corrected.

(i) PREEMPTION OF CERTAIN LAWS.—The provisions of this section shall preempt applicable Federal and State procurement laws with respect to health information technology purchased under this section.

(j) RELATION TO OTHER PROGRAMS.—Amounts appropriated under this section shall be in addition to appropriations for Federal programs for Rural Hospital FLEX grants, Rural Health Outreach grants, and Small Rural Hospital Improvement Program grants.

(k) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $10,000,000 for each of fiscal years 2006 through 2008.

SEC. 3. REPLACEMENT OF THE INTERNATIONAL STATISTICAL CLASSIFICATION OF DISEASES.

(a) IN GENERAL.—Not later than October 1, 2006, the Secretary of Health and Human Services shall promulgate a final rule concerning the replacement of the International Statistical Classification of Diseases, 9th revision, Clinical Modification (referred to in this section as the ''ICD-9-CM''), under the regulation promulgated under section 1173(c) of the Social Security Act (42 U.S.C. 1320d-2(c)), including for purposes of part A of title XVIII, or part B where appropriate, of such Act, with the use of each of the following:

(1) The International Statistical Classification of Diseases and Related Health Problems, 10th revision, Clinical Modification (referred to in this section as ''ICD-10-CM''.

(2) The International Statistical Classification of Diseases and Related Health Problems, 10th revision, Clinical Modification Coding System (referred to in this section as ''ICD-10-PCS'').

(b) IMPLEMENTATION.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall ensure that the rule promulgated under subsection (a) is implemented by not later than October 1, 2009. In carrying out the preceding sentence, the Secretary shall ensure that such rule ensure that Accredited Standards Committee X12 HIPAA transactions version (v) 4010 is upgraded to a newer version 5010, and that the National Council for Prescription Drug Programs Telecommunications Standards version 5.1 is updated to a newer version (to be released by the named by the National Council for Prescription Drug Programs Telecommunications Standards) that supersedes, in part, existing legislation and regulations under the Health Insurance Portability and Accountability Act of 1996.

(2) AUTHORITY.—The Secretary of Health and Human Services shall have the authority to adopt, without notice and comment rulemaking, standards for electronic health care transactions under section 1173 of the Social Security Act (42 U.S.C. 1320d-2) that are recommended to the Secretary by the Accredited Standards Committee X12 of the American National Standards Institute in relation to the replacement of ICD-9-CM with ICD-10-CM and ICD-10-PCS. Such modifications shall be published in the Federal Register.

(c) NOTICE OF INTENT.—Not later than 30 days after the date of enactment of this Act, the Secretary of Health and Human Services shall issue and publish in the Federal Register a Notice of Intent that—

(1) adoption of Accredited Standards Committee X12 HIPAA transactions version (v) 5010 shall occur not later than April 1, 2007, and compliance with such rule shall apply to transactions occurring on or after April 1, 2009;

(2) adoption of the National Council for Prescription Drug Programs Telecommunications Standards version 5.1 with a new version will occur not later than April 1, 2007, and compliance with such rule shall apply to transactions occurring on or after April 1, 2009;

(3) adoption of ICD-10-CM and ICD-10-PCS will occur not later than October 1, 2006, and compliance with such rules shall apply to transactions occurring on or after October 1, 2009; and

(4) covered entities and health technology vendors under the Health Insurance Potability and Accountability Act of 1996 shall begin the process of planning for and implementing the updating of the new versions and editions referred to in this subsection.

(d) ASSURANCES OF CODE AVAILABILITY.—The Secretary of Health and Human Services shall take such action as may be necessary to ensure that procedure codes are promptly available for assignment and use under ICD-9-CM until such time as ICD-9-CM is replaced as a code set standard under section 1173(c) of the Social Security Act with ICD-10 PCS.

(e) DEADLINE.—Notwithstanding section 1172(f) of the Social Security Act (42 U.S.C. 1320d-1(f)), the Secretary of Health and Human Services shall adopt the modifications provided for in this section without a recommendation of the National Committee on Vital and Health Statistics unless such recommendation is made to the Secretary on or before a date specified by the Secretary as consistent with the implementation of the replacement of ICD-9-CM with ICD-10-CM and ICD-10-PCS for transactions occurring on or after October 1, 2009.

(f) LIMITATION ON JUDICIAL REVIEW.—The rule promulgated under subsection (a) shall not be subject to judicial review.

(g) APPLICATION.—The rule promulgated under subsection (a) shall apply to transactions occurring on or after October 1, 2009.

(h) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as effecting the application of classification methodologies or codes, such as the Current Procedural Terminology (CPT) as maintained and distributed by the American Medical Association and the Healthcare Common Procedure Coding System (HCPCS) as maintained and distributed by the Department of Health and Human Services, other than under the International Statistical Classification of Disease and Related Health Problems.

By Mr. ENZI (for himself, Mr. NELSON of Nebraska, and Mr. BURNS):

S. 1955. A bill to amend title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce costs through the creation of small business health plans and through modernization of the health insurance marketplace; to the Committee on Health, Education, Labor, and Pensions.

Mr. ENZI. Mr. President, together with Senator NELSON of Nebraska and Senator BURNS, I am pleased today to introduce ''The Health Insurance Marketplace Modernization and Affordability Act of 2005.'' This is a bipartisan effort aimed at relieving the worsening crisis of cost and coverage in America's health insurance system.

As I speak today, we are nearing almost five years of double-digit growth in health insurance premiums—increases that have repeatedly exceeded more than five times the rate of inflation. Since 2000, for example, group premiums for family coverage have grown nearly 60 percent, compared to an underlying inflation rate of 9.7 percent over the same period.

Those hardest hit are America's small businesses and those individuals outside of employer-provided insurance. These are the ones with the least market leverage and the weakest ability to pool risk. Already, among the very smallest of our businesses, those with fewer than 10 employees, only 52 percent offer coverage to their employees.

As a former small business owner, I understand the difficulties these employers face when trying to provide health insurance for their employees.

A constituent of mine, Mitchell Blake of Jackson, WY recently told me his story, and it illustrates what is happening to thousands of small businesses across America. Mr. Blake owns a small architecture firm with eight employees. He believes, like so many small business owners across America, that providing insurance for his employees not only promotes a healthy workforce but is simply the right thing to do.

In the nine years since his firm opened, the deductibles for employees' health insurance quadrupled, co-pays rose by more than 35 percent, and monthly premiums grew by 20 percent. Since 2001, the company's profits have dropped by nearly one-third, due in large part to providing health insurance coverage.

I am realistic. The biggest drivers of health care costs are ones that defy short-term solutions. These include advances in costly medical treatments, Americans' continuing appetite for such treatments, lack of transparency in pricing, and an outdated third-party payment system that insulates consumers from seeing the true cost of care they receive. Addressing these deep problems in a fundamental way will require years of effort and a great deal of political will.

And yet, like most members in this body, I am hearing an ever-growing

chorus of concern from my constituents about health insurance—and most especially from small businesses.

America's families and small businesses don't want us to wait for the perfect solution or the perfect moment. They need real help, and they need it now.

Recognizing this increasing concern, and as the new Chairman of the Senate's Health, Education, Labor and Pensions Committee, I have made it a priority in recent months to seek the counsel of stakeholders, citizens, experts, and fellow members of Congress on how we might come together on a package of health insurance reforms we can realistically hope to enact in this Congress.

The most well known proposal now on the table is the approach known as association health plans, or AHPs. Under this proposal, which was introduced in this Congress by Senators SNOWE and TALENT, qualifying trade associations would be permitted to band together their members for purposes of offering health coverage.

Association health plans hold significant promise—particularly in the pooling of risk, economies of scale, and market clout they could lend to thousands of small businesses.

At the same time, however, the AHP bills in their current form may also go too far in allowing some association plans to play by a separate set of rules than those governing the rest of the small group insurance marketplace—thereby tempting adverse selection and market disruption. Another concern is the fact that the current AHP proposals would shift primary oversight over many association plans away from the states and move it to the federal government.

Regrettably, debate over these AHP pros and cons has hardened into a political and stakeholder stalemate—a stalemate that has helped block constructive action on new health insurance reform for nearly a decade.

It is time we broke this logjam and moved forward.

Toward this end, I sincerely appreciate the hard work of Senators SNOWE and TALENT and other AHP proponents in working with me on possible compromise approaches. And similarly, I am encouraged by what appears to be a growing pragmatic spirit among traditional AHP critics.

The legislation we are introducing today is a compromise approach.

This legislation blends a modified version of the current Snowe/Talent AHP legislation with several additional reform initiatives applicable not just to association plans, but also to the wider health insurance marketplace.

It is built around several fundamental principles, including: 1. giving associations a meaningful role, but on a level playing field; 2. streamlining the current hodgepodge of varying State regulation; 3. preserving the primary role of the States in health insurance oversight and consumer protection; 4. making lower-cost health plan options available; and 5. achieving meaningful reform without a big price tag that could cloud prospects for passage.

With regard to association-based health plans, this bill preserves most of what is known as the ''fully insured'' component of the current AHP bill. That is, like the current AHP bill, my legislation would allow associations to independently pool their members for purposes of buying health coverage, thereby giving them needed strength in numbers and bargaining power.

Unlike the current AHP bill, however, this legislation does not include the much more controversial option for associations to self-insure. Primary regulatory oversight of coverage issued to associations would remain at the state level and would not be transferred to Federal control. Although far from perfect, our state insurance commissions are much closer to the real problems confronted by purchasers of insurance in their communities than would be a Federal agency in Washington.

Like the current AHP bill, this legislation would enable associations to take advantage of more streamlined rules in the areas of benefit design and rating. In an important departure from the current AHP bill, however, this greater streamlining would be made available not just to associations, but also to other purchasers of insurance. This adjustment will go a long way toward easing critics' fears that the current AHP bill would create an unlevel playing field and market disruption.

In short, association-based plans should have the opportunity to harness the advantage of independent pooling and play a commercially meaningful role in the coverage marketplace. However, the coverage offered to association members should be subject to underlying regulatory and consumer protection requirements substantially comparable to those applicable to other entities offering similar coverage.

In addition to addressing coverage offered through associations, the legislation we are introducing today also makes several very important improvements in the health insurance marketplace as a whole.

For example, this legislation would permit issuers of coverage, both to associations and others, to offer lower-cost health plans free from some, though not all, of the current state benefit mandates that have proliferated over the past decade.

Under this bill, those mandates that are currently in place in at least 45 States would continue in effect, but carriers would be permitted to offer plans that do not include other mandated benefits. The intent of this provision is not only to enable the offering of more affordable plan options, but also to make it easier for carriers to offer coverage on a multi-state basis and in more markets.

This legislation would also set in motion a process to create greater harmonization in the current costly and competition-inhibiting hodgepodge of varying State health insurance regulation.

However, even as it moves the system to greater uniformity in the rules applied, this approach would also carefully retain the current structure of State-based oversight and administration of insurance.

This harmonization approach is patterned in general terms after the process used in the early 1990s to achieve greater stability in the Medicare supplemental, Medigap, market.

The bill would establish a harmonization commission under the Secretary of Health and Human Services to develop harmonized standards for health insurance regulation. The commission would work in close consultation with the NAIC and the States, and would consist of members representing a full range of perspectives and stakeholders.

Upon issuance of model standards by the commission and their certification by the Secretary, the States would have two years to adopt them. If a state did not adopt the standards within the required timeframe, an insurer, following certain certification requirements, would be permitted to sell insurance in that State following the harmonized Federal rules.

I want to take a moment to thank Senator GREGG, my predecessor as chairman of the HELP Committee. It is due in no small part to his efforts in the last Congress that health insurance market harmonization has matured in the policy community as a needed and valuable step. I look forward to working with him to make this and other aspects of this legislation as effective as it can possibly be.

It is important to note that responsibility for oversight and management of the insurance market would remain with the States. What would change is that the rules being applied would become more uniform across State lines. This will enable a wider range of plans to be offered, because the offering of insurance on a multi-State basis will become easier. Competition will improve and costs will go down as more plans enter more markets.

This bill reflects and incorporates much thoughtful input from those on many sides of this difficult issue. Such input continues even as I speak. Indeed, there are a number of important issues that remain to be worked on as we proceed with consideration of this bill.

For example, we will be continuing discussions on how to smoothe the interaction between association-based plans and the individual insurance market. Similarly, work remains to be done in the calibration of transition rules, including with respect to the handling of older blocks of business vis a vis new plan options that will arise under the new system. Another issue deserving of further attention is the handling of the way carriers can become licensed in multiple States, and

opportunities for making this process as smooth as possible while maintaining the authority of State insurance commissioners.

I am open to suggestions, and I am open to compromise—but I am not open to continued inaction.

My intention is for this bill to serve as a foundation for the swift finalization and passage of a health insurance reform package that will deliver real relief to America's small businesses and struggling families.

I ask unanimous consent that a summary of the legislation and the text of the bill be printed in the RECORD.

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

SUMMARY: HEALTH INSURANCE MARKETPLACE MODERNIZATION AND AFFORDABILITY ACT OF 2005

The intent of the Health Insurance Marketplace Modernization and Affordability Act of 2005 is to reduce costs and improve access in the health insurance marketplace, principally though not exclusively in the small group market.

This legislation addresses these goals by blending a modified version of the current AHP legislation—S. 406, introduced by Senators Snowe and Talent with several additional reform initiatives applicable not just to association plans but also to the wider marketplace.

The fundamental principle include: 1. giving associations a meaningful role, but on a level playing field; 2. streamlining the current hodgepodge of varying state regulations; 3. preserving a strong state role in insurance oversight and consumer protection; 4. making lower-cost health plan options available; 5. achieving meaningful reform without a big price tag clouding prospects for passage.

Title I, regarding Small Business Health Plans (SBHPs), resembles the ''fully insured'' component of the S. 406, but does not include that bill's more controversial provisions permitting association plans to self-insure. Associations will be permitted to pool independently from the underlying small group market.

SBHPs may offer coverage free from many but not all benefit mandates, which reflects a different approach but similar intent to that included in S. 406. If a benefit mandate is in place in at least 45 states, an SBHP must follow it, but it may opt out of other mandated benefits. This approach preserves the most widely agreed-upon mandates, but achieves the goal of giving multi-state associations the uniformity they need to operate effectively across State lines.

Associations wishing to establish an SBHP will follow rules very similar to those for AHPs under S. 406, the bill introduced by Senators Snowe and Talent. An SBHP must: 1. be established for purposes other than health coverage; 2. have been in existence for at least 3 years; 3. do not condition association membership or coverage on health status; 4. obtain Federal certification; 5. be governed by a board of directors with complete fiscal control.

This bill also retains primary oversight and supervision of insurance coverage at the State level, and does not shift it to Federal oversight, as parts of S. 406 would require.

Title II, the Near-Term Market Relief section, provides for certain near-term changes in insurance regulation aimed at reducing costs and expanding access. Ultimately, some of these provisions will be superseded by the wider regulatory harmonization process provided in Title III. These provisions will apply not just to association plans (SBHPs) but also to policies sold to others.

Rating Relief: The first section of Title II deals with rating relief. Under Title II, The National Association of Insurance Commissioners (NAIC) model rules regarding rating, the amount that premiums can vary from an insurer's base rate, or average, that are now in effect in nearly half the states would become the interim standard for rating. Currently these NAIC rating rules are in effect in 24 states, and about a dozen others are very close. The NAIC rules require that premiums charged when the policy is issued cannot vary more than +/− 25 percent from the base rate, and +/− 15 percent upon renewal.

Insurers licensed in a given state will be permitted to use the NAIC standard even if State law differs. A graduated transition process will apply for States that currently have rating bands significantly different from the NAIC model.

Lower-Cost Plan Options: The intent of the second provision of Title II is to permit lower-cost plans to be offered that are free from many of the current benefit mandates. Mirroring the approach applied to benefit mandates for SBHPs in Title I, if a benefit mandate is mandated in at least 45 States, an insurer must offer it, but it may opt out of other mandated benefits provided that the exercise of such opt-out is fully disclosed in the policy. This approach preserves the most widely agreed-upon mandates, but allows for greater flexibility in the offering of more affordable coverage options.

Title II, which addresses regulatory harmonization, establishes a process intended to create greater uniformity in the current costly and competition-inhibiting hodgepodge of varying state health insurance regulation. However, even as this moves the system to greater uniformity in rules applied, it also carefully retains the current structure of State-based oversight and administration of insurance.

This approach is patterned in general terms after the process used in the early 1990s to achieve greater stability in the Medicare supplemental, Medigap, market.

To achieve uniformity, this legislation establishes a harmonization commission under HHS to develop uniform standards for insurance regulation. The commission will work in close consultation with the NAIC and the States, and will consist of members representing: 1. State insurance regulators; 2. insurers; 3. business/employer representatives; 4. consumer advocates; 5. agents; 6. providers; 7. high risk pool administrators; and 8. actuaries.

The commission will address these areas of insurance regulation: 1. rating; 2. consumer protections; and 3. access to coverage, such as standards regarding issuance and renewability.

Upon issuance of model standards by the commission and their certification by the Secretary, the States will have two years to adopt them. If a State fails to adopt the standards within the required timeframe, an insurer, following certain certification requirements, will be permitted to sell insurance in that State following the harmonized Federal rules, rather than that State's rules.

Responsibility for oversight and management of the insurance market will remain with the States. What changes is that the rules being applied will become more uniform across State lines, thereby achieving a number of advantages, including: 1. a wider range of plans offered, because offering insurance on a multi-state basis will become easier; 2. improved competition and reduced costs as more plans enter more markets; and 3. reduced administrative costs.

S. 1955

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

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Health Insurance Marketplace Modernization and Affordability Act of 2005''.

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

Sec. 1. Short title and table of contents.

TITLE I—SMALL BUSINESS HEALTH PLANS

Sec. 101. Rules governing small business health plans.

Sec. 102. Cooperation between Federal and State authorities.

Sec. 103. Effective date and transitional and other rules.

TITLE II—NEAR-TERM MARKET RELIEF

Sec. 201. Near-term market relief.

TITLE III—HARMONIZATION OF HEALTH INSURANCE LAWS

Sec. 301. Health Insurance Regulatory Harmonization.

TITLE I—SMALL BUSINESS HEALTH PLANS

SEC. 101. RULES GOVERNING SMALL BUSINESS HEALTH PLANS.

(a) IN GENERAL.—Subtitle B of title I of the Employee Retirement Income Security Act of 1974 is amended by adding after part 7 the following new part:

''PART 8—RULES GOVERNING SMALL BUSINESS HEALTH PLANS

''SEC. 801. SMALL BUSINESS HEALTH PLANS.

''(a) IN GENERAL.—For purposes of this part, the term 'small business health plan' means a fully insured group health plan whose sponsor is (or is deemed under this part to be) described in subsection (b).

''(b) SPONSORSHIP.—The sponsor of a group health plan is described in this subsection if such sponsor—

''(1) is organized and maintained in good faith, with a constitution and bylaws specifically stating its purpose and providing for periodic meetings on at least an annual basis, as a bona fide trade association, a bona fide industry association (including a rural electric cooperative association or a rural telephone cooperative association), a bona fide professional association, or a bona fide chamber of commerce (or similar bona fide business association, including a corporation or similar organization that operates on a cooperative basis (within the meaning of section 1381 of the Internal Revenue Code of 1986)), for substantial purposes other than that of obtaining or providing medical care;

''(2) is established as a permanent entity which receives the active support of its members and requires for membership payment on a periodic basis of dues or payments necessary to maintain eligibility for membership in the sponsor; and

''(3) does not condition membership, such dues or payments, or coverage under the plan on the basis of health status-related factors with respect to the employees of its members (or affiliated members), or the dependents of such employees, and does not condition such dues or payments on the basis of group health plan participation.

Any sponsor consisting of an association of entities which meet the requirements of paragraphs (1), (2), and (3) shall be deemed to be a sponsor described in this subsection.

''SEC. 802. CERTIFICATION OF SMALL BUSINESS HEALTH PLANS.

''(a) IN GENERAL.—Not later than 6 months after the date of enactment of this part, the

applicable authority shall prescribe by interim final rule a procedure under which the applicable authority shall certify small business health plans which apply for certification as meeting the requirements of this part.

''(b) REQUIREMENTS APPLICABLE TO CERTIFIED PLANS.—a small business health plan with respect to which certification under this part is in effect shall meet the applicable requirements of this part, effective on the date of certification (or, if later, on the date on which the plan is to commence operations).

''(c) REQUIREMENTS FOR CONTINUED CERTIFICATION.—The applicable authority may provide by regulation for continued certification of small business health plans under this part. Such regulation shall provide for the revocation of a certification if the applicable authority finds that the small employer health plan involved is failing to comply with the requirements of this part.

''(d) CLASS CERTIFICATION FOR FULLY INSURED PLANS.—The applicable authority shall establish a class certification procedure for small business health plans under which all benefits consist of health insurance coverage. Under such procedure, the applicable authority shall provide for the granting of certification under this part to the plans in each class of such small business health plans upon appropriate filing under such procedure in connection with plans in such class and payment of the prescribed fee under section 806(a).

''SEC. 803. REQUIREMENTS RELATING TO SPONSORS AND BOARDS OF TRUSTEES.

''(a) SPONSOR.—The requirements of this subsection are met with respect to a small business health plan if the sponsor has met (or is deemed under this part to have met) the requirements of section 801(b) for a continuous period of not less than 3 years ending with the date of the application for certification under this part.

''(b) BOARD OF TRUSTEES.—The requirements of this subsection are met with respect to a small business health plan if the following requirements are met:

''(1) FISCAL CONTROL.—The plan is operated, pursuant to a plan document, by a board of trustees which pursuant to a trust agreement has complete fiscal control over the plan and which is responsible for all operations of the plan.

''(2) RULES OF OPERATION AND FINANCIAL CONTROLS.—The board of trustees has in effect rules of operation and financial controls, based on a 3-year plan of operation, adequate to carry out the terms of the plan and to meet all requirements of this title applicable to the plan.

''(3) RULES GOVERNING RELATIONSHIP TO PARTICIPATING EMPLOYERS AND TO CONTRACTORS.—

''(A) BOARD MEMBERSHIP.—

''(i) IN GENERAL.—Except as provided in clauses (ii) and (iii), the members of the board of trustees are individuals selected from individuals who are the owners, officers, directors, or employees of the participating employers or who are partners in the participating employers and actively participate in the business.

''(ii) LIMITATION.—

''(I) GENERAL RULE.—Except as provided in subclauses (II) and (III), no such member is an owner, officer, director, or employee of, or partner in, a contract administrator or other service provider to the plan.

''(II) LIMITED EXCEPTION FOR PROVIDERS OF SERVICES SOLELY ON BEHALF OF THE SPONSOR.—Officers or employees of a sponsor which is a service provider (other than a contract administrator) to the plan may be members of the board if they constitute not more than 25 percent of the membership of the board and they do not provide services to the plan other than on behalf of the sponsor.

''(III) TREATMENT OF PROVIDERS OF MEDICAL CARE.—In the case of a sponsor which is an association whose membership consists primarily of providers of medical care, subclause (I) shall not apply in the case of any service provider described in subclause (I) who is a provider of medical care under the plan.

''(iii) CERTAIN PLANS EXCLUDED.—Clause (i) shall not apply to a small business health plan which is in existence on the date of the enactment of the Health Insurance Marketplace Modernization and Affordability Act of 2005.

''(B) SOLE AUTHORITY.—The board has sole authority under the plan to approve applications for participation in the plan and to contract with insurers and service providers.

''(c) TREATMENT OF FRANCHISE NETWORKS.—In the case of a group health plan which is established and maintained by a franchiser for a franchise network consisting of its franchisees—

''(1) the requirements of subsection (a) and section 801(a) shall be deemed met if such requirements would otherwise be met if the franchiser were deemed to be the sponsor referred to in section 801(b), such network were deemed to be an association described in section 801(b), and each franchisee were deemed to be a member (of the association and the sponsor) referred to in section 801(b); and

''(2) the requirements of section 804(a)(1) shall be deemed met.

The Secretary may by regulation define for purposes of this subsection the terms 'franchiser', 'franchise network', and 'franchisee'.

''SEC. 804. PARTICIPATION AND COVERAGE REQUIREMENTS.

''(a) COVERED EMPLOYERS AND INDIVIDUALS.—The requirements of this subsection are met with respect to a small business health plan if, under the terms of the plan—

''(1) each participating employer must be—

''(A) a member of the sponsor;

''(B) the sponsor; or

''(C) an affiliated member of the sponsor with respect to which the requirements of subsection (b) are met, except that, in the case of a sponsor which is a professional association or other individual-based association, if at least one of the officers, directors, or employees of an employer, or at least one of the individuals who are partners in an employer and who actively participates in the business, is a member or such an affiliated member of the sponsor, participating employers may also include such employer; and

''(2) all individuals commencing coverage under the plan after certification under this part must be—

''(A) active or retired owners (including self-employed individuals), officers, directors, or employees of, or partners in, participating employers; or

''(B) the beneficiaries of individuals described in subparagraph (A).

''(b) COVERAGE OF PREVIOUSLY UNINSURED EMPLOYEES.—In the case of a small business health plan in existence on the date of the enactment of the Health Insurance Marketplace Modernization and Affordability Act of 2005, an affiliated member of the sponsor of the plan may be offered coverage under the plan as a participating employer only if—

''(1) the affiliated member was an affiliated member on the date of certification under this part; or

''(2) during the 12-month period preceding the date of the offering of such coverage, the affiliated member has not maintained or contributed to a group health plan with respect to any of its employees who would otherwise be eligible to participate in such small business health plan.

''(c) INDIVIDUAL MARKET UNAFFECTED.—The requirements of this subsection are met with respect to a small business health plan if, under the terms of the plan, no participating employer may provide health insurance coverage in the individual market for any employee not covered under the plan which is similar to the coverage contemporaneously provided to employees of the employer under the plan, if such exclusion of the employee from coverage under the plan is based on a health status-related factor with respect to the employee and such employee would, but for such exclusion on such basis, be eligible for coverage under the plan.

''(d) PROHIBITION OF DISCRIMINATION AGAINST EMPLOYERS AND EMPLOYEES ELIGIBLE TO PARTICIPATE.—The requirements of this subsection are met with respect to a small business health plan if—

''(1) under the terms of the plan, all employers meeting the preceding requirements of this section are eligible to qualify as participating employers for all geographically available coverage options, unless, in the case of any such employer, participation or contribution requirements of the type referred to in section 2711 of the Public Health Service Act are not met;

''(2) upon request, any employer eligible to participate is furnished information regarding all coverage options available under the plan; and

''(3) the applicable requirements of sections 701, 702, and 703 are met with respect to the plan.

''SEC. 805. OTHER REQUIREMENTS RELATING TO PLAN DOCUMENTS, CONTRIBUTION RATES, AND BENEFIT OPTIONS.

''(a) IN GENERAL.—The requirements of this section are met with respect to a small business health plan if the following requirements are met:

''(1) CONTENTS OF GOVERNING INSTRUMENTS.—

''(A) IN GENERAL.—The instruments governing the plan include a written instrument, meeting the requirements of an instrument required under section 402(a)(1), which—

''(i) provides that the board of directors serves as the named fiduciary required for plans under section 402(a)(1) and serves in the capacity of a plan administrator (referred to in section 3(16)(A)); and

''(ii) provides that the sponsor of the plan is to serve as plan sponsor (referred to in section 3(16)(B)).

''(B) DESCRIPTION OF MATERIAL PROVISIONS.—The terms of the health insurance coverage (including the terms of any individual certificates that may be offered to individuals in connection with such coverage) describe the material benefit and rating, and other provisions set forth in this section and such material provisions are included in the summary plan description.

''(2) CONTRIBUTION RATES MUST BE NONDISCRIMINATORY.—

''(A) IN GENERAL.—The contribution rates for any participating small employer shall not vary on the basis of any health status-related factor in relation to employees of such employer or their beneficiaries and shall not vary on the basis of the type of business or industry in which such employer is engaged.

''(B) EFFECT OF TITLE.—Nothing in this title or any other provision of law shall be construed to preclude a health insurance issuer offering health insurance coverage in connection with a small business health plan, and at the request of such small business health plan, from—

''(i) setting contribution rates for the small business health plan based on the claims experience of the plan so long as any variation in such rates complies with the requirements of clause (ii); or

''(ii) varying contribution rates for participating employers in a small business health plan in a State to the extent that such rates could vary using the same methodology employed in such State for regulating premium rates, subject to the terms of part I of subtitle A of title XXIX of the Public Health Service Act (relating to rating requirements), as added by title II of the Health Insurance Marketplace Modernization and Affordability Act of 2005.

''(3) REGULATORY REQUIREMENTS.—Such other requirements as the applicable authority determines are necessary to carry out the purposes of this part, which shall be prescribed by the applicable authority by regulation.

''(b) ABILITY OF SMALL BUSINESS HEALTH PLANS TO DESIGN BENEFIT OPTIONS.—Nothing in this part or any provision of State law (as defined in section 514(c)(1)) shall be construed to preclude a small business health plan or a health insurance issuer offering health insurance coverage in connection with a small business health plan, from exercising its sole discretion in selecting the specific benefits and services consisting of medical care to be included as benefits under such plan or coverage, except that such benefits and services must meet the terms and specifications of part II of subtitle A of title XXIX of the Public Health Service Act (relating to lower cost plans), as added by title II of the Health Insurance Marketplace Modernization and Affordability Act of 2005, provided that, upon issuance by the Secretary of Health and Human Services of the List of Required Benefits as provided for in section 2922(a) of the Public Health Service Act, the required scope and application for each benefit or service listed in the List of Required Benefits shall be—

''(1) if the domicile State mandates such benefit or service, the scope and application required by the domicile State; or

''(2) if the domicile State does not mandate such benefit or service, the scope and application required by the non-domicile State that does require such benefit or service in which the greatest number of the small business health plan's participating employers are located.

''(c) STATE LICENSURE AND INFORMATIONAL FILING.—

''(1) DOMICILE STATE.—Coverage shall be issued to a small business health plan in the State in which the sponsor's principal place of business is located.

''(2) NON-DOMICILE STATES.—With respect to a State (other than the domicile State) in which participating employers of a small business health plan are located, an insurer issuing coverage to such small business health plan shall not be required to obtain full licensure in such State, except that the insurer shall provide each State insurance commissioner (or applicable State authority) with an informational filing describing policies sold and other relevant information as may be requested by the applicable State authority.

''SEC. 806. REQUIREMENTS FOR APPLICATION AND RELATED REQUIREMENTS.

''(a) FILING FEE.—Under the procedure prescribed pursuant to section 802(a), a small business health plan shall pay to the applicable authority at the time of filing an application for certification under this part a filing fee in the amount of $5,000, which shall be available in the case of the Secretary, to the extent provided in appropriation Acts, for the sole purpose of administering the certification procedures applicable with respect to small business health plans.

''(b) INFORMATION TO BE INCLUDED IN APPLICATION FOR CERTIFICATION.—An application for certification under this part meets the requirements of this section only if it includes, in a manner and form which shall be prescribed by the applicable authority by regulation, at least the following information:

''(1) IDENTIFYING INFORMATION.—The names and addresses of—

''(A) the sponsor; and

''(B) the members of the board of trustees of the plan.

''(2) STATES IN WHICH PLAN INTENDS TO DO BUSINESS.—The States in which participants and beneficiaries under the plan are to be located and the number of them expected to be located in each such State.

''(3) BONDING REQUIREMENTS.—Evidence provided by the board of trustees that the bonding requirements of section 412 will be met as of the date of the application or (if later) commencement of operations.

''(4) PLAN DOCUMENTS.—A copy of the documents governing the plan (including any bylaws and trust agreements), the summary plan description, and other material describing the benefits that will be provided to participants and beneficiaries under the plan.

''(5) AGREEMENTS WITH SERVICE PROVIDERS.—A copy of any agreements between the plan, health insurance issuer, and contract administrators and other service providers.

''(c) FILING NOTICE OF CERTIFICATION WITH STATES.—A certification granted under this part to a small business health plan shall not be effective unless written notice of such certification is filed with the applicable State authority of each State in which at least 25 percent of the participants and beneficiaries under the plan are located. For purposes of this subsection, an individual shall be considered to be located in the State in which a known address of such individual is located or in which such individual is employed.

''(d) NOTICE OF MATERIAL CHANGES.—In the case of any small business health plan certified under this part, descriptions of material changes in any information which was required to be submitted with the application for the certification under this part shall be filed in such form and manner as shall be prescribed by the applicable authority by regulation. The applicable authority may require by regulation prior notice of material changes with respect to specified matters which might serve as the basis for suspension or revocation of the certification.

''SEC. 807. NOTICE REQUIREMENTS FOR VOLUNTARY TERMINATION.

''A small business health plan which is or has been certified under this part may terminate (upon or at any time after cessation of accruals in benefit liabilities) only if the board of trustees, not less than 60 days before the proposed termination date—

''(1) provides to the participants and beneficiaries a written notice of intent to terminate stating that such termination is intended and the proposed termination date;

''(2) develops a plan for winding up the affairs of the plan in connection with such termination in a manner which will result in timely payment of all benefits for which the plan is obligated; and

''(3) submits such plan in writing to the applicable authority.

Actions required under this section shall be taken in such form and manner as may be prescribed by the applicable authority by regulation.

''SEC. 808. DEFINITIONS AND RULES OF CONSTRUCTION.

''(a) DEFINITIONS.—For purposes of this part—

''(1) AFFILIATED MEMBER.—The term 'affiliated member' means, in connection with a sponsor—

''(A) a person who is otherwise eligible to be a member of the sponsor but who elects an affiliated status with the sponsor,

''(B) in the case of a sponsor with members which consist of associations, a person who is a member of any such association and elects an affiliated status with the sponsor, or

''(C) in the case of a small business health plan in existence on the date of the enactment of the Health Insurance Marketplace Modernization and Affordability Act of 2005, a person eligible to be a member of the sponsor or one of its member associations.

''(2) APPLICABLE AUTHORITY.—The term 'applicable authority' means the Secretary, except that, in connection with any exercise of the Secretary's authority with respect to which the Secretary is required under section 506(d) to consult with a State, such term means the Secretary, in consultation with such State.

''(3) APPLICABLE STATE AUTHORITY.—The term 'applicable State authority' means, with respect to a health insurance issuer in a State, the State insurance commissioner or official or officials designated by the State to enforce the requirements of title XXVII of the Public Health Service Act for the State involved with respect to such issuer.

''(4) GROUP HEALTH PLAN.—The term 'group health plan' has the meaning provided in section 733(a)(1) (after applying subsection (b) of this section).

''(5) HEALTH INSURANCE COVERAGE.—The term 'health insurance coverage' has the meaning provided in section 733(b)(1).

''(6) HEALTH INSURANCE ISSUER.—The term 'health insurance issuer' has the meaning provided in section 733(b)(2).

''(7) INDIVIDUAL MARKET.—

''(A) IN GENERAL.—The term 'individual market' means the market for health insurance coverage offered to individuals other than in connection with a group health plan.

''(B) TREATMENT OF VERY SMALL GROUPS.—

''(i) IN GENERAL.—Subject to clause (ii), such term includes coverage offered in connection with a group health plan that has fewer than 2 participants as current employees or participants described in section 732(d)(3) on the first day of the plan year.

''(ii) STATE EXCEPTION.—Clause (i) shall not apply in the case of health insurance coverage offered in a State if such State regulates the coverage described in such clause in the same manner and to the same extent as coverage in the small group market (as defined in section 2791(e)(5) of the Public Health Service Act) is regulated by such State.

''(8) MEDICAL CARE.—The term 'medical care' has the meaning provided in section 733(a)(2).

''(9) PARTICIPATING EMPLOYER.—The term 'participating employer' means, in connection with a small business health plan, any employer, if any individual who is an employee of such employer, a partner in such employer, or a self-employed individual who is such employer (or any dependent, as defined under the terms of the plan, of such individual) is or was covered under such plan in connection with the status of such individual as such an employee, partner, or self-employed individual in relation to the plan.

''(10) SMALL EMPLOYER.—The term 'small employer' means, in connection with a group health plan with respect to a plan year, a small employer as defined in section 2791(e)(4).

''(b) RULE OF CONSTRUCTION.—For purposes of determining whether a plan, fund, or program is an employee welfare benefit plan which is a small business health plan, and

for purposes of applying this title in connection with such plan, fund, or program so determined to be such an employee welfare benefit plan—

''(1) in the case of a partnership, the term 'employer' (as defined in section 3(5)) includes the partnership in relation to the partners, and the term 'employee' (as defined in section 3(6)) includes any partner in relation to the partnership; and

''(2) in the case of a self-employed individual, the term 'employer' (as defined in section 3(5)) and the term 'employee' (as defined in section 3(6)) shall include such individual.''.

(b) CONFORMING AMENDMENTS TO PREEMPTION RULES.—

(1) Section 514(b)(6) of such Act (29 U.S.C. 1144(b)(6)) is amended by adding at the end the following new subparagraph:

''(E) The preceding subparagraphs of this paragraph do not apply with respect to any State law in the case of a small business health plan which is certified under part 8.''.

(2) Section 514 of such Act (29 U.S.C. 1144) is amended—

(A) in subsection (b)(4), by striking ''Subsection (a)'' and inserting ''Subsections (a) and (d)'';

(B) in subsection (b)(5), by striking ''subsection (a)'' in subparagraph (A) and inserting ''subsection (a) of this section and subsections (a)(2)(B) and (b) of section 805'', and by striking ''subsection (a)'' in subparagraph (B) and inserting ''subsection (a) of this section or subsection (a)(2)(B) or (b) of section 805'';

(C) by redesignating subsection (d) as subsection (e); and

(D) by inserting after subsection (c) the following new subsection:

''(d)(1) Except as provided in subsection (b)(4), the provisions of this title shall supersede any and all State laws insofar as they may now or hereafter preclude a health insurance issuer from offering health insurance coverage in connection with a small business health plan which is certified under part 8.

''(2) In any case in which health insurance coverage of any policy type is offered under a small business health plan certified under part 8 to a participating employer operating in such State, the provisions of this title shall supersede any and all laws of such State insofar as they may establish rating and benefit requirements that would otherwise apply to such coverage, provided the requirements of section 805(a)(2)(B) and (b) (concerning small business health plan rating and benefits) are met.''.

(3) Section 514(b)(6)(A) of such Act (29 U.S.C. 1144(b)(6)(A)) is amended—

(A) in clause (i)(II), by striking ''and'' at the end;

(B) in clause (ii), by inserting ''and which does not provide medical care (within the meaning of section 733(a)(2)),'' after ''arrangement,'', and by striking ''title.'' and inserting ''title, and''; and

(C) by adding at the end the following new clause:

''(iii) subject to subparagraph (E), in the case of any other employee welfare benefit plan which is a multiple employer welfare arrangement and which provides medical care (within the meaning of section 733(a)(2)), any law of any State which regulates insurance may apply.''.

(4) Section 514(e) of such Act (as redesignated by paragraph (2)(C)) is amended by striking ''Nothing'' and inserting ''(1) Except as provided in paragraph (2), nothing''.

(c) PLAN SPONSOR.—Section 3(16)(B) of such Act (29 U.S.C. 102(16)(B)) is amended by adding at the end the following new sentence: ''Such term also includes a person serving as the sponsor of a small business health plan under part 8.''.

(d) SAVINGS CLAUSE.—Section 731(c) of such Act is amended by inserting ''or part 8'' after ''this part''.

(e) CLERICAL AMENDMENT.—The table of contents in section 1 of the Employee Retirement Income Security Act of 1974 is amended by inserting after the item relating to section 734 the following new items:

''PART 8—RULES GOVERNING SMALL BUSINESS HEALTH PLANS

''801. Small business health plans.
''802. Certification of small business health plans.
''803. Requirements relating to sponsors and boards of trustees.
''804. Participation and coverage requirements.
''805. Other requirements relating to plan documents, contribution rates, and benefit options.
''806. Requirements for application and related requirements.
''807. Notice requirements for voluntary termination.
''808. Definitions and rules of construction.''.

SEC. 102. COOPERATION BETWEEN FEDERAL AND STATE AUTHORITIES.

Section 506 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1136) is amended by adding at the end the following new subsection:

''(d) CONSULTATION WITH STATES WITH RESPECT TO SMALL BUSINESS HEALTH PLANS.—

''(1) AGREEMENTS WITH STATES.—The Secretary shall consult with the State recognized under paragraph (2) with respect to a small business health plan regarding the exercise of—

''(A) the Secretary's authority under sections 502 and 504 to enforce the requirements for certification under part 8; and

''(B) the Secretary's authority to certify small business health plans under part 8 in accordance with regulations of the Secretary applicable to certification under part 8.

''(2) RECOGNITION OF DOMICILE STATE.—In carrying out paragraph (1), the Secretary shall ensure that only one State will be recognized, with respect to any particular small business health plan, as the State with which consultation is required. In carrying out this paragraph such State shall be the domicile State, as defined in section 805(c).''.

SEC. 103. EFFECTIVE DATE AND TRANSITIONAL AND OTHER RULES.

(a) EFFECTIVE DATE.—The amendments made by this title shall take effect 1 year after the date of the enactment of this Act. The Secretary of Labor shall first issue all regulations necessary to carry out the amendments made by this title within 1 year after the date of the enactment of this Act.

(b) TREATMENT OF CERTAIN EXISTING HEALTH BENEFITS PROGRAMS.—

(1) IN GENERAL.—In any case in which, as of the date of the enactment of this Act, an arrangement is maintained in a State for the purpose of providing benefits consisting of medical care for the employees and beneficiaries of its participating employers, at least 200 participating employers make contributions to such arrangement, such arrangement has been in existence for at least 10 years, and such arrangement is licensed under the laws of one or more States to provide such benefits to its participating employers, upon the filing with the applicable authority (as defined in section 808(a)(2) of the Employee Retirement Income Security Act of 1974 (as amended by this subtitle)) by the arrangement of an application for certification of the arrangement under part 8 of subtitle B of title I of such Act—

(A) such arrangement shall be deemed to be a group health plan for purposes of title I of such Act;

(B) the requirements of sections 801(a) and 803(a) of the Employee Retirement Income Security Act of 1974 shall be deemed met with respect to such arrangement;

(C) the requirements of section 803(b) of such Act shall be deemed met, if the arrangement is operated by a board of trustees which—

(i) is elected by the participating employers, with each employer having one vote; and

(ii) has complete fiscal control over the arrangement and which is responsible for all operations of the arrangement;

(D) the requirements of section 804(a) of such Act shall be deemed met with respect to such arrangement; and

(E) the arrangement may be certified by any applicable authority with respect to its operations in any State only if it operates in such State on the date of certification.

The provisions of this subsection shall cease to apply with respect to any such arrangement at such time after the date of the enactment of this Act as the applicable requirements of this subsection are not met with respect to such arrangement or at such time that the arrangement provides coverage to participants and beneficiaries in any State other than the States in which coverage is provided on such date of enactment.

(2) DEFINITIONS.—For purposes of this subsection, the terms ''group health plan'', ''medical care'', and ''participating employer'' shall have the meanings provided in section 808 of the Employee Retirement Income Security Act of 1974, except that the reference in paragraph (7) of such section to an ''small business health plan'' shall be deemed a reference to an arrangement referred to in this subsection.

TITLE II—NEAR-TERM MARKET RELIEF

SEC. 201. NEAR-TERM MARKET RELIEF.

The Public Health Service Act (42 U.S.C. 201 et seq.) is amended by adding at the end the following:

''TITLE XXIX—HEALTH CARE INSURANCE MARKETPLACE REFORM

''SEC. 2901. GENERAL INSURANCE DEFINITIONS.

''In this title, the terms 'health insurance coverage', 'health insurance issuer', 'group health plan', and 'individual health insurance' shall have the meanings given such terms in section 2791.

''Subtitle A—Near-Term Market Relief

''PART I—RATING REQUIREMENTS

''SEC. 2911. DEFINITIONS.

''In this part:

''(1) ADOPTING STATE.—The term 'adopting State' means a State that has enacted either the NAIC model rules or the National Interim Model Rating Rules in their entirety and as the exclusive laws of the State that relate to rating in the small group insurance market.

''(2) COMMISSION.—The term 'Commission' means the Harmonized Standards Commission established under section 2921.

''(3) ELIGIBLE INSURER.—The term 'eligible insurer' means a health insurance issuer that is licensed in a nonadopting State and that—

''(A) notifies the Secretary, not later than 30 days prior to the offering of coverage described in this subparagraph, that the issuer intends to offer small group health insurance coverage consistent with the National Interim Model Rating Rules in a nonadopting State;

''(B) notifies the insurance department of a nonadopting State (or other State agency), not later than 30 days prior to the offering of coverage described in this subparagraph, that the issuer intends to offer small group health insurance coverage in that State consistent with the National Interim Model Rating Rules, and provides with such notice a copy of any insurance policy that it intends

to offer in the State, its most recent annual and quarterly financial reports, and any other information required to be filed with the insurance department of the State (or other State agency) by the Secretary in regulations; and

''(C) includes in the terms of the health insurance coverage offered in nonadopting States (including in the terms of any individual certificates that may be offered to individuals in connection with such group health coverage) and filed with the State pursuant to subparagraph (B), a description in the insurer's contract of the National Interim Model Rating Rules and an affirmation that such Rules are included in the terms of such contract.

''(4) HEALTH INSURANCE COVERAGE.—The term 'health insurance coverage' means any coverage issued in small group health insurance market.

''(5) NAIC MODEL RULES.—The term 'NAIC model rules' means the rating rules provided for in the 1992 Adopted Small Employer Health Insurance Availability Model Act of the National Association of Insurance Commissioners.

''(6) NATIONAL INTERIM MODEL RATING RULES.—The term 'National Interim Model Rating Rules' means the rules promulgated under section 2912(a).

''(7) NONADOPTING STATE.—The term 'nonadopting State' means a State that is not an adopting State.

''(8) SMALL GROUP INSURANCE MARKET.—The term 'small group insurance market' shall have the meaning given the term 'small group market' in section 2791(e)(5).

''(9) STATE LAW.—The term 'State law' means all laws, decisions, rules, regulations, or other State actions (including actions by a State agency) having the effect of law, of any State.

"SEC. 2912. RATING RULES.

''(a) NATIONAL INTERIM MODEL RATING RULES.—Not later than 6 months after the date of enactment of this title, the Secretary, in consultation with the National Association of Insurance Commissioners, shall, through expedited rulemaking procedures, promulgate National Interim Model Rating Rules that shall be applicable to the small group insurance market in certain States until such time as the provisions of subtitle B become effective. Such Model Rules shall apply in States as provided for in this section beginning with the first plan year after the such Rules are promulgated.

''(b) UTILIZATION OF NAIC MODEL RULES.—In promulgating the National Interim Model Rating Rules under subsection (a), the Secretary, except as otherwise provided in this subtitle, shall utilize the NAIC model rules regarding premium rating and premium variation.

''(c) TRANSITION IN CERTAIN STATES.—

''(1) IN GENERAL.—In promulgating the National Interim Model Rating Rules under subsection (a), the Secretary shall have discretion to modify the NAIC model rules in accordance with this subsection to the extent necessary to provide for a graduated transition, of not to exceed 3 years following the promulgation of such National Interim Rules, with respect to the application of such Rules to States.

''(2) INITIAL PREMIUM VARIATION.—

''(A) IN GENERAL.—Under the modified National Interim Model Rating Rules as provided for in paragraph (1), the premium variation provision of subparagraph (C) shall be applicable only with respect to small group policies issued in States which, on the date of enactment of this title, have in place premium rating band requirements that vary by less than 50 percent from the premium variation standards contained in subparagraph (C) with respect to the standards provided for under the NAIC model rules.

''(B) OTHER STATES.—Health insurance coverage offered in a State that, on the date of enactment of this title, has in place premium rating band requirements that vary by more than 50 percent from the premium variation standards contained in subparagraph (C) shall be subject to such graduated transition schedules as may be provided by the Secretary pursuant to paragraph (1).

''(C) AMOUNT OF VARIATION.—The amount of a premium rating variation from the base premium rate due to health conditions of covered individuals under this subparagraph shall not exceed a factor of—

''(i) +/- 25 percent upon the issuance of the policy involved; and

''(ii) +/- 15 percent upon the renewal of the policy.

''(3) OTHER TRANSITIONAL AUTHORITY.—In developing the National Interim Model Rating Rules, the Secretary may also provide for the application of transitional standards in certain States with respect to the following:

''(A) Independent rating classes for old and new business.

''(B) Such additional transition standards as the Secretary may determine necessary for an effective transition.

"SEC. 2913. APPLICATION AND PREEMPTION.

''(a) SUPERCEDING OF STATE LAW.—

''(1) IN GENERAL.—This part shall supersede any and all State laws insofar as such State laws (whether enacted prior to or after the date of enactment of this subtitle) relate to rating in the small group insurance market as applied to an eligible insurer, or small group health insurance coverage issued by an eligible insurer, in a nonadopting State.

''(2) NONADOPTING STATES.—This part shall supersede any and all State laws of a nonadopting State insofar as such State laws (whether enacted prior to or after the date of enactment of this subtitle)—

''(A) prohibit an eligible insurer from offering coverage consistent with the National Interim Model Rating Rules in a nonadopting State; or

''(B) discriminate against or among eligible insurers offering health insurance coverage consistent with the National Interim Model Rating Rules in a nonadopting state.

''(b) SAVINGS CLAUSE AND CONSTRUCTION.—

''(1) NONAPPLICATION TO ADOPTING STATES.—Subsection (a) shall not apply with respect to adopting states.

''(2) NONAPPLICATION TO CERTAIN INSURERS.—Subsection (a) shall not apply with respect to insurers that do not qualify as eligible insurers that offer small group health insurance coverage in a nonadopting State.

''(3) NONAPPLICATION WHERE OBTAINING RELIEF UNDER STATE LAW.—Subsection (a)(1) shall not apply to any State law in a nonadopting State to the extent necessary to permit individuals or the insurance department of the State (or other State agency) to obtain relief under State law to require an eligible insurer to comply with the terms of the small group health insurance coverage issued in the nonadopting State. In no case shall this paragraph, or any other provision of this title, be construed to create a cause of action on behalf of an individual or any other person under State law in connection with a group health plan that is subject to the Employee Retirement Income Security Act of 1974 or health insurance coverage issued in connection with such a plan.

''(4) NONAPPLICATION TO ENFORCE REQUIREMENTS RELATING TO THE NATIONAL RULE.—Subsection (a)(1) shall not apply to any State law in a nonadopting State to the extent necessary to provide the insurance department of the State (or other State agency) with the authority to enforce State law requirements relating to the National Interim Model Rating Rules that are not set forth in the terms of the small group health insurance coverage issued in a nonadopting State, in a manner that is consistent with the National Interim Model Rating Rules and that imposes no greater duties or obligations on health insurance issuers than the National Interim Model Rating Rules.

''(5) NONAPPLICATION TO SUBSECTION (A)(2).—Paragraphs (3) and (4) shall not apply with respect to subsection (a)(2).

''(6) NO AFFECT ON PREEMPTION.—In no case shall this subsection be construed to affect the scope of the preemption provided for under the Employee Retirement Income Security Act of 1974.

''(c) EFFECTIVE DATE.—This section shall apply beginning in the first plan year following the issuance of the final rules by the Secretary under the National Interim Model Rating Rules.

"SEC. 2914. CIVIL ACTIONS AND JURISDICTION.

''(a) IN GENERAL.—The district courts of the United States shall have exclusive jurisdiction over civil actions involving the interpretation of this part.

''(b) ACTIONS.—A health insurance issuer may bring an action in the district courts of the United States for injunctive or other equitable relief against a nonadopting State in connection with the application of a state law that violates this part.

''(c) VIOLATIONS OF SECTION 2913.—In the case of a nonadopting State that is in violation of section 2913(a)(2), a health insurance issuer may bring an action in the district courts of the United States for damages against the nonadopting State and, if the health insurance issuer prevails in such action, the district court shall award the health insurance issuer its reasonable attorneys fees and costs.

"SEC. 2915. SUNSET.

''The National Interim Model Rating Rules shall remain in effect in a non-adopting State until such time as the harmonized national rating rules are promulgated and effective pursuant to part II. Upon such effective date, such harmonized rules shall supersede the National Rules.

"PART II—LOWER COST PLANS

"SEC. 2921. DEFINITIONS.

''In this part:

''(1) ADOPTING STATE.—The term 'adopting State' means a State that has enacted the State Benefit Compendium in its entirety and as the exclusive laws of the State that relate to benefit, service, and provider mandates in the group and individual insurance markets.

''(2) ELIGIBLE INSURER.—The term 'eligible insurer' means a health insurance issuer that is licensed in a nonadopting State and that—

''(A) notifies the Secretary, not later than 30 days prior to the offering of coverage described in this subparagraph, that the issuer intends to offer group health insurance coverage consistent with the State Benefit Compendium in a nonadopting State;

''(B) notifies the insurance department of a nonadopting State (or other State agency), not later than 30 days prior to the offering of coverage described in this subparagraph, that the issuer intends to offer group health insurance coverage in that State consistent with the State Benefit Compendium, and provides with such notice a copy of any insurance policy that it intends to offer in the State, its most recent annual and quarterly financial reports, and any other information required to be filed with the insurance department of the State (or other State agency) by the Secretary in regulations; and

''(C) includes in the terms of the health insurance coverage offered in nonadopting

States (including in the terms of any individual certificates that may be offered to individuals in connection with such group health coverage) and filed with the State pursuant to subparagraph (B), a description in the insurer's contract of the State Benefit Compendium and that adherence to the Compendium is included as a term of such contract.

''(3) HEALTH INSURANCE COVERAGE.—The term 'health insurance coverage' means any coverage issued in the group or individual health insurance markets.

''(4) NONADOPTING STATE.—The term 'nonadopting State' means a State that is not an adopting State.

''(5) STATE BENEFIT COMPENDIUM.—The term 'State Benefit Compendium' means the Compendium issued under section 2922.

''(6) STATE LAW.—The term 'State law' means all laws, decisions, rules, regulations, or other State actions (including actions by a State agency) having the effect of law, of any State.

''SEC. 2922. OFFERING LOWER COST PLANS.

''(a) LIST OF REQUIRED BENEFITS.—Not later than 3 months after the date of enactment of this title, the Secretary shall issue by interim final rule a list (to be known as the 'List of Required Benefits') of the benefit, service, and provider mandates that are required to be provided by health insurance issuers in at least 45 States as a result of the application of State benefit, service, and provider mandate laws.

''(b) STATE BENEFIT COMPENDIUM.—

''(1) VARIANCE.—Not later than 12 months after the date of enactment of this title, the Secretary shall issue by interim final rule a compendium (to be known as the 'State Benefit Compendium') of harmonized descriptions of the benefit, service, and provider mandates identified under subsection (a). In developing the Compendium, with respect to differences in State mandate laws identified under subsection (a) relating to similar benefits, services, or providers, the Secretary shall review and define the scope and application of such State laws so that a common approach shall be applicable under such Compendium in a uniform manner. In making such determination, the Secretary shall adopt an approach reflective of the approach used by a plurality of the States requiring such benefit, service, or provider mandate.

''(2) EFFECT.—The State Benefit Compendium shall provide that any State benefit, service, and provider mandate law (enacted prior to or after the date of enactment of this title) other than those described in the Compendium shall not be binding on health insurance issuers in an adopting State.

''(3) IMPLEMENTATION.—The effective date of the State Benefit Compendium shall be the later of—

''(A) the date that is 12 months from the date of enactment of this title; or

''(B) such subsequent date on which the interim final rule for the State Benefit Compendium shall be issued.

''(c) NON-ASSOCIATION COVERAGE.—With respect to health insurers selling insurance to small employers (as defined in section 808(a)(10) of the Employee Retirement Income Security Act of 1974), in the event the Secretary fails to issue the State Benefit Compendium within 12 months of the date of enactment of this title, the required scope and application for each benefit or service listed in the List of Required Benefits shall, other than with respect to insurance issued to a Small Business Health Plan, be—

''(1) if the State in which the insurer issues a policy mandates such benefit or service, the scope and application required by such State; or

''(2) if the State in which the insurer issues a policy does not mandate such benefit or service, the scope and application required by such other State that does require such benefit or service in which the greatest number of the insurer's small employer policyholders are located.

''(d) UPDATING OF STATE BENEFIT COMPENDIUM.—Not later than 2 years after the date on which the Compendium is issued under subsection (b)(1), and every 2 years thereafter, the Secretary, applying the same methodology provided for in subsections (a) and (b)(1), in consultation with the National Association of Insurance Commissioners, shall update the Compendium. The Secretary shall issue the updated Compendium by regulation, and such updated Compendium shall be effective upon the first plan year following the issuance of such regulation.

''SEC. 2923. APPLICATION AND PREEMPTION.

''(a) SUPERCEDING OF STATE LAW.—

''(1) IN GENERAL.—This part shall supersede any and all State laws (whether enacted prior to or after the date of enactment of this title) insofar as such laws relate to benefit, service, or provider mandates in the health insurance market as applied to an eligible insurer, or health insurance coverage issued by an eligible insurer, in a nonadopting State.

''(2) NONADOPTING STATES.—This part shall supersede any and all State laws of a nonadopting State (whether enacted prior to or after the date of enactment of this title) insofar as such laws—

''(A) prohibit an eligible insurer from offering coverage consistent with the State Benefit Compendium, as provided for in section 2922(a), in a nonadopting State; or

''(B) discriminate against or among eligible insurers offering or seeking to offer health insurance coverage consistent with the State Benefit Compendium in a nonadopting State.

''(b) SAVINGS CLAUSE AND CONSTRUCTION.—

''(1) NONAPPLICATION TO ADOPTING STATES.—Subsection (a) shall not apply with respect to adopting States.

''(2) NONAPPLICATION TO CERTAIN INSURERS.—Subsection (a) shall not apply with respect to insurers that do not qualify as eligible insurers who offer health insurance coverage in a nonadopting State.

''(3) NONAPPLICATION WHERE OBTAINING RELIEF UNDER STATE LAW.—Subsection (a)(1) shall not apply to any State law of a nonadopting State to the extent necessary to permit individuals or the insurance department of the State (or other State agency) to obtain relief under State law to require an eligible insurer to comply with the terms of the group health insurance coverage issued in a nonadopting State. In no case shall this paragraph, or any other provision of this title, be construed to create a cause of action on behalf of an individual or any other person under State law in connection with a group health plan that is subject to the Employee Retirement Income Security Act of 1974 or health insurance coverage issued in connection with such plan.

''(4) NONAPPLICATION TO ENFORCE REQUIREMENTS RELATING TO THE COMPENDIUM.—Subsection (a)(1) shall not apply to any State law in a nonadopting State to the extent necessary to provide the insurance department of the State (or other state agency) authority to enforce State law requirements relating to the State Benefit Compendium that are not set forth in the terms of the group health insurance coverage issued in a nonadopting State, in a manner that is consistent with the State Benefit Compendium and imposes no greater duties or obligations on health insurance issuers than the State Benefit Compendium.

''(5) NONAPPLICATION TO SUBSECTION (A)(2).—Paragraphs (3) and (4) shall not apply with respect to subsection (a)(2).

''(6) NO AFFECT ON PREEMPTION.—In no case shall this subsection be construed to affect the scope of the preemption provided for under the Employee Retirement Income Security Act of 1974.

''(c) EFFECTIVE DATE.—This section shall apply upon the first plan year following final issuance by the Secretary of the State Benefit Compendium.

''SEC. 2924. CIVIL ACTIONS AND JURISDICTION.

''(a) IN GENERAL.—The district courts of the United States shall have exclusive jurisdiction over civil actions involving the interpretation of this part.

''(b) ACTIONS.—A health insurance issuer may bring an action in the district courts of the United States for injunctive or other equitable relief against a nonadopting State in connection with the application of a State law that violates this part.

''(c) VIOLATIONS OF SECTION 2923.—In the case of a nonadopting State that is in violation of section 2923(a)(2), a health insurance issuer may bring an action in the district courts of the United States for damages against the nonadopting State and, if the health insurance issuer prevails in such action, the district court shall award the health insurance issuer its reasonable attorneys fees and costs.''.

TITLE III—HARMONIZATION OF HEALTH INSURANCE LAWS

SEC. 301. HEALTH INSURANCE REGULATORY HARMONIZATION.

Title XXIX of the Public Health Service Act (as added by section 201) is amended by adding at the end the following:

"Subtitle B—Regulatory Harmonization

''SEC. 2931. DEFINITIONS.

''In this subtitle:

''(1) ACCESS.—The term 'access' means any requirements of State law that regulate the following elements of access:

''(A) Renewability of coverage.

''(B) Guaranteed issuance as provided for in title XXVII.

''(C) Guaranteed issue for individuals not eligible under subparagraph (B).

''(D) High risk pools.

''(E) Pre-existing conditions limitations.

''(2) ADOPTING STATE.—The term 'adopting State' means a State that has enacted the harmonized standards adopted under this subtitle in their entirety and as the exclusive laws of the State that relate to the harmonized standards.

''(3) ELIGIBLE INSURER.—The term 'eligible insurer' means a health insurance issuer that is licensed in a nonadopting State and that—

''(A) notifies the Secretary, not later than 30 days prior to the offering of coverage described in this subparagraph, that the issuer intends to offer health insurance coverage consistent with the harmonized standards in a nonadopting State;

''(B) notifies the insurance department of a nonadopting State (or other State agency), not later than 30 days prior to the offering of coverage described in this subparagraph, that the issuer intends to offer group health insurance coverage in that State consistent with the State Benefit Compendium, and provides with such notice a copy of any insurance policy that it intends to offer in the State, its most recent annual and quarterly financial reports, and any other information required to be filed with the insurance department of the State (or other State agency) by the Secretary in regulations; and

''(C) includes in the terms of the health insurance coverage offered in nonadopting States (including in the terms of any individual certificates that may be offered to individuals in connection with such group health coverage) and filed with the State

pursuant to subparagraph (B), a description of the harmonized standards published pursuant to section 2932(g)(2) and an affirmation that such standards are a term of the contract.

''(4) HARMONIZED STANDARDS.—The term 'harmonized standards' means the standards adopted by the Secretary under section 2932(d).

''(5) HEALTH INSURANCE COVERAGE.—The term 'health insurance coverage' means any coverage issued in the health insurance market.

''(6) NONADOPTING STATE.—The term 'nonadopting State' means a State that fails to enact, within 2 years of the date in which final regulations are issued by the Secretary adopting the harmonized standards under this subtitle, the harmonized standards in their entirety and as the exclusive laws of the State that relate to the harmonized standards.

''(7) PATIENT PROTECTIONS.—The term 'patient protections' means any requirement of State law that regulate the following elements of patient protections:

''(A) Internal appeals.

''(B) External appeals.

''(C) Direct access to providers.

''(D) Prompt payment of claims.

''(E) Utilization review.

''(F) Marketing standards.

''(8) PLURALITY REQUIREMENT.—The term 'plurality requirement' means the most common substantially similar requirements for elements within each area described in section 2932(b)(1).

''(9) RATING.—The term 'rating' means, at the time of issuance or renewal, requirements of State law the regulate the following elements of rating:

''(A) Limits on the types of variations in rates based on health status.

''(B) Limits on the types of variations in rates based on age and gender.

''(C) Limits on the types of variations in rates based on geography, industry and group size.

''(D) Periods of time during which rates are guaranteed.

''(E) The review and approval of rates.

''(F) The establishment of classes or blocks of business.

''(G) The use of actuarial justifications for rate variations.

''(10) STATE LAW.—The term 'State law' means all laws, decisions, rules, regulations, or other State actions (including actions by a State agency) having the effect of law, of any State.

''(11) SUBSTANTIALLY SIMILAR.—The term 'substantially similar' means a requirement of State law applicable to an element of an area identified in section 2932 that is similar in most material respects. Where the most common State action with respect to an element is to adopt no requirement for an element of an area identified in such section 2932, the plurality requirement shall be deemed to impose no requirements for such element.

''SEC. 2932. HARMONIZED STANDARDS.

''(a) COMMISSION.—

''(1) ESTABLISHMENT.—The Secretary, in consultation with the NAIC, shall establish the Commission on Health Insurance Standards Harmonization (referred to in this subtitle as the 'Commission') to develop recommendations that harmonize inconsistent State health insurance laws in accordance with the laws adopted in a plurality of the States.

''(2) COMPOSITION.—The Commission shall be composed of the following individuals to be appointed by the Secretary:

''(A) Two State insurance commissioners, of which one shall be a Democrat and one shall be a Republican, and of which one shall be designated as the chairperson and one shall be designated as the vice chairperson.

''(B) Two representatives of State government, one of which shall be a governor of a State and one of which shall be a State legislator, and one of which shall be a Democrat and one of which shall be a Republican.

''(C) Two representatives of employers, of which one shall represent small employers and one shall represent large employers.

''(D) Two representatives of health insurers, of which one shall represent insurers that offer coverage in all markets (including individual, small, and large markets), and one shall represent insurers that offer coverage in the small market.

''(E) Two representatives of consumer organizations.

''(F) Two representatives of insurance agents and brokers.

''(G) Two representatives of healthcare providers.

''(H) Two independent representatives of the American Academy of Actuaries who have familiarity with the actuarial methods applicable to health insurance.

''(I) One administrator of a qualified high risk pool.

''(3) TERMS.—The members of the Commission shall serve for the duration of the Commission. The Secretary shall fill vacancies in the Commission as needed and in a manner consistent with the composition described in paragraph (2).

''(b) DEVELOPMENT OF HARMONIZED STANDARDS.—

''(1) IN GENERAL.—In accordance with the process described in subsection (c), the Commission shall identify and recommend nationally harmonized standards for the small group health insurance market, the individual health insurance market, and the large group health insurance market that relate to the following areas:

''(A) Rating.

''(B) Access to coverage.

''(C) Patient protections.

''(2) RECOMMENDATIONS.—The Commission shall recommend separate harmonized standards with respect to each of the three insurance markets described in paragraph (1) and separate standards for each element of the areas described in subparagraph (A) through (C) of such paragraph within each such market. Notwithstanding the previous sentence, the Commission shall not recommend any harmonized standards that disrupt, expand, or duplicate the benefit, service, or provider mandate standards provided in the State Benefit Compendium pursuant to section 2922(a).

''(c) PROCESS FOR IDENTIFYING HARMONIZED STANDARDS.—

''(1) IN GENERAL.—The Commission shall develop recommendations to harmonize inconsistent State insurance laws with the laws adopted in a plurality of the States. In carrying out the previous sentence, the Commission shall review all State laws that regulate insurance in each of the insurance markets and areas described in subsection (b)(1) and identify the plurality requirement within each element of such areas. Such plurality requirement shall be the harmonized standard for such area in each such market.

''(2) CONSULTATION.—The Commission shall consult with the National Association of Insurance Commissioners in identifying the plurality requirements for each element within the area and in recommending the harmonized standards.

''(3) REVIEW OF FEDERAL LAWS.—The Commission shall review whether any Federal law imposes a requirement relating to the markets and areas described in subsection (b)(1). In such case, such Federal requirement shall be deemed the plurality requirement and the Commission shall recommend the Federal requirement as the harmonized standard for such elements.

''(d) RECOMMENDATIONS AND ADOPTION BY SECRETARY.—

''(1) RECOMMENDATIONS.—Not later than 1 year after the date of enactment of this title, the Commission shall recommend to the Secretary the adoption of the harmonized standards identified pursuant to subsection (c).

''(2) REGULATIONS.—Not later than 120 days after receipt of the Commission's recommendations under paragraph (1), the Secretary shall issue final regulations adopting the recommended harmonized standards. If the Secretary finds the recommended standards for an element of an area to be arbitrary and inconsistent with the plurality requirements of this section, the Secretary may issue a unique harmonized standard only for such element through the application of a process similar to the process set forth in subsection (c) and through the issuance of proposed and final regulations.

''(3) EFFECTIVE DATE.—The regulations issued by the Secretary under paragraph (2) shall be effective on the date that is 2 years after the date on which such regulations were issued.

''(e) TERMINATION.—The Commission shall terminate and be dissolved after making the recommendations to the Secretary pursuant to subsection (d)(1).

''(f) UPDATED HARMONIZED STANDARDS.—

''(1) IN GENERAL.—Not later than 2 years after the termination of the Commission under subsection (e), and every 2 years thereafter, the Secretary shall update the harmonized standards. Such updated standards shall be adopted in accordance with paragraph (2).

''(2) UPDATING OF STANDARDS.—

''(A) IN GENERAL.—The Secretary shall review all State laws that regulate insurance in each of the markets and elements of areas set forth in subsection (b)(1) and identify whether a plurality of States have adopted substantially similar requirements that differ from the harmonized standards adopted by the Secretary pursuant to subsection (d). In such case, the Secretary shall consider State laws that have been enacted with effective dates that are contingent upon adoption as a harmonized standard by the Secretary. Substantially similar requirements for each element within such area shall be considered to be an updated harmonized standard for such an area.

''(B) REPORT.—The Secretary shall request the National Association of Insurance Commissioners to issue a report to the Secretary every 2 years to assist the Secretary in identifying the updated harmonized standards under this paragraph. Nothing in this subparagraph shall be construed to prohibit the Secretary from issuing updated harmonized standards in the absence of such a report.

''(C) REGULATIONS.—The Secretary shall issue regulations adopting updated harmonized standards under this paragraph within 90 days of identifying such standards. Such regulations shall be effective beginning on the date that is 2 years after the date on which such regulations are issued.

''(g) PUBLICATION.—

''(1) LISTING.—The Secretary shall maintain an up to date listing of all harmonized standards adopted under this section on the Internet website of the Department of Health and Human Services.

''(2) SAMPLE CONTRACT LANGUAGE.—The Secretary shall publish on the Internet website of the Department of Health and Human Services sample contract language that incorporates the harmonized standards adopted under this section, which may be

used by insurers seeking to qualify as an eligible insurer. The types of harmonized standards that shall be included in sample contract language are the standards that are relevant to the contractual bargain between the insurer and insured.

''(h) STATE ADOPTION AND ENFORCEMENT.—Not later than 2 years after the issuance by the Secretary of final regulations adopting harmonized standards under this section, the States may adopt such harmonized standards (and become an adopting State) and, in which case, shall enforce the harmonized standards pursuant to State law.

''SEC. 2933. APPLICATION AND PREEMPTION.

''(a) SUPERCEDING OF STATE LAW.—

''(1) IN GENERAL.—The harmonized standards adopted under this subtitle shall supersede any and all State laws (whether enacted prior to or after the date of enactment of this title) insofar as such State laws relate to the areas of harmonized standards as applied to an eligible insurer, or health insurance coverage issued by a eligible insurer, in a nonadopting State.

''(2) NONADOPTING STATES.—This subtitle shall supersede any and all State laws of a nonadopting State (whether enacted prior to or after the date of enactment of this title) insofar as they may—

''(A) prohibit an eligible insurer from offering coverage consistent with the harmonized standards in the nonadopting State; or

''(B) discriminate against or among eligible insurers offering or seeking to offer health insurance coverage consistent with the harmonized standards in the nonadopting State.

''(b) SAVINGS CLAUSE AND CONSTRUCTION.—

''(1) NONAPPLICATION TO ADOPTING STATES.—Subsection (a) shall not apply with respect to adopting States.

''(2) NONAPPLICATION TO CERTAIN INSURERS.—Subsection (a) shall not apply with respect to insurers that do not qualify as eligible insurers who offer health insurance coverage in a nonadopting State.

''(3) NONAPPLICATION WHERE OBTAINING RELIEF UNDER STATE LAW.—Subsection (a)(1) shall not apply to any State law of a nonadopting State to the extent necessary to permit individuals or the insurance department of the State (or other State agency) to obtain relief under State law to require an eligible insurer to comply with the terms of the health insurance coverage issued in a nonadopting State. In no case shall this paragraph, or any other provision of this subtitle, be construed to permit a cause of action on behalf of an individual or any other person under State law in connection with a group health plan that is subject to the Employee Retirement Income Security Act of 1974 or health insurance coverage issued in connection with such plan.

''(4) NONAPPLICATION TO ENFORCE REQUIREMENTS RELATING TO THE COMPENDIUM.—Subsection (a)(1) shall not apply to any State law in a nonadopting State to the extent necessary to provide the insurance department of the State (or other state agency) authority to enforce State law requirements relating to the harmonized standards that are not set forth in the terms of the health insurance coverage issued in a nonadopting State, in a manner that is consistent with the harmonized standards and imposes no greater duties or obligations on health insurance issuers than the harmonized standards.

''(5) NONAPPLICATION TO SUBSECTION (A)(2).—Paragraphs (3) and (4) shall not apply with respect to subsection (a)(2).

''(6) NO AFFECT ON PREEMPTION.—In no case shall this subsection be construed to affect the scope of the preemption provided for under the Employee Retirement Income Security Act of 1974.

''(c) EFFECTIVE DATE.—This section shall apply beginning on the date that is 2 years after the date on which final regulations are issued by the Secretary under this subtitle adopting the harmonized standards.

''SEC. 2934. CIVIL ACTIONS AND JURISDICTION.

''(a) IN GENERAL.—The district courts of the United States shall have exclusive jurisdiction over civil actions involving the interpretation of this subtitle.

''(b) ACTIONS.—A health insurance issuer may bring an action in the district courts of the United States for injunctive or other equitable relief against a nonadopting State in connection with the application of a State law that violates this subtitle.

''(c) VIOLATIONS OF SECTION 2933.—In the case of a nonadopting State that is in violation of section 2933(a)(2), a health insurance issuer may bring an action in the district courts of the United States for damages against the nonadopting State and, if the health insurance issuer prevails in such action, the district court shall award the health insurance issuer its reasonable attorneys fees and costs.

''SEC. 2935. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated such sums as may be necessary to carry out this subtitle.''.

Mr. NELSON of Nebraska. Mr. President, I am pleased to join with my good friend, Chairman MIKE ENZI, in introducing the Health Insurance Marketplace Modernization and Affordability Act. This legislation will help bring much-needed relief to small businesses who are struggling to afford health insurance coverage for their employees.

The affordability of health insurance coverage is a major problem facing America's businesses and consumers. According to the Kaiser Family Foundation, health insurance premiums for businesses rose 9.2 percent last year. While health care cost increases have subsided somewhat, premium increases for last year alone were more than 3 times the growth in workers' wages and two-and-a-half times the rate of inflation.

This legislation helps address the problem of rising health care costs. By providing small businesses with more ability to pool and by harmonizing and streamlining insurance regulations, this bill will help reduce the cost of coverage for small businesses. By lowering costs, this bill holds promise in reducing the number of working Americans who lack health insurance coverage. Our legislation will help reduce costs in a balanced and carefully targeted manner while avoiding some of the problems that other proposals have raised.

In contrast to other proposals, such as Association Health Plans (AHP), our bill retains State-based regulation and oversight. State-based oversight and enforcement is critical to protecting consumers. Unlike other AHP bills, associations cannot self insure and be outside of State oversight. As a former insurance director, this issue is critical for my support.

Moreover, the bill maintains a level playing field in the health insurance marketplace by avoiding harmful provisions that would have led to rampant ''cherry-picking'' and adverse selection problems. The bill does not allow association health plans to abide by less comprehensive rules and under minimal oversight by the U.S. Department of Labor—which would allow these plans to attract only young and healthy groups while increasing costs for the vast majority of small businesses and their workers.

I applaud the effort of Senator ENZI and his talented staff and am pleased to introduce the bill. However, I also recognize that is not a perfect solution; nor is it a panacea for all the problems facing our health care system.

I look forward to working with Senator ENZI to assure that the bill preserves comprehensive and high-quality benefits while, at the same time, allowing small businesses to have access to affordable coverage.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 294—EXPRESSING THE SENSE OF THE SENATE ON THE RETENTION OF THE FEDERAL TAX DEDUCTION FOR STATE AND LOCAL TAXES PAID

Mr. SCHUMER (for himself, Mr. LAUTENBERG, Mr. DURBIN, Mrs. CLINTON, Mr. CORZINE, Mr. SALAZAR, Mr. KENNEDY, Mr. LIEBERMAN, Mrs. FEINSTEIN, Mr. DODD, Mr. KERRY, Mr. OBAMA, Mrs. BOXER, Mr. FEINGOLD, Mr. KOHL, and Ms. STABENOW) submitted the following resolution; which was referred to the Committee on Finance:

S. RES. 294

Whereas no American should be unnecessarily or excessively burdened with additional taxes;

Whereas the Federal income tax has grown more complicated and unmanageable over time, imposing burdensome administrative and compliance costs on American taxpayers;

Whereas on January 7, 2005, President George W. Bush created the President's Advisory Panel on Federal Tax Reform (the ''Panel'') via Executive Order 13369;

Whereas the Panel was tasked with providing several options for Federal tax reform that would simplify Federal tax laws, retain progressivity, and promote long-run economic growth and job creation;

Whereas in its final report, released publicly on November 1, 2005, the Panel recommended the complete repeal of the Federal deduction for State and local taxes, as a central component of both the ''Simplified Income Tax Plan'' and the ''Growth and Investment Tax Plan'';

Whereas State and local taxes have been deductible from the Federal income tax since the inception of the Federal income tax in 1913;

Whereas eliminating the deduction for State and local taxes would create a new form of double taxation at a time where efforts are being made to reduce other forms of double taxation, since repeal would require millions of taxpayers to pay Federal taxes on income that is also taxed at the State or local level;

Whereas Congress has recently taken steps to expand, rather than cut back, the State

and local tax deduction, by reinstating a deduction for State sales taxes for some taxpayers (previously repealed as part of the Tax Reform Act of 1986), as part of the American Jobs Creation Act of 2004;

Whereas there is some concern, as noted by the nonpartisan Urban-Brookings Tax Policy Center, that eliminating the deduction could ''lower support for public services and lead to a 'race to the bottom' in terms of State and local expenditures as States compete to have the lowest taxes in order to attract higher-income households'';

Whereas the deduction for State and local taxes is not just a concern for a small minority of taxpayers in the largest States, as 22 States saw more than one-third of their taxpayers take the deduction in 2003, the latest year for which data is available (Maryland, New Jersey, Connecticut, Colorado, Oregon, Minnesota, Massachusetts, Virginia, Utah, California, Georgia, New York, Wisconsin, Arizona, Rhode Island, Michigan, Delaware, North Carolina, Illinois, New Hampshire, Nevada, and Idaho (ranked in order of the percentage of taxpayers affected));

Whereas in tax year 2003, 43,538,000 taxpayers in the United States took advantage of the Federal deduction for State and local taxes, deducting a total of $315,690,000,000, thereby saving taxpayers in the United States approximately $88,390,000,000 in Federal income taxes, assuming an average marginal rate of 28 percent for taxpayers who itemize; and

Whereas in tax year 2003, the top 25 States ranked by the number of taxpayers affected represented 77 percent of the taxpayers affected nationally, and took 85 percent of the total deductions for State and local taxes, as detailed below:

(1) In California, 5,807,000 taxpayers deducted a total of $54,920,000,000, thereby saving California taxpayers approximately $15,380,000,000 in Federal income taxes.

(2) In New York, 3,228,000 taxpayers deducted a total of $37,600,000,000, thereby saving New York taxpayers approximately $10,530,000,000 in Federal income taxes.

(3) In Illinois, 1,994,000 taxpayers deducted a total of $13,720,000,000, thereby saving Illinois taxpayers approximately $3,840,000,000 in Federal income taxes.

(4) In Ohio, 1,809,000 taxpayers deducted a total of $12,720,000,000, thereby saving Ohio taxpayers approximately $3,560,000,000 in Federal income taxes.

(5) In New Jersey, 1,791,000 taxpayers deducted a total of $18,750,000,000, thereby saving New Jersey taxpayers approximately $5,250,000,000 in Federal income taxes.

(6) In Pennsylvania, 1,765,000 taxpayers deducted a total of $12,400,000,000, thereby saving Pennsylvania taxpayers approximately $3,470,000,000 billion in Federal income taxes.

(7) In Michigan, 1,627,000 taxpayers deducted a total of $10,350,000,000, thereby saving Michigan taxpayers approximately $2,900,000,000 in Federal income taxes.

(8) In Georgia, 1,416,000 taxpayers deducted a total of $8,720,000,000, thereby saving Georgia taxpayers approximately $2,440,000,000 in Federal income taxes.

(9) In Virginia, 1,355,000 taxpayers deducted a total of $9,630,000,000, thereby saving Virginia taxpayers approximately $2,700,000,000 in Federal income taxes.

(10) In North Carolina, 1,304,000 taxpayers deducted a total of $8,720,000,000, thereby saving North Carolina taxpayers approximately $2,440,000,000 in Federal income taxes.

(11) In Maryland, 1,260,000 taxpayers deducted a total of $10,410,000,000, thereby saving Maryland taxpayers approximately $2,920,000,000 in Federal income taxes.

(12) In Massachusetts, 1,216,000 taxpayers deducted a total of $10,840,000,000, thereby saving Massachusetts taxpayers approximately $3,040,000,000 in Federal income taxes.

(13) In Minnesota, 969,000 taxpayers deducted a total of $7,060,000,000, thereby saving Minnesota taxpayers approximately $1,980,000,000 in Federal income taxes.

(14) In Wisconsin, 961,000 taxpayers deducted a total of $8,000,000,000, thereby saving Wisconsin taxpayers approximately $2,240,000,000 in Federal income taxes.

(15) In Colorado, 856,000 taxpayers deducted a total of $4,570,000,000, thereby saving Colorado taxpayers approximately $1,280,000,000 in Federal income taxes.

(16) In Arizona, 841,000 taxpayers deducted a total of $4,110,000,000, thereby saving Arizona taxpayers approximately $1,150,000,000 in Federal income taxes.

(17) In Indiana, 832,000 taxpayers deducted a total of $4,530,000,000, thereby saving Indiana taxpayers approximately $1,270,000,000 in Federal income taxes.

(18) In Missouri, 772,000 taxpayers deducted a total of $4,890,000,000, thereby saving Missouri taxpayers approximately $1,370,000,000 in Federal income taxes.

(19) In Connecticut, 713,000 taxpayers deducted a total of $7,970,000,000, thereby saving Connecticut taxpayers approximately $2,230,000,000 in Federal income taxes.

(20) In Oregon, 641,000 taxpayers deducted a total of $5,100,000,000, thereby saving Oregon taxpayers approximately $1,430,000,000 in Federal income taxes.

(21) In South Carolina, 574,000 taxpayers deducted a total of $3,390,000,000, thereby saving South Carolina taxpayers approximately $949,000,000 in Federal income taxes.

(22) In Alabama, 538,000 taxpayers deducted a total of $2,090,000,000, thereby saving Alabama taxpayers approximately $586,000,000 in Federal income taxes.

(23) In Kentucky, 515,000 taxpayers deducted a total of $3,300,000,000, thereby saving Kentucky taxpayers approximately $925,000,000 in Federal income taxes.

(24) In Oklahoma, 434,000 taxpayers deducted a total of $2,320,000,000, thereby saving Oklahoma taxpayers approximately $650,000,000 in Federal income taxes.

(25) In Iowa, 397,000 taxpayers deducted a total of $2,510,000,000, thereby saving Iowa taxpayers approximately $702,000,000 in Federal income taxes:

Now, therefore, be it

Resolved, That it is the sense of the Senate that Congress should not repeal or substantially alter the longstanding Federal tax deduction for State and local taxes.

SENATE RESOLUTION 295—EXPRESSING THE SENSE OF THE SENATE ON THE ARREST OF SANJAR UMAROV IN UZBEK ISTAN

Mr. LUGAR (for himself and Mr. FRIST, and Mr. MCCAIN) submitted the following resolution; which was considered and agreed to:

S. RES. 295

Whereas the United States supports the development of democracy, free markets, and civil society in Uzbekistan and in other states in Central Asia;

Whereas the rule of law, the impartial application of the law, and equal justice for all courts of law are pillars of all democratic societies;

Whereas Sanjar Umarov was reportedly arrested in Tashkent, Uzbekistan, on October 22, 2005;

Whereas Sanjar Umarov is a businessman and leader of the Uzbek opposition party, Sunshine Coalition;

Whereas Sanjar Umarov was reportedly taken into custody on October 22, 2005, during a crackdown on the Sunshine Coalition that included a raid of its offices and seizure of its records;

Whereas Sanjar Umarov was reportedly charged with grand larceny;

Whereas press accounts report that representatives of Sanjar Umarov claim that Mr. Umarov was drugged and abused while at his pretrial confinement center in Tashkent, Uzbekistan, but such accounts could not be immediately confirmed, and official information about the health, whereabouts, and treatment while in custody of Mr. Umarov has thus far been unavailable;

Whereas the United States has expressed its serious concern regarding the overall state of human rights in Uzbekistan and is seeking to clarify the facts of this case;

Whereas the European Union (EU) and the Organization for Security and Cooperation in Europe (OSCE) have expressed concern about the arrest and possible abuse of Sanjar Umarov; and

Whereas the Government of Uzbekistan is party to various treaty obligations, and in particular those under the International Covenant on Civil and Political Rights, which obligate governments to provide for due process in criminal cases: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the law enforcement and judicial authorities of Uzbekistan should ensure that Sanjar Umarov is accorded the full measure of his rights under the Uzbekistan Constitution to defend himself against any and all charges that may be brought against him, in a fair and transparent process, so that individual justice may be done;

(2) the Government of Uzbekistan should observe its various treaty obligations, especially those under the International Covenant on Civil and Political Rights, which obligate governments to provide for due process in criminal cases; and

(3) the Government of Uzbekistan should publicly clarify the charges against Sanjar Umarov, his current condition, and his whereabouts.

SENATE RESOLUTION 296—HONORING THE LIFE OF AND EXPRESSING THE CONDOLENCES OF THE SENATE ON THE PASSING OF DR. RICHARD ERRETT SMALLEY

Mrs. HUTCHISON (for herself and Mr. CORNYN) submitted the following resolution; which was considered and agreed to:

S. RES. 296

Whereas Dr. Richard Errett Smalley opened the field of nanotechnology with his 1985 discovery of a new form of carbon molecules called ''buckyballs'', and for this, in 1996, the Royal Swedish Academy of Sciences awarded him the Nobel Prize in Chemistry along with Dr. Robert Curl and Sir Harold Kroto;

Whereas the research and advocacy done by Dr. Smalley in support of the National Nanotechnology Initiative led to the development of a revolutionary area of science that will improve materials and devices in fields ranging from medicine to energy to National defense;

Whereas the accomplishments of Dr. Smalley in the field of nanotechnology have contributed greatly to the academic and research communities of Rice University, the State of Texas, and the United States of America;

Whereas Dr. Smalley has been described as a ''Moses'' in the field of nanotechnology;

Whereas Dr. Smalley is credited with being the ''Father of Nanotechnology'';

Whereas Dr. Smalley is considered by Neal Lane, a former Presidential science adviser, as ''a real civic scientist, one who not only [did] great science, but [used] that knowledge and fame to do good, to benefit society, and to try and educate the public'';

Whereas Dr. Smalley devoted his talent to employ nanotechnology to solve the global energy problem, which he believed could ultimately solve other global problems such as hunger and water shortages;

Whereas the dedication and devotion of Dr. Smalley to science led to his receipt of numerous awards and honors, including the Distinguished Public Service Medal from the United States Department of the Navy and the Lifetime Achievement Award from Small Times Magazine;

Whereas Dr. Smalley, along with Nobel Laureate Michael Brown, was a founding co-chairman of the Texas Academy of Medicine, Engineering, and Science, which was founded to further enhance research in Texas; and

Whereas the legacy of Dr. Smalley will continue to grow as scientists build upon his work and reap the benefits of his discoveries: Now, therefore, be it

Resolved, That the Senate honors the life and accomplishments of Dr. Richard Errett Smalley and expresses its condolences on his passing.

SENATE RESOLUTION 297—MARKING THE DEDICATION OF THE GAYLORD NELSON WILDERNESS WITHIN THE APOSTLE ISLANDS NATIONAL LAKESHORE

Mr. FEINGOLD (for himself and Mr. KOHL) submitted the following resolution; which was considered and agreed to:

S. RES. 297

Whereas the Honorable Gaylord Nelson, a State Senator, Governor, and United States Senator from Wisconsin, devoted his life to protecting the environment by championing issues of land protection, wildlife habitat, environmental health, and increased environmental awareness, including founding Earth Day;

Whereas the Honorable Gaylord Nelson authored the Apostle Islands National Lakeshore Act, which led to the protection of one of the most beautiful areas in Wisconsin and recognized the rich assemblage of natural resources, cultural heritage, and scenic features on Wisconsin's north coast and 21 islands of the 22-island archipelago;

Whereas the Apostle Islands National Lakeshore was designated a National Park on September 26, 1970;

Whereas, on December 8, 2004, approximately 80 percent of the Apostle Islands National Lakeshore was designated the Gaylord Nelson Wilderness;

Whereas the Gaylord Nelson Wilderness within the Apostle Islands National Lakeshore provides a refuge for many species of birds, including threatened bald eagles and endangered piping plovers, herring-billed gulls, double-crested cormorants, and great blue herons, and is a safe haven for a variety of amphibians, such as blue-spotted salamanders, red-backed salamanders, gray treefrogs, and mink frogs, and is a sanctuary for several mammals, including river otters, black bears, snowshoe hares, and fishers;

Whereas the official dedication of the Gaylord Nelson Wilderness occurred on August 8, 2005, 36 days after the Honorable Gaylord Nelson's passing; and

Whereas the Honorable Gaylord Nelson changed the consciousness of our Nation and embodied the principle that 1 person can change the world, and the creation of the Gaylord Nelson Wilderness is a small, but fitting, recognition of his efforts: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes the Honorable Gaylord Nelson's environmental legacy;

(2) celebrates the dedication of the Gaylord Nelson Wilderness within the Apostle Islands National Lakeshore; and

(3) requests that the Secretary of the Senate transmit an enrolled copy of this resolution to the family of the Senator.

AMENDMENTS SUBMITTED AND PROPOSED

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).

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, supra.

SA 2360. Mr. LOTT (for himself, Mr. LAUTENBERG, Mr. STEVENS, Mr. INOUYE, 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, supra.

SA 2361. Mr. TALENT submitted an amendment intended to be proposed by him to the bill S. 1932, supra; which was ordered to lie on the table.

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, supra.

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, supra; which was ordered to lie on the table.

SA 2364. 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 2365. Mr. BINGAMAN (for himself, Mr. ROCKEFELLER, Mrs. LINCOLN, Mr. PRYOR, and Mr. LEAHY) proposed an amendment to the bill S. 1932, supra.

SA 2366. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 1932, supra.

SA 2367. Mr. BYRD proposed an amendment to the bill S. 1932, supra.

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, supra.

SA 2369. Mr. AKAKA submitted an amendment intended to be proposed by him to the bill S. 1932, supra; which was ordered to lie on the table.

SA 2370. Mr. MCCAIN (for himself, Mr. SUNUNU, and Mr. ROCKEFELLER) proposed an amendment to the bill S. 1932, supra.

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, supra; which was ordered to lie on the table.

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, supra.

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, supra; which was ordered to lie on the table.

SA 2374. Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill S. 1932, supra; which was ordered to lie on the table.

SA 2375. Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill S. 1932, supra; which was ordered to lie on the table.

SA 2376. Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill S. 1932, supra; which was ordered to lie on the table.

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, supra; which was ordered to lie on the table.

SA 2378. Mr. SPECTER (for himself and Mr. LEAHY) submitted an amendment intended to be proposed by him to the bill S. 1932, supra; which was ordered to lie on the table.

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, supra; which was ordered to lie on the table.

SA 2380. Mr. LIEBERMAN submitted an amendment intended to be proposed by him to the bill S. 1932, supra; which was ordered to lie on the table.

SA 2381. 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 2382. Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill S. 1932, supra; which was ordered to lie on the table.

SA 2383. Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill S. 1932, supra; which was ordered to lie on the table.

SA 2384. Mr. HARKIN submitted an amendment intended to be proposed by him to the bill S. 1932, supra; which was ordered to lie on the table.

SA 2385. 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 2386. Mr. SUNUNU (for himself and Mr. ALLEN) submitted an amendment intended to be proposed by him to the bill S. 1932, supra; which was ordered to lie on the table.

SA 2387. 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 2388. Mr. SUNUNU (for himself, Mr. ALLEN, and Mr. DEMINT) submitted an amendment intended to be proposed by him to the bill S. 1932, supra; which was ordered to lie on the table.

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, supra; which was ordered to lie on the table.

SA 2390. Mr. SMITH (for himself and Mrs. CLINTON) submitted an amendment intended to be proposed by him to the bill S. 1932, supra; which was ordered to lie on the table.

SA 2391. Mr. HAGEL (for himself and 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 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-CYCLICAL 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 di minimus 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 NONRECOURSE 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''; and

(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. INOUYE, 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.
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Sec. 101. Authorization for Amtrak capital and operating expenses and State capital grants.
Sec. 102. Authorization for the Federal Railroad Administration.
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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.
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Sec. 208. Metrics and standards.
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Sec. 210. Long distance routes.
Sec. 211. Alternate passenger rail service program.
Sec. 212. Employee transition assistance.
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Sec. 214. Northeast Corridor infrastructure and operations improvements.
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TITLE III—INTERCITY PASSENGER RAIL POLICY

Sec. 301. Capital assistance for intercity passenger rail service.
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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 ½ 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 factors 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 Transportation, 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) CESSATION 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 the 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 wave 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 bargaining agent or agents for the employees of the predecessor provider shall commence for the purpose of reaching agreement with respect to all matters set forth in subparagraphs (A) through (D) of paragraph (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(11) 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 stake holders.

''(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 transportation 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, shall be deemed 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 interconnectedness 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 UPGRADES.

(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 Transportation 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 prescreened 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 prescreened 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 support 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 $1,000,000,000 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 property 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 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 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. ____. 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. ___. 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—ADDITONAL 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)''; and

(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 assistance 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 though 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 UUNDER 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 Committee 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:

S. RES. 295

Whereas the United States supports the development of democracy, free markets, and civil society in Uzbekistan and in other states in Central Asia;

Whereas the rule of law, the impartial application of the law, and equal justice for all courts of law are pillars of all democratic societies;

Whereas Sanjar Umarov was reportedly arrested in Tashkent, Uzbekistan, on October 22, 2005;

Whereas Sanjar Umarov is a businessman and leader of the Uzbek opposition party, Sunshine Coalition;

Whereas Sanjar Umarov was reportedly taken into custody on October 22, 2005, during a crackdown on the Sunshine Coalition that included a raid of its offices and seizure of its records;

Whereas Sanjar Umarov was reportedly charged with grand larceny;

Whereas press accounts report that representatives of Sanjar Umarov claim that Mr. Umarov was drugged and abused while at his pretrial confinement center in Tashkent, Uzbekistan, but such accounts could not be immediately confirmed, and official information about the health, whereabouts, and treatment while in custody of Mr. Umarov has thus far been unavailable;

Whereas the United States has expressed its serious concern regarding the overall state of human rights in Uzbekistan and is seeking to clarify the facts of this case;

Whereas the European Union (EU) and the Organization for Security and Cooperation in Europe (OSCE) have expressed concern about the arrest and possible abuse of Sanjar Umarov; and

Whereas the Government of Uzbekistan is party to various treaty obligations, and in particular those under the International Covenant on Civil and Political Rights, which obligate governments to provide for due process in criminal cases: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the law enforcement and judicial authorities of Uzbekistan should ensure that Sanjar Umarov is accorded the full measure of his rights under the Uzbekistan Constitution to defend himself against any and all charges that may be brought against him, in a fair and transparent process, so that individual justice may be done;

(2) the Government of Uzbekistan should observe its various treaty obligations, especially those under the International Covenant on Civil and Political Rights, which obligate governments to provide for due process in criminal cases; and

(3) the Government of Uzbekistan should publicly clarify the charges against Sanjar Umarov, his current condition, and his whereabouts.

HONORING THE LIFE OF AND EXPRESSING THE CONDOLENCES OF THE SENATE ON THE PASSING OF DR. RICHARD ERRETT SMALLEY

Mr. BENNETT. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of S. Res. 296, 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. 296) honoring the life of and expressing the condolences of the Senate on the passing of Dr. Richard Errett Smalley.

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. 296) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 296

Whereas Dr. Richard Errett Smalley opened the field of nanotechnology with his 1985 discovery of a new form of carbon molecules called ''buckyballs'', and for this, in 1996, the Royal Swedish Academy of Sciences awarded him the Nobel Prize in Chemistry along with Dr. Robert Curl and Sir Harold Kroto;

Whereas the research and advocacy done by Dr. Smalley in support of the National Nanotechnology Initiative led to the development of a revolutionary area of science that will improve materials and devices in fields ranging from medicine to energy to National defense;

Whereas the accomplishments of Dr. Smalley in the field of nanotechnology have contributed greatly to the academic and research communities of Rice University, the State of Texas, and the United States of America;

Whereas Dr. Smalley has been described as a ''Moses'' in the field of nanotechnology;

Whereas Dr. Smalley is credited with being the ''Father of Nanotechnology'';

Whereas Dr. Smalley is considered by Neal Lane, a former Presidential science adviser, as ''a real civic scientist, one who not only [did] great science, but [used] that knowledge and fame to do good, to benefit society, and to try and educate the public'';

Whereas Dr. Smalley devoted his talent to employ nanotechnology to solve the global energy problem, which he believed could ultimately solve other global problems such as hunger and water shortages;

Whereas the dedication and devotion of Dr. Smalley to science led to his receipt of numerous awards and honors, including the Distinguished Public Service Medal from the United States Department of the Navy and the Lifetime Achievement Award from Small Times Magazine;

Whereas Dr. Smalley, along with Nobel Laureate Michael Brown, was a founding co-chairman of the Texas Academy of Medicine, Engineering, and Science, which was founded to further enhance research in Texas; and

Whereas the legacy of Dr. Smalley will continue to grow as scientists build upon his work and reap the benefits of his discoveries: Now, therefore, be it

Resolved, That the Senate honors the life and accomplishments of Dr. Richard Errett Smalley and expresses its condolences on his passing.

MARKING THE DEDICATION OF THE GAYLORD NELSON WILDERNESS WITHIN THE APOSTLE ISLANDS NATIONAL LAKESHORE

Mr. BENNETT. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 297, submitted early today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 297) marking the dedication of the Gaylord Nelson Wilderness within the Apostle Islands National Lakeshore.

There being no objection, the Senate proceeded to consider the resolution.

Mr. FEINGOLD. Mr. President, earlier this fall, Senator KOHL and I introduced a resolution marking the dedication of the Gaylord Nelson Wilderness Area within the Apostle Islands National Lakeshore. Today, the same day the Senate will officially pay tribute to Senator Nelson, we proudly reintroduced our resolution.

On December 8, 2004, approximately 80 percent of the Apostle Islands National Lakeshore in Wisconsin was designated the Gaylord Nelson Wilderness. Although we did not formally celebrate the new wilderness area until August 8, 2005, we have been delighting in the designation ever since December of last year.

The designation of the Gaylord Nelson Wilderness within the Apostle Islands National Lakeshore on August 8, 2005, was a tremendous occasion for both Wisconsin and the country. I was deeply honored to participate in the ceremony marking the creation of the Gaylord Nelson Wilderness. I knew Gaylord, and am proud to occupy his Senate seat. Like all of those in attendance at the dedication ceremony, including Tia Nelson, Governor Doyle, Congressman OBEY, local officials, tribal chairs, and many others, I was deeply saddened that Gaylord wasn't able to be sitting among us, having passed away on July 3, 2005.

However, I do believe that because the area, the magnificent Apostles, and the wilderness designation we were celebrating were such a part of Gaylord, he was in fact there with us that day, urging us to mark the achievement and to continue his life's work of building a national conservation ethic. As we all know, while his record of achievements is long and impressive, it is Senator Nelson's passion and commitment to protecting our environment that will remain the centerpiece of his legacy. For this reason, Senator KOHL and I have submitted a resolution to bring recognition to Gaylord's unwavering efforts on behalf of the environment and to celebrate the dedication of a wilderness area rightly named in his honor.

Gaylord so believed in his responsibility to the environment that he started a revolution that has inspired millions of people from across the globe. The day he created in 1970—Earth Day—has become a cause for celebration, education, and reflection for all. Simply stated, Gaylord Nelson changed the consciousness of a nation, and quite possibly the world. He was a distinguished Governor and Senator, a recipient of the Presidential Medal of

Freedom, and a personal hero of mine. Most importantly, he was the embodiment of the principle that one person can change the world.

August 8, 2005, marked the beginning of a new period for the Apostle Islands, and I could not be more proud of this. In 1998, Representative OBEY and I asked for a wilderness survey. Seven years later, we finally gathered to salute the awe-inspiring resource as well as the man who dedicated himself to protecting our environment, particularly those places where we humans are but humble visitors—wilderness areas. Let us not forget, however, that before we could talk about having a wilderness area within the Apostle Islands National Lakeshore, we had to have a National Lakeshore. I am sure it will come as no surprise that Gaylord was essential in the effort to recognize the Apostle Islands as a national treasure.

The wild and primitive nature of the Apostles and now the Gaylord Nelson Wilderness has always been an attraction, not only for Wisconsin residents but for people from across the globe. At the Apostles you can find pristine old growth forests; wetlands that are home to an astounding ecological diversity; birds that travel long distances and use the islands for respite; and amphibians, which can act as indicators of the park's environmental health.

It is a truly amazing place.

And people know it. In fact, just recently, the Apostles was rated the No. 1 National Park in the U.S. by National Geographic Traveler. The rating was based on a variety of factors, most notably environmental and ecological quality, social and cultural integrity, and the outlook for the future.

We have it all in the park—ecological and cultural resources intertwined with one another. The history of the islands is a history of people living off, and very much in balance with, the land and water surrounding them. A visit to the Apostles and the Gaylord Nelson Wilderness can be, if we let go of the trappings of modern society, an enlightening voyage that challenges us to think about those who came before us, those who will follow us, and the connections between us and the natural resources we depend on for our survival.

The Ojibwae, who Wisconsinites know were the original inhabitants of the Apostles, had great respect for the resources. They believed in taking something only if they were giving something in return. The Ojibwae people understood their dependence on the environment long before many others began contemplating such a relationship. Unfortunately, as a society, we have not always heeded their example. We must be better stewards of our land, our air, and our water. Gaylord pushed us toward that goal every day of his life. And, what better way to mark the dedication of the Wilderness Area named in his honor than for each of us to dedicate ourselves to actively carrying his legacy forward. That is Gaylord's challenge for all of us.

So many people supported the creation of the Lakeshore and the wilderness area. The support has taken many forms—all of which have added to the success of our park and the wilderness designation. I am especially grateful for the families that have donated their properties, many of which are filled with childhood and other cherished family memories, for the betterment of the whole Apostle Islands and now the Gaylord Nelson Wilderness. Future generations whom none of us will ever know will benefit deeply from their commitment to one of Wisconsin's most treasured places.

Every time I visit the Apostles and pieces of what are now the Gaylord Nelson Wilderness, I depart with a sense of inner peace and clarity. A New York Times journalist wrote about the Apostle Islands National Lakeshore in 1972, saying he encountered a ''silence so intense you can hear it.'' I believe that what all those who visit the Gaylord Nelson Wilderness are bound to hear through that ''intense silence'' is Gaylord himself calling them to action.

Mr. BENNETT. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motions to reconsider be laid upon the table, and that any statements relating thereto be printed in the RECORD, without intervening action or debate.

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

The resolution (S. Res. 297) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 297

Whereas the Honorable Gaylord Nelson, a State Senator, Governor, and United States Senator from Wisconsin, devoted his life to protecting the environment by championing issues of land protection, wildlife habitat, environmental health, and increased environmental awareness, including founding Earth Day;

Whereas the Honorable Gaylord Nelson authored the Apostle Islands National Lakeshore Act, which led to the protection of one of the most beautiful areas in Wisconsin and recognized the rich assemblage of natural resources, cultural heritage, and scenic features on Wisconsin's north coast and 21 islands of the 22-island archipelago;

Whereas the Apostle Islands National Lakeshore was designated a National Park on September 26, 1970;

Whereas, on December 8, 2004, approximately 80 percent of the Apostle Islands National Lakeshore was designated the Gaylord Nelson Wilderness;

Whereas the Gaylord Nelson Wilderness within the Apostle Islands National Lakeshore provides a refuge for many species of birds, including threatened bald eagles and endangered piping plovers, herring-billed gulls, double-crested cormorants, and great blue herons, and is a safe haven for a variety of amphibians, such as blue-spotted salamanders, red-backed salamanders, gray treefrogs, and mink frogs, and is a sanctuary for several mammals, including river otters, black bears, snowshoe hares, and fishers;

Whereas the official dedication of the Gaylord Nelson Wilderness occurred on August 8, 2005, 36 days after the Honorable Gaylord Nelson's passing; and

Whereas the Honorable Gaylord Nelson changed the consciousness of our Nation and embodied the principle that 1 person can change the world, and the creation of the Gaylord Nelson Wilderness is a small, but fitting, recognition of his efforts: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes the Honorable Gaylord Nelson's environmental legacy;

(2) celebrates the dedication of the Gaylord Nelson Wilderness within the Apostle Islands National Lakeshore; and

(3) requests that the Secretary of the Senate transmit an enrolled copy of this resolution to the family of the Senator.

ORDERS FOR THURSDAY, NOVEMBER 3, 2005

Mr. BENNETT. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9 a.m. on Thursday, November 3; I further ask that following the morning prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and the Senate then proceed to a vote on adoption of the conference report to accompany the Agriculture appropriations bill; I further ask that upon disposition of the conference report, the Senate resume consideration of S. 1932, the deficit reduction bill.

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

PROGRAM

Mr. BENNETT. Mr. President, tomorrow the Senate will complete action on S. 1932, the deficit reduction bill. There are currently 16 amendments in the queue, and the first vote in the series will occur on the Agriculture appropriations conference report, as noted. We will begin voting shortly after 9 a.m. tomorrow morning, and Senators should plan on staying in and around the Chamber throughout the day tomorrow. We will have at least 17 back-to-back votes.

ORDER FOR ADJOURNMENT

Mr. BENNETT. If there is no further business to come before the Senate, I ask unanimous consent the Senate stand in adjournment under the previous order, following the time allocated to the Senator from Oregon.

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

Mr. BENNETT. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WYDEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

MEDICARE PRESCRIPTION DRUG BENEFIT

Mr. WYDEN. Mr. President, as all Members of this body know, the Federal Government is about to begin one of the biggest expansions in Federal entitlement programs in our country's history. In a few weeks, the senior citizens of our country will be eligible for a much-needed prescription drug benefit, and I rise to talk about that program tonight.

I am particularly troubled about the fact that the Federal Government, in launching this program, is not going to be a smart shopper. You would think, after Katrina, given the huge hemorrhaging in our Federal budget, this would be a top priority for the Federal budget, to shop smart, to squeeze every possible bit of value out of the money that is being spent for critical programs, such as purchasing prescription drugs for senior citizens. Unfortunately, that is not the case. At a time when the costs for this program have escalated from about $400 billion to over $530 billion, with a 10-year estimate for this benefit projected to cost over $720 billion, what is locked into current law is an inability to get the best value for the purchase of those medicines.

It is well understood all across the country that anybody who goes shopping in the private sector tries to get the most for their dollar by stressing their bargaining power. Certainly, the senior citizens of this country have a whole lot of bargaining power. You would think it would be the position of the Federal Government to try to take advantage of that bargaining power in order to strike the best deal for older people and taxpayers. Notice that I emphasize the words ''bargaining power''—not price controls, not rules set in Washington, DC, a one-size-fits-all approach, nothing that would discourage innovation among pharmaceutical companies, but simply bargaining power. Of course, that is what all the smart buyers do in the private sector today.

Take, for example, a big timber company in my part of the world. They represent a lot of workers. They go out and bargain with pharmaceutical companies, insurance companies, and others. They get the most for their dollar. The small company, on the other hand, doesn't have that kind of leverage and, to a great extent in this country, individuals and small companies basically end up subsidizing the big companies and people with clout in the marketplace. Again, nobody is talking about price controls. We are talking about economics 101. If you are buying in volume, if you have the opportunity to use marketplace forces to get the most for your dollar, you try to do it. You try to use the powerful forces of economics 101, which is the market power of bulk purchasing.

Unfortunately, that is not going to be done in the area of purchasing prescription drugs for older people in our country, beginning the first of the year. In fact, what the Federal Government is doing is essentially turning on its head the principle of smart shopping. What the Federal Government would be doing, unless the Congress steps in, is pretty much like somebody going to Costco and buying toilet paper one roll at a time. The Federal Government isn't using its bargaining power to hold down the cost of medicine. At a time when prescriptions are one of the fastest growing forces in American health care, that defies common sense.

Some errors are known as errors of omission; others are known as errors of commission. The fact that the Secretary of Health and Human Services is prohibited from using the power of bulk buying to hold down the cost of medicine for seniors is, in my view, one of the most outrageous errors of commission in the history of health care legislation. The Medicare prescription drug statute didn't forget to give the Secretary of Health and Human Services bargaining power to hold down the cost of medicine; the statute specifically told the Secretary he could not have such authority to get a fair deal for older people. So what we have at a time when the cost of the program is going through the stratosphere, at a time when seniors are trying to decide whether to sign up, is we have a statute that denies the Secretary of Health and Human Services the same marketplace tool that any consumer has in our communities across the country—the power to leverage bulk purchasing to get a better price. Federal law now denies the Secretary of Health and Human Services what hundreds of other Federal officials have—the power to get a better price for the taxpayer.

The Congress did not tell the Army they had to go out and buy one tent at a time for our soldiers in Iraq. The Congress didn't tell the Federal Emergency Management Agency they had to buy one mobile home at a time for hurricane victims. But unbelievably, Congress told Medicare they have to go out and buy one drug at a time as it relates to other people. So Medicare can't do what any savvied shopper in our country does, which is use their leverage in the marketplace to get lower prices. I think it is outrageous to have this double standard that prohibits Medicare from doing what all the other consumers in America can do, and it is time, in my view, to fix that.

Tomorrow, the Senate will have a bipartisan opportunity to do just that. Senator SNOWE and I, along with Senator MCCAIN and Senator STABENOW and a number of others, will offer an amendment that will lift the outrageous restriction on the Federal Government's ability to bargain, and under our bipartisan amendment the Secretary of Health and Human Services would have the authority to negotiate for lower drug prices.

I particularly wish to thank Senator SNOWE. She and I have worked on this a number of years. Both of us voted for the prescription drug legislation. We have the welts on our back to show for it, and even the night of the vote we said we were going to come back and try to improve this, particularly to improve it in a way that would make sense for older people and for taxpayers. So we see our bipartisan amendment as an effort to follow up on the promise we made to our citizens back home.

I thank Senator SNOWE, who is always trying to find common ground, bipartisan common ground, which is, of course, the only way you get important work done in the Senate.

I also want to say a special thanks to Senator MCCAIN, who is constantly focused on ways to expose waste, get more for the taxpayer dollar, and also Senator STABENOW of Michigan. Senator STABENOW has spent enormous amounts of time on a whole host of issues advocating for older people and the cost of prescription drugs, and I am convinced that this issue would never have gotten the visibility and the attention that it warrants were it not for Senator STABENOW's focus on it.

I also would like to say the same about Senator FEINSTEIN. She and I agreed on the night of the vote that we were going to join Senator SNOWE in a bipartisan effort to get a fairer and better deal for older people, and I thank her as well for all of her effort.

Now, Mr. President, the Snowe-Wyden legislation includes specific language that prohibits price controls and the setting of prices in America. This is something I feel very strongly about, and I know the Presiding Officer has a great interest in encouraging innovation and research. I think we all understand what is going on in the pharmaceutical field. We are seeing breakthroughs every single day, and one of the most important steps we can take in the public policy arena is to foster innovation and research even in my fair flat tax proposal that I introduced this week, and I know the Presiding Officer has great interest in tax reform, keeping the research and development tax break because it is important. So I don't take a backseat to anybody in terms of encouraging innovation and research, and one of the key ways to promote innovation and research is to avoid price controls, the setting of prices in Washington, DC, anything that would lead to policies that freeze the Government's ability to encourage innovation.

So what we have done in this particular amendment is put in a statutory restriction on price controls, on the setting of prices so that it is clear to everyone in the Senate that all we wish to do in our bipartisan effort is to untie the hands of the Secretary of Health and Human Services and put Medicare in the position of being a smart shopper. I cannot for the life of me think why Medicare should not have the same power to negotiate what other programs and governments have, that others in the private sector would

have, and with our bipartisan legislation, Medicare would have that power.

This is particularly important because savings from negotiations are only going to come about as it relates to single-source drugs if this restriction is lifted. Without it, it seems to me we will not have negotiations for these single-source drugs where there isn't the kind of competition and marketplace forces. Many single-source drugs are particularly important for older people. We are talking about drugs such as Lipator, Zocor, and Prevacid. Lipator, for example, was at the top of the list of drugs most often taken by older people, and all of the drugs I mentioned were in the top 20 in terms of drugs used by seniors.

So when it comes to savings—and this was noted by the Congressional Budget Office in a letter to me and Senator SNOWE last year—it seems to me that you especially need the power to negotiate when you are talking about single-source drugs. Given the importance of Lipator in the marketplace, prevalence in terms of the older population, I hope that as Senators look at this amendment, they will see the value of giving the Secretary the power to negotiate. It is particularly critical when it relates to single-source drugs.

In my view, it is disappointing that the way the underlying legislation was drafted, the fundamental base bill is going to require more than a simple majority for us to prevail. Certainly, there are a lot of special interests in this town that do not want the Federal Government to be a smart shopper. The number of lobbyists that are working against this legislation, which I will tell you I think is just about the most offensive restriction I have seen in health policy, the number of lobbyists working against our bipartisan amendment is just staggering. And make no mistake about what the special interests who oppose our legislation want to do. They would rather soak the taxpayer and add to the budget deficit than to have to negotiate with the Federal Government like all other businesses. They are basically saying: Look, we are special. Don't require us to have to go out and bargain. We shouldn't have to do what everybody else does.

Everybody else in America who has marketplace clout is allowed to use it. That is what markets are all about. But because of the power of the special interests, this restriction prohibits Medicare from using the kind of marketplace forces that everybody else uses, and it is not right.

I am sure that seniors and their families across the country are going to be especially concerned about the fact that this legislation is going to increase their Part B premiums. But it seems to me that at a time when their part B premiums are going to go up, when they are going to have to pay extra costs out of their pocket for copays and deductibles and other out-of-pocket expenses, that alone would be a reason why we would look to give Medicare more bargaining power to hold down the cost of this program.

Seniors are going to have less in their pocket to pay for prescription drugs and to sign up for this program. But the legislation was carefully written to make it tough on us and to increase the number of Senators we would have to have to pass this legislation. We are going to need more than a simple majority, and I think it is particularly unfortunate that at a time when seniors are going to see their Part B premiums go up, that we are not going to give them this opportunity to seek some real savings in what they have to pay for prescription medicine.

I hope that Senators are going to be supportive of this legislation. I am sure when a Senator goes home and discusses prescription drugs, one of the first things that folks at home are going to ask is: How are you going to keep the cost down? What are you doing, Senator, to hold down the cost of medicine? The private sector is doing it, other Government programs are doing it; what are you doing, Senator, to hold down the cost of medicine?

Tomorrow, the bipartisan group of Senators I mentioned—Senator SNOWE leading our effort, myself, Senator MCCAIN, Senator STABENOW, and others—will be saying: Look, we have something that is going to provide an opportunity for the Federal Government to be a smart shopper, to use its marketplace clout, and to hold down the cost of medicine when seniors are seeing an increase in their out-of-pocket expenses.

The Congressional Budget Office estimates that there is going to be an 8.5-percent increase in the cost of this program, and the Government Accountability Office has shown that the prices for existing drugs are increasing two and three times the rate of inflation.

This is a prescription for a program that does not work. That is a failure, and I will tell you I don't want to fail our country's seniors. I voted for the prescription drug law. I want to make it work. But I will tell you, I am very troubled about the prospect that if steps are not taken to hold down the costs of this program, there is a real prospect that a great deal of money will be spent on a relatively small number of people because we will not have the number of seniors signing up that we need.

We need to make this program work. It is important. Prescription drugs are a lifeline. Affordable prescription drugs are essential for the Nation's older people. Too many of these drugs are simply priced out of the reach of older people.

At the end of the day, the bipartisan legislation that Senator SNOWE will offer with myself and our bipartisan group is simply common sense. Let's make Medicare a smart shopper by allowing bargaining power. Let's stop this idea of forsaking our ability to be a savvy shopper, and let us make sure that when Medicare goes out and tries to make sure that the costs of this program are held down, that it has the tools it needs in its cost-containment arsenal to get the job done right and to make sure that the costs of this program, for both taxpayers and seniors, are held down.

Mr. President, I ask unanimous consent that Senators FEINSTEIN, DAYTON, KOHL, and FEINGOLD be added as cosponsors of the legislation.

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

Mr. WYDEN. Mr. President, this bipartisan measure will be voted on tomorrow. My sense is that because the day will be very hectic, having to vote on many amendments, that there will not be much time for explanation of this measure. Senator SNOWE, Senator STABENOW, and others who spent so much time on this issue are going to want to speak. I will tell the Senate tonight this is one of the most important issues to come up in a long time. This program will be one of the biggest, if not the biggest, expansions of Federal entitlement policy we have ever seen. Why we wouldn't want to go about this right and make the Government a smart shopper, a savvy shopper, why we wouldn't want to do that is beyond me.

What we have is an error of commission. What you saw is, in this legislation, very powerful special interests said we want a unique set of rules to apply to us: We shouldn't have to negotiate, even though everybody else negotiates with the Government and the private sector; give us a free ride; restrict, as a matter of law, the ability of the Secretary of Health and Human Services to make sure that seniors and taxpayers got a square deal.

That is not right. This is about common sense. This is about the Federal Government being a smart shopper. This is about standing up for taxpayers and seniors.

I would like to wrap up tonight by reading a bit from the AARP letter of endorsement for the legislation. Mr. President, I am going to read briefly from this letter, but I ask unanimous consent that the AARP letter endorsing the bipartisan measure to contain the cost of medicine be printed in the RECORD.

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

AARP,
November 1, 2005.

The Hon. RON WYDEN,
U.S. Senate,
Washington, DC.

DEAR SENATOR WYDEN: AARP supports your amendment to the Senate fiscal year 2006 Budget Reconciliation bill to provide for the ability of the Secretary of Health and Human Services to participate in the negotiations between pharmaceutical manufacturers and prescription drug plans under the Medicare Part D program.

Prescription drug prices continue to rise much faster than the rate of inflation. AARP's latest Rx Watchdog report released this week found that prices for nearly 200 of the most commonly used brand name medications rose 6.1 percent during the 12 month period from July 2004–June 2005. At the same time, the rate of general inflation was 3 percent. These drug price increases particularly hit older Americans, who use prescription drugs more than any other segment of the U.S. population.

In two weeks, millions of older and disabled Americans will have the opportunity to choose prescription drug coverage as part of their 2006 Medicare benefit options. The new Medicare prescription drug benefit will help millions of beneficiaries afford needed medications. Improvements to the Medicare Modernization Act are necessary to strengthen the benefit and the Medicare program. We believe the first step is to keep the drug benefit affordable for beneficiaries as well as taxpayers.

While the competitive structure already existing in the MMA may help to bring prescription drug prices down, we believe that giving the Secretary the authority to participate in negotiations may also help to make prescription drugs more affordable for Medicare beneficiaries.

We look forward to working with you and your colleagues on both sides of the aisle to ensure that the new Medicare Part D benefit remains affordable over time. If you have any further questions, please feel free to contact me, or have your staff contact Anna Schwamlein of our Federal Affairs staff at 202–434–3770.

Sincerely,

DAVID P. SLOANE,
Sr. Managing Director,
Government Relations and Advocacy.

Mr. WYDEN. Mr. President, the letter says, and I will read a bit of it:

AARP supports your amendment to the Senate fiscal year 2006 Budget Reconciliation bill to provide for the ability of the Secretary of Health and Human Services to participate in the negotiations between pharmaceutical manufacturers and prescription drug plans under the Medicare Part D program.

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While the competitive structure already existing in the MMA may help to bring prescription drug prices down, we believe that giving the Secretary the authority to participate in negotiations may also help to make prescription drugs more affordable for Medicare beneficiaries.

Mr. President, there is a bit more to the letter, but I think the Senate can get the general drift.

The AARP, the organization that represents millions of older people, explicitly tonight endorses our bipartisan amendment. They have pointed out that the cost of these medications, the ones that are so important to older people, are going up double the rate of inflation.

Let me emphasize that to the Senate. The drugs that seniors use, the prices are going up double the rate of inflation.

So we need some serious tools to contain these costs. At a time when the Federal Government ought to be using more effective tools to hold down the costs of medicine, we have locked into law a restriction on the ability of the Government to do what smart shoppers in America do every single day, and that is to use their marketplace clout, bulk purchasing power, to get the best value for them and their families. It is time to lift this outrageous, offensive restriction that is now in Medicare law that prevents the Federal Government from being a smart shopper. It is now time to stand up for taxpayers and stand up for the older people in this country. The Senate will have a chance to do that when it votes on the bipartisan amendment tomorrow that has been filed tonight, will be offered tomorrow, by Senator SNOWE, a bipartisan group. I hope my colleagues will support it resoundingly.

I yield the floor.

ADJOURNMENT UNTIL 9 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 9 a.m. tomorrow morning.

Thereupon, the Senate, at 7:56 p.m., adjourned until Thursday, November 3, 2006, at 9 a.m.

NOMINATIONS

Executive nomination received by the Senate November 2, 2005:

EXECUTIVE OFFICE OF THE PRESIDENT

SUSAN C. SCHWAB, OF MARYLAND, TO BE A DEPUTY UNITED STATES TRADE REPRESENTATIVE, WITH THE RANK OF AMBASSADOR, VICE LINNET F. DEILY, RESIGNED.