(Mr. BAUCUS) was added as a cosponsor of amendment No. 3102 proposed to S. Con. Res. 83, an original concurrent resolution setting forth the congressional budget for the United States Government for fiscal year 2007 and including the appropriate budgetary levels for fiscal years 2006 and 2008 through 2011.

AMENDMENT NO. 3103

At the request of Mr. SARBANES, the names of the Senator from Connecticut (Mr. LIEBERMAN), the Senator from Rhode Island (Mr. REED), the Senator from Vermont (Mr. JEFFORDS), the Senator from New Jersey (Mr. MENENDEZ), the Senator from Maryland (Ms. MIKULSKI) and the Senator from Delaware (Mr. CARPER) were added as cosponsors of amendment No. 3103 proposed to S. Con. Res. 83, an original concurrent resolution setting forth the congressional budget for the United States Government for fiscal year 2007 and including the appropriate budgetary levels for fiscal years 2006 and 2008 through 2011.

AMENDMENT NO. 3106

At the request of Mrs. LINCOLN, the names of the Senator from Illinois (Mr. DURBIN) and the Senator from New York (Mr. SCHUMER) were added as cosponsors of amendment No. 3106 proposed to S. Con. Res. 83, an original concurrent resolution setting forth the congressional budget for the United States Government for fiscal year 2007 and including the appropriate budgetary levels for fiscal years 2006 and 2008 through 2011.

AMENDMENT NO. 3110

At the request of Mrs. HUTCHISON, the names of the Senator from California (Mrs. FEINSTEIN), the Senator from Maine (Ms. COLLINS), the Senator from Arizona (Mr. KYL), the Senator from North Carolina (Mrs. DOLE) and the Senator from Texas (Mr. CORNYN) were added as cosponsors of amendment No. 3110 proposed to S. Con. Res. 83, an original concurrent resolution setting forth the congressional budget for the United States Government for fiscal year 2007 and including the appropriate budgetary levels for fiscal years 2006 and 2008 through 2011.

AMENDMENT NO. 3111

At the request of Mr. DODD, the names of the Senator from Maine (Ms. COLLINS), the Senator from Maryland (Mr. SARBANES) and the Senator from New York (Mr. SCHUMER) were added as cosponsors of amendment No. 3111 proposed to S. Con. Res. 83, an original concurrent resolution setting forth the congressional budget for the United States Government for fiscal year 2007 and including the appropriate budgetary levels for fiscal years 2006 and 2008 through 2011.

AMENDMENT NO. 3115

At the request of Mrs. CLINTON, the names of the Senator from New York (Mr. SCHUMER), the Senator from Massachusetts (Mr. KERRY) and the Senator from Iowa (Mr. HARKIN) were added as cosponsors of amendment No. 3115 proposed to S. Con. Res. 83, an original concurrent resolution setting forth the congressional budget for the United States Government for fiscal year 2007 and including the appropriate budgetary levels for fiscal years 2006 and 2008 through 2011.

AMENDMENT NO. 3122

At the request of Mr. TALENT, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of amendment No. 3122 intended to be proposed to S. Con. Res. 83, an original concurrent resolution setting forth the congressional budget for the United States Government for fiscal year 2007 and including the appropriate budgetary levels for fiscal years 2006 and 2008 through 2011.

AMENDMENT NO. 3127

At the request of Mr. HAGEL, the names of the Senator from Georgia (Mr. ISAKSON) and the Senator from Georgia (Mr. CHAMBLISS) were added as cosponsors of amendment No. 3127 proposed to S. Con. Res. 83, an original concurrent resolution setting forth the congressional budget for the United States Government for fiscal year 2007 and including the appropriate budgetary levels for fiscal years 2006 and 2008 through 2011.

AMENDMENT NO. 3130

At the request of Mr. SCHUMER, the names of the Senator from Utah (Mr. HATCH) and the Senator from New York (Mrs. CLINTON) were added as cosponsors of amendment No. 3130 intended to be proposed to S. Con. Res. 83, an original concurrent resolution setting forth the congressional budget for the United States Government for fiscal year 2007 and including the appropriate budgetary levels for fiscal years 2006 and 2008 through 2011.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BAUCUS (for himself and Mr. PRYOR):

S. 2426. A bill to facilitate the protection of minors using the Internet from material that is harmful to minors, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. BAUCUS. Mr. President, on March 1, 2006 Evert Meiners of Billings, MT pled guilty to distributing child pornography over the Internet. A search of his computer by the FBI turned up more than 12,000 images of child pornography.

Mr. Meiners had the child pornography images on his website, which he operated from his home in Billings. But authorities across the world were able to access the pictures. Law enforcement in New York, Illinois, Maryland, and even Germany, reported that Mr. Meiners distributed and solicited pornographic images in their jurisdictions.

The Internet has proved to be a powerful tool for both good and evil. Criminals operating from around the world can now prey on children in our own backyards. We used to worry what could happen to our kids on their way home from school. Now parents have to worry about their kids even in the safety of their own homes.

Since 1995 the FBI has tracked down over 11,000 unique web addresses that solicit and market child pornography.

The danger posed by these graphic web sites to our children demands action. That is why I will introduce the ''Cyber Safety for Kids Act'' today. As a general matter the legislation seeks to create a zone for all sexually explicit material that parents can easily block their children from visiting.

Specifically, the bill would do the following: First, the Cyber Safety for Kids Act would require the Internet Corporation for Assigned Names and Numbers to designate a top level domain name for web sites with sexually explicit materials harmful to minors. The domain name would be titled dot XXX, rather than dot Com.

Next, within six months of the launch of the .XXX domain name, all web sites that contain sexually explicit materials harmful to minors would be required to adopt the dot XXX domain name.

Finally, if a web site that contains sexually explicit material harmful to minors fails to use the dot XXX domain name, the web operator would be subject to civil penalties set by the Department of Commerce.

I know that some people believe that my legislation goes too far. Others believe that it does not go far enough. For example, some argue that all pornography over the Internet should be banned. That would certainly be effective, but would unquestionably be overturned by the Supreme Court. On numerous occasions, the Supreme Court has struck down laws that prohibit the broadcast of pornographic images.

On the other hand, I have heard from some that believe my legislation is too restrictive. I am a strong defender of the Constitution's protection of speech. But we cannot bury our heads in the sand and pretend that the problem of children viewing harmful material over the Internet will go away.

We must do what we can do to help parents protect their kids. My legislation aims to follow the successful efforts by States and localities to zone adult book and movie theaters in one part of a city or town.

In Renton v. Playtime Theaters the Supreme Court specifically upheld a city zoning ordinance that prohibited adult motion picture theaters from locating within 1,000 feet of any residential zone, single- or multiple-family dwelling, church, park, or school.

Likewise, my legislation creates a zone for all sexually explicit material that is harmful to minors on the Internet. Parents could easily install filters on their computer to keep their kids from visiting the dot XXX neighborhood.

There is no silver bullet that will stop sick adults from trafficking and

soliciting child pornography. But my legislation offers an important first step.

I look forward to working with my colleagues to move this legislation forward. I am also appreciative of Senator PRYOR's leadership on this issue in the Commerce Committee. I am glad to say that Senator PRYOR has agreed to be the lead co-sponsor of my legislation.

I urge Congress to support my legislation, and have it on the President's desk as soon as possible. American parents have asked for our help, it's our duty to act.

By Mr. BENNETT:

S. 2427. A bill to amend title II of the Social Security Act to provide for progressive indexing and longevity indexing of social security old-age insurance benefits for newly retired and aged surviving spouses to ensure the future solvency of the social security program, and for other purposes; to the Committee on Finance.

Mr. BENNETT. Mr. President, I want to thank the managers of the resolution for providing me with a few minutes to discuss my introduction today of the Sustainable Solvency for Social Security Act. In introducing this legislation, I am under no illusion that there will be a rush to enactment, but do believe this is an appropriate time to draw attention to this issue and the broader issue of entitlement spending as we consider the budget resolution for fiscal year 2007.

Yesterday, we had a close vote on an amendment to reinstitute pay-as-you-go rules for spending increases and tax reductions. I opposed that amendment because a vote for it was, in essence, a vote for automatic tax increases on the American taxpayer. A more honest approach would have been to ask the Senate to adopt an amendment that required 60 votes to pass any legislation that would prevent the expiration of any tax provision that would, if allowed to expire, result in a tax increase on individual taxpayers.

I mention this because I do believe that we need fiscal discipline. We do need to collect higher revenues, but collecting higher revenues does not mean that you need to impose higher tax rates on capital or labor. Even if the sponsors of pay-go had prevailed, the real issue would be—once again—ignored.

The loaded gun held to the heads of American taxpayers is entitlement benefits that have been promised, but cannot be paid for under any realistic scenario. Economic growth can help solve or mitigate many fiscal challenges, but it cannot overcome the twin realities of demographic destiny or benefit structures that are simply unsustainable.

Today, four items—Social Security, Medicare, Medicaid and interest—consume just under 10 percent of our Gross Domestic Product. If we do nothing we will see expenditures for the three programs increase to almost 20 percent of GDP. That is simply unsustainable.

Over the past year, I spent a great deal of time talking to members on both sides of the aisle, as well as the administration, about ways to begin addressing this looming crisis. 'started with Social Security. Some asked, ''Why start with the smallest problem?'' The answer was simple. If we can't come together on a problem that can be fixed by aligning benefits with program income, how can we ever expect to come together on more difficult issues like Medicare reform.

In the case of Social Security, we can quibble about exactly when, but at some point between 2042 and 2052, the program will be unable to pay benefits called for under current law and benefits will be reduced automatically to match program income with program outlays.

As I said, I have no illusion that the legislation I am introducing today will be enacted this year, but I offer it for my colleagues' examination and suggestions.

This legislation does not include personal accounts of any shape or form. It focuses exclusively on the goal of making Social Security solvent. And it does so without any increases in taxes or increases in the payroll cap.

Presently, the Social Security system faces an actuarial deficit of 1.92 percent of payroll. According to the Chief Actuary at Social Security, 1.60 percent of this deficit is related to the Old Age and Survivors Insurance (OASI) program—what we traditionally think of as Social Security. The remaining 0.32 percent is attributable to the disability insurance program. As I discussed this issue with many of my colleagues and with others, it was clear that there was a broad consensus that the disabled should be held harmless. It was also clear that there was little or no support for the proposition that retirement program beneficiaries should subsidize the disability program. Therefore, this legislation does not touch the present disability program and leaves open the question of how to address the disability program deficit. Additionally, there was broad agreement that current retirees and those nearing retirement, born before 1950, should not have their benefits affected.

This legislation focuses solely on the 1.60 percent actuarial deficit in the OASI program. It achieves sustainable solvency for Social Security's OASI program through two primary policy tools: progressive price indexing and longevity indexing. Those reforms would slow the projected real rate of increase in future retirement benefits to a more sustainable level, while protecting low-wage-earners, the disabled, and their dependents. It also modestly accelerates the timetable for the transition under current law to a normal retirement age of 67, and it ensures sufficient backup general revenue funding to maintain a contingency reserve in the Old Age, Survivors and Disability Insurance (OASDI) trust fund.

My proposal for sustainable solvency has been scored by the office of the actuary at the Social Security Administration. The effects of its provisions affecting retirement benefits, progressive indexing, accelerated NRA 67, and longevity indexing, would eliminate entirely the OASI program actuarial deficit of 1.60 percent of payroll that is projected under current law.

Progressive indexing would not begin until 2012. First, it is important to note the beneficiaries, and Social Security programs to which progressive indexing would NOT apply. It would not apply to any current or future retiree born before 1950. Its provisions also would not apply to any worker in the future whose Social Security earnings history was in the lowest 30 percent of career earnings for workers becoming eligible to retire in a given year.

Progressive indexing essentially slows the future growth rate of benefits for higher-earning workers. Their initial retirement benefits will grow more In line with price growth, rather than the even-higher rate of increase pegged to wage growth under current law.

Under current law, retirement benefits are calculated under a ''wage indexing'' formula that will help propel them to levels significantly higher than the payroll tax revenue available to pay for them. The formula uses the average rate of growth of wages within the economy, rather than changes in the cost of living, to adjust, or ''index'', the past earnings of a worker that are used to determine the worker's initial benefit level at retirement. Because average wages generally grow faster than prices over time, the current benefit formula essentially guarantees that future retirement benefit levels will grow faster in ''real'' dollar value from generation to generation. Under this proposal, the individuals in the lowest 30 percent of all wage earners retiring in a given year would continue to have their past wages, and resulting benefit levels, indexed according to wage growth, while those at the top of the wage distribution would have their past wages indexed for changes in prices. Those falling in between would have their past wages indexed based upon a ''progressive blend'' of wage and price changes. In short, future benefit levels for workers who earned higher wages over their working career would not rise as much as benefit levels for workers with lower lifetime earnings, but those workers most dependent on social security for retirement income would be protected from such changes.

This blended version of progressive price indexing targets the sustainable levels of revenue that will be available for future Social Security benefits under current law in a manner that ensures that those retirees that will be most in need are treated the most generously. It builds on the underlying progressive structure of the current benefits formula that replaces lower levels of career earning with a relatively higher share of retirement benefits. The real purchasing power of future OASI benefits will continue to

grow, but not as much, in future decades for higher wage workers.

Longevity indexing recognizes that future retirees will live longer and, accordingly, receive inflation protected levels of their initial retirement benefits for longer periods of time than prior retirees. Absent any adjustment for changes in life expectancy beyond the age of retirement, longer lifetimes in retirement would mean increasingly greater dollar amounts of lifetime Social Security retirement benefits in future decades.

Under present law, the retirement age is scheduled to increase incrementally to age 67 beginning in 2022, the normal retirement age gradually increases for workers born in 1960 and later years, by two months each year starting in 2022 until it reaches age 67 in 2027. Under this proposal, the move from age 66 to age 67 would begin in 2012. The Normal Retirement Age or NRA would be increased by two months each year until the NRA reached age 67 in 2017. After that date, initial monthly benefits for future retirees would be periodically adjusted by the Social Security Administration to account for changes in the expected average lifetimes of future retirees.

Because it does not change current-law benefits for disabled beneficiaries, my bill does not address the remaining actuarial deficit for the DI program under current law, which amounts to another .32 percent of payroll. Accordingly, it does not close the larger overall actuarial deficit for the combined OASDI programs. The latter is 1.92 percent of payroll under current law, and would be substantially reduced to only .28 percent of payroll under my bill.

My plan's provisions that reduce OASDI benefit obligations first begin to operate in 2012, and they then improve annual unified budget balances for that year and all subsequent years within the standard 75-year projection period used by the Social Security Administration.

Several other measures demonstrate the improved solvency for the overall OASDI programs under my bill. The net cash flow from the OASDI Trust Funds to the general fund is improved by $3.6 trillion in present value. The OASDI Trust Fund exhaustion date would be extended from 2041 until 2056.

Until we can find further support for dealing with the remaining solvency problems in the DI program, we should at least ensure that sufficient resources are committed to prevent sudden across-the-board reductions in OASDI benefit levels in later decades. Therefore, my bill provides budget authority for general fund transfers as needed to maintain a 100 percent OASDI trust fund ratio in later years. Those general fund transfers are estimated by the SSA actuaries to amount to $0.6 trillion, in present value, over the next 75 years. This provision ensures solvency for the combined OASDI program through that period. After 2080, additional general revenue transfers are not expected to be necessary, and annual program cash-flow balances are projected to be improving and approaching positive annual balances beyond that year.

I also think it is important to point out that this legislation recognizes that changes in economic conditions have an impact on the actuarial balance of the program. Greater economic growth can improve but not alone restore the program's solvency; recessions can significantly worsen that financial position. Some expressed concern early in discussions on this legislation that we might be going too far, that some of the changes might prove unnecessary. For that reason I have included a provision that will allow for the administrative ''turning off'' if you will of the progressive indexing or longevity indexing if the program comes into actuarial balance prior to those provisions being fully phased in.

In conclusion, this legislation would substantially reduce the mountain of unfunded debt projected for the Social Security program in the decades ahead. It does so in a manner that gradually and sensibly reduces the formula-driven increases in real retirement benefits under current law for future retirees, while protecting low-wage workers and the disabled. We could do more, but this bill would do a lot. At other times, I have proposed separate provisions to enhance overall retirement security, such as through the option of personal accounts funded partly from current payroll taxes and partly from additional personal saving. I have also proposed reforms in pension policy to encourage automatic enrollment in employer plans, provide better access to standard investment options, and stimulate increased saving by workers. But I have left those issues for another debate and focused on the solvency of the retirement program.

I offer this legislation as a starting point. I remain, as I have been over the past year, open to suggestions or modifications that can lead to bipartisan reform that will insure the permanent solvency of the Social Security system. We cannot afford to ignore this issue any longer. Burying our heads in the sand will only magnify the folly of inaction.

I ask unanimous consent that a section-by-section analysis of the bill be printed in the RECORD.

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

SECTION BY SECTION ANALYSIS

SECTION 1: SHORT TITLE

''Sustainable Solvency First for Social Security''

SECTION 2: PROGRESSIVE INDEXING

For an individual who becomes eligible for Social Security retirement benefits in 2012 or later, the bill would use ''progressive indexing''—a mix of wage and price indexing—to determine his or her initial benefit. Those individuals whose lifetime covered earnings are in the lowest 30th percentile of all wage earners retiring in a particular year will not be affected in any way by these changes. Similarly, those individuals currently receiving Social Security benefits or near retirement (age 55 or older) will be held harmless. .

Current Law: Current Social Security benefits are calculated under a ''wage indexing'' formula. Benefits for retired or disabled workers retiring in 2006 and later years will be based on the average level of their indexed wage earnings over their working lifetime that were subject to OASDI payroll taxes up to the annual taxable maximum ($94,200 in 2006).

Several adjustments must be made to those past earnings before a retired worker's initial benefits can be calculated. Upon reaching age 62 or becoming disabled, the actual amount of a worker's previous ''covered'' earnings must first be converted into average indexed monthly earnings, or AIME. Earnings for any year before the worker reaches age 60 are wage-indexed to reflect changes in average wage levels (rather than average price levels) in the economy that occurred between the year when the earnings were realized and the year when the worker reaches age 60. Wage indexing means that workers do not lose the value of their past earnings (when money was worth more) in relation to their more recent earnings. It may add an additional productivity ''bonus'' by indexing past wages to reflect subsequent ''real'' growth in average wages that exceeds the effects of price inflation alone. Earnings after age 60 are not wage indexed. A retired worker's AIME is then based on the highest 35 years of all covered earnings, divided by 420 (the number of months in 35 years). For disabled workers and the survivors of deceased workers, the AIME can be based on a shorter period (excluding periods when the worker was disabled or deceased).

A progressive formula is then applied to a worker's AIME to calculate his or her primary insurance amount (PIA). The PIA is the monthly amount determined either for a worker who begins receiving Social Security retirement benefits at the age at which he or she is eligible for full benefits or for a disabled worker. The formula is designed to ensure that initial Social Security benefits replace a larger proportion of pre-retirement earnings for people with low average earnings than for those with higher earnings. Under the formula, the worker's PIA is determined by applying three separate percentages (90 percent, 32 percent, and 15 percent), known as PIA factors, to three different portions of the worker's AIME. The dollar thresholds at which the applicable PIA factor changes (in other words, where the fraction of additional dollars of a particular portion of AIME that becomes part of a worker's PIA changes) are known as ''bend points.'' The Social Security Administration indexes the bend points annually to match the rate of growth of average wages, while the PIA factors never change. This keeps the portion of workers' pre-retirement earnings (AlMEs) that is replaced by each of the respective PIA factors roughly constant for each new retiring cohort.

The PIA formula applicable to any worker, regardless of the age at which he or she actually retires, is the formula in place in the year the worker reached age 62 or became disabled. For example, the PIA formula for workers who first became eligible for retirement benefits in 2005 was the sum of: 90 percent of the first $627 of the worker's AIME, 32 percent of the worker's AIME falling between $627 and $3,779, and 15 percent of the worker's AIME above $3,779.

The amounts $627 and $3,779 were the bend points of the 2005 PIA formula.

The initial basic retirement benefit of a worker retiring at the ''normal retirement

age,'' or NRA, is based on 100 percent of the PIA. However, if a worker retires at an age earlier than the NRA, he or she faces an ''early retirement penalty'' which reduces the amount of his benefit. Before the year 2000, the NRA was age 65 and the early retirement penalty, or reduction factor, was 6-2/3 percent of the benefit for each year of early retirement. That is, a worker retiring three years early, at age 62 (the earliest age at which retirement benefits may be claimed), would receive a benefit equal to only 80 percent of the PIA. Beginning in 2000, the ''normal'' retirement age began to rise from age 65 to age 66, at the rate of 2 months per year for those reaching age 62 between the years 2000 and 2005. The NRA will continue to rise to age 67, at the same rate of 2 months per year, for those reaching age 62 between 2017 and 2022. A worker will still be able to collect benefits beginning at age 62, but the two additional years of early retirement (as fully phased in by 2022) will reduce benefits by an additional 5 percent per year adjustment factor. The age 62 benefit in 2022 and thereafter will fall to 70 percent of the PIA.

Once a worker's basic benefit (PIA adjusted for applicable early retirement penalty) is determined, it is augmented by annual cost of living adjustment (COLA) to offset inflation, if any, from the year the worker reached age 62 until the year of filing for benefits. After a retired worker has received his or her first benefit check, the amount is similarly adjusted upward every January 1 to reflect annual changes in the cost of living, as measured by the consumer price index (CPI). This price indexing of initial retirement benefits, after a retiree has begun to receive them, is a separate procedure from wage indexing a worker's earnings history or the bend points of the benefit formula used to set initial payments to new retirees over time.

In addition to the COLA, a recipient's benefit may increase if the individual continues to work after first becoming eligible to draw benefits. If subsequent earnings in a later year exceed any of the indexed yearly earnings initially used to determine the worker's initial benefit at age 62, Social Security will automatically substitute the new earnings for the lowest ones in the worker's earnings history, recalculate the worker's PIA, and increase the worker's future benefits.

The current structure of the formula presents an inherent problem. Because average wages generally grow faster than prices over time, the current benefit formula essentially guarantees that future retirement benefit levels will grow faster in ''real'' dollar value from generation to generation. Hence, the actual purchasing power of the Social Security benefit of a person retiring in 2005, for example, is greater than for a person who retired in 1995.

Bennett Bill: The current benefit formula would remain essentially the same, except that, for new cohorts of retirees beginning in 2012, the upper-two PIA factors (32 percent and 15 percent) used to calculate their PIAs would be adjusted lower annually by the Social Security Administration in order to slow the future growth of initial retirement benefits. Those benefit levels would increasingly reflect the levels of price growth, rather than average wage growth, that occurred during the course of most workers' careers. For those individuals whose AIMEs were above the 30th percentile of workers retiring in a given year, their initial retirement benefit would be indexed based upon a ''progressive blend'' of wage and price changes. The slowest rate of growth in future retirement benefits would be for workers with steady maximum taxable earnings. Future benefit levels for workers who earned higher wages over their working careers would rise at a lower rate than benefit levels for workers with lower lifetime earnings.

Moreover, those workers most dependent on Social Security for retirement income would be fully protected from the changes. Individuals whose career-average indexed monthly earnings were in the lowest 30 percent of all career-average wage earners retiring in a particular year would continue to have their initial benefits calculated using the current law formula and they would, therefore, be held harmless entirely from the PIA factor adjustments. Those workers who were age 55 or older on January 1,2005 also would not be affected by this change in the benefit formula. Current law benefits for young survivors, as well as disability benefits, would remain unchanged.

The progressive indexing provisions of the bill would operate first by establishing a new second bend point in the benefit formula. It would be set above the current-law first bend point (below which the first 90–percent PIA factor would continue to apply. The current-law 32-percent PIA factor would continue to operate up to this new second bend point. The new bend point would be determined to be at about the 30th percentile of AIME for those newly eligible for social security retirement benefits in 2012. (The calculation relies on the latest available statistics for AIME of workers first becoming eligible for retired worker benefits in 2001 through 2003 and updates them to 2012 using the intermediate assumptions of the 2005 Trustees Report). The future levels at which this new bend point would apply beyond 2012 would be wage indexed, as is done for the other two bend points in current law.

For workers eligible to retire in 2012 and beyond with portions of AIME above the level of this second new bend point, further progressive indexing adjustments would be made to the other two remaining marginal PIA factors (32 percent and 15 percent, respectively) under current law. The objective is to gradually reduce those two PIA factors by the same proportional amount over time, in a manner that would reflect the relative difference between using price indexing and using the current law practice of wage indexing to determine the benefits for a career-maximum earner (a worker always earning annual wages at or above the maximum amount subject to OASDI payroll taxes). The percentage by which those upper-two PIA factors are reduced in a given year, however, must be somewhat greater than that ratio alone, because it must be applied to a smaller base of career earnings. (Initial retirement benefits derived from the portion of any worker's AIME below the 30th percentile are held harmless from the progressive indexing adjustments). Hence, the new benefits formula adjusts those 15-percent and 32-percent PIA factors by multiplying them by (1) the difference of the maximum CPI-indexed benefit amount for a given year after 2011 over the benefit amount determined for an individual whose AIME is equal to the hold-harmless 30th percentile level at the second new bend point divided by (2) the difference of the maximum wage-indexed benefit amount for the same year over the benefit amount determined for an individual with AIME at the 30th percentile level.

Over time, as the original 15 percent and 32 percent PIA factors are reduced incrementally in line with the difference between price growth and average wage growth, higher earning workers will have relatively smaller shares of their total AIME converted into retirement benefits. Growth in future retirement benefits for relatively lower earning workers, with a greater share of total AIME affected by the unchanged lower-two PIA factors, will be slowed at a lesser ''blended'' rate.

The progressive indexing reduction of the upper-two PIA factors would not continue indefinitely if the financial status and outlook of the Social Security system improved and returned to sustainable solvency. Whenever the Chief Actuary of the Social Security Administration certifies that, for a calendar year after 2080, the combined balance of the Old-Age and Survivors Trust Fund and the Disability Insurance Trust Fund is positive and not less than 100 percent for that calendar year, and it is projected to remain stable and grow in the future, further adjustments to the PIA factors would be frozen and the upper-two PIA factors would remain at their level of the preceding year. Additional adjustments would resume in any later calendar year during which the combined balance dropped below 100 percent. This stabilizing provision may cause the incremental effects of progressive indexing to be added only intermittently in calendar years after 2080.

SECTION 3: LONGEVITY INDEXING

Initial Social Security benefits would be adjusted to more accurately account for increases in worker life expectancy.

Current Law: A worker's initial retirement benefit is price indexed annually to adjust for increases in the cost-of-living, as measured by the CPI–W. No further adjustments in benefits are made for changes in average life expectancy for any given cohort of retirees.

Bennett Bill: In 2018 and later years, initial benefits for future retirees would be adjusted annually by the Social Security Administration to account for changes in the expected average life expectancy, at age 67 (the age of normal retirement for future retirees). This would be done by multiplying the PIA factors by a life expectancy ratio calculated by the Chief Actuary, using final and complete actual data that is available for a given calendar year. It would represent the ratio of the period life expectancy based on computed death rates for 2013 of an individual at age 67 to the period life expectancy of an individual at that age based on the computed death rates for the fourth calendar year preceding the calendar year for which the life expectancy ratio is determined.

Those persons who are currently age 55 and older or who are young survivors would not have their benefits impacted by this adjustment.

The bill would also require the Social Security Commissioner to conduct a study on the feasibility of determining life expectancies for disabled beneficiaries. A report on the study would be due no later than one year after the date of enactment of the bill.

SECTION 4: TREATMENT OF DISABLED BENEFICIARIES

With regard to the disabled, the bill would not affect those receiving Social Security disability benefits while they are disabled.

Current Law: Upon reaching normal retirement age, the social security benefits for disabled beneficiaries are no longer paid by the Disability Insurance Trust Fund, and disabled beneficiaries become eligible for retiree benefits financed by the Old-Age and Survivors Trust Fund. Disability benefits are computed similarly to retirement benefits, but they are calculated as if the worker attained the full retirement age in the year he or she became disabled.

Bennett Bill: At the time of conversion by disabled beneficiaries to retired worker status, their retirement benefits would be calculated using a blend of two formulas. The current law benefit formula would continue to apply proportionately for the relative period of time during their potential working lifetime (between age 22 and age 62) when

they were disabled. Future changes in current law benefits due to progressive indexing and longevity indexing would apply proportionately to the relative period of time when they were able to engage in covered employment.

SECTION 5: ACCELERATION OF PRESENT-LAW NORMAL RETIREMENT AGE CHANGES

The age of normal retirement, for full Initial Social Security benefits, would be adjusted to more accurately account for increases in worker life expectancy.

Current Law: The age at which a worker becomes eligible for full Social Security retirement benefits—the normal retirement age, or NRA, is currently scheduled to increase incrementally from age 66 to age 67 for those workers first reaching age 62 in 2017 or later. The NRA depends on the worker's year of birth and, correspondingly, when he or she becomes age 62 and first eligible for retirement benefits. For people born before 1938, the NRA is 65. For workers born between 1938 and 1943, the NRA already began to increase by two months per birth year. Hence, the NRA now is 66 for people born in 1943 or later. It will remain at that level until 2017, when it again begins to increase at the rate of two months per birth year, beginning with people born in 1955. By 2022, the NRA will be 67 for workers born in 1960 or later.

Retirement benefits are still available at age 62, but with greater reduction as the NRA increases to age 67. For example, a worker retiring at age 62 in 2022 will have their initial benefits reduced by 30 percent. A worker who retired at age 62 in 2005 would have received benefits reduced by only 20 percent.

Bennett Bill: The current-law increase in the NRA from age 66 to age 67 would begin 5 years sooner, starting in the year 2012 (for those born in 1950) rather than in the year 2017. Hence, the NRA would be increased by two months each year thereafter until it reached age 67 in 2017, for those born in 1955 and later.

SECTION 6: MAINTENANCE OF ADEQUATE BALANCES IN THE SOCIAL SECURITY TRUST FUNDS

The bill would ensure that benefits are not cut automatically in future years due to the combined OASDI Trust Fund becoming insolvent (trust fund assets insufficient to cover the entire costs of the programs).

Current Law: According to the latest projections by the Chief Actuary, the Old-Age and Survivor Trust Fund will be insolvent in the year 2041. Under current law, if assets are insufficient to pay for benefits in a particular year, the benefits of all beneficiaries are reduced proportionately to make up for the shortfall. Hence, the Chief Actuary currently projects that in 2042, benefits will be reduced by roughly 30 percent.

Bennett Bill: This bill would ensure that for years in which there would not otherwise be sufficient assets in the trust fund to pay out scheduled benefits, the gap would be filled by the appropriation of funds from general revenues. This failsafe general revenue transfer provision would ensure that a sufficient financial cushion remains to provide payment of all benefits promised under the bill. However, it primarily operates as a fiscal placeholder that indicates the annual amount of increased revenue, or reduced expenditures, required to maintain an annual combined trust fund balance ratio of no less than 100 percent. It remains neutral as to which fiscal method, or combination of methods, is used to achieve this objective.

By Mr. FEINGOLD:

S. 2428. A bill to amend the Public Health Service Act to reauthorize the Automated Defibrillation in Adam's Memory Act; to the Committee on Health, Education, Labor, and Pensions.

Mr. FEINGOLD. Mr. President, today I am introducing the reauthorization of the Automated Defibrillators in Adam's Memory Act, or the ADAM Act. This bill is modeled after the successful Project ADAM that originally began in Wisconsin, and will reauthorize a program to establish a national clearing house to provide schools with the ''how-to'' and technical advice to set up a public access defibrillation program.

Every 2 minutes, someone in America falls into sudden cardiac arrest. By improving access to AEDs, we can improve the survival rates of cardiac arrest in our communities.

In my home State of Wisconsin, as in many other States, heart disease is the number one killer. Ninety-five sudden deaths from cardiac arrest occur each day in Wisconsin alone. Overall, heart disease kills more Americans than AIDS, cancer and diabetes combined.

Cardiac arrest can strike anyone. Cardiac victims are in a race against time, and unfortunately, for too many of those in rural areas, Emergency Medical Services are unable to reach people in need, and time runs out for victims of cardiac arrest. It's simply not possible to have EMS units next to every farm and small town across the Nation.

Fortunately, recent technological advances have made the newest generation of AEDs inexpensive and simple to operate. Because of these advancements in AED technology, it is now practical to train and equip police officers, teachers, and members of other community organizations.

An estimated 163,221 Americans experience out-of-hospital sudden cardiac arrests each year. Immediate CPR and early defibrillation using an automated external defibrillator, AED, can more than double a victim's chance of survival. By taking some relatively simple steps, we can give victims of cardiac arrest a better chance of survival.

Over the past 6 years, I have worked with Senator SUSAN COLLINS, a Republican from Maine, on a number of initiatives to empower communities to improve cardiac arrest survival rates. We have pushed Congress to support rural first responders—local police and fire and rescue services—in their efforts to provide early defibrillation. Congress heard our call, and responded by enacting two of our bills, the Rural Access to Emergency Devices Act and the ADAM Act.

The Rural Access to Emergency Devices program allows community partnerships across the country to receive a grant enabling them to purchase defibrillators, and receive the training needed to use these devices. This program is entering its second year of helping rural communities purchase defibrillators and train first responders, and I'm pleased to say that grants have already put defibrillators in rural communities in 49 States, helping those communities be better prepared when cardiac arrest strikes.

Approximately 95 percent of sudden cardiac arrest victims die before reaching the hospital. Every minute that passes before a cardiac arrest victim is defibrillated, the chance of survival falls by as much as 10 percent. After only 8 minutes, the victim's survival rate drops by 60 percent. This is why early intervention is essential—a combination of CPR and use of AEDs can save lives.

If we give people in rural communities a chance, they may be able to reverse a cardiac arrest before it takes another life. Unfortunately, the President zeroed out the funding for the Rural AED program in fiscal year 2007 after the program was cut by 83 percent last year. I am very disappointed that this program has been eliminated in the President's budget, and I will do everything in my power to restore funding to this program.

Heart disease is not only a problem among adults. A few years ago I learned the story of Adam Lemel, a 17-year-old high school student and a star basketball and tennis player in Wisconsin. Tragically, during a timeout while playing basketball at a neighboring Milwaukee high school, Adam suffered sudden cardiac arrest, and died before the paramedics arrived.

This story is incredibly tragic. Adam had his whole life ahead of him, and could quite possibly have been saved with appropriate early intervention. In fact, we have seen a number of examples in Wisconsin where early CPR and access to defibrillation have saved lives.

Seventy miles away from Milwaukee, a 14-year-old boy collapsed while playing basketball. Within 3 minutes, the emergency team arrived and began CPR. Within 5 minutes of his collapse, the paramedics used an AED to jump start his heart. Not only has this young man survived, doctors have identified his father and brother as having the same heart condition and have begun preventative treatments.

These stories help to underscore some important issues. First, although cardiac arrest is most common among adults, it can occur at any age—even in apparently healthy children and adolescents. Second, early intervention is essential—a combination of CPR and the use of AEDs can save lives. Third, some individuals who are at risk for sudden cardiac arrest can be identified to prevent cardiac arrest.

After Adam Lemel suffered his cardiac arrest, his friend David Ellis joined forces with Children's Hospital of Wisconsin to initiate Project ADAM to bring CPR training and public access defibrillation into schools, educate communities about preventing sudden cardiac deaths and save lives.

Today, Project ADAM has introduced AEDs into several Wisconsin schools, and has been a model for programs in

Washington, Florida, Michigan and elsewhere. Project ADAM provides a model for the Nation, and now, with the enactment of this new law, more schools will have access to the information they seek to launch similar programs.

The ADAM Act was passed into law in 2003, but has yet to be funded. Should funding be enacted, the program will help to put life-saving defibrillators in the hands of people in schools around the country. I have been very proud to play a part in having this bill signed into law, and it is my hope that the reauthorization of the Act will quickly pass through the Congress and into law, and that funding will follow. It would not take much money to fund this program and save lives across the country.

The ADAM Act is one way we can honor the life of children like Adam Lemel, and give tomorrow's pediatric cardiac arrest victims a fighting chance at life.

This act exists because a family experienced the tragic loss of their son, but they were determined to spare other families that same loss. I thank Adam's parents, Joe and Patty, for their courageous efforts and I thank them for everything they have done to help the ADAM Act become law. Their actions take incredible bravery, and I commend them for their efforts.

By making sure that AEDs are available in our Nation's rural areas, schools and throughout our communities we can help those in a race against time have a fighting chance of survival when they fall victim to cardiac arrest. I urge Congress to pass this reauthorization, and to fund the ADAM Act and the Rural AED program at their full levels. We have the power to prevent death—all we must do is 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. 2428

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 ''Automated Defibrillation in Adam's Memory Reauthorization Act''.

SEC. 2. AMENDMENT TO PUBLIC HEALTH SERVICE ACT.

Section 312(e) of the Public Health Service Act (42 U.S.C. 244(e)) is amended in the first sentence by striking ''fiscal year 2003'' and all the follows through ''2006'' and inserting ''for each of fiscal years 2003 through 2010''.

By Mr. LUGAR (for himself, Mr. ALLEN, Mr. STEVENS, Mr. CORNYN, Mr. CRAPO, and Mrs. HUTCHISON) (by request):

S. 2429. A bill to authorize the President to waive the application of certain requirements under the Atomic Energy Act of 1954 with respect to India; to the Committee on Foreign Relations.

Mr. LUGAR. Mr. President, I rise today to introduce, at the request of the administration, its proposed legislation to implement the recently concluded U.S.-India Civilian Nuclear Agreement.

By providing this draft legislation to the Senate and the House of Representatives, the administration has taken the first step in initiating the congressional review of the U.S.-Indian Civilian Nuclear Agreement. The Committee on Foreign Relations has held one hearing on the issue thus far. Under Secretaries of State Nick Burns and Bob Joseph, as well as outside experts testified on the matter. Last week I joined with a number of House and Senate colleagues in discussing the agreement with President Bush at the White House. In recent weeks I have met repeatedly with administration officials on this matter and look forward to commencing the Committee on Foreign Relations' review of the agreement.

The Committee on Foreign Relations will review the proposed nuclear cooperation agreement, the Indian separation plan, and this legislation closely. The committee will commence the review with a classified briefing from Under Secretaries Nick Burns and Bob Joseph the last week of March. During the first week of April Secretary Rice will testify in an open hearing. The week we return from the Easter congressional recess the committee will receive testimony from panels of outside experts who both support and oppose the agreement. This schedule should be looked on as the beginning of the oversight and review process; it is possible additional committee hearings and briefings will be necessary.

I look forward to working with my colleagues and the administration to review this agreement to fulfill our Constitutional role on this important matter.

By Mr. DEWINE (for himself and Mr. LEVIN):

S. 2430. A bill to amend the Great Lakes Fish and Wildlife Restoration Act of 1990 to provide for implementation of recommendations of the United States Fish and Wildlife Service contained in the Great Lakes Fishery Resources Restoration Study; to the Committee on Environment and Public Works.

Mr. DEWINE. Mr. President, today, I join my colleague from Michigan, Senator LEVIN, in introducing the Great Lakes Fish and Wildlife Restoration Act of 2006.

This measure was first enacted in 1990 and reauthorized in 1998 to coordinate the management, protection, and restoration of fish and wildlife resources within the Great Lakes Basin. Many groups support this program because it is a good management tool and facilitates better communication between their agencies.

The Great Lakes harbor a wide variety of fish and wildlife. Over 140 fish species and over 500 species of migratory bird can be found in the basin. As in many coastal areas, there is a heavy concentration of people and industry bordering the Great Lakes. Further, the Great Lakes are threatened by the continuing introduction of invasive species, which negatively impact the native food chain and habitat.

The fish and wildlife in the Great Lakes are facing grave dangers, and the Great Lakes Fish & Wildlife Restoration Act of 2006 would provide needed resources and authority to alleviate some of these concerns. For instance, the bill would reauthorize the grant program, increasing the available amount to $12 million and would add wildlife projects to the types of projects that may receive grants. The U.S. Fish & Wildlife Service would award grants based on the recommendations from the existing grant proposal review committee, with the addition of wildlife experts.

The bill also would authorize up to $6 million each year for the U.S. Fish & Wildlife Service to undertake projects that have a regional benefit to fish and wildlife. Under this new authority, the Service would undertake projects based on the recommendations of states and tribes.

Additionally, the bill would require the Fish & Wildlife Service to submit a report to Congress in 2011 that describes the fish and wildlife grants that have been awarded and the results of those grants. The Service would report annually to the states and tribes regarding the grants that have been awarded, priorities proposed for funding in the budget, and actions taken in support of Great Lakes regional collaboration.

This bill reflects the collaboration of non-governmental groups, as well as tribal, State, and Federal agencies with jurisdiction over the management of fish and wildlife resources of the Great Lakes. All of those groups have the goal of protecting and restoring Great Lakes fish and wildlife, and this bill will continue in the right direction.

I urge my colleagues to support this legislation. I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2430

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 ''Great Lakes Fish and Wildlife Restoration Act of 2006''.

SEC. 2. FINDINGS.

Congress finds that—

(1) the Great Lakes have fish and wildlife communities that are structurally and functionally changing;

(2) successful fish and wildlife management focuses on the lakes as ecosystems, and effective management requires the coordination and integration of efforts of many partners;

(3) it is in the national interest to undertake activities in the Great Lakes Basin that

support sustainable fish and wildlife resources of common concern provided under the recommendations of the Great Lakes Regional Collaboration authorized under Executive Order 13340 (69 Fed. Reg. 29043; relating to the Great Lakes Interagency Task Force);

(4) additional actions and better coordination are needed to protect and effectively manage the fish and wildlife resources, and the habitats upon which the resources depend, in the Great Lakes Basin;

(5) as of the date of enactment of this Act, actions are not funded that are considered essential to meet the goals and objectives in managing the fish and wildlife resources, and the habitats upon which the resources depend, in the Great Lakes Basin; and

(6) the Great Lakes Fish and Wildlife Restoration Act (16 U.S.C. 941 et seq.) allows Federal agencies, States, and tribes to work in an effective partnership by providing the funding for restoration work.

SEC. 3. DEFINITIONS.

Section 1004 of the Great Lakes Fish and Wildlife Restoration Act of 1990 (16 U.S.C. 941b) is amended—

(1) by striking paragraphs (1), (4), and (12);

(2) by redesignating paragraphs (2), (3), (5), (6), (7), (8), (9), (10), (11), (13), and (14) as paragraphs (1), (2), (3), (4), (5), (6), (7), (9), (10), (11), and (12), respectively;

(3) in paragraph (4) (as redesignated by paragraph (2)), by inserting before the semicolon at the end the following: '', and that has Great Lakes fish and wildlife management authority in the Great Lakes Basin''; and

(4) by inserting after paragraph (7) (as redesignated by paragraph (2)) the following:

''(8) the term 'regional project' means authorized activities of the United States Fish and Wildlife Service related to fish and wildlife resource protection, restoration, maintenance, and enhancement that benefit the Great Lakes basin;''.

SEC. 4. IDENTIFICATION, REVIEW, AND IMPLEMENTATION OF PROPOSALS.

Section 1005 of the Great Lakes Fish and Wildlife Restoration Act of 1990 (16 U.S.C. 941c) is amended to read as follows:

''SEC. 1005. IDENTIFICATION, REVIEW, AND IMPLEMENTATION OF PROPOSALS AND REGIONAL PROJECTS.

''(a) IN GENERAL.—Subject to subsection (b)(2), the Director—

''(1) shall encourage the development and, subject to the availability of appropriations, the implementation of fish and wildlife restoration proposals and regional projects; and

''(2) in cooperation with the State Directors and Indian Tribes, shall identify, develop, and, subject to the availability of appropriations, implement regional projects in the Great Lakes Basin to be administered by Director in accordance with this section.

''(b) IDENTIFICATION OF PROPOSALS AND REGIONAL PROJECTS.—

''(1) REQUEST BY THE DIRECTOR.—The Director shall annually request that State Directors and Indian Tribes, in cooperation or partnership with other interested entities and in accordance with subsection (a), submit proposals or regional projects for the restoration of fish and wildlife resources.

''(2) REQUIREMENTS FOR PROPOSALS AND REGIONAL PROJECTS.—A proposal or regional project under paragraph (1) shall be—

''(A) submitted in the manner and form prescribed by the Director; and

''(B) consistent with—

''(i) the goals of the Great Lakes Water Quality Agreement, as amended;

''(ii) the 1954 Great Lakes Fisheries Convention;

''(iii) the 1980 Joint Strategic Plan for Management of Great Lakes Fisheries, as revised in 1997, and Fish Community Objectives for each Great Lake and connecting water as established under the Joint Strategic Plan;

''(iv) the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C. 4701 et seq.);

''(v) the North American Waterfowl Management Plan and joint ventures established under the plan; and

''(vi) the strategies outlined through the Great Lakes Regional Collaboration authorized under Executive Order 13340 (69 Fed. Reg. 29043; relating to the Great Lakes Interagency Task Force).

''(3) SEA LAMPREY AUTHORITY.—The Great Lakes Fishery Commission shall retain authority and responsibility to formulate and implement a comprehensive program to eradicate or minimize sea lamprey populations in the Great Lakes Basin.

''(c) REVIEW OF PROPOSALS.—

''(1) ESTABLISHMENT OF COMMITTEE.—There is established the Great Lakes Fish and Wildlife Restoration Proposal Review Committee, which shall operate under the guidance of the United States Fish and Wildlife Service.

''(2) MEMBERSHIP AND APPOINTMENT.—

''(A) IN GENERAL.—The Committee shall consist of 2 representatives of each of the State Directors and Indian Tribes, of whom—

''(i) 1 representative shall be the individual appointed by the State Director or Indian Tribe to the Council of Lake Committees of the Great Lakes Fishery Commission; and

''(ii) 1 representative shall have expertise in wildlife management.

''(B) APPOINTMENTS.—Each representative shall serve at the pleasure of the appointing State Director or Tribal Chair.

''(C) OBSERVER.—The Great Lakes Coordinator of the United States Fish and Wildlife Service shall participate as an observer of the Committee.

''(D) RECUSAL.—A member of the Committee shall recuse himself or herself from consideration of proposals that the member, or the entity that the member represents, has submitted.

''(3) FUNCTIONS.—The Committee shall—

''(A) meet at least annually;

''(B) review proposals and special projects developed in accordance with subsection (b) to assess the effectiveness and appropriateness of the proposals and special projects in fulfilling the purposes of this title; and

''(C) recommend to the Director any of those proposals and special projects that should be funded and implemented under this section.

''(d) IMPLEMENTATION OF PROPOSALS AND REGIONAL PROJECTS.—

''(1) IN GENERAL.—After considering recommendations of the Committee and the goals specified in section 1006, the Director shall—

''(A) select proposals and regional projects to be implemented; and

''(B) subject to the availability of appropriations and subsection (e), fund implementation of the proposals and regional projects.

''(2) SELECTION CRITERIA.—In selecting and funding proposals and regional projects, the Director shall take into account the effectiveness and appropriateness of the proposals and regional projects in fulfilling the purposes of other laws applicable to restoration of the fish and wildlife resources and habitat of the Great Lakes Basin.

''(e) COST SHARING.—

''(1) IN GENERAL.—Except as provided in paragraphs (2) and (4), not less than 25 percent of the cost of implementing a proposal selected under subsection (d) (excluding the cost of establishing sea lamprey barriers) shall be paid in cash or in-kind contributions by non-Federal sources.

''(2) REGIONAL PROJECTS.—Regional projects selected under subsection (d) shall be exempt from cost sharing if the Director determines that the authorization for the project does not require a non-Federal cost-share.

''(3) EXCLUSION OF FEDERAL FUNDS FROM NON-FEDERAL SHARE.—The Director may not consider the expenditure, directly or indirectly, of Federal funds received by any entity to be a contribution by a non-Federal source for purposes of this subsection.

''(4) EFFECT ON CERTAIN INDIAN TRIBES.—Nothing in this subsection affects an Indian tribe affected by an alternative applicable cost sharing requirement under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).''.

SEC. 5. GOALS OF UNITED STATES FISH AND WILDLIFE SERVICE PROGRAMS RELATED TO GREAT LAKES FISH AND WILDLIFE RESOURCES.

Section 1006 of the Great Lakes Fish and Wildlife Restoration Act of 1990 (16 U.S.C. 941d) is amended by striking paragraph (1) and inserting the following:

''(1) Restoring and maintaining self-sustaining fish and wildlife resources.''.

SEC. 6. ESTABLISHMENT OF OFFICES.

Section 1007 of the Great Lakes Fish and Wildlife Restoration Act of 1990 (16 U.S.C. 941e) is amended—

(1) by striking subsection (a) and inserting the following:

''(a) GREAT LAKES COORDINATION OFFICE.—

''(1) IN GENERAL.—The Director shall establish a centrally located facility for the coordination of all United States Fish and Wildlife Service activities in the Great Lakes Basin, to be known as the 'Great Lakes Coordination Office'.

''(2) FUNCTIONAL RESPONSIBILITIES.—The functional responsibilities of the Great Lakes Coordination Office shall include—

''(A) intra- and interagency coordination;

''(B) information distribution; and

''(C) public outreach.

''(3) REQUIREMENTS.—The Great Lakes Coordination Office shall—

''(A) ensure that information acquired under this Act is made available to the public; and

''(B) report to the Director of Region 3, Great Lakes Big Rivers.'';

(2) in subsection (b)—

(A) in the first sentence, by striking ''The Director'' and inserting the following:

''(1) IN GENERAL.—The Director'';.

(B) in the second sentence, by striking ''The office'' and inserting the following:

''(2) NAME AND LOCATION.—The office''; and

(C) by adding at the end the following:

''(3) RESPONSIBILITIES.—The responsibilities of the Lower Great Lakes Fishery Resources Office shall include operational activities of the United States Fish and Wildlife Service related to fishery resource protection, restoration, maintenance, and enhancement in the Lower Great Lakes.''; and

(3) in subsection (c)—

(A) in the first sentence, by striking ''The Director'' and inserting the following:

''(1) IN GENERAL.—The Director'';.

(B) in the second sentence, by striking ''The office'' and inserting the following:

''(2) NAME AND LOCATION.—The office''; and

(C) by adding at the end the following:

''(3) RESPONSIBILITIES.—The responsibilities of the Upper Great Lakes Fishery Resources Offices shall include operational activities of the United States Fish and Wildlife Service related to fishery resource protection, restoration, maintenance, and enhancement in the Upper Great Lakes.''.

SEC. 7. REPORTS.

Section 1008 of the Great Lakes Fish and Wildlife Restoration Act of 1990 (16 U.S.C. 941f) is amended to read as follows:

''SEC. 1008. REPORTS.

''(a) IN GENERAL.—Not later than December 31, 2011, the Director shall submit to the Committee on Resources of the House of Representatives and the Committee on Environment and Public Works of the Senate a report that describes—

''(1) actions taken to solicit and review proposals under section 1005;

''(2) the results of proposals implemented under section 1005; and

''(3) progress toward the accomplishment of the goals specified in section 1006.

''(b) ANNUAL REPORTS.—Not later than December 31 of each of fiscal years 2007 through 2012, the Director shall submit to the 8 Great Lakes States and Indian Tribes a report that describes—

''(1) actions taken to solicit and review proposals under section 1005;

''(2) the results of proposals implemented under section 1005;

''(3) progress toward the accomplishment of the goals specified in section 1006;

''(4) the priorities proposed for funding in the annual budget process under this title; and

''(5) actions taken in support of the recommendations of the Great Lakes Regional Collaboration authorized under Executive Order 13340 (69 Fed. Reg. 29043; relating to the Great Lakes Interagency Task Force).

''(c) STUDY.—

''(1) IN GENERAL.—Not later than December 16, 2009, the Director, in consultation with State fish and wildlife resource management agencies, Indian Tribes, and the Great Lakes Fishery Commission, shall—

''(A) conduct a comprehensive study of the status, and the assessment, management, and restoration needs, of the fish and wildlife resources of the Great Lakes Basin, including a comprehensive review of the accomplishments that have been achieved under this title through fiscal year 2008; and

''(B) submit to the President of the Senate and the Speaker of the House of Representatives—

''(i) the study described in subparagraph (A); and

''(ii) a comprehensive report on the findings of the study.

''(d) REPORT.—Not later than June 30, 2006, the Director shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Resources of the House of Representatives the 2002 report required under this section as in effect on the day before the date of enactment of the Great Lakes Fish and Wildlife Restoration Act of 2006.''.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

Section 1009 of the Great Lakes Fish and Wildlife Restoration Act of 1990 (16 U.S.C. 941g) is amended to read as follows:

''SEC. 1009. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to the Director for each of fiscal years 2007 through 2012—

''(1) $12,000,000, of which—

''(A) $11,400,000 shall be allocated to implement fish and wildlife restoration proposals as selected by the Director under section 1005(e); and

''(B) the lesser of 5 percent or $600,000 shall be allocated to the United States Fish and Wildlife Service to cover costs incurred in administering the proposals by any entity;

''(2) $6,000,000, which shall be allocated to implement regional projects by the United States Fish and Wildlife Service, as selected by the Director under section 1005(e); and

''(3) $2,000,000, which shall be allocated for the activities of the Great Lake Coordination Office in East Lansing, Michigan, of the Upper Great Lakes Fishery Resources Office, and the Lower Great Lakes Fishery Resources Office under section 1007.''.

By Mr. BAUCUS:

S. 2431. A bill to amend the Internal Revenue Code of 1986 to encourage all Americans to save for retirement by increasing their access to pension plans and other retirement savings vehicles, and for other purposes; to the Committee on Finance,

Mr. BAUCUS. Mr. President, today I am introducing legislation to make America more competitive by increasing savings. The bill encourages savings at work, and requires that the Government consider the Nation's savings in the budget process.

That great American philosopher Yogi Berra once said: ''If you see a fork in the road, take it.''

Well, we are at that fork in the road. Private savings are at an all time low. And the government just spoons out more and more red ink. If America does not change its ways, we will find ourselves on the wrong fork.

For the past 10 months, I have been talking about competitiveness. I have been talking about the steps that we must take to keep this country strong. And I have been talking about the steps that we must take to make it stronger.

One key component of my competitiveness agenda is savings. We must improve our national savings rate because capital is critical to growth. And continued deficits lead ultimately to a downward spiral.

The 2005 personal savings rate was negative—minus 0.5 percent. Taxpayers have joined their government in engaging in deficit spending. We have to turn our savings rates around. The question is how to do it.

With regard to Federal Government budget deficits, we have talked a lot over the last few days about the need for a pay-as-you-go process. We all know that it is important. The only question is whether we are willing to take the tough steps that pay-go requires, and not leave the burden to our children and grandchildren.

Pay-go does not necessarily mean tax increases. It could mean collecting the taxes that are already owed. The most recent IRS estimate of the tax gap—the difference between what taxpayers owe and what they pay on time—is $350 billion each year.

Collecting that difference would pay for a lot of the Government. Several times, the Senate has passed legislation that would close corporate loopholes and other abuses that contribute to the tax gap. Instead of looking for additional taxes, we should work with our Colleagues in the House to enact proposals like these that will simply get taxpayers to pay what they already owe.

Today, I want to focus on the lack of personal savings for retirement. We all know it is inadequate. And we must address this problem if American workers are to be able to retire with confidence that they can maintain their living standards.

The ''Savings Competitiveness Act,'' which I introduce today, will make it easier for millions of workers to save for retirement. It will create an automatic opportunity for workers to have savings withheld from their paychecks.

We cannot improve the personal savings rate by providing tax incentives that simply shift savings from one type of account to another, or from one investment to another. We can improve the personal savings rate only by creating new savings, especially savings by workers who would otherwise not save. I believe that this bill will do just that.

Data on retirement savings show that workers who can save at work through payroll deduction arrangements—such as 401(k) plans—usually take advantage of the opportunity to save. About two-thirds of eligible workers contribute to a 401(k) plan. That percentage jumps dramatically—to more than 80 percent—if eligible workers are automatically enrolled in these plans. Automatic enrollment makes saving the default. Workers can opt out. But those who do not opt out, start saving.

In November, we passed the pension bill by an overwhelming margin—97-to-2. That bill included provisions to encourage opt-out 401(k) and 403(b) plans, instead of opt-in plans. This is a very important first step. Separate bills introduced by Senators BINGAMAN and SNOWE, and Senators CONRAD and SMITH were the basis for the Senate provisions. And I applaud their efforts to move these ideas along. Since the House also included automatic enrollment language in its bill, I expect that the final conference bill will take this dramatic step toward increasing savings.

That, however, is just a first step. Automatic enrollment in 401(k) and 403(b) plans will help only those who are eligible to join an employer-sponsored plan. That is about 60 percent of working Americans. Unfortunately, that leaves 40 percent of workers out in the cold. For small employers, the situation is worse. More than half of workers with small employers—those with fewer than 25 employees—have no employer-sponsored retirement plan. And for firms with fewer than 10 employees, only 16 percent of workers participate in an employer-sponsored plan.

Those who have no employer-sponsored retirement program are far less likely to save for retirement than those who do; 85 percent of workers eligible for an employer-sponsored plan are actually earning benefits in those plans. But less than 20 percent of eligible taxpayers contribute to an IRA.

Many more own IRAs—because funds from employer plans have been rolled over to an IRA. But the truth is, most retirement savings came from employer-based retirement plans.

The high participation rates in employer-sponsored 401(k) plans, and the

low rates for IRAs, leads to a clear conclusion. We can increase retirement savings—create new savings—by making payroll deduction retirement savings available to more workers.

This is not a new idea. President Clinton's USA accounts were one attempt to bring retirement savings to all working Americans. Senator BINGAMAN first proposed universal access to retirement savings in his Secure Retirement for America Act in the 107th Congress. But it is time that we stopped talking. It is time that we started doing something to change the direction of the personal savings rate.

Access to payroll savings is important, but it is not enough. The Savings Competitiveness Act that I introduce today will expand savings opportunities and more.

This bill helps workers by providing an opportunity to save for retirement through payroll deduction at work. Employers are not required to contribute. Employers just withhold contributions and forward them to an IRA. We provide a modest credit to help small employers with the start-up costs.

This bill helps children by allowing Young Saver's Accounts to be used for kid's savings.

This bill helps small employers who want to contribute toward employees' retirement savings get started with a 3-year start-up credit for 50 percent of contributions to workers who are not highly compensated. And small employers who use ''SIMPLE'' plans can share the profits in a good year by making discretionary contributions to employees' SIMPLE IRAs.

This bill helps lower-income taxpayers by replacing the current Saver's Credit with a refundable credit, deposited to the taxpayer's retirement savings account. Families earning up to $50,000 would be eligible for a 50 percent credit. Those earning up to $60,000 would be entitled to a portion of the credit. Low-income savers would not be penalized by losing eligibility for food stamps and other benefits.

This bill helps retirees with modest savings by exempting $50,000 of their savings from minimum distribution requirements.

This bill removes traps for the unwary by simplifying distribution rules. It would conform 401(k) and IRA penalties so that workers who do not have advisers to lead them through a series of hoops do not get hit with excise taxes that those with a guide can avoid.

This bill takes some of the guesswork out of choosing an IRA. It would create a seal of approval for IRAs that have investment options similar to those in the Thrift Savings Plan and modest fees.

The Senate's automatic enrollment provisions are not law yet. So I have also included them in this new legislation.

I encourage my Colleagues to join with me to provide workplace savings opportunities for working Americans that now have none and to stop the unlimited growth of the deficit by adopting a pay-as-you-go requirement. I ask you to support the Savings Competitiveness Act.

By Mr. SALAZAR (for himself, Mr. THUNE, Mr. AKAKA, Mr. DORGAN, Mr. PRYOR, Mr. JOHNSON, Mr. BURNS, Ms. MURKOWSKI, Mr. THOMAS, Mr. BAUCUS, Mr. CONRAD, Mrs. MURRAY, Mrs. LINCOLN, and Mr. BURR):

S. 2433. A bill to amend title 38, United States Code, to establish an Assistant Secretary for Rural Veterans in the Department of Veterans Affairs, to improve the care provided to veterans living in rural areas, and for other purposes; to the Committee on Veterans' Affairs.

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

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

S. 2433

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 ''Rural Veterans Care Act of 2006''.

SEC. 2. ASSISTANT SECRETARY FOR RURAL VETERANS.

Section 308 of title 38, United States Code, is amended—

(1) in subsection (a)—

(A) by inserting ''(1)'' before ''There'';

(B) by striking ''six'' and inserting ''seven''; and

(C) by striking ''Each'' and inserting the following:

''(2) Each'';

(2) by redesignating subsection (c) as paragraph (3) and inserting such paragraph at the end of subsection (a);

(3) by inserting after subsection (b) the following new subsection:

''(c)(1) One of the Assistant Secretaries appointed under subsection (a) shall be the Assistant Secretary for Rural Veterans, who, under the direction of the Secretary, shall formulate and implement all policies and procedures of the Department that affect veterans living in rural areas.

''(2) The Assistant Secretary for Rural Veterans, under the direction of the Secretary, shall perform the following functions:

''(A) Except as otherwise expressly provided in this title, carry out the provisions of this title and administer all Department programs for providing care to veterans living in rural areas who are eligible for services authorized under this title.

''(B) Oversee and coordinate personnel and policies of the Veterans Health Administration, the Veterans Benefits Administration, the National Cemetery Administration, and their respective subagencies, including Veterans Integrated Service Networks, to carry out Department programs to the extent such programs affect veterans living in rural areas.

''(C) Oversee, coordinate, promote, and disseminate research into issues affecting veterans living in rural areas in cooperation with the medical, rehabilitation, health services, and cooperative studies research programs, the Office of Policy and the Office of Research and Development of the Veterans Health Administration, and the centers established in section 7329.

''(D) Ensure maximum effectiveness and efficiency in providing services and assistance to eligible veterans under the programs described in subparagraph (A), after consultation with appropriate representatives of the Centers for Medicare and Medicaid Services, the Indian Health Service, and the Office of Rural Health Policy of the Department of Health and Human Services, the Social Security Administration, the Department of Labor, the Department of Agriculture (acting through the Under Secretary for Rural Development), and other Federal, State, and local government agencies.

''(E) Work with all personnel and resources of the Department to develop, refine, and promulgate policies, best practices, lessons learned, and innovative and successful programs to improve care and services for rural veterans.

''(F) Perform such other functions and duties as the Secretary considers appropriate.

''(3) The Secretary shall ensure that the Assistant Secretary for Rural Veterans has the budget, authority, and control necessary for the development, approval, implementation, integration, and oversight of policies, procedures, processes, activities, and systems of the Department relating to the care of rural veterans. The Secretary shall identify a Rural Veterans Coordinator in each Veterans Integrated Service Network, who shall report to the Assistant Secretary for Rural Veterans and coordinate the functions authorized under this subsection within such network.

''(4) The Assistant Secretary for Rural Veterans, under the direction of the Secretary, shall supervise the employees of the Department who are responsible for implementing the policies and procedures described in paragraph (1).''; and

(4) in subsection (d)—

(A) in paragraph (1)—

(i) by striking ''18'' and inserting ''19''; and

(ii) by adding at the end the following: ''One of the Deputy Assistant Secretaries appointed under this paragraph shall be the Deputy Assistant Secretary for Rural Veterans, who shall perform such functions as the Assistant Secretary for Rural Veterans prescribes.'';

(B) in paragraph (2), by inserting ''or, in the case of the Deputy Assistant Secretary for Rural Veterans, comparable service in a management position in the Armed Forces'' after ''Secretary''.

SEC. 3. RESPONSIBILITIES OF ASSISTANT SECRETARY FOR RURAL VETERANS.

(a) DEMONSTRATION PROJECTS.—

(1) IN GENERAL.—The Assistant Secretary for Rural Veterans, appointed under section 308 of title 38, United States Code, shall carry out demonstration projects to examine alternatives for expanding care in rural areas, including—

(A) establishing a partnership between the Department of Veterans Affairs and the Centers for Medicare and Medicaid Services of the Department of Health and Human Services to coordinate care for rural veterans conducted at critical access hospitals (as designated or certified under section 1820 of the Social Security Act (42 U.S.C. 1395i–4));

(B) establishing a partnership between the Department of Veterans Affairs and the Department of Health and Human Services to coordinate care for rural veterans conducted at community health centers;

(C) expanding the use of fee basis care through which private hospitals, health care facilities, and other third-party providers are reimbursed for providing care closer to the homes of veterans living in rural areas, as authorized under section 7405(a)(2); and

(D) expanding coordination between the Department of Veterans Affairs and the Indian Health Service to expand care for Native American veterans.

(2) GEOGRAPHIC DISTRIBUTION.—The Assistant Secretary for Rural Veterans shall ensure that the demonstration projects authorized under paragraph (1) are located at facilities that are geographically distributed throughout the United States.

(3) REPORT.—Not later than two years after the date of enactment of this Act, the Assistant Secretary for Rural Veterans shall submit a report on the results of the demonstration projects conducted under paragraph (1) to—

(A) the Committee on Veterans Affairs of the Senate;

(B) the Committee on Appropriations of the Senate;

(C) the Committee on Veterans Affairs of the House of Representatives; and

(D) the Committee on Appropriations of the House of Representatives.

(b) POLICY REVISIONS.—Not later than one year after the date of enactment of this Act, the Assistant Secretary for Rural Veterans shall—

(1) reevaluate directives 5005 and 5007 of the Department of Veterans Affairs and other guidance and procedures related to the use of fee basis care nationwide; and

(2) revise established policies to—

(A) provide stronger guidance to units of the Department of Veterans Affairs; and

(B) strengthen the use of fee basis care to extend health care services to rural and remote rural areas.

(c) REPORTS TO CONGRESS.—The Secretary of Veterans Affairs shall submit to Congress, in conjunction with the documents submitted in support of the President's budget for each fiscal year, an assessment of the implementation during the most recently completed fiscal year of the provisions of this Act and the amendments made by this Act.

SEC. 4. PILOT PROGRAM ON ENHANCED ACCESS TO HEALTH CARE FOR VETERANS IN HIGHLY RURAL AND GEOGRAPHICALLY REMOTE AREAS.

(a) PILOT PROGRAM.—

(1) IN GENERAL.—The Secretary of Veterans Affairs shall conduct a pilot program to evaluate the feasability and advisability of utilizing various means to improve the access of veterans who reside in highly rural or geographically remote areas to health care services referred to in subsection (d).

(2) PROVISION OF SERVICES UNDER PILOT PROGRAM.—In conducting the pilot program, the Secretary shall provide health care services referred to in subsection (d) to eligible veterans who reside in highly rural or geographically remote areas in the geographic service regions selected for purposes of the pilot program utilizing the contract authority of the Secretary under section 1703 of title 38, United States Code, and such other authorities available to the Secretary as the Secretary considers appropriate for purposes of the pilot program.

(b) ELIGIBLE VETERANS.—A veteran is an eligible veteran for purposes of this section if the veteran—

(1) has a service-connected disability; or

(2) is enrolled in the veterans health care system under section 1705 of title 38, United States Code.

(c) HIGHLY RURAL OR GEOGRAPHICALLY REMOTE AREAS.—An eligible veteran resides in a highly rural or geographically remote area for purposes of this section if the veteran—

(1) resides in a location that is more than 60 miles driving distance from the nearest Department of Veterans Affairs health care facility; or

(2) in the case of an eligible veteran who resides in a location that is less than 60 miles driving distance from such a facility, experiences such hardship or other difficulties (as determined pursuant to regulations prescribed by the Secretary for purposes of this section) in travel to the nearest Department of Veterans Affairs health care facility that such travel is not in the best interests of the veteran.

(d) HEALTH CARE SERVICES.—The health care services referred to in this section are—

(1) acute or chronic symptom management;

(2) nontherapeutic medical services; and

(3) any other medical services jointly determined appropriate for an eligible veteran for purposes of this section by the physician of the department responsible for primary care of such eligible veteran and the director of the Veterans Integrated Service Network concerned.

(e) AREAS FOR CONDUCT OF PILOT PROGRAM.—

(1) IN GENERAL.—The pilot program shall be conducted in 3 of the geographic service regions of the Veterans Health Administration (referred to as Veterans Integrated Service Networks) selected by the Secretary for purposes of the pilot program.

(2) SELECTION.—In selecting geographic service regions for the purposes of the pilot program, the Secretary, based on the recommendations of the Assistant Secretary for Rural Veterans, shall select from among the Veterans Integrated Service Networks that have a substantial population of veterans who reside in highly rural or geographically remote areas.

(f) PERIOD OF PILOT PROGRAM.—The pilot program shall be conducted during fiscal years 2007, 2008, and 2009.

(g) FUNDING FOR PILOT PROGRAM.—

(1) IN GENERAL.—For each fiscal year during which the pilot program is conducted, the Secretary shall allocate for the pilot program an amount equal to 0.9 percent of the total amount appropriated for such fiscal year for medical services.

(2) TIMING OF ALLOCATION.—The allocation under paragraph (1) for a fiscal year shall be made before any other allocation of funds for medical care is made for such fiscal year, and any remaining allocation of funds for medical care for such fiscal year shall be made without regard to the allocation under subsection (a) in such fiscal year.

(h) REPORT TO CONGRESS.—Not later than February 1, 2009, the Secretary shall submit to Congress a report on the pilot program. The Secretary shall include in the report such recommendations as the Secretary considers appropriate concerning extension of the pilot program or other means to improve the access of veterans who reside in highly rural or geographically remote areas to health care services referred to in subsection (d).

SEC. 5. TRAVEL REIMBURSEMENT FOR VETERANS RECEIVING TREATMENT AT FACILITIES OF THE DEPARTMENT OF VETERANS AFFAIRS.

Section 111 of title 38, United States Code, is amended—

(1) in subsection (a)—

(A) by striking ''subsistence),'' and inserting ''subsistence at a rate equivalent to the rate provided to Federal employees under section 5702 of title 5),''; and

(B) by striking ''traveled,'' and inserting ''(at a rate equivalent to the rate provided to Federal employees under section 5704 of title 5),'';

(2) by striking subsection (g); and

(3) by redesignating subsection (h) as subsection (g).

SEC. 6. CENTERS FOR RURAL HEALTH RESEARCH, EDUCATION, AND CLINICAL ACTIVITIES.

(a) IN GENERAL.—Subchapter II of chapter 73 of title 38, United States Code, is amended by adding at the end the following new section:

''§ 7329. Centers for rural health research, education, and clinical activities

''(a) ESTABLISHMENT OF CENTERS.—The Assistant Secretary for Rural Veterans shall establish and operate not less than one and not more than five centers of excellence for rural health research, education, and clinical activities, which shall—

''(1) conduct research on rural health services;

''(2) allow the Department to use specific models for furnishing services to treat rural veterans;

''(3) provide education and training for health care professionals of the Department; and

''(4) develop and implement innovative clinical activities and systems of care for the Department.

''(b) GEOGRAPHIC DISPERSION.—The Assistant Secretary for Rural Veterans shall ensure that the centers authorized under paragraph (1) are located at health care facilities that are geographically dispersed throughout the United States.

''(c) SELECTION CRITERIA.—The Assistant Secretary for Rural Veterans may not designate a health care facility as a location for a center under this section unless—

''(1) the peer review panel established under subsection (d) determines that the proposal submitted by such facility meets the highest competitive standards of scientific and clinical merit; and

''(2) the Assistant Secretary for Rural Veterans determines that the facility has, or may reasonably be anticipated to develop—

''(A) an arrangement with an accredited medical school to provide residents with education and training in care for rural veterans;

''(B) the ability to attract the participation of scientists who are capable of ingenuity and creativity in health care research efforts;

''(C) a policymaking advisory committee, composed of appropriate health care and research representatives of the facility and of the affiliated school or schools, to advise the directors of such facility and such center on policy matters pertaining to the activities of such center during the period of the operation of such center; and

''(D) the capability to effectively conduct evaluations of the activities of such center.

''(d) PANEL TO EVALUATE PROPOSALS.—(1) The Assistant Secretary for Rural Veterans shall establish a panel to—

''(A) evaluate the scientific and clinical merit of proposals submitted to establish centers under this section; and

''(B) provide advice to the Assistant Secretary for Rural Veterans regarding the implementation of this section.

''(2) The panel shall review each proposal received from the Assistant Secretary for Rural Veterans and shall submit its views on the relative scientific and clinical merit of each such proposal to the Assistant Secretary.

''(3) The panel established under paragraph (1) shall be comprised of experts in the fields of public health research, education, and clinical care.

''(4) Members of the panel shall serve as consultants to the Department for a period not to exceed two years.

''(5) The panel shall not be subject to the Federal Advisory Committee Act.

''(e) FUNDING.—(1) There are authorized to be appropriated such sums as may be necessary for the support of the research and education activities of the centers established pursuant to subsection (a).

''(2) The Assistant Secretary for Rural Veterans shall allocate such amounts as the

Under Secretary for Health determines to be appropriate to the centers established pursuant to subsection (a) from funds appropriated for the Medical Care Account and the Medical and Prosthetics Research Account.

''(3) Activities of clinical and scientific investigation at each center established under subsection (a)—

''(A) shall be eligible to compete for the award of funding from funds appropriated for the Medical and Prosthetics Research Account; and

''(B) shall receive priority in the award of funding from such account to the extent that funds are awarded to projects for research in the care of rural veterans.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 73 of title 38, United States Code, is amended by inserting after the item relating to section 7328 the following new item:

''7329. Centers for rural health research, education, and clinical activities.''.

By Mr. WYDEN (for himself and Mr. GRAHAM):

S. 2434. A bill to limit the amount of time Senators spend on non-legislative activities; to the Committee on Rules and Administration.

Mr. WYDEN. Mr. President, the Senate has been working away at a lobbying reform bill, which is a good start at curbing the influence of special interests, but that alone is not enough. Everyone knows the root of the problem is money. Money is the oil that runs the engine of a viable campaign for office.

Every single one of my colleagues and I are in a perpetual campaign. Whether you were born a multi-millionaire or come from more humble origins, you are chasing money. Senators are elected or reelected on a Tuesday, sleep in on Wednesday and by Thursday they are back on the phone, dialing supporters for contributions to fuel the next campaign.

I do not believe Senators should have to operate this way. I believe the people send Senators to the Capitol to resolve their and the Nation's problems; I don't believe they send us to the United States Senate to spend all our time calling donors for support.

Senators are here to do the people's business, and that's why Senator GRAHAM and I are introducing the first bipartisan bill that would let Senators focus on what the voters of our States sent us here to do. This would be the first serious step toward shutting the door on the 6-year stockpiling of campaign contributions. Our bill would amend the Senate rules to prohibit incumbent Senators from raising money until 18 months prior to their re-election. An exception to this ban would be triggered if an opposing candidate or group targeted a Senator with more than $100,000 in paid advertisements. Such a targeted campaign would free an incumbent Senator from the prohibition on soliciting contributions. Likewise, the ban would not apply to contributions to retire campaign debt.

I have long admired the system used in many European countries for keeping campaigns focused on a short but intense period. That would require an amendment to the Constitution, an avenue that time and again has proved too difficult to navigate. Short of a Constitutional amendment I believe the new approach Senator GRAHAM and I are offering could prove viable.

Campaign finance reform is much like nuclear disarmament: everyone is for it but few are willing to take the first step unilaterally. I believe that those of us who are already here in the Senate bear the responsibility to take that first step.

Our proposal aims not just to treat the symptoms of scandal and corruption; it aims to cure the overall disease by going after the endless race for money in politics. Our bipartisan approach enjoys the support of a number of groups, including Common Cause, Democracy21, US PIRG and Public Citizen.

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

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

S. 2434

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 ''Senate Campaign Reform Act of 2006''.

SEC. 2. LIMITATION ON SOLICITATION OR ACCEPTANCE OF CONTRIBUTIONS.

Paragraph 1 of rule XLI of the Standing Rules of the Senate is amended—

(1) by inserting ''(a)'' after ''1.''; and

(2) by adding at the end the following:

''(b)(1) A Member of the Senate, or officer or employee of the Senate, shall not solicit, receive, direct, or authorize the acceptance of a contribution with respect to a political committee authorized by or affiliated with a Senator at any time other than during the period beginning on the date that is 18 months prior to the date of the next general election for the office held by such Senator and ending on the date of such election.

''(2) This subparagraph shall not apply for the period beginning on the date in which a candidate opposing a Senator receives contributions or makes expenditures in excess of $100,000.

''(3)(A) This subparagraph shall not apply in any case in which a Senator is targeted (by name or office) in broadcast advertisements paid for by an individual or group that is not affiliated with any candidate for the Senate, but only to the extent that contributions do not exceed the amount paid by the individual or group for such advertisements.

''(B) Contributions permitted by subclause (A) shall be used for the sole purpose of responding to such advertisements, and funds remaining at the conclusion of such response shall be returned to the individual contributors (based on the percentage of the total amount contributed).

''(C) Not later than 30 days after the date on which a response is made under subclause (B), the Senator shall submit for review to the Select Committee on Ethics of the Senate the amount raised, copies of the advertisements in question, and the dates and outlets on which the advertisements were run.

''(4) This subparagraph shall not apply to any authorized committee of a Senator who is a candidate for an office other than Senator, but only if such committee is established for the purpose of running for such other office and no contribution accepted by the committee is used for the purpose of running for the office of Senator.

''(5) Any term used in this subparagraph which is also used in the Federal Election Campaign Act of 1971 (2 U.S.C. 331 et seq.) shall have the meaning given such term under such Act.''.

By Mr. LUGAR:

S. 2435. A bill to increase cooperation on energy issues between the United States Government and foreign governments and entities in order to secure the strategic and economic interests of the United States, and for other purposes; to the Committee on Foreign Relations.

Mr. LUGAR. Mr. President, I rise today to introduce the ''Energy Diplomacy and Security Act,'' legislation that recognizes energy security to be a foremost concern for United States national security, and would realign our diplomatic priorities to meet energy security challenges.

Energy issues pose a multitude of challenges for United States national security, foreign policy, economy, and environment. Meeting these challenges requires a rigorous and farsighted policy to move us toward a sustainable energy future, which will include international partnership. The bill calls upon the President to improve the focus and coordination of Federal agency activities in international energy affairs. The bill further would ensure that concern for energy security is integrated into the State Department's core mission and activities, and to this end, it calls for the creation of a Coordinator for International Energy Affairs within the Office of the Secretary.

The bill calls upon the Federal Government to expand international cooperation on energy issues. The bill seeks to enhance international preparedness for major disruptions in oil supplies. A particular priority is to offer a formal coordination agreement with China and India as they develop strategic petroleum reserves. This would help draw them into the international system, providing supply reassurance, and thereby reducing potential for conflict. The bill also calls for extension of petroleum supply disruption to developing nations which are most vulnerable.

The bill would also stimulate regional partnerships in the Western Hemisphere. Most of our oil and virtually all of our gas imports come from this Hemisphere. The bill would create a Western Hemisphere Energy Forum modeled on the APEC energy working group. This would provide a badly-needed mechanism for hemispheric energy cooperation and consultation, and would promote private investment in the Hemisphere.

Finally, the bill would enhance international partnerships with both major energy producing and consuming countries. We must engage major oil and natural gas producing countries. Not working with major oil and gas exporters will lead to unproductive political

showdowns and conflict. Strategic energy partnerships with other major consuming countries are also crucial for our national security. Energy security is a priority we hold in common with other import dependent countries, and partnership with the world's largest consumers will increase leverage in relation to petro-states and speed our own conversion to sustainable energy sources. In addition to seeking new avenues of cooperation, the bill would give focus to existing bilateral energy dialogues, which have lacked clear objectives and political backing.

I look forward to working with my colleagues and the Administration to pursue a foreign policy that meets the grave national security challenges posed by the global energy situation.

By Mr. NELSON of Florida (for himself and Mr. MENENDEZ):

S. 2436. A bill to establish an Office of Consumer Advocacy and Outreach within the Federal Trade Commission to protect consumers from certain unfair or deceptive acts or practices, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. NELSON of Florida. Mr. President, I rise today on behalf of myself, and Senator ROBERT MENENDEZ of New Jersey, to introduce a bill to create an Office of Consumer Advocacy and Outreach within the Federal Trade Commission.

Pyramid schemes, too-good-to-be-true business opportunities, miracle weight loss products—these are all examples of how average Americans are taken advantage of on a daily basis. These schemes have the potential to deplete an innocent person's bank accounts and ruin their finances and credit record for years to come. Some even damage people's health permanently—all for sake a making a few bucks.

Unfortunately, Hispanics are twice as likely as other Americans to become victims of consumer fraud. In fact, 14.3 percent of Hispanics will fall prey to this type of crime. It's hard to know exactly why this is affecting Hispanics disproportionately. Some believe that disreputable businesses target certain communities because they believe victims are less likely to report crimes. In fact, data has shown that Hispanics are less likely to report incidents of fraud than other segments of the population.

The Federal Trade Commission has levied an increasing number of complaints against deceptive Spanish-language advertisements, including fraudulent driving permits and junk computers in recent years. Two of these complaints were filed against businesses in South Florida that targeted Spanish speakers with advertisements for ''scientifically unfeasible'' weight-loss pills.

The Office of Consumer Advocacy and Outreach created by this bill will provide information to targeted consumers in these communities on how to protect themselves against fraudulent schemes and where to seek redress if they become a victim. The Office will work with law enforcement to track and investigate fraud schemes that target immigrants, the elderly, minorities and other communities.

This legislation will create, develop, and manage an anonymous tip program that will allow individuals to report fraud schemes that specifically target their community. The tip program will allow anyone with knowledge of a fraud scheme involving deceptive advertising to get a reward for reporting it directly to the experts who work at the Federal Trade Commission.

To help publicize the reward program, the number for this newly created hotline would be included in a Spanish-language public service advertising campaign produced by the Federal Trade Commission that warns against consumer fraud and provides the number for this newly created anonymous hotline.

Finally, the Office will work with law enforcement to increase their level of participation in the Consumer Sentinel database system. This database, currently in existence, collects information from local, State and Federal agencies on consumer complaints to assist in the tracking and investigating of consumer fraud issues.

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

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

S. 2436

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 ''Federal Trade Commission Consumer Advocacy Act''.

SEC. 2. ESTABLISHMENT OF THE OFFICE OF CONSUMER ADVOCACY AND OUTREACH.

There is established within the Federal Trade Commission an Office of Consumer Advocacy and Outreach.

SEC. 3. PURPOSE OF THE OFFICE OF CONSUMER ADVOCACY AND OUTREACH.

The purpose of the Office of Consumer Advocacy and Outreach is to protect minority consumers, disabled consumers, and other targeted consumers from unfair or deceptive acts or practices that violate section 5 of the Federal Trade Commission Act (15 U.S.C. 45).

SEC. 4. RESPONSIBILITIES OF THE OFFICE OF CONSUMER ADVOCACY AND OUTREACH.

The head of the Office of Consumer Advocacy and Outreach shall—

(1) assist law enforcement personnel in—

(A) investigating unfair or deceptive acts or practices that violate section 5 of the Federal Trade Commission Act (15 U.S.C. 45) and that affect minority, disabled, or other targeted consumers; and

(B) increasing the amount of information available about such acts or practices through the Consumer Sentinel database system or an equivalent database system;

(2) provide consumers, including minority, disabled, or other targeted consumers, information regarding detecting unfair or deceptive acts or practices;

(3) administer a program that permits individuals to anonymously report information regarding an unfair or deceptive act or practice that affects minority, disabled, or other targeted consumers;

(4) carry out a program to provide a monetary reward to an individual who reports an unfair or deceptive act or practice that affects minority, disabled, or other targeted consumers if such report results in the Federal Trade Commission obtaining a civil penalty from a person liable for such act or practice; and

(5) carry out a public awareness campaign in Spanish to inform Spanish-speaking consumers about the services provided by the Office and the award program described in paragraph (4).

By Mr. STEVENS (for himself, Mrs. HUTCHISON, Mrs. DOLE, Mr. TALENT, Mrs. FEINSTEIN, Ms. MIKULSKI, and Mr. BYRD):

S. 2437. A bill to increase penalties for trafficking with respect to peonage, slavery, involuntary servitude, or forced labor; to the Committee on the Judiciary.

Mr. STEVENS. Mr. President, over 100 years ago, our country criminalized slavery with the 13th amendment to the U.S. constitution. Yet, thousands of people in our country still live a life of slavery and forced prostitution.

According to the State Department, up to 800,000 people worldwide are trafficked across borders each year. As many as 17,000 persons are believed to be trafficked in the United States annually.

The majority of these victims are women and children. Most of them are trafficked into commercial sexual exploitation.

Human trafficking is a highly profitable and dangerous business. It generates an estimated $9.5 billion annually and is closely connected to organized crime. Human trafficking operations have been linked to money-laundering, drug-trafficking, document forgery, and the funding of terrorist activities.

Those involved in human trafficking prey on the most vulnerable in our society. They seek out those living in poverty and those who have not had access to a good education.

Human traffickers hold their victims against their will and force them into slavery or the sex industry, where they are threatened and often physically or sexually abused.

The State Department is working with other nations to combat this problem internationally, and we must do more here at home.

Those involved in human trafficking should face severe criminal penalties. It is my hope that such penalties will discourage this type of activity. Our country is a beacon of freedom for the world, and the idea that thousands of people a year are enslaved right in our own backyard sickens me. This must be stopped.

In the past, Congress has passed laws increasing the penalties for human trafficking. I urge my colleagues to join me in increasing these penalties once again.

This bill makes the trafficking of humans a capital offense. It not only

holds those who lure men, women, and children into a life of slavery and prostitution responsible; it also punishes those involved in the transport or purchase of these victims.

This bill gives our courts the tools they need to curb this ongoing epidemic. I urge my colleagues to support this legislation.

By Mr. REID:

2439. A bill to amend the Energy Employees Occupational Illness Compensation Program Act of 2000 to provide for certain nuclear weapons program workers to be included in the Special Exposure Cohort under the compensation program established by that Act; to the Committee on Health, Education, Labor, and Pensions.

Mr. REID. Mr. President, I rise today to introduce a bill to provide compensation for civilian veterans of the Cold War who contracted cancer as a result of their work at our nuclear weapons facilities, The Nevada Test Site Veteran's Compensation Act of 2006.

The Nevada Test Site Veteran's Compensation Act of 2006 will ensure that employees who worked at the Nevada Test Site during the years of above and below ground nuclear weapons testing and suffer from radiation-induced cancers as a result of that work finally receive the compensation they deserve. These Cold War veterans sacrificed their health and wellbeing for their county. We can wait no longer to acknowledge those sacrifices and to try, in some small way, to compensate for the cancers they have suffered as a result of their service to their country.

United States citizens have served their country working in facilities producing and testing nuclear weapons and engaging in other atomic energy defense activities that served as a deterrent during the Cold War. Many of these workers were exposed to cancer-causing levels of radiation and placed in harm's way by the Department of Energy and contractors, subcontractors, and vendors of the Department without the knowledge and consent of the workers, without adequate radiation monitoring, and without necessary protections from internal or external occupational radiation exposures.

Six years ago, I worked with President Clinton to pass The Energy Employees Occupational Illness Compensation Program Act of 2000 (42 U.S.C. 7384 et seq.) (EEOICPA) to ensure fairness and equity for the men and women who performed duties uniquely related to the nuclear weapons production and testing programs by establishing a program that would provide timely, uniform, and adequate compensation for 22 specified radiation-related cancers.

Research by the Department of Energy, the National Institute for Occupational Safety and Health (NIOSH), NIOSH's contractors, the President's Advisory Board on Radiation and Worker Health, and congressional committees indicates that workers were not adequately monitored for internal or external exposures to ionizing radiation to which the workers were exposed and records were not maintained, are not reliable, are incomplete, or fail to indicate the radioactive isotopes to which workers were exposed.

Because of the inequities posed by the factors described above and the resulting harm to the workers, EEOICPA has an expedited process for groups of workers whose radiation dose cannot be estimated with sufficient accuracy or whose dose cannot be estimated in a timely manner. These workers are placed into a Special Exposure Cohort (SEC). Workers in an SEC do not have to go through the dose reconstruction process, which can take years and be extremely difficult as these workers are often unable to produce information because it was or is classified.

Congress has already legislatively designated classes of atomic energy veterans at the Paducah, Kentucky, Portsmouth, Ohio, Oak Ridge K–25, Tennessee, and the Amchitka Island, Alaska, sites as members of the Special Exposure Cohort under EEOICPA. Amchitka Island was designated because three underground nuclear tests were conducted on the Island.

Nevada Test Site workers deserve the same designation.

I and many other Nevadans remember watching explosions at the Nevada Test Site. We were struck with awe and wonder at the power and strength of these explosions. Little did we know that there was another side to those atomic tests—the exposure of men and women working at the site to cancer-causing substances. Now, hundreds, perhaps thousands, of these Cold War veterans face deadly cancers. Many have already passed away.

The contribution of the State of Nevada to the security ofthe United States throughout the Cold War and since has been unparalleled. In 1950, President Harry S. Truman designated what would later be called the Nevada Test Site as the Nation's nuclear proving grounds and, a month later, the first atmospheric test at the Nevada Test Site was detonated. The United States conducted 100 aboveground and 828 underground nuclear tests at the Nevada Test Site from 1951–1992. Out of the 1054 nuclear tests conducted in the United States, 928, or 88 percent, were conducted at the Nevada Test Site.

Unfortunately, Nevada Test Site workers, despite having worked with significant amounts of radioactive materials and having known exposures leading to serious health effects, have been denied compensation under EEOICPA as a result of flawed calculations based on records that are incomplete or in error as well as the use of faulty assumptions and incorrect models.

It has become evident that it is not feasible to estimate with sufficient accuracy the radiation dose received by employees at the Department of Energy facility in Nevada known as Nevada Test Site at all in some cases and in other in a timely manner. There are many reasons for this, including inadequate monitoring, incomplete radionuclide lists, and DOE's ignoring nearly a dozen tests conducted at the site that vented. Because of these problems, Nevada Test Site workers have been denied compensation under the Act, some of which have waited for decades for their government to acknowledge the sacrifices they made for their country and compensate them.

Unfortunately, 6 years since the passage of EEOICPA and in some cases decades after their service to their country, very few of those Nevada Test Site Cold War veterans who have cancer have received compensation. In fact, Nevada Test Site workers are receiving compensation at a rate lower than the national average and many who have waited decades are being told that they have to wait longer. And many have already died while waiting for their compensation.

Last November, I sent a letter to President Bush asking him to initiate this process himself. He still has not responded. However, his Administration is trying to re-write the law via regulation and cut funding to this program in order to delay compensation further and halt it for some workers altogether.

This is unacceptable. That is why I am committed to ensuring that Nevada Test Site workers through 1993 are designated as a ''Special Exposure Cohort.'' This will streamline and speed up the recovery process for those workers.

The Nevada Test Site Veteran's Compensation Act of 2006 would ensure employees and survivors of employees who worked at the Nevada Test Site through 1993 that they receive compensation. They helped this country win the cold war, sacrificing their personal health in the process and after decades of waiting and suffering, it is time the government honored these sacrifices

This bill would include within the Special Exposure Cohort, Nevada Test Site workers employed at the site from 1950–1993 who were: (1) Present during an atmospheric or underground nuclear test or performed drillbacks, re-entry, or clean up work following such test; (2) present at an episodic event involving radiation releases; or (3) employed at Nevada Test Site for at least 250 work days and in a job activity that was monitored for exposure to ionizing radiation or worked in a job activity that is or was comparable to a job that is, was or should have been monitored for exposure to ionizing radiation.

The Nevada Test Site has served, and continues to serve, as the premier research, testing, and development site for our nuclear defense capabilities. The Nevada Test Site and its workers have been, and are, an essential and irreplaceable part of our Nation's defense capabilities. This bill would honor the service of our Atomic Energy veterans

and provide them with the compensation they deserve.

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

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

S. 2439

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 ''Nevada Test Site Veterans' Compensation Act of 2006''.

SEC. 2. FINDINGS.

(a) Congress makes the following findings:

(1) Employees working on Cold War-era nuclear weapons programs were employed in facilities owned by the Federal Government and the private sector producing and testing nuclear weapons and engaging in related atomic energy defense activities for the national defense beginning in the 1940s.

(2) These Cold War atomic energy veterans helped to build and test the nuclear arsenal that served as a deterrent during the Cold War, sacrificing their personal health and well-being in service of their country.

(3) During the Cold War, many of these workers were exposed to radiation and placed in harm's way by the Department of Energy and contractors, subcontractors, and vendors of the Department without their knowledge and consent, without adequate radiation monitoring, and without necessary protections from internal or external occupational radiation exposure.

(4) The Energy Employees Occupational Illness Compensation Program Act of 2000 (42 U.S.C. 7384 et seq.) (in this section referred to as ''EEOICPA'') was enacted to ensure fairness and equity for the men and women who, during the past 60 years, performed duties uniquely related to the nuclear weapons production and testing programs of the Department of Energy, its predecessor agencies, and contractors by establishing a program that would provide timely, uniform, and adequate compensation for beryllium- and radiation-related health conditions.

(5) Research by the Department of Energy, the National Institute for Occupational Safety and Health (NIOSH), NIOSH contractors, the President's Advisory Board on Radiation and Worker Health, and congressional committees indicates that at certain nuclear weapons facilities—

(A) workers were not adequately monitored for internal or external exposure to ionizing radiation; and

(B) records were not maintained, are not reliable, are incomplete, or fail to indicate the radioactive isotopes to which workers were exposed.

(6) Due to the inequities posed by the factors described above and the resulting harm to the workers, Congress designated classes of atomic weapons employees at the Paducah, Kentucky, Portsmouth, Ohio, Oak Ridge K–25, Tennessee, and the Amchitka Island, Alaska, sites as members of the Special Exposure Cohort under EEOICPA.

(7) The contribution of the State of Nevada to the security of the United States throughout the Cold War and since has been unparalleled.

(8) In 1950, President Harry S. Truman designated what would later be called the Nevada Test Site as the country's nuclear proving grounds and, a month later, the first atmospheric test at the Nevada Test Site was detonated.

(9) The United States conducted 100 aboveground and 828 underground nuclear tests at the Nevada Test Site from 1951 to 1992.

(10) Out of the 1,054 nuclear tests conducted in the United States, 928, or 88 percent, were conducted at the Nevada Test Site.

(11) The Nevada Test Site has served, and continues to serve, as the premier research, testing, and development site for our nuclear defense capabilities.

(12) The Nevada Test Site and its workers are an essential and irreplaceable part of our nation's defense capabilities.

(13) It has become evident that it is not feasible to estimate with sufficient accuracy in a timely manner the radiation dose received by employees at the Department of Energy facility at the Nevada Test Site for many reasons, including the following:

(A) The NIOSH Technical Basis Document, the threshold document for radiation dose reconstruction under EEOICPA, has incomplete radionuclide lists.

(B) NIOSH has not demonstrated that it can estimate dose from exposure to large, nonrespirable hot particles.

(C) There are significant gaps in environmental measurement and exposure data.

(D) Resuspension doses are seriously underestimated.

(E) NIOSH has not been able to estimate accurately exposures to bomb assembly workers and radon levels.

(F) NIOSH has not demonstrated that it can accurately sample tritiated water vapor.

(G) External dose records lack integrity.

(H) There are no beta dose data until 1966.

(I) There are no neutron dose data until 1966 and only partial data after such date.

(J) There are no internal dose data until late 1955 or 1956, and limited data until well into the 1960s.

(K) NIOSH has ignored exposure from more than a dozen underground tests that vented, including Bianca, Des Moines, Baneberry, Camphor, Diagonal Line, Riola, Agrini, Midas Myth, Misty Rain, and Mighty Oak.

(L) Instead of monitoring individuals, groups were monitored, resulting in unreliable personnel monitoring.

(14) Amchitka Island, where only 3 underground nuclear tests were conducted, has been designated a Special Exposure Cohort under EEOICPA.

(15) Some Nevada Test Site workers, despite having worked with significant amounts of radioactive materials and having known exposures leading to serious health effects, have been denied compensation under EEOICPA as a result of flawed calculations based on records that are incomplete, in error, or based on faulty assumptions and incorrect models.

SEC. 3. INCLUSION OF CERTAIN NUCLEAR WEAPONS PROGRAM WORKERS IN SPECIAL EXPOSURE COHORT UNDER ENERGY EMPLOYEES OCCUPATIONAL ILLNESS COMPENSATION PROGRAM.

(a) IN GENERAL.—Section 3621(14) of the Energy Employees Occupational Illness Compensation Program Act of 2000 (42 U.S.C. 73841(14)) is amended—

(1) by redesignating subparagraph (C) as subparagraph (D); and

(2) by inserting after subparagraph (B) the following new subparagraph:

''(C) The employee was so employed at the Nevada Test Site or other similar sites located in Nevada during the period beginning on January 1, 1950, and ending on December 31, 1993, and, during such employment—

''(i) was present during an atmospheric or underground nuclear test or performed drillbacks, re-entry, or clean-up work following such a test (without regard to the duration of employment);

''(ii) was present during an episodic event involving radiation releases (without regard to the duration of employment); or

''(iii) was employed at the Nevada Test Site for a number of work days aggregating at least 250 work days and was employed in a job activity that—

''(I) was monitored through the use of dosimetry badges or bioassays for exposure to ionizing radiation; or

''(II) worked in a job activity that is or was, comparable to a job that is, was, or should have been monitored for exposure to ionizing radiation through the use of dosimetry badges or bioassay.''.

(b) DEADLINE FOR CLAIMS ADJUDICATION.—Claims for compensation under section 3621(14)(C) of the Energy Employees Occupational Illness Compensation Program Act of 2000, as added by subsection (a), shall be adjudicated and a final decision issued—

(1) in the case of claims pending as of the date of the enactment of this Act, not later than 30 days after such date; and

(2) in the case of claims filed after the date of the enactment of this Act, not later than 30 days after the date of such filing.

By Ms. CANTWELL (for herself, Mr. LAUTENBERG, Mr. KERRY, and Mr. WYDEN):

S 2440. A bill to provide the Coast Guard and NOAA with additional authorities under the Oil Pollution Act of 1990, to strengthen the Oil Pollution Act of 1990, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Ms. CANTWELL. Mr. President, I rise today to introduce the Oil Pollution Prevention and Response Act of 2006 with my colleagues Senators LAUTENBERG, KERRY, and WYDEN. The Oil Pollution Act of 1990 (OPA 90) was passed shortly after the *Exxon Valdez* ran aground in 1989, spilling 11 million gallons of crude oil in Alaska's pristine Prince William Sound—the largest spill in US. history. OPA 90 revolutionized oil spill risk management and we have OPA 90 to thank for improving oil spill prevention, preparedness, and response.

However, in a report and testimony recently provided to Congress, the U.S. Coast Guard identified serious shortcomings in our oil spill management system. First, in a report transmitted to Congress on May 12, 2005, the Coast Guard noted that the Oil Spill Liability Trust Fund was in danger of being depleted. And they noted that every state or U.S. territory has received money from the Fund for oil spills. Without the Fund, states would have to provide funds for these emergency events.

Through legislation that I cosponsored last year with Senator STEVENS and Senator INOUYE, which became law as part of the Energy Policy Act, we solved part of this problem by reinstating OPA 90's per-barrel fee on oil, in order to replenish the Fund, and raising the total level of principal from $1 billion to $2.7 billion. However, the Coast Guard also noted that the costs of oil spills increasingly exceed the liability limits for responsible parties that were set back in 1990. Under OPA 90, responsible parties can be reimbursed for costs above their liability limit from the Fund—and this practice continues to deplete the Fund. This

issue also was highlighted at a field hearing of the Senate Commerce Committee's Subcommittee on Fisheries and Coast Guard that I chaired last August in Seattle, where the Coast Guard testified that the current limits are too low. The bill I introduce today will increase these caps so that we return to the ''polluter pays'' principle enshrined in OPA 90.

The devastating hurricane Katrina also led to an historic number of oil spills. The Coast Guard has estimated that such spills could amount to close to $1 billion. If these claims are made against the Fund, the Fund will be quickly wiped out. That's why the Oil Pollution Prevention and Response Act of 2006 would ensure that such claims would be covered through the Stafford Act process and supplemental funding, and not through the regular claims process of OPA 90. Finally, this bill would require improved accountability of how monies from the Fund are expended by Federal agencies.

The Coast Guard also testified in our hearing that we must remain vigilant in our efforts to prevent oil spills. According to Coast Guard data, although the number of oil spills from vessels has decreased enormously since passage of OPA 90, the volume of oil spilled nationwide is still significant. In fact, vessels spilled 665,432 gallons of oil in 1992, while in 2004, the total was higher, at 722,768 gallons. Significant numbers of spills are still occurring. In 2004, there were 36 spills from tank ships, 141 spills from barges, and 1,562 spills from other vessels, including cargo ships. And even though the number of spills from tankers declined from 193 spills in 1992 to 36 spills in 2004, a single incident from a vessel like the *Exxon Valdez* can be devastating, as the recent *Athos I* incident in the Delaware River and Bay demonstrates.

The bill I introduce today addresses a number of key areas to improve prevention and response. Because human error is the leading cause of accidental oil spills, the Coast Guard would be required to identify and pass regulations to address the most frequent sources of human error that have led to oil spills from vessels and ''near-misses.'' It would require the Coast Guard to ensure the safety of single hull tankers and other high-risk vessels by increasing inspections of such vessels. The Oil Pollution Prevention and Response Act of 2006 also would require the Coast Guard to address and reduce the increased risk of oil spills from oil transfers. It would also make companies who knowingly hire substandard single-hull tank vessels after 2010 ''responsible parties'' in order to provide a disincentive for such contracts.

Of particular importance to my state, the bill would provide a mechanism for year-round funding of the Neah Bay rescue tug, a central element of the oil spill prevention safety net for Washington state's outer coast. It would also increase oil spill preparedness in the Strait of Juan de Fuca by changing the definition of ''High Volume Port'' for Puget Sound to make the westerly boundary begin at the entry to the Strait. This change would require oil spill response equipment to be stationed along the entire Strait and not just east of the current line at Port Angeles. In addition, the Oil Pollution Prevention and Response Act of 2006 would require improved coordination with federally-recognized tribes on oil spill prevention, preparedness, and response. Finally, the bill would codify into federal law the establishment of the Oil Spill Advisory Council, which was created by the Washington State Legislature and Governor Gregoire in the wake of the October 2004 Daleo Passage Oil Spill. My bill would provide $1 million annually to support the Council's important work.

The slow response to the oil spill in Dalco Passage in the Puget Sound was largely attributed to difficulties with detecting the oil that was spilled. The Oil Pollution Prevention and Response Act of 2006 would reinvigorate a federal research program on oil spill prevention, detection, and response, and would establish a grant program for the development of cost-effective technologies for detecting discharges of oil from vessels, including infrared, pressure sensors, and remote sensing. It would also require the Secretary of Homeland Security, in conjunction with other federal agencies, to conduct an analysis of the condition and safety of all aspects of oil transportation in the United States, and provide recommendations to improve such safety. This was a specific recommendation of the U.S. Commission on Ocean Policy.

The Department of Justice has also noted that a major category of oil spills are intentional discharges of oil from vessels. The United States cannot address this problem alone. Thus, the bill would require the Coast Guard to pursue stronger enforcement measures for oil discharges in the International Maritime Organization and other appropriate international organizations.

Oil spill prevention and response is timely for Congress' consideration because waterborne transportation of oil in the United States continues to increase, significant volumes of oil continue to be released, and the potential for a major spill remains unacceptably high. Recent spills involving significant quantities of oil have occurred off the coasts of Alaska, Maine, Massachusetts, Oregon, Virginia, and Washington, and involved barges, tankers, and non-tank vessels.

One thing we've learned from these spills is that it is more cost-effective to prevent oil spills than it is to clean-up oil once it is released into the environment. We've also learned that although double hulls and redundant steering do increase tanker safety, these technologies are not a panacea and we need to do more to ensure against oil spills.

The Federal Government has a responsibility to protect the Nation's natural resources, public health, and environment by improving Federal measures to prevent and respond to oil spills. I urge my colleagues to consider this legislation.

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

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

S. 2440

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 ''Oil Pollution Prevention and Response Act of 2006''.

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

SEC. 3. FINDINGS.

The Congress finds the following:

(1) Oil released into the Nation's marine waters can cause substantial, and in some cases irreparable, harm to the marine environment.

(2) The economic impact of oil spills is substantial. Billions of dollars have been spent

in the United States for cleanup of, and damages due to, oil spills.

(3) The Oil Pollution Act of 1990, enacted in response to the worst vessel oil spill in United States history, substantially reduced the amount of oil spills from vessels. However, significant volumes of oil continue to be released, and the potential for a major spill remains unacceptably high.

(4) Although the total number of oil spills from vessels has decreased since passage of the Oil Pollution Act of 1990, more oil was spilled in 2004 from vessels nationwide than was spilled from vessels in 1992.

(5) Waterborne transportation of oil in the United States continues to increase.

(6) Although the number of oil spills from tankers declined from 193 in 1992 to 36 in 2004, spills from oil tankers tend to be large with devastating impacts.

(7) While the number of oil spills from tank barges has declined since 1992 (322 spills to 141 spills in 2004), the volume of oil spilled from tank barges has remained constant at approximately 200,000 gallons spilled each year.

(8) Oil spills from non-tank vessels averaged between 125,000 gallons and 400,000 gallons per year from 1992 through 2004 and accounted for over half of the total number of spills from all sources, including vessels and non-vessel sources.

(9) Recent spills involving significant quantities of oil have occurred off the coasts of Alaska, Maine, Massachusetts, Oregon, Virginia, and Washington, and involved barges, tank vessels, and non-tank vessels.

(10) The existing statutory caps that limit liability for responsible parties were set in 1990 and have not been modified since. These liability levels no longer reflect the costs of oil spills, particularly for barges and large non-tank vessels. For example, the liability limit for the ATHOS I oil spill was $45,400,000, but costs could exceed $267,000,000. Similarly, the liability limit for the SELENDANG AYU spill was $23,800,000 while the actual costs will likely exceed $100,000,000.

(11) It is more cost-effective to prevent oil spills than it is to clean-up oil once it is released into the environment.

(12) Of the 20 major vessel oil spill incidents since 1990 where liability limits have been exceeded, 10 involved tank barges, 8 involved non-tank vessels, 2 involved tankers, and only 1 involved a vessel that was double-hulled.

(13) Although recent technological improvements in oil tanker design, such as double hulls and redundant steering, increase tanker safety, these technologies are not a panacea and cannot ensure against oil spills, the leading cause of which is human error.

(14) The Federal government has a responsibility to protect the nation's natural resources, public health, and environment by improving Federal measures to prevent and respond to oil spills.

SEC. 4. DEFINITIONS.

In this Act:

(1) AREA TO BE AVOIDED.—The term ''area to be avoided'' means a routing measure established by the International Maritime Organization as an area to be avoided.

(2) NON-TANK VESSEL.—The term ''non-tank vessel'' means a self-propelled vessel other than a tank vessel.

(3) OIL.—The term ''oil'' has the meaning given that term by section 1001(23) of the Oil Pollution Act of 1990 (33 U.S.C. 2701(23)).

(4) SECRETARY.—The term ''Secretary'' means the Secretary of the department in which the Coast Guard is operating except where otherwise explicitly stated.

(5) TANK VESSEL.—The term ''tank vessel'' has the meaning given that term by section 1001(34) of the Oil Pollution Act of 1990 (33 U.S.C. 2701(34)).

(6) WATERS SUBJECT TO THE JURISDICTION OF THE UNITED STATES.—The term ''waters subject to the jurisdiction of the United States'' means navigable waters (as defined in section 1001(21) of the Oil Pollution Act of 1990 (33 U.S.C. 2701(21)) as well as—

(A) the territorial sea of the United States as defined in Presidential Proclamation Number 5928 of December 27, 1988; and

(B) the Exclusive Economic Zone of the United States established by Presidential Proclamation Number 5030 of March 10, 1983.

TITLE I—PREVENTION OF OIL SPILLS

Subtitle A—Coast Guard Provisions

SEC. 101. RULEMAKINGS.

(a) STATUS REPORT.—

(1) IN GENERAL.—Within 90 days after the date of enactment of this Act, the Secretary 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 status of all Coast Guard rulemakings required (but for which no final rule has been issued as of the date of enactment of this Act)—

(A) under the Oil Pollution Act of 1990 (33 U.S.C. 2701 et seq.); and

(B) for—

(i) automatic identification systems required under section 70114 of title 46, United States Code; and

(ii) inspection requirements for towing vessels required under section 3306(j) of that title.

(2) INFORMATION REQUIRED.—The Secretary shall include in the report required by paragraph (1)—

(A) a detailed explanation with respect to each such rulemaking as to—

(i) what steps have been completed;

(ii) what areas remain to be addressed; and

(iii) the cause of any delays; and

(B) the date by which a final rule may reasonably be expected to be issued.

(b) FINAL RULES.—The Secretary shall issue a final rule in each pending rulemaking under the Oil Pollution Act of 1990 (33 U.S.C. 2701 et seq.) as soon as practicable, but in no event later than 18 months after the date of enactment of this Act.

SEC. 102. SAFETY STANDARDS FOR TOWING VESSELS.

In promulgating regulations for towing vessels under chapter 33 of title 46, United States Code, the Secretary shall—

(1) give priority to completing such regulations for towing operations involving tank vessels;

(2) ensure that such regulations appropriately address the risks from such operations, taking into account such factors as vessel age and hull configuration; and

(3) consider the possible application of standards that, as of the date of enactment of this Act, apply to self-propelled tank vessels, and any modifications that may be necessary for application to towing vessels due to ship design, safety, and other relevant factors.

SEC. 103. INSPECTIONS BY COAST GUARD.

(a) IN GENERAL.—The Secretary shall ensure that the inspection schedule for all United States and foreign-flag tank vessels that enter a United States port or place increases the frequency and comprehensiveness of Coast Guard safety inspections based on such factors as vessel age, hull configuration, past violations of any applicable discharge and safety regulations under United States and international law, indications that the class societies inspecting such vessels may be substandard, and other factors relevant to the potential risk of an oil spill.

(b) ENHANCED VERIFICATION OF STRUCTURAL CONDITION.—The Coast Guard shall adopt, as part of its inspection requirements for tank vessels, additional procedures for enhancing the verification of the reported structural condition of such vessels, taking into account the Condition Assessment Scheme adopted by the International Maritime Organization by Resolution 94(46) on April 27, 2001.

SEC. 104. OIL TRANSFERS FROM VESSELS.

(a) REGULATIONS.—Within 1 year after the date of enactment of this Act, the Secretary shall promulgate regulations to reduce the risks of oil spills in operations involving the transfer of oil from or to a tank vessel. The regulations—

(1) shall focus on operations that have the highest risks of discharge, including operations at night and in inclement weather; and

(2) shall include—

(A) requirements for use of equipment such as putting booms in place for transfers;

(B) operational procedures such as manning standards, communications protocols, and restrictions on operations in high-risk areas; or

(C) both such requirements and operational procedures.

(b) APPLICATION WITH STATE LAWS.—The regulations promulgated under subsection (a) do not preclude the enforcement of any State law or regulation the requirements of which are at least as stringent as requirements under the regulations (as determined by the Secretary) that—

(1) applies in State waters; and

(2) does not conflict with, or interfere with the enforcement of, requirements and operational procedures under the regulations.

SEC. 105. IMPROVEMENTS TO REDUCE HUMAN ERROR AND NEAR-MISS INCIDENTS.

(a) REPORT.—Within 1 year after the date of enactment of this Act, the Secretary shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Energy and Commerce that—

(1) identifies the types of human errors that, combined, account for over 50 percent of all oil spills involving vessels that have been caused by human error in the past 10 years;

(2) identifies the most frequent types of near-miss oil spill incidents involving vessels such as collisions, groundings, and loss of propulsion in the past 10 years; and

(3) includes recommendations by the Secretary to address the identified types of errors and incidents.

(b) REGULATIONS.—Based on the findings contained in the report required by subsection (a), the Secretary shall promulgate regulations designed to reduce the risks of oil spills from human errors.

(c) INTERNATIONAL MEASURES.—Based on the findings contained in the report required by subsection (a), the Secretary shall take appropriate action at the International Maritime Organization to reduce the risk of oil spills from human error internationally.

SEC. 106. NAVIGATIONAL MEASURES FOR PROTECTION OF NATURAL RESOURCES.

(a) DESIGNATION OF AT-RISK AREAS.—The Secretary and the Undersecretary of Commerce for Oceans and Atmosphere shall jointly identify areas where routing or other navigational measures are warranted in waters subject to the jurisdiction of the United States to reduce the risk of oil spills and potential damage to natural resources. In identifying those areas, the Secretary and the Undersecretary shall give priority consideration to natural resources of particular ecological importance or economic importance, including commercial fisheries, aquaculture

facilities, marine sanctuaries designated by the Secretary of Commerce pursuant to the National Marine Sanctuaries Act (16 U.S.C. 1431 et seq.), estuaries of national significance designated under section 319 of the Federal Water Pollution Control Act (33 U.S.C. 1330), critical habitats (as defined in section 3(5) of the Endangered Species Act of 1973 (16 U.S.C. 1532(5)), estuarine research reserves within the National Estuarine Research Reserve System established by section 315 of the Coastal Zone Management Act of 1972, and national parks and national seashores administered by the National Park Service under the National Park Service Organic Act (16 U.S.C. 1 et seq.).

(b) FACTORS CONSIDERED.—In determining whether navigational measures are warranted, the Secretary and the Undersecretary shall consider, at a minimum—

(1) the frequency of transits of vessels required to prepare a response plan under section 311(j) of the Federal Water Pollution Control Act (33 U.S.C. 1321(j));

(2) the type and quantity of oil transported as cargo or fuel;

(3) the expected benefits of routing measures in reducing risks of spills;

(4) the costs of such measures;

(5) the safety implications of such measures; and

(6) the nature and value of the resources to be protected by such measures.

(c) ESTABLISHMENT OF ROUTING AND OTHER NAVIGATIONAL MEASURES.—The Secretary shall establish such routing or other navigational measures for areas identified under subsection (a).

(d) ESTABLISHMENT OF AVOIDANCE AREAS.—To the extent that the Secretary and the Undersecretary conclude that the establishment of areas to be avoided is warranted under this section, they shall seek to establish such areas through the International Maritime Organization or establish comparable areas pursuant to regulations and in a manner that is consistent with international law.

(e) OIL SHIPMENT DATA AND REPORT.—

(1) DATA COLLECTION.—The Secretary, through the Commandant of the Coast Guard and in consultation with the Army Corps of Engineers, shall collect and analyze data on oil transported as cargo on vessels in the navigable waters of the United States, including information on—

(A) the quantity and type of oil being transported;

(B) the vessels used for such transportation;

(C) the frequency with which each type of oil is being transported; and

(D) the point of origin, transit route, and destination of each such shipment of oil.

(2) REPORT.—The Secretary shall transmit a report, not less frequently than quarterly, to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Energy and Commerce, on the data collected and analyzed under paragraph (1) in a format that does not disclose information exempted from disclosure under section 552b(e) of title 5, United States Code.

SEC. 107. EXISTING AREAS TO BE AVOIDED.

(a) ENFORCEMENT OF EXISTING AREAS TO BE AVOIDED PROVISIONS.—The Secretary and the Under Secretary of Commerce for Oceans and Atmosphere shall cooperate in tracking compliance by vessels with the conditions and requirements of areas to be avoided established in United States waters, and shall enforce compliance with those conditions and requirements. A violation of those conditions and requirements is subject to a civil penalty of not more than $100,000, and each day of a continuing violation constitutes a separate violation.

(b) OLYMPIC COAST NATURAL MARINE SANCTUARY AREA TO BE AVOIDED.—The Secretary and the Undersecretary of Commerce for Oceans and Atmosphere shall—

(1) revise the area to be avoided off the coast of the State of Washington so that restrictions apply to all vessels required to prepare a response plan under section 311(j) of the Federal Water Pollution Control Act (33 U.S.C. 1321(j)) (other than fishing vessels while engaged in fishing within the area to be avoided); and

(2) revise the area to be avoided to make the conditions and requirements for that area to be avoided mandatory, consistent with international law.

(c) EMERGENCY DRILL.—Beginning with 1 year after the date of enactment of this Act, the Secretary shall conduct, jointly with other Federal agencies and State, local, and tribal governmental entities, regular, unannounced emergency drills for responding to an oil spill in the Olympic Coast National Marine Sanctuary.

(d) RACON BEACONS.—The Secretary shall place 1 or more radar beacons in or near the area to be avoided described in subsection (b) in sites that maximize warnings to vessels of the boundaries of that area.

SEC. 108. HIGHER VOLUME PORT REGULATORY DEFINITION CHANGE.

Within 30 days after the date of enactment of this Act, notwithstanding subchapter 5 of title 5, United States Code, the Commandant of the Coast Guard shall modify the definition of the term ''higher volume port area'' contained in section 155.1020 of the Coast Guard regulations (33 C.F.R. 155.1020) by striking ''Port Angeles, WA'' in paragraph (13) of that section and inserting ''Cape Flattery, WA'' without initiating a rulemaking proceeding.

SEC. 109. RECREATIONAL BOATER OUTREACH PROGRAM.

The Secretary shall establish an outreach program for recreational boaters and commercial and recreational fishermen to inform them about ways in which they can assist in reducing the risk of an oil spill or release. The program shall focus initially on regions in the country where, in the past 10 years, the incidence of such spills has been the highest.

SEC. 110. IMPROVED COORDINATION WITH TRIBAL GOVERNMENTS.

(a) IN GENERAL.—The Secretary shall take such action as may be necessary to improve the Coast Guard's consultation and coordination with the tribal governments of Federally recognized Indian tribes with respect to oil spill prevention, preparedness, and response.

(b) INCLUSION OF TRIBAL GOVERNMENT.—The Secretary shall ensure that, as soon as practicable after identifying an oil spill that is likely to have an impact on natural resources owned or utilized by a Federally recognized Indian tribe, the Coast Guard will—

(1) ensure that representatives of the tribal government of the affected tribes are included as part of the incident response team established by the Coast Guard to respond to the spill;

(2) share nonconfidential information about the oil spill with the tribal government of the affected tribe; and

(3) to the extent practicable, involve tribal governments in deciding how to respond to such spill.

(c) COOPERATIVE ARRANGEMENTS.—The Coast Guard may enter into memoranda of understanding or similar arrangements with tribal governments in order to establish cooperative arrangements for oil pollution prevention, preparedness, and response. Such memoranda may include training for preparedness and response and provisions on coordination in the event of a spill.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary $500,000 for each of fiscal years 2007 through 2011 to be used to execute and implement memoranda of understanding under this section.

SEC. 111. OIL SPILL ADVISORY COUNCIL.

Section 5002(k) of the Oil Pollution Act of 1990 (33 U.S.C. 2732(k)) is amended by adding at the end the following:

''(4) WASHINGTON STATE PROGRAM.—

''(A) IN GENERAL.—For purposes of this paragraph, the oil spill advisory council established by section 90.56.120 of title 90 of the Revised Code of Washington is deemed to be an advisory council established under this section. The provisions of this section, other than this paragraph, do not apply to that oil spill advisory council.

''(B) FUNDING.—The owners or operators of terminal facilities or crude oil tankers operating in Washington State waters shall provide, on an annual basis, an aggregate amount of not more than $1,000,000, as determined by the Secretary. Such amount—

''(i) shall be made available to the oil spill advisory council established by section 90.56.120 of title 90 of the Revised Code of Washington;

''(ii) shall be adjusted annually by the Consumer Price Index; and

''(iii) may be adjusted periodically upon the mutual consent of the owners or operators of terminal facilities or crude oil tankers operating in Washington State waters and the Council.''.

Subtitle B—National Oceanic and Atmospheric Administration Provisions

SEC. 151. HYDROGRAPHIC SURVEYS.

(a) REDUCTION OF BACKLOG.—The Undersecretary of Commerce for Oceans and Atmosphere shall continue survey operations to reduce the survey backlog in navigationally significant waters outlined in its National Survey Plan, concentrating on areas where oil and other hazardous materials are transported.

(b) NEW SURVEYS.—By no later than January 1, 2010, the Undersecretary shall complete new surveys, together with necessary data processing, analysis, and dissemination, for all areas in United States coastal areas determined by the Undersecretary to be critical areas.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Undersecretary for the purpose of carrying out the new surveys required by subsection (b) $68,000,000 for each of fiscal years 2007 through 2011.

SEC. 152. ELECTRONIC NAVIGATIONAL CHARTS.

(a) IN GENERAL.—By no later than September 1, 2007, the Undersecretary of Commerce for Oceans and Atmosphere shall complete the electronic navigation chart suite for all coastal waters of the United States.

(b) PRIORITIES.—In completing the suite, the Undersecretary shall give priority to producing and maintaining the electronic navigation charts of the entrances to major ports and the coastal transportation routes for oil and hazardous materials, and for estuaries of national significance designated under section 319 of the Federal Water Pollution Control Act (33 U.S.C. 1330).

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Undersecretary for the purpose of completing the electronic navigation chart suite $6,200,000 for fiscal years 2007 and 2008.

TITLE II—RESPONSE

SEC. 201. RAPID RESPONSE SYSTEM.

The Undersecretary of Commerce for Oceans and Atmosphere shall develop and implement a rapid response system to collect and predict in situ information about oil

spill behavior, trajectory and impacts, and a mechanism to provide such information rapidly to Federal, State, tribal, and other entities involved in a response to an oil spill.

SEC. 202. COAST GUARD OIL SPILL DATABASE.

The Secretary shall modify the Coast Guard's oil spill database as necessary to ensure that it—

(1) includes information on the cause of oil spills maintained in the database; and

(2) is capable of facilitating the analysis of trends and the comparison of accidents involving oil spills.

SEC. 203. REPORTS ON CERTAIN OIL SPILL LIABILITY TRUST FUND EXPENDITURES.

(a) ANNUAL SPENDING REPORT.—Title I of the Oil Pollution Act of 1990 (33 U.S.C. 2701 et seq.) is amended by adding at the end the following:

''SEC. 1021. ANNUAL EXPENDITURE REPORT.

''(a) IN GENERAL.—No later than March 1 of each year after 2006, the Secretary shall provide an annual report on spending for the preceding fiscal year on expenditures from the Oil Spill Liability Trust Fund established by section 9509 of the Internal Revenue Code of 1986, whether or not subject to annual appropriations, to the Senate Committee on Commerce, Science, and Transportation, the Senate Committee on Environment and Public Works, and the House of Representatives Committee on Transportation and Infrastructure and to the National Pollution Funds Center, which shall make the report available to the public on its Internet website.

''(b) CONTENTS.—The report shall include—

''(1) a list of each expenditure of $500,000 or more from the Fund during the fiscal year to which the report relates; and

''(2) a description of how each such expenditure related to—

''(A) oil pollution liability and compensation;

''(B) oil pollution prevention;

''(C) oil pollution preparedness;

''(D) oil spill removal;

''(E) natural resource damage assessment and restoration;

''(F) oil pollution research and development; or

''(G) other pollution-related activities.

''(c) AGENCY REPORTS.—Each Federal agency that receives appropriated funds for use from the Fund shall—

''(1) maintain records of the purposes for which such funds were obligated or expended in such detail as the Secretary may require for purposes of the report required by subsection (a); and

''(2) transmit the information contained in such records to the Secretary at such time, in such form, and in such detail as the Secretary may require for purposes of that report, including a breakdown of expenditures described in subsection (b)(1) and a description of the use of such expenditures in accordance with subsection (b)(2).

''(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as may be necessary to carry out this section.''.

(b) AUDIT COOPERATION.—Section 1012(g) of the Oil Pollution Act of 1990 (33 U.S.C. 2712(g)) is amended by striking the last sentence and inserting the following: ''Each Federal agency that receives appropriated funds for use from the Fund shall cooperate with, and provide requested documentation to, the Comptroller General in carrying out this subsection and the Secretary in carrying out section 1021.''.

(c) USE OF FUND IN NATIONAL EMERGENCIES.—Notwithstanding any provision of the Oil Pollution Act of 1990 (33 U.S.C. 2701 et seq.) to the contrary, no amount may be made available from the Oil Spill Liability Trust Fund established by section 9509 of the Internal Revenue Code of 1986 for claims described in section 1012(a)(4) of that Act (33 U.S.C. 2712(a)(4)) attributable to any national emergency or major disaster declared by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

(d) CONFORMING AMENDMENT.—Section 2 of the Oil Pollution Act of 1990 (33 U.S.C. 2701 note) is amended by inserting after the item relating to section 1020 the following:

''Sec. 1021. Annual expenditure report.''.

SEC. 204. USE OF FUNDS.

Section 1012(a)(5) of the Oil Pollution Act of 1990 (33 U.S.C. 2712(a)(5)) is amended—

(1) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively; and

(2) by inserting after subparagraph (A) the following:

''(B) not more than $25,000,000 in each fiscal year shall be available to the Secretary of Commerce for expenses incurred by, and activities related to, response and damage assessment capabilities of the National Oceanic and Atmospheric Administration;''.

SEC. 205. LIMITS ON LIABILITY.

(a) INCREASE OF LIABILITY LIMITS.—Within 6 months after the date of enactment of this Act, the Secretary, acting through the Commandant of the Coast Guard, shall by regulation revise the limits of liability specified in section 1004(a) of that Act (33 U.S.C. 2704(a)) as follows:

(1) For a tank vessel under paragraph (1)—

(A) by substituting ''$2,400'' for ''$1,200'' in subparagraph (A);

(B) by substituting ''$20,000,000'' for ''$10,000,000'' in subparagraph (B)(i); and

(C) by substituting ''$6,000,000'' for ''$2,000,000'' in subparagraph (B)(ii).

(2) For other vessels under paragraph (2)—

(A) by substituting ''$1,800'' for ''$600''; and

(B) by substituting ''$1,000,000'' for ''$500,000''.

(3) For offshore facilities other than deepwater ports, by substituting ''$150,000,000'' for ''$75,000,000'' in paragraph (3).

(b) INFLATION ADJUSTMENT.—Section 1004(d)(4) of the Oil Pollution Act of 1990 (33 U.S.C. 2704(d)(4)) is amended by striking ''significant''.

(c) FINANCIAL RESPONSIBILITY.—Section 1016(a) of the Oil Pollution Act of 1990 (33 U.S.C. 2716(a)) is amended—

(1) by striking ''or'' after the semicolon in paragraph (1);

(2) by inserting ''or'' after the semicolon in paragraph (2); and

(3) by inserting after paragraph (2) the following:

''(3) any tank vessel over 100 gross tons (except a non-self-propelled vessel that does not carry oil as cargo) using any place subject to the jurisdiction of the United States;''.

SEC. 206. LIABILITY FOR USE OF UNSAFE SINGLE-HULL VESSELS.

Section 1001(32) of the Oil Pollution Act of 1990 (33 U.S.C. 2702(d)) is amended by striking subparagraph (A) and inserting the following:

''(A) VESSELS.—In the case of a vessel—

''(i) any person owning, operating, or demise chartering the vessel; and

''(ii) the owner of oil being transported in a tank vessel with a single hull after December 31, 2010, if the owner of the oil knew, or should have known, from publicly available information that the vessel had a poor safety or operational record.''.

SEC. 207. RESCUE TUGS.

Paragraph (5) of section 311(j) of the Federal Water Pollution Control Act (33 U.S.C. 1321(j)) is amended by adding at the end the following:

''(J) RESCUE TUGS.—

''(i) IN GENERAL.—The Secretary shall require the stationing of a rescue tug in the entry to the Strait of Juan de Fuca near Neah Bay and other areas designated by the Secretary as areas where the risk of oil spill and the remoteness of the area warrants. In selecting such areas for designation, the Secretary shall consider the frequency of transits by vessels required to prepare a response plan under this paragraph, weather conditions, distance to existing Federally required response equipment and vessels, and other relevant criteria.

''(ii) SHARED RESOURCES.—The Secretary may authorize compliance with the rescue tug stationing requirement of paragraph (1) through joint or shared resources between or among entities to which this subsection applies.

''(iii) STATE REQUIREMENTS.—Nothing in this subparagraph preempts the authority of any State to require the stationing of rescue tugs in any area under State law or regulations.''.

SEC. 208. INTERNATIONAL EFFORTS ON ENFORCEMENT.

The Secretary, in consultation with the heads of other appropriate Federal agencies, shall ensure that the Coast Guard pursues stronger enforcement in the International Maritime Organization of agreements related to oil discharges, including joint enforcement operations, training, and stronger compliance mechanisms.

SEC. 209. INVESTMENT OF AMOUNTS IN DAMAGE ASSESSMENT AND RESTORATION REVOLVING FUND.

The Secretary of the Treasury shall invest such portion of the damage assessment and restoration revolving fund described in title I of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1991 (33 U.S.C. 2706 note) as is not, in the Secretary's judgment, required to meet current withdrawals in interest-bearing obligations of the United States in accordance with section 9602 of the Internal Revenue Code of 1986.

TITLE III—RESEARCH AND MISCELLANEOUS REPORTS

SEC. 301. FEDERAL OIL SPILL RESEARCH COMMITTEE.

(a) ESTABLISHMENT.—There is established a committee to be known as the Federal Oil Spill Research Committee.

(b) MEMBERSHIP.—The members of the Committee shall be designated by the Undersecretary of Commerce for oceans and Atmosphere and shall include representatives from the National Oceanic and Atmospheric Administration, the United States Coast Guard, the Environmental Protection Agency, and such other Federal agencies as the President may designate. A representative of the National Oceanic and Atmospheric Administration, designated by the Undersecretary, shall serve as Chairman.

(c) DUTIES.—The Committee shall coordinate a comprehensive program of oil pollution research, technology development, and demonstration among the Federal agencies, in cooperation and coordination with industry, universities, research institutions, State governments, tribal governments, and other nations, as appropriate, and shall foster cost-effective research mechanisms, including the joint funding of research.

(d) REPORTS TO CONGRESS.—

(1) Not later than 180 days after the date of enactment of this Act, the Committee shall submit to Congress a report on the current state of oil spill prevention and response capabilities that—

(A) identifies current research programs conducted by governments, universities, corporate entities;

(B) assesses the current status of knowledge on oil pollution prevention, response, and mitigation technologies;

(C) establishes national research priorities and goals for oil pollution technology development related to prevention, response, mitigation, and environmental effects;

(D) identifies regional oil pollution research needs and priorities for a coordinated program of research at the regional level developed in consultation with the State and local governments, tribes;

(E) assesses the current state of spill response equipment, and determines areas in need of improvement including amount, age, quality, effectiveness, or necessary technological improvements;

(F) assesses the current state of real time data available to mariners, including water level, currents and weather information and predictions, and assesses whether lack of timely information increases the risk of oil spills; and

(G) includes such recommendations as the Committee deems appropriate.

(2) QUINQUENNIAL UPDATES.—The Committee shall submit a report every fifth year after its first report under paragraph (1) updating the information contained in its previous report under this subsection.

(e) ADVICE AND GUIDANCE.—The Committee shall accept comments and input from State and local governments, Indian tribes, industry representatives, and other stakeholders.

(f) NATIONAL ACADEMY OF SCIENCE PARTICIPATION.—The Chairman, through the National Oceanic and Atmospheric Administration, shall contract with the National Academy of Sciences to—

(1) provide advice and guidance in the preparation and development of the research plan; and

(2) assess the adequacy of the plan as submitted, and submit a report to Congress on the conclusions of such assessment.

(g) RESEARCH AND DEVELOPMENT PROGRAM.—

(1) IN GENERAL.—The Committee shall establish a program for conducting oil pollution research and development. Within 180 days after submitting its report to the Congress under subsection (c), the Committee shall submit to Congress a plan for the implementation of the program.

(2) PROGRAM ELEMENTS.—The program established under paragraph (1) shall provide for research, development, and demonstration of new or improved technologies which are effective in preventing, detecting, or mitigating oil discharges and which protect the environment, and include—

(A) high priority research areas described in the report;

(B) environmental effects of acute and chronic oil spills;

(C) long-term effects of major spills and the long-term cumulative effects of smaller endemic spills;

(D) new technologies to detect accidental or intentional overboard discharges;

(E) response capabilities, such as improved booms, oil skimmers, and storage capacity;

(F) methods to restore and rehabilitate natural resources damaged by oil discharges; and

(G) research and training, in consultation with the National Response Team, to improve industry's and Government's ability to remove an oil discharge quickly and effectively.

(h) GRANT PROGRAM.—

(1) IN GENERAL.—The Undersecretary of Commerce for Oceans and Atmosphere shall manage a program of competitive grants to universities or other research institutions, or groups of universities or research institutions, for the purposes of conducting the program established under subsection (g).

(2) APPLICATIONS AND CONDITIONS.—In conducting the program, the Undersecretary—

(A) shall establish a notification and application procedure;

(B) may establish such conditions, and require such assurances, as may be appropriate to ensure the efficiency and integrity of the grant program; and

(C) may make grants under the program on a matching or nonmatching basis.

(i) FACILITATION.—The Committee may develop memoranda of agreement or memoranda of understanding with universities, States, or other entities to facilitate the research program.

(j) ANNUAL REPORTS.—The chairman of the Committee shall submit an annual report to Congress on the activities carried out under this section in the preceding fiscal year, and on activities proposed to be carried out under this section in the current fiscal year.

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

(1) $200,000 for fiscal year 2007, to remain available until expended, for contracting with the National Academy of Sciences and other expenses associated with developing the report and research program; and

(2) $2,000,000 for each of fiscal years 2007, 2008, and 2009, to remain available until expended, to fund grants under subsection (h).

(l) COMMITTEE REPLACES EXISTING AUTHORITY.—The authority provided by this section supersedes the authority provided by section 7001 of the Oil Pollution Act of 1990 (33 U.S.C. 2761) for the establishment of the Interagency Committee on Oil Pollution Research under subsection (a) of that section, and that Committee shall cease operations and terminate on the date of enactment of this Act.

SEC. 302. GRANT PROJECT FOR DEVELOPMENT OF COST-EFFECTIVE DETECTION TECHNOLOGIES.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary of Homeland Security shall, by regulation, establish a grant program for the development of cost-effective technologies for detecting discharges of oil from vessels including infrared, pressure sensors, and remote sensing.

(b) MATCHING REQUIREMENT.—The Federal share of any project funded under subsection (a) may not exceed 50 percent of the total cost of the project.

(c) REPORT TO CONGRESS.—Not later than 3 years after the date of enactment of this Act the Secretary shall provide a report to the Senate Committee on Commerce, Science, and Transportation, and to the House of Representatives Committee on Transportation and Infrastructure on the results of the program.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out this section $5,000,000 for each of fiscal years 2007, 2008, and 2009, to remain available until expended.

SEC. 303. STATUS OF IMPLEMENTATION OF RECOMMENDATIONS BY THE NATIONAL RESEARCH COUNCIL.

(a) IN GENERAL.—Within 90 days after the date of enactment of this Act, the Secretary shall provide a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on whether the Coast Guard has implemented each of the recommendations directed at the Coast Guard, or at the Coast Guard and other entities, in the following National Research Council reports:

(1) ''Double-Hull Tanker Legislation, An Assessment of the Oil Pollution Act of 1990'', dated 1998.

(2) ''Oil in the Sea III, Inputs, Fates and Effects'', dated 2003.

(b) CONTENT.—The report shall contained a detailed explanation of the actions taken by the Coast Guard pursuant to the National Research Council reports. If the Secretary determines that the Coast Guard has not fully implemented the recommendations, the Secretary shall include a detailed explanation of the reasons any such recommendation has not been fully implemented, together with any recommendations the Secretary deems appropriate for implementing any such non-implemented recommendation.

SEC. 304. GAO REPORT.

Within 1 year after the date of enactment of this Act, the Comptroller General shall provide a written report with recommendations for reducing the risks and frequency of releases of oil from vessels (both intentional and accidental) to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure that includes the following:

(1) CONTINUING OIL RELEASES.—A summary of continuing sources of oil pollution from vessels, the major causes of such pollution, the extent to which the Coast Guard or other Federal or State entities regulate such sources and enforce such regulations, possible measures that could reduce such releases of oil.

(2) DOUBLE HULLS.—

(A) A description of the various types of double hulls, including designs, construction, and materials, authorized by the Coast Guard for United States flag vessels, and by foreign flag vessels pursuant to international law, and any changes with respect to what is now authorized compared to the what was authorized in the past.

(B) A comparison of the potential structural and design safety risks of the various types of double hulls described in subparagraph (A) that have been observed or identified by the Coast Guard, or in public documents readily available to the Coast Guard, including susceptibility to corrosion and other structural concerns, unsafe temperatures within the hulls, the build-up of gases within the hulls, ease of inspection, and any other factors affecting reliability and safety.

(3) ALTERNATIVE DESIGNS FOR NON-TANK VESSELS.—A description of the various types of alternative designs for non-tank vessels to reduce risk of an oil spill, known effectiveness in reducing oil spills, and a summary of how extensively such designs are being used in the United States and elsewhere.

(4) RESPONSE EQUIPMENT.—An assessment of the sufficiency of oil pollution response and salvage equipment, the quality of existing equipment, new developments in the United States and elsewhere, and whether new technologies are being used in the United States.

SEC. 305. OIL TRANSPORTATION INFRASTRUCTURE ANALYSIS.

The Secretary of the Department of Homeland Security shall, in conjunction with the Secretary of Commerce, the Secretary of Transportation, the Administrator of the Environmental Protection Agency, and the heads of other appropriate Federal agencies, contract with the National Research Council to conduct an analysis of the condition and safety of all aspects of oil transportation infrastructure in the United States, and provide recommendations to improve such safety, including an assessment of the adequacy of contingency and emergency plans in the event of a natural event.

By Mr. OBAMA:

S. 2441. A bill to authorize resources for a grant program for local educational agencies to create innovation districts; to the Committee on Health, Education, Labor, and Pensions.

Mr. OBAMA. Mr. President, I rise today to introduce a bill—the ''Innovation Districts for School Improvement Act''—to establish grants to 20 school districts across the country. Through competitive grants, these districts would be offered new resources in return for systematic reforms and measurable results.

Today, in my own state, out of every 100 African-American or Latino males in the Chicago schools at age 13, only 3 or fewer will continue on to earn a degree from a 4-year college. The chances of success for a young man of color in many of our urban school districts are the same as the chance of a soldier in Napoleon's Grand Army surviving in the dismal march to Moscow. That is considered a great historical folly, a waste of a generation of young talent. How will we be judged?

Today, a good education is parceled out to some and denied to others, handed down, as a privilege, from generation to generation. A good education is denied not only to children of color in our cities, but also to children living in poverty in our rural areas.

Today, 6 million middle and high school students are reading with skills far below their grade level. Half of all teenagers are unable to understand basic fractions, and half of all 9 year olds are unable to perform basic multiplication or division. We now have one of the highest high school dropout rates of any industrialized country.

This is a folly and a failure that hurts us all. As we continue in this failure, other nations are moving ahead of us. We know that China and India are training more skilled engineers, who are developing new technologies and innovating in ways that result from their investments in education. We live in a world where few American jobs are secure, and we know that to compete successfully, we must better educate our students. All our students: urban and rural, black and white, rich and poor.

In fact, America's richest untapped source of talent may be in our underserved cities and poor rural areas, among students now trapped in inadequate schools. The best strategy for maintaining America's economic preeminence is to give more students the knowledge and the skills to innovate. To achieve this, our schools, too, must innovate.

That is why today I am introducing the Innovation Districts for School Improvement Act. We need to make sure there is an effective teacher in every classroom and an effective principal in every school. We need to make sure teachers are not distributed in a way that disproportionately places inexperienced and untrained teachers in classrooms with students who need the best teachers. We need to help young teachers get the training and coaching they need, and make sure that experienced teachers have the career opportunities that make use of their talents, giving the best ones a chance to train younger teachers, and a reason to stay in their schools and take on added roles.

Many schools do this and achieve encouraging results. The Innovation Districts for School Improvement Act would apply lessons from these successes, with school districts from across the country becoming seedbeds for further reform. Innovation Districts will focus on teacher recruitment, training, and retention, using successful residency-based programs as a model. They would offer performance pay increases to high-performing teachers, and financial incentives to teachers willing to work in low income schools.

Innovation Districts would partner with local universities, charitable foundations or community institutions to develop, execute, and evaluate their reforms. Most importantly, Innovation Districts would look at new ways to do things better, identify current practices that prevent them from innovating, and show us that if we are willing to support and rethink our schools, all our children can learn, all our children can compete, and our schools can be the best in the world.

I hope my colleagues will support this important legislation.

By Mr. DURBIN:

S. 2442. A bill to require the President or the Committee on Foreign Investment in the United States to submit to Congress draft investigation reports on national security related investigations, to address mandatory investigations by such committee, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Mr. DURBIN. Mr. President, I rise today to introduce common sense legislation that would improve the way we review proposed purchases of American assets by foreign companies and governments.

Much has already been said about the prospect of Dubai Ports World taking responsibility for some of the operations of our nation's ports. The way that the Bush Administration has handled this situation has made it very clear that the process we currently use to review the national security implications of foreign acquisitions is simply not working. We must do better.

Let me be clear: I do not believe that we should automatically dismiss out of hand any potential foreign investments in this country. Vibrant trade, when conducted sensibly and fairly, is good for America.

However, I think that for any proposed deal in which a foreign company would take over important responsibilities related to America's critical infrastructure—whether it be our ports, our railroads, our airports, or anything else that is fundamental to our national security—we should take a very close look at such a deal.

For any proposed deal in which a foreign country would take over any of our nations' companies, we should take an even closer look.

I strongly believe that we should be building our ties with friendly Arab nations, through diplomacy, trade, and all of the other mechanisms we have at our disposal. However, the process by which this Dubai Ports World deal was waved through by the Bush Administration without anything resembling a thorough review of the security risks is simply not good enough.

This bill would improve the review process in five ways.

First, my legislation would require that a more thorough 45–day investigation be undertaken by the Committee on Foreign Investment in the United States (CFIUS) when either of two situations occurs: when a foreign government wants to purchase any assets in the United States, and when a foreign-owned company wants to purchase critical infrastructure in the United States.

Second, my bill would mandate that at least 7 days before the end of a foreign investment review, the CFIUS chair must submit a draft of its report to the Homeland Security committees in each chamber.

Third, when the CFIUS review is completed, each cabinet secretary whose agency has been involved in the review must certify in writing his or her agreement or dissent.

Fourth, under current law, the President can only block a transaction when the buyer ''might fail to take necessary action to prevent impairment of the national security,'' which is an extraordinarily high threshold for action. My bill would lower the threshold so that the President can realistically take action in more ambiguous situations where there is credible evidence that the buyer itself presents a national security threat.

Fifth, the bill would mandate that CFIUS should be chaired by the Secretary of Homeland Security instead of the Secretary of the Treasury.

I believe that these common sense reforms will support healthy trade and investment, but will at the same time ensure that foreign investments in American assets do not compromise our national security. I look forward to working with my colleagues to combine my bill with the many other good ideas that have been proposed in order to pass legislation that will make this review process stronger.

Our national security—and our economic strength—depend on it.

By Mr. McCAIN:

S. 2443. A bill to grant the power to the President to reduce budget authority; to the Committee on Rules and Administration.

Mr. McCAIN. Mr. President, in his final State of the Union Address, President Reagan stood for the last time before both Houses of Congress and asked for line-item veto authority for future Presidents.

On that evening, the President had with him three pieces of legislation: an

appropriations bill that was 1,053 pages long and weighed 14 pounds; a budget reconciliation bill that was 1,186 pages long and weighed 15 pounds; and a continuing resolution that was 1,057 pages long and weighed 14 pounds. President Reagan slammed down on the lectern the 43 pounds of paper and ink, which represented 1 trillion dollars' worth of spending. He did so to emphasize the magnitude of wasteful spending in the bills—spending that the President could not stop unless he was willing to veto each piece of legislation in its entirety. In the case of the continuing resolution, that would have meant that the Federal government would shut down.

Almost 20 years later we are in exactly the same situation we were in when President Reagan said to Congress, ''Let's help ensure our future of prosperity by giving the President a tool that, though I will not get use to use it, is one I know future Presidents of either party must have. Give the President the same authority that 43 Governors use in their States: the right to reach into massive appropriation bills, pare away the waste, and enforce budget discipline. Let's approve the line-item veto.''

Last week, President Bush rightly renewed Ronald Reagan's call for line-item veto authority by sending to Congress a legislative proposal for a form of line-item veto authority known as expedited rescission. That proposal was introduced as the Line Item Rescission Act of 2006 shortly after the President offered it. I am an original cosponsor of that legislation, which would authorize the President to propose spending and targeted tax benefits that would ultimately have to be approved by a majority of each House of Congress. The Line Item Rescission Act is one way to give the President more authority to impose fiscal restraint, and if it were enacted it would constitute a significant move in Washington, DC, towards fiscal discipline.

Today, I am introducing the Separate Enrollment and Line Item Veto Act of 2006 to present what I believe is a stronger approach to granting the President true line-item veto power. Under this proposal, which is crafted to ensure its constitutionality, each item of every appropriation measure and authorization measure containing new direct spending or new targeted tax benefits passed by Congress would be separately enrolled. The President would then be able to consider each item as a separate bill and would have the power to veto items that, as President Bush has said, constitute unneeded spending that reflects special interests instead of the people's interest.

We must keep in mind that even strong line-item veto authority will not solve all of our fiscal problems. We also desperately need to reform our earmarking process and our lobbying practices—and we must remember that it is ultimately Congress's responsibility to control spending. However, granting the President line-item veto authority would go a long way toward restoring credibility to a system ravaged by congressional waste and special interest pork. I look forward to the Senate's consideration of line-item veto legislation, and I trust that Congress will act on such legislation soon.

By Mr. AKAKA (for himself and Mr. INOUYE):

S. 2444. A bill to amend the National Dam Safety Program Act to establish a program to provide grant assistance to States for the rehabilitation and repair of deficient dams; to the Committee on Environment and Public Works.

Mr. AKAKA. Mr. President, I rise today, along with my good friend and colleague Senator DANIEL INOUYE, to introduce the Senate companion to H.R. 1105, the Dam Rehabilitation and Repair Act, which was introduced by Representative SUE KELLY and co-sponsored by my colleagues from the State of Hawaii, Representatives NEIL ABERCROMBIE and ED CASE.

The Dam Rehabilitation and Repair Act will improve the safety of our Nation's dams by establishing a Federal program to assist Hawaii and other states in rehabilitating publicly owned dams that pose a risk to public safety.

Storms that struck Hawaii in recent weeks remind us that the devastation wrought by the collapse of a dam can be severe and tragic. All too often, these catastrophic collapses come with little or no warning, leaving those in the path of flooding with no time to avoid danger.

Dam safety is a neglected aspect of our homeland security. While we plan for the possibility that terrorists may attack our infrastructure, we fail to fully recognize that critical infrastructure is also subject to the forces of nature and, therefore, prone to wear and tear. Just as we must guard against attacks on our critical infrastructure, we must also be attentive to its maintenance.

Our Nation has thousands of dams. The homes and businesses of millions of Americans are in the path of potentially catastrophic flooding that could result from dam failures. Some of our great cities are at risk, as are vast tracts of our most productive agricultural land. Although dams are often out of sight and given little regard in everyday life, we put lives and property at peril when we fail to properly maintain them.

The Dam Rehabilitation and Repair Act takes an important step forward by allocating Federal funds for the repair and rehabilitation of publicly owned dams that are deemed to be unsafe. Specifically, this bill will: Mandate the Director of the Federal Emergency Management Agency (FEMA) to establish a program providing grant assistance to states for the repair of dams that pose a public safety risk; require the FEMA Director to determine appropriate procedures for awarding grants and allocating funds; establish a risk-based priority system to identify dams in need of repair; and establish a cost sharing arrangement between the Federal Government and States.

In addition, I am working to ensure that both public and private dams receive the maintenance they need for the public's safety, and I appreciate the technical assistance that the American Society of Civil Engineers has given me on this critical problem. I look forward to working with my colleagues to pass legislation that augments the National Dam Safety Program and provides states with the necessary assistance to protect the public.

I ask unanimous consent to print in the RECORD at this point a letter from the Dam Safety Coalition endorsing this legislation and that text of the legislation be printed in the RECORD.

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

DAM SAFETY COALITION,
March 16, 2006.

Hon. DANIEL AKAKA,
U.S. Senate,
Washington, DC.

DEAR SENATOR AKAKA: The dam safety, engineering, and construction community would like to commend you for your commitment to dam safety and for introducing the Dam Repair and Rehabilitation Act in U.S. Senate. The legislation would fill a vital need in our infrastructure by developing a federal funding program devoted to repairing the nation's unsafe dams.

Dams are a vital part of our nation's aging infrastructure and provide enormous benefits to the majority of Americans—benefits that include drinking water, flood protection, renewable hydroelectric power, navigation, irrigation and recreation. Yet, these critical daily benefits' provided by the nation's dams are inextricably linked to the potential consequences of a dam failure if the dam is not maintained, or is unable to impound water, pass large flood events or withstand earthquake events in a safe manner.

In 2005, ASCE published the Report Card for America's Infrastructure giving the condition of our nation's dams a grade of D, equal to the overall infrastructure grade. States have identified 3,500 unsafe or deficient dams, many being susceptible to large flood events or earthquakes. The Association of State Dam Safety Officials, in its October 2003 report entitled ''The Cost of Rehabilitating Our Nation's Dams'', estimated that $10 billion would be needed to repair the most critical dams over the next 12 years.

It is a reasonable expectation of every American to be protected by our government; including protection from preventable disasters such as dam failures.

We look forward to working with you to enact the Dam Rehabilitation and Repair Act in the 109th Congress.

Sincerely,

BRIAN PALLASCH,
Co-Chair, Dam Safety Coalition.

S. 2444

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 ''Dam Rehabilitation and Repair Act of 2006''.

SEC. 2. REHABILITATION AND REPAIR OF DEFICIENT DAMS.

(a) DEFINITIONS.—Section 2 of the National Dam Safety Program Act (33 U.S.C. 467) is amended—

(1) by redesignating paragraphs (3), (4), (5), (6), (7), (8), (9), (10), (11), (12), and (13) as paragraphs (4), (5), (6), (7), (8), (9), (10), (12), (13), (14), and (15), respectively;

(2) by inserting after paragraph (2) the following:

''(3) DEFICIENT DAM.—The term 'deficient dam' means a dam that, as determined by the State within the boundaries of which the dam is located—

''(A) fails to meet minimum dam safety standards of the State; and

''(B) poses an unacceptable risk to the public.''; and

(3) by inserting after paragraph (10) (as redesignated by paragraph (1)) the following:

''(11) REHABILITATION.—The term 'rehabilitation' means the repair, replacement, reconstruction, or removal of a dam to meet applicable State dam safety and security standards.''.

(b) PROGRAM FOR REHABILITATION AND REPAIR OF DEFICIENT DAMS.—The National Dam Safety Program Act is amended by inserting after section 8 (33 U.S.C. 467f) the following:

''SEC. 8A. REHABILITATION AND REPAIR OF DEFICIENT DAMS.

''(a) ESTABLISHMENT OF PROGRAM.—The Director shall establish, within FEMA, a program to provide grants to States for use in rehabilitation of publicly-owned deficient dams.

''(b) GRANTS.—

''(1) IN GENERAL.—In carrying out the program established under subsection (a), the Director—

''(A) may provide grants to States for the rehabilitation of deficient dams; and

''(B) shall enter into a project grant agreement with each State that receives a grant to establish the terms of the grant and the project, including the amount of the grant.

''(2) APPLICATION.—To receive a grant under this section, a State shall submit to the Director an application at such time, in such manner, and containing such information as the Director may require, by regulation.

''(c) PRIORITY SYSTEM.—The Director, in consultation with the Board, shall develop a risk-based priority system for use in identifying deficient dams for which grants may be provided under this section.

''(d) ALLOCATION OF FUNDS.—During a fiscal year, of amounts appropriated pursuant to subsection (f)(1) for that fiscal year—

''(1) ⅓ shall be distributed equally among the States that receive grants under this section; and

''(2) ⅔ shall be distributed among the States described in paragraph (1) based on the ratio that—

''(A) the number of non-Federal publicly-owned dams located within the boundaries of a State that the Secretary of the Army identifies in the national inventory of dams maintained under section 6 as constituting a danger to human health; bears to

''(B) the number of non-Federal publicly-owned dams so identified located within the boundaries of all States that receive grants under this section.

''(e) COST SHARING.—The Federal share of the cost of rehabilitation of a deficient dam for which a grant is made under this section shall be not more than 65 percent.

''(f) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—There are authorized to be appropriated to carry out this section, to remain available until expended—

''(A) $50,000,000 for fiscal year 2007; and

''(B) $100,000,000 for each of fiscal years 2008 through 2010.

''(2) STAFF.—There is authorized to be appropriated to provide for the employment of such additional staff of FEMA as the Director determines to be necessary to carry out this section $400,000 for each of fiscal years 2007 through 2009, to remain available until expended.''.

SEC. 3. RULEMAKING.

(a) PROPOSED RULEMAKING.—Not later than 90 days after the date of enactment of this Act, the Under Secretary for Emergency Preparedness and Response, acting through the Director of the Federal Emergency Management Agency, shall issue a notice of proposed rulemaking regarding the amendments made by section 2 to the National Dam Safety Program Act (33 U.S.C. 467 et seq.).

(b) FINAL RULE.—Not later than 120 days after the date of enactment of this Act, the Under Secretary for Emergency Preparedness and Response, acting through the Director of the Federal Emergency Management Agency, shall promulgate a final rule regarding the amendments described in subsection (a).

By Mr. DURBIN (for himself and Mr. OBAMA):

S. 2445. A bill to permit certain school districts in Illinois to be reconstituted for purposes of determining assistance under the Impact Aid program; to the Committee on Health, Education, Labor, and Pensions.

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

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

S. 2445

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ELIGIBILITY FOR IMPACT AID PAYMENT.

(a) LOCAL EDUCATIONAL AGENCIES.—Notwithstanding section 8013(9)(B) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7713(9)(B)), North Chicago Community Unit School District 187, North Shore District 112, and Township High School District 113 in Lake County, Illinois, and Glenview Public School District 34 and Glenbrook High School District 225 in Cook County, Illinois, shall be considered local educational agencies as such term is used in and for purposes of title VIII of such Act.

(b) COMPUTATION.—Notwithstanding any other provision of law, federally connected children (as determined under section 8003(a) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7703(a))) who are in attendance in the North Shore District 112, Township High School District 113, Glenview Public School District 34, and Glenbrook High School District 225 described in subsection (a), shall be considered to be in attendance in the North Chicago Community Unit School District 187 described in subsection (a) for purposes of computing the amount that the North Chicago Community Unit School District 187 is eligible to receive under subsection (b) or (d) of such section if—

(1) such school districts have entered into an agreement for such students to be so considered and for the equitable apportionment among all such school districts of any amount received by the North Chicago Community Unit School District 187 under such section; and

(2) any amount apportioned among all such school districts pursuant to paragraph (1) is used by such school districts only for the direct provision of educational services.

By Mr. DURBIN:

S. 2448. A bill to increase the minimum penalties for violations of the Federal Mine Safety and Health Act of 1977, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. DURBIN. Mr. President, I rise today to introduce the Mine Safety Enforcement, Reporting, and Training Act. This bill will raise the minimum fine for safety violations from $60 to $500, require coal mine operators to pay fines up front, require a public yearly report of fine payments, and double funding for education and training grants to States from $10 million to $20 million.

The recent tragic events in West Virginia and Kentucky have captured the Nation's attention and exposed the serious dangers our miners face every day. Safety violations often result in injuries that cost miners their health, livelihood or lives. Safety inspectors have advised me that the fines need to be tougher when a company violates our safety laws and that we need to put more resources into training inspectors.

The vast majority of fines issued in 2005 were under $100. Unfortunately, many multimillion dollar mining companies view these fines no worse than a minor speeding ticket. Hopefully, raising the minimum fine from $60 to $500 will prompt these companies to get serious about making safety improvements.

Many coal operators are taking advantage of the current system which allows them to withhold payment of fines levied against them while negotiating to reduce the amount of those fines. From 2001 to 2003, more than two-thirds of all major fines were reduced from the original amount imposed by safety inspectors from the Mine Safety and Health Administration (MSHA). MSHA reports that of the fines that are appealed, the average reduction is 47 percent.

Moreover, since 2001, almost half of all fines have not been collected. Federal records also show that in the last two years the federal mine safety agency has failed to hand over any delinquent cases to the Treasury Department for further collection efforts, as is supposed to occur after 180 days. I believe that a public report card of fine payments gives us the chance to grade these companies and make necessary changes before we have another tragic accident on our hands.

Over the years, funding for education and training grants has steadily declined—seriously impacting the agency's ability to meet the training needs of individual States. Nationally, MSHA awards up to $10 million in grants annually, and like many other states, my home state of Illinois has witnessed a reduction in grants in the past ten years, which is especially troublesome during a time of revived coal mining activity. State regulating agencies, such as the Illinois Office of Mines and Minerals, uses the funds it receives from MSHA to purchase safety vehicles, rescue training equipment and to

help train new coal mine employees. Not only are state mine agencies unable to purchase new equipment as old equipment wears out, but state agencies are having trouble purchasing modern mine rescue training equipment.

I hope that my colleagues will join me in this effort to increase enforcement efforts, public reporting of violations, and education and training grants for the benefit of our coal miners across the country. Our coal miners deserve no less.

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

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

S. 2448

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 ''Mine Safety Enforcement, Reporting, and Training Act''.

SEC. 2. INCREASED MINIMUM PENALTIES FOR, AND IMMEDIATE PAYMENT OF, MINE SAFETY VIOLATIONS.

(a) INCREASED MINIMUM PENALTIES.—Section 110 of the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 820) is amended—

(1) by redesignating subsection (*l*) as subsection (m);

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

''(l) MINIMUM PENALTY.—The amount of a fine or civil penalty assessed for a violation of a mandatory health or safety standard or other provision of this Act shall be not less than $500.''; and

(3) in subsection (g), by striking ''shall not be more than $250'' and inserting ''shall be $500''.

(b) IMMEDIATE PAYMENT OF PENALTIES.—Section 110(j) of the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 820(j)) is amended by adding at the end the following: ''An operator shall pay a civil penalty owed under this Act promptly after such penalty is assessed and prior to contesting the penalty before the Commission or appealing the decision to the appropriate court.''.

(c) REPORT.—Section 110 of the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 820) is further amended by adding at the end the following:

''(n) REPORT.—

''(1) IN GENERAL.—The Secretary shall annually prepare and submit a report to Congress detailing, for the previous fiscal year—

''(A) the amount of fines assessed under this Act for each operator;

''(B) the amount of fines actually collected from each operator; and

''(C) the total amount of fines assessed, and the total amount of fines collected, under this Act.

''(2) AVAILABILITY ON INTERNET.—The Secretary shall post the report described in paragraph (1) on the website of the Department of Labor in a conspicuous and prominent location.''.

SEC. 3. INCREASING AUTHORIZATION OF APPROPRIATIONS FOR HEALTH AND SAFETY GRANTS.

Section 503(h) of the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 953(h)) is amended in the first sentence by striking ''$10,000,000'' and inserting ''$20,000,000''.

By Mr. KERRY (for himself, Mr. DAYTON, Mr. DURBIN, Mr. JOHNSON, Mr. LAUTENBERG, Ms. MIKULSKI, Mr. MENENDEZ, and Mr. REID):

S. 2449. A bill to amend title 10, United States Code, to reduce the age for receipt of military retired pay for nonregular service from 60 years of age to 55 years of age; to the Committee on Armed Services.

Mr. KERRY. Mr. President, for several years members of this Chamber have worked to reduce the age that retired members of the National Guard and Reserve can receive their retirement pay from 60 to 55. Senator Corzine offered such legislation in the first session of this Congress, and I was delighted to co-sponsor it. With Senator Corzine's departure from the Senate for the New Jersey State House, we have reassembled the body of co-sponsors and are introducing this legislation again to signal our continued commitment to addressing this issue.

The issue is simple. If you join the active duty Army at age 18 and serve 20 years on active duty, retiring at age 38, you are immediately eligible to receive retirement pay. If you join the National Guard or Reserves, you may retire after 20 years, but you must wait until age 60 to begin collecting retirement pay. A 38-year-old veteran of the Guard and Reserves must wait 22 years to see any of their retirement pay.

To be sure, everyone recognizes the difference between service in the active component and the reserve component in peace time. But since September 11, 2001, as we are reminded almost daily, we have been a Nation at war. Our National Guard and Reserves have been fully engaged in the War against al Qaeda and the War in Iraq. As of last week, nearly 120,000 reservists were mobilized, including 1,230 troops from my home state of Massachusetts. And sadly, almost 600 members of the Guard and Reserves have made the ultimate sacrifice for this country.

We can never fully express our Nation's gratitude for their service and sacrifice, but we can try to make benefits and compensation more worthy of the commitment and service shown by America's citizen soldiers. That's exactly what the legislation I introduce today seeks to accomplish. I'm delighted to be joined in this effort by Senators DAYTON, DURBIN, JOHNSON, LAUTENBERG, MIKULSKI, MENENDEZ, and REID.

It is no secret that our all volunteer force is stretched. Recruiting numbers have sagged under the anxieties and concerns of a nation at war. Retention has remained healthy to date, but as the nation approaches its 5th year of war, we must be proactive in seeking to support those who have already done so much for us. Reducing the age at which members of the Guard and Reserves can receive their retirement pay can help make continued service more attractive, retaining those in whom America has already invested so much.

We are asking for more from our National Guard and Reserve members than ever before. In turn we should be providing them with what they deserve and have certainly earned. This legislation would be a small step in the right direction to honor the service of these Americans and to ensure their continued strength.

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

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

S. 2449

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REDUCTION IN AGE FOR RECEIPT OF MILITARY RETIRED PAY FOR NONREGULAR SERVICE.

(a) REDUCTION IN AGE.—Section 12731(a)(1) of title 10, United States Code, is amended by striking ''at least 60 years of age'' and inserting ''at least 55 years of age''.

(b) APPLICATION TO EXISTING PROVISIONS OF LAW OR POLICY.—With respect to any provision of law, or of any policy, regulation, or directive of the executive branch that refers to a member or former member of the uniformed services as being eligible for, or entitled to, retired pay under chapter 1223 of title 10, United States Code, but for the fact that the member or former member is under 60 years of age, such provision shall be carried out with respect to that member or former member by substituting for the reference to being 60 years of age, a reference to the age in effect for qualification for such retired pay under section 12731(a) of title 10, United States Code, as amended by subsection (a).

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the first day of the first month beginning on or after the date of the enactment of this Act and shall apply to retired pay payable for that month and subsequent months.

By Mr. AKAKA (for himself and Mr. DURBIN):

S. 2450. A bill to strengthen national security by encouraging and assisting in the expansion and improvement of educational programs in order to meet critical needs at the elementary, secondary, and higher education levels, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. AKAKA. Mr. President, I rise today to reintroduce legislation with Senator DURBIN that will increase educational opportunities in science, technology, engineering, mathematics (STEM), and foreign languages for all students.

Last month, I shared with my colleagues the need to expand educational opportunities in these areas so that the youth of today can meet the challenges of tomorrow. The President, in his State of the Union address, said that America's ability to compete in global markets and to defend the nation against foreign threats depends on the strength of our educational system. On this point, he and I agree. Our future national and economic security are tied directly to our mathematical, scientific, and linguistic acumen.

For example, prior to 9/11, the Intelligence Community was not prepared

to handle the challenge of translating the volumes of foreign language counter-terrorism intelligence it had collected. The Intelligence Community faced backlogs in material awaiting translation, a shortage of language specialists and language-qualified field officers, and a readiness level of only 30 percent in the most critical foreign languages. This news, however, was not new. In 2000, Ellen Laipson, Vice Chairman of the National Intelligence Council, reported similar problems and said that thousands of technical papers providing details on foreign research and development in scientific or technical areas were not being translated because of the lack of personnel to interpret the material, which could lead to the possibility of ''a technological surprise.''

It is clear that our national security relies on having a workforce skilled in the areas of science, technology, engineering, math, and foreign languages. We need to take action to strengthen education in these areas so that the United States can compete, prosper, and be secure in the 21st Century. A major investment in America's education system is necessary to ensure that we can communicate with and understand the cultures of our world partners and competitors. In the words of the Committee for Economic Development, ''we must redefine, as each generation has done, what it means to be an educated American in a changing world.'' Enactment of the Homeland Security Education Act provides the framework to enhance our education system to ensure that our nation's youth will have the skills needed for success.

Our education system must be re-energized and reinvigorated to meet the needs of our nation by preparing students to be proficient in foreign languages and leaders in the scientific and engineering fields. Our schools need the equipment and the materials to teach the critical STEM and foreign language courses and bring these subjects to life. To address these issues our bill would: encourage public private partnerships to improve science and math curricula; upgrade laboratory facilities; provide scholarships for students to study math, science, or engineering at the university level; and establish internship and mentoring opportunities for students in grades K through 12; develop cultural awareness and immersion programs in colleges and universities that combine science, technology, and engineering instruction with foreign language to expand international understanding and scientific collaboration; and create language learning pathways to facilitate proficiency in critical foreign languages from Kindergarten through graduate school.

However, no amount of funding or new programs will address the problem if there are not enough teachers trained in these subjects. To address the shortage of STEM and foreign language teachers, our bill includes provisions to award scholarships in the amount of $15,000 to language-proficient individuals and practicing scientists and engineers to return to school and earn their degrees and become certified to teach these critical skills to students in high-need, low income schools. Our bill would also allow National Security Education Program scholarship and fellowship recipients to meet their service requirements by teaching in these critical areas if they cannot find a national security position in the Federal Government.

A key provision in the Homeland Security Education Act focuses on foreign language teacher training by awarding grants to facilitate partnerships between K through 12 schools and institutions of higher education to build professional development programs, summer workshops or institutes, and foreign language distance learning programs for elementary and secondary school teachers.

In addition to providing new programs and teachers, we must encourage students to study these subjects. The U.S. currently lags far behind other countries in the number of students majoring in these critical areas. We must reverse this trend if we are to ensure an adequate supply of science, technology, engineering, and mathematics expertise in the years ahead. For example, only 32 percent of undergraduates in the United States receive their degrees in science and engineering, compared to 59 percent in China and 66 percent in Japan. The statistics are even worse for foreign language education, where fewer than one in 10 college students enroll in a foreign language class. Our bill would provide financial incentives for students to take the tough classes, earn their degrees, and be trained in the skills that will help America succeed by providing them with $5,000 scholarships to earn degrees in STEM or a foreign language.

I am proud of my home State of Hawaii, which appreciates the importance of learning other languages and understanding other cultures and where high school seniors take Advanced Placement (AP) exams in calculus, chemistry, physics, and science at rates that are higher than, and in some cases nearly double, the national average. Still, there definitely is room for more students to take AP exams and excel in these important areas.

The Homeland Security Education Act would help make this a reality by complementing efforts such as the PACE bills, Senator KENNEDY's legislation, and the President's education initiatives—all of which I support because they are positive steps to increasing educational opportunities in critical STEM and foreign language studies.

Professor Richard Schmidt, Director of the National Foreign Language Resource Center at the University of Hawaii, said that ''this legislation has strong potential to produce the kind of close articulation between K through 12 and higher education programs that has been very difficult in the past.''

I wish to thank Professor Schmidt, the University of Hawaii College of Education, and the National Council for Languages and International Studies for supporting this bill. I ask unanimous consent that letters of support be printed in the RECORD

Education serves as the catalyst to ensure our Nation's long-term security. To remain a world leader we need Americans who are well-educated and who can communicate in the global marketplace. The bill we introduce today will help us meet these essential requirements.

I urge my colleagues to support the Homeland Security Education Act, and I look forward to working with them to strengthen our national security through enactment of our bill.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

NATIONAL COUNCIL FOR LANGUAGES AND INTERNATIONAL STUDIES,
Washington, DC, March 6, 2006.

Hon. DANIEL AKAKA,
U.S. Senate,
Washington, DC.

DEAR SENATOR AKAKA: I am writing on behalf of the National Council for Languages and International Studies, representing 54 member language and international education associations, to thank you for sponsoring the Homeland Security Education Act (HSEA), which increases federal investment in foreign language education, specifically in languages of critical need to national security.

The benefits of language learning as a part of a basic education cannot be overstated. In addition to learning another language, studies indicate that students develop better problem-solving and cognitive skills. In addition to being an essential part of a basic education, recent events have demonstrated that early language learning is also imperative for national security. The events of September 11th brought to light the scarcity of highly qualified language professionals in the federal government workforce. Our nation cannot develop the high-level language expertise necessary to national security and economic competitiveness if we do not have the programs that encourage proficiency in critical languages.

Recent studies and initiatives such as the National Security Language Initiative, the Lincoln Commission Report, and the Center for Education Development's report, Education for Global Leadership: The Importance of lnternational Studies and Foreign Language Education for U.S. Economic and National Security provide a much-needed framework to develop foreign language skills by calling for the implementation of new and expanded language programs at all levels of education and in the workforce. HSEA will provide the resources needed to develop such critical programs.

Legislation like HSEA provides the framework and funding that is critical to carrying out these initiatives at the primary, secondary and higher education levels. Its focus on encouraging students to continue their language education as well as providing the grants needed for institutions of higher education to develop and strengthen foreign language programs, this bill will create the resources needed to address the issues facing the U.S. in today's world.

This comprehensive and forward thinking legislation is sorely needed. Thank you for

your assistance and support of languages, international education and programs that promote better understanding of other languages and cultures. If there is anything we can do to help, please let us know.

Sincerely,

J. DAVID EDWARDS, PhD,
Executive Director.

UNIVERSITY OF HAWAI'I AT MÁNOA,
COLLEGE OF EDUCATION,
Honolulu, Hawai'i, March 9, 2006.

Hon. DANIEL K. AKAKA,
U.S. Senate, 141 Hart Senate Office Building, Washington, DC.

DEAR SENATOR AKAKA: I am writing on behalf of the faculty and students of the University of Hawai'i, College of Education to express my enthusiastic support for the Homeland Security Education Act proposed by you and Senator Durbin.

It is clear that if we are to remain leaders in this increasingly competitive world, America needs a workforce skilled in science, mathematics, computer science, and engineering. We also need a larger population of people able to speak foreign languages and relate well with people from other countries and cultures.

The Homeland Security Education Act is designed very well to address this need, as it provides scholarships for college students entering those fields and for teacher candidates in the sciences, mathematics, and languages. It also provides grants to assist K–12 schools in improving related instruction, to improve facilities and obtain equipment. Three different grant programs support efforts to improve the numbers of foreign language speakers. The student loan program also holds promise of encouraging more people to enter these fields.

As Dean of the College of Education, I know first hand how difficult it is to attract teacher candidates into mathematics or science. The scholarships provided through the Homeland Security Education Act will help us encourage more students to enter these teaching fields. It may also be helpful if the student loan repayment program could be applied to individuals who enter the teaching profession and teach in some of our more difficult to staff public schools.

I am also finding it very difficult to find mathematics and science educators to teach in our teacher preparation programs. There is a severe national shortage of mathematics and science educators with doctoral degrees. You may want to consider providing support to individuals to obtain doctorates in these areas.

Your Homeland Security Education Act addresses a very serious problem. If we do not address this problem today, our nation will suffer because of it in the near future and for many years to come. I sincerely hope that your colleagues in congress will share your vision and choose to support this important legislation.

Thank you for your good leadership and for your continued support for excellent education for all children.

Sincerely,

RANDY HITZ,
Dean.

By Mr. SPECTER:

S. 2453. A bill to establish procedures for the review of electronic surveillance programs; to the Committee on the Judiciary.

Mr. SPECTER. Mr. President, I seek recognition today to introduce a bill to regulate electronic surveillance programs designed to gather intelligence for national security purposes.

On Friday, December 16, 2005, the New York Times reported that in late 2001, President Bush signed a highly classified directive that authorized the National Security Agency to intercept communications between people inside the United States and terrorism suspects overseas. And so the debate began. Did the President have the authority to authorize this program? Did it violate the Foreign Intelligence Surveillance Act—or FISA? Had Congress independently granted the President this authority? Did he have these inherent powers under the Constitution? Lawyers and laymen throughout our country have debated the issue. The Senate Judiciary Committee initiated two hearings on the legality of the NSA program and, pursuant to our oversight function, brought in Attorney General Alberto Gonzales and seven leading scholars and experts to testify. After questioning General Gonzales for some 7 hours, and the panel of scholars for hours more, we were still left troubled by two competing concerns.

On the one hand, we are a Nation at war. On September 11 we suffered the worst attack on civilians in our country's history by an enemy like none we had faced before. The more we learn about this enemy, the more we learn about a cruel and brutal opponent who will stop at nothing to terrorize and harm our country. This is an enemy that knows no honor. It seeks to inflict ever-escalating violence on defenseless civilians. This is an enemy that knows no mercy. It beheads innocent aid workers and journalists and proudly broadcasts these murders for the world to see. This is an enemy that knows no bounds of decency. It recruits women and children to strap bombs to their bodies and blow themselves up, knowing that American soldiers are likely to come close to help them. This is an enemy that is patient. It infiltrates our borders and waits quietly for an opportunity to attack. Most frighteningly, this is an enemy that is capable. It roams the globe, organizing terrorist cells along its path. It has the ability to master and exploit modem technology and organize attacks on America from anywhere on the globe.

On the other hand, we are a Nation that believes in the rule of law. We are a people that hold dear the rights and liberties enshrined in our Constitution. Although we recognize the threat we face, we are not willing to sacrifice our rights and live in a state of perpetual fear. Our enemy is the enemy of freedom, and we will not give that enemy the satisfaction of making us give up the very freedom we cherish.

The question remains, what is a society like ours to do?

I do not agree with those who contend that the current FISA law is just fine. When the FISA bill was enacted in 1978, we faced a very different enemy. That enemy did not attack on our soil; that enemy was organized into nation states that we could negotiate with; that enemy did not use terrorist tactics on our civilian population. And in 1978, we were grappling with very different technologies. We were worried about telephone and telegraphs, not e-mail, cell phones, handheld computers, and Internet chat rooms. Accordingly, the Congress passed a law in 1978 that required case-by-case warrants; warrants that identified individual persons and places; warrants a lot like those a prosecutor would seek in a routine criminal investigation. These case-by-case warrants, however, simply may not be sufficient today, when we are in a time of war and we need to track an amorphous enemy that moves quickly and is often able to evade detection.

At the same time, I do not agree with those who insist that we are facing an entirely new situation, and that the checks and balances our nation has long embraced are now outdated. I think these advocates are wrong when they insist that the best we can do is to give the Executive Branch a blank check and hope that it will do the right thing.

I believe that there is a middle ground. I believe it is possible to provide the President with the flexibility and secrecy he needs to track terrorists, while providing for meaningful supervision outside of the Executive Branch. It may be surprising to some, but I think we can get some insight from, of all places, a Senate hearing.

Let's step back and survey the situation. The country had recently discovered that the NSA had secretly worked with major communication companies for years. We learned that initially the program focused on certain foreign targets, but it grew to cover communications from U.S. citizens. Amid accusations that the President had violated the Constitution and Federal statute, a Senate Committee called the Attorney General to testify and address the ''serious legal and constitutional questions . . . raised by the program.''

If this sounds familiar, it should. It is what took place in November 1975, when the nation discovered a secret NSA program to monitor telegraph messages, and a special Senate Committee called Attorney General Edward Levi to testify.

That hearing, like the hearing the Senate Judiciary Committee held last week, elicited discussions on the importance of preserving civil liberties and upholding the Bill of Rights, and the need to protect national security and preserve secrecy in foreign intelligence. That hearing also elicited a possible solution.

During his testimony to the Church Committee on U.S. Intelligence Activities, Attorney General Levi suggested that one method for granting the President the needed flexibility, while maintaining supervision by the courts, was to give a special court the power to issue broader, program-wide warrants. Attorney General Levi reasoned that for programs ''designed to gather foreign-intelligence information essential to the security of the Nation,'' the court should have the power to approve

a ''program of surveillance.'' He explained that the traditional warrant procedure works only when surveillance ''involves a particular target location or individual at a specific time.'' While this procedure was fine for routine, criminal investigations, the Nation needed a different solution for enemies that require ''virtually continuous surveillance, which by its nature does not have specifically predetermined targets.'' Attorney General Levi suggested that in approving a surveillance plan, the court should determine whether the program ''strikes a reasonable balance between the government's need for the information and the protection of individuals' rights.''

Unfortunately, we did not follow Attorney General Levi's suggestion. It is not too late to do so, however. The National Security Surveillance Act of 2006 seeks to pick up where the Congress of 1978 left off.

I believe that the National Security Surveillance Act sets forth workable and effective procedures for the FISA Court to evaluate surveillance programs. Its procedures, in fact, are very similar to those Attorney General Levi advocated thirty years ago.

First, in order to continue the NSA program, or any similar programs, the Attorney General must apply to the FISA court for permission to initiate a surveillance program and then seek reauthorization of that program every 45 days. The Attorney General must explain his legal basis for concluding that the surveillance program is constitutional. He must also provide a good deal of information to the court. He must: identify or describe the foreign country or terrorist group he seeks to monitor; provide enough facts to indicate one of the parties on the line is a member of that foreign country or terrorist group or has had communications with it; identify the steps he is taking to make sure that innocent Americans are not being swept into the surveillance program; determine that at least one of the parties is in the U. S.; estimate the number of communications to be monitored; and provide data so the FISA court can evaluate the program, including information on how long the program has existed and what type of intelligence it has uncovered.

The Attorney General should feel no concern in sharing information about the program with the FISA court. The FISA court has proven that it is capable of maintaining the secrecy with which it has been charged and that it possesses the requisite expertise and discretion for adjudicating sensitive issues of national security.

The FISA court must then determine whether approving the program is consistent with the U.S. Constitution. It must also balance the interests at stake and decide whether to approve the program. Specifically, the court must: determine whether probable cause exists to authorize the surveillance; evaluate whether historically the government has implemented the electronic surveillance program in accordance with its proposals; determine that at least one of the participants to the electronic communication is a member of the foreign country or terrorist group that the Attorney General has identified; consider the privacy costs of the program as measured by the number of communications subjected to the electronic surveillance program, the length of time the electronic surveillance program has been in existence, and the effectiveness of the minimization procedures; and consider the benefits of the program as measured by the intelligence information obtained or the number of plots uncovered or cells disrupted.

The Attorney General must resubmit the program to the FISA court every 45 days. In the event the FISA court refuses to approve the electronic surveillance program, that does not end the matter. The Attorney General may modify the program and then submit a new application, until the FISA court concludes that the program satisfies the Constitution and the standards set forth in this bill. In the alternative, the Attorney General may conclude that implementing an amended program is inappropriate in light of the FISA court's concerns. The FISA court would itself be required to notify Congress of its decision with respect to the proffered program's constitutionality. Finally, the bill requires the Attorney General to submit information on the program's scope and effectiveness to the Chairman and Ranking Member of the Senate and House Intelligence Committees every 6 months.

In the case at hand, the Attorney General would be required to justify the NSA surveillance program to the FISA court, which would, in turn, determine whether the program met all constitutional and legal requirements. The court would be required to consider, for example, whether members of Al Qaeda were appropriately targeted, whether proper minimization techniques were being followed, and whether the program satisfied the demands of the Fourth Amendment.

There are those who will say that we should not act. That currently, things are fine. I would remind my colleagues that our enemies are not so content to sit still. A country that does not understand that our enemy has changed since the 1970s will come to regret it. And a Congress that pauses when it should act, denies its duty to adapt to the enemy we currently face. But, ultimately, the enemies of democracy win when civil liberties are lost. We must maintain our democracy and defeat our enemies.

This legislation does both and I urge my colleagues to support it.

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

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

S. 2453

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 ''National Security Surveillance Act of 2006''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) After the terrorist attacks of September 11, 2001, President Bush authorized the National Security Agency to intercept communications between people inside the United States, including American citizens, and terrorism suspects overseas.

(2) One of the lessons learned from September 11, 2001, is that the enemies who seek to greatly harm and terrorize our Nation utilize technologies and techniques that defy conventional law enforcement practices.

(3) The Commander in Chief requires the ability and means to detect and track an enemy that can master and exploit modern technology.

(4) Although it is essential that the President have all necessary means to protect us against our enemies, it is equally essential that, in doing so, the President does not compromise the very civil liberties that the President seeks to safeguard. As Justice Hugo Black observed, ''The President's power, if any, to issue [an] order must stem either from an Act of Congress or from the Constitution itself.''. Youngstown Sheet & Tube Co. v. Sawyer, 343 U.S. 579, 585 (1952) (opinion by Black, J.).

(5) In 2004, Justice Sandra Day O'Connor explained in her plurality opinion for the Supreme Court in Hamdi v. Rumsfeld: ''We have long since made clear that a state of war is not a blank check for the President when it comes to the rights of the Nation's citizens. Youngstown Sheet & Tube, 343 U.S., at 587, 72 S.Ct. 863. Whatever power the United States Constitution envisions for the Executive in its exchanges with other nations or with enemy organizations in times of conflict, it most assuredly envisions a role for all three branches when individual liberties are at stake.''. Hamdi v. Rumsfeld, 542 U.S. 507, 536 (2004) (citations omitted).

(6) Similarly, as Justice Jackson famously observed in his Youngstown concurrence: ''When the President acts pursuant to an express or implied authorization of Congress, his authority is at its maximum, for it includes all that he possesses in his own right plus all that Congress can delegate . . . . When the President acts in absence of either a congressional grant or denial of authority, he can only rely upon his own independent powers, but there is a zone of twilight in which he and Congress may have concurrent authority, or in which its distribution is uncertain. Therefore, congressional inertia, indifference or quiescence may sometimes, at least as a practical matter, enable, if not invite, measures on independent presidential responsibility . . . When the President takes measures incompatible with the expressed or implied will of Congress, his power is at its lowest ebb, for then he can rely only upon his own constitutional powers minus any constitutional powers of Congress over the matter. Courts can sustain exclusive Presidential control in such a case only by disabling the Congress from acting upon the subject.''. Youngstown Sheet & Tube Co. v. Sawyer, 343 U.S. 579, 635–38 (1952) (Jackson, J., concurring).

(7) The Constitution provides Congress with broad powers of oversight over national security and foreign policy, under article I, section 8 of the Constitution of the United States, which confers on Congress numerous powers, including the powers—

(A) ''To declare War, grant Letters of Marque and Reprisal, and make Rules concerning Captures on Land and Water'';

(B) ''To raise and support Armies'';
(C) ''To provide and maintain a Navy'';
(D) ''To make Rules for the Government and Regulation of the land and naval Forces'';
(E) ''To provide for calling forth the Militia to execute the Laws of the Union, suppress Insurrections and repel Invasions''; and
(F) ''To provide for organizing, arming, and disciplining the Militia, and for governing such Part of them as may be employed in the Service of the United States''.

(8) It is in our Nation's best interest for Congress to use its oversight power to establish a system to ensure that electronic surveillance programs do not infringe on the constitutional rights of Americans, while at the same time making sure that the President has all the powers and means necessary to detect and track our enemies.

(9) While Attorney General Alberto Gonzales explained that the executive branch reviews the electronic surveillance program of the National Security Agency every 45 days to ensure that the program is not overly broad, it is the belief of Congress that approval and supervision of electronic surveillance programs should be conducted outside of the executive branch, by the Article III court established under section 103 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803). It is also the belief of Congress that it is appropriate for an Article III court to pass upon the constitutionality of electronic surveillance programs that may implicate the rights of Americans.

(10) The Foreign Intelligence Surveillance Court is the proper court to approve and supervise classified electronic surveillance programs because it is adept at maintaining the secrecy with which it was charged and it possesses the requisite expertise and discretion for adjudicating sensitive issues of national security.

(11) In 1975, then-Attorney General Edward Levi, a strong defender of executive authority, testified that in times of conflict, the President needs the power to conduct long-range electronic surveillance and that a foreign intelligence surveillance court should be empowered to issue special warrants in these circumstances.

(12) This Act clarifies and definitively establishes that the Foreign Intelligence Surveillance Court has the authority to review electronic surveillance programs and pass upon their constitutionality. Such authority is consistent with well-established, long-standing practices.

(13) The Foreign Intelligence Surveillance Court already has broad authority to approve surveillance of members of international conspiracies, in addition to granting warrants for surveillance of a particular individual under sections 104, 105, and 402 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1804, 1805, and 1842).

(14) Prosecutors have significant flexibility in investigating domestic conspiracy cases. Courts have held that flexible warrants comply with the fourth amendment to the Constitution of the United States when they relate to complex, far reaching, and multi-faceted criminal enterprises like drug conspiracies and money laundering rings. The courts recognize that applications for search warrants must be judged in a common sense and realistic fashion, and the courts permit broad warrant language where, due to the nature and circumstances of the investigation and the criminal organization, more precise descriptions are not feasible.

(15) Federal agents investigating international terrorism by foreign enemies are entitled to tools at least as broad as those used by Federal agents investigating domestic crimes by United States citizens. The Supreme Court, in the ''Keith Case'', United States v. United States District Court for the Eastern District of Michigan, 407 U.S. 297 (1972), recognized that the standards and procedures used to fight ordinary crime may not be applicable to cases involving national security. The Court recognized that national ''security surveillance may involve different policy and practical considerations from the surveillance of ordinary crime'' and that courts should be more flexible in issuing warrants in national security cases. United States v. United States District Court for the Eastern District of Michigan, 407 U.S. 297, 322 (1972).

(16) By authorizing the Foreign Intelligence Surveillance Court to review electronic surveillance programs, Congress preserves the ability of the Commander in Chief to use the necessary means to guard our national security, while also protecting the civil liberties and constitutional rights that we cherish.

SEC. 3. DEFINITIONS.

The Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended—

(1) by redesignating title VII as title VIII;
(2) by redesignating section 701 as section 801; and
(3) by inserting after title VI the following:

''TITLE VII—ELECTRONIC SURVEILLANCE

''SEC. 701. DEFINITIONS.

''As used in this title—

''(1) the terms 'agent of a foreign power', 'Attorney General', 'foreign intelligence information' ,'foreign power', 'international terrorism', 'minimization procedures', 'person', 'United States', and 'United States person' have the same meaning as in section 101;

''(2) the term 'congressional intelligence committees' means the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives;

''(3) the term 'electronic communication' means any transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photoelectronic or photooptical system, cable, or other like connection furnished or operated by any person engaged as a common carrier in providing or operating such facilities for the transmission of communications;

''(4) the term 'electronic surveillance' means the acquisition by an electronic, mechanical, or other surveillance device of the substance of any electronic communication sent by, received by, or intended to be received by a person who is in the United States, where there is a reasonable possibility that the surveillance will intercept communication in which a person in the United States participating in the communication has a reasonable expectation of privacy;

''(5) the term 'electronic surveillance program' means a program to engage in electronic surveillance—

''(A) to gather foreign intelligence information or to protect against international terrorism or clandestine intelligence activities by obtaining the substance of or information regarding electronic communications sent by, received by, or intended to be received by a foreign power, an agent or agents of a foreign power, or a person or persons who have had communication with a foreign power seeking to commit an act of international terrorism or clandestine intelligence activities against the United States;

''(B) where it is not feasible to name every person or address every location to be subjected to electronic surveillance; and

''(C) where effective gathering of foreign intelligence information requires an extended period of electronic surveillance;

''(6) the term 'Foreign Intelligence Surveillance Court' means the court, sitting en banc, established under section 103(a);

''(7) the term 'Foreign Intelligence Surveillance Court of review' means the court established under section 103(b);

(8) the term 'intercept' means the acquisition of the substance of any electronic communication by a person through the use of any electronic, mechanical, or other device; and

''(9) the term 'substance' means any information concerning the words, purport, or meaning of a communication, and does not include information identifying the sender, origin, or recipient of the communication or the date or time of its transmission.''.

SEC. 4. FOREIGN INTELLIGENCE SURVEILLANCE COURT JURISDICTION TO REVIEW ELECTRONIC SURVEILLANCE PROGRAMS.

Title VII of the Foreign Intelligence Surveillance Act of 1978, as amended by section 3, is amended by adding at the end the following:

''SEC. 702. FOREIGN INTELLIGENCE SURVEILLANCE COURT JURISDICTION TO REVIEW ELECTRONIC SURVEILLANCE PROGRAMS.

''(a) IN GENERAL.—The Foreign Intelligence Surveillance Court shall have jurisdiction to issue an order under this title, lasting not longer than 45 days, that authorizes an electronic surveillance program to obtain foreign intelligence information or to protect against international terrorism or clandestine intelligence activities.

''(b) REAUTHORIZATION.—In order to continue an electronic surveillance program after the time period described in subsection (a), the Attorney General shall submit a new application under section 703. There shall be no limit on the number of times the Attorney General may seek approval of an electronic surveillance program.

''(c) MODIFICATIONS AND APPEAL IN EVENT APPLICATION IS DENIED.—

''(1) IN GENERAL.—In the event that the Foreign Intelligence Surveillance Court refuses to approve an application under subsection (a), the court shall state its reasons in a written opinion.

''(2) OPINION.—The court shall submit a written opinion described in paragraph (1) to the Attorney General and to each member of the congressional intelligence committees (or any subcommittee thereof designated for oversight of electronic surveillance programs under this title).

''(3) RESUBMISSION OR APPEAL.—The Attorney General shall be permitted to submit a new application under section 703 for the electronic surveillance program, reflecting modifications to address the concerns set forth in the written opinion of the Foreign Intelligence Surveillance Court. There shall be no limit on the number of times the Attorney General may seek approval of an electronic surveillance program. Alternatively, the Attorney General shall be permitted to appeal the decision of the Foreign Intelligence Surveillance Court to the Foreign Intelligence Surveillance Court of Review.

''(d) COMMUNICATIONS SUBJECT TO THIS TITLE.—

''(1) IN GENERAL.—The provisions of this title requiring authorization by the Foreign Intelligence Surveillance Court apply only to interception of the substance of electronic communications sent by, received by, or intended to be received by a person who is in the United States, where there is a reasonable possibility that a participant in the communication has a reasonable expectation of privacy.

''(2) EXCLUSION.—The provisions of this title requiring authorization by the Foreign Intelligence Surveillance Court do not apply

to information identifying the sender, origin, or recipient of the electronic communication or the date or time of its transmission that is obtained without review of the substance of the electronic communication.

''(e) EXISTING PROGRAMS SUBJECT TO THIS TITLE.—

''(1) IN GENERAL.—The Attorney General shall submit an application to the Foreign Intelligence Surveillance Court for any electronic surveillance program to obtain foreign intelligence information or to protect against international terrorism or clandestine intelligence activities.

''(2) EXISTING PROGRAMS.—Not later than 45 days after the date of enactment of this title, the Attorney General shall submit an application under this title for approval of the electronic surveillance program sometimes referred to as the 'Terrorist Surveillance Program' and discussed by the Attorney General before the Committee on the Judiciary of the United States Senate on February 6, 2006. Not later than 120 days after the date of enactment of this title, the Attorney General shall submit applications under this title for approval of any other electronic surveillance program in existence on the date of enactment of this title that has not been submitted to the Foreign Intelligence Surveillance Court.''.

SEC. 5. APPLICATIONS FOR APPROVAL OF ELECTRONIC SURVEILLANCE PROGRAMS.

Title VII of the Foreign Intelligence Surveillance Act of 1978, as amended by section 4, is amended by adding at the end the following:

''SEC. 703. APPLICATIONS FOR APPROVAL OF ELECTRONIC SURVEILLANCE PROGRAMS.

''(a) IN GENERAL.—Each application for approval of an electronic surveillance program under this title shall—

''(1) be made by the Attorney General;

''(2) include a statement of the authority conferred on the Attorney General by the President of the United States;

''(3) include a statement setting forth the legal basis for the conclusion by the Attorney General that the electronic surveillance program is consistent with the requirements of the Constitution of the United States;

''(4) certify that the information sought cannot reasonably be obtained by conventional investigative techniques or through an application under section 104;

''(5) include the name, if known, identity, or description of the foreign power or agent of a foreign power seeking to commit an act of international terrorism or clandestine intelligence activities against the United States that the electronic surveillance program seeks to monitor or detect;

''(6) include a statement of the means and operational procedures by which the surveillance will be executed and effected;

''(7) include a statement of the facts and circumstances relied upon by the Attorney General to justify the belief that at least 1 of the participants in the communications to be intercepted by the electronic surveillance program will be the foreign power or agent of a foreign power that is specified under paragraph (5), or a person who has had communication with the foreign power or agent of a foreign power that is specified under paragraph (5), and is seeking to commit an act of international terrorism or clandestine intelligence activities against the United States;

''(8) include a statement of the proposed minimization procedures;

''(9) include a detailed description of the nature of the information sought and the type of communication to be intercepted by the electronic surveillance program;

''(10) include an estimate of the number of communications to be intercepted by the electronic surveillance program during the requested authorization period;

''(11) specify the date that the electronic surveillance program that is the subject of the application was initiated, if it was initiated before submission of the application;

''(12) certify that any electronic surveillance of a person in the United States under this title shall cease 45 days after the date of the authorization, unless the Government has obtained judicial authorization for continued surveillance of the person in the United States under section 104 or another Federal statute;

''(13) include a statement of the facts concerning all previous applications that have been made to the Foreign Intelligence Surveillance Court under this title involving the electronic surveillance program in the application, including the minimization procedures and the means and operational procedures proposed, and the Foreign Intelligence Surveillance Court's decision on each previous application; and

''(14) include a statement of the facts concerning the implementation of the electronic surveillance program described in the application, including, for any period of operation of the program authorized at least 45 days prior to the date of submission of the application—

''(A) the minimization procedures implemented;

''(B) the means and operational procedures by which the surveillance was executed and effected;

''(C) the number of communications subjected to the electronic surveillance program;

''(D) the identity, if known, or a description of any United States person whose communications sent or received in the United States were intercepted by the electronic surveillance program; and

''(E) a description of the foreign intelligence information obtained through the electronic surveillance program.

''(b) ADDITIONAL INFORMATION.—The Foreign Intelligence Surveillance Court may require the Attorney General to furnish such other information as may be necessary to make a determination under section 704.''.

SEC. 6. APPROVAL OF ELECTRONIC SURVEILLANCE PROGRAMS.

Title VII of the Foreign Intelligence Surveillance Act of 1978, as amended by section 5, is amended by adding at the end the following:

''SEC. 704. APPROVAL OF ELECTRONIC SURVEILLANCE PROGRAMS.

''(a) NECESSARY FINDINGS.—Upon receipt of an application under section 703, the Foreign Intelligence Surveillance Court shall enter an ex parte order as requested, or as modified, approving the electronic surveillance program if it finds that—

''(1) the President has authorized the Attorney General to make the application for electronic surveillance for foreign intelligence information;

''(2) approval of the electronic surveillance program in the application is consistent with the duty of the Foreign Intelligence Surveillance Court to uphold the Constitution of the United States;

''(3) there is probable cause to believe that the electronic surveillance program will intercept communications of the foreign power or agent of a foreign power specified in the application, or a person who has had communication with the foreign power or agent of a foreign power that is specified in the application and is seeking to commit an act of international terrorism or clandestine intelligence activities against the United States;

''(4) the proposed minimization procedures meet the definition of minimization procedures under section 101 (h);

''(5) the application contains all statements and certifications required by section 703; and

''(6) an evaluation of the implementation of the electronic surveillance program, as described in subsection (b), supports approval of the application.

''(b) EVALUATION OF THE IMPLEMENTATION OF THE ELECTRONIC SURVEILLANCE PROGRAM.—In determining whether the implementation of the electronic surveillance program supports approval of the application for purposes of subsection (a)(6), the Foreign Intelligence Surveillance Court shall consider the performance of the electronic surveillance program for at least 3 previously authorized periods, to the extent such information is available, and shall—

''(1) evaluate whether the electronic surveillance program has been implemented in accordance with the proposal by the Federal Government by comparing—

''(A) the minimization procedures proposed with the minimization procedures implemented;

''(B) the nature of the information sought with the nature of the information obtained; and

''(C) the means and operational procedures proposed with the means and operational procedures implemented;

''(2) consider the number of communications intercepted by the electronic surveillance program and the length of time the electronic surveillance program has been in existence; and

''(3) consider the effectiveness of the electronic surveillance program, as reflected by the foreign intelligence information obtained.''.

SEC. 7. CONGRESSIONAL OVERSIGHT.

Title VII of the Foreign Intelligence Surveillance Act of 1978, as amended by section 6, is amended by adding at the end the following:

''SEC. 705. CONGRESSIONAL OVERSIGHT.

''(a) IN GENERA1.—The President shall submit to each member of the congressional , intelligence committees (or any subcommittee thereof designated for oversight of electronic surveillance programs under this title) a report on the management and operational details of the electronic surveillance program generally and on any specific surveillance conducted under the electronic surveillance program whenever requested by either of the committees, or any such subcommittee, as applicable.

''(b) Semi-Annual Reports.—

''(1) IN GENERAL.—In addition to any reports required under subsection (a), the President shall, not later than 6 months after the date of enactment of this Act and every 6 months thereafter, fully inform each member of the congressional intelligence committees (or any subcommittee thereof designated for oversight of electronic surveillance programs under this title) on all electronic surveillance conducted under the electronic surveillance program.

''(2) CONTENTS.—Each report under paragraph (1) shall include the following:

''(A) A complete discussion of the management, operational details, effectiveness, and necessity of the electronic surveillance program generally, and of the management, operational details, effectiveness, and necessity of all electronic surveillance conducted under the program, during the 6-month period ending on the date of such report.

''(B) The total number of targets of electronic surveillance commenced or continued under the electronic surveillance program.

''(C) The total number of United States persons targeted for electronic surveillance under the electronic surveillance program.

''(D) The total number of targets of electronic surveillance under the electronic surveillance program for which an application

was submitted under section 104 for an order under section 105 approving electronic surveillance, and, of such applications, the total number either granted, modified, or denied.

''(E) Any other information specified, in writing, to be included in such report by the congressional intelligence committees or any subcommittees thereof designated for oversight of the electronic surveillance program.

''(F) A description of the nature of the information sought under the electronic surveillance program, the types of communications subjected to such program, and whether the information sought under such program could be reasonably obtained by less intrusive investigative techniques in a timely and effective manner.

''(c) FORM OF REPORTS.—Any report or information submitted under this section shall be submitted in classified form.''.

SEC. 8. EMERGENCY AUTHORIZATION.

Title VII of the Foreign Intelligence Surveillance Act of 1978, as amended by section 6, is amended by adding at the end the following:

''SEC. 706. EMERGENCY AUTHORIZATION.

''Notwithstanding any other provision of law, the President, through the Attorney General, may authorize electronic surveillance without a court order under this title to acquire foreign intelligence information for a period not to exceed 45 days following a declaration of war by Congress.''.

SEC. 9. CONFORMING AMENDMENT.

The table of contents for the Foreign Intelligence Surveillance Act of 1978 is amended I by striking the items related to title VII and section 701 and inserting the following:

''TITLE VII—ELECTRONIC SURVEILLANCE

''Sec. 701. Definitions.
''Sec. 702. Foreign Intelligence Surveillance Court jurisdiction to review electronic surveillance programs.
''Sec. 703. Applications for approval of electronic surveillance programs.
''Sec. 704. Approval of electronic surveillance programs.
''Sec. 705. Congressional oversight.
''Sec. 706. Emergency Authorization.

''TITLE VIII—EFFECTIVE DATE

''Sec. 801. Effective date.''.

By Mr. FRIST:

S. 2454. A bill to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; placed on the calendar.

Mr. FRIST. Mr. President, I ask unanimous consent that the text of the bill and a section by section analysis be printed in the RECORD.

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

S. 2454

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Securing America's Borders Act''.

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

SEC. 2. REFERENCE TO THE IMMIGRATION AND NATIONALITY ACT.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

SEC. 3. DEFINITIONS.

In this Act:

(1) DEPARTMENT.—Except as otherwise provided, the term ''Department'' means the Department of Homeland Security.

(2) SECRETARY.—Except as otherwise provided, the term ''Secretary'' means the Secretary of Homeland Security.

TITLE I—BORDER ENFORCEMENT

Subtitle A—Assets for Controlling United States Borders

SEC. 101. ENFORCEMENT PERSONNEL.

(a) ADDITIONAL PERSONNEL.—

(1) CUSTOMS AND BORDER PROTECTION OFFICERS.—In each of the fiscal years 2007 through 2011, the Secretary shall, subject to the availability of appropriations, increase by not less than 250 the number of positions for full-time active duty Customs and Border Protection officers.

(2) PORT OF ENTRY INSPECTORS.—In each of the fiscal years 2007 through 2011, the Secretary shall, subject to the availability of appropriations, increase by not less than 250

the number of positions for full-time active duty port of entry inspectors and provide appropriate training, equipment, and support to such additional inspectors.

(3) BORDER PATROL AGENT.—Section 5202 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 118 Stat. 3734) is amended—

(A) by striking ''2010'' both places it appears and inserting ''2011''; and

(B) by striking ''2,000'' and inserting ''2,400''.

(4) INVESTIGATIVE PERSONNEL.—

(A) IMMIGRATION AND CUSTOMS ENFORCEMENT INSPECTORS.—Section 5203 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 118 Stat. 3734) is amended by striking ''800'' and inserting ''1000''.

(B) ADDITIONAL PERSONNEL.—In addition to the positions authorized under section 5203 of the Intelligence Reform and Terrorism Prevention Act of 2004, as amended by subparagraph (A), during each of the fiscal years 2007 through 2011, the Secretary shall, subject to the availability of appropriations, increase by not less than 200 the number of positions for personnel within the Department assigned to investigate alien smuggling.

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) CUSTOMS AND BORDER PROTECTION OFFICERS.—There are authorized to be appropriated to the Secretary such sums as may be necessary for each of the fiscal years 2007 through 2011 to carry out paragraph (1) of subsection (a).

(2) PORT OF ENTRY INSPECTORS.—There are authorized to be appropriated to the Secretary such sums as may be necessary for each of the fiscal years 2007 through 2011 to carry out paragraph (2) of subsection (a).

(3) BORDER PATROL AGENTS.—There are authorized to be appropriated to the Secretary such sums as may be necessary for each of fiscal years 2007 through 2011 to carry out section 5202 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 118 Stat. 3734), as amended by subsection (a)(3).

SEC. 102. TECHNOLOGICAL ASSETS.

(a) ACQUISITION.—Subject to the availability of appropriations, the Secretary shall procure additional unmanned aerial vehicles, cameras, poles, sensors, and other technologies necessary to achieve operational control of the international borders of the United States and to establish a security perimeter known as a ''virtual fence'' along such international borders to provide a barrier to illegal immigration.

(b) INCREASED AVAILABILITY OF EQUIPMENT.—The Secretary and the Secretary of Defense shall develop and implement a plan to use authorities provided to the Secretary of Defense under chapter 18 of title 10, United States Code, to increase the availability and use of Department of Defense equipment, including unmanned aerial vehicles, tethered aerostat radars, and other surveillance equipment, to assist the Secretary in carrying out surveillance activities conducted at or near the international land borders of the United States to prevent illegal immigration.

(c) REPORT.—Not later than 6 months after the date of enactment of this Act, the Secretary and the Secretary of Defense shall submit to Congress a report that contains—

(1) a description of the current use of Department of Defense equipment to assist the Secretary in carrying out surveillance of the international land borders of the United States and assessment of the risks to citizens of the United States and foreign policy interests associated with the use of such equipment;

(2) the plan developed under subsection (b) to increase the use of Department of Defense equipment to assist such surveillance activities; and

(3) a description of the types of equipment and other support to be provided by the Secretary of Defense under such plan during the 1-year period beginning on the date of the submission of the report.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as may be necessary for each of the fiscal years 2007 through 2011 to carry out subsection (a).

(e) CONSTRUCTION.—Nothing in this section may be construed as altering or amending the prohibition on the use of any part of the Army or the Air Force as a posse comitatus under section 1385 of title 18, United States Code.

SEC. 103. INFRASTRUCTURE.

(a) CONSTRUCTION OF BORDER CONTROL FACILITIES.—Subject to the availability of appropriations, the Secretary shall construct all-weather roads and acquire additional vehicle barriers and facilities necessary to achieve operational control of the international borders of the United States.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as may be necessary for each of the fiscal years 2007 through 2011 to carry out subsection (a).

SEC. 104. BORDER PATROL CHECKPOINTS.

The Secretary may maintain temporary or permanent checkpoints on roadways in border patrol sectors that are located in proximity to the international border between the United States and Mexico.

SEC. 105. PORTS OF ENTRY.

The Secretary is authorized to—

(1) construct additional ports of entry along the international land borders of the United States, at locations to be determined by the Secretary; and

(2) make necessary improvements to the ports of entry in existence on the date of the enactment of this Act.

SEC. 106. CONSTRUCTION OF STRATEGIC BORDER FENCING AND VEHICLE BARRIERS.

(a) TUCSON SECTOR.—The Secretary shall—

(1) replace all aged, deteriorating, or damaged primary fencing in the Tucson Sector located proximate to population centers in Douglas, Nogales, Naco, and Lukeville, Arizona with double- or triple-layered fencing running parallel to the international border between the United States and Mexico;

(2) extend the double- or triple-layered fencing for a distance of not less than 2 miles beyond urban areas, except that the double- or triple-layered fence shall extend west of Naco, Arizona, for a distance of 25 miles; and

(3) construct not less than 150 miles of vehicle barriers and all-weather roads in the Tucson Sector running parallel to the international border between the United States and Mexico in areas that are known transit points for illegal cross-border traffic.

(b) YUMA SECTOR.—The Secretary shall—

(1) replace all aged, deteriorating, or damaged primary fencing in the Yuma Sector located proximate to population centers in Yuma, Somerton, and San Luis, Arizona with double- or triple-layered fencing running parallel to the international border between the United States and Mexico;

(2) extend the double- or triple-layered fencing for a distance of not less than 2 miles beyond urban areas in the Yuma Sector.

(3) construct not less than 50 miles of vehicle barriers and all-weather roads in the Yuma Sector running parallel to the international border between the United States and Mexico in areas that are known transit points for illegal cross-border traffic.

(c) CONSTRUCTION DEADLINE.—The Secretary shall immediately commence construction of the fencing, barriers, and roads described in subsections (a) and (b), and shall complete such construction not later than 2 years after the date of the enactment of this Act.

(d) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives that describes the progress that has been made in constructing the fencing, barriers, and roads described in subsections (a) and (b).

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

Subtitle B—Border Security Plans, Strategies, and Reports

SEC. 111. SURVEILLANCE PLAN.

(a) REQUIREMENT FOR PLAN.—The Secretary shall develop a comprehensive plan for the systematic surveillance of the international land and maritime borders of the United States.

(b) CONTENT.—The plan required by subsection (a) shall include the following:

(1) An assessment of existing technologies employed on the international land and maritime borders of the United States.

(2) A description of the compatibility of new surveillance technologies with surveillance technologies in use by the Secretary on the date of the enactment of this Act.

(3) A description of how the Commissioner of the United States Customs and Border Protection of the Department is working, or is expected to work, with the Under Secretary for Science and Technology of the Department to identify and test surveillance technology.

(4) A description of the specific surveillance technology to be deployed.

(5) Identification of any obstacles that may impede such deployment.

(6) A detailed estimate of all costs associated with such deployment and with continued maintenance of such technologies.

(7) A description of how the Secretary is working with the Administrator of the Federal Aviation Administration on safety and airspace control issues associated with the use of unmanned aerial vehicles.

(c) SUBMISSION TO CONGRESS.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall submit to Congress the plan required by this section.

SEC. 112. NATIONAL STRATEGY FOR BORDER SECURITY.

(a) REQUIREMENT FOR STRATEGY.—The Secretary, in consultation with the heads of other appropriate Federal agencies, shall develop a National Strategy for Border Security that describes actions to be carried out to achieve operational control over all ports of entry into the United States and the international land and maritime borders of the United States.

(b) CONTENT.—The National Strategy for Border Security shall include the following:

(1) The implementation schedule for the comprehensive plan for systematic surveillance described in section 111.

(2) An assessment of the threat posed by terrorists and terrorist groups that may try to infiltrate the United States at locations along the international land and maritime borders of the United States.

(3) A risk assessment for all United States ports of entry and all portions of the international land and maritime borders of the United States that includes a description of activities being undertaken—

(A) to prevent the entry of terrorists, other unlawful aliens, instruments of terrorism,

narcotics, and other contraband into the United States; and

(B) to protect critical infrastructure at or near such ports of entry or borders.

(4) An assessment of the legal requirements that prevent achieving and maintaining operational control over the entire international land and maritime borders of the United States.

(5) An assessment of the most appropriate, practical, and cost-effective means of defending the international land and maritime borders of the United States against threats to security and illegal transit, including intelligence capacities, technology, equipment, personnel, and training needed to address security vulnerabilities.

(6) An assessment of staffing needs for all border security functions, taking into account threat and vulnerability information pertaining to the borders and the impact of new security programs, policies, and technologies.

(7) A description of the border security roles and missions of Federal, State, regional, local, and tribal authorities, and recommendations regarding actions the Secretary can carry out to improve coordination with such authorities to enable border security and enforcement activities to be carried out in a more efficient and effective manner.

(8) An assessment of existing efforts and technologies used for border security and the effect of the use of such efforts and technologies on civil rights, personal property rights, and civil liberties, including an assessment of efforts to take into account asylum seekers, trafficking victims, unaccompanied minor aliens, and other vulnerable populations.

(9) A prioritized list of research and development objectives to enhance the security of the international land and maritime borders of the United States.

(10) A description of ways to ensure that the free flow of travel and commerce is not diminished by efforts, activities, and programs aimed at securing the international land and maritime borders of the United States.

(11) An assessment of additional detention facilities and beds that are needed to detain unlawful aliens apprehended at United States ports of entry or along the international land borders of the United States.

(12) A description of the performance metrics to be used to ensure accountability by the bureaus of the Department in implementing such Strategy.

(13) A schedule for the implementation of the security measures described in such Strategy, including a prioritization of security measures, realistic deadlines for addressing the security and enforcement needs, an estimate of the resources needed to carry out such measures, and a description of how such resources should be allocated.

(c) CONSULTATION.—In developing the National Strategy for Border Security, the Secretary shall consult with representatives of—

(1) State, local, and tribal authorities with responsibility for locations along the international land and maritime borders of the United States; and

(2) appropriate private sector entities, nongovernmental organizations, and affected communities that have expertise in areas related to border security.

(d) COORDINATION.—The National Strategy for Border Security shall be consistent with the National Strategy for Maritime Security developed pursuant to Homeland Security Presidential Directive 13, dated December 21, 2004.

(e) SUBMISSION TO CONGRESS.—

(1) STRATEGY.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit to Congress the National Strategy for Border Security.

(2) UPDATES.—The Secretary shall submit to Congress any update of such Strategy that the Secretary determines is necessary, not later than 30 days after such update is developed.

(f) IMMEDIATE ACTION.—Nothing in this section or section 111 may be construed to relieve the Secretary of the responsibility to take all actions necessary and appropriate to achieve and maintain operational control over the entire international land and maritime borders of the United States.

SEC. 113. REPORTS ON IMPROVING THE EXCHANGE OF INFORMATION ON NORTH AMERICAN SECURITY.

(a) REQUIREMENT FOR REPORTS.—Not later than 1 year after the date of the enactment of this Act, and annually thereafter, the Secretary of State, in coordination with the Secretary and the heads of other appropriate Federal agencies, shall submit to Congress a report on improving the exchange of information related to the security of North America.

(b) CONTENTS.—Each report submitted under subsection (a) shall contain a description of the following:

(1) SECURITY CLEARANCES AND DOCUMENT INTEGRITY.—The progress made toward the development of common enrollment, security, technical, and biometric standards for the issuance, authentication, validation, and repudiation of secure documents, including—

(A) technical and biometric standards based on best practices and consistent with international standards for the issuance, authentication, validation, and repudiation of travel documents, including—

(i) passports;

(ii) visas; and

(iii) permanent resident cards;

(B) working with Canada and Mexico to encourage foreign governments to enact laws to combat alien smuggling and trafficking, and laws to forbid the use and manufacture of fraudulent travel documents and to promote information sharing;

(C) applying the necessary pressures and support to ensure that other countries meet proper travel document standards and are committed to travel document verification before the citizens of such countries travel internationally, including travel by such citizens to the United States; and

(D) providing technical assistance for the development and maintenance of a national database built upon identified best practices for biometrics associated with visa and travel documents.

(2) IMMIGRATION AND VISA MANAGEMENT.—The progress of efforts to share information regarding high-risk individuals who may attempt to enter Canada, Mexico, or the United States, including the progress made—

(A) in implementing the Statement of Mutual Understanding on Information Sharing, signed by Canada and the United States in February 2003; and

(B) in identifying trends related to immigration fraud, including asylum and document fraud, and to analyze such trends.

(3) VISA POLICY COORDINATION AND IMMIGRATION SECURITY.—The progress made by Canada, Mexico, and the United States to enhance the security of North America by cooperating on visa policy and identifying best practices regarding immigration security, including the progress made—

(A) in enhancing consultation among officials who issue visas at the consulates or embassies of Canada, Mexico, or the United States throughout the world to share information, trends, and best practices on visa flows;

(B) in comparing the procedures and policies of Canada and the United States related to visitor visa processing, including—

(i) application process;

(ii) interview policy;

(iii) general screening procedures;

(iv) visa validity;

(v) quality control measures; and

(vi) access to appeal or review;

(C) in exploring methods for Canada, Mexico, and the United States to waive visa requirements for nationals and citizens of the same foreign countries;

(D) in providing technical assistance for the development and maintenance of a national database built upon identified best practices for biometrics associated with immigration violators;

(E) in developing and implementing an immigration security strategy for North America that works toward the development of a common security perimeter by enhancing technical assistance for programs and systems to support advance automated reporting and risk targeting of international passengers;

(F) in sharing information on lost and stolen passports on a real-time basis among immigration or law enforcement officials of Canada, Mexico, and the United States; and

(G) in collecting 10 fingerprints from each individual who applies for a visa.

(4) NORTH AMERICAN VISITOR OVERSTAY PROGRAM.—The progress made by Canada and the United States in implementing parallel entry-exit tracking systems that, while respecting the privacy laws of both countries, share information regarding third country nationals who have overstayed their period of authorized admission in either Canada or the United States.

(5) TERRORIST WATCH LISTS.—The progress made in enhancing the capacity of the United States to combat terrorism through the coordination of counterterrorism efforts, including the progress made—

(A) in developing and implementing bilateral agreements between Canada and the United States and between Mexico and the United States to govern the sharing of terrorist watch list data and to comprehensively enumerate the uses of such data by the governments of each country;

(B) in establishing appropriate linkages among Canada, Mexico, and the United States Terrorist Screening Center; and

(C) in exploring with foreign governments the establishment of a multilateral watch list mechanism that would facilitate direct coordination between the country that identifies an individual as an individual included on a watch list, and the country that owns such list, including procedures that satisfy the security concerns and are consistent with the privacy and other laws of each participating country.

(6) MONEY LAUNDERING, CURRENCY SMUGGLING, AND ALIEN SMUGGLING.—The progress made in improving information sharing and law enforcement cooperation in combating organized crime, including the progress made—

(A) in combating currency smuggling, money laundering, alien smuggling, and trafficking in alcohol, firearms, and explosives;

(B) in implementing the agreement between Canada and the United States known as the Firearms Trafficking Action Plan;

(C) in determining the feasibility of formulating a firearms trafficking action plan between Mexico and the United States;

(D) in developing a joint threat assessment on organized crime between Canada and the United States;

(E) in determining the feasibility of formulating a joint threat assessment on organized crime between Mexico and the United States;

(F) in developing mechanisms to exchange information on findings, seizures, and capture of individuals transporting undeclared currency; and

(G) in developing and implementing a plan to combat the transnational threat of illegal drug trafficking.

(7) LAW ENFORCEMENT COOPERATION.—The progress made in enhancing law enforcement cooperation among Canada, Mexico, and the United States through enhanced technical assistance for the development and maintenance of a national database built upon identified best practices for biometrics associated with known and suspected criminals or terrorists, including exploring the formation of law enforcement teams that include personnel from the United States and Mexico, and appropriate procedures for such teams.

SEC. 114. IMPROVING THE SECURITY OF MEXICO'S SOUTHERN BORDER.

(a) TECHNICAL ASSISTANCE.—The Secretary of State, in coordination with the Secretary, shall work to cooperate with the head of Foreign Affairs Canada and the appropriate officials of the Government of Mexico to establish a program—

(1) to assess the specific needs of Guatemala and Belize in maintaining the security of the international borders of such countries;

(2) to use the assessment made under paragraph (1) to determine the financial and technical support needed by Guatemala and Belize from Canada, Mexico, and the United States to meet such needs;

(3) to provide technical assistance to Guatemala and Belize to promote issuance of secure passports and travel documents by such countries; and

(4) to encourage Guatemala and Belize—

(A) to control alien smuggling and trafficking;

(B) to prevent the use and manufacture of fraudulent travel documents; and

(C) to share relevant information with Mexico, Canada, and the United States.

(b) BORDER SECURITY FOR BELIZE, GUATEMALA, AND MEXICO.—The Secretary, in consultation with the Secretary of State, shall work to cooperate—

(1) with the appropriate officials of the Government of Guatemala and the Government of Belize to provide law enforcement assistance to Guatemala and Belize that specifically addresses immigration issues to increase the ability of the Government of Guatemala to dismantle human smuggling organizations and gain additional control over the international border between Guatemala and Belize; and

(2) with the appropriate officials of the Government of Belize, the Government of Guatemala, the Government of Mexico, and the governments of neighboring contiguous countries to establish a program to provide needed equipment, technical assistance, and vehicles to manage, regulate, and patrol the international borders between Mexico and Guatemala and between Mexico and Belize.

(c) TRACKING CENTRAL AMERICAN GANGS.—The Secretary of State, in coordination with the Secretary and the Director of the Federal Bureau of Investigation, shall work to cooperate with the appropriate officials of the Government of Mexico, the Government of Guatemala, the Government of Belize, and the governments of other Central American countries—

(1) to assess the direct and indirect impact on the United States and Central America of deporting violent criminal aliens;

(2) to establish a program and database to track individuals involved in Central American gang activities;

(3) to develop a mechanism that is acceptable to the governments of Belize, Guatemala, Mexico, the United States, and other appropriate countries to notify such a government if an individual suspected of gang activity will be deported to that country prior to the deportation and to provide support for the reintegration of such deportees into that country; and

(4) to develop an agreement to share all relevant information related to individuals connected with Central American gangs.

Subtitle C—Other Border Security Initiatives

SEC. 121. BIOMETRIC DATA ENHANCEMENTS.

Not later than October 1, 2007, the Secretary shall—

(1) in consultation with the Attorney General, enhance connectivity between the Automated Biometric Fingerprint Identification System (IDENT) of the Department and the Integrated Automated Fingerprint Identification System (IAFIS) of the Federal Bureau of Investigation to ensure more expeditious data searches; and

(2) in consultation with the Secretary of State, collect all fingerprints from each alien required to provide fingerprints during the alien's initial enrollment in the integrated entry and exit data system described in section 110 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1365a).

SEC. 122. SECURE COMMUNICATION.

The Secretary shall, as expeditiously as practicable, develop and implement a plan to improve the use of satellite communications and other technologies to ensure clear and secure 2-way communication capabilities—

(1) among all Border Patrol agents conducting operations between ports of entry;

(2) between Border Patrol agents and their respective Border Patrol stations;

(3) between Border Patrol agents and residents in remote areas along the international land borders of the United States; and

(4) between all appropriate border security agencies of the Department and State, local, and tribal law enforcement agencies.

SEC. 123. BORDER PATROL TRAINING CAPACITY REVIEW.

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a review of the basic training provided to Border Patrol agents by the Secretary to ensure that such training is provided as efficiently and cost-effectively as possible.

(b) COMPONENTS OF REVIEW.—The review under subsection (a) shall include the following components:

(1) An evaluation of the length and content of the basic training curriculum provided to new Border Patrol agents by the Federal Law Enforcement Training Center, including a description of how such curriculum has changed since September 11, 2001, and an evaluation of language and cultural diversity training programs provided within such curriculum.

(2) A review and a detailed breakdown of the costs incurred by the Bureau of Customs and Border Protection and the Federal Law Enforcement Training Center to train 1 new Border Patrol agent.

(3) A comparison, based on the review and breakdown under paragraph (2), of the costs, effectiveness, scope, and quality, including geographic characteristics, with other similar training programs provided by State and local agencies, nonprofit organizations, universities, and the private sector.

(4) An evaluation of whether utilizing comparable non-Federal training programs, proficiency testing, and long-distance learning programs may affect—

(A) the cost-effectiveness of increasing the number of Border Patrol agents trained per year;

(B) the per agent costs of basic training; and

(C) the scope and quality of basic training needed to fulfill the mission and duties of a Border Patrol agent.

SEC. 124. US-VISIT SYSTEM.

Not later than 6 months after the date of the enactment of this Act, the Secretary, in consultation with the heads of other appropriate Federal agencies, shall submit to Congress a schedule for—

(1) equipping all land border ports of entry of the United States with the U.S.-Visitor and Immigrant Status Indicator Technology (US-VISIT) system implemented under section 110 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1365a);

(2) developing and deploying at such ports of entry the exit component of the US-VISIT system; and

(3) making interoperable all immigration screening systems operated by the Secretary.

SEC. 125. DOCUMENT FRAUD DETECTION.

(a) TRAINING.—Subject to the availability of appropriations, the Secretary shall provide all Customs and Border Protection officers with training in identifying and detecting fraudulent travel documents. Such training shall be developed in consultation with the head of the Forensic Document Laboratory of the Bureau of Immigration and Customs Enforcement.

(b) FORENSIC DOCUMENT LABORATORY.—The Secretary shall provide all Customs and Border Protection officers with access to the Forensic Document Laboratory.

(c) ASSESSMENT.—

(1) REQUIREMENT FOR ASSESSMENT.—The Inspector General of the Department shall conduct an independent assessment of the accuracy and reliability of the Forensic Document Laboratory.

(2) REPORT TO CONGRESS.—Not later than 6 months after the date of the enactment of this Act, the Inspector General shall submit to Congress the findings of the assessment required by paragraph (1).

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as may be necessary for each of fiscal years 2007 through 2011 to carry out this section.

SEC. 126. IMPROVED DOCUMENT INTEGRITY.

(a) IN GENERAL.—Section 303 of the Enhanced Border Security and Visa Entry Reform Act of 2002 (8 U.S.C. 1732) is amended—

(1) by striking ''Attorney General'' each place it appears and inserting ''Secretary of Homeland Security'';

(2) in the heading, by striking ''**ENTRY AND EXIT DOCUMENTS**'' and inserting ''**TRAVEL AND ENTRY DOCUMENTS AND EVIDENCE OF STATUS**'';

(3) in subsection (b)(1)—

(A) by striking ''Not later than October 26, 2004, the'' and inserting ''The''; and

(B) by striking ''visas and'' both places it appears and inserting ''visas, evidence of status, and'';

(4) by redesignating subsection (d) as subsection (e); and

(5) by inserting after subsection (c) the following:

''(d) OTHER DOCUMENTS.—Not later than October 26, 2007, every document, other than an interim document, issued by the Secretary of Homeland Security, which may be used as evidence of an alien's status as an immigrant, nonimmigrant, parolee, asylee, or refugee, shall be machine-readable and tamper-resistant, and shall incorporate a biometric identifier to allow the Secretary of Homeland Security to verify electronically the identity and status of the alien.''.

SEC. 127. CANCELLATION OF VISAS.

Section 222(g) (8 U.S.C. 1202(g)) is amended—

(1) in paragraph (1)—

(A) by striking ''Attorney General'' and inserting ''Secretary of Homeland Security''; and

(B) by inserting ''and any other nonimmigrant visa issued by the United States that is in the possession of the alien'' after ''such visa''; and

(2) in paragraph (2)(A), by striking ''(other than the visa described in paragraph (1)) issued in a consular office located in the country of the alien's nationality'' and inserting ''(other than a visa described in paragraph (1)) issued in a consular office located in the country of the alien's nationality or foreign residence''.

SEC. 128. BIOMETRIC ENTRY-EXIT SYSTEM.

(a) COLLECTION OF BIOMETRIC DATA FROM ALIENS DEPARTING THE UNITED STATES.—Section 215 (8 U.S.C. 1185) is amended—

(1) by redesignating subsection (c) as subsection (g);

(2) by moving subsection (g), as redesignated by paragraph (1), to the end; and

(3) by inserting after subsection (b) the following:

''(c) The Secretary of Homeland Security is authorized to require aliens departing the United States to provide biometric data and other information relating to their immigration status.''.

(b) INSPECTION OF APPLICANTS FOR ADMISSION.—Section 235(d) (8 U.S.C. 1225(d)) is amended by adding at the end the following:

''(5) AUTHORITY TO COLLECT BIOMETRIC DATA.—In conducting inspections under subsection (b), immigration officers are authorized to collect biometric data from—

''(A) any applicant for admission or alien seeking to transit through the United States; or

''(B) any lawful permanent resident who is entering the United States and who is not regarded as seeking admission pursuant to section 101(a)(13)(C).''.

(c) COLLECTION OF BIOMETRIC DATA FROM ALIEN CREWMEN.—Section 252 (8 U.S.C. 1282) is amended by adding at the end the following:

''(d) An immigration officer is authorized to collect biometric data from an alien crewman seeking permission to land temporarily in the United States.''.

(d) GROUNDS OF INADMISSIBILITY.—Section 212 (8 U.S.C. 1182) is amended—

(1) in subsection (a)(7), by adding at the end the following:

''(C) WITHHOLDERS OF BIOMETRIC DATA.—Any alien who knowingly fails to comply with a lawful request for biometric data under section 215(c) or 235(d) is inadmissible.''; and

(2) in subsection (d), by inserting after paragraph (1) the following:

''(2) The Secretary of Homeland Security shall determine whether a ground for inadmissibility exists with respect to an alien described in subparagraph (C) of subsection (a)(7) and may waive the application of such subparagraph for an individual alien or a class of aliens, at the discretion of the Secretary.''.

(e) IMPLEMENTATION.—Section 7208 of the 9/11 Commission Implementation Act of 2004 (8 U.S.C. 1365b) is amended—

(1) in subsection (c), by adding at the end the following:

''(3) IMPLEMENTATION.—In fully implementing the automated biometric entry and exit data system under this section, the Secretary is not required to comply with the requirements of chapter 5 of title 5, United States Code (commonly referred to as the Administrative Procedure Act) or any other law relating to rulemaking, information collection, or publication in the Federal Register.''; and

(2) in subsection (l)—

(A) by striking ''There are authorized'' and inserting the following:

''(1) IN GENERAL.—There are authorized''; and

(B) by adding at the end the following:

''(2) IMPLEMENTATION AT ALL LAND BORDER PORTS OF ENTRY.—There are authorized to be appropriated such sums as may be necessary for each of fiscal years 2007 and 2008 to implement the automated biometric entry and exit data system at all land border ports of entry.''.

SEC. 129. BORDER STUDY.

(a) SOUTHERN BORDER STUDY.—The Secretary, in consultation with the Attorney General, the Secretary of the Interior, the Secretary of Agriculture, the Secretary of Defense, the Secretary of Commerce, and the Administrator of the Environmental Protection Agency, shall conduct a study on the construction of a system of physical barriers along the southern international land and maritime border of the United States. The study shall include—

(1) an assessment of the necessity of constructing such a system, including the identification of areas of high priority for the construction of such a system determined after consideration of factors including the amount of narcotics trafficking and the number of illegal immigrants apprehended in such areas;

(2) an assessment of the feasibility of constructing such a system;

(3) an assessment of the international, national, and regional environmental impact of such a system, including the impact on zoning, global climate change, ozone depletion, biodiversity loss, and transboundary pollution;

(4) an assessment of the necessity for ports of entry along such a system;

(5) an assessment of the impact such a system would have on international trade, commerce, and tourism;

(6) an assessment of the effect of such a system on private property rights including issues of eminent domain and riparian rights;

(7) an estimate of the costs associated with building a barrier system, including costs associated with excavation, construction, and maintenance; and

(8) an assessment of the effect of such a system on Indian reservations and units of the National Park System.

(b) REPORT.—Not later than 9 months after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the study described in subsection (a).

SEC. 130. SECURE BORDER INITIATIVE FINANCIAL ACCOUNTABILITY.

(a) IN GENERAL.—The Inspector General of the Department shall review each contract action relating to the Secure Border Initiative having a value of more than $20,000,000, to determine whether each such action fully complies with applicable cost requirements, performance objectives, program milestones, inclusion of small, minority, and women-owned business, and time lines. The Inspector General shall complete a review under this subsection with respect to each contract action—

(1) not later than 60 days after the date of the initiation of the action; and

(2) upon the conclusion of the performance of the contract.

(b) INSPECTOR GENERAL.—

(1) ACTION.—If the Inspector General becomes aware of any improper conduct or wrongdoing in the course of conducting a contract review under subsection (a), the Inspector General shall, as expeditiously as practicable, refer information relating to such improper conduct or wrongdoing to the Secretary, or to another appropriate official of the Department, who shall determine whether to temporarily suspend the contractor from further participation in the Secure Border Initiative.

(2) REPORT.—Upon the completion of each review described in subsection (a), the Inspector General shall submit to the Secretary of Homeland Security a report containing the findings of the review, including findings regarding—

(A) cost overruns;

(B) significant delays in contract execution;

(C) lack of rigorous departmental contract management;

(D) insufficient departmental financial oversight;

(E) bundling that limits the ability of small businesses to compete; or

(F) other high risk business practices.

(c) REPORTS BY THE SECRETARY.—

(1) IN GENERAL.—Not later than 30 days after the receipt of each report required under subsection (b)(2), the Secretary shall submit a report, to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives, that describes—

(A) the findings of the report received from the Inspector General; and

(B) the steps the Secretary has taken, or plans to take, to address the problems identified in such report.

(2) CONTRACTS WITH FOREIGN COMPANIES.—Not later than 60 days after the initiation of each contract action with a company whose headquarters is not based in the United States, the Secretary shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives, regarding the Secure Border Initiative.

(d) REPORTS ON UNITED STATES PORTS.—Not later that 30 days after receiving information regarding a proposed purchase of a contract to manage the operations of a United States port by a foreign entity, the Committee on Foreign Investment in the United States shall submit a report to Congress that describes—

(1) the proposed purchase;

(2) any security concerns related to the proposed purchase; and

(3) the manner in which such security concerns have been addressed.

(e) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts that are otherwise authorized to be appropriated to the Office of the Inspector General of the Department, there are authorized to be appropriated to the Office, to enable the Office to carry out this section—

(1) for fiscal year 2007, not less than 5 percent of the overall budget of the Office for such fiscal year;

(2) for fiscal year 2008, not less than 6 percent of the overall budget of the Office for such fiscal year; and

(3) for fiscal year 2009, not less than 7 percent of the overall budget of the Office for such fiscal year.

TITLE II—INTERIOR ENFORCEMENT

SEC. 201. REMOVAL AND DENIAL OF BENEFITS TO TERRORIST ALIENS.

(a) ASYLUM.—Section 208(b)(2)(A)(v) (8 U.S.C. 1158(b)(2)(A)(v)) is amended by striking ''or (VI)'' and inserting ''(V), (VI), (VII), or (VIII)''.

(b) CANCELLATION OF REMOVAL.—Section 240A(c)(4) (8 U.S.C. 1229b(c)(4)) is amended—

(1) by striking ''inadmissible under'' and inserting ''described in''; and

(2) by striking ''deportable under'' and inserting ''described in''.

(c) VOLUNTARY DEPARTURE.—Section 240B(b)(1)(C) (8 U.S.C. 1229c(b)(1)(C)) is

amended by striking ''deportable under section 237(a)(2)(A)(iii) or section 237(a)(4)'' and inserting ''described in paragraph (2)(A)(iii) or (4) of section 237(a)''.

(d) RESTRICTION ON REMOVAL.—Section 241(b)(3)(B) (8 U.S.C. 1231(b)(3)(B)) is amended—

(1) in clause (iii), by striking ''or'' at the end;

(2) in clause (iv) by striking the period at the end and inserting ''; or'';

(3) by inserting after clause (iv) the following:

''(v) the alien is described in section 237(a)(4)(B) (other than an alien described in section 212(a)(3)(B)(i)(IV) if the Secretary of Homeland Security determines that there are not reasonable grounds for regarding the alien as a danger to the security of the United States).''; and

(4) in the undesignated paragraph, by striking ''For purposes of clause (iv), an alien who is described in section 237(a)(4)(B) shall be considered to be an alien with respect to whom there are reasonable grounds for regarding as a danger to the security of the United States.''.

(e) RECORD OF ADMISSION.—Section 249 (8 U.S.C. 1259) is amended to read as follows:

''SEC. 249. RECORD OF ADMISSION FOR PERMANENT RESIDENCE IN THE CASE OF CERTAIN ALIENS WHO ENTERED THE UNITED STATES PRIOR TO JANUARY 1, 1972.

''A record of lawful admission for permanent residence may be made, in the discretion of the Secretary of Homeland Security and under such regulations as the Secretary may prescribe, for any alien, as of the date of the approval of the alien's application or, if entry occurred before July 1, 1924, as of the date of such entry if no such record is otherwise available, if the alien establishes that the alien—

''(1) is not described in section 212(a)(3)(E) or in section 212(a) (insofar as it relates to criminals, procurers, other immoral persons, subversives, violators of the narcotics laws, or smugglers of aliens);

''(2) entered the United States before January 1, 1972;

''(3) has resided in the United States continuously since such entry;

''(4) is a person of good moral character;

''(5) is not ineligible for citizenship; and

''(6) is not described in section 237(a)(4)(B).''.

(f) EFFECTIVE DATE AND APPLICATION.—The amendments made by this section shall—

(1) take effect on the date of the enactment of this Act; and

(2) apply to—

(A) any aliens in a removal, deportation, or exclusion proceeding pending on or after the date of the enactment of this Act; and

(B) any act or condition constituting a ground for inadmissibility, excludability, or removal occurring or existing before, on, or after the date of the enactment of this Act.

SEC. 202. DETENTION AND REMOVAL OF ALIENS ORDERED REMOVED.

(a) IN GENERAL.—

(1) AMENDMENTS.—Section 241(a) (8 U.S.C. 1231(a)) is amended—

(A) by striking ''Attorney General'' the first place it appears and inserting ''Secretary of Homeland Security'';

(B) by striking ''Attorney General'' any other place it appears and inserting ''Secretary'';

(C) in paragraph (1)—

(i) in subparagraph (B), by amending clause (ii) to read as follows:

''(ii) If a court, the Board of Immigration Appeals, or an immigration judge orders a stay of the removal of the alien, the expiration date of the stay of removal.''.

(ii) by amending subparagraph (C) to read as follows:

''(C) EXTENSION OF PERIOD.—The removal period shall be extended beyond a period of 90 days and the alien may remain in detention during such extended period if the alien fails or refuses to—

''(i) make all reasonable efforts to comply with the removal order; or

''(ii) fully cooperate with the Secretary's efforts to establish the alien's identity and carry out the removal order, including failing to make timely application in good faith for travel or other documents necessary to the alien's departure, or conspiring or acting to prevent the alien's removal.''; and

(iii) by adding at the end the following:

''(D) TOLLING OF PERIOD.—If, at the time described in subparagraph (B), the alien is not in the custody of the Secretary under the authority of this Act, the removal period shall not begin until the alien is taken into such custody. If the Secretary lawfully transfers custody of the alien during the removal period to another Federal agency or to a State or local government agency in connection with the official duties of such agency, the removal period shall be tolled, and shall recommence on the date on which the alien is returned to the custody of the Secretary.'';

(D) in paragraph (2), by adding at the end the following: ''If a court, the Board of Immigration Appeals, or an immigration judge orders a stay of removal of an alien who is subject to an administrative final order of removal, the Secretary, in the exercise of discretion, may detain the alien during the pendency of such stay of removal.'';

(E) in paragraph (3), by amending subparagraph (D) to read as follows:

''(D) to obey reasonable restrictions on the alien's conduct or activities, or to perform affirmative acts, that the Secretary prescribes for the alien—

''(i) to prevent the alien from absconding;

''(ii) for the protection of the community; or

''(iii) for other purposes related to the enforcement of the immigration laws.'';

(F) in paragraph (6), by striking ''removal period and, if released,'' and inserting ''removal period, in the discretion of the Secretary, without any limitations other than those specified in this section, until the alien is removed. If an alien is released, the alien'';

(G) by redesignating paragraph (7) as paragraph (10); and

(H) by inserting after paragraph (6) the following:

''(7) PAROLE.—If an alien detained pursuant to paragraph (6) is an applicant for admission, the Secretary of Homeland Security, in the Secretary's discretion, may parole the alien under section 212(d)(5) and may provide, notwithstanding section 212(d)(5), that the alien shall not be returned to custody unless either the alien violates the conditions of the alien's parole or the alien's removal becomes reasonably foreseeable, provided that in no circumstance shall such alien be considered admitted.

''(8) ADDITIONAL RULES FOR DETENTION OR RELEASE OF ALIENS.—The following procedures shall apply to an alien detained under this section:

''(A) DETENTION REVIEW PROCESS FOR ALIENS WHO HAVE EFFECTED AN ENTRY AND FULLY COOPERATE WITH REMOVAL.—The Secretary of Homeland Security shall establish an administrative review process to determine whether an alien described in subparagraph (B) should be detained or released after the removal period in accordance with subparagraphs (C) and (E).

''(B) ALIEN DESCRIBED.—An alien is described in this subparagraph if the alien—

''(i) has effected an entry into the United States;

''(ii) has made all reasonable efforts to comply with the alien's removal order;

''(iii) has cooperated fully with the Secretary's efforts to establish the alien's identity and to carry out the removal order, including making timely application in good faith for travel or other documents necessary for the alien's departure; and

''(iv) has not conspired or acted to prevent removal.

''(C) EVIDENCE.—In making a determination under subparagraph (A), the Secretary—

''(i) shall consider any evidence submitted by the alien;

''(ii) may consider any other evidence, including—

''(I) any information or assistance provided by the Department of State or other Federal agency; and

''(II) any other information available to the Secretary pertaining to the ability to remove the alien.

''(D) AUTHORITY TO DETAIN FOR 90 DAYS BEYOND REMOVAL PERIOD.—The Secretary, in the exercise of the Secretary's discretion and without any limitations other than those specified in this section, may detain an alien for 90 days beyond the removal period (including any extension of the removal period under paragraph (1)(C)).

''(E) AUTHORITY TO DETAIN FOR ADDITIONAL PERIOD.—The Secretary, in the exercise of the Secretary's discretion and without any limitations other than those specified in this section, may detain an alien beyond the 90-day period authorized under subparagraph (D) until the alien is removed, if the Secretary—

''(i) determines that there is a significant likelihood that the alien will be removed in the reasonably foreseeable future; or

''(ii) certifies in writing—

''(I) in consultation with the Secretary of Health and Human Services, that the alien has a highly contagious disease that poses a threat to public safety;

''(II) after receipt of a written recommendation from the Secretary of State, that the release of the alien would likely have serious adverse foreign policy consequences for the United States;

''(III) based on information available to the Secretary (including classified, sensitive, or national security information, and regardless of the grounds upon which the alien was ordered removed), that there is reason to believe that the release of the alien would threaten the national security of the United States;

''(IV) that—

''(aa) the release of the alien would threaten the safety of the community or any person, and conditions of release cannot reasonably be expected to ensure the safety of the community or any person; and

''(bb) the alien—

''(AA) has been convicted of 1 or more aggravated felonies (as defined in section 101(a)(43)(A)), or of 1 or more attempts or conspiracies to commit any such aggravated felonies or such crimes, for an aggregate term of imprisonment of at least 5 years; or

''(BB) has committed a crime of violence (as defined in section 16 of title 18, United States Code, but not including a purely political offense) and, because of a mental condition or personality disorder and behavior associated with that condition or disorder, is likely to engage in acts of violence in the future; or

''(V) that—

''(aa) the release of the alien would threaten the safety of the community or any person, notwithstanding conditions of release designed to ensure the safety of the community or any person; and

''(bb) the alien has been convicted of 1 or more aggravated felonies (as defined in section 101(a)(43)) for which the alien was sentenced to an aggregate term of imprisonment of not less than 1 year.

''(F) ADMINISTRATIVE REVIEW PROCESS.—The Secretary, without any limitations other than those specified in this section, may detain an alien pending a determination under subparagraph (E)(ii), if the Secretary has initiated the administrative review process identified in subparagraph (A) not later than 30 days after the expiration of the removal period (including any extension of the removal period under paragraph (1)(C)).

''(G) RENEWAL AND DELEGATION OF CERTIFICATION.—

''(i) RENEWAL.—The Secretary may renew a certification under subparagraph (E)(ii) every 6 months, without limitation, after providing the alien with an opportunity to request reconsideration of the certification and to submit documents or other evidence in support of that request. If the Secretary does not renew such certification, the Secretary shall release the alien, pursuant to subparagraph (H).

''(ii) DELEGATION.—Notwithstanding any other provision of law, the Secretary may not delegate the authority to make or renew a certification described in subclause (II), (III), or (V) of subparagraph (E)(ii) to any employee reporting to the Assistant Secretary for Immigration and Customs Enforcement.

''(iii) HEARING.—The Secretary may request that the Attorney General, or a designee of the Attorney General, provide for a hearing to make the determination described in subparagraph (E)(ii)(IV)(bb)(BB).

''(H) RELEASE ON CONDITIONS.—If it is determined that an alien should be released from detention, the Secretary may, in the Secretary's discretion, impose conditions on release in accordance with the regulations prescribed pursuant to paragraph (3).

''(I) REDETENTION.—The Secretary, without any limitations other than those specified in this section, may detain any alien subject to a final removal order who has previously been released from custody if—

''(i) the alien fails to comply with the conditions of release;

''(ii) the alien fails to continue to satisfy the conditions described in subparagraph (B); or

''(iii) upon reconsideration, the Secretary determines that the alien can be detained under subparagraph (E).

''(J) APPLICABILITY.—This paragraph and paragraphs (6) and (7) shall apply to any alien returned to custody under subparagraph (I) as if the removal period terminated on the day of the redetention.

''(K) DETENTION REVIEW PROCESS FOR ALIENS WHO HAVE EFFECTED AN ENTRY AND FAIL TO COOPERATE WITH REMOVAL.—The Secretary shall detain an alien until the alien makes all reasonable efforts to comply with a removal order and to cooperate fully with the Secretary's efforts, if the alien—

''(i) has effected an entry into the United States; and

''(ii)(I) and the alien faces a significant likelihood that the alien will be removed in the reasonably foreseeable future, or would have been removed if the alien had not—

''(aa) failed or refused to make all reasonable efforts to comply with a removal order;

''(bb) failed or refused to fully cooperate with the Secretary's efforts to establish the alien's identity and carry out the removal order, including the failure to make timely application in good faith for travel or other documents necessary to the alien's departure; or

''(cc) conspired or acted to prevent removal; or

''(II) the Secretary makes a certification as specified in subparagraph (E), or the renewal of a certification specified in subparagraph (G).

''(L) DETENTION REVIEW PROCESS FOR ALIENS WHO HAVE NOT EFFECTED AN ENTRY.—Except as otherwise provided in this subparagraph, the Secretary shall follow the guidelines established in section 241.4 of title 8, Code of Federal Regulations, when detaining aliens who have not effected an entry. The Secretary may decide to apply the review process outlined in this paragraph.

''(9) JUDICIAL REVIEW.—Without regard to the place of confinement, judicial review of any action or decision made pursuant to paragraph (6), (7), or (8) shall be available exclusively in a habeas corpus proceeding instituted in the United States District Court for the District of Columbia and only if the alien has exhausted all administrative remedies (statutory and nonstatutory) available to the alien as of right.''.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1)—

(A) shall take effect on the date of the enactment of this Act; and

(B) shall apply to—

(i) any alien subject to a final administrative removal, deportation, or exclusion order that was issued before, on, or after the date of the enactment of this Act; and

(ii) any act or condition occurring or existing before, on, or after the date of the enactment of this Act.

(b) CRIMINAL DETENTION OF ALIENS.—Section 3142 of title 18, United States Code, is amended—

(1) in subsection (e)—

(A) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively;

(B) by inserting ''(1)'' before ''If, after a hearing'';

(C) in subparagraphs (B) and (C), as redesignated, by striking ''paragraph (1)'' and inserting ''subparagraph (A)''; and

(D) by adding after subparagraph (C), as redesignated, the following:

''(2) Subject to rebuttal by the person, it shall be presumed that no condition or combination of conditions will reasonably assure the appearance of the person as required if the judicial officer finds that there is probable cause to believe that the person—

''(A) is an alien; and

''(B)(i) has no lawful immigration status in the United States;

''(ii) is the subject of a final order of removal; or

''(iii) has committed a felony offense under section 911, 922(g)(5), 1015, 1028, 1425, or 1426 of this title, chapter 75 or 77 of this title, or section 243, 274, 275, 276, 277, or 278 of the Immigration and Nationality Act (8 U.S.C. 1253, 1324, 1325, 1326, 2327, and 1328).''; and

(2) in subsection (g)(3)—

(A) in subparagraph (A), by striking ''and'' at the end; and

(B) by adding at the end the following:

''(C) the person's immigration status; and''.

SEC. 203. AGGRAVATED FELONY.

Section 101(a)(43) (8 U.S.C. 1101(a)(43)) is amended—

(1) by striking ''The term 'aggravated felony' means—'' and inserting ''Notwithstanding any other provision of law (including any provision providing an effective date), the term 'aggravated felony' applies to an offense described in this paragraph, whether in violation of Federal or State law and to such an offense in violation of the law of a foreign country, for which the term of imprisonment was completed within the previous 15 years, even if the length of the term of imprisonment is based on recidivist or other enhancements and regardless of whether the conviction was entered before, on, or after September 30, 1996, and means—'';

(2) in subparagraph (N), by striking ''paragraph (1)(A) or (2) of'';

(3) in subparagraph (O), by striking ''section 275(a) or 276 committed by an alien who was previously deported on the basis of a conviction for an offense described in another subparagraph of this paragraph'' and inserting ''section 275 or 276 for which the term of imprisonment is at least 1 year'';

(4) in subparagraph (U), by striking ''an attempt or conspiracy to commit an offense described in this paragraph'' and inserting ''aiding or abetting an offense described in this paragraph, or soliciting, counseling, procuring, commanding, or inducing another, attempting, or conspiring to commit such an offense''; and

(5) by striking the undesignated matter following subparagraph (U).

SEC. 204. TERRORIST BARS.

(a) DEFINITION OF GOOD MORAL CHARACTER.—Section 101(f) (8 U.S.C. 1101(f)) is amended—

(1) by inserting after paragraph (1) the following:

''(2) an alien described in section 212(a)(3) or 237(a)(4), as determined by the Secretary of Homeland Security or Attorney General based upon any relevant information or evidence, including classified, sensitive, or national security information;'';

(2) in paragraph (8), by striking ''(as defined in subsection (a)(43))'' and inserting the following: '', regardless of whether the crime was defined as an aggravated felony under subsection (a)(43) at the time of the conviction, unless—

''(A) the person completed the term of imprisonment and sentence not later than 10 years before the date of application; and

''(B) the Secretary of Homeland Security or the Attorney General waives the application of this paragraph; or''; and

(3) in the undesignated matter following paragraph (9), by striking ''a finding that for other reasons such person is or was not of good moral character'' and inserting the following: ''a discretionary finding for other reasons that such a person is or was not of good moral character. In determining an applicant's moral character, the Secretary of Homeland Security and the Attorney General may take into consideration the applicant's conduct and acts at any time and are not limited to the period during which good moral character is required.''.

(b) PENDING PROCEEDINGS.—Section 204(b) (8 U.S.C. 1154(b)) is amended by adding at the end the following: ''A petition may not be approved under this section if there is any administrative or judicial proceeding (whether civil or criminal) pending against the petitioner that could directly or indirectly result in the petitioner's denaturalization or the loss of the petitioner's lawful permanent resident status.''.

(c) CONDITIONAL PERMANENT RESIDENT STATUS.—

(1) IN GENERAL.—Section 216(e) (8 U.S.C. 1186a(e)) is amended by inserting ''if the alien has had the conditional basis removed pursuant to this section'' before the period at the end.

(2) CERTAIN ALIEN ENTREPRENEURS.—Section 216A(e) (8 U.S.C. 1186b(e)) is amended by inserting ''if the alien has had the conditional basis removed pursuant to this section'' before the period at the end.

(d) JUDICIAL REVIEW OF NATURALIZATION APPLICATIONS.—Section 310(c) (8 U.S.C. 1421(c)) is amended—

(1) by inserting '', not later than 120 days after the Secretary of Homeland Security's final determination,'' after ''may''; and

(2) by adding at the end the following: ''The petitioner shall have the burden of showing that the Secretary's denial of the application was contrary to law. Except in a proceeding under section 340, and notwithstanding any other provision of law, no court shall have jurisdiction to determine, or to review a determination of the Secretary regarding, whether, for purposes of an application for naturalization, an alien—

''(1) is a person of good moral character;

''(2) understands and is attached to the principles of the Constitution of the United States; or

''(3) is well disposed to the good order and happiness of the United States.''.

(e) PERSONS ENDANGERING NATIONAL SECURITY.—Section 316 (8 U.S.C. 1427) is amended by adding at the end the following:

''(g) PERSONS ENDANGERING THE NATIONAL SECURITY.—A person may not be naturalized if the Secretary of Homeland Security determines, based upon any relevant information or evidence, including classified, sensitive, or national security information, that the person was once an alien described in section 212(a)(3) or 237(a)(4).''.

(f) CONCURRENT NATURALIZATION AND REMOVAL PROCEEDINGS.—Section 318 (8 U.S.C. 1429) is amended by striking ''the Attorney General if'' and all that follows and inserting: ''the Secretary of Homeland Security or any court if there is pending against the applicant any removal proceeding or other proceeding to determine the applicant's inadmissibility or deportability, or to determine whether the applicant's lawful permanent resident status should be rescinded, regardless of when such proceeding was commenced. The findings of the Attorney General in terminating removal proceedings or canceling the removal of an alien under this Act shall not be deemed binding in any way upon the Secretary of Homeland Security with respect to the question of whether such person has established eligibility for naturalization in accordance with this title.''.

(g) DISTRICT COURT JURISDICTION.—Section 336(b) (8 U.S.C. 1447(b)) is amended to read as follows:

''(b) REQUEST FOR HEARING BEFORE DISTRICT COURT.—If there is a failure to render a final administrative decision under section 335 before the end of the 180-day period beginning on the date on which the Secretary of Homeland Security completes all examinations and interviews required under such section, the applicant may apply to the district court for the district in which the applicant resides for a hearing on the matter. Such district court shall only have jurisdiction to review the basis for delay and remand the matter to the Secretary of Homeland Security for the Secretary's determination on the application.''.

(h) EFFECTIVE DATE.—The amendments made by this section—

(1) shall take effect on the date of the enactment of this Act;

(2) shall apply to any act that occurred before, on, or after such date of enactment; and

(3) shall apply to any application for naturalization or any other case or matter under the immigration laws pending on, or filed after, such date of enactment.

SEC. 205. INCREASED CRIMINAL PENALTIES RELATED TO GANG VIOLENCE, REMOVAL, AND ALIEN SMUGGLING.

(a) CRIMINAL STREET GANGS.—

(1) INADMISSIBILITY.—Section 212(a)(2) (8 U.S.C. 1182(a)(2)) is amended—

(A) by redesignating subparagraph (F) as subparagraph (J); and

(B) by inserting after subparagraph (E) the following:

''(F) MEMBERS OF CRIMINAL STREET GANGS.—Unless the Secretary of Homeland Security or the Attorney General waives the application of this subparagraph, any alien who a consular officer, the Attorney General, or the Secretary of Homeland Security knows or has reason to believe—

''(i) is, or has been, a member of a criminal street gang (as defined in section 521(a) of title 18, United States Code); or

''(ii) has participated in the activities of a criminal street gang, knowing or having reason to know that such activities promoted, furthered, aided, or supported the illegal activity of the criminal gang,

is inadmissible.''.

(2) DEPORTABILITY.—Section 237(a)(2) (8 U.S.C. 1227(a)(2)) is amended by adding at the end the following:

''(F) MEMBERS OF CRIMINAL STREET GANGS.—Unless the Secretary of Homeland Security or the Attorney General waives the application of this subparagraph, any alien who the Secretary of Homeland Security or the Attorney General knows or has reason to believe—

''(i) is, or at any time after admission has been, a member of a criminal street gang (as defined in section 521(a) of title 18, United States Code); or

''(ii) has participated in the activities of a criminal street gang, knowing or having reason to know that such activities promoted, furthered, aided, or supported the illegal activity of the criminal gang,

is deportable.''.

(3) TEMPORARY PROTECTED STATUS.—Section 244 (8 U.S.C. 1254a) is amended—

(A) by striking ''Attorney General'' each place it appears and inserting ''Secretary of Homeland Security'';

(B) in subsection (b)(3)—

(i) in subparagraph (B), by striking the last sentence and inserting the following: ''Notwithstanding any other provision of this section, the Secretary of Homeland Security may, for any reason (including national security), terminate or modify any designation under this section. Such termination or modification is effective upon publication in the Federal Register, or after such time as the Secretary may designate in the Federal Register.'';

(ii) in subparagraph (C), by striking ''a period of 12 or 18 months'' and inserting ''any other period not to exceed 18 months'';

(C) in subsection (c)—

(i) in paragraph (1)(B), by striking ''The amount of any such fee shall not exceed $50.'';

(ii) in paragraph (2)(B)—

(I) in clause (i), by striking '', or'' at the end;

(II) in clause (ii), by striking the period at the end and inserting ''; or''; and

(III) by adding at the end the following:

''(iii) the alien is, or at any time after admission has been, a member of a criminal street gang (as defined in section 521(a) of title 18, United States Code).''; and

(D) in subsection (d)—

(i) by striking paragraph (3); and

(ii) in paragraph (4), by adding at the end the following: ''The Secretary of Homeland Security may detain an alien provided temporary protected status under this section whenever appropriate under any other provision of law.''.

(b) PENALTIES RELATED TO REMOVAL.—Section 243 (8 U.S.C. 1253) is amended—

(1) in subsection (a)(1)—

(A) in the matter preceding subparagraph (A), by inserting ''212(a) or'' after ''section''; and

(B) in the matter following subparagraph (D)—

(i) by striking ''or imprisoned not more than four years'' and inserting ''and imprisoned for not less than 6 months or more than 5 years''; and

(ii) by striking '', or both'';

(2) in subsection (b), by striking ''not more than $1000 or imprisoned for not more than one year, or both'' and inserting ''under title 18, United States Code, and imprisoned for not less than 6 months or more than 5 years (or for not more than 10 years if the alien is a member of any of the classes described in paragraphs (1)(E), (2), (3), and (4) of section 237(a))''; and

(3) by amending subsection (d) to read as follows:

''(d) DENYING VISAS TO NATIONALS OF COUNTRY DENYING OR DELAYING ACCEPTING ALIEN.—The Secretary of Homeland Security, after making a determination that the government of a foreign country has denied or unreasonably delayed accepting an alien who is a citizen, subject, national, or resident of that country after the alien has been ordered removed, and after consultation with the Secretary of State, may instruct the Secretary of State to deny a visa to any citizen, subject, national, or resident of that country until the country accepts the alien that was ordered removed.''.

(c) ALIEN SMUGGLING AND RELATED OFFENSES.—

(1) IN GENERAL.—Section 274 (8 U.S.C. 1324), is amended to read as follows:

''SEC. 274. ALIEN SMUGGLING AND RELATED OFFENSES.

''(a) CRIMINAL OFFENSES AND PENALTIES.—

''(1) PROHIBITED ACTIVITIES.—Except as provided in paragraph (3), a person shall be punished as provided under paragraph (2), if the person—

''(A) facilitates, encourages, directs, or induces a person to come to or enter the United States, or to cross the border to the United States, knowing or in reckless disregard of the fact that such person is an alien who lacks lawful authority to come to, enter, or cross the border to the United States;

''(B) facilitates, encourages, directs, or induces a person to come to or enter the United States, or to cross the border to the United States, at a place other than a designated port of entry or place other than as designated by the Secretary of Homeland Security, knowing or in reckless disregard of the fact that such person is an alien and regardless of whether such alien has official permission or lawful authority to be in the United States;

''(C) transports, moves, harbors, conceals, or shields from detection a person outside of the United States knowing or in reckless disregard of the fact that such person is an alien in unlawful transit from 1 country to another or on the high seas, under circumstances in which the alien is seeking to enter the United States without official permission or legal authority;

''(D) encourages or induces a person to reside or remain in the United States, knowing or in reckless disregard of the fact that such person is an alien who lacks lawful authority to reside in or remain in the United States;

''(E) transports or moves a person in the United States, knowing or in reckless disregard of the fact that such person is an alien who lacks lawful authority to enter or be in the United States, if the transportation or movement will further the alien's illegal entry into or illegal presence in the United States;

''(F) harbors, conceals, or shields from detection a person in the United States, knowing or in reckless disregard of the fact that such person is an alien who lacks lawful authority to be in the United States; or

''(G) conspires or attempts to commit any of the acts described in subparagraphs (A) through (F).

''(2) CRIMINAL PENALTIES.—A person who violates any provision under paragraph (1)—

''(A) except as provided in subparagraphs (C) through (G), if the offense was not committed for commercial advantage, profit, or private financial gain, shall be fined under title 18, United States Code, imprisoned for not more than 5 years, or both;

''(B) except as provided in subparagraphs (C) through (G), if the offense was committed for commercial advantage, profit, or private financial gain—

''(i) if the violation is the offender's first violation under this subparagraph, shall be fined under such title, imprisoned for not more than 20 years, or both; or

''(ii) if the violation is the offender's second or subsequent violation of this subparagraph, shall be fined under such title, imprisoned for not less than 3 years or more than 20 years, or both;

''(C) if the offense furthered or aided the commission of any other offense against the United States or any State that is punishable by imprisonment for more than 1 year, shall be fined under such title, imprisoned for not less than 5 years or more than 20 years, or both;

''(D) shall be fined under such title, imprisoned not less than 5 years or more than 20 years, or both, if the offense created a substantial and foreseeable risk of death, a substantial and foreseeable risk of serious bodily injury (as defined in section 2119(2) of title 18, United States Code), or inhumane conditions to another person, including—

''(i) transporting the person in an engine compartment, storage compartment, or other confined space;

''(ii) transporting the person at an excessive speed or in excess of the rated capacity of the means of transportation; or

''(iii) transporting the person in, harboring the person in, or otherwise subjecting the person to crowded or dangerous conditions;

''(E) if the offense caused serious bodily injury (as defined in section 2119(2) of title 18, United States Code) to any person, shall be fined under such title, imprisoned for not less than 7 years or more than 30 years, or both;

''(F) shall be fined under such title and imprisoned for not less than 10 years or more than 30 years if the offense involved an alien who the offender knew or had reason to believe was—

''(i) engaged in terrorist activity (as defined in section 212(a)(3)(B)); or

''(ii) intending to engage in terrorist activity;

''(G) if the offense caused or resulted in the death of any person, shall be punished by death or imprisoned for a term of years not less than 10 years and up to life, and fined under title 18, United States Code.

''(3) LIMITATION.—It is not a violation of subparagraph (D), (E), or (F) of paragraph (1)—

''(A) for a religious denomination having a bona fide nonprofit, religious organization in the United States, or the agents or officers of such denomination or organization, to encourage, invite, call, allow, or enable an alien who is present in the United States to perform the vocation of a minister or missionary for the denomination or organization in the United States as a volunteer who is not compensated as an employee, notwithstanding the provision of room, board, travel, medical assistance, and other basic living expenses, provided the minister or missionary has been a member of the denomination for at least 1 year; or

''(B) for an individual to provide an alien with emergency humanitarian assistance, including emergency medical care and food, or to transport the alien to a location where such assistance can be rendered, provided that such assistance is rendered without compensation or the expectation of compensation.

''(4) EXTRATERRITORIAL JURISDICTION.—There is extraterritorial Federal jurisdiction over the offenses described in this subsection.

''(b) EMPLOYMENT OF UNAUTHORIZED ALIENS.—

''(1) CRIMINAL OFFENSE AND PENALTIES.—Any person who, during any 12-month period, knowingly employs 10 or more individuals with actual knowledge or in reckless disregard of the fact that the individuals are aliens described in paragraph (2), shall be fined under title 18, United States Code, imprisoned for not more than 10 years, or both.

''(2) DEFINITION.—An alien described in this paragraph is an alien who—

''(A) is an unauthorized alien (as defined in section 274A(h)(3));

''(B) is present in the United States without lawful authority; and

''(C) has been brought into the United States in violation of this subsection.

''(c) SEIZURE AND FORFEITURE.—

''(1) IN GENERAL.—Any real or personal property used to commit or facilitate the commission of a violation of this section, the gross proceeds of such violation, and any property traceable to such property or proceeds, shall be subject to forfeiture.

''(2) APPLICABLE PROCEDURES.—Seizures and forfeitures under this subsection shall be governed by the provisions of chapter 46 of title 18, United States Code, relating to civil forfeitures, except that such duties as are imposed upon the Secretary of the Treasury under the customs laws described in section 981(d) shall be performed by such officers, agents, and other persons as may be designated for that purpose by the Secretary of Homeland Security.

''(3) PRIMA FACIE EVIDENCE IN DETERMINATIONS OF VIOLATIONS.—In determining whether a violation of subsection (a) has occurred, prima facie evidence that an alien involved in the alleged violation lacks lawful authority to come to, enter, reside in, remain in, or be in the United States or that such alien had come to, entered, resided in, remained in, or been present in the United States in violation of law shall include—

''(A) any order, finding, or determination concerning the alien's status or lack of status made by a Federal judge or administrative adjudicator (including an immigration judge or immigration officer) during any judicial or administrative proceeding authorized under Federal immigration law;

''(B) official records of the Department of Homeland Security, the Department of Justice, or the Department of State concerning the alien's status or lack of status; and

''(C) testimony by an immigration officer having personal knowledge of the facts concerning the alien's status or lack of status.

''(d) AUTHORITY TO ARREST.—No officer or person shall have authority to make any arrests for a violation of any provision of this section except—

''(1) officers and employees designated by the Secretary of Homeland Security, either individually or as a member of a class; and

''(2) other officers responsible for the enforcement of Federal criminal laws.

''(e) ADMISSIBILITY OF VIDEOTAPED WITNESS TESTIMONY.—Notwithstanding any provision of the Federal Rules of Evidence, the videotaped or otherwise audiovisually preserved deposition of a witness to a violation of subsection (a) who has been deported or otherwise expelled from the United States, or is otherwise unavailable to testify, may be admitted into evidence in an action brought for that violation if—

''(1) the witness was available for cross examination at the deposition by the party, if any, opposing admission of the testimony; and

''(2) the deposition otherwise complies with the Federal Rules of Evidence.

''(f) OUTREACH PROGRAM.—

''(1) IN GENERAL.—The Secretary of Homeland Security, in consultation with the Attorney General and the Secretary of State, as appropriate, shall—

''(A) develop and implement an outreach program to educate people in and out of the United States about the penalties for bringing in and harboring aliens in violation of this section; and

''(B) establish the American Local and Interior Enforcement Needs (ALIEN) Task Force to identify and respond to the use of Federal, State, and local transportation infrastructure to further the trafficking of unlawful aliens within the United States.

''(2) FIELD OFFICES.—The Secretary of Homeland Security, after consulting with State and local government officials, shall establish such field offices as may be necessary to carry out this subsection.

''(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums are necessary for the fiscal years 2007 through 2011 to carry out this subsection.

''(g) DEFINITIONS.—In this section:

''(1) CROSSED THE BORDER INTO THE UNITED STATES.—An alien is deemed to have crossed the border into the United States regardless of whether the alien is free from official restraint.

''(2) LAWFUL AUTHORITY.—The term 'lawful authority' means permission, authorization, or license that is expressly provided for in the immigration laws of the United States or accompanying regulations. The term does not include any such authority secured by fraud or otherwise obtained in violation of law or authority sought, but not approved. No alien shall be deemed to have lawful authority to come to, enter, reside in, remain in, or be in the United States if such coming to, entry, residence, remaining, or presence was, is, or would be in violation of law.

''(3) PROCEEDS.—The term 'proceeds' includes any property or interest in property obtained or retained as a consequence of an act or omission in violation of this section.

''(4) UNLAWFUL TRANSIT.—The term 'unlawful transit' means travel, movement, or temporary presence that violates the laws of any country in which the alien is present or any country from which the alien is traveling or moving.''.

(2) CLERICAL AMENDMENT.—The table of contents is amended by striking the item relating to section 274 and inserting the following:

''Sec. 274. Alien smuggling and related offenses.''.

(d) PROHIBITING CARRYING OR USING A FIREARM DURING AND IN RELATION TO AN ALIEN SMUGGLING CRIME.—Section 924(c) of title 18, United States Code, is amended—

(1) in paragraph (1)—

(A) in subparagraph (A), by inserting '', alien smuggling crime,'' after ''any crime of violence'';

(B) in subparagraph (A), by inserting '', alien smuggling crime,'' after ''such crime of violence'';

(C) in subparagraph (D)(ii), by inserting '', alien smuggling crime,'' after ''crime of violence''; and

(2) by adding at the end the following:

''(6) For purposes of this subsection, the term 'alien smuggling crime' means any felony punishable under section 274(a), 277, or 278 of the Immigration and Nationality Act (8 U.S.C. 1324(a), 1327, and 1328).''.

SEC. 206. ILLEGAL ENTRY OR UNLAWFUL PRESENCE OF AN ALIEN.

(a) IN GENERAL.—Section 275 (8 U.S.C. 1325) is amended to read as follows:

"SEC. 275. ILLEGAL ENTRY OR UNLAWFUL PRESENCE OF AN ALIEN.

''(a) IN GENERAL.—

''(1) CRIMINAL OFFENSES.—An alien shall be subject to the penalties set forth in paragraph (2) if the alien—

''(A) knowingly enters or crosses the border into the United States at any time or place other than as designated by the Secretary of Homeland Security;

''(B) knowingly eludes examination or inspection by an immigration officer;

''(C) knowingly enters or crosses the border to the United States by means of a knowingly false or misleading representation or the knowing concealment of a material fact; or

''(D) is otherwise present in the United States, knowing that such presence violates the terms and conditions of any admission, parole, immigration status, or authorized stay granted the alien under this Act.

''(2) CRIMINAL PENALTIES.—Any alien who violates any provision under paragraph (1)—

''(A) shall, for the first violation, be fined under title 18, United States Code, imprisoned not more than 6 months, or both;

''(B) shall, for a second or subsequent violation, or following an order of voluntary departure, be fined under such title, imprisoned not more than 2 years, or both;

''(C) if the violation occurred after the alien had been convicted of 3 or more misdemeanors or for a felony, shall be fined under such title, imprisoned not more than 10 years, or both;

''(D) if the violation occurred after the alien had been convicted of a felony for which the alien received a term of imprisonment of not less than 30 months, shall be fined under such title, imprisoned not more than 15 years, or both; and

''(E) if the violation occurred after the alien had been convicted of a felony for which the alien received a term of imprisonment of not less than 60 months, such alien shall be fined under such title, imprisoned not more than 20 years, or both.

''(3) PRIOR CONVICTIONS.—The prior convictions described in subparagraphs (C) through (E) of paragraph (2) are elements of the offenses described in that paragraph and the penalties in such subparagraphs shall apply only in cases in which the conviction or convictions that form the basis for the additional penalty are—

''(A) alleged in the indictment or information; and

''(B) proven beyond a reasonable doubt at trial or admitted by the defendant.

''(4) DURATION OF OFFENSE.—An offense under this subsection continues until the alien is discovered within the United States by an immigration officer.

''(b) IMPROPER TIME OR PLACE; CIVIL PENALTIES.—

''(1) IN GENERAL.—Any alien who is apprehended while entering, attempting to enter, or knowingly crossing or attempting to cross the border to the United States at a time or place other than as designated by immigration officers shall be subject to a civil penalty, in addition to any criminal or other civil penalties that may be imposed under any other provision of law, in an amount equal to—

''(A) not less than $50 or more than $250 for each such entry, crossing, attempted entry, or attempted crossing; or

''(B) twice the amount specified in paragraph (1) if the alien had previously been subject to a civil penalty under this subsection.

''(2) CROSSED THE BORDER DEFINED.—In this section, an alien is deemed to have crossed the border if the act was voluntary, regardless of whether the alien was under observation at the time of the crossing.''.

(b) CLERICAL AMENDMENT.—The table of contents is amended by striking the item relating to section 275 and inserting the following:

''Sec. 275. Illegal entry or unlawful presence of an alien.''.

SEC. 207. ILLEGAL REENTRY.

Section 276 (8 U.S.C. 1326) is amended to read as follows:

"SEC. 276. REENTRY OF REMOVED ALIEN.

''(a) REENTRY AFTER REMOVAL.—Any alien who has been denied admission, excluded, deported, or removed, or who has departed the United States while an order of exclusion, deportation, or removal is outstanding, and subsequently enters, attempts to enter, crosses the border to, attempts to cross the border to, or is at any time found in the United States, shall be fined under title 18, United States Code, imprisoned not more than 2 years, or both.

''(b) REENTRY OF CRIMINAL OFFENDERS.—Notwithstanding the penalty provided in subsection (a), if an alien described in that subsection—

''(1) was convicted for 3 or more misdemeanors or a felony before such removal or departure, the alien shall be fined under title 18, United States Code, imprisoned not more than 10 years, or both;

''(2) was convicted for a felony before such removal or departure for which the alien was sentenced to a term of imprisonment of not less than 30 months, the alien shall be fined under such title, imprisoned not more than 15 years, or both;

''(3) was convicted for a felony before such removal or departure for which the alien was sentenced to a term of imprisonment of not less than 60 months, the alien shall be fined under such title, imprisoned not more than 20 years, or both;

''(4) was convicted for 3 felonies before such removal or departure, the alien shall be fined under such title, imprisoned not more than 20 years, or both; or

''(5) was convicted, before such removal or departure, for murder, rape, kidnaping, or a felony offense described in chapter 77 (relating to peonage and slavery) or 113B (relating to terrorism) of such title, the alien shall be fined under such title, imprisoned not more than 20 years, or both.

''(c) REENTRY AFTER REPEATED REMOVAL.—Any alien who has been denied admission, excluded, deported, or removed 3 or more times and thereafter enters, attempts to enter, crosses the border to, attempts to cross the border to, or is at any time found in the United States, shall be fined under title 18, United States Code, imprisoned not more than 10 years, or both.

''(d) PROOF OF PRIOR CONVICTIONS.—The prior convictions described in subsection (b) are elements of the crimes described in that subsection, and the penalties in that subsection shall apply only in cases in which the conviction or convictions that form the basis for the additional penalty are—

''(1) alleged in the indictment or information; and

''(2) proven beyond a reasonable doubt at trial or admitted by the defendant.

''(e) AFFIRMATIVE DEFENSES.—It shall be an affirmative defense to a violation of this section that—

''(1) prior to the alleged violation, the alien had sought and received the express consent of the Secretary of Homeland Security to reapply for admission into the United States; or

''(2) with respect to an alien previously denied admission and removed, the alien—

''(A) was not required to obtain such advance consent under the Immigration and Nationality Act or any prior Act; and

''(B) had complied with all other laws and regulations governing the alien's admission into the United States.

''(f) LIMITATION ON COLLATERAL ATTACK ON UNDERLYING REMOVAL ORDER.—In a criminal proceeding under this section, an alien may not challenge the validity of any prior removal order concerning the alien unless the alien demonstrates by clear and convincing evidence that—

''(1) the alien exhausted all administrative remedies that may have been available to seek relief against the order;

''(2) the removal proceedings at which the order was issued improperly deprived the alien of the opportunity for judicial review; and

''(3) the entry of the order was fundamentally unfair.

''(g) REENTRY OF ALIEN REMOVED PRIOR TO COMPLETION OF TERM OF IMPRISONMENT.—Any alien removed pursuant to section 241(a)(4) who enters, attempts to enter, crosses the border to, attempts to cross the border to, or is at any time found in, the United States shall be incarcerated for the remainder of the sentence of imprisonment which was pending at the time of deportation without any reduction for parole or supervised release unless the alien affirmatively demonstrates that the Secretary of Homeland Security has expressly consented to the alien's reentry. Such alien shall be subject to such other penalties relating to the reentry of removed aliens as may be available under this section or any other provision of law.

''(h) LIMITATION.—It is not aiding and abetting a violation of this section for an individual to provide an alien with emergency humanitarian assistance, including emergency medical care and food, or to transport the alien to a location where such assistance can be rendered, provided that such assistance is rendered without compensation or the expectation of compensation.

''(i) DEFINITIONS.—In this section:

''(1) CROSSES THE BORDER.—The term 'crosses the border' applies if an alien acts voluntarily, regardless of whether the alien was under observation at the time of the crossing.

''(2) FELONY.—Term 'felony' means any criminal offense punishable by a term of imprisonment of more than 1 year under the laws of the United States, any State, or a foreign government.

''(3) MISDEMEANOR.—The term 'misdemeanor' means any criminal offense punishable by a term of imprisonment of not more than 1 year under the applicable laws of the United States, any State, or a foreign government.

''(4) REMOVAL.—The term 'removal' includes any denial of admission, exclusion, deportation, or removal, or any agreement by which an alien stipulates or agrees to exclusion, deportation, or removal.

''(5) STATE.—The term 'State' means a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.''.

SEC. 208. REFORM OF PASSPORT, VISA, AND IMMIGRATION FRAUD OFFENSES.

(a) IN GENERAL.—Chapter 75 of title 18, United States Code, is amended to read as follows:

"CHAPTER 75—PASSPORT, VISA, AND IMMIGRATION FRAUD

''§ 1541. Trafficking in passports

''(a) MULTIPLE PASSPORTS.—Any person who, during any 3-year period, knowingly–

''(1) and without lawful authority produces, issues, or transfers 10 or more passports;

''(2) forges, counterfeits, alters, or falsely makes 10 or more passports;

''(3) secures, possesses, uses, receives, buys, sells, or distributes 10 or more passports, knowing the passports to be forged, counterfeited, altered, falsely made, stolen, procured by fraud, or produced or issued without lawful authority; or

''(4) completes, mails, prepares, presents, signs, or submits 10 or more applications for a United States passport (including any supporting documentation), knowing the applications to contain any false statement or representation,

shall be fined under this title, imprisoned not more than 20 years, or both.

''(b) PASSPORT MATERIALS.—Any person who knowingly and without lawful authority produces, counterfeits, secures, possesses, or uses any official paper, seal, hologram, image, text, symbol, stamp, engraving, plate, or other material used to make a passport shall be fined under this title, imprisoned not more than 20 years, or both.

''§ 1542. False statement in an application for a passport

''Any person who knowingly—

''(1) makes any false statement or representation in an application for a United States passport (including any supporting documentation);

''(2) completes, mails, prepares, presents, signs, or submits an application for a United States passport (including any supporting documentation) knowing the application to contain any false statement or representation; or

''(3) causes or attempts to cause the production of a passport by means of any fraud or false application for a United States passport (including any supporting documentation), if such production occurs or would occur at a facility authorized by the Secretary of State for the production of passports,

shall be fined under this title, imprisoned not more than 15 years, or both.

''§ 1543. Forgery and unlawful production of a passport

''(a) FORGERY.—Any person who—

''(1) knowingly forges, counterfeits, alters, or falsely makes any passport; or

''(2) knowingly transfers any passport knowing it to be forged, counterfeited, altered, falsely made, stolen, or to have been produced or issued without lawful authority, shall be fined under this title, imprisoned not more than 15 years, or both.

''(b) UNLAWFUL PRODUCTION.—Any person who knowingly and without lawful authority—

''(1) produces, issues, authorizes, or verifies a passport in violation of the laws, regulations, or rules governing the issuance of the passport;

''(2) produces, issues, authorizes, or verifies a United States passport for or to any person not owing allegiance to the United States; or

''(3) transfers or furnishes a passport to a person for use when such person is not the person for whom the passport was issued or designed,

shall be fined under this title, imprisoned not more than 15 years, or both.

''§ 1544. Misuse of a passport

''(a) IN GENERAL.—Any person who—

''(1) knowingly uses any passport issued or designed for the use of another;

''(2) knowingly uses any passport in violation of the conditions or restrictions therein contained, or in violation of the laws, regulations, or rules governing the issuance and use of the passport;

''(3) knowingly secures, possesses, uses, receives, buys, sells, or distributes any passport knowing it to be forged, counterfeited, altered, falsely made, procured by fraud, or produced or issued without lawful authority; or

''(4) knowingly violates the terms and conditions of any safe conduct duly obtained and issued under the authority of the United States,

shall be fined under this title, imprisoned not more than 15 years, or both.

''(b) ENTRY; FRAUD.—Any person who knowingly uses any passport, knowing the passport to be forged, counterfeited, altered, falsely made, procured by fraud, produced or issued without lawful authority, or issued or designed for the use of another—

''(1) to enter or to attempt to enter the United States; or

''(2) to defraud the United States, a State, or a political subdivision of a State,

shall be fined under this title, imprisoned not more than 15 years, or both.

''§ 1545. Schemes to defraud aliens

''(a) IN GENERAL.—Any person who knowingly executes a scheme or artifice, in connection with any matter that is authorized by or arises under Federal immigration laws, or any matter the offender claims or represents is authorized by or arises under Federal immigration laws—

''(1) to defraud any person, or

''(2) to obtain or receive from any person, by means of false or fraudulent pretenses, representations, promises, money or anything else of value,

shall be fined under this title, imprisoned not more than 15 years, or both.

''(b) MISREPRESENTATION.—Any person who knowingly and falsely represents himself to be an attorney in any matter arising under Federal immigration laws shall be fined under this title, imprisoned not more than 15 years, or both.

''§ 1546. Immigration and visa fraud

''(a) IN GENERAL.—Any person who knowingly—

''(1) uses any immigration document issued or designed for the use of another;

''(2) forges, counterfeits, alters, or falsely makes any immigration document;

''(3) completes, mails, prepares, presents, signs, or submits any immigration document knowing it to contain any materially false statement or representation;

''(4) secures, possesses, uses, transfers, receives, buys, sells, or distributes any immigration document knowing it to be forged, counterfeited, altered, falsely made, stolen, procured by fraud, or produced or issued without lawful authority;

''(5) adopts or uses a false or fictitious name to evade or to attempt to evade the immigration laws; or

''(6) transfers or furnishes an immigration document to a person without lawful authority for use if such person is not the person for whom the immigration document was issued or designed,

shall be fined under this title, imprisoned not more than 15 years, or both.

''(b) MULTIPLE VIOLATIONS.—Any person who, during any 3-year period, knowingly—

''(1) and without lawful authority produces, issues, or transfers 10 or more immigration documents;

''(2) forges, counterfeits, alters, or falsely makes 10 or more immigration documents;

''(3) secures, possesses, uses, buys, sells, or distributes 10 or more immigration documents, knowing the immigration documents to be forged, counterfeited, altered, stolen, falsely made, procured by fraud, or produced or issued without lawful authority; or

''(4) completes, mails, prepares, presents, signs, or submits 10 or more immigration documents knowing the documents to contain any materially false statement or representation,

shall be fined under this title, imprisoned not more than 20 years, or both.

''(c) IMMIGRATION DOCUMENT MATERIALS.—Any person who knowingly and without lawful authority produces, counterfeits, secures, possesses, or uses any official paper, seal, hologram, image, text, symbol, stamp, engraving, plate, or other material, used to make an immigration document shall be fined under this title, imprisoned not more than 20 years, or both.

''§ 1547. Marriage fraud

''(a) EVASION OR MISREPRESENTATION.—Any person who—

''(1) knowingly enters into a marriage for the purpose of evading any provision of the immigration laws; or

''(2) knowingly misrepresents the existence or circumstances of a marriage—

''(A) in an application or document authorized by the immigration laws; or

''(B) during any immigration proceeding conducted by an administrative adjudicator (including an immigration officer or examiner, a consular officer, an immigration judge, or a member of the Board of Immigration Appeals),

shall be fined under this title, imprisoned not more than 10 years, or both.

''(b) MULTIPLE MARRIAGES.—Any person who—

''(1) knowingly enters into 2 or more marriages for the purpose of evading any immigration law; or

''(2) knowingly arranges, supports, or facilitates 2 or more marriages designed or intended to evade any immigration law,

shall be fined under this title, imprisoned not more than 20 years, or both.

''(c) COMMERCIAL ENTERPRISE.—Any person who knowingly establishes a commercial enterprise for the purpose of evading any provision of the immigration laws shall be fined under this title, imprisoned for not more than 10 years, or both.

''(d) DURATION OF OFFENSE.—

''(1) IN GENERAL.—An offense under subsection (a) or (b) continues until the fraudulent nature of the marriage or marriages is discovered by an immigration officer.

''(2) COMMERCIAL ENTERPRISE.—An offense under subsection (c) continues until the fraudulent nature of commercial enterprise is discovered by an immigration officer or other law enforcement officer.

''§ 1548. Attempts and conspiracies

''Any person who attempts or conspires to violate any section of this chapter shall be punished in the same manner as a person who completed a violation of that section.

''§ 1549. Alternative penalties for certain offenses

''(a) TERRORISM.—Any person who violates any section of this chapter—

''(1) knowing that such violation will facilitate an act of international terrorism or domestic terrorism (as those terms are defined in section 2331); or

''(2) with the intent to facilitate an act of international terrorism or domestic terrorism,

shall be fined under this title, imprisoned not more than 25 years, or both.

''(b) OFFENSE AGAINST GOVERNMENT.—Any person who violates any section of this chapter—

''(1) knowing that such violation will facilitate the commission of any offense against the United States (other than an offense in this chapter) or against any State, which offense is punishable by imprisonment for more than 1 year; or

''(2) with the intent to facilitate the commission of any offense against the United States (other than an offense in this chapter) or against any State, which offense is punishable by imprisonment for more than 1 year,

shall be fined under this title, imprisoned not more than 20 years, or both.

''§ 1550. Seizure and forfeiture

''(a) FORFEITURE.—Any property, real or personal, used to commit or facilitate the commission of a violation of any section of this chapter, the gross proceeds of such violation, and any property traceable to such property or proceeds, shall be subject to forfeiture.

''(b) APPLICABLE LAW.—Seizures and forfeitures under this section shall be governed by the provisions of chapter 46 relating to civil forfeitures, except that such duties as are imposed upon the Secretary of the Treasury under the customs laws described in section 981(d) shall be performed by such officers, agents, and other persons as may be designated for that purpose by the Secretary of Homeland Security, the Secretary of State, or the Attorney General.

''§ 1551. Additional jurisdiction

''(a) IN GENERAL.—Any person who commits an offense under this chapter within the special maritime and territorial jurisdiction of the United States shall be punished as provided under this chapter.

''(b) EXTRATERRITORIAL JURISDICTION.—Any person who commits an offense under this chapter outside the United States shall be punished as provided under this chapter if—

''(1) the offense involves a United States immigration document (or any document purporting to be such a document) or any matter, right, or benefit arising under or authorized by Federal immigration laws;

''(2) the offense is in or affects foreign commerce;

''(3) the offense affects, jeopardizes, or poses a significant risk to the lawful administration of Federal immigration laws, or the national security of the United States;

''(4) the offense is committed to facilitate an act of international terrorism (as defined in section 2331) or a drug trafficking crime (as defined in section 929(a)(2)) that affects or would affect the national security of the United States;

''(5) the offender is a national of the United States (as defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22))) or an alien lawfully admitted for permanent residence in the United States (as defined in section 101(a)(20) of such Act); or

''(6) the offender is a stateless person whose habitual residence is in the United States.

''§ 1552. Additional venue

''(a) IN GENERAL.—An offense under section 1542 may be prosecuted in—

''(1) any district in which the false statement or representation was made;

''(2) any district in which the passport application was prepared, submitted, mailed, received, processed, or adjudicated; or

''(3) in the case of an application prepared and adjudicated outside the United States, in the district in which the resultant passport was produced.

''(b) SAVINGS CLAUSE.—Nothing in this section limits the venue otherwise available under sections 3237 and 3238.

''§ 1553. Definitions

''As used in this chapter:

''(1) The term 'falsely make' means to prepare or complete an immigration document with knowledge or in reckless disregard of the fact that the document—

''(A) contains a statement or representation that is false, fictitious, or fraudulent;

''(B) has no basis in fact or law; or

''(C) otherwise fails to state a fact which is material to the purpose for which the document was created, designed, or submitted.

''(2) The term a 'false statement or representation' includes a personation or an omission.

''(3) The term 'felony' means any criminal offense punishable by a term of imprisonment of more than 1 year under the laws of the United States, any State, or a foreign government.

''(4) The term 'immigration document'—

''(A) means—

''(i) any passport or visa; or

''(ii) any application, petition, affidavit, declaration, attestation, form, identification card, alien registration document, employment authorization document, border crossing card, certificate, permit, order, license, stamp, authorization, grant of authority, or other evidentiary document, arising under or authorized by the immigration laws of the United States; and

''(B) includes any document, photograph, or other piece of evidence attached to or submitted in support of an immigration document.

''(5) The term 'immigration laws' includes—

''(A) the laws described in section 101(a)(17) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(17));

''(B) the laws relating to the issuance and use of passports; and

''(C) the regulations prescribed under the authority of any law described in paragraphs (1) and (2).

''(6) The term 'immigration proceeding' includes an adjudication, interview, hearing, or review.

''(7) A person does not exercise 'lawful authority' if the person abuses or improperly exercises lawful authority the person otherwise holds.

''(8) The term 'passport' means a travel document attesting to the identity and nationality of the bearer that is issued under the authority of the Secretary of State, a foreign government, or an international organization; or any instrument purporting to be the same.

''(9) The term 'produce' means to make, prepare, assemble, issue, print, authenticate, or alter.

''(10) The term 'State' means a State of the United States, the District of Columbia, or any commonwealth, territory, or possession of the United States.

''§ 1554. Authorized law enforcement activities

''Nothing in this chapter shall prohibit any lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency of the United States, a State, or a political subdivision of a State, or an intelligence agency of the United States, or any activity authorized under title V of the Organized Crime Control Act of 1970 (84 Stat. 933).''.

(b) CLERICAL AMENDMENT.—The table of chapters in title 18, United States Code, is amended by striking the item relating to chapter 75 and inserting the following:

''75. Passport, visa, and immigration fraud ..... 1541''.

SEC. 209. INADMISSIBILITY AND REMOVAL FOR PASSPORT AND IMMIGRATION FRAUD OFFENSES.

(a) INADMISSIBILITY.—Section 212(a)(2)(A)(i) (8 U.S.C. 1182(a)(2)(A)(i)) is amended–

(1) in subclause (I), by striking '', or'' at the end and inserting a semicolon;

(2) in subclause (II), by striking the comma at the end and inserting ''; or''; and

(3) by inserting after subclause (II) the following:

''(III) a violation of (or a conspiracy or attempt to violate) any provision of chapter 75 of title 18, United States Code,''.

(b) REMOVAL.—Section 237(a)(3)(B)(iii) (8 U.S.C. 1227(a)(3)(B)(iii)) is amended to read as follows:

''(iii) of a violation of any provision of chapter 75 of title 18, United States Code,''.

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to proceedings pending on or after the date of the enactment of this Act.

SEC. 210. INCARCERATION OF CRIMINAL ALIENS.

(a) INSTITUTIONAL REMOVAL PROGRAM.—

(1) CONTINUATION.—The Secretary shall continue to operate the Institutional Removal Program (referred to in this section as the ''Program'') or shall develop and implement another program to—

(A) identify removable criminal aliens in Federal and State correctional facilities;

(B) ensure that such aliens are not released into the community; and

(C) remove such aliens from the United States after the completion of their sentences.

(2) EXPANSION.—The Secretary may extend the scope of the Program to all States.

(b) AUTHORIZATION FOR DETENTION AFTER COMPLETION OF STATE OR LOCAL PRISON SENTENCE.—Law enforcement officers of a State or political subdivision of a State may—

(1) hold an illegal alien for a period not to exceed 14 days after the completion of the alien's State prison sentence to effectuate the transfer of the alien to Federal custody if the alien is removable or not lawfully present in the United States; or

(2) issue a detainer that would allow aliens who have served a State prison sentence to be detained by the State prison until authorized employees of the Bureau of Immigration and Customs Enforcement can take the alien into custody.

(c) TECHNOLOGY USAGE.—Technology, such as videoconferencing, shall be used to the maximum extent practicable to make the Program available in remote locations. Mobile access to Federal databases of aliens, such as IDENT, and live scan technology shall be used to the maximum extent practicable to make these resources available to State and local law enforcement agencies in remote locations.

(d) REPORT TO CONGRESS.—Not later than 6 months after the date of the enactment of this Act, and annually thereafter, the Secretary shall submit a report to Congress on the participation of States in the Program and in any other program authorized under subsection (a).

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary in each of the fiscal years 2007 through 2011 to carry out the Program.

SEC. 211. ENCOURAGING ALIENS TO DEPART VOLUNTARILY.

(a) IN GENERAL.—Section 240B (8 U.S.C. 1229c) is amended—

(1) in subsection (a)—

(A) by amending paragraph (1) to read as follows:

''(1) INSTEAD OF REMOVAL PROCEEDINGS.—If an alien is not described in paragraph (2)(A)(iii) or (4) of section 237(a), the Secretary of Homeland Security may permit the

alien to voluntarily depart the United States at the alien's own expense under this subsection instead of being subject to proceedings under section 240.'';

(B) by striking paragraph (3);

(C) by redesignating paragraph (2) as paragraph (3);

(D) by adding after paragraph (1) the following:

''(2) BEFORE THE CONCLUSION OF REMOVAL PROCEEDINGS.—If an alien is not described in paragraph (2)(A)(iii) or (4) of section 237(a), the Attorney General may permit the alien to voluntarily depart the United States at the alien's own expense under this subsection after the initiation of removal proceedings under section 240 and before the conclusion of such proceedings before an immigration judge.'';

(E) in paragraph (3), as redesignated—

(i) by amending subparagraph (A) to read as follows:

''(A) INSTEAD OF REMOVAL.—Subject to subparagraph (C), permission to voluntarily depart under paragraph (1) shall not be valid for any period in excess of 120 days. The Secretary may require an alien permitted to voluntarily depart under paragraph (1) to post a voluntary departure bond, to be surrendered upon proof that the alien has departed the United States within the time specified.'';

(ii) by redesignating subparagraphs (B), (C), and (D) as paragraphs (C), (D), and (E), respectively;

(iii) by adding after subparagraph (A) the following:

''(B) BEFORE THE CONCLUSION OF REMOVAL PROCEEDINGS.—Permission to voluntarily depart under paragraph (2) shall not be valid for any period in excess of 60 days, and may be granted only after a finding that the alien has the means to depart the United States and intends to do so. An alien permitted to voluntarily depart under paragraph (2) shall post a voluntary departure bond, in an amount necessary to ensure that the alien will depart, to be surrendered upon proof that the alien has departed the United States within the time specified. An immigration judge may waive the requirement to post a voluntary departure bond in individual cases upon a finding that the alien has presented compelling evidence that the posting of a bond will pose a serious financial hardship and the alien has presented credible evidence that such a bond is unnecessary to guarantee timely departure.'';

(iv) in subparagraph (C), as redesignated, by striking ''subparagraphs (C) and(D)(ii)'' and inserting ''subparagraphs (D) and (E)(ii)'';

(v) in subparagraph (D), as redesignated, by striking ''subparagraph (B)'' each place that term appears and inserting ''subparagraph (C)''; and

(vi) in subparagraph (E), as redesignated, by striking ''subparagraph (B)'' each place that term appears and inserting ''subparagraph (C)''; and

(F) in paragraph (4), by striking ''paragraph (1)'' and inserting ''paragraphs (1) and (2)'';

(2) in subsection (b)(2), by striking ''a period exceeding 60 days'' and inserting ''any period in excess of 45 days'';

(3) by amending subsection (c) to read as follows:

''(c) CONDITIONS ON VOLUNTARY DEPARTURE.—

''(1) VOLUNTARY DEPARTURE AGREEMENT.—Voluntary departure may only be granted as part of an affirmative agreement by the alien. A voluntary departure agreement under subsection (b) shall include a waiver of the right to any further motion, appeal, application, petition, or petition for review relating to removal or relief or protection from removal.

''(2) CONCESSIONS BY THE SECRETARY.—In connection with the alien's agreement to depart voluntarily under paragraph (1), the Secretary of Homeland Security may agree to a reduction in the period of inadmissibility under subparagraph (A) or (B)(i) of section 212(a)(9).

''(3) ADVISALS.—Agreements relating to voluntary departure granted during removal proceedings under section 240, or at the conclusion of such proceedings, shall be presented on the record before the immigration judge. The immigration judge shall advise the alien of the consequences of a voluntary departure agreement before accepting such agreement.

''(4) FAILURE TO COMPLY WITH AGREEMENT.—

''(A) IN GENERAL.—If an alien agrees to voluntary departure under this section and fails to depart the United States within the time allowed for voluntary departure or fails to comply with any other terms of the agreement (including failure to timely post any required bond), the alien is—

''(i) ineligible for the benefits of the agreement;

''(ii) subject to the penalties described in subsection (d); and

''(iii) subject to an alternate order of removal if voluntary departure was granted under subsection (a)(2) or (b).

''(B) EFFECT OF FILING TIMELY APPEAL.—If, after agreeing to voluntary departure, the alien files a timely appeal of the immigration judge's decision granting voluntary departure, the alien may pursue the appeal instead of the voluntary departure agreement. Such appeal operates to void the alien's voluntary departure agreement and the consequences of such agreement, but precludes the alien from another grant of voluntary departure while the alien remains in the United States.

''(5) VOLUNTARY DEPARTURE PERIOD NOT AFFECTED.—Except as expressly agreed to by the Secretary in writing in the exercise of the Secretary's discretion before the expiration of the period allowed for voluntary departure, no motion, appeal, application, petition, or petition for review shall affect, reinstate, enjoin, delay, stay, or toll the alien's obligation to depart from the United States during the period agreed to by the alien and the Secretary.'';

(4) by amending subsection (d) to read as follows:

''(d) PENALTIES FOR FAILURE TO DEPART.—If an alien is permitted to voluntarily depart under this section and fails to voluntarily depart from the United States within the time period specified or otherwise violates the terms of a voluntary departure agreement, the alien will be subject to the following penalties:

''(1) CIVIL PENALTY.—The alien shall be liable for a civil penalty of $3,000. The order allowing voluntary departure shall specify the amount of the penalty, which shall be acknowledged by the alien on the record. If the Secretary thereafter establishes that the alien failed to depart voluntarily within the time allowed, no further procedure will be necessary to establish the amount of the penalty, and the Secretary may collect the civil penalty at any time thereafter and by whatever means provided by law. An alien will be ineligible for any benefits under this chapter until this civil penalty is paid.

''(2) INELIGIBILITY FOR RELIEF.—The alien shall be ineligible during the time the alien remains in the United States and for a period of 10 years after the alien's departure for any further relief under this section and sections 240A, 245, 248, and 249. The order permitting the alien to depart voluntarily shall inform the alien of the penalties under this subsection.

''(3) REOPENING.—The alien shall be ineligible to reopen the final order of removal that took effect upon the alien's failure to depart, or upon the alien's other violations of the conditions for voluntary departure, during the period described in paragraph (2). This paragraph does not preclude a motion to reopen to seek withholding of removal under section 241(b)(3) or protection against torture, if the motion—

''(A) presents material evidence of changed country conditions arising after the date of the order granting voluntary departure in the country to which the alien would be removed; and

''(B) makes a sufficient showing to the satisfaction of the Attorney General that the alien is otherwise eligible for such protection.''; and

(5) by amending subsection (e) to read as follows:

''(e) ELIGIBILITY.—

''(1) PRIOR GRANT OF VOLUNTARY DEPARTURE.—An alien shall not be permitted to voluntarily depart under this section if the Secretary of Homeland Security or the Attorney General previously permitted the alien to depart voluntarily.

''(2) RULEMAKING.—The Secretary may promulgate regulations to limit eligibility or impose additional conditions for voluntary departure under subsection (a)(1) for any class of aliens. The Secretary or Attorney General may by regulation limit eligibility or impose additional conditions for voluntary departure under subsections (a)(2) or (b) of this section for any class or classes of aliens.''; and

(6) in subsection (f), by adding at the end the following: ''Notwithstanding section 242(a)(2)(D) of this Act, sections 1361, 1651, and 2241 of title 28, United States Code, any other habeas corpus provision, and any other provision of law (statutory or nonstatutory), no court shall have jurisdiction to affect, reinstate, enjoin, delay, stay, or toll the period allowed for voluntary departure under this section.''.

(b) RULEMAKING.—The Secretary shall promulgate regulations to provide for the imposition and collection of penalties for failure to depart under section 240B(d) of the Immigration and Nationality Act (8 U.S.C. 1229c(d)).

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply with respect to all orders granting voluntary departure under section 240B of the Immigration and Nationality Act (8 U.S.C. 1229c) made on or after the date that is 180 days after the enactment of this Act.

(2) EXCEPTION.—The amendment made by subsection (a)(6) shall take effect on the date of the enactment of this Act and shall apply with respect to any petition for review which is filed on or after such date.

SEC. 212. DETERRING ALIENS ORDERED REMOVED FROM REMAINING IN THE UNITED STATES UNLAWFULLY.

(a) INADMISSIBLE ALIENS.—Section 212(a)(9)(A) (8 U.S.C. 1182(a)(9)(A)) is amended—

(1) in clause (i), by striking ''seeks admission within 5 years of the date of such removal (or within 20 years'' and inserting ''seeks admission not later than 5 years after the date of the alien's removal (or not later than 20 years after the alien's removal''; and

(2) in clause (ii), by striking ''seeks admission within 10 years of the date of such alien's departure or removal (or within 20 years of'' and inserting ''seeks admission not later than 10 years after the date of the

alien's departure or removal (or not later than 20 years after''.

(b) BAR ON DISCRETIONARY RELIEF.—Section 274D (9 U.S.C. 324d) is amended—

(1) in subsection (a), by striking ''Commissioner'' and inserting ''Secretary of Homeland Security''; and

(2) by adding at the end the following:

''(c) INELIGIBILITY FOR RELIEF.—

''(1) IN GENERAL.—Unless a timely motion to reopen is granted under section 240(c)(6), an alien described in subsection (a) shall be ineligible for any discretionary relief from removal (including cancellation of removal and adjustment of status) during the time the alien remains in the United States and for a period of 10 years after the alien's departure from the United States.

''(2) SAVINGS PROVISION.—Nothing in paragraph (1) shall preclude a motion to reopen to seek withholding of removal under section 241(b)(3) or protection against torture, if the motion—

''(A) presents material evidence of changed country conditions arising after the date of the final order of removal in the country to which the alien would be removed; and

''(B) makes a sufficient showing to the satisfaction of the Attorney General that the alien is otherwise eligible for such protection.''.

(c) EFFECTIVE DATES.—The amendments made by this section shall take effect on the date of the enactment of this Act with respect to aliens who are subject to a final order of removal, whether the removal order was entered before, on, or after such date.

SEC. 213. PROHIBITION OF THE SALE OF FIREARMS TO, OR THE POSSESSION OF FIREARMS BY CERTAIN ALIENS.

Section 922 of title 18, United States Code, is amended—

(1) in subsection (d)(5)—

(A) in subparagraph (A), by striking ''or'' at the end;

(B) in subparagraph (B), by striking ''(y)(2)'' and all that follows and inserting ''(y), is in a nonimmigrant classification; or''; and

(C) by adding at the end the following:

''(C) has been paroled into the United States under section 212(d)(5) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(5));''; and

(2) in subsection (g)(5)—

(A) in subparagraph (A), by striking ''or'' at the end;

(B) in subparagraph (B), by striking ''(y)(2)'' and all that follows and inserting ''(y), is in a nonimmigrant classification; or''; and

(C) by adding at the end the following:

''(C) has been paroled into the United States under section 212(d)(5) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(5));''.

(3) in subsection (y)—

(A) in the header, by striking ''ADMITTED UNDER NONIMMIGRANT VISAS'' and inserting ''IN A NONIMMIGRANT CLASSIFICATION'';

(B) in paragraph (1), by amending subparagraph (B) to read as follows:

''(B) the term 'nonimmigrant classification' includes all classes of nonimmigrant aliens described in section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)), or otherwise described in the immigration laws (as defined in section 101(a)(17) of such Act).'';

(C) in paragraph (2), by striking ''has been lawfully admitted to the United States under a nonimmigrant visa'' and inserting ''is in a nonimmigrant classification''; and

(D) in paragraph (3)(A), by striking ''Any individual who has been admitted to the United States under a nonimmigrant visa may receive a waiver from the requirements of subsection (g)(5)'' and inserting ''Any alien in a nonimmigrant classification may receive a waiver from the requirements of subsection (g)(5)(B)''.

SEC. 214. UNIFORM STATUTE OF LIMITATIONS FOR CERTAIN IMMIGRATION, NATURALIZATION, AND PEONAGE OFFENSES.

(a) IN GENERAL.—Section 3291 of title 18, United States Code, is amended to read as follows:

''§ 3291. Immigration, naturalization, and peonage offenses

''No person shall be prosecuted, tried, or punished for a violation of any section of chapters 69 (relating to nationality and citizenship offenses), 75 (relating to passport, visa, and immigration offenses), or 77 (relating to peonage, slavery, and trafficking in persons), for an attempt or conspiracy to violate any such section, for a violation of any criminal provision under section 243, 266, 274, 275, 276, 277, or 278 of the Immigration and Nationality Act (8 U.S.C. 1253, 1306, 1324, 1325, 1326, 1327, and 1328), or for an attempt or conspiracy to violate any such section, unless the indictment is returned or the information filed not later than 10 years after the commission of the offense.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 213 of title 18, United States Code, is amended by striking the item relating to section 3291 and inserting the following:

''3291. Immigration, naturalization, and peonage offenses.''.

SEC. 215. DIPLOMATIC SECURITY SERVICE.

Section 2709(a)(1) of title 22, United States Code, is amended to read as follows:

''(1) conduct investigations concerning—

''(A) illegal passport or visa issuance or use;

''(B) identity theft or document fraud affecting or relating to the programs, functions, and authorities of the Department of State;

''(C) violations of chapter 77 of title 18, United States Code; and

''(D) Federal offenses committed within the special maritime and territorial jurisdiction of the United States (as defined in section 7(9) of title 18, United States Code);''.

SEC. 216. FIELD AGENT ALLOCATION AND BACKGROUND CHECKS.

(a) IN GENERAL.—Section 103 (8 U.S.C. 1103) is amended—

(1) by amending subsection (f) to read as follows:

''(f) MINIMUM NUMBER OF AGENTS IN STATES.—

''(1) IN GENERAL.—The Secretary of Homeland Security shall allocate to each State—

''(A) not fewer than 40 full-time active duty agents of the Bureau of Immigration and Customs Enforcement to—

''(i) investigate immigration violations; and

''(ii) ensure the departure of all removable aliens; and

''(B) not fewer than 15 full-time active duty agents of the Bureau of Citizenship and Immigration Services to carry out immigration and naturalization adjudication functions.

''(2) WAIVER.—The Secretary may waive the application of paragraph (1) for any State with a population of less than 2,000,000, as most recently reported by the Bureau of the Census''; and

(2) by adding at the end the following:

''(i) Notwithstanding any other provision of law, appropriate background and security checks, as determined by the Secretary of Homeland Security, shall be completed and assessed and any suspected or alleged fraud relating to the granting of any status (including the granting of adjustment of status), relief, protection from removal, or other benefit under this Act shall be investigated and resolved before the Secretary or the Attorney General may—

''(1) grant or order the grant of adjustment of status of an alien to that of an alien lawfully admitted for permanent residence;

''(2) grant or order the grant of any other status, relief, protection from removal, or other benefit under the immigration laws; or

''(3) issue any documentation evidencing or related to such grant by the Secretary, the Attorney General, or any court.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a)(1) shall take effect on the date that is 90 days after the date of the enactment of this Act.

SEC. 217. DENIAL OF BENEFITS TO TERRORISTS AND CRIMINALS.

(a) IN GENERAL.—Chapter 4 of title III (8 U.S.C. 1501 et seq.) is amended by adding at the end the following:

''SEC. 362. CONSTRUCTION.

''(a) IN GENERAL.—Nothing in this Act or in any other provision of law shall be construed to require the Secretary of Homeland Security, the Attorney General, the Secretary of State, the Secretary of Labor, or any other authorized head of any Federal agency to grant any application, approve any petition, or grant or continue any status or benefit under the immigration laws by, to, or on behalf of—

''(1) any alien described in subparagraph (A)(i), (A)(iii), (B), or (F) of section 212(a)(3) or subparagraph (A)(i), (A)(iii), or (B) of section 237(a)(4);

''(2) any alien with respect to whom a criminal or other investigation or case is pending that is material to the alien's inadmissibility, deportability, or eligibility for the status or benefit sought; or

''(3) any alien for whom all law enforcement checks, as deemed appropriate by such authorized official, have not been conducted and resolved.

''(b) DENIAL; WITHHOLDING.—An official described in subsection (a) may deny or withhold (with respect to an alien described in subsection (a)(1)) or withhold pending resolution of the investigation, case, or law enforcement checks (with respect to an alien described in paragraph (2) or (3) of subsection (a)) any such application, petition, status, or benefit on such basis.''.

(b) CLERICAL AMENDMENT.—The table of contents is amended by inserting after the item relating to section 361 the following:

''Sec. 362. Construction.''.

SEC. 218. STATE CRIMINAL ALIEN ASSISTANCE PROGRAM.

(a) REIMBURSEMENT FOR COSTS ASSOCIATED WITH PROCESSING CRIMINAL ILLEGAL ALIENS.—The Secretary of Homeland Security shall reimburse States and units of local government for costs associated with processing undocumented criminal aliens through the criminal justice system, including—

(1) indigent defense;

(2) criminal prosecution;

(3) autopsies;

(4) translators and interpreters; and

(5) courts costs.

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) PROCESSING CRIMINAL ILLEGAL ALIENS.—There are authorized to be appropriated $400,000,000 for each of the fiscal years 2007 through 2012 to carry out subsection (a).

(2) COMPENSATION UPON REQUEST.—Section 241(i)(5) (8 U.S.C. 1231(i)) is amended to read as follows:

''(5) There are authorized to be appropriated to carry this subsection—

''(A) such sums as may be necessary for fiscal year 2007;

''(B) $750,000,000 for fiscal year 2008;

''(C) $850,000,000 for fiscal year 2009; and

''(D) $950,000,000 for each of the fiscal years 2010 through 2012.''.

(c) TECHNICAL AMENDMENT.—Section 501 of the Immigration Reform and Control Act of 1986 (8 U.S.C. 1365) is amended by striking ''Attorney General'' each place it appears and inserting ''Secretary of Homeland Security''.

SEC. 219. TRANSPORTATION AND PROCESSING OF ILLEGAL ALIENS APPREHENDED BY STATE AND LOCAL LAW ENFORCEMENT OFFICERS.

(a) IN GENERAL.—The Secretary of Homeland Security shall provide sufficient transportation and officers to take illegal aliens apprehended by State and local law enforcement officers into custody for processing at a Department of Homeland Security detention facility.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as necessary to carry out this section.

SEC. 220. STATE AND LOCAL ENFORCEMENT OF FEDERAL IMMIGRATION LAWS.

(a) IN GENERAL.—Section 287(g) (8 U.S.C. 1357(g)) is amended—

(1) in paragraph (2), by adding at the end the following: ''If such training is provided by a State or political subdivision of a State to an officer or employee of such State or political subdivision of a State, the cost of such training (including applicable overtime costs) shall be reimbursed by the Secretary of Homeland Security.''; and

(2) in paragraph (4), by adding at the end the following: ''The cost of any equipment required to be purchased under such written agreement and necessary to perform the functions under this subsection shall be reimbursed by the Secretary of Homeland Security.''.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as may be necessary to carry out this section and the amendments made by this section.

SEC. 221. REDUCING ILLEGAL IMMIGRATION AND ALIEN SMUGGLING ON TRIBAL LANDS.

(a) GRANTS AUTHORIZED.—The Secretary may award grants to Indian tribes with lands adjacent to an international border of the United States that have been adversely affected by illegal immigration.

(b) USE OF FUNDS.—Grants awarded under subsection (a) may be used for—

(1) law enforcement activities;

(2) health care services;

(3) environmental restoration; and

(4) the preservation of cultural resources.

(c) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives that—

(1) describes the level of access of Border Patrol agents on tribal lands;

(2) describes the extent to which enforcement of immigration laws may be improved by enhanced access to tribal lands;

(3) contains a strategy for improving such access through cooperation with tribal authorities; and

(4) identifies grants provided by the Department for Indian tribes, either directly or through State or local grants, relating to border security expenses.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2007 through 2011 to carry out this section.

SEC. 222. ALTERNATIVES TO DETENTION.

The Secretary shall conduct a study of—

(1) the effectiveness of alternatives to detention, including electronic monitoring devices and intensive supervision programs, in ensuring alien appearance at court and compliance with removal orders;

(2) the effectiveness of the Intensive Supervision Appearance Program and the costs and benefits of expanding that program to all States; and

(3) other alternatives to detention, including—

(A) release on an order of recognizance;

(B) appearance bonds; and

(C) electronic monitoring devices.

SEC. 223. CONFORMING AMENDMENT.

Section 101(a)(43)(P) (8 U.S.C. 1101(a)(43)(P)) is amended—

(1) by striking ''(i) which either is falsely making, forging, counterfeiting, mutilating, or altering a passport or instrument in violation of section 1543 of title 18, United States Code, or is described in section 1546(a) of such title (relating to document fraud) and (ii)'' and inserting ''which is described in chapter 75 of title 18, United States Code, and''; and

(2) by inserting the following: ''that is not described in section 1548 of such title (relating to increased penalties), and'' after ''first offense''.

SEC. 224. REPORTING REQUIREMENTS.

(a) CLARIFYING ADDRESS REPORTING REQUIREMENTS.—Section 265 (8 U.S.C. 1305) is amended—

(1) in subsection (a)—

(A) by striking ''notify the Attorney General in writing'' and inserting ''submit written or electronic notification to the Secretary of Homeland Security, in a manner approved by the Secretary,'';

(B) by striking ''the Attorney General may require by regulation'' and inserting ''the Secretary may require''; and

(C) by adding at the end the following: ''If the alien is involved in proceedings before an immigration judge or in an administrative appeal of such proceedings, the alien shall submit to the Attorney General the alien's current address and a telephone number, if any, at which the alien may be contacted.'';

(2) in subsection (b), by striking ''Attorney General'' each place such term appears and inserting ''Secretary'';

(3) in subsection (c), by striking ''given to such parent'' and inserting ''given by such parent''; and

(4) by inserting at the end the following:

''(d) ADDRESS TO BE PROVIDED.—

''(1) IN GENERAL.—Except as otherwise provided by the Secretary under paragraph (2), an address provided by an alien under this section shall be the alien's current residential mailing address, and shall not be a post office box or other non-residential mailing address or the address of an attorney, representative, labor organization, or employer.

''(2) SPECIFIC REQUIREMENTS.—The Secretary may provide specific requirements with respect to—

''(A) designated classes of aliens and special circumstances, including aliens who are employed at a remote location; and

''(B) the reporting of address information by aliens who are incarcerated in a Federal, State, or local correctional facility.

''(3) DETENTION.—An alien who is being detained by the Secretary under this Act is not required to report the alien's current address under this section during the time the alien remains in detention, but shall be required to notify the Secretary of the alien's address under this section at the time of the alien's release from detention.

''(e) USE OF MOST RECENT ADDRESS PROVIDED BY THE ALIEN.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary may provide for the appropriate coordination and cross referencing of address information provided by an alien under this section with other information relating to the alien's address under other Federal programs, including—

''(A) any information pertaining to the alien, which is submitted in any application, petition, or motion filed under this Act with the Secretary of Homeland Security, the Secretary of State, or the Secretary of Labor;

''(B) any information available to the Attorney General with respect to an alien in a proceeding before an immigration judge or an administrative appeal or judicial review of such proceeding;

''(C) any information collected with respect to nonimmigrant foreign students or exchange program participants under section 641 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1372); and

''(D) any information collected from State or local correctional agencies pursuant to the State Criminal Alien Assistance Program.

''(2) RELIANCE.—The Secretary may rely on the most recent address provided by the alien under this section or section 264 to send to the alien any notice, form, document, or other matter pertaining to Federal immigration laws, including service of a notice to appear. The Attorney General and the Secretary may rely on the most recent address provided by the alien under section 239(a)(1)(F) to contact the alien about pending removal proceedings.

''(3) OBLIGATION.—The alien's provision of an address for any other purpose under the Federal immigration laws does not excuse the alien's obligation to submit timely notice of the alien's address to the Secretary under this section (or to the Attorney General under section 239(a)(1)(F) with respect to an alien in a proceeding before an immigration judge or an administrative appeal of such proceeding).''.

(b) CONFORMING CHANGES WITH RESPECT TO REGISTRATION REQUIREMENTS.—Chapter 7 of title II (8 U.S.C. 1301 et seq.) is amended—

(1) in section 262(c), by striking ''Attorney General'' and inserting ''Secretary of Homeland Security'';

(2) in section 263(a), by striking ''Attorney General'' and inserting ''Secretary of Homeland Security''; and

(3) in section 264—

(A) in subsections (a), (b), (c), and (d), by striking ''Attorney General'' each place it appears and inserting ''Secretary of Homeland Security''; and

(B) in subsection (f)—

(i) by striking ''Attorney General is authorized'' and inserting ''Secretary of Homeland Security and Attorney General are authorized''; and

(ii) by striking ''Attorney General or the Service'' and inserting ''Secretary or the Attorney General''.

(c) PENALTIES.—Section 266 (8 U.S.C. 1306) is amended—

(1) by amending subsection (b) to read as follows:

''(b) FAILURE TO PROVIDE NOTICE OF ALIEN'S CURRENT ADDRESS.—

''(1) CRIMINAL PENALTIES.—Any alien or any parent or legal guardian in the United States of any minor alien who fails to notify the Secretary of Homeland Security of the alien's current address in accordance with section 265 shall be fined under title 18, United States Code, imprisoned for not more than 6 months, or both.

''(2) EFFECT ON IMMIGRATION STATUS.—Any alien who violates section 265 (regardless of whether the alien is punished under paragraph (1)) and does not establish to the satisfaction of the Secretary that such failure was reasonably excusable or was not willful

shall be taken into custody in connection with removal of the alien. If the alien has not been inspected or admitted, or if the alien has failed on more than 1 occasion to submit notice of the alien's current address as required under section 265, the alien may be presumed to be a flight risk. The Secretary or the Attorney General, in considering any form of relief from removal which may be granted in the discretion of the Secretary or the Attorney General, may take into consideration the alien's failure to comply with section 265 as a separate negative factor. If the alien failed to comply with the requirements of section 265 after becoming subject to a final order of removal, deportation, or exclusion, the alien's failure shall be considered as a strongly negative factor with respect to any discretionary motion for reopening or reconsideration filed by the alien.'';

(2) in subsection (c), by inserting ''or a notice of current address'' before ''containing statements''; and

(3) in subsections (c) and (d), by striking ''Attorney General'' each place it appears and inserting ''Secretary''.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to proceedings initiated on or after the date of the enactment of this Act.

(2) CONFORMING AND TECHNICAL AMENDMENTS.—The amendments made by paragraphs (1)(A), (1)(B), (2) and (3) of subsection (a) are effective as if enacted on March 1, 2003.

SEC. 225. MANDATORY DETENTION FOR ALIENS APPREHENDED AT OR BETWEEN PORTS OF ENTRY.

(a) IN GENERAL.—Beginning on October 1, 2006, an alien who is attempting to illegally enter the United States and who is apprehended at a United States port of entry or along the international land or maritime border of the United States shall be detained until removed or a final decision granting admission has been determined, unless the alien—

(1) is permitted to withdraw an application for admission under section 235(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1225(a)(4)) and immediately departs from the United States pursuant to such section; or

(2) is paroled into the United States by the Secretary for urgent humanitarian reasons or significant public benefit in accordance with section 212(d)(5)(A) of such Act (8 U.S.C. 1182(d)(5)(A)).

(b) REQUIREMENTS DURING INTERIM PERIOD.—Beginning 60 days after the date of the enactment of this Act and before October 1, 2006, an alien described in subsection (a) may be released with a notice to appear only if—

(1) the Secretary determines, after conducting all appropriate background and security checks on the alien, that the alien does not pose a national security risk; and

(2) the alien provides a bond of not less than $5,000.

(c) RULES OF CONSTRUCTION.—

(1) ASYLUM AND REMOVAL.—Nothing in this section shall be construed as limiting the right of an alien to apply for asylum or for relief or deferral of removal based on a fear of persecution.

(2) TREATMENT OF CERTAIN ALIENS.—The mandatory detention requirement in subsection (a) shall not apply to any alien who is a native or citizen of a country in the Western Hemisphere with whose government the United States does not have full diplomatic relations.

(3) DISCRETION.—Nothing in this section shall be construed as limiting the authority of the Secretary, in the Secretary's sole unreviewable discretion, to determine whether an alien described in clause (ii) of section 235(b)(1)(B) of the Immigration and Nationality Act shall be detained or released after a finding of a credible fear of persecution (as defined in clause (v) of such section).

SEC. 226. REMOVAL OF DRUNK DRIVERS.

(a) IN GENERAL.—Section 101(a)(43)(F) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(43)(F)) is amended by inserting '', including a third drunk driving conviction, regardless of the States in which the convictions occurred or whether the offenses are classified as misdemeanors or felonies under State or Federal law,'' after ''offense)''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall—

(1) take effect on the date of the enactment of this Act; and

(2) apply to convictions entered before, on, or after such date.

SEC. 227. EXPEDITED REMOVAL.

(a) IN GENERAL.—Section 238 (8 U.S.C. 1228) is amended—

(1) by striking the section heading and inserting ''EXPEDITED REMOVAL OF CRIMINAL ALIENS'';

(2) in subsection (a), by striking the subsection heading and inserting: ''EXPEDITED REMOVAL FROM CORRECTIONAL FACILITIES.—'';

(3) in subsection (b), by striking the subsection heading and inserting: ''REMOVAL OF CRIMINAL ALIENS.—'';

(4) in subsection (b), by striking paragraphs (1) and (2) and inserting the following:

''(1) IN GENERAL.—The Secretary of Homeland Security may, in the case of an alien described in paragraph (2), determine the deportability of such alien and issue an order of removal pursuant to the procedures set forth in this subsection or section 240.

''(2) ALIENS DESCRIBED.—An alien is described in this paragraph if the alien, whether or not admitted into the United States, was convicted of any criminal offense described in subparagraph (A)(iii), (C), or (D) of section 237(a)(2).'';

(5) in the subsection (c) that relates to presumption of deportability, by striking ''convicted of an aggravated felony'' and inserting ''described in subsection (b)(2)'';

(6) by redesignating the subsection (c) that relates to judicial removal as subsection (d); and

(7) in subsection (d)(5) (as so redesignated), by striking '', who is deportable under this Act,''.

(b) APPLICATION TO CERTAIN ALIENS.—

(1) IN GENERAL.—Section 235(b)(1)(A)(iii) (8 U.S.C. 1225(b)(1)(A)(iii)) is amended—

(A) in subclause (I), by striking ''Attorney General'' and inserting ''Secretary of Homeland Security'' each place it appears; and

(B) by adding at the end the following new subclause:

''(III) EXCEPTION.—Notwithstanding subclauses (I) and (II), the Secretary of Homeland Security shall apply clauses (i) and (ii) of this subparagraph to any alien (other than an alien described in subparagraph (F)) who is not a national of a country contiguous to the United States, who has not been admitted or paroled into the United States, and who is apprehended within 100 miles of an international land border of the United States and within 14 days of entry.''.

(2) EXCEPTIONS.—Section 235(b)(1)(F) of the Immigration and Nationality Act (8 U.S.C. 1225(b)(1)(F)) is amended—

(A) by striking ''and who arrives by aircraft at a port of entry'' and inserting ''and—'''; and

(B) by adding at the end the following:

''(i) who arrives by aircraft at a port of entry; or

''(ii) who is present in the United States and arrived in any manner at or between a port of entry.''.

(c) LIMIT ON INJUNCTIVE RELIEF.—Section 242(f)(2) (8 U.S.C. 1252(f)(2)) is amended by inserting ''or stay, whether temporarily or otherwise,'' after ''enjoin''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to all aliens apprehended or convicted on or after such date.

SEC. 228. PROTECTING IMMIGRANTS FROM CONVICTED SEX OFFENDERS.

(a) IMMIGRANTS.—Section 204(a)(1) (8 U.S.C. 1154(a)(1)), is amended—

(1) in subparagraph (A)(i) by striking ''Any'' and inserting ''Except as provided in clause (viii), any'';

(2) in subparagraph (A) by inserting after clause (vii) the following:

''(viii) Clause (i) shall not apply to a citizen of the United States who has been convicted of an offense described in section 101(a)(43)(A), section 101(a)(43)(I), or section 101(a)(43)(K), unless the Secretary of Homeland Security, in the Secretary's sole and unreviewable discretion, determines that the citizen poses no risk to the alien with respect to whom a petition described in clause (i) is filed.''; and

(3) in subparagraph (B)(i)—

(A) by striking ''Any alien'' and inserting the following: ''(I) Except as provided in subclause (II), any alien''; and

(B) by adding at the end the following:

''(II) Subclause (I) shall not apply in the case of an alien admitted for permanent residence who has been convicted of an offense described in section 101(a)(43)(A), section 101(a)(43)(I), or section 101(a)(43)(K), unless the Secretary of Homeland Security, in the Secretary's sole and unreviewable discretion, determines that the alien lawfully admitted for permanent residence poses no risk to the alien with respect to whom a petition described in subclause (I) is filed.''.

(b) NONIMMIGRANTS.—Section 101(a)(15)(K) (8 U.S.C. 1101(a)(15)(K)), is amended by inserting ''(other than a citizen described in section 204(a)(1)(A)(viii))'' after ''citizen of the United States'' each place that phrase appears.

SEC. 229. LAW ENFORCEMENT AUTHORITY OF STATES AND POLITICAL SUBDIVISIONS AND TRANSFER TO FEDERAL CUSTODY.

(a) IN GENERAL.—Title II (8 U.S.C. 1151 et seq.) is amended by adding after section 240C the following new section:

''SEC. 240D. LAW ENFORCEMENT AUTHORITY OF STATES AND POLITICAL SUBDIVISIONS AND TRANSFER OF ALIENS TO FEDERAL CUSTODY.

''(a) AUTHORITY.—Notwithstanding any other provision of law, law enforcement personnel of a State or a political subdivision of a State have the inherent authority of a sovereign entity to investigate, apprehend, arrest, detain, or transfer to Federal custody (including the transportation across State lines to detention centers) an alien for the purpose of assisting in the enforcement of the criminal provisions of the immigration laws of the United States in the normal course of carrying out the law enforcement duties of such personnel. This State authority has never been displaced or preempted by a Federal law.

''(b) CONSTRUCTION.—Nothing in this subsection shall be construed to require law enforcement personnel of a State or a political subdivision to assist in the enforcement of the immigration laws of the United States.

''(c) TRANSFER.—If the head of a law enforcement entity of a State (or, if appropriate, a political subdivision of the State) exercising authority with respect to the apprehension or arrest of an alien submits a request to the Secretary of Homeland Security

that the alien be taken into Federal custody, the Secretary of Homeland Security—

''(1) shall—

''(A) deem the request to include the inquiry to verify immigration status described in section 642(c) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1373(c)), and expeditiously inform the requesting entity whether such individual is an alien lawfully admitted to the United States or is otherwise lawfully present in the United States; and

''(B) if the individual is an alien who is not lawfully admitted to the United States or otherwise is not lawfully present in the United States, either—

''(i) not later than 72 hours after the conclusion of the State charging process or dismissal process, or if no State charging or dismissal process is required, not later than 72 hours after the illegal alien is apprehended, take the illegal alien into the custody of the Federal Government; or

''(ii) request that the relevant State or local law enforcement agency temporarily detain or transport the alien to a location for transfer to Federal custody; and

''(2) shall designate at least 1 Federal, State, or local prison or jail or a private contracted prison or detention facility within each State as the central facility for that State to transfer custody of aliens to the Department of Homeland Security.

''(d) REIMBURSEMENT.—

''(1) IN GENERAL.—The Secretary of Homeland Security shall reimburse a State or a political subdivision of a State for expenses, as verified by the Secretary of Homeland Security, incurred by the State or political subdivision in the detention and transportation of an alien as described in subparagraphs (A) and (B) of subsection (c)(1).

''(2) COST COMPUTATION.—Compensation provided for costs incurred under subparagraphs (A) and (B) of subsection (c)(1) shall be—

''(A) the product of—

''(i) the average daily cost of incarceration of a prisoner in the relevant State, as determined by the chief executive officer of a State (or, as appropriate, a political subdivision of the State); multiplied by

''(ii) the number of days that the alien was in the custody of the State or political subdivision; plus

''(B) the cost of transporting the alien from the point of apprehension or arrest to the location of detention, and if the location of detention and of custody transfer are different, to the custody transfer point; plus

''(C) The cost of uncompensated emergency medical care provided to a detained alien during the period between the time of transmittal of the request described in subsection (c) and the time of transfer into Federal custody.

''(e) REQUIREMENT FOR APPROPRIATE SECURITY.—The Secretary of Homeland Security shall ensure that aliens incarcerated in a Federal facility pursuant to this subsection are held in facilities which provide an appropriate level of security, and that, where practicable, aliens detained solely for civil violations of Federal immigration law are separated within a facility or facilities.

''(f) REQUIREMENT FOR SCHEDULE.—In carrying out this section, the Secretary of Homeland Security shall establish a regular circuit and schedule for the prompt transportation of apprehended aliens from the custody of those States and political subdivisions of States which routinely submit requests described in subsection (c) into Federal custody.

''(g) AUTHORITY FOR CONTRACTS.—

''(1) IN GENERAL.—The Secretary of Homeland Security may enter into contracts or cooperative agreements with appropriate State and local law enforcement and detention agencies to implement this section.

''(2) DETERMINATION BY SECRETARY.—Prior to entering into a contract or cooperative agreement with a State or political subdivision of a State under paragraph (1), the Secretary shall determine whether the State, or where appropriate, the political subdivision in which the agencies are located has in place any formal or informal policy that violates section 642 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1373). The Secretary shall not allocate any of the funds made available under this section to any State or political subdivision that has in place a policy that violates such section.''.

(b) AUTHORIZATION OF APPROPRIATIONS FOR THE DETENTION AND TRANSPORTATION TO FEDERAL CUSTODY OF ALIENS NOT LAWFULLY PRESENT.—There are authorized to be appropriated $850,000,000 for fiscal year 2007 and each subsequent fiscal year for the detention and removal of aliens not lawfully present in the United States under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

SEC. 230. LISTING OF IMMIGRATION VIOLATORS IN THE NATIONAL CRIME INFORMATION CENTER DATABASE.

(a) PROVISION OF INFORMATION TO THE NATIONAL CRIME INFORMATION CENTER.—

(1) IN GENERAL.—Except as provided in paragraph (3), not later than 180 days after the date of the enactment of this Act, the Secretary shall provide to the head of the National Crime Information Center of the Department of Justice the information that the Secretary has or maintains related to any alien—

(A) against whom a final order of removal has been issued;

(B) who enters into a voluntary departure agreement, or is granted voluntary departure by an immigration judge, whose period for departure has expired under subsection (a)(3) of section 240B of the Immigration and Nationality Act (8 U.S.C. 1229c) (as amended by section 211(a)(1)(C)), subsection (b)(2) of such section 240B, or who has violated a condition of a voluntary departure agreement under such section 240B;

(C) whom a Federal immigration officer has confirmed to be unlawfully present in the United States; or

(D) whose visa has been revoked.

(2) REMOVAL OF INFORMATION.—The head of the National Crime Information Center should promptly remove any information provided by the Secretary under paragraph (1) related to an alien who is granted lawful authority to enter or remain legally in the United States.

(3) PROCEDURE FOR REMOVAL OF ERRONEOUS INFORMATION.—The Secretary, in consultation with the head of the National Crime Information Center of the Department of Justice, shall develop and implement a procedure by which an alien may petition the Secretary or head of the National Crime Information Center, as appropriate, to remove any erroneous information provided by the Secretary under paragraph (1) related to such alien. Under such procedures, failure by the alien to receive notice of a violation of the immigration laws shall not constitute cause for removing information provided by the Secretary under paragraph (1) related to such alien, unless such information is erroneous. Notwithstanding the 180 time period set forth in paragraph (1), the Secretary shall not provide the information required under paragraph (1) until the procedures required by this paragraph are developed and implemented.

(b) INCLUSION OF INFORMATION IN THE NATIONAL CRIME INFORMATION CENTER DATABASE.—Section 534(a) of title 28, United States Code, is amended—

(1) in paragraph (3), by striking ''and'' at the end;

(2) by redesignating paragraph (4) as paragraph (5); and

(3) by inserting after paragraph (3) the following new paragraph:

''(4) acquire, collect, classify, and preserve records of violations of the immigration laws of the United States; and''.

SEC. 231. LAUNDERING OF MONETARY INSTRUMENTS.

Section 1956(c)(7)(D) of title 18, United States Code, is amended—

(1) by inserting ''section 1590 (relating to trafficking with respect to peonage, slavery, involuntary servitude, or forced labor),'' after ''section 1363 (relating to destruction of property within the special maritime and territorial jurisdiction),''; and

(2) by inserting ''section 274(a) of the Immigration and Nationality Act (8 U.S.C.1324(a)) (relating to bringing in and harboring certain aliens),'' after ''section 590 of the Tariff Act of 1930 (19 U.S.C. 1590) (relating to aviation smuggling),''.

SEC. 232. SEVERABILITY.

If any provision of this title, any amendment made by this title, or the application of such provision or amendment to any person or circumstance is held to be invalid for any reason, the remainder of this title, the amendments made by this title, and the application of the provisions of such to any other person or circumstance shall not be affected by such holding.

TITLE III—UNLAWFUL EMPLOYMENT OF ALIENS

SEC. 301. UNLAWFUL EMPLOYMENT OF ALIENS.

(a) IN GENERAL.—Section 274A (8 U.S.C. 1324a) is amended to read as follows:

''SEC. 274A. UNLAWFUL EMPLOYMENT OF ALIENS.

''(a) MAKING EMPLOYMENT OF UNAUTHORIZED ALIENS UNLAWFUL.—

''(1) IN GENERAL.—It is unlawful for an employer—

''(A) to hire, or to recruit or refer for a fee, an alien for employment in the United States knowing, or with reason to know, that the alien is an unauthorized alien with respect to such employment; or

''(B) to hire, or to recruit or refer for a fee, for employment in the United States an individual unless such employer meets the requirements of subsections (c) and (d).

''(2) CONTINUING EMPLOYMENT.—It is unlawful for an employer, after lawfully hiring an alien for employment, to continue to employ the alien in the United States knowing or with reason to know that the alien is (or has become) an unauthorized alien with respect to such employment.

''(3) USE OF LABOR THROUGH CONTRACT.—In this section, an employer who uses a contract, subcontract, or exchange, entered into, renegotiated, or extended after the date of the enactment of the Securing America's Borders Act, to obtain the labor of an alien in the United States knowing, or with reason to know, that the alien is an unauthorized alien with respect to performing such labor, shall be considered to have hired the alien for employment in the United States in violation of paragraph (1)(A).

''(4) REBUTTABLE PRESUMPTION OF UNLAWFUL HIRING.—If the Secretary determines that an employer has hired more than 10 unauthorized aliens during a calendar year, a rebuttable presumption is created for the purpose of a civil enforcement proceeding, that the employer knew or had reason to know that such aliens were unauthorized.

''(5) DEFENSE.—

''(A) IN GENERAL.—Subject to subparagraph (B), an employer that establishes that the employer has complied in good faith with the requirements of subsections (c) and (d) has

established an affirmative defense that the employer has not violated paragraph (1)(A) with respect to such hiring, recruiting, or referral.

''(B) EXCEPTION.—Until the date that an employer is required to participate in the Electronic Employment Verification System under subsection (d) or is permitted to participate in such System on a voluntary basis, the employer may establish an affirmative defense under subparagraph (A) without a showing of compliance with subsection (d).

''(b) ORDER OF INTERNAL REVIEW AND CERTIFICATION OF COMPLIANCE.—

''(1) AUTHORITY TO REQUIRE CERTIFICATION.—If the Secretary has reasonable cause to believe that an employer has failed to comply with this section, the Secretary is authorized, at any time, to require that the employer certify that the employer is in compliance with this section, or has instituted a program to come into compliance.

''(2) CONTENT OF CERTIFICATION.—Not later than 60 days after the date an employer receives a request for a certification under paragraph (1) the chief executive officer or similar official of the employer shall certify under penalty of perjury that—

''(A) the employer is in compliance with the requirements of subsections (c) and (d); or

''(B) that the employer has instituted a program to come into compliance with such requirements.

''(3) EXTENSION.—The 60-day period referred to in paragraph (2), may be extended by the Secretary for good cause, at the request of the employer.

''(4) PUBLICATION.—The Secretary is authorized to publish in the Federal Register standards or methods for certification and for specific record keeping practices with respect to such certification, and procedures for the audit of any records related to such certification.

''(c) DOCUMENT VERIFICATION REQUIREMENTS.—An employer hiring, or recruiting or referring for a fee, an individual for employment in the United States shall take all reasonable steps to verify that the individual is eligible for such employment. Such steps shall include meeting the requirements of subsection (d) and the following paragraphs:

''(1) ATTESTATION BY EMPLOYER.—

''(A) REQUIREMENTS.—

''(i) IN GENERAL.—The employer shall attest, under penalty of perjury and on a form prescribed by the Secretary, that the employer has verified the identity and eligibility for employment of the individual by examining—

''(I) a document described in subparagraph (B); or

''(II) a document described in subparagraph (C) and a document described in subparagraph (D).

''(ii) SIGNATURE REQUIREMENTS.—An attestation required by clause (i) may be manifested by a handwritten or electronic signature.

''(iii) STANDARDS FOR EXAMINATION.—An employer has complied with the requirement of this paragraph with respect to examination of documentation if, based on the totality of the circumstances, a reasonable person would conclude that the document examined is genuine and establishes the individual's identity and eligibility for employment in the United States.

''(iv) REQUIREMENTS FOR EMPLOYMENT ELIGIBILITY SYSTEM PARTICIPANTS.—A participant in the Electronic Employment Verification System established under subsection (d), regardless of whether such participation is voluntary or mandatory, shall be permitted to utilize any technology that is consistent with this section and with any regulation or guidance from the Secretary to streamline the procedures to comply with the attestation requirement, and to comply with the employment eligibility verification requirements contained in this section.

''(B) DOCUMENTS ESTABLISHING BOTH EMPLOYMENT ELIGIBILITY AND IDENTITY.—A document described in this subparagraph is an individual's—

''(i) United States passport; or

''(ii) permanent resident card or other document designated by the Secretary, if the document—

''(I) contains a photograph of the individual and such other personal identifying information relating to the individual that the Secretary proscribes in regulations is sufficient for the purposes of this subparagraph;

''(II) is evidence of eligibility for employment in the United States; and

''(III) contains security features to make the document resistant to tampering, counterfeiting, and fraudulent use.

''(C) DOCUMENTS EVIDENCING EMPLOYMENT ELIGIBILITY.—A document described in this subparagraph is an individual's—

''(i) social security account number card issued by the Commissioner of Social Security (other than a card which specifies on its face that the issuance of the card does not authorize employment in the United States); or

''(ii) any other documents evidencing eligibility of employment in the United States, if—

''(I) the Secretary has published a notice in the Federal Register stating that such document is acceptable for purposes of this subparagraph; and

''(II) contains security features to make the document resistant to tampering, counterfeiting, and fraudulent use.

''(D) DOCUMENTS ESTABLISHING IDENTITY OF INDIVIDUAL.—A document described in this subparagraph is an individual's—

''(i) driver's license or identity card issued by a State, the Commonwealth of the Northern Mariana Islands, or an outlying possession of the United States that complies with the requirements of the REAL ID Act of 2005 (division B of Public Law 109–13; 119 Stat. 302);

''(ii) driver's license or identity card issued by a State, the Commonwealth of the Northern Mariana Islands, or an outlying possession of the United States that is not in compliance with the requirements of the REAL ID Act of 2005, if the license or identity card—

''(I) is not required by the Secretary to comply with such requirements; and

''(II) contains the individual's photograph or information, including the individual's name, date of birth, gender, and address; and

''(iii) identification card issued by a Federal agency or department, including a branch of the Armed Forces, or an agency, department, or entity of a State, or a Native American tribal document, provided that such card or document—

''(I) contains the individual's photograph or information including the individual's name, date of birth, gender, eye color, and address; and

''(II) contains security features to make the card resistant to tampering, counterfeiting, and fraudulent use; or

''(iv) in the case of an individual who is under 16 years of age who is unable to present a document described in clause (i), (ii), or (iii) a document of personal identity of such other type that—

''(I) the Secretary determines is a reliable means of identification; and

''(II) contains security features to make the document resistant to tampering, counterfeiting, and fraudulent use.

''(E) AUTHORITY TO PROHIBIT USE OF CERTAIN DOCUMENTS.—

''(i) AUTHORITY.—If the Secretary finds that a document or class of documents described in subparagraph (B), (C), or (D) is not reliable to establish identity or eligibility for employment (as the case may be) or is being used fraudulently to an unacceptable degree, the Secretary is authorized to prohibit, or impose conditions, on the use of such document or class of documents for purposes of this subsection.

''(ii) REQUIREMENT FOR PUBLICATION.—The Secretary shall publish notice of any findings under clause (i) in the Federal Register.

''(2) ATTESTATION OF EMPLOYEE.—

''(A) REQUIREMENTS.—

''(i) IN GENERAL.—The individual shall attest, under penalty of perjury on the form prescribed by the Secretary, that the individual is a national of the United States, an alien lawfully admitted for permanent residence, or an alien who is authorized under this Act or by the Secretary to be hired, recruited or referred for a fee, in the United States.

''(ii) SIGNATURE FOR EXAMINATION.—An attestation required by clause (i) may be manifested by a handwritten or electronic signature.

''(B) PENALTIES.—An individual who falsely represents that the individual is eligible for employment in the United States in an attestation required by subparagraph (A) shall, for each such violation, be subject to a fine of not more than $5,000, a term of imprisonment not to exceed 3 years, or both.

''(3) RETENTION OF ATTESTATION.—An employer shall retain a paper, microfiche, microfilm, or electronic version of an attestation submitted under paragraph (1) or (2) for an individual and make such attestations available for inspection by an officer of the Department of Homeland Security, any other person designated by the Secretary, the Special Counsel for Immigration-Related Unfair Employment Practices of the Department of Justice, or the Secretary of Labor during a period beginning on the date of the hiring, or recruiting or referring for a fee, of the individual and ending—

''(A) in the case of the recruiting or referral for a fee (without hiring) of an individual, 7 years after the date of the recruiting or referral; or

''(B) in the case of the hiring of an individual the later of—

''(i) 7 years after the date of such hiring;

''(ii) 1 year after the date the individual's employment is terminated; or

''(iii) in the case of an employer or class of employers, a period that is less than the applicable period described in clause (i) or (ii) if the Secretary reduces such period for such employer or class of employers.

''(4) DOCUMENT RETENTION AND RECORD KEEPING REQUIREMENTS.—

''(A) RETENTION OF DOCUMENTS.—An employer shall retain, for the applicable period described in paragraph (3), the following documents:

''(i) IN GENERAL.—Notwithstanding any other provision of law, the employer shall copy all documents presented by an individual pursuant to this subsection and shall retain paper, microfiche, microfilm, or electronic copies of such documents. Such copies shall reflect the signature of the employer and the individual and the date of receipt of such documents.

''(ii) USE OF RETAINED DOCUMENTS.—An employer shall use copies retained under clause (i) only for the purposes of complying with the requirements of this subsection, except as otherwise permitted under law.

''(B) RETENTION OF SOCIAL SECURITY CORRESPONDENCE.—The employer shall maintain records related to an individual of any no-

match notice from the Commissioner of Social Security regarding the individual's name or corresponding social security account number and the steps taken to resolve each issue described in the no-match notice.

''(C) RETENTION OF CLARIFICATION DOCUMENTS.—The employer shall maintain records of any actions and copies of any correspondence or action taken by the employer to clarify or resolve any issue that raises reasonable doubt as to the validity of the individual's identity or eligibility for employment in the United States.

''(D) RETENTION OF OTHER RECORDS.—The Secretary may require that an employer retain copies of additional records related to the individual for the purposes of this section.

''(5) PENALTIES.—An employer that fails to comply with the requirement of this subsection shall be subject to the penalties described in subsection (e)(4)(B).

''(6) NO AUTHORIZATION OF NATIONAL IDENTIFICATION CARDS.—Nothing in this section may be construed to authorize, directly or indirectly, the issuance, use, or establishment of a national identification card.

''(d) ELECTRONIC EMPLOYMENT VERIFICATION SYSTEM.—

''(1) REQUIREMENT FOR SYSTEM.—The Secretary, in cooperation with the Commissioner of Social Security, shall implement an Electronic Employment Verification System (referred to in this subsection as the 'System') as described in this subsection.

''(2) MANAGEMENT OF SYSTEM.—

''(A) IN GENERAL.—The Secretary shall, through the System—

''(i) provide a response to an inquiry made by an employer through the Internet or other electronic media or over a telephone line regarding an individual's identity and eligibility for employment in the United States;

''(ii) establish a set of codes to be provided through the System to verify such identity and authorization; and

''(iii) maintain a record of each such inquiry and the information and codes provided in response to such inquiry.

''(B) INITIAL RESPONSE.—Not later than 3 days after an employer submits an inquire to the System regarding an individual, the Secretary shall provide, through the System, to the employer—

''(i) if the System is able to confirm the individual's identity and eligibility for employment in the United States, a confirmation notice, including the appropriate codes on such confirmation notice; or

''(ii) if the System is unable to confirm the individual's identity or eligibility for employment in the United States, a tentative nonconfirmation notice, including the appropriate codes for such nonconfirmation notice.

''(C) VERIFICATION PROCESS IN CASE OF A TENTATIVE NONCONFIRMATION NOTICE.—

''(i) IN GENERAL.—If a tentative nonconfirmation notice is issued under subparagraph (B)(ii), not later than 10 days after the date an individual submits information to contest such notice under paragraph (7)(C)(ii)(III), the Secretary, through the System, shall issue a final confirmation notice or a final nonconfirmation notice to the employer, including the appropriate codes for such notice.

''(ii) DEVELOPMENT OF PROCESS.—The Secretary shall consult with the Commissioner of Social Security to develop a verification process to be used to provide a final confirmation notice or a final nonconfirmation notice under clause (i).

''(D) DESIGN AND OPERATION OF SYSTEM.—The Secretary, in consultation with the Commissioner of Social Security, shall design and operate the System—

''(i) to maximize reliability and ease of use by employers in a manner that protects and maintains the privacy and security of the information maintained in the System;

''(ii) to respond to each inquiry made by an employer; and

''(iii) to track and record any occurrence when the System is unable to receive such an inquiry;

''(iv) to include appropriate administrative, technical, and physical safeguards to prevent unauthorized disclosure of personal information;

''(v) to allow for monitoring of the use of the System and provide an audit capability; and

''(vi) to have reasonable safeguards, developed in consultation with the Attorney General, to prevent employers from engaging in unlawful discriminatory practices, based on national origin or citizenship status.

''(E) RESPONSIBILITIES OF THE COMMISSIONER OF SOCIAL SECURITY.—The Commissioner of Social Security shall establish a reliable, secure method to provide through the System, within the time periods required by subparagraphs (B) and (C)—

''(i) a determination of whether the name and social security account number provided in an inquiry by an employer match such information maintained by the Commissioner in order to confirm the validity of the information provided;

''(ii) a determination of whether such social security account number was issued to the named individual;

''(iii) determination of whether such social security account number is valid for employment in the United States; and

''(iv) a confirmation notice or a nonconfirmation notice under subparagraph (B) or (C), in a manner that ensures that other information maintained by the Commissioner is not disclosed or released to employers through the System.

''(F) RESPONSIBILITIES OF THE SECRETARY.—The Secretary shall establish a reliable, secure method to provide through the System, within the time periods required by subparagraphs (B) and (C)—

''(i) a determination of whether the name and alien identification or authorization number provided in an inquiry by an employer match such information maintained by the Secretary in order to confirm the validity of the information provided;

''(ii) a determination of whether such number was issued to the named individual;

''(iii) a determination of whether the individual is authorized to be employed in the United States; and

''(iv) any other related information that the Secretary may require.

''(G) UPDATING INFORMATION.—The Commissioner of Social Security and the Secretary shall update the information maintained in the System in a manner that promotes maximum accuracy and shall provide a process for the prompt correction of erroneous information.

''(3) REQUIREMENTS FOR PARTICIPATION.—Except as provided in paragraphs (4) and (5), the Secretary shall require employers to participate in the System as follows:

''(A) CRITICAL EMPLOYERS.—

''(i) REQUIRED PARTICIPATION.—As of the date that is 180 days after the date of the enactment of the Securing America's Borders Act, the Secretary shall require any employer or class of employers to participate in the System, with respect to employees hired by the employer prior to, on, or after such date of enactment, if the Secretary determines, in the Secretary's sole and unreviewable discretion, such employer or class of employer is—

''(I) part of the critical infrastructure of the United States; or

''(II) directly related to the national security or homeland security of the United States.

''(ii) DISCRETIONARY PARTICIPATION.—As of the date that is 180 days after the date of the enactment of the Securing America's Borders Act, the Secretary may require additional any employer or class of employers to participate in the System with respect to employees hired on or after such date if the Secretary designates such employer or class of employers, in the Secretary's sole and unreviewable discretion, as a critical employer based on immigration enforcement or homeland security needs.

''(B) LARGE EMPLOYERS.—Not later than 2 years after the date of the enactment of the Securing America's Borders Act, Secretary shall require an employer with more than 5,000 employees in the United States to participate in the System, with respect to all employees hired by the employer after the date the Secretary requires such participation.

''(C) MID-SIZED EMPLOYERS.—Not later than 3 years after the date of enactment of the Securing America's Borders Act, the Secretary shall require an employer with less than 5,000 employees and with more than 1,000 employees in the United States to participate in the System, with respect to all employees hired by the employer after the date the Secretary requires such participation.

''(D) SMALL EMPLOYERS.—Not later than 4 years after the date of the enactment of the Securing America's Borders Act, the Secretary shall require all employers with less than 1,000 employees and with more than 250 employees in the United States to participate in the System, with respect to all employees hired by the employer after the date the Secretary requires such participation.

''(E) REMAINING EMPLOYERS.—Not later than 5 years after the date of the enactment of the Securing America's Borders Act, the Secretary shall require all employers in the United States to participate in the System, with respect to all employees hired by an employer after the date the Secretary requires such participation.

''(F) REQUIREMENT TO PUBLISH.—The Secretary shall publish in the Federal Register the requirements for participation in the System as described in subparagraphs (A), (B), (C), (D), and (E) prior to the effective date of such requirements.

''(4) OTHER PARTICIPATION IN SYSTEM.—Notwithstanding paragraph (3), the Secretary has the authority, in the Secretary's sole and unreviewable discretion—

''(A) to permit any employer that is not required to participate in the System under paragraph (3) to participate in the System on a voluntary basis; and

''(B) to require any employer that is required to participate in the System under paragraph (3) with respect to newly hired employees to participate in the System with respect to all employees hired by the employer prior to, on, or after the date of the enactment of the Securing America's Borders Act, if the Secretary has reasonable causes to believe that the employer has engaged in violations of the immigration laws.

''(5) WAIVER.—The Secretary is authorized to waive or delay the participation requirements of paragraph (3) respect to any employer or class of employers if the Secretary provides notice to Congress of such waiver prior to the date such waiver is granted.

''(6) CONSEQUENCE OF FAILURE TO PARTICIPATE.—If an employer is required to participate in the System and fails to comply with the requirements of the System with respect to an individual—

''(A) such failure shall be treated as a violation of subsection (a)(1)(B) of this section with respect to such individual; and

''(B) a rebuttable presumption is created that the employer has violated subsection (a)(1)(A) of this section, however such presumption may not apply to a prosecution under subsection (f)(1).

''(7) SYSTEM REQUIREMENTS.—

''(A) IN GENERAL.—An employer that participates in the System shall, with respect to the hiring, or recruiting or referring for a fee, any individual for employment in the United States, shall—

''(i) obtain from the individual and record on the form designated by the Secretary—

''(I) the individual's social security account number; and

''(II) in the case of an individual who does not attest that the individual is a national of the United States under subsection (c)(2), such identification or authorization number that the Secretary shall require; and

''(ii) retain the original of such form and make such form available for inspection for the periods and in the manner described in subsection (c)(3).

''(B) SEEKING VERIFICATION.—The employer shall submit an inquiry through the System to seek confirmation of the individual's identity and eligibility for employment in the United States—

''(i) not later than 3 working days (or such other reasonable time as may be specified by the Secretary of Homeland Security) after the date of the hiring, or recruiting or referring for a fee, of the individual (as the case may be); or

''(ii) in the case of an employee hired prior to the date of enactment of the Securing America's Borders Act, at such time as the Secretary shall specify.

''(C) CONFIRMATION OR NONCONFIRMATION.—

''(i) CONFIRMATION UPON INITIAL INQUIRY.—If an employer receives a confirmation notice under paragraph (2)(B)(i) for an individual, the employer shall record, on the form specified by the Secretary, the appropriate code provided in such notice.

''(ii) NONCONFIRMATION AND VERIFICATION.—

''(I) NONCONFIRMATION.—If an employer receives a tentative nonconfirmation notice under paragraph (2)(B)(ii) for an individual, the employer shall inform such individual of the issuances of such notice in writing and the individual may contest such nonconfirmation notice.

''(II) NO CONTEST.—If the individual does not contest the tentative nonconfirmation notice under subclause (I) within 10 days of receiving notice from the individual's employer, the notice shall become final and the employer shall record on the form specified by the Secretary, the appropriate code provided in the nonconfirmation notice.

''(III) CONTEST.—If the individual contests the tentative nonconfirmation notice under subclause (I), the individual shall submit appropriate information to contest such notice to the System within 10 days of receiving notice from the individual's employer and shall utilize the verification process developed under paragraph (2)(C)(ii).

''(IV) EFFECTIVE PERIOD OF TENTATIVE NONCONFIRMATION.—A tentative nonconfirmation notice shall remain in effect until a final such notice becomes final under clause (II) or a final confirmation notice or final nonconfirmation notice is issued by the System.

''(V) PROHIBITION ON TERMINATION.—An employer may not terminate the employment of an individual based on a tentative nonconfirmation notice until such notice becomes final under clause (II) or a final nonconfirmation notice is issued for the individual by the System. Nothing in this clause shall apply to a termination of employment for any reason other than because of such a failure.

''(VI) RECORDING OF CONCLUSION ON FORM.—If a final confirmation or nonconfirmation is provided by the System regarding an individual, the employer shall record on the form designated by the Secretary the appropriate code that is provided under the System to indicate a confirmation or nonconfirmation of the identity and employment eligibility of the individual.

''(D) CONSEQUENCES OF NONCONFIRMATION.—

''(i) TERMINATION OF CONTINUED EMPLOYMENT.—If the employer has received a final nonconfirmation regarding an individual, the employer shall terminate the employment, recruitment, or referral of the individual. Such employer shall provide to the Secretary any information relating to the nonconfirmed individual that the Secretary determines would assist the Secretary in enforcing or administering the immigration laws. If the employer continues to employ, recruit, or refer the individual after receiving final nonconfirmation, a rebuttable presumption is created that the employer has violated subsections (a)(1)(A) and (a)(2). Such presumption may not apply to a prosecution under subsection (f)(1).

''(8) PROTECTION FROM LIABILITY.—No employer that participates in the System shall be liable under any law for any employment-related action taken with respect to an individual in good faith reliance on information provided by the System.

''(9) LIMITATION ON USE OF THE SYSTEM.—Notwithstanding any other provision of law, nothing in this subsection shall be construed to permit or allow any department, bureau, or other agency of the United States to utilize any information, database, or other records used in the System for any purpose other than as provided for under this subsection.

''(10) MODIFICATION AUTHORITY.—The Secretary, after notice is submitted to Congress and provided to the public in the Federal Register, is authorized to modify the requirements of this subsection, including requirements with respect to completion of forms, method of storage, attestations, copying of documents, signatures, methods of transmitting information, and other operational and technical aspects to improve the efficiency, accuracy, and security of the System.

''(11) FEES.—The Secretary is authorized to require any employer participating in the System to pay a fee or fees for such participation. The fees may be set at a level that will recover the full cost of providing the System to all participants. The fees shall be deposited and remain available as provided in subsection (m) and (n) of section 286 and the System is providing an immigration adjudication and naturalization service for purposes of section 286(n).

''(12) REPORT.—Not later than 1 year after the date of the enactment of the Securing America's Borders Act, the Secretary shall submit to Congress a report on the capacity, systems integrity, and accuracy of the System.

''(e) COMPLIANCE.—

''(1) COMPLAINTS AND INVESTIGATIONS.—The Secretary shall establish procedures—

''(A) for individuals and entities to file complaints regarding potential violations of subsection (a);

''(B) for the investigation of those complaints that the Secretary deems it appropriate to investigate; and

''(C) for the investigation of such other violations of subsection (a), as the Secretary determines are appropriate.

''(2) AUTHORITY IN INVESTIGATIONS.—

''(A) IN GENERAL.—In conducting investigations and hearings under this subsection, officers and employees of the Department of Homeland Security—

''(i) shall have reasonable access to examine evidence of any employer being investigated; and

''(ii) if designated by the Secretary of Homeland Security, may compel by subpoena the attendance of witnesses and the production of evidence at any designated place in an investigation or case under this subsection.

''(B) FAILURE TO COOPERATE.—In case of refusal to obey a subpoena lawfully issued under subparagraph (A)(ii), the Secretary may request that the Attorney General apply in an appropriate district court of the United States for an order requiring compliance with such subpoena, and any failure to obey such order may be punished by such court as contempt.

''(C) DEPARTMENT OF LABOR.—The Secretary of Labor shall have the investigative authority provided under section 11(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 211(a)) to ensure compliance with the provisions of this title, or any regulation or order issued under this title.

''(3) COMPLIANCE PROCEDURES.—

''(A) PRE-PENALTY NOTICE.—If the Secretary has reasonable cause to believe that there has been a violation of a requirement of this section and determines that further proceedings related to such violation are warranted, the Secretary shall issue to the employer concerned a written notice of the Secretary's intention to issue a claim for a fine or other penalty. Such notice shall—

''(i) describe the violation;

''(ii) specify the laws and regulations allegedly violated;

''(iii) disclose the material facts which establish the alleged violation; and

''(iv) inform such employer that the employer shall have a reasonable opportunity to make representations as to why a claim for a monetary or other penalty should not be imposed.

''(B) REMISSION OR MITIGATION OF PENALTIES.—

''(i) PETITION BY EMPLOYER.—Whenever any employer receives written notice of a fine or other penalty in accordance with subparagraph (A), the employer may file within 30 days from receipt of such notice, with the Secretary a petition for the remission or mitigation of such fine or penalty, or a petition for termination of the proceedings. The petition may include any relevant evidence or proffer of evidence the employer wishes to present, and shall be filed and considered in accordance with procedures to be established by the Secretary.

''(ii) REVIEW BY SECRETARY.—If the Secretary finds that such fine or other penalty was incurred erroneously, or finds the existence of such mitigating circumstances as to justify the remission or mitigation of such fine or penalty, the Secretary may remit or mitigate such fine or other penalty on the terms and conditions as the Secretary determines are reasonable and just, or order termination of any proceedings related to the notice. Such mitigating circumstances may include good faith compliance and participation in, or agreement to participate in, the System, if not otherwise required.

''(iii) APPLICABILITY.—This subparagraph may not apply to an employer that has or is engaged in a pattern or practice of violations of paragraph (1)(A), (1)(B), or (2) of subsection (a) or of any other requirements of this section.

''(C) PENALTY CLAIM.—After considering evidence and representations offered by the employer pursuant to subparagraph (B), the Secretary shall determine whether there was a violation and promptly issue a written final determination setting forth the findings of fact and conclusions of law on which

the determination is based and the appropriate penalty.

''(4) CIVIL PENALTIES.—

''(A) HIRING OR CONTINUING TO EMPLOY UNAUTHORIZED ALIENS.—Any employer that violates any provision of paragraph (1)(A) or (2) of subsection (a) shall pay civil penalties as follows:

''(i) Pay a civil penalty of not less than $500 and not more than $4,000 for each unauthorized alien with respect to each such violation.

''(ii) If the employer has previously been fined 1 time under this subparagraph, pay a civil penalty of not less than $4,000 and not more than $10,000 for each unauthorized alien with respect to each such violation.

''(iii) If the employer has previously been fined more than 1 time under this subparagraph or has failed to comply with a previously issued and final order related to any such provision, pay a civil penalty of not less than $6,000 and not more than $20,000 for each unauthorized alien with respect to each such violation.

''(B) RECORD KEEPING OR VERIFICATION PRACTICES.—Any employer that violates or fails to comply with the requirements of the subsection (b), (c), and (d), shall pay a civil penalty as follows:

''(i) Pay a civil penalty of not less than $200 and not more than $2,000 for each such violation.

''(ii) If the employer has previously been fined 1 time under this subparagraph, pay a civil penalty of not less than $400 and not more than $4,000 for each such violation.

''(iii) If the employer has previously been fined more than 1 time under this subparagraph or has failed to comply with a previously issued and final order related to such requirements, pay a civil penalty of $6,000 for each such violation.

''(C) OTHER PENALTIES.—Notwithstanding subparagraphs (A) and (B), the Secretary may impose additional penalties for violations, including cease and desist orders, specially designed compliance plans to prevent further violations, suspended fines to take effect in the event of a further violation, and in appropriate cases, the civil penalty described in subsection (g)(2).

''(D) REDUCTION OF PENALTIES.—Notwithstanding subparagraphs (A), (B), and (C), the Secretary is authorized to reduce or mitigate penalties imposed upon employers, based upon factors including the employer's hiring volume, compliance history, good-faith implementation of a compliance program, participation in a temporary worker program, and voluntary disclosure of violations of this subsection to the Secretary.

''(E) ADJUSTMENT FOR INFLATION.—All penalties in this section may be adjusted every 4 years to account for inflation, as provided by law.

''(5) JUDICIAL REVIEW.—An employer adversely affected by a final determination may, within 45 days after the date the final determination is issued, file a petition in the Court of Appeals for the appropriate circuit for review of the order. The filing of a petition as provided in this paragraph shall stay the Secretary's determination until entry of judgment by the court. The burden shall be on the employer to show that the final determination was not supported by substantial evidence. The Secretary is authorized to require that the petitioner provide, prior to filing for review, security for payment of fines and penalties through bond or other guarantee of payment acceptable to the Secretary.

''(6) ENFORCEMENT OF ORDERS.—If an employer fails to comply with a final determination issued against that employer under this subsection, and the final determination is not subject to review as provided in paragraph (5), the Attorney General may file suit to enforce compliance with the final determination in any appropriate district court of the United States. In any such suit, the validity and appropriateness of the final determination shall not be subject to review.

''(f) CRIMINAL PENALTIES AND INJUNCTIONS FOR PATTERN OR PRACTICE VIOLATIONS.—

''(1) CRIMINAL PENALTY.—An employer that engages in a pattern or practice of knowing violations of subsection (a)(1)(A) or (a)(2) shall be fined not more than $20,000 for each unauthorized alien with respect to whom such a violation occurs, imprisoned for not more than 6 months for the entire pattern or practice, or both.

''(2) ENJOINING OF PATTERN OR PRACTICE VIOLATIONS.—If the Secretary or the Attorney General has reasonable cause to believe that an employer is engaged in a pattern or practice of employment, recruitment, or referral in violation of paragraph (1)(A) or (2) of subsection (a), the Attorney General may bring a civil action in the appropriate district court of the United States requesting such relief, including a permanent or temporary injunction, restraining order, or other order against the employer, as the Secretary deems necessary.

''(g) PROHIBITION OF INDEMNITY BONDS.—

''(1) PROHIBITION.—It is unlawful for an employer, in the hiring, recruiting, or referring for a fee, of an individual, to require the individual to post a bond or security, to pay or agree to pay an amount, or otherwise to provide a financial guarantee or indemnity, against any potential liability arising under this section relating to such hiring, recruiting, or referring of the individual.

''(2) CIVIL PENALTY.—Any employer which is determined, after notice and opportunity for mitigation of the monetary penalty under subsection (e), to have violated paragraph (1) of this subsection shall be subject to a civil penalty of $10,000 for each violation and to an administrative order requiring the return of any amounts received in violation of such paragraph to the employee or, if the employee cannot be located, to the Employer Compliance Fund established under section 286(w).

''(h) PROHIBITION ON AWARD OF GOVERNMENT CONTRACTS, GRANTS, AND AGREEMENTS.—

''(1) EMPLOYERS WITH NO CONTRACTS, GRANTS OR AGREEMENTS.—

''(A) IN GENERAL.—If an employer who does not hold a Federal contract, grant, or cooperative agreement is determined by the Secretary to be a repeat violator of this section or is convicted of a crime under this section, the employer shall be debarred from the receipt of a Federal contract, grant, or cooperative agreement for a period of 2 years. The Secretary or the Attorney General shall advise the Administrator of General Services of such a debarment, and the Administrator of General Services shall list the employer on the List of Parties Excluded from Federal Procurement and Nonprocurement Programs for a period of 2 years.

''(B) WAIVER.—The Administrator of General Services, in consultation with the Secretary and the Attorney General, may waive operation of this subsection or may limit the duration or scope of the debarment.

''(2) EMPLOYERS WITH CONTRACTS, GRANTS, OR AGREEMENTS.—

''(A) IN GENERAL.—An employer who holds a Federal contract, grant, or cooperative agreement and is determined by the Secretary of Homeland Secretary to be a repeat violator of this section or is convicted of a crime under this section, shall be debarred from the receipt of Federal contracts, grants, or cooperative agreements for a period of 2 years.

''(B) NOTICE TO AGENCIES.—Prior to debarring the employer under subparagraph (A), the Secretary, in cooperation with the Administrator of General Services, shall advise any agency or department holding a contract, grant, or cooperative agreement with the employer of the Government's intention to debar the employer from the receipt of new Federal contracts, grants, or cooperative agreements for a period of 2 years.

''(C) WAIVER.—After consideration of the views of any agency or department that holds a contract, grant, or cooperative agreement with the employer, the Secretary may, in lieu of debarring the employer from the receipt of new Federal contracts, grants, or cooperative agreements for a period of 2 years, waive operation of this subsection, limit the duration or scope of the debarment, or may refer to an appropriate lead agency the decision of whether to debar the employer, for what duration, and under what scope in accordance with the procedures and standards prescribed by the Federal Acquisition Regulation. However, any proposed debarment predicated on an administrative determination of liability for civil penalty by the Secretary or the Attorney General shall not be reviewable in any debarment proceeding. The decision of whether to debar or take alternation shall not be judicially reviewed.

''(3) SUSPENSION.—Indictments for violations of this section or adequate evidence of actions that could form the basis for debarment under this subsection shall be considered a cause for suspension under the procedures and standards for suspension prescribed by the Federal Acquisition Regulation.

''(i) MISCELLANEOUS PROVISIONS.—

''(1) DOCUMENTATION.—In providing documentation or endorsement of authorization of aliens (other than aliens lawfully admitted for permanent residence) eligible to be employed in the United States, the Secretary shall provide that any limitations with respect to the period or type of employment or employer shall be conspicuously stated on the documentation or endorsement.

''(2) PREEMPTION.—The provisions of this section preempt any State or local law—

''(A) imposing civil or criminal sanctions (other than through licensing and similar laws) upon those who employ, or recruit or refer for a fee for employment, unauthorized aliens; or

''(B) requiring as a condition of conducting, continuing, or expanding a business that a business entity—

''(i) provide, build, fund, or maintain a shelter, structure, or designated area for use by day laborers at or near its place of business; or

''(ii) take other steps that facilitate the employment of day laborers by others.

''(j) DEPOSIT OF AMOUNTS RECEIVED.—Except as otherwise specified, civil penalties collected under this section shall be deposited by the Secretary into the Employer Compliance Fund established under section 286(w).

''(k) DEFINITIONS.—In this section:

''(1) EMPLOYER.—The term 'employer' means any person or entity, including any entity of the Government of the United States, hiring, recruiting, or referring an individual for employment in the United States.

''(2) NO-MATCH NOTICE.—The term 'no-match notice' means written notice from the Commissioner of Social Security to an employer reporting earnings on a Form W–2 that an employee name or corresponding social security account number fail to match records maintained by the Commissioner.

''(3) SECRETARY.—Except as otherwise provided, the term 'Secretary' means the Secretary of Homeland Security.

''(4) UNAUTHORIZED ALIEN.—The term 'unauthorized alien' means, with respect to the employment of an alien at a particular time, that the alien is not at that time either—

''(A) an alien lawfully admitted for permanent residence; or

''(B) authorized to be so employed by this Act or by the Secretary.''.

(b) CONFORMING AMENDMENT.—

(1) AMENDMENT.—Sections 401, 402, 403, 404, and 405 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208; 8 U.S.C. 1324a) are repealed.

(2) CONSTRUCTION.—Nothing in this subsection or in subsection (d) of section 274A, as amended by subsection (a), may be construed to limit the authority of the Secretary to allow or continue to allow the participation of employers who participated in the basic pilot program under such sections 401, 402, 403, 404, and 405 in the Electronic Employment Verification System established pursuant to such subsection (d).

(c) TECHNICAL AMENDMENTS.—

(1) DEFINITION OF UNAUTHORIZED ALIEN.—Sections 218(i)(1) (8 U.S.C. 1188(i)(1)), 245(c)(8) (8 U.S.C. 1255(c)(8)), 274(a)(3)(B)(i) (8 U.S.C. 1324(a)(3)(B)(i)), and 274B(a)(1) (8 U.S.C. 1324b(a)(1)) are amended by striking ''274A(h)(3)'' and inserting ''274A''.

(2) DOCUMENT REQUIREMENTS.—Section 274B (8 U.S.C. 1324b) is amended—

(A) in subsections (a)(6) and (g)(2)(B), by striking ''274A(b)'' and inserting ''274A(d)''; and

(B) in subsection (g)(2)(B)(ii), by striking ''274A(b)(5)'' and inserting ''274A(d)(9)''.

(d) EFFECTIVE DATE.—The amendments made by subsections (a), (b), and (c) shall take effect on the date that is 180 days after the date of the enactment of this Act.

SEC. 302. EMPLOYER COMPLIANCE FUND.

Section 286 (8 U.S.C. 1356) is amended by adding at the end the following new subsection:

''(w) EMPLOYER COMPLIANCE FUND.—

''(1) IN GENERAL.—There is established in the general fund of the Treasury, a separate account, which shall be known as the 'Employer Compliance Fund' (referred to in this subsection as the 'Fund').

''(2) DEPOSITS.—There shall be deposited as offsetting receipts into the Fund all civil monetary penalties collected by the Secretary of Homeland Security under section 274A.

''(3) PURPOSE.—Amounts refunded to the Secretary from the Fund shall be used for the purposes of enhancing and enforcing employer compliance with section 274A.

''(4) AVAILABILITY OF FUNDS.—Amounts deposited into the Fund shall remain available until expended and shall be refunded out of the Fund by the Secretary of the Treasury, at least on a quarterly basis, to the Secretary of Homeland Security.''.

SEC. 303. ADDITIONAL WORKSITE ENFORCEMENT AND FRAUD DETECTION AGENTS.

(a) WORKSITE ENFORCEMENT.—The Secretary shall, subject to the availability of appropriations for such purpose, annually increase, by not less than 2,000, the number of positions for investigators dedicated to enforcing compliance with sections 274 and 274A of the Immigration and Nationality Act (8 U.S.C. 1324, and 1324a) during the 5-year period beginning date of the enactment of this Act.

(b) FRAUD DETECTION.—The Secretary shall, subject to the availability of appropriations for such purpose, increase by not less than 1,000 the number of positions for agents of the Bureau of Immigration and Customs Enforcement dedicated to immigration fraud detection during the 5-year period beginning date of the enactment of this Act.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for each of the fiscal years 2007 through 2011 such sums as may be necessary to carry out this section.

SEC. 304. CLARIFICATION OF INELIGIBILITY FOR MISREPRESENTATION.

Section 212(a)(6)(C)(ii)(I) (8 U.S.C. 1182(a)(6)(C)(ii)(I)), is amended by striking ''citizen'' and inserting ''national''.

TITLE IV—BACKLOG REDUCTION AND VISAS FOR STUDENTS, MEDICAL PROVIDERS, AND ALIENS WITH ADVANCED DEGREES

SEC. 401. ELIMINATION OF EXISTING BACKLOGS.

(a) FAMILY-SPONSORED IMMIGRANTS.—Section 201(c) (8 U.S.C. 1151(c)) is amended to read as follows:

''(c) WORLDWIDE LEVEL OF FAMILY-SPONSORED IMMIGRANTS.—The worldwide level of family-sponsored immigrants under this subsection for a fiscal year is equal to the sum of—

''(1) 480,000;

''(2) the difference between the maximum number of visas authorized to be issued under this subsection during the previous fiscal year and the number of visas issued during the previous fiscal year;

''(3) the difference between—

''(A) the maximum number of visas authorized to be issued under this subsection during fiscal years 2001 through 2005 minus the number of visas issued under this subsection during those fiscal years; and

''(B) the number of visas calculated under subparagraph (A) that were issued after fiscal year 2005.''.

(b) EMPLOYMENT-BASED IMMIGRANTS.—Section 201(d) (8 U.S.C. 1151(d)) is amended to read as follows:

''(d) WORLDWIDE LEVEL OF EMPLOYMENT-BASED IMMIGRANTS.—

''(1) IN GENERAL.—Subject to paragraph (2), the worldwide level of employment-based immigrants under this subsection for a fiscal year is equal to the sum of—

''(A) 290,000;

''(B) the difference between the maximum number of visas authorized to be issued under this subsection during the previous fiscal year and the number of visas issued during the previous fiscal year; and

''(C) the difference between—

''(i) the maximum number of visas authorized to be issued under this subsection during fiscal years 2001 through 2005 and the number of visa numbers issued under this subsection during those fiscal years; and

''(ii) the number of visas calculated under clause (i) that were issued after fiscal year 2005.

''(2) VISAS FOR SPOUSES AND CHILDREN.—Immigrant visas issued on or after October 1, 2004, to spouses and children of employment-based immigrants shall not be counted against the numerical limitation set forth in paragraph (1).''.

SEC. 402. COUNTRY LIMITS.

Section 202(a) (8 U.S.C. 1152(a)) is amended—

(1) in paragraph (2)—

(A) by striking '', (4), and (5)'' and inserting ''and (4)''; and

(B) by striking ''7 percent (in the case of a single foreign state) or 2 percent'' and inserting ''10 percent (in the case of a single foreign state) or 5 percent''; and

(2) by striking paragraph (5).

SEC. 403. ALLOCATION OF IMMIGRANT VISAS.

(a) PREFERENCE ALLOCATION FOR FAMILY-SPONSORED IMMIGRANTS.—Section 203(a) (8 U.S.C. 1153(a)) is amended to read as follows:

''(a) PREFERENCE ALLOCATIONS FOR FAMILY-SPONSORED IMMIGRANTS.—Aliens subject to the worldwide level specified in section 201(c) for family-sponsored immigrants shall be allocated visas as follows:

''(1) UNMARRIED SONS AND DAUGHTERS OF CITIZENS.—Qualified immigrants who are the unmarried sons or daughters of citizens of the United States shall be allocated visas in a quantity not to exceed the sum of—

''(A) 10 percent of such worldwide level; and

''(B) any visas not required for the class specified in paragraph (4).

''(2) SPOUSES AND UNMARRIED SONS AND DAUGHTERS OF PERMANENT RESIDENT ALIENS.—

''(A) IN GENERAL.—Visas in a quantity not to exceed 50 percent of such worldwide level plus any visas not required for the class specified in paragraph (1) shall be allocated to qualified immigrants who are—

''(i) the spouses or children of an alien lawfully admitted for permanent residence; or

''(ii) the unmarried sons or daughters of an alien lawfully admitted for permanent residence.

''(B) MINIMUM PERCENTAGE.—Visas allocated to individuals described in subparagraph (A)(i) shall constitute not less than 77 percent of the visas allocated under this paragraph.

''(3) MARRIED SONS AND DAUGHTERS OF CITIZENS.—Qualified immigrants who are the married sons and daughters of citizens of the United States shall be allocated visas in a quantity not to exceed the sum of—

''(A) 10 percent of such worldwide level; and

''(B) any visas not required for the classes specified in paragraphs (1) and (2).

''(4) BROTHERS AND SISTERS OF CITIZENS.—Qualified immigrants who are the brothers or sisters of a citizen of the United States who is at least 21 years of age shall be allocated visas in a quantity not to exceed 30 percent of the worldwide level.''.

(b) PREFERENCE ALLOCATION FOR EMPLOYMENT-BASED IMMIGRANTS.—Section 203(b) (8 U.S.C. 1153(b)) is amended—

(1) in paragraph (1), by striking ''28.6 percent'' and inserting ''15 percent'';

(2) in paragraph (2)(A), by striking ''28.6 percent'' and inserting ''15 percent'';

(3) in paragraph (3)(A)—

(A) by striking ''28.6 percent'' and inserting ''35 percent''; and

(B) by striking clause (iii);

(4) by striking paragraph (4);

(5) by redesignating paragraph (5) as paragraph (4);

(6) in paragraph (4)(A), as redesignated, by striking ''7.1 percent'' and inserting ''5 percent'';

(7) by inserting after paragraph (4), as redesignated, the following:

''(5) OTHER WORKERS.—Visas shall be made available, in a number not to exceed 30 percent of such worldwide level, plus any visa numbers not required for the classes specified in paragraphs (1) through (4), to qualified immigrants who are capable, at the time of petitioning for classification under this paragraph, of performing unskilled labor that is not of a temporary or seasonal nature, for which qualified workers are determined to be unavailable in the United States.''; and

(8) by striking paragraph (6).

(c) CONFORMING AMENDMENTS.—

(1) DEFINITION OF SPECIAL IMMIGRANT.—Section 101(a)(27)(M) (8 U.S.C. 1101(a)(27)(M)) is amended by striking ''subject to the numerical limitations of section 203(b)(4),''.

(2) REPEAL OF TEMPORARY REDUCTION IN WORKERS' VISAS.—Section 203(e) of the Nicaraguan Adjustment and Central American

Relief Act (Public Law 105–100; 8 U.S.C. 1153 note) is repealed.

SEC. 404. RELIEF FOR MINOR CHILDREN.

(a) IN GENERAL.—Section 201(b)(2) (8 U.S.C. 1151(b)(2)) is amended to read as follows:

''(2)(A)(i) Aliens admitted under section 211(a) on the basis of a prior issuance of a visa under section 203(a) to their accompanying parent who is an immediate relative.

''(ii) In this subparagraph, the term 'immediate relative' means a child, spouse, or parent of a citizen of the United States (and each child of such child, spouse, or parent who is accompanying or following to join the child, spouse, or parent), except that, in the case of parents, such citizens shall be at least 21 years of age.

''(iii) An alien who was the spouse of a citizen of the United States for not less than 2 years at the time of the citizen's death and was not legally separated from the citizen at the time of the citizen's death, and each child of such alien, shall be considered, for purposes of this subsection, to remain an immediate relative after the date of the citizen's death if the spouse files a petition under section 204(a)(1)(A)(ii) before the earlier of—

''(I) 2 years after such date; or

''(II) the date on which the spouse remarries.

''(iv) In this clause, an alien who has filed a petition under clause (iii) or (iv) of section 204(a)(1)(A) remains an immediate relative if the United States citizen spouse or parent loses United States citizenship on account of the abuse.

''(B) Aliens born to an alien lawfully admitted for permanent residence during a temporary visit abroad.''.

(b) PETITION.—Section 204(a)(1)(A)(ii) (8 U.S.C. 1154 (a)(1)(A)(ii)) is amended by striking ''in the second sentence of section 201(b)(2)(A)(i) also'' and inserting ''in section 201(b)(2)(A)(iii) or an alien child or alien parent described in the 201(b)(2)(A)(iv)''.

SEC. 405. STUDENT VISAS.

(a) IN GENERAL.—Section 101(a)(15)(F) (8 U.S.C. 1101(a)(15)(F)) is amended—

(1) in clause (i)—

(A) by striking ''he has no intention of abandoning, who is'' and inserting the following: ''except in the case of an alien described in clause (iv), the alien has no intention of abandoning, who is—

''(I)'';

(B) by striking ''consistent with section 214(l)'' and inserting ''(except for a graduate program described in clause (iv)) consistent with section 214(m)'';

(C) by striking the comma at the end and inserting the following: ''; or

''(II) engaged in temporary employment for optional practical training related to the alien's area of study, which practical training shall be authorized for a period or periods of up to 24 months;'';

(2) in clause (ii)—

(A) by inserting ''or (iv)'' after ''clause (i)''; and

(B) by striking '', and'' and inserting a semicolon;

(3) in clause (iii), by adding ''and'' at the end; and

(4) by adding at the end the following:

''(iv) an alien described in clause (i) who has been accepted and plans to attend an accredited graduate program in mathematics, engineering, technology, or the sciences in the United States for the purpose of obtaining an advanced degree.''.

(b) ADMISSION OF NONIMMIGRANTS.—Section 214(b) (8 U.S.C. 1184(b)) is amended by striking ''subparagraph (L) or (V)'' and inserting ''subparagraph (F)(iv), (L), or (V)''.

(c) REQUIREMENTS FOR F-4 VISA.—Section 214(m) (8 U.S.C. 1184(m)) is amended—

(1) by inserting before paragraph (1) the following:

''(m) NONIMMIGRANT ELEMENTARY, SECONDARY, AND POST-SECONDARY SCHOOL STUDENTS.—''; and

(2) by adding at the end the following:

''(3) A visa issued to an alien under section 101(a)(15)(F)(iv) shall be valid—

''(A) during the intended period of study in a graduate program described in such section;

''(B) for an additional period, not to exceed 1 year after the completion of the graduate program, if the alien is actively pursuing an offer of employment related to the knowledge and skills obtained through the graduate program; and

''(C) for the additional period necessary for the adjudication of any application for labor certification, employment-based immigrant petition, and application under section 245(a)(2) to adjust such alien's status to that of an alien lawfully admitted for permanent residence, if such application for labor certification or employment-based immigrant petition has been filed not later than 1 year after the completion of the graduate program.''.

(d) OFF CAMPUS WORK AUTHORIZATION FOR FOREIGN STUDENTS.—

(1) IN GENERAL.—Aliens admitted as nonimmigrant students described in section 101(a)(15)(F) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(F)) may be employed in an off-campus position unrelated to the alien's field of study if—

(A) the alien has enrolled full time at the educational institution and is maintaining good academic standing;

(B) the employer provides the educational institution and the Secretary of Labor with an attestation that the employer—

(i) has spent at least 21 days recruiting United States citizens to fill the position; and

(ii) will pay the alien and other similarly situated workers at a rate equal to not less than the greater of—

(I) the actual wage level for the occupation at the place of employment; or

(II) the prevailing wage level for the occupation in the area of employment; and

(C) the alien will not be employed more than—

(i) 20 hours per week during the academic term; or

(ii) 40 hours per week during vacation periods and between academic terms.

(2) DISQUALIFICATION.—If the Secretary of Labor determines that an employer has provided an attestation under paragraph (1)(B) that is materially false or has failed to pay wages in accordance with the attestation, the employer, after notice and opportunity for a hearing, shall be disqualified from employing an alien student under paragraph (1).

(e) ADJUSTMENT OF STATUS.—Section 245(a) (8 U.S.C. 1255(a)) is amended to read as follows:

''(a) AUTHORIZATION.—

''(1) IN GENERAL.—The status of an alien, who was inspected and admitted or paroled into the United States, or who has an approved petition for classification under subparagraph (A)(iii), (A)(iv), (B)(ii), or (B)(iii) of section 204(a)(1), may be adjusted by the Secretary of Homeland Security or the Attorney General, under such regulations as the Secretary or the Attorney General may prescribe, to that of an alien lawfully admitted for permanent residence if—

''(A) the alien makes an application for such adjustment;

''(B) the alien is eligible to receive an immigrant visa;

''(C) the alien is admissible to the United States for permanent residence; and

''(D) an immigrant visa is immediately available to the alien at the time the application is filed.

''(2) STUDENT VISAS.—Notwithstanding the requirement under paragraph (1)(C), an alien may file an application for adjustment of status under this section if—

''(A) the alien has been issued a visa or otherwise provided nonimmigrant status under section 101(a)(15)(F)(iv), or would have qualified for such nonimmigrant status if section 101(a)(15)(F)(iv) had been enacted before such alien's graduation;

''(B) the alien has earned an advanced degree in the sciences, technology, engineering, or mathematics;

''(C) the alien is the beneficiary of a petition filed under subparagraph (E) or (F) of section 204(a)(1); and

''(D) a fee of $1,000 is remitted to the Secretary on behalf of the alien.

''(3) LIMITATION.—An application for adjustment of status filed under this section may not be approved until an immigrant visa number becomes available.''.

(f) USE OF FEES.—

(1) JOB TRAINING; SCHOLARSHIPS.—Section 286(s)(1) (8 U.S.C. 1356(s)(1)) is amended by inserting ''and 80 percent of the fees collected under section 245(a)(2)(D)'' before the period at the end.

(2) FRAUD PREVENTION AND DETECTION.—Section 286(v)(1) (8 U.S.C. 1356(v)(1)) is amended by inserting ''and 20 percent of the fees collected under section 245(a)(2)(D)'' before the period at the end.

SEC. 406. VISAS FOR INDIVIDUALS WITH ADVANCED DEGREES.

(a) ALIENS WITH CERTAIN ADVANCED DEGREES NOT SUBJECT TO NUMERICAL LIMITATIONS ON EMPLOYMENT BASED IMMIGRANTS.—

(1) IN GENERAL.—Section 201(b)(1) (8 U.S.C. 1151(b)(1)) is amended by adding at the end the following:

''(F) Aliens who have earned an advanced degree in science, technology, engineering, or math and have been working in a related field in the United States under a nonimmigrant visa during the 3-year period preceding their application for an immigrant visa under section 203(b).

''(G) Aliens described in subparagraph (A) or (B) of section 203(b)(1)(A) or who have received a national interest waiver under section 203(b)(2)(B).

''(H) The spouse and minor children of an alien who is admitted as an employment-based immigrant under section 203(b).''.

(2) APPLICABILITY.—The amendment made by paragraph (1) shall apply to any visa application—

(A) pending on the date of the enactment of this Act; or

(B) filed on or after such date of enactment.

(b) LABOR CERTIFICATION.—Section 212(a)(5)(A)(ii) (8 U.S.C. 1182(a)(5)(A)(ii)) is amended—

(1) in subclause (I), by striking ''or'' at the end;

(2) in subclause (II), by striking the period at the end and inserting ''; or''; and

(3) by adding at the end the following:

''(III) has an advanced degree in the sciences, technology, engineering, or mathematics from an accredited university in the United States and is employed in a field related to such degree.''.

(c) TEMPORARY WORKERS.—Section 214(g) (8 U.S.C. 1184(g)) is amended—

(1) in paragraph (1)—

(A) by striking ''(beginning with fiscal year 1992)''; and

(B) in subparagraph (A)—

(i) in clause (vii), by striking ''each succeeding fiscal year; or'' and inserting ''each of fiscal years 2004, 2005, and 2006;''; and

(ii) by adding after clause (vii) the following:

''(viii) 115,000 in the first fiscal year beginning after the date of the enactment of this clause; and

''(ix) the number calculated under paragraph (9) in each fiscal year after the year described in clause (viii); or'';

(2) in paragraph (5)—

(A) in subparagraph (B), by striking ''or'' at the end;

(B) in subparagraph (C), by striking the period at the end and inserting ''; or''; and

(C) by adding at the end the following:

''(D) has earned an advanced degree in science, technology, engineering, or math.'';

(3) by redesignating paragraphs (9), (10), and (11) as paragraphs (10), (11), and (12), respectively; and

(4) by inserting after paragraph (8) the following:

''(9) If the numerical limitation in paragraph (1)(A)—

''(A) is reached during a given fiscal year, the numerical limitation under paragraph (1)(A)(ix) for the subsequent fiscal year shall be equal to 120 percent of the numerical limitation of the given fiscal year; or

''(B) is not reached during a given fiscal year, the numerical limitation under paragraph (1)(A)(ix) for the subsequent fiscal year shall be equal to the numerical limitation of the given fiscal year.''.

(d) APPLICABILITY.—The amendment made by subsection (c)(2) shall apply to any visa application—

(1) pending on the date of the enactment of this Act; or

(2) filed on or after such date of enactment.

SEC. 407. MEDICAL SERVICES IN UNDERSERVED AREAS.

Section 220(c) of the Immigration and Nationality Technical Corrections Act of 1994 (8 U.S.C. 1182 note; Public Law 103–416) is amended by striking ''Act and before June 1, 2006.'' and inserting ''Act.''.

TITLE V—IMMIGRATION LITIGATION REDUCTION

SEC. 501. CONSOLIDATION OF IMMIGRATION APPEALS.

(a) REAPPORTIONMENT OF CIRCUIT COURT JUDGES.—The table in section 44(a) of title 28, United States Code, is amended in the item relating to the Federal Circuit by striking ''12'' and inserting ''15''.

(b) REVIEW OF ORDERS OF REMOVAL.—Section 242(b) (8 U.S.C. 1252(b)) is amended—

(1) in paragraph (2), by striking the first sentence and inserting ''The petition for review shall be filed with the United Sates Court of Appeals for the Federal Circuit.'';

(2) in paragraph (5)(B), by adding at the end the following: ''Any appeal of a decision by the district court under this paragraph shall be filed with the United States Court of Appeals for the Federal Circuit.''; and

(3) in paragraph (7), by amending subparagraph (C) to read as follows:

''(C) CONSEQUENCE OF INVALIDATION AND VENUE OF APPEALS.—

''(i) INVALIDATION.—If the district court rules that the removal order is invalid, the court shall dismiss the indictment for violation of section 243(a).

''(ii) APPEALS.—The United States Government may appeal a dismissal under clause (i) to the United States Court of Appeals for the Federal Circuit within 30 days after the date of the dismissal. If the district court rules that the removal order is valid, the defendant may appeal the district court decision to the United States Court of Appeals for the Federal Circuit within 30 days after the date of completion of the criminal proceeding.''.

(c) REVIEW OF ORDERS REGARDING INADMISSABLE ALIENS.—Section 242(e) (8 U.S.C. 1252(e)) is amended by adding at the end the following new paragraph:

''(6) VENUE.—The petition to appeal any decision by the district court pursuant to this subsection shall be filed with the United States Court of Appeals for the Federal Circuit.''.

(d) EXCLUSIVE JURISDICTION.—Section 242(g) (8 U.S.C. 1252(g)) is amended—

(1) by striking ''Except''; and inserting the following:

''(1) IN GENERAL.—Except''; and

(2) by adding at the end the following:

''(2) APPEALS.—Notwithstanding any other provision of law, the United States Court of Appeals for the Federal Circuit shall have exclusive jurisdiction to review a district court order arising from any action taken, or proceeding brought, to remove or exclude an alien from the United States, including a district court order granting or denying a petition for writ of habeas corpus.''.

(e) JURISDICTION OF THE UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT.—

(1) EXCLUSIVE JURISDICTION.—Section 1295(a) of title 28, United States Code, is amended by adding at the end the following new paragraph:

''(15) of an appeal to review a final administrative order or a district court decision arising from any action taken, or proceeding brought, to remove or exclude an alien from the United States.''.

(2) CONFORMING AMENDMENTS.—Such section 1295(a) is further amended—

(A) in paragraph (13), by striking ''and''; and

(B) in paragraph (14), by striking the period at the end and inserting a semicolon and ''and''.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the United States Court of Appeals for the Federal Circuit for each of the fiscal years 2007 through 2011 such sums as may be necessary to carry out this subsection, including the hiring of additional attorneys for the such Court.

(g) EFFECTIVE DATE.—The amendments made by this section shall take effect upon the date of enactment of this Act and shall apply to any final agency order or district court decision entered on or after the date of enactment of this Act.

SEC. 502. ADDITIONAL IMMIGRATION PERSONNEL.

(a) DEPARTMENT OF HOMELAND SECURITY.—

(1) TRIAL ATTORNEYS.—In each of fiscal years 2007 through 2011, the Secretary shall, subject to the availability of appropriations for such purpose, increase the number of positions for attorneys in the Office of General Counsel of the Department who represent the Department in immigration matters by not less than 100 above the number of such positions for which funds were made available during each preceding fiscal year.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for each of fiscal years 2007 through 2011 such sums as may be necessary to carry out this subsection.

(b) DEPARTMENT OF JUSTICE.—

(1) LITIGATION ATTORNEYS.—In each of fiscal years 2007 through 2011, the Attorney General shall, subject to the availability of appropriations for such purpose, increase by not less than 50 the number of positions for attorneys in the Office of Immigration Litigation of the Department of Justice.

(2) UNITED STATES ATTORNEYS.—In each of fiscal years 2007 through 2011, the Attorney General shall, subject to the availability of appropriations for such purpose, increase by not less than 50 the number of attorneys in the United States Attorneys' office to litigate immigration cases in the Federal courts.

(3) IMMIGRATION JUDGES.—In each of fiscal years 2007 through 2011, the Attorney General shall, subject to the availability of appropriations for such purpose—

(A) increase by not less than 20 the number of full-time immigration judges compared to the number of such positions for which funds were made available during the preceding fiscal year; and

(B) increase by not less than 80 the number of positions for personnel to support the immigration judges described in subparagraph (A) compared to the number of such positions for which funds were made available during the preceding fiscal year.

(4) STAFF ATTORNEYS.—In each of fiscal years 2007 through 2011, the Attorney General shall, subject to the availability of appropriations for such purpose—

(A) increase by not less than 10 the number of positions for full-time staff attorneys in the Board of Immigration Appeals compared to the number of such positions for which funds were made available during the preceding fiscal year; and

(B) increase by not less than 10 the number of positions for personnel to support the staff attorneys described in subparagraph (A) compared to the number of such positions for which funds were made available during the preceding fiscal year

(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Attorney General for each of the fiscal years 2007 through 2011 such sums as may be necessary to carry out this subsection, including the hiring of necessary support staff.

(c) ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS.—In each of the fiscal years 2007 through 2011, the Director of the Administrative Office of the United States Courts shall, subject to the availability of appropriations, increase by not less than 50 the number of attorneys in the Federal Defenders Program who litigate criminal immigration cases in the Federal courts.

SEC. 503. BOARD OF IMMIGRATION APPEALS REMOVAL ORDER AUTHORITY.

(a) IN GENERAL.—Section 101(a)(47) (8 U.S.C. 1101(a)(47)) is amended to read as follows:

''(47)(A)(i) The term 'order of removal' means the order of the immigration judge, the Board of Immigration Appeals, or other administrative officer to whom the Attorney General or the Secretary of Homeland Security has delegated the responsibility for determining whether an alien is removable, concluding that the alien is removable, or ordering removal.

''(ii) The term 'order of deportation' means the order of the special inquiry officer, immigration judge, the Board of Immigration Appeals, or other such administrative officer to whom the Attorney General has delegated the responsibility for determining whether an alien is deportable, concluding that the alien is deportable, or ordering deportation.

''(B) An order described under subparagraph (A) shall become final upon the earlier of—

''(i) a determination by the Board of Immigration Appeals affirming such order;

''(ii) the entry by the Board of Immigration Appeals of such order;

''(iii) the expiration of the period in which any party is permitted to seek review of such order by the Board of Immigration Appeals;

''(iv) the entry by an immigration judge of such order, if appeal is waived by all parties; or

''(v) the entry by another administrative officer of such order, at the conclusion of a process authorized by law other than under section 240.''.

(b) CONFORMING AMENDMENTS.—The Immigration and Nationality Act is amended—

(1) in section 212(d)(12)(A) (8 U.S.C. 1182(d)(12)(A)), by inserting ''an order of'' before ''removal''; and

(2) in section 245A(g)(2)(B) (8 U.S.C. 1255a(g)(2)(B))—

(A) in the heading, by inserting '', REMOVAL,'' after ''DEPORTATION''; and

(B) in clause (i), by striking ''deportation,'' and inserting ''deportation or an order of removal,''.

SEC. 504. JUDICIAL REVIEW OF VISA REVOCATION.

Section 221(i) (8 U.S.C. 1201(i)) is amended by striking the last sentence and inserting ''Notwithstanding any other provision of law (statutory or nonstatutory), including section 2241 of title 28, United States Code, or any other habeas corpus provision, and sections 1361 and 1651 of such title, a revocation under this subsection may not be reviewed by any court, and no court shall have jurisdiction to hear any claim arising from, or any challenge to, such a revocation.''.

SEC. 505. REINSTATEMENT OF REMOVAL ORDERS.

(a) REINSTATEMENT.—

(1) IN GENERAL.—Section 241(a)(5) (8 U.S.C. 1231(a)(5)) is amended to read as follows:

''(5) REINSTATEMENT OF REMOVAL ORDERS AGAINST ALIENS ILLEGALLY REENTERING.—

''(A) IN GENERAL.—If the Secretary of Homeland Security finds that an alien has entered the United States illegally after having been removed, deported, or excluded or having departed voluntarily, under an order of removal, deportation, or exclusion, regardless of the date of the original order or the date of the illegal entry—

''(i) the order of removal, deportation, or exclusion is reinstated from its original date and is not subject to being reopened or reviewed notwithstanding section 242(a)(2)(D);

''(ii) the alien is not eligible and may not apply for any relief under this Act, regardless of the date that an application or request for such relief may have been filed or made; and

''(iii) the alien shall be removed under the order of removal, deportation, or exclusion at any time after the illegal entry.

''(B) NO OTHER PROCEEDINGS.—Reinstatement under this paragraph shall not require proceedings under section 240 or other proceedings before an immigration judge.''.

(2) CONFORMING AMENDMENT.—Section 242(a)(2)(D) (8 U.S.C. 1252(a)(2)(D)) is amended by striking ''section)'' and inserting ''section or section 241(a)(5))''.

(b) JUDICIAL REVIEW.—Section 242 (8 U.S.C. 1252) is amended by adding at the end the following new subsection:

''(h) JUDICIAL REVIEW OF REINSTATEMENT UNDER SECTION 241(a)(5).—

''(1) REVIEW OF REINSTATEMENT.—Judicial review of a determination under section 241(a)(5) is available under subsection (a) of this section.

''(2) NO REVIEW OF ORIGINAL ORDER.—Notwithstanding any other provision of law (statutory or nonstatutory), including section 2241 of title 28, United States Code, or any other habeas corpus provision, and sections 1361 and 1651 of such title, no court shall have jurisdiction to review any cause or claim, arising from or relating to any challenge to the original order.''.

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect as if enacted on April 1, 1997, and shall apply to all orders reinstated on or after that date by the Secretary (or by the Attorney General prior to March 1, 2003), regardless of the date of the original order.

SEC. 506. WITHHOLDING OF REMOVAL.

(a) IN GENERAL.—Section 241(b)(3) (8 U.S.C. 1231(b)(3)) is amended—

(1) in subparagraph (A), by adding at the end ''The burden of proof is on the alien to establish that the alien's life or freedom would be threatened in that country, and that race, religion, nationality, membership in a particular social group, or political opinion would be at least one central reason for such threat.''; and

(2) in subparagraph (C), by striking ''In determining whether an alien has demonstrated that the alien's life or freedom would be threatened for a reason described in subparagraph (A)'' and inserting ''For purposes of this paragraph,''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as if enacted on May 11, 2005, and shall apply to applications for withholding of removal made on or after such date.

SEC. 507. CERTIFICATE OF REVIEWABILITY.

(a) BRIEFS.—Section 242(b)(3)(C) (8 U.S.C. 1252(b)(3)(C)) is amended to read as follows:

''(C) BRIEFS.—

''(i) ALIEN'S BRIEF.—The alien shall serve and file a brief in connection with a petition for judicial review not later than 40 days after the date on which the administrative record is available. The court may not extend this deadline except upon motion for good cause shown. If an alien fails to file a brief within the time provided in this subparagraph, the court shall dismiss the appeal unless a manifest injustice would result.

''(ii) UNITED STATES BRIEF.—The United States shall not be afforded an opportunity to file a brief in response to the alien's brief until a judge issues a certificate of reviewability as provided in subparagraph (D), unless the court requests the United States to file a reply brief prior to issuing such certification.''.

(b) CERTIFICATE OF REVIEWABILITY.—Section 242(b)(3) (8 U.S.C. 1252 (b)(3)) is amended by adding at the end the following new subparagraphs:

''(D) CERTIFICATE OF REVIEWABILITY.—

''(i) After the alien has filed a brief, the petition for review shall be assigned to one judge on the Federal Circuit Court of Appeals.

''(ii) Unless such judge issues a certificate of reviewability, the petition for review shall be denied and the United States may not file a brief.

''(iii) Such judge may not issue a certificate of reviewability under clause (ii) unless the petitioner establishes a prima facie case that the petition for review should be granted.

''(iv) Such judge shall complete all action on such certificate, including rendering judgment, not later than 60 days after the date on which the judge is assigned the petition for review, unless an extension is granted under clause (v).

''(v) Such judge may grant, on the judge's own motion or on the motion of a party, an extension of the 60-day period described in clause (iv) if—

''(I) all parties to the proceeding agree to such extension; or

''(II) such extension is for good cause shown or in the interests of justice, and the judge states the grounds for the extension with specificity.

''(vi) If no certificate of reviewability is issued before the end of the period described in clause (iv), including any extension under clause (v), the petition for review shall be denied, any stay or injunction on petitioner's removal shall be dissolved without further action by the court or the Government, and the alien may be removed.

''(vii) If such judge issues a certificate of reviewability under clause (ii), the Government shall be afforded an opportunity to file a brief in response to the alien's brief. The alien may serve and file a reply brief not later than 14 days after service of the Government brief, and the court may not extend this deadline except upon motion for good cause shown.

''(E) NO FURTHER REVIEW OF DECISION NOT TO ISSUE A CERTIFICATE OF REVIEWABILITY.—The decision of a judge on the Federal Circuit Court of Appeals not to issue a certificate of reviewability or to deny a petition for review, shall be the final decision for the Federal Circuit Court of Appeals and may not be reconsidered, reviewed, or reversed by the such Court through any mechanism or procedure.''.

SEC. 508. DISCRETIONARY DECISIONS ON MOTIONS TO REOPEN OR RECONSIDER.

(a) EXERCISE OF DISCRETION.—Section 240(c) (8 U.S.C. 1229a(c)) is amended—

(1) in paragraph (6), by adding at the end the following new subparagraph:

''(D) DISCRETION.—The decision to grant or deny a motion to reconsider is committed to the Attorney General's discretion.''; and

(2) in paragraph (7), by adding at the end the following new subparagraph:

''(D) DISCRETION.—The decision to grant or deny a motion to reopen is committed to the Attorney General's discretion.''.

(b) ELIGIBILITY FOR PROTECTION FROM REMOVAL TO ALTERNATIVE COUNTRY.—Section 240(c) (8 U.S.C. 1229a(c)), as amended by subsection (a), is further amended by adding at the end of paragraph (7)(C) the following new clause:

''(v) SPECIAL RULE FOR ALTERNATIVE COUNTRIES OF REMOVAL.—The requirements of this paragraph may not apply if—

''(I) the Secretary of Homeland Security is seeking to remove the alien to an alternative or additional country of removal under paragraph (1)(C), 2(D), or 2(E) of section 241(b) that was not considered during the alien's prior removal proceedings;

''(II) the alien's motion to reopen is filed within 30 days after receiving notice of the Secretary's intention to remove the alien to that country; and

''(III) the alien establishes a prima facie case that the alien is entitled by law to withholding of removal under section 241(b)(3) or protection under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York December 10, 1984, with respect to that particular country.''.

(c) EFFECTIVE DATE.—This amendment made by this section shall apply to motions to reopen or reconsider which are filed on or after the date of the enactment of this Act in removal, deportation, or exclusion proceedings, whether a final administrative order is entered before, on, or after the date of the enactment of this Act.

SEC. 509. PROHIBITION OF ATTORNEY FEE AWARDS FOR REVIEW OF FINAL ORDERS OF REMOVAL.

(a) IN GENERAL.—Section 242 (8 U.S.C. 1252), as amended by section 505(b), is further amended by adding at the end the following new subsection:

''(i) PROHIBITION ON ATTORNEY FEE AWARDS.—Notwithstanding any other provision of law, a court may not award fees or other expenses to an alien based upon the alien's status as a prevailing party in any proceedings relating to an order of removal issued under this Act, unless the court of appeals concludes that the determination of the Attorney General or the Secretary of Homeland Security that the alien was removable under sections 212 and 237 was not substantially justified.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to proceedings relating to an order of removal issued on or after the date of the enactment of this Act, regardless of the date that such fees or expenses were incurred.

SEC. 510. BOARD OF IMMIGRATION APPEALS.

(a) REQUIREMENT TO HEAR CASES IN 3-MEMBER PANELS.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), cases before the Board of Immigration Appeals of the Department of Justice shall be heard by 3-member panels of such Board.

(2) HEARING BY A SINGLE MEMBER.—A 3-member panel of the Board of Immigration Appeals or a member of such Board alone may—

(A) summarily dismiss any appeal or portion of any appeal in any case which—

(i) the party seeking the appeal fails to specify the reasons for the appeal;

(ii) the only reason for the appeal specified by such party involves a finding of fact or a conclusion of law that was conceded by that party at a prior proceeding;

(iii) the appeal is from an order that granted such party the relief that had been requested;

(iv) the appeal is determined to be filed for an improper purpose, such as to cause unnecessary delay; or

(v) the appeal lacks an arguable basis in fact or in law and is not supported by a good faith argument for extension, modification, or reversal of existing law;

(B) grant an unopposed motion or a motion to withdraw an appeal pending before the Board; or

(C) adjudicate a motion to remand any appeal—

(i) from the decision of an officer of the Department if the appropriate official of the Department requests that the matter be remanded back for further consideration;

(ii) if remand is required because of a defective or missing transcript; or

(iii) if remand is required for any other procedural or ministerial issue.

(3) HEARING EN BANC.—The Board of Immigration Appeals may, by a majority vote of the Board members—

(A) consider any case as the full Board en banc; or

(B) reconsider as the full Board en banc any case that has been considered or decided by a 3-member panel.

(b) AFFIRMANCE WITHOUT OPINION.—Upon individualized review of a case, the Board of Immigration Appeals may affirm the decision of an immigration judge without opinion only if—

(1) the decision of the immigration judge resolved all issues in the case;

(2) the issue on appeal is squarely controlled by existing Board or Federal court precedent and does not involve the application of precedent to a novel fact situation;

(3) the factual and legal questions raised on appeal are so insubstantial that the case does not warrant the issuance of a written opinion in the case; and

(4) the Board approves both the result reached in the decision below and all of the reasoning of that decision.

(c) REQUIREMENT FOR REGULATIONS.—Not later than 180 days after the date of the enactment of this Act, the Attorney General shall promulgate regulations to carry out this section.

TITLE VI—MISCELLANEOUS

SEC. 601. TECHNICAL AND CONFORMING AMENDMENTS.

The Attorney General, in consultation with the Secretary, shall, as soon as practicable but not later than 90 days after the date of the enactment of this Act, submit to Congress a draft of any technical and conforming changes in the Immigration and Nationality Act which are necessary to reflect the changes in the substantive provisions of law made by the Homeland Security Act of 2002, this Act, or any other provision of law.

SECURING AMERICA'S BORDERS ACT (SABA)—SECTION BY SECTION ANALYSIS

TITLE I—BORDER ENFORCEMENT

SUBTITILE A—ASSETS FOR CONTROLLING UNITED STATES BORDERS

Section 101. Enforcement personnel

Section 101 authorizes such sums as necessary to recruit, hire, and train 250 new Custom and Border Protection officers, 200 new positions for investigative personnel to investigate alien smuggling, and 250 additional port of entry inspectors, annually from FY 2007 to FY 2011. It also increases the number of customs enforcement inspectors by 200 in section 5203 of the Intelligence Reform and Terrorism Prevention Act of 2004. Finally, it authorizes appropriations as necessary for the hiring of 2,400 additional border patrol agents annually for six years—adding an additional 4,400 agents to the border over 6 years to the 10,000 already added by the Intelligence Reform and Terrorism Prevention Act of 2004 (for a total of 14,400 new Border Patrol Agents by 2011).

Section 102. Technological assets

Section 202 authorizes such sums as necessary for the acquisition of unmanned aerial vehicles, cameras, poles, sensors and other technologies to achieve operational control of the borders. It also requires the Secretary of DHS and the Secretary of Defense to increase the availability and use of Defense equipment to assist in controlling the borders and submit a report to Congress.

Section 103. Infrastructure

Section 103 authorizes such sums as necessary to construct all-weather roads and add vehicle barriers along the borders.

Section 104. Border Patrol checkpoints

Section 104 authorizes the Secretary to maintain temporary or permanent border patrol checkpoints in close proximity to the southern border.

Section 105. Ports of entry

Section 105 authorizes the Secretary to construct additional ports of entry and to make improvements to existing ports of entry along the land borders.

Section 106. Construction of strategic border fencing and vehicle barriers

Section 106 requires DHS, over the next two years, to replace all aged, deteriorating, or damaged primary fencing with double or triple layered fencing in Arizona population centers on the border. The fencing must be extended no less than 2 miles beyond those population centers. This section also requires DHS to construct at least 200 miles of vehicle barriers and all-weather roads in areas that are known transit points for illegal cross border traffic.

SUBTITLE B—BORDER SECURITY PLANS, STRATEGIES AND REPORTS

Section 111. Surveillance plan

Section 111 requires the Secretary of DHS to submit a comprehensive plan for the systematic surveillance of the U.S. land and sea borders.

Section 112. National strategy for border security

Section 112 requires the Secretary of DHS, in consultation with the heads of other appropriate Federal agencies, to develop and submit to Congress a National Strategy for Border Security.

Section 113. Reports on Improving the exchange of information on North American security

Section 113 requires the Secretary of State, in coordination with the Secretary of DHS and the Secretary of Defense, to submit to Congress a report on improving the exchange of information related to the security of North America, including a description of progress made on security clearances and document integrity, immigration and visa management, visa policy coordination, counterterrorism and terrorist watch lists, and law enforcement cooperation among the United States, Mexico, and Canada.

Section 114. Improving the security of Mexico's southern border

Section 114 directs the Secretary of State and Secretary of DHS to work with Canada and Mexico to establish a program to assess the needs of Guatemala and Belize in maintaining the security of their borders, and to work with Guatemala and Belize to provide law enforcement assistance to dismantle human smuggling organizations and gain additional control over the border between Guatemala and Belize. It also directs the Secretaries and the Director of the FBI to establish a database to track criminal gang activities in Central America.

SUBTITLE C—OTHER BORDER SECURITY INITIATIVES

Section 121. Biometric data enhancements

Section 121 requires the Secretary of DHS, by October 1, 2007, to enhance the connectivity between the Automated Biometric Fingerprint Identification System (IDENT) and Integrated Automated Fingerprint Identification System (IAFIS) biometric databases and collect all fingerprints from individuals through the United States Visitor and Immigrant Status Indicator Technology (US–VISIT) program during their initial enrollment.

Section 122. Secure communication

Section 122 requires the Secretary of DHS to implement a two-way communication system between Border Patrol agents in the field and their station offices, as well as between appropriate DHS border security agencies at the State, local and tribal law enforcement agencies.

Section 123. Border Patrol training capacity review

Section 123 requires the Comptroller General to review the basic training provided to new Border Patrol agents to ensure that such training is provided as efficiently and cost effectively as possible.

Section 124. US–VISIT system

Section 124 requires the Secretary of DHS, in consultation with the heads of other appropriate Federal agencies, to submit to Congress a timeline for equipping all land border ports of entry with the US–VISIT system, deploying at all land border ports of entry the exit component of the US–VISIT system, and making all immigration screening systems interoperable.

Section 125. Document fraud detection

Section 125 requires that all immigration inspectors receive training in identifying and detecting fraudulent travel documents and obtain access to the Forensic Document Laboratory. It also requires the Inspector General of DHS to conduct an independent assessment of the accuracy and reliability of the Forensic Document Laboratory and to submit a report to Congress.

Section 126. Improved document integrity

Section 126 requires that immigration-status documents, other than interim documents, issued by DHS be machine-readable, tamper-resistant, and incorporate biometric identifiers by October 26, 2007.

Section 127. Cancellation of visas

Section 127 voids visas held by a nonimmigrant alien if the alien remains in the U.S. beyond the period of authorized stay, and requires aliens who overstay to return to their consulate abroad to undergo additional

screening before being able to return to the U.S.

Section 128. Biometric entry-exit system

Section 128 authorizes DHS to collect biometric data from any alien or LPR seeking admission to, exit from, transit through, or paroled into the U.S., and provides that failure to comply with the biometric requirements is a ground for inadmissibility.

Section 129. Border study

Section 129 requires the Secretary of DHS to conduct a study and submit a report to Congress on the construction of a physical barrier system along the southern and northern international land and maritime borders of the United States.

Section 130. Secure border initiative financial accountability

Section 130 requires the Inspector General of the Department of Homeland Security to review all contracts over $20 million that pertain to the Secure Border Initiative. The IG would have to provide a report to the Secretary on any cost overruns, delays in execution, or mismanagement of these contracts. This section would also require the Secretary of Homeland Security to disclose all contracts with foreign entities on the Secure Border Initiative and the Committee on Foreign Investment in the United States would have to report to Congress on proposed purchases of U.S. port operations by a foreign entity.

TITLE II.—INTERIOR ENFORCEMENT

Section 201. Removal and denial of benefits to terrorist aliens

Section 201(a) amends the INA so that all aliens inadmissible on terrorism-related grounds are ineligible for asylum.

Section 201(b) expands the class of aliens ineligible on security-related grounds for cancellation of removal. Current law provides that all aliens ''inadmissible'' and ''deportable'' on security-related grounds are ineligible; subsection (b) provides that all aliens ''described in'' those provisions are also ineligible.

Section 201(c) expands the class of aliens ineligible on security-related grounds for voluntary departure. Current law disqualifies from voluntary removal all aliens ''deportable'' on security-related grounds and because of conviction of an aggravated felony; subsection (c) extends this disqualification to all aliens ''described in'' those provisions.

Section 201(d) renders ineligible for withholding of removal all aliens ''described in'' the provisions of the INA rendering aliens inadmissible on terrorism grounds and most of the provisions rendering aliens deportable on terrorism grounds.

Section 201(e) narrows the class of aliens eligible for a record of admission for permanent residence if no such record is otherwise available. Current law requires an alien seeking such a record of admission to prove that he is not ''inadmissible'' on the grounds of participation in certain Nazi-related activities and certain other activities, and that he is not ''deportable'' for terrorist activities; subsection (e) requires aliens to prove they are not ''described in'' those provisions.

Section 201(f) provides that the amendments in this section apply to aliens in removal, deportation, and exclusion proceedings on the date of enactment, and to acts or conditions occurring before, on, or after the date of enactment.

Section 202. Detention and removal of aliens ordered removed

Section 202 responds to the Supreme Court's decision in Zadvydas v. Davis, 533 U.S. 678 (2001). The issue addressed in this section, and in Zadvydas, is what the Government may do if the removal period expires and the Government has not managed to remove the alien.

Section 202(a)(1)(E)–(G) addresses authority to detain beyond the removal period aliens ordered removed who are inadmissible; who are removable as a result of violations of status requirements or entry conditions, violations of criminal law, or reasons of security or foreign policy; or who have otherwise been determined by the Attorney General to constitute a risk to the community or to be unlikely to comply with the order of removal.

Section 202(a)(1)(E) provides that such aliens may be detained beyond the removal period in the discretion of DHS and without any limitations other than those specified in the statute. Section 202(a)(1)(G) sets forth detailed guidelines for detention following the removal period of the classes of aliens identified above:

With respect to aliens who have effected entry to the United States and have fully cooperated with the Government's efforts to carry out removal, DHS may detain such aliens until removal after making one of a variety of certifications. DHS must renew such a certification every six months for as long as it wants to continue detaining the alien. In the absence of a certification, the alien is to be released, although conditions may be imposed and re-detention is possible. DHS may not delegate the decision to certify or renew a certification to an officer inferior to the Commissioner of ICE.

With respect to aliens who have effected an entry to the United States and would be removed but for failure to cooperate fully with removal efforts, DHS may detain them until the alien makes all reasonable efforts to comply with the removal efforts.

With respect to aliens who have not effected an entry to the United States, DHS is required to follow the guidelines set forth in a specified provision of the CFR.

Section 202(a)(1)(G) authorizes DHS to parole the alien if she/he is an applicant for admission. Finally, it makes judicial review regarding the above paragraphs available only in habeas corpus proceedings after exhaustion of administrative remedies available as of right.

Section 202(a)(1)(A) provides that DHS, not DOJ, oversees detention and removal of aliens ordered removed.

Section 202(a)(1)(B) modifies the definition of one of the three events, the latest of which marks the beginning of the 90-day removal period. Under current law, one of the three events marking the beginning of the removal period is the date of the court's final order, if such a court has stayed the alien's removal so that it can review the removal order. Section 202(a)(1)(B) revises this clause so that the removal period would begin on the expiration of the stay of removal entered by a court, the BIA, or an immigration judge.

Section 202(a)(1)(B) also expands the authority of the Government to extend the removal period beyond 90 days, if the alien fails or refuses to make all reasonable efforts to comply with the removal order or to fully cooperate with DHS's efforts to establish the alien's identity and carry out the removal order.

Finally, Section 202(a)(1)(B) provides that in no event can the 90-day removal period begin until the alien is in DHS's custody. If DHS transfers custody of the alien during the removal period to another Federal, state, or local agency, the removal period is tolled and begins anew when the alien is returned to DHS's custody.

Section 202(a)(1)(C) provides explicit statutory authority for DHS to detain an alien during a stay of removal ordered by a court, the BIA, or an immigration judge, so long as the alien is otherwise subject to an administratively final order of removal.

Section 202(a)(1)(D) addresses the terms under which the alien is to be supervised if she has not been removed after the removal period expires to prevent the alien from absconding, to protect the community, or otherwise to enforce the immigration laws.

Section 202(a)(2) provides that the amendments made by Section 202(a)(1) will apply to all aliens subject to a final administrative removal, deportation, or exclusion order that was issued before, on, or after the date of enactment of the Act.

Section 202(b) amends that portion of title 18 concerning release of a criminal defendant pending trial to establish a rebuttable presumption that no conditions of release will reasonably ensure the appearance of the defendant as required if the judge finds probable cause to believe that the person has no lawful immigration status, is the subject of a final order of removal, or has committed one in a list of immigration offenses.

Section 202(b) also amends that portion of title 18 enumerating the factors that a judge must consider when determining whether there are conditions of release that will reasonably assure the appearance of criminal defendants as required. The subsection provides that the judge shall consider the person's immigration status.

Section 203. Aggravated felony

Section 203(a) modifies the definition of the term ''aggravated felony.'' Sections 203(a)(1) and (a)(5) provide that convictions based on the term of imprisonment are covered even if the length of the sentence was based on recidivist or other enhancements.

Section 203(a)(2) broadens the term to include all bringing in and harboring certain aliens crimes.

Section 203(a)(3) broadens the definition to include any felony conviction under INA Section 275 (Improper Entry by an Alien) and Section 276 (''Reentry of Removed Alien''). The current definition covers only crimes under Sections 275(a) and 276 that were committed by an alien previously deported for another aggravated felony. By capturing the rest of Section 275, the definition now includes felony convictions for marriage fraud and immigration-related entrepreneurship fraud, in addition to a much broader swath of offenses for improper entry and reentry themselves.

Section 203(a)(4) expands the definition to include soliciting, aiding, abetting, counseling, commanding, inducing, or procuring another to commit one of the crimes listed already in the definition.

Section 203(b) bars a refugee convicted of an aggravated felony from eligibility for adjustment of status.

Section 203(c) provides that Sections 203(a) and 203(b) apply to acts occurring before, on, or after the date of enactment and to all proceedings in which the alien is required to establish admissibility on or after the date of enactment of the Act.

Section 204. Terrorist bars

Section 204(a)(1) provides that no alien shall be found to have ''good moral character'' for purposes of the INA if DHS or DOJ determines that the alien is described in sections 212(a)(3) (excludable on security or related grounds) or 237(a)(4) (removable on security or related grounds).

Section 204(a)(2) clarifies that the bar against aggravated felons being found to have ''good moral character'' applies even if the underlying crime was not classified as an aggravated felony at the time of conviction, and provides waiver authority when the completion of the term of imprisonment and sentence occurred 10 or more years prior to the date of application.

Section 204(a)(3) clarifies that the ''catch-all'' component of the definition of ''good moral character'' includes discretionary authority to find an alien lacks good moral character for reasons not enumerated in the definition. The provision also clarifies that this discretionary authority may be based upon the alien's conduct outside the period during which good moral character is required.

Section 204(b) provides that a petition for granting certain classes of immigrant status may not be granted if there is any proceeding pending that could result in the petitioner's denaturalization or loss of the petitioner's lawful permanent resident status.

Section 204(c) clarifies that an alien admitted as a conditional lawful permanent resident must have the condition removed before she can be lawfully admitted.

Section 204(d) modifies the law governing judicial review of naturalization decisions. Subsection (d)(1) requires an alien to seek review of the denial of his application for naturalization within 120 days of DHS's final determination. Subsection (d)(2) imposes on the alien the burden of showing that DHS's denial was contrary to law. It also removes jurisdiction from the courts, except in proceedings to revoke naturalization, to review or make any determination that an alien is a person of good moral character, understands and is attached to the principles of the Constitution, and is well-disposed to the good order and happiness of the United States.

Section 204(e) bars from being naturalized any alien whom DHS determines to have been at any time an alien described in INA sections 212(a)(3) (excludable on security or related grounds) or 237(a)(4) (removable on security or related grounds).

Section 204(f) provides that neither a court nor DHS may consider a naturalization application while there is pending any proceeding to determine inadmissibility, deportability, or rescission of eligibility for lawful permanent residence, regardless of when the proceeding commenced.

Section 204(g) modifies the circumstances under which an alien may seek judicial review of a pending naturalization application. The subsection limits the district court's jurisdiction to examining the basis for any delay and remanding to DHS for adjudication. The time after which the alien may seek judicial review is extended to 180 days after DOJ's examination of the applicant.

Section 204(h) provides that the amendments made by this section will apply to acts occurring before, on, or after the date of enactment and to all applicable cases or matters pending on or filed after the date of enactment of the Act.

Section 205. Increased criminal penalties related to gang violence, removal and alien smuggling

Section 205(a)(1) renders inadmissible any alien who a consular officer, DOJ, or DHS knows or has reason to believe is or has been a member of a gang (as defined in Title 18), or who has participated in such a gang's activities knowing or having reason to know that such activities supported the gang's illegal conduct. Section 205(a)(2) renders such aliens deportable as well, though it exempts aliens who were members of a gang only before admission to the country. (DHS and DOJ can waive application of both 205(a)(1) and (a)(2).)

Section 205(a)(3) modifies the rules concerning Temporary Protected Status (TPS). It transfers the authority over TPS from DOJ to DHS; provides DHS with authority to terminate a TPS designation for any reason; permits DHS to extend a country's TPS designation for any amount of time up to 18 months; abolishes the $50 cap on the TPS registration fee; denies TPS status to any alien who is a member of a gang, or has been at any time after admission; and clarifies that a TPS alien's immunity from detention on the basis of his/her immigration status does not extend to detentions authorized by other provisions of law.

Section 205(b):

Permits the government to penalize for failure to depart those aliens ordered removed because they were inadmissible.

Changes the base penalty for failure to depart to a mandatory minimum of 6 months and a maximum of 5 years, along with a fine.

Changes the penalty for an alien's willful failure to comply with the terms of release under supervision by removing any statutory limit on the fine and adding a mandatory minimum of 6 months and a maximum of 5 years, or 10 years for certain categories of deportable aliens.

Allows the Secretary of Homeland Security to instruct the Secretary of State to deny issuing a visa to any national of a country if that country refuses to accept the return of its nationals. The language only relates to visa issuance, not denial of admission at port-of-entry, ensuring that refugees/asylees are not impacted and that aliens know they will not be admitted before they travel to the U.S.

Section 205(c) strikes and replaces the provision of the INA covering alien smuggling and related offenses. One key purpose of this section is to clarify a provision of the INA that has become confusing and overly complicated after years of piecemeal amendments. But there are substantive changes as well, as the section:

Expands the alien-smuggling crime to cover individuals who ''facilitate[], encourage[], direct[], or induce[]'' an alien to enter the country at other than a designated port of entry, and to cover those who act with reckless disregard of the alien's unlawful immigration status;

Creates a new crime for transporting or harboring certain aliens in unlawful transit outside the U.S., under circumstances where the alien is seeking to enter the United States unlawfully; and

Criminalizes attempts to encourage or induce an alien to reside or remain in the United States.

Section 205(c) also dispenses with the current penalty scheme for alien smuggling and provides increasing penalties depending on whether the offense was not committed for profit (5 year stat max), if the offense was committed for commercial advantage, profit, or private financial gain (20 year stat max), if the offense was a second or subsequent violation and committed for profit (3 year mandatory minimum, 20 year stat max), if the offense was committed with the intent to further or aid another offense punishable by 1 year or more (5 year mandatory minimum, 20 year stat max), if the offense created a substantial risk of death or serious bodily injury (5 year mandatory minimum, 20 year stat max), if the offense caused serious bodily injury (7 year mandatory minimum, 30 year stat max), if the offense involved an alien who the offender knew or had reason to believe was engaged in terrorist activity (10 year mandatory minimum, 30 year stat max), or if death resulted (10 year mandatory minimum, life maximum). The subsection also provides for extraterritorial federal jurisdiction.

In addition, Section 205(c) clarifies that a religious organization is not guilty of alien smuggling if it provides room, board, travel, and medical assistance to an alien serving as a minister or missionary in a volunteer capacity, provided that the alien has been a member of the religious denomination for at least one year.

Section 205(c) also broadens the crime of hiring unauthorized aliens for employment to include those who knowingly hire in reckless disregard of the alien's unlawful immigration status and increases the maximum penalty to 10 years.

Section 205(c) also expands the forfeiture provisions of the alien-smuggling statute to cover any property used to commit or facilitate a violation of either alien smuggling or hiring of unauthorized aliens, proceeds of such a violation, and property traceable to either of them.

Finally, Section 205(c) simplifies and slightly expands the reach of provisions governing prima facie evidence in the determination of alien smuggling violations; makes two modest changes to the section governing admissibility of videotaped witness testimony to ensure compliance with the Confrontation Clause; and includes new definitions making it clear that for purposes of alien smuggling, an alien is deemed to have crossed the border into the United States regardless of whether the alien is free from official restraint.

Section 205(d) adds alien smuggling to the list of crimes during and in relation to which 18 U.S.C. §924(c) provides a mandatory minimum for carrying or using a firearm.

Section 206. Illegal entry or unlawful presence of an alien

Section 206 modifies INA Section 275, which currently covers illegal entry.

The new Section 275(a):

Adds a scienter requirement, ''knowingly,'' to the various improper entry crimes.

Criminalizes an alien's knowing unlawful presence in the United States;

Clarifies that the unlawful entry crime covers any alien who knowingly crosses the border, even if s/he was under observation at the time;

Provides higher maximum penalties for aliens convicted of illegal entry (and unlawful presence) who have a sufficiently serious criminal record; and

Clarifies that illegal entry and unlawful presence continue until the alien is discovered within the country by an immigration officer.

The new Section 275(b) clarifies that the civil penalties for unlawful entry cover any alien who knowingly crosses the border, even if s/he was under observation at the time.

Section 207. Illegal reentry

Section 207 provides higher maximum penalties for aliens convicted of illegal reentry who have a sufficiently serious criminal record. The penalty structure here is similar to that provided for illegal entry and unlawful presence in Section 206.

In addition, this section:

Adds an element to an affirmative defense available to aliens previously denied admission and removed;

Heightens the standard the alien must meet in order to collaterally attack the underlying removal order under this section; and

Clarifies that the illegal reentry crime covers any alien who knowingly crosses the border, even if s/he was under observation at the time.

Section 208. Reform of passport, visa, and immigration fraud offenses

Section 208 provides a comprehensive rewriting of chapter 75 of title 18, which currently covers Passports and Visas and is amended to cover Passport, Visa, and Immigration Fraud.

The proposed section 1541 creates a new crime for trafficking in passports. Section 1541(a) would punish those who unlawfully produce, issue, transfer, forge, or falsely make passports, as well as those who transact in passports they know to be forged or

counterfeited and those who prepare, submit, or mail applications for passports that they know include a false statement. The maximum penalty for these crimes would be 20 years.

Section 1541(b) would punish any individual who knowingly and without lawful authority produced, obtained, possessed, or used various papers, seals, symbols, or other materials used to make passports. This crime also would carry a maximum of 20 years.

The proposed section 1542 modifies the current penalization of false statements in a passport application:

For making a false statement in a passport application, modifies the requisite mens rea to ''willfully''; removing the requirement that the government show intent to induce or secure the issuance of a passport from the United States; and broadens the crime to cover the passport's supporting documentation;

Creates a new crime for completing, signing, or submitting a passport application (including supporting documentation), knowing that it contains a false statement or representation;

Creates a new crime for causing (or attempting to cause) the production of a passport by means of any fraud or false application for a U.S. passport, when such production occurs (or would occur) at an authorized facility; and

Creates a statutory maximum of 15 years for all these crimes, replacing the tiered penalty structure under current law.

The proposed section 1543 addresses ''Forgery and Unlawful Production of a Passport,'' and is analogous to existing section 1543, which covers ''Forgery or False Use of a Passport.'':

For falsely making or counterfeiting a passport, requires that the defendant knowingly counterfeited or falsely made the passport (in contrast to current law, which requires proof that the defendant falsely made or counterfeited a passport with intent that the same may be used);

For transferring a forged or counterfeited passport, requiring only that the defendant ''knowingly'' transferred the passport, knowing it to be forged or counterfeited (in contrast to current law, which requires proof that the defendant ''willfully and knowingly'' furnished such a passport to another);

For using a forged or counterfeited passport, reducing the mens rea to ''knowingly'';

Adding the new crime of knowingly and without lawful authority producing or issuing a passport for or to any person not owing allegiance to the United States;

Adding the new crime of knowingly and without lawful authority transferring a passport to a person for use when such person is not the person for whom the passport was issued or designed; and

Creating a statutory maximum of 15 years for all these crimes, replacing the tiered penalty structure under current law.

The proposed section 1544 covers ''Misuse of a Passport,'' the same title that section bears under current law. Changes include:

For using a passport issued or designed for another, reducing the mens rea to ''knowingly'';

For using a passport in violation of applicable rules, reducing the mens rea to ''knowingly'';

Expanding the crime of knowing use of a forged or counterfeit passport so that it covers the knowing possession, receipt, purchase, sale, or distribution of such a passport;

Amending the crime for violating the terms and conditions of any duly-obtained safe conduct by adding a mens rea of ''knowingly'';

Increasing the maximum penalty for violating the terms of any safe conduct from 10 to 15 years;

Creating a new crime for knowingly using a passport to enter or attempt to enter the country, knowing that the passport is forged or counterfeited;

Creating a new crime for knowingly using a passport to defraud an agency of the United States or a State, knowing that the passport is forged or counterfeited; and

Creating a statutory maximum of 15 years for all these crimes, replacing the tiered penalty structure under current law.

Section 1545 creates new crimes designed to punish schemes to defraud aliens. Section 1545(a) provides a maximum 15-year penalty for anyone who knowingly executes a scheme to defraud any person in connection with any matter arising under the immigration laws or that the offender claims arises under the immigration laws. Section 1545(b) provides a maximum 15-year penalty for anyone who knowingly and falsely represents himself to be an attorney in any matter arising under the immigration laws.

Section 1546, ''Immigration and Visa Fraud,'' revises and expands the current version of the same section, which is titled, ''Fraud and Misuse of Visas, Permits, and Other Documents.'' Changes to Section 1546(a) include:

Creating a new crime for knowing use of any immigration document issued or designed for use by another;

Penalizing those who knowingly forge or falsely make any immigrant document (in contrast to current law, which covers only those immigration documents ''prescribed by statute or regulation for entry into or as evidence of authorized stay or employment'' in the U.S.);

Expanding the crime for false statements in an application for immigration documents by striking the requirement that the statement was made under oath;

Expanding the crime of knowing use of a forged or counterfeit immigration document so that it covers ''any immigration document'';

Expanding the same crime so that it covers the knowing possession, receipt, purchase, sale, or distribution of such documents;

Creating a statutory maximum of 15 years for all these crimes, replacing the tiered penalty structure under current law.

Section 1546(b) creates new penalties for trafficking in immigration documents. The covered conduct is analogous to those covered in the proposed section 1541(a), concerning trafficking in passports. Also like the proposed section 1541(a), section 1546(b) provides a maximum penalty of 20 years.

Section 1546(c) creates new penalties analogous to section 1541(b). The new 1546(c) would punish any individual who knowingly and without lawful authority produced, obtained, possessed, or used various papers, seals, symbols, or other materials used to make immigration documents. Like its counterpart, section 1541(b), section 1546(c) would carry a maximum of 20 years.

Section 1547 strengthens the penalties for marriage fraud by:

Increasing the maximum penalty for marriage fraud from 5 years to 10 years;

Providing a new penalty of up to 10 years for those who misrepresent the existence or circumstances of a marriage in immigration documents or proceedings;

Providing a new penalty of up to 20 years for those who enter into multiple marriages in order to evade immigration law;

Providing new penalties of up to 20 years for those who arrange, support, or facilitate multiple such marriages;

Providing that the offenses continue until the fraudulent nature of the marriage is discovered; and

Penalizing attempts and conspiracies in the same manner as a completed violation.

Expanding the penalty for immigration-related entrepreneurship fraud from 5 years to 10 years.

Section 1548 provides that attempts and conspiracies to violate any section of chapter 75 carry the same punishment as a completed violation.

Section 1549 provides for a maximum penalty of 25 years for any violation of this chapter where the actor intends to facilitate an act of international or domestic terrorism, or where s/he knew that the violation would facilitate such an act. It also provides a maximum penalty of 20 years for any violation where the actor intends to facilitate any felony offense against the United States or a State, or where s/he knew that the violation would facilitate such a felony offense.

Section 1550 provides for seizure of property used to commit or facilitate any crime under this chapter, the gross proceeds of such a crime, and property traceable. Section 1551 extends the jurisdiction of U.S. courts to violations of this chapter committed outside the United States in certain circumstances. Section 1552 provides broad venue for the prosecution of false statements in an application for a passport. Section 1553 consists of definitions, and section 1554 clarifies that these amendments are not designed to modify certain tools of law enforcement.

Section 209. Inadmissibility and removal for passport and immigration fraud offenses

Section 209 renders inadmissible and removable any alien convicted of a passport or visa violation under Chapter 75 of title 18. Section 209(c) provides that these amendments apply to proceedings pending on or after the date of enactment.

Section 210. Incarceration of criminal aliens

Section 210(a) authorizes DHS to extend the Institutional Removal Program (IRP), which identifies removable aliens in Federal and State prisons and remove such aliens after completion of their sentences, to all states.

Section 210(b) authorizes States to hold an illegal alien for up to 14 days after completion of the alien's prison sentence in order to effectuate transfer of the alien to Federal custody. Alternatively, the State may issue a detainer allowing such an alien to be detained by the State prison until ICE can take the alien into custody.

Section 210(c) requires the use of technology ''to the maximum extent possible'' in order to make IRP available in remote locations. Section 210(d) requires reporting on State participation in the IRP or similar programs, and Section 210(e) authorizes appropriations.

Section 211. Encouraging aliens to depart voluntarily

Section 211(a)(1):

Expands the class of aliens ineligible for voluntary departure to those ''described in'' Section 237(a)(2)(A)(iii) (aggravated felony) and Section 237(a)(4) (security and related grounds, including terrorist grounds); and

Transfers the power to permit aliens to depart voluntarily in lieu of removal proceedings from the Attorney General to the Secretary of DHS.

Section 211(a)(1) also modifies the procedures for aliens who accept voluntary departure after the beginning, but prior to the completion, of removal proceedings, by:

Offering such an alien only 60 days to depart (in contrast to the 120 days allowed under current law) and allows for aliens who agree to voluntary departure in lieu of removal proceedings under both current law and the INA as amended by this Act); and

Requiring such an alien to post a voluntary departure bond, to be surrendered upon proof that the alien has left the country within the time specified, which can be waived on presentation of ''compelling'' evidence that the bond is unnecessary and would present a financial hardship.

Section 211(a)(2) makes one change with respect to aliens permitted to depart voluntarily at the conclusion of removal proceedings: reducing the period in which such an alien must depart from 60 days to 45 days.

Section 211(a)(3) sets forth various new provisions governing voluntary departure agreements, providing that:

Voluntary departure is granted only as part of an affirmative agreement by the alien;

An alien who accepts voluntary departure after the conclusion of removal proceedings must waive his or her right to any further appeal or petition relating to removal;

DHS has the authority, in connection with a voluntary departure agreement, to reduce the period of inadmissibility for certain aliens; and

Agreements as to voluntary departure reached during removal proceedings or at the conclusion of removal proceedings must be presented on the record before the immigration judge, and the judge must advise the alien of the consequences of the agreement.

In addition, Section 211(a)(3) provides that the failure of the alien to comply with any terms of a voluntary departure agreement renders the alien automatically ineligible for the benefits of that agreement, subject to civil penalties already authorized by the INA, and subject to an alternate order of removal. Moreover, if the alien agrees to voluntary departure but later files a timely appeal, such an appeal voids the agreement and renders the alien ineligible for voluntary departure while s/he remains in the country.

Finally, Section 211(a)(3) provides that unless expressly agreed to by DHS, an alien who has agreed to voluntary departure shall not have the period allowed for such departure tolled or otherwise affected by any motion, application, or other legal petition.

Section 211(a)(4) provides penalties for an alien's failure to comply with a voluntary departure agreement: an automatic $3,000 fine; ineligibility for certain forms of relief as long as the alien remains in the country and for 10 years thereafter; and ineligibility to reopen a final order of removal, except to apply for withholding of removal or protection under the Convention Against Torture.

Section 211(a)(5) provides that all aliens previously permitted to depart voluntarily are ineligible for a second or subsequent voluntary departure agreement. This subsection also transfers the power to issue regulations limiting eligibility for voluntary departure in lieu of removal proceedings from the Attorney General to the DHS Secretary, and provides the DHS Secretary authority concurrent with the Attorney General's to issue regulations limiting eligibility for voluntary departure in other circumstances.

Section 211(a)(6) removes jurisdiction from the courts to stay, toll, or otherwise affect the period allowed for voluntary departure.

Section 211(b) authorizes the DHS Secretary to promulgate rules to impose and collect penalties for failure to honor a voluntary departure agreement.

Section 212. Deterring aliens ordered removed from remaining in the U.S. unlawfully

Section 212(a) closes a loophole allowing aliens to avoid the bar on reentry by aliens ordered removed by unlawfully remaining in the United States. Specifically, Section 212(a) provides that the bar on admissibility applies to aliens who seek admission ''not later than'' 5 years (or 10, or 20, as the case may be) after the date of removal, in contrast to the current law's bar on admissibility for aliens who seek admission ''within'' 5 years (or 10, or 20, as the case may be) of the date of removal.

Section 212(b) renders ineligible for future discretionary relief any alien who absconds after receiving a final order of removal. The bar applies until the alien leaves the United States and for 10 years after. However, Section 213(b) clarifies that such an alien remains eligible for a motion to reopen to seek withholding of removal under certain circumstances.

Section 213. Prohibition of the sale of firearms to or the possession of firearms by certain aliens

Section 213(1) prohibits the transfer of firearms and ammunition to an alien by those knowing or having reason to know that the alien is a parolee. Section 214(2) prohibits aliens who are parolees from transporting, possessing, and receiving firearms and ammunition in interstate commerce. Section 214(3) makes several technical corrections.

Section 214. Uniform statute of limitations for certain immigration, naturalization, and peonage offenses

Section 214 provides a statute of limitations of 10 years for most immigration crimes under the INA and title 18.

Section 215. Diplomatic security services

Section 215 authorizes Special Agents of the State Department and the Foreign Service to investigate identity theft, document fraud, peonage, slavery, and Federal offenses committed within the special maritime and territorial jurisdiction of the United States.

Section 216. Field Agent Allocation and Background Checks

Section 216 mandates each State to have at least 40 immigration enforcement agents, and at least 15 service personnel (Secretary may waive requirement for states with smaller populations).

It also requires DHS and DOJ to wait until the completion of background and security checks before granting any immigration-related status or benefit or issuing documentation evidencing such a grant.

Section 217. Denial of benefits of terrorist and criminals

Section 217 provides that nothing in the INA shall be construed to require any federal agency to grant any application, status, or benefit to an alien who may pose a threat to national security, who is the subject of an investigation under certain circumstances, and for whom background checks have not been completed.

Section 218. State criminal alien assistance program

Section 218 directs DHS to reimburse States and units of local government for costs associated with detaining and processing illegal aliens through the criminal justice system.

Section 219. Transportation and processing of illegal aliens apprehended by state and local law enforcement officers

Section 219 requires DHS to provide sufficient transportation and officers to take all illegal aliens apprehended by State and local law enforcement officers into custody for processing at a DHS detention facility.

Section 220. State and local law enforcement of federal immigration laws

Section 220 requires the Secretary of Homeland Security to reimburse state/local police organizations for training required under §287(g). Under §287(g), Immigration and Customs Enforcement provides state and local law enforcement with the training and subsequent authorization to identify, process, and when appropriate, detain immigration offenders they encounter during their regular, daily law-enforcement activity.

Section 221. Reducing illegal immigration and alien smuggling on tribal lands

Section 221 authorizes DHS to award grants to Indian tribes with lands adjacent to international borders who may have been adversely affected by illegal immigration.

Section 222. Alternatives to detention

Section 222 directs the Secretary of DHS to study the effectiveness of alternatives to detention, including electronic monitoring and the Intensive Supervision Appearance Program (ISAP).

Section 223. Conforming amendment

Section 223 amends the definition of ''aggravated felony'' so that it covers all penalties for passport, visa, and immigration fraud under chapter 75 of title 18, as amended by Section 208 of this Act.

Section 224. Reporting requirements

Section 224(a)(I) and (2) amend the current provisions in INA Section 265 to take account of the transfer of immigration enforcement authority from the Attorney General to DHS.

Section 224(a)(4) adds several new registration requirements to the INA. Section 224(a)(4) makes clear that the Secretary should provide for appropriate coordination and cross-referencing of address information provided by aliens. This section also makes clear that the Secretary can rely on the most recent address provided by an alien to the Secretary for any purpose under the immigration laws as an address to contact the alien, and the Attorney General and the Secretary may rely on the most recent address provided by the alien pursuant to section 239 for purposes of contacting the alien with respect to pending removal proceedings. Section 224(a)(4) makes clear that there is a separate change of address requirement under existing law for aliens who are in pending removal proceedings.

Section 224(b) makes several conforming amendments with respect to related provisions of the INA.

Section 224(c) modifies the penalties provided in section 266(b) of the INA, by providing for an increase in fines (the current $200 fine has remained unchanged in the more than 50 years since enactment of the INA), and by providing for imprisonment up to 6 months for a second or subsequent violation. Subsection (c)(I) also adds a new paragraph (3) in section 266(b), providing that the Secretary and the Attorney General may take into account, as a negative discretionary factor in evaluating discretionary forms of relief from removal, an alien's previous failure to comply with section 265. Section 224(c) also amends the penalty provision for aliens who file an application for registration containing a statement known by them to be false, so that it covers the filing of a change of address notice containing a statement known to be false.

Section 225. Mandatory detention for aliens apprehended at or between ports of entry

Section 225 requires that as of October 1, 2006, all aliens attempting to cross the border illegally must be detained until removed, with some exceptions. This provision also requires that in the interim period before October 1, 2006, an alien who is released pending an immigration removal hearing will have to post bond of at least $5,000.

Section 226. Removal of drunk drivers

Section 226 establishes that a third DUI conviction is an aggravated felony and a reason for removal.

Section 227. Expedited removal

Section 227 mandates the use of expedited removal of illegal aliens who are apprehended within 100 miles of the border or 14

days of unauthorized entry. Additionally, this section amends the INA to expand the scope of offenses subject to the expedited removal program for incarcerated or deportable aliens and allows DHS to use expedited removal on criminal aliens found in correctional institutions.

Section 228. Protecting immigrants from convicted sex offenders

Section 228 prohibits certain criminals from sponsoring an alien (e.g. spouse or fiancée) for a green card unless the DHS determines that the sponsor poses no threat to the alien. Specifically, the prohibition would apply to any person convicted of (i) murder, rape or sexual abuse of a minor; (ii) certain crimes related to sexual exploitation of minors; or (iii) an offense that relates to a prostitution business or trafficking.

Section 229. Law enforcement authority of states and political subdivisions and transfer to federal custody

Section 229 reaffirms the existing inherent authority of State law enforcement personnel to assist the federal government in enforcing the immigration laws of the United States during the normal course of carrying out their law enforcement duties. It also requires DHS to promptly take aliens apprehended by state and local law enforcement entities into Federal custody. Alternatively, DHS can request that the relevant state or local law enforcement entity temporarily detain the illegal alien or transport them to the point of transfer to Federal custody. Finally, this section mandates that states and localities be fully reimbursed for all reasonable expenses incurred for detention and transportation.

Section 230. Listing of immigration violators in the NCIC database

Section 230 directs ICE to work with the FBI to place information on certain immigration violators into the already existing Immigration Violators File (IVF) of the National Crime Information Center database. The four categories of immigration violators whose information will be entered are: aliens with final orders of removal, aliens under voluntary departure agreements, aliens who have overstayed their authorized period of stay and aliens whose visas have been revoked.

Section 231. Laundering of monetary instruments

Section 231 permits those who engage in alien smuggling or the harboring of illegal aliens for financial gain to be prosecuted for money laundering based on the receipt of proceeds from their illegal activity.

Section 232. Severability

This section is a severability clause.

TITLE III—INCREASED WORKSITE ENFORCEMENT AND PENALTIES

Section 301. Unlawful employment of aliens

Section 301 amends Section 274A of the Immigration and Naturalization Act.

Subsection (a)(1) prohibits the hiring, recruiting, or referral of any alien with knowledge or with reason to know of the alien's illegal status, as well as the hiring of an individual without complying with the identification and employment documentation verification requirements of subsection (c) and the Electronic Employment Verification System requirements of subsection (d).

Subsections (a)(2) and (a)(3) bar the continued employment of an unauthorized alien after acquiring knowledge of the alien's illegal status, as well as the use of illegal aliens as laborers through contracts or subcontracts.

Subsection (a)(4) provides that, in a civil enforcement context, if the Secretary determines that an employer has hired more than ten unauthorized aliens within a calendar year, a rebuttable presumption is created that the employer knew or had reason to know that such aliens were unauthorized.

Subsection (a)(5) provides a defense for employers who comply in good faith with the requirements of subsections (c) and (d) and who voluntarily use the Electronic Employment Verification System.

Subsection (b): Order of internal review and certification of compliance

This provision authorizes the Secretary to require, when there is reasonable cause to believe that employers have failed to comply with this section, an employer to certify that it is in compliance with this section, or has instituted a program to come into compliance.

The purpose of this section is to allow the Secretary to obtain an employer's formal assurance that the employer is in fact in compliance with immigration laws or that it has developed a plan to come into compliance with the requirements of this section. The provision allows DHS to rely on an employer's self-assessment and self-certification rather than launching a formal DHS investigation. Within 60 days, the employer is required to certify completion of this review and that it is either in compliance or has instituted a program to come into compliance. At the request of the employer, the Secretary may extend the deadline for good cause.

Subsection (c): Document verification system

Subsection (c) requires employers hiring, recruiting, or referring employees to take reasonable steps to verify that such employees are authorized to work.

Subsection (c)(1) requires employers to attest under penalty of perjury that they have verified the identity and work authorization status of their employees by examining a document establishing both work authorization and identity (described in (c)(I)(B)) or a document establishing work authorization (described in (c)(I)(C)) and a document establishing identity (described in (c)(I)(D)).

Subsection (c)(1) also establishes the standard of compliance with regard to examination of a document. Section (c)(I)(E) authorizes the Secretary to prohibit or place conditions on the use of documents that do not reliably establish identity or work authorization or which are being used fraudulently to an unacceptable degree.

Subsection (c)(2) describes an employee's obligation to attest in writing to being legally authorized to work and prescribes a penalty for false representations.

Sections (c)(3) and (c)(4) require the employer to retain copies of the attestation form and supporting documentation.

Subsection (c)(5) subjects an employer that fails to comply with the documentation, recordkeeping, and other requirements of subsection (c) to penalties pursuant to subsection (e)(4)(B). As detailed in subsection (e)(4)(B), penalties for paperwork violations are progressive in their severity, depending upon whether the violation is a first, second or third offense.

Subsection (c)(6) provides that nothing in this subsection authorizes the issuance or use of a national identification card.

Subsection (d): Electronic employment verification system

Subsection (d)(1) requires the Secretary, in cooperation with the Commissioner of Social Security, to implement an Electronic Employment Verification System (EEVS).

Subsection (d)(2) incorporates existing Basic Pilot program language requiring the Secretary to operate the verification system through a toll-free phone number or other electronic media through which participating employers can make inquiries as to whether individuals are work authorized. This subsection also requires that the Secretary maintain records of inquiries and responses to inquiries, allowing for a robust audit capability. The verification system must provide an initial response within 3 days. Until the employer receives an answer, the employment relationship may continue. If the employer receives a tentative non-confirmation from the verification system, the employee may contest that finding. While the tentative nonconfirmation is being contested, the employer may not terminate the employee based on a lack of work authorization.

The system must be designed and operated for maximum reliability, ease of use, and safeguarding against unauthorized disclosure of private information as well as unlawful discriminatory practices. This section requires the SSA Commissioner to establish a system to compare names with SSNs in order to confirm or not confirm their correspondence as well as whether a SSN is authorized for employment, and prohibits the disclosure of SSN information to employers. The section requires the Secretary to establish a system to compare names with alien identification or authorization numbers in order to confirm or not confirm work authorization. This section also requires updating of information for maximum accuracy.

Subsection (d)(3) outline the requirements for employer participation into the System. As a general rule, the verification requirement will apply only to new employees and be rolled out gradually. As of the date of enactment, the Secretary is authorized through notice in the Federal Register to require participation in the EEVS by employers that the Secretary determines to be part of the critical infrastructure, or directly related to the national, or homeland security needs of the United States. Participation of these employers shall apply with respect to both newly hired and currently hired employees.

Two years after the date of enactment of this Act, the Secretary must require employers with more than 5,000 employees to participate in the EEVS. Three years after the date of enactment, the Secretary must require employers with less than 5,000 employees and with more than 1,000 employees to participate in the EEVS. Four years after the date of enactment, the Secretary must require employers with more than 250 employees and less than 1,000 employees to participate in the EEVS. Five years after the date of enactment, the Secretary must require all employers to participate in EEVS.

The Secretary also has the authority to require employers to participate in the EEVS based upon immigration enforcement. Participation of these employers shall apply with respect to their newly hired employees. The Secretary is authorized to waive or delay the participation in EEVS but must provide notice to Congress of such waiver prior to the date such waiver is granted.

Subsection (d)(6) states that any failure to comply with the EEVS's requirements by a shall be treated as a violation of subsection (a)(1)(B)' s prohibition against hiring individuals without complying with this section, including the requirements of subsections (c) and (d). Subsection (d)(6) further provides that such failure to comply shall be treated as presumed violations of subsection (a)(1)(A)'s prohibition against the hiring of unauthorized aliens.

Subsection (d)(7) establishes procedures for employers participating in the EEVS, including provision of identity and work authorization information, presentation of documentation, reliance on documentation, requirements for seeking confirmation or resolving non-confirmations of work authorizations, and consequences of final non-confirmations. This subsection largely incorporates language identical to that contained in the current Basic Pilot statute, in order to allow the current program to be expanded with a minimum of operational disruption.

Subsection (d)(8) protects from civil and criminal liability any person or entity who relies in good faith on information provided through the EEVS confirmation system. This incorporates existing language applicable to the Basic Pilot program authority.

Subsection (d)(9) prohibits use of the EEVS by any Federal agency for any purposes other than enforcement and administration of the immigration laws, the SSA, or the criminal laws.

Subsection (d)(10) authorizes the Secretary to modify the requirements of the EEVS.

Subsection (d)(11) allows the Secretary to establish, require, and modify fees for employers participating in the EEVS. Such fees may be set at a level that will recover the full cost of providing the EEVS to all participants. This provision further provides that fees are to be deposited and remain available as provided in INA sections 286(m) and (n), and that the EEVS is considered an immigration adjudication service under 286(n). This provision also allows the Secretary to modify the frequency or schedule for payment.

Subsection (d)(12) requires that the Secretary submit a report to Congress within one year after enactment on the capacity, integrity, and accuracy of the EEVS.

Subsection (e): Compliance

Subsection (e)(1) requires the Secretary to establish procedures for the filing of complaints and investigation of possible violations.

Subsection (e)(2) ensures that immigration officers have reasonable access to evidence of employers they are investigating. It also authorizes DHS to compel the production of evidence by subpoena and to fine or void any mitigation of penalties available to employers who fail to comply with subpoenas.

Subsection (e)(3) authorizes the Secretary to issue pre-penalty notices to employers when there is reasonable cause to believe the employer has violated this section. It would provide employers a reasonable opportunity to defend their actions and to petition the Secretary for the remission or mitigation of any fine or penalty or to terminate the proceedings. Mitigating circumstances would include good faith compliance and participation in the EEVS. The subsection also sets forth the procedures for the Secretary to follow when making a determination of whether there has been a violation and authorizes the Secretary to mitigate penalties or terminate proceedings in appropriate cases.

Subsection (e)(4) sets forth the civil monetary penalties for unlawfully hiring, recruiting, or referring unauthorized aliens or for continuing to employ an individual who is unauthorized to work, as well as penalties for recordkeeping or verification practice violations.

Subsection (e)(5) provides that an employer may appeal an adverse determination within 45 days of the issuance of the final determination.

Subsection (e)(6) authorizes the Government to file suit in Federal court if an employer fails to comply with a final determination.

Subsection (f): Criminal penalties

Subsection (f) establishes criminal penalties and injunction procedures for employers who engage in a pattern or practice of knowing violations of subsection (a)(1)(A), which prohibit hiring unauthorized aliens, or subsection (a)(2), which prohibits continuing to employ unauthorized aliens after employer is aware or has reason to be aware that the alien is not authorized to work. Such employers can be fined up to $10,000 for each unauthorized alien with respect to whom such a violation occurs, imprisoned up to six months, or both. This subsection further authorizes the Attorney General to bring a civil action requesting such monetary penalties or injunctive relief.

Subsection (g): Prohibition of indemnity bonds

Subsection (g) prohibits any employer from requiring prospective employees to post a bond or other security indemnifying the employer against liability arising from the employer's violation of this section. Violation of this prohibition is subject to civil penalties, and amounts obtained in the form of such bonds can be ordered to be deposited in the Employer Compliance Fund authorized by INA §286(w).

Subsection (h) bars noncompliant employers from eligibility for Federal contracts.

Subsection (i) contains provisions relating to work documentation from DHS and a federal preemption clause applicable to the provisions of this section.

Subsection (j) directs the deposit of funds paid for civil penalties into the employer compliance fund authorized by INA §286(w).

Section 302. Employer compliance fund

Section 302 establishes an Employer Compliance Fund into which funds derived from civil penalties are to be deposited. The Employer Compliance Fund shall be used for enhancing and enforcing employer compliance with section 274A.

Section 303. Additional worksite enforcement and fraud detection agents

Section 303 authorizes the hiring of additional DHS personnel dedicated to worksite enforcement fraud detection agents.

Section 304. Clarification of ineligibility for misrepresentation.

Section 304 is a technical change that conforms section 212 to section 274A. This provision closes a loophole in the ground of inadmissibility for falsely claiming U.S. nationality in section 212 of the INA that has been exploited to obtain unauthorized employment and subsequently evade removal.

The employment verification provisions in section 274A of the INA require an employee to certify that (unless claiming work authorized alien status) he is a ''citizen or national'' of the United States. The Form I–9 uses this formulation. The parallel ground of inadmissibility, although it refers specifically to section 274A verification, only uses the phrase ''citizen.'' Some aliens have escaped the consequences of their misrepresentations by successfully arguing that a false attestation that one is a ''citizen or national'' is not covered by the ground of inadmissibility. A false attestation to any form of U.S. nationality should have the same consequences in employment verification or in other circumstances.

TITLE IV—BACKLOG REDUCTION AND VISAS FOR STUDENTS AND ALIENS WITH ADVANCED DEGREES

Section 401. Elimination of existing backlogs

Section 401 reduces visa backlog waiting times by allowing the recapture of unused visa numbers and increases the number of employment-based green cards from 140,000 to 290,000. It also exempts immediate relatives of U.S. citizens from the 480,000 annual cap on family-based immigration.

Section 402. Country limits

Section 402 increases the per-country limits for family-sponsored and employment-based immigrants are from 7 percent to 10 percent (in the case of countries) and from 2 percent to 5 percent (in the case of dependent areas).

Section 403. Allocation of immigrant visas

The current 480,000 ceiling on family-sponsored immigrants is redistributed among existing family preference categories. Ten percent is allocated to the first preference—unmarried sons and daughters of U.S. citizens. Fifty percent is allocated to the second preference—spouses and unmarried sons and daughters of lawful permanent residents, of which seventy-seven percent of such visas will be allocated to spouses and minor children of lawful permanent residents. Ten percent is allocated to the third preference—married sons and daughters of U.S. citizens. Thirty percent is allocated to the fourth preference—brothers and sisters of U.S. citizens.

Section 403 restructures visa number availability to provide additional visas for unskilled workers (who are limited to 5,000/year right now) and other categories where visas have not kept up with demand. The 290,000 ceiling for employment-based immigrant visas is redistributed among the employment-based immigrant visa categories and certain modifications are made to current categories. 15% is allocated to the first preference—aliens with extraordinary ability, outstanding professors and researchers, and multinational executives and managers. 15% is allocated to the second preference—aliens holding advanced degrees or having exceptional ability. 35% is allocated to the third preference—skilled workers and professionals. 5% is allocated to a re-designated fourth preference—investors. 30% is allocated to a re-designated fifth preference—other workers performing labor or services (previously included in third preference).

Section 404. Relief for minor children

Section 404 amends the immediate relative category to allow the children of spouses and parents of U.S. citizens to obtain legal status and travel to the United States with their families.

Section 405. Student visas

Section 405 extends foreign students' post-curricular Optional Practical Training (and F–1 status) to 24 months. It also creates a new ''F–4'' student visa for students pursuing an advanced degree candidates studying in the fields of math, engineering, technology or the physical sciences. The new visa would allow eligible students to either to return to their country of origin or remain in the United States for up to one year and seek employment in their relevant field of study. Once such a student received such an offer of employment, the individual would be allowed to adjust status to that of a legal permanent resident once the alien paid a $1,000 fee and completed necessary security clearances. Eighty percent of this fee would be deposited into a fund for job training and scholarships for American workers, while twenty percent of the fee would go toward fraud prevention.

Section 406. Visas for individuals with advanced degrees

Section 406 exempts from the numerical cap on employment-based visas aliens with advanced degrees in science, technology, engineering, or math, and has worked in a related field in the U.S. during the 3 year period preceding their application for adjustment of status. It also exempts immediate relatives of aliens who are admitted as employment-based immigrants from the numerical limitations of 203(b). Finally, it increases the available visas numbers for H–1B nonimmigrants and provides an exemption from the numerical limitation aliens who

have earned advanced degrees in science, technology, engineering, or math. The numerical limitation is also supplemented with a flexible limitation that is set according to demand for foreign high-skilled workers.

Section 407. Medical services in underserved areas

Section 407 permanently authorizes the current J–1 visa waiver program. Under this program, participating states are allocated 30 J–1 visa waivers, which enables them to waive the 2 year home residency requirement for medical students and physicians who serve in ''medically underserved areas'' upon completion of their J–l program. The program has been reauthorized twice before and is now set to expire on June 1, 2006.

TITLE V—IMMIGRATION LITIGATION REDUCTION

Section 501. Consolidation of immigration appeals

Section 501 consolidates all INA civil and administrative appeals into the United States Court of Appeals for the Federal Circuit, and increases the number of authorized judgeships in the Federal Circuit by three to 15. The amendments made by this section shall apply to any final agency order or District Court decision entered on or after the date of enactment of this Act.

Section 502. Additional immigration personnel

Section 502 directs the Secretary of Homeland Security to increase annually in FY 2007–2011 the number of investigative personnel investigating immigration violations by not less than 200 and the number of trial attorneys in the Office of General Counsel working on immigration by not less than 100, subject to the availability of appropriations. It also directs the Attorney General to increase annually in FY 2007–2011 the number of litigation attorneys in the Office of Immigration Litigation by not less than 50, the number of Assistant U.S. Attorneys who litigate immigration cases in Federal courts by not less than 50, and the number of immigration judges by not less than 50, subject to the availability of appropriations. Finally, it authorizes appropriations for additional Assistant Federal Public Defenders who litigate Federal criminal immigration cases in Federal court.

Section 503. Board of Immigration Appeals removal order authority

Section 503 grants the Board of Immigration Appeals (Board) authority to enter an order of removal without remanding to the immigration judge. It also conforms certain terminology to the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) by inserting the term ''order of removal'', and the term ''immigration judge'' in place of the term ''special inquiry officer,'' and expands the situations in which orders of removal are deemed final.

Section 504. Judicial review of visa revocation

Section 504 provides that the decision to revoke a visa and the removal order predicated on that revocation are not reviewable. Review of a final order of removal, however, is still permitted under 8 U.S.C. §1252(a)(2)(D) when questions of statutory interpretation or alleged constitutional infirmity arise.

Section 505. Reinstatement of removal orders

Section 505 clarifies that section 241(a)(5) of the INA (8 U.S.C. 1231(a)(5)) does not require further hearing by an immigration judge in cases in which prior orders of removal are reinstated against aliens who illegally reenter the United States. This provision applies to orders of deportation or exclusion issued in cases initiated before April 1, 1997, and clarifies that the alien's ineligibility for relief is not dependent on when the alien applied for such relief. This section also provides that reinstatement orders are not reviewable.

Section 506. Withholding of removal

Section 506 clarifies an alien's burden of proof with respect to withholding of removal to make it consistent with the standard established for asylum by section 101(a)(3) of the REAL ID Act. Applicants for withholding, who have traditionally borne a higher burden than applicants for asylum, will bear the same burden of proof as applicants for asylum.

Section 507. Certificate of reviewability

Section 507 establishes a screening process for aliens' appeals of Board decisions under which appeals of removal orders will be referred to a single judge on the Federal Circuit Court of Appeals. If the alien establishes a prima facie case that the petition for review should be granted, the judge will issue a ''certificate of reviewability'' allowing the case to proceed to a three-judge panel; otherwise it is dismissed.

Section 508. Discretionary decisions on motions to reopen or reconsider

Section 508 revises the statutory provisions relating to motions to reopen and motions to reconsider to state expressly that the Attorney General's decision whether to grant or deny such motions are committed to his discretion, subject to existing statutory exceptions. This section adds a special provision providing for reopening in order to consider withholding of removal or protection under the Convention Against Torture claims in one limited circumstance. These amendments are applicable to all motions to reopen or reconsider filed on or after the date of enactment in any removal, deportation, or exclusion proceeding.

Section 509. Prohibition of attorney fee awards for review of final orders of removal

Section 509 abolishes EAJA fee awards in immigration cases for aliens who are removable, except when the Attorney General's or the Secretary's determination regarding removability was not substantially justified.

Section 510. Board of Immigration Appeals

Section 510 directs the Attorney General to promulgate regulations to require the Board of Immigration Appeals to hear cases in 3 member panels (unless certain conditions are met) and to permit the Board limited authority to issue affirmances without opinion.

TITLE VI—MISCELLANEOUS

Section 601. Technical and conforming amendments

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 403—RECOGNIZING THE BENEFITS OF BREASTFEEDING, AND FOR OTHER PURPOSES

Mr. DURBIN submitted the following resolution; which was referred to the Committee on Health, Education, Labor, and Pensions:

S. RES. 403

Whereas the Surgeon General and the American Academy of Pediatrics recommend that most babies be exclusively fed with breast milk for the first 6 months of life, and continue on with breast milk through the first year of life;

Whereas studies have shown that children who were breastfed had a 20 percent lower risk of dying in the first year of life than children who were not breastfed;

Whereas promoting breastfeeding can potentially prevent up to 720 postneonatal deaths in the United States each year;

Whereas breast milk provides the right balance of nutrients to help an infant grow into a strong and healthy toddler, improves the chances of infant survival, and helps protect against common childhood illnesses and infections;

Whereas research also suggests that breastfeeding may be protective against chronic diseases such as type I and type II diabetes, leukemia, and obesity;

Whereas breast milk contains important amino acids, only found in natural breast milk, that help an infant's brain develop;

Whereas maternal benefits to breastfeeding include decreased postpartum bleeding, decreased risk of breast and ovarian cancer, and decreased risk of postmenopausal osteoporosis;

Whereas the health advantages for mothers and children of breastfeeding translate into economic benefits for the family, health care system, and workplace;

Whereas breastfeeding more children would reduce medical care costs, decrease spending for public health programs such as the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC), and decrease parental absenteeism;

Whereas breastfeeding more children would have an environmental benefit by reducing trash and plastic waste from formula cans and bottle supplies;

Whereas 1 of the objectives for improving health in Focus Area 16, Maternal, Infant, and Child Health, from Healthy People 2010, is to increase the percentage of mothers who breastfeed to 75 percent in the postpartum period, 50 percent 6 months after birth, and 25 percent 1 year after birth; and

Whereas throughout the United States, mothers have encountered legal and systematic challenges while trying to breastfeed in public and upon returning to work when seeking out adequate places to express milk in the workplace: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes the unique health, economic, and social benefits breastfeeding affords to children, mothers, and the community at large; and

(2) calls upon States to take steps to protect a mother's right to breastfeed and remove the barriers faced by women who breastfeed.

Mr. DURBIN. Mr. President, I speak today to recognize the importance of breastfeeding as a child and maternal health issue. Breastfeeding is widely accepted as the most complete form of nutrition for infants, and it provides an array of benefits for both infants and mothers.

Yet many mothers who choose to breastfeed find themselves in situations where they are discouraged, or even prohibited, from breastfeeding. I submitted a Senate resolution today to recognize the many benefits of breastfeeding and to encourage States to protect the rights of women to feed their children.

My home State of Illinois recently adopted legislation to exempt breastfeeding mothers from the State's public indecency laws. The impetus behind the State initiative came in no small part from a woman named Kasey Madden, a young mother turned advocate after she was asked one too many times not to breastfeed her infant daughter.

Kasey was at her local fitness center one day, exercising to get back into shape after pregnancy but also caring