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No. 42

House of Representatives

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mrs. CAPITO).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
April 5, 2006.

I hereby appoint the Honorable SHELLY MOORE CAPITO to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

PRAYER

The Reverend Dr. Clyde P. Thomas, Pastor, Cherokee Avenue Baptist Church, Gaffney, South Carolina, offered the following prayer:

Gracious God, our Heavenly Father, we humbly come to You today to seek Your guidance knowing that we take only one step at a time. Illuminate each step as only You can and keep us strong in our path.

O Lord, grant that we will live together as people of vision and understanding as well as promise and peace. We pray for our President and Members of this body as they serve. Encourage and strengthen them with Your power and wisdom. Protect our military and our law enforcement men and women. Give comfort to their families and refresh their spirit. Make us mindful of our responsibilities and grateful for our opportunities to do Your will. We pray this in the name above every other name. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House her approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from South Carolina (Mr. BARRETT) come forward and lead the House in the Pledge of Allegiance.

Mr. BARRETT of South Carolina led the Pledge of Allegiance as follows:

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

WELCOMING THE REVEREND CLYDE PICKNEY THOMAS, JR.

(Mr. SPRATT asked and was given permission to address the House for 1 minute.)

Mr. SPRATT. Madam Speaker, the opening prayer was given by the Reverend Clyde Pickney Thomas, Jr. Reverend Thomas has served in the ministry of the Southern Baptist Church since 1974 and is now the pastor of Cherokee Avenue Baptist Church in Gaffney, South Carolina, a pulpit that he has filled with distinction since 1979.

Reverend Thomas is not only a prominent preacher of the gospel, but a pastor who has developed courses of study for adults, youth, and children, conducted an extensive sports ministry, and taken at least 10 mission trips to places as far away as the Amazon. He is married to Joanne Cash Thomas, and they have two sons, Clyde Preston Thomas and James Grady Thomas.

I have had the privilege of attending Sunday services at Cherokee Avenue and, afterwards, having lunch in the fellowship hall. I can attest to the fact that the preaching and the cooking were both first rate.

I want to thank Reverend Thomas and thank also the Speaker and Father Coughlin for allowing Reverend Thom-

as to open today's session with prayer. Thank you very much.

THE NEW YORK TIMES GOT IT RIGHT AGAIN

(Ms. FOXX asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. FOXX. Madam Speaker, last week I sat on this House floor and did something I never thought I would do: I praised the New York Times for accurately reporting the facts about the success of the new Medicare prescription drug program.

They say lightning never strikes the same place twice, so you can imagine my surprise when the New York Times ran an April 3 editorial that said about Medicare part D: "Complaints and call waiting times are diminishing, and many uninsured patients are clearly saving money on their drug purchases."

It is refreshing that the mainstream media is finally beginning to acknowledge that millions of seniors are saving thousands of dollars a year on their prescriptions under Medicare part D. This benefit has already lowered average monthly premiums from \$37 to \$25, and those seniors with limited incomes will incur nearly no expenses at all.

It is a real shame that my Democratic colleagues refuse to admit that this benefit is making a positive difference. Instead, they prefer to bash the program and scare seniors into thinking it is "confusing." The Main Street press is finally starting to pay attention to millions of our seniors' success stories. It is about time that Democrats remove their ear plugs and start paying attention, too.

WE ARE THE CHAMPIONS

(Mr. HOYER asked and was given permission to address the House for 1

This symbol represents the time of day during the House proceedings, e.g., 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.



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minute and to revise and extend his remarks.)

Mr. HOYER. Madam Speaker, this is a turtle. In Maryland, we call it a terrapin. Fear the turtle. But today we need to revere the turtle. Sixteen magnificent young women got on a court in Boston, and we had one of the most exciting, well-played basketball games, male or female, in the history of our country.

Madam Speaker, this morning I want to congratulate Coach Brenda Frese and the University of Maryland women's basketball team on winning the championship last night with a stunning 78-75 overtime victory over a valiant Duke University team. This game, Madam Speaker, was a demonstration of college athletics at its best.

The gentlewoman from North Carolina just spoke; our athletic director comes from North Carolina, Debbie Yow, and she recruited Brenda Frese. We thank you for that.

The Terrapins erased a 13-point second half deficit, the second largest in history, and Maryland freshman guard Kristi Toliver hit a three-point shot with 6.1 seconds remaining to send the game into overtime. "We've played like this all year," said Terp Marissa Coleman. "Nothing gets to us. We never thought we were going to lose this game." The Terps' win caps a tremendous 34-4 season and makes Maryland only the fourth college in America whose men's and women's basketball teams have captured national championships.

Madam Speaker, I know that all of us join together to congratulate those 16 young women who showed America what women can do and what an extraordinary athletic event they can provide. Both teams were magnificent. We in Maryland are proud of our victory. But those in North Carolina who come from Duke ought to be proud of their team as well.

SECURITY SUCCESS IN IRAQ

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Madam Speaker, the American Forces Press Service reported on Monday that Iraqi and coalition forces have scored several successes against insurgent fighters, seizing weapons caches and capturing suspected enemies during missions over the past several days.

From Karabilah to Ramadi, Iraqi troops and coalition forces have captured terrorists during raids and discovered weapons including hand grenades, rocket propelled grenade launch motors, sticks of plastic explosives, and AK-47 rifles. The Victory in Iraq Caucus is grateful to recognize their successes to protect American families in the central front of the global war on terrorism.

With every terrorist they detain and each weapon they discover, Iraqi troops

and American forces save lives and improve our security. The events over the past several days are commendable, but they are not unique. By facing the terrorists overseas, we are confronting mass murderers before they strike American families again at home.

In conclusion, God bless our troops, and we will never forget September 11.

YUCCA MOUNTAIN

(Ms. BERKLEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. BERKLEY. Madam Speaker, later today, the Bush administration, with the aid and comfort of the Republican Congress, will once again propose to remove all congressional oversight of nuclear waste in this country to be stored at Yucca Mountain and double the amount of nuclear waste to be stored in the mountain.

Let me remind everybody that Secretary Bodman, the Secretary of Energy, just testified last week that he has no idea how much Yucca Mountain is going to cost, and he has no idea how long it is going to take to ensure that they could build Yucca Mountain; but he wants to remove congressional oversight over the nuclear waste budget.

Let me remind everyone, there are no radiation standards now. The court threw them out. There is no way to safely transport nuclear waste across our country. And after 9/11, it is incomprehensible to me that we have not come up with a threat assessment. There are no canisters that currently exist that will not corrode. We have a thousand e-mails from the scientists at the National Geologic Survey that demonstrate that they fudged or made up the scientific data that went into making the decision that Yucca Mountain was okay.

Now they want to eliminate the oversight of Congress over the budget of Yucca Mountain. I think that would be a dereliction of our duty. We ought to stand up to the administration and do our job.

YALE WINS

(Mr. POE asked and was given permission to address the House for 1 minute.)

Mr. POE. Madam Speaker, Yale University has won first place in the Annual Campus Outrage Award. The award is given to universities that worship the God of political correctness. Yale wins this year because according to the College Network who bestows the award, "Yale enrolled a former Taliban official with a fourth grade education in the name of the sacred cow, diversity, which now appears to extend to the enemy combatants who make war on the United States."

According to the Washington Times, second place went to DePaul University, which "suspended a professor without a hearing after the professor

attempted to debate students handing out pro-Palestinian literature."

DePaul was also recognized for suppressing free speech rights of students who protested a professor's writings that said the United States deserved to be attacked on September 11, 2001.

Other universities who received awards were Stanford and Holy Cross for attempting to prohibit articles in their campus newspapers that criticized left wing philosophies.

Madam Speaker, have some of our universities lost their way by prohibiting liberty to those individuals who disagree with the university's elitist, narrow-minded snobbery? And that's just the way it is.

WHAT IS WRONG WITH THE DEPARTMENT OF HOMELAND SECURITY

(Mr. EMANUEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EMANUEL. Madam Speaker, just when we thought things could not get any worse at the Department of Homeland Security, today we find out that a senior official was arrested for child porn.

Last night Brian Doyle, the deputy press secretary at DHS, was arrested while attempting to seduce a detective posing as a 14-year-old girl. He has been charged with 23 counts related to using his computer to seduce a minor.

How did they catch him? He told the agent posing as a girl that he worked for the Department of Homeland Security, going so far as to give out his office phone number and sending her copies of his ID. He even used his office phone for explicit conversations. Not only that, he is giving out sensitive information.

This is not the first time something like this has happened. This week Frank Figueroa, another senior Department of Homeland Security official, is on trial for exposing himself to a teenage girl at a mall in Tampa.

From the Katrina disaster to now this. It gives a whole new meaning to the word "incompetence."

Madam Speaker, for once I am at a loss for words. What is going on at Homeland Security? How many things can go wrong and still nobody is held accountable?

The White House is under fire for spying on average Americans but maybe they should spend time looking into the backgrounds of people they hire in their administration. It is time for new priorities here in Washington.

BALANCE OUR BUDGET

(Mr. SAM JOHNSON of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SAM JOHNSON of Texas. Madam Speaker, it is budget time again. This is when people in Washington outline a

blueprint of how much money the government is going to spend on what. Sadly, some in Congress want to spend, spend, spend. It is a shame because the American people deserve better. They deserve a commonsense budget that controls spending and eliminates wasteful programs.

The RSC budget balances the budget by 2011 and cuts useless programs like Asian elephant conservation historic whaling programs.

It is time for Congress to take a hard look at how we spend our money and support the RSC budget for a better America.

□ 1015

WOMEN AND THE BUDGET

(Mrs. JONES of Ohio asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. JONES of Ohio. Madam Speaker, I rise to address the House about how the Republicans' fiscal year 2007 budget resolution will create serious problems for women and children.

The budget resolution put forth by the Republicans, which we will vote on tomorrow, undercuts and undervalues women's contributions to the American labor force.

The wage gap among women and men continues today. Women earn on average 76 cents to every dollar that a man earns.

The Republican budget resolution eliminates the Women in Apprenticeships and Nontraditional Occupations Act. This program, which only costs \$1 million per year, provides grants to employers to help recruit, train and retain women in nontraditional, well-paying jobs.

The budget also cuts funding for the Women's Bureau in the Department of Labor, the only Federal agency with primary responsibility for serving and promoting interests of working women.

I urge my colleagues to defeat the Republican budget resolution.

REPUBLICAN BUDGET

(Mrs. BLACKBURN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BLACKBURN. Madam Speaker, last year the Republicans did support the Deficit Reduction Act that reduced \$39 billion in Federal spending, and yes, indeed, as we are hearing, this is budget week here on Capitol Hill. It is something that we are tasked to do.

I know that a lot of the big spenders would still like to be getting rid of that Deficit Reduction Act that we passed last year. It was a good bill. We should be doing more like it, as my colleague from Texas said.

Today, conservatives in the House are working to bring to the floor a budget that goes after the programs that show little results for the taxpayer dollars.

We have got some great ideas on the table. I would like to see further across-the-board cuts. My colleague from Texas, Representative CONAWAY, has a bill that goes after eliminating a program if you are going to create a new one.

Madam Speaker, we Republicans are bringing ideas and putting solutions on the table, and we are going to hear more about this as we go through the week. We are the party debating how to reduce spending at the Federal level. It is what America expects of us. It is what we are fighting to make happen.

THE REPUBLICAN BUDGET

(Ms. WOOLSEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. WOOLSEY. Madam Speaker, when you have a budget like this Republican budget, a budget where those who have the least are being forced to live on even less, less help with student aid, less protection for children's health, less food assistance and less child care, less support of prescription drugs, less funding for home heating, less protection to ensure a place to live and a job that pays a livable wage, when you have a budget like this, women and children are the most impacted because women and their families are the poorest of the poor in this country of much.

Stop this injustice. Vote "no" on this Republican budget.

CAPITOL POLICE RESOLUTION

(Mr. MCHENRY asked and was given permission to address the House for 1 minute.)

Mr. MCHENRY. Madam Speaker, we live in an age that requires constant vigilance. We work in a building that requires steady security. The scourge of terrorism is genuine, tangible and real in today's world, especially when your office is in the center of a terrorist bull's eye, the Capitol Building and Capitol Hill.

Even with this knowledge, I come to work confident that my safety and security is in capable hands. There are over 1,500 of the most highly trained men and women guarding the gates and guarding this building. These are the dedicated officers of the Capitol Police Force. They provide safety and security for Members of Congress, the staff, as well as 3 million visitors who come and go through this building each year.

In extreme cases, the Capitol Police Force must endure physical and verbal assaults. These men and women deserve a pat on the back, not a punch in the chest.

Madam Speaker, that is why Congressman MARIO DIAZ-BALART and I introduced a resolution thanking Capitol Police and commending them for their service, dedication and commitment to security on Capitol Hill.

CHILDREN'S HEALTH INSURANCE PROGRAM

(Ms. EDDIE BERNICE JOHNSON of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. EDDIE BERNICE JOHNSON of Texas. Madam Speaker, I rise to voice concerns about the impact of budget cuts on the States' Children's Health Insurance Program, that is called CHIP.

CHIP is jointly financed by the Federal and State governments and is administered by the States.

While it is good that each State determines the design of its program, the eligibility groups, benefits, co-pays and administrative procedures, I am concerned that misplaced fiscal priorities are squeezing the States and negatively impacting children's health.

A Dallas Morning News article from March 27 cites numerous problems with CHIP in Texas. Administrative errors and budget cuts are resulting in lost or delayed coverage.

Many families are unaware of the benefit. Enrollment has been more complicated and fewer children are participating in the program. Privatization of many State-Federal health programs is lessening access to care.

Madam Speaker, I am concerned that the fiscal year 2007 budget plan for the House of Representatives will hurt America's uninsured children.

April is National Child Abuse Prevention Month. Cutting health programs for young people is cruel at worst and irresponsible at best.

HONORING DOC DODSON

(Mr. CONAWAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONAWAY. Madam Speaker, I rise today to honor an outstanding citizen of the city of Midland, Texas. James "Doc" Dodson was born in Fort Worth, Texas, on April 22, 1936. In 1958, he moved to Midland where he became an athletic trainer at Midland High School. It was there that he touched the lives of MHS Bulldogs for the next 32 years.

Doc's greatest joy is his family. He married Gayle McMullan in 1963, and they have two daughters, Kelly Hullender and Jamie Dodson. Kelly and her husband, Todd, have Doc's three grandchildren: Blair, Mills and Sam.

In 1972, Doc was the first high school athletic trainer selected to be a part of the U.S. Olympic team in Munich, Germany. In 1978, he was the first recipient of the Outstanding High School Trainer award, an honor he was given twice.

Doc is now the director of physical rehabilitation at Southwest Orthopedics in Midland where he continues to help many people each day.

Doc is truly an outstanding American. We are blessed to have him live in

Midland, Texas, and District 11 in Texas, and I am proud to be his Congressman and call him my friend.

PRESIDENT'S BUDGET CUTTING OUR CHILDREN'S EDUCATIONAL OPPORTUNITIES

(Mr. CARNAHAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CARNAHAN. Madam Speaker, despite rising college tuition costs and rigid standards of the so-called No Child Left Behind Act, the Republican budget makes the largest cuts to education in 10 years.

It cuts \$15 billion from education that was promised: 3.7 million children in our country will be denied help with reading and math; 2 million will be denied after-school programs that offer a safe place to play and learn. But the majority does not stop with just broken promises.

Their budget eliminates funding for Safe and Drug-Free Schools, eliminates funding for vocational education, eliminates programs that help ensure high-risk students can attend college, and eliminates 36 programs that help teachers and students succeed. They drastically cut Pell Grants and Perkins loans that American families need to help afford college.

Republicans are risking our children's future to pay for more tax breaks for the wealthy few. The promise to our children's education must be kept. This budget must be rejected.

CONGRATULATING BRIAN LEONARDI

(Mr. GINGREY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GINGREY. Madam Speaker, I ask you and all my colleagues to join me in congratulating Brian Leonardi on his recent acceptance of a full football scholarship to Presbyterian College in Clinton, South Carolina.

Brian is the 18-year-old son of my niece, Allyson Leonardi, and Ed Leonardi. He played linebacker for Aiken High School Hornets, and for 2 years he and his teammates advanced to the semifinals of the 4-A State playoffs. Brian was chosen this year to play for the North squad in an annual all-star game in Conway, South Carolina.

His parents, sister Megan and brother Danny are very proud of his accomplishments, as are his Uncle Doug and Aunt Cindy, but I think the happiest and most excited of all are my brother Bill Gingrey and sister-in-law Gail, who are the fortunate grandparents of this outstanding young man.

Brian's Congressman, GRESHAM BARRETT, and I join our colleagues in the United States House of Representatives to say Godspeed, Brian. Study hard and play well.

CONGRATULATING UNIVERSITY OF MARYLAND WOMEN'S BASKETBALL TEAM ON WINNING NCAA CHAMPIONSHIP

(Mr. WYNN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WYNN. Madam Speaker, the sun is shining a little brighter in the great Free State of Maryland. Today, I rise to join my colleague STENY HOYER in offering exuberant congratulations to the University of Maryland women's basketball team on winning the NCAA national basketball championship. In winning the championship, they had to overcome a very fine and very tough team from Duke University.

Hats off to Coach Brenda Frese, starters Crystal Langhorne, Laura Harper, Marissa Coleman, Shay Duron, Kristi Toliver and the rest of the team, the assistant coaches, managers and the tremendous fans of the University of Maryland. You have made us all proud in the State of Maryland.

You are a particular inspiration to all the young women around the country, like my 11-year-old daughter Gabriel, who have become tremendous fans of women's basketball.

Today, all of Maryland salutes the University of Maryland's women's basketball team. Go, Terps.

ILLEGAL IMMIGRATION

(Mr. BARRETT of South Carolina asked and was given permission to address the House for 1 minute.)

Mr. BARRETT of South Carolina. Madam Speaker, as complex as illegal immigration may be, I think the House got the logic right dealing with the issue. Illegal immigration needs to be split into two separate, but equally important, issues, first being security enforcement.

Once the first portion is set and in place, the time will be right for Congress to come back and address the second part, which deals with illegal workers. While they contribute in positive ways to our society, unfortunately, because they are here illegally, they place burdens on our job market, our educational system and our health care costs, burdens that are shouldered by hardworking American taxpayers.

My advice to the other Chamber is listen to the American people. They are tired of their elected officials turning the other cheek and playing politics with the ideals on which this country was founded and the security of our Nation. They want us to plug the holes and stop the flow of illegal immigrants before we do anything else.

It is time we listened. It is time we stop illegal immigration.

REPUBLICAN BUDGET ON WOMEN MILITARY RETIREES

(Mrs. DAVIS of California asked and was given permission to address the

House for 1 minute and to revise and extend her remarks.)

Mrs. DAVIS of California. Madam Speaker, I want the women who have served in uniform to know one thing. Some of us in Congress understand your struggle, and we are fighting for you.

Shockingly, the Republican budget adopts significant increases to out-of-pocket costs for our women retirees who depend on the TRICARE program for their health care.

Managed care enrollment fees for senior enlisted women retirees would double, and those for retired female officers would triple.

I have serious doubts about the validity of any projected cost savings from these fee increases. It is insulting to even think of shifting such costs onto the backs of the brave women who have sacrificed so much and so selflessly.

Moreover, this budget sends a terrible message to our past and present servicewomen at a time when we should be doing all that we can to appreciate and to reward their contributions.

The United States made a promise to these women and to every woman before them who has worn the uniform. This Nation promised to take care of them, and the Republican budget just does not fulfill that promise.

IMMIGRATION REFORM A MUST

(Mr. PRICE of Georgia asked and was given permission to address the House for 1 minute.)

Mr. PRICE of Georgia. Madam Speaker, we have all seen the recent protests around the country by thousands of people demonstrating in the streets. However, the fundamental issue that we are dealing with is illegal immigration, and we must not forget that.

No one has a problem with those who have come to this country legally, respected our laws and become U.S. citizens. That is part of the American Dream. What we are talking about are the millions who cross our borders illegally and now demand to be treated as citizens.

American goodwill, in education, in health care and in government services, is being abused by those who do not go through the legal process of citizenship, and that does not add up, Madam Speaker. That is not the American way.

There are serious problems with our current immigration policies. Benign neglect over the last 20 to 30 years has led us to this state of crisis, and we must fix it. Our constituents appropriately demand that we fix it, and Congress has that opportunity, and we must not let it pass us by.

TURNING BACK THE CLOCK

(Ms. SCHWARTZ of Pennsylvania asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. SCHWARTZ of Pennsylvania. Madam Speaker, I rise to turn back the clock. No, I am not referring to the annual daylight savings time change that occurred this past weekend. Nor am I having a moment of nostalgia. Rather, I am referring to the famous clock that tallies the Nation's growing debt.

The surpluses of the late 1990s put the clock that tallies our Nation's debt into retirement. But now, the borrow-and-spend policies of the Bush administration and the Republican Congress put the clock back in operation, adding \$1 million to the Nation's debt every minute, for a total of \$3 trillion in new debt since 2002.

The Republican Party's 2007 budget, which we will vote on this week, continues their borrow-and-spend policies. It also will cause a problem that the designers of the Time Square clock did not anticipate. It cannot accommodate the extra digit that will be required to display a debt of over \$10 trillion.

American taxpayers, along with our children and our grandchildren, should not be saddled with this debt. We should stop this fiscal irresponsibility and reject the President and the Republican Congress' budget.

□ 1030

AWARDING CONGRESSIONAL GOLD MEDAL TO BYRON NELSON

(Mr. BURGESS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURGESS. Madam Speaker, this weekend is the Masters golf tournament, and while I am not a golfer myself, it is a big deal in the golfing world. The PGA tournament of today is carried on the shoulders of those who have gone before. Names like Ben Hogan, Sam Snead, and Lee Trevino are common household names for those of us of a certain age, but it is truly the gentleman from Roanoke, Texas, Byron Nelson, who has done more for the credible start for the sport of golf in this country than anyone else.

Lord Byron, as he is known back home, will turn 95 years of age this year. He was a gifted athlete, winning two Masters Tournaments in 1937 and 1942. He won two PGA tours in 1940 and 1945, and won the U.S. Open in 1939. His true service is his generosity of spirit and his humility.

In World War II, he traveled with Bob Hope and Bing Crosby on the USO tour entertaining our troops overseas. He has given over \$88 million from his Salesmanship Club Youth and Family Services. He and his wife, Louise, have created an endowment fund at Abilene Christian University totaling over \$15 million. He is the head of the Metroport Meals-on-Wheels, delivering services to shut-in seniors back in my district.

His career as an athlete is worthy of recognition, but his service to community is indeed exemplary. For these

reasons, I ask my colleagues to join me in support of H.R. 4902, the Congressional Gold Medal honoring Byron Nelson.

BUSH PRESCRIPTION DRUG TAX COUNTDOWN

(Mr. STUPAK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STUPAK. Madam Speaker, President Bush simply has no compassion for millions of seniors who are trying to determine which of the prescription drug plans is best for them. Forty days from now, seniors must choose a plan or face a Bush prescription drug tax for the rest of their lives.

Last month, a woman struggling to help her elderly mother pick a prescription drug plan asked the President to extend the enrollment deadline. President Bush refused, telling the woman that helping her mother was her responsibility. The President's answer shows that he is still listening to drug companies and not the American people.

Seniors, people with disabilities and their families, need more time before making a crucial health and financial decision. Democrats do not believe seniors should be penalized because they cannot understand this complicated drug plan. That is why Democrats are fighting to extend the enrollment period by 6 months.

As we check off another day on the calendar, House Republicans now have 40 more days to stand up and support America's seniors. It is time they joined the Democrats in fighting to ensure the prescription drug tax, pushed by this President, does not take effect on May 15.

WOMEN AND THE REPUBLICAN BUDGET

(Ms. CORRINE BROWN of Florida asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. CORRINE BROWN of Florida. Madam Speaker, there is a saying that "the road to hell is paved with good intentions," and once again, my Republican colleagues have missed the mark.

To be a strong Nation, we need a strong family. The glue that holds the family together are our Nation's women. Unfortunately, this administration and my colleagues across the aisle continue to send a clear message in the form of a budget that strips all of the support and programs that aid in fortifying that crucial glue. We should call the budget that they are bringing to this House the "Women, Children and Family Left Behind Act."

How can an administration that professes to be pro-value and pro-family get it wrong? The President's budget cuts education by 29 percent. The President's solution is to freeze funds for Head Start and Pell Grants. What is wrong with this picture?

The President's budget completely eliminates programs like the Women's Educational Equity Act and the Women's Apprenticeship Act. The President's budget cuts funds out for the Commodity Supplemental Food program that serves 420,000 seniors as well as 50,000 mothers and children.

Stand up America.

CONCERNED ABOUT AMERICA'S DEBT

(Mr. MEEK of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MEEK of Florida. Madam Speaker, I come to the floor this morning to not only share with the American people, but also with the majority side that constantly talks about the fact that they are responsible with the people's money. I just want to, again, come to the floor and say that this Republican majority, along with this President, has increased the debt owned by foreign nations by \$1.05 trillion, something that 42 Presidents before him were not able to accomplish.

I further want to bring to the attention of the House here, Madam Speaker, the fact that Newt Gingrich, who was a former Speaker of this House and delivered this Republican majority to the majority, is now saying that they are seen by the country as being in charge of a government that cannot function.

Now, I can tell you, Madam Speaker, as a Democrat, I would be concerned if a former Speaker was referring to the Democratic Caucus as "they." That means that the American people are very concerned about what is going on here. I am concerned as an American. And as we go to vote on this budget, we have to think about the people that have sent us up here.

So I want to say here on the Democratic side, we are willing to pay as we go. But the bottom line is, third-party validator, former Speaker Newt Gingrich, is calling the Republican majority "they."

IMMIGRATION

(Mr. GENE GREEN of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GENE GREEN of Texas. Madam Speaker, this past weekend, I met with many students from schools in our district and hope to meet with many more. This banner is signed by students from the Alta Charter School in our district. These students are voicing their concerns because they want to keep their families together and felt their heritage was not being respected.

They are concerned about the possibility of their parents being deported, even though their children are citizens. They are worried about the possibility of them being deported, although this is the only life they have ever known.

I believe we should improve border security, and every Nation in the world should control their borders and know who is crossing it, but I voted against H.R. 4437 because this bill doesn't realistically deal with the 10 to 12 million people who are living in this country.

If this bill is enacted, 3 million U.S. citizens will be left without their parent or guardian. Family values should apply to our immigration laws. This is why we see students marching in our communities all across our country and why you see this banner on the floor of the House today.

We need comprehensive, fair immigration reform that includes increased border security, more detention beds to prevent catch and release, requiring applicants to go through criminal background checks, to learn English and also pay a penalty. That way, we can make sure these people, these children who are here know that their parents won't need to be deported or they won't be.

OPPOSED TO BUDGET

(Mrs. CAPPS asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. CAPPS. Madam Speaker, I express my sincere opposition to this year's budget because it is immoral, especially to women.

Our health care system is in bad shape. We all know that women use health care more than men and are more likely to need it. Under President Bush, the number of uninsured has risen. Yet what does this budget propose? Health savings accounts, which would only benefit the wealthiest and healthiest, those who could already afford health coverage. It cuts or levels funds for all but one of the Institutes of National Health, and at a time when we are making important advances in medical research, when we are just beginning to learn the ways that women are affected differently than men by certain diseases. And it cuts funding for nutritional programs that are designed to keep women and their families healthier.

We have an obligation to ensure that everyone can have access to health care services. I urge my colleagues to reject this irresponsible and immoral budget, and instead, to pass a budget that lives up to our commitment to American women and their families.

BUSH BUDGET AND IMPACT ON WOMEN

(Mrs. MALONEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MALONEY. Madam Speaker, misplaced priorities in the Republican budget result in ballooning deficits and the underfunding of programs women and their families need to succeed in today's economy.

By cutting funding for education and training programs that help women pursue careers in nontraditional occupations, this budget does nothing to address one source of the gender wage gap that leaves women earning only 77 cents for every dollar earned by a male.

By freezing funding for child care subsidies and housing vouchers, this budget ensures that fewer women receive the support that they need to make work pay and stay off welfare. Women deserve better. We deserve a better budget.

TIME FOR DEMOCRATS TO TAKE CHARGE

(Mr. RYAN of Ohio asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RYAN of Ohio. Madam Speaker, the father of the Republican revolution is now saying it has turned into a Republican devolution, with \$3 trillion in increased debt since President Bush has been President. This Nation owes \$8 trillion-plus, with \$27,000 per citizen that they owe back just for the national debt. And this money is being borrowed from foreign interests, the Japanese, the Chinese, and OPEC countries.

We are selling off our country piece by piece, Madam Speaker. Borrow and spend, borrow and spend, borrow and spend. This President, with the Republican bobblehead Congress that just can't say no to the President, has borrowed more money from foreign interests than every previous President. Madam Speaker, that is an atrocity. That is an assault on the American people.

The father of the Republican revolution says it has turned into a devolution and that this government cannot function. Madam Speaker, it is time for new leadership. It is time for the Democrats to take charge of this House.

DEMOCRATIC WOMEN'S WORKING GROUP BUDGET

(Ms. SOLIS asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. SOLIS. Madam Speaker, today I rise in strong opposition to the Republicans' fiscal year 2007 budget resolution. It will hurt millions of women and children around our country. The resolution includes cuts to vital programs that help middle-class women, children, the elderly, and, in particular, Americans living in poverty.

The budget will lead to cuts in funding for young women who need financial aid to go to college. As a result, young women will have a more difficult time attending college and pursuing their careers. The Perkins loans program is due to be cut dramatically. More than 450,000 college students would lose a key part of their financial aid.

Young women, and especially minority students, disproportionately rely on Pell Grants. I was one of those students myself. For example, 40 percent of African American students will be affected, 30 percent of Hispanic students will have reduced Pell Grants compared to 23 percent of students overall.

The aid is being cut while tuition costs are skyrocketing. The increase in the cost of tuition has increased by 57 percent under this President. Please do not support this Republican budget that would harm our students.

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CHILD CARE AND THE BUDGET

(Ms. LEE asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. LEE. Madam Speaker, I rise to highlight the cuts in the Republican budget resolution that target low-income children and women. A number of Federal block grants that help women, especially single and low-income mothers, are going to be forced to cut services to families as a result of these cuts in the Republican budget. Also, there will be continued flat funding.

Child Care Development Block Grant funding is frozen for the fifth year in a row. Since the beginning of the Bush administration, child care assistance for 250,000 children has been cut. In the next 5 years, 400,000 fewer children will receive child care assistance. This means that 25 percent fewer children will receive assistance in 2011 than did in 2000; and during the President's tenure the number of children living in poverty has increased, not decreased.

This is an immoral budget. It sacrifices funding for our children to pay for tax cuts for the wealthy. It should be soundly rejected. We talk about welfare reform and we talk about women being able to work, how in the heck are women going to work if child care is not available.

CULTURE REPUBLICANS BROUGHT TO WASHINGTON IS NOT GOOD

(Mr. PALLONE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PALLONE. Madam Speaker, last night former majority leader TOM DELAY blamed Democrats for his fall from power. He said Democrats were upset because Republicans changed the culture of Washington.

Well, Republicans changed the culture around here all right. Two of Congressman DELAY's former aides, Deputy Chief of Staff Tony Rudy and Press Secretary Michael Scanlon have already pleaded guilty as part of the ongoing Jack Abramoff scandal.

Then there are the revelations that the President's chief domestic adviser, Claude Allen, was forced to resign from

his position at the White House after he was caught repeatedly shoplifting from Target stores in Maryland.

And just last night, a deputy press secretary at the Department of Homeland Security was arrested on charges that he used the Internet to seduce what he thought was a 14-year-old girl. Fortunately, an undercover deputy sheriff detective was on the other end of the computer and Brian Doyle, a Bush political appointee, has now been arrested.

Madam Speaker, the culture has changed around here, that is for sure, but certainly not for the good.

**ANNOUNCEMENT BY THE SPEAKER
PRO TEMPORE**

The SPEAKER pro tempore (Mrs. CAPITO). Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

RECORD votes on postponed questions will be taken later today.

**DARFUR PEACE AND
ACCOUNTABILITY ACT OF 2006**

Mr. SMITH of New Jersey. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 3127) to impose sanctions against individuals responsible for genocide, war crimes, and crimes against humanity, to support measures for the protection of civilians and humanitarian operations, and to support peace efforts in the Darfur region of Sudan, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3127

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 “Darfur Peace and Accountability Act of 2006”.

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

- Sec. 1. Short title; table of contents.
- Sec. 2. Definitions.
- Sec. 3. Findings.
- Sec. 4. Sense of Congress.
- Sec. 5. Sanctions in support of peace in Darfur.
- Sec. 6. Additional authorities to deter and suppress genocide in Darfur.
- Sec. 7. Multilateral efforts.
- Sec. 8. Continuation of restrictions.
- Sec. 9. Assistance efforts in Sudan.
- Sec. 10. Reports.
- Sec. 11. Rule of construction.

SEC. 2. DEFINITIONS.

In this Act:

(1) **APPROPRIATE CONGRESSIONAL COMMITTEES.**—The term “appropriate congressional committees” means the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate.

(2) **GOVERNMENT OF SUDAN.**—

(A) **IN GENERAL.**—The term “Government of Sudan” means the National Congress Party, formerly known as the National Islamic Front,

led-government in Khartoum, Sudan, or any successor government formed on or after the date of the enactment of this Act (including the coalition National Unity Government agreed upon in the Comprehensive Peace Agreement for Sudan), except that such term does not include the regional Government of Southern Sudan.

(B) **OFFICIALS OF THE GOVERNMENT OF SUDAN.**—The term “Government of Sudan”, when used with respect to an official of the Government of Sudan, does not include an individual—

(i) who was not a member of such government prior to July 1, 2005; or

(ii) who is a member of the regional Government of Southern Sudan.

(3) **COMPREHENSIVE PEACE AGREEMENT FOR SUDAN.**—The term “Comprehensive Peace Agreement for Sudan” means the peace agreement signed by the Government of Sudan and the Sudan People’s Liberation Movement/Army (SPLM/A) in Nairobi, Kenya, on January 9, 2005.

SEC. 3. FINDINGS.

Congress makes the following findings:

(1) On July 22, 2004, the House of Representatives and the Senate declared that the atrocities occurring in the Darfur region of Sudan are genocide.

(2) On September 9, 2004, Secretary of State Colin L. Powell stated before the Committee on Foreign Relations of the Senate, “genocide has been committed in Darfur,” and “the Government of Sudan and the [Janjaweed] bear responsibility—and genocide may still be occurring”.

(3) On September 21, 2004, in an address before the United Nations General Assembly, President George W. Bush affirmed the Secretary of State’s finding and stated, “[a]t this hour, the world is witnessing terrible suffering and horrible crimes in the Darfur region of Sudan, crimes my government has concluded are genocide”.

(4) On July 30, 2004, the United Nations Security Council passed Security Council Resolution 1556, calling upon the Government of Sudan to disarm the Janjaweed militias and to apprehend and bring to justice Janjaweed leaders and their associates who have incited and carried out violations of human rights and international humanitarian law, and establishing a ban on the sale or supply of arms and related materiel of all types, including the provision of related technical training or assistance, to all nongovernmental entities and individuals, including the Janjaweed.

(5) On September 18, 2004, the United Nations Security Council passed Security Council Resolution 1564, determining that the Government of Sudan had failed to meet its obligations under Security Council Resolution 1556, calling for a military flight ban in and over the Darfur region, demanding the names of Janjaweed militiamen disarmed and arrested for verification, establishing an International Commission of Inquiry on Darfur to investigate violations of international humanitarian and human rights laws, and threatening sanctions should the Government of Sudan fail to fully comply with Security Council Resolutions 1556 and 1564, including such actions as to affect Sudan’s petroleum sector or individual members of the Government of Sudan.

(6) The Report of the International Commission of Inquiry on Darfur, submitted to the United Nations Secretary-General on January 25, 2005, established that the “Government of the Sudan and the Janjaweed are responsible for serious violations of international human rights and humanitarian law amounting to crimes under international law,” that “these acts were conducted on a widespread and systematic basis, and therefore may amount to crimes against humanity,” and that Sudanese officials and other individuals may have acted with “genocidal intent”.

(7) The Report of the International Commission of Inquiry on Darfur further notes that,

pursuant to its mandate and in the course of its work, the Commission had collected information relating to individual perpetrators of acts constituting “violations of international human rights law and international humanitarian law, including crimes against humanity and war crimes” and that a sealed file containing the names of those individual perpetrators had been delivered to the United Nations Secretary-General.

(8) On March 24, 2005, the United Nations Security Council passed Security Council Resolution 1590, establishing the United Nations Mission in Sudan (UNMIS), consisting of up to 10,000 military personnel and 715 civilian police tasked with supporting implementation of the Comprehensive Peace Agreement for Sudan and “closely and continuously liais[ing] and coordinat[ing] at all levels with the African Union Mission in Sudan (AMIS) with a view towards expeditiously reinforcing the effort to foster peace in Darfur”.

(9) On March 29, 2005, the United Nations Security Council passed Security Council Resolution 1591, extending the military embargo established by Security Council Resolution 1556 to all the parties to the N’Djamena Ceasefire Agreement of April 8, 2004, and any other belligerents in the states of North Darfur, South Darfur, and West Darfur, calling for an asset freeze and travel ban against those individuals who impede the peace process, constitute a threat to stability in Darfur and the region, commit violations of international humanitarian or human rights law or other atrocities, are responsible for offensive military overflights, or violate the military embargo, and establishing a Committee of the Security Council and a Panel of Experts to assist in monitoring compliance with Security Council Resolutions 1556 and 1591.

(10) On March 31, 2005, the United Nations Security Council passed Security Council Resolution 1593, referring the situation in Darfur since July 1, 2002, to the prosecutor of the International Criminal Court and calling on the Government of Sudan and all parties to the conflict to cooperate fully with the Court.

(11) In remarks before the G–8 Summit on June 30, 2005, President Bush reconfirmed that “the violence in Darfur is clearly genocide” and “the human cost is beyond calculation”.

(12) On July 30, 2005, Dr. John Garang de Mabior, the newly appointed Vice President of Sudan and the leader of the Sudan People’s Liberation Movement/Army (SPLM/A) for the past 21 years, was killed in a tragic helicopter crash in southern Sudan, sparking riots in Khartoum and challenging the commitment of all Sudanese to the Comprehensive Peace Agreement for Sudan.

(13) Since 1993, the Secretary of State has determined that the Republic of Sudan is a country which has repeatedly provided support for acts of international terrorism and, pursuant to section 6(j) of the Export Administration Act of 1979, section 40 of the Arms Export Control Act, and section 620A of the Foreign Assistance Act of 1961, designated Sudan as a State Sponsor of Terrorism, thereby restricting United States assistance, defense exports and sales, and financial and other transactions with the Government of Sudan.

SEC. 4. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) the genocide unfolding in the Darfur region of Sudan is characterized by acts of terrorism and atrocities directed against civilians, including mass murder, rape, and sexual violence committed by the Janjaweed and associated militias with the complicity and support of the National Congress Party-led faction of the Government of Sudan;

(2) the Secretary of State should designate the Janjaweed militia as a foreign terrorist organization pursuant to section 219 of the Immigration and Nationality Act;

(3) all parties to the conflict in the Darfur region have continued to violate the N’Djamena

Ceasefire Agreement of April 8, 2004, and the Abuja Protocols of November 9, 2004, and violence against civilians, humanitarian aid workers, and personnel of the African Union Mission in Sudan (AMIS) is increasing;

(4) the African Union should rapidly expand the size and amend the mandate of the African Union Mission in Sudan to authorize such action as may be necessary to protect civilians and humanitarian operations, and deter violence in the Darfur region without delay;

(5) the international community, including the United Nations, the North Atlantic Treaty Organization (NATO), the European Union, and the United States, should immediately act to mobilize sufficient political, military, and financial resources to support the expansion of the African Union Mission in Sudan so that it achieves the size, strength, and capacity necessary for protecting civilians and humanitarian operations, and ending the continued violence in the Darfur region;

(6) if an expanded and reinforced African Union Mission in Sudan fails to stop genocide in the Darfur region, the international community should take additional, dispositive measures to prevent and suppress acts of genocide in the Darfur region;

(7) acting under Article 5 of the Charter of the United Nations, the United Nations Security Council should call for suspension of the Government of Sudan's rights and privileges of membership by the General Assembly until such time as the Government of Sudan has honored pledges to cease attacks upon civilians, demobilize and demilitarize the Janjaweed and associated militias, and grant free and unfettered access for deliveries of humanitarian assistance in the Darfur region;

(8) the President should use all necessary and appropriate diplomatic means to ensure the full discharge of the responsibilities of the Committee of the United Nations Security Council and the Panel of Experts established pursuant to section 3(a) of Security Council Resolution 1591 (March 29, 2005);

(9) the United States should not provide assistance to the Government of Sudan, other than assistance necessary for the implementation of the Comprehensive Peace Agreement for Sudan, the support of the regional Government of Southern Sudan and marginalized areas in northern Sudan (including the Nuba Mountains, Southern Blue Nile, Abyei, Eastern Sudan (Beja), Darfur, and Nubia), as well as marginalized peoples in and around Khartoum, or for humanitarian purposes in Sudan, until such time as the Government of Sudan has honored pledges to cease attacks upon civilians, demobilize and demilitarize the Janjaweed and associated militias, grant free and unfettered access for deliveries of humanitarian assistance in the Darfur region, and allow for the safe and voluntary return of refugees and internally displaced persons;

(10) the President should seek to assist members of the Sudanese diaspora in the United States by establishing a student loan forgiveness program for those individuals who commit to return to southern Sudan for a period of not less than five years for the purpose of contributing professional skills needed for the reconstruction of southern Sudan;

(11) the President should appoint a Presidential Envoy for Sudan with appropriate resources and a clear mandate to provide stewardship of efforts to implement the Comprehensive Peace Agreement for Sudan, seek ways to bring stability and peace to the Darfur region, address instability elsewhere in Sudan and northern Uganda, and pursue a truly comprehensive peace throughout the region;

(12) to achieve the goals specified in paragraph (10) and to further promote human rights and civil liberties, build democracy, and strengthen civil society, the Presidential Envoy for Sudan should be empowered to promote and encourage the exchange of individuals pursuant

to educational and cultural programs, including programs funded by the Government of the United States;

(13) the international community should strongly condemn attacks against humanitarian workers and demand that all armed groups in the Darfur region, including the forces of the Government of Sudan, the Janjaweed, associated militias, the Sudan Liberation Movement/Army (SLM/A), the Justice and Equality Movement (JEM), and all other armed groups refrain from such attacks;

(14) the United States should fully support the Comprehensive Peace Agreement for Sudan and urge rapid implementation of its terms; and

(15) the new leadership of the Sudan People's Liberation Movement (SPLM) should—

(A) seek to transform the SPLM into an inclusive, transparent, and democratic body;

(B) reaffirm the commitment of the SPLM to bringing peace not only to southern Sudan, but also to the Darfur region, eastern Sudan, and northern Uganda; and

(C) remain united in the face of efforts to undermine the SPLM.

SEC. 5. SANCTIONS IN SUPPORT OF PEACE IN DARFUR.

(a) BLOCKING OF ASSETS AND RESTRICTION ON VISAS.—Section 6 of the Comprehensive Peace in Sudan Act of 2004 (Public Law 108-497; 50 U.S.C. 1701 note) is amended—

(1) in the heading of subsection (b), by inserting “OF APPROPRIATE SENIOR OFFICIALS OF THE SUDANESE GOVERNMENT” after “ASSETS”;

(2) by redesignating subsections (c) through (e) as subsections (d) through (f), respectively; and

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

“(c) BLOCKING OF ASSETS AND RESTRICTION ON VISAS OF CERTAIN INDIVIDUALS IDENTIFIED BY THE PRESIDENT.—

“(1) BLOCKING OF ASSETS.—Beginning on the date that is 30 days after the date of the enactment of the Darfur Peace and Accountability Act of 2006, and in the interest of contributing to peace in Sudan, the President shall, consistent with the authorities granted in the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.), block the assets of any individual who the President determines is complicit in, or responsible for, acts of genocide, war crimes, or crimes against humanity in Darfur, including the family members or any associates of such individual to whom assets or property of such individual was transferred on or after July 1, 2002.

“(2) RESTRICTION ON VISAS.—Beginning on the date that is 30 days after the date of the enactment of the Darfur Peace and Accountability Act of 2006, and in the interest of contributing to peace in Sudan, the President shall deny visas and entry to any individual who the President determines is complicit in, or responsible for, acts of genocide, war crimes, or crimes against humanity in Darfur, including the family members or any associates of such individual to whom assets or property of such individual was transferred on or after July 1, 2002.”

(b) WAIVER.—Section 6(d) of the Comprehensive Peace in Sudan Act of 2004 (as redesignated by subsection (a)) is amended by adding at the end the following new sentence: “The President may waive the application of paragraph (1) or (2) of subsection (c) with respect to an individual if the President determines that such a waiver is in the national interests of the United States and, prior to exercising the waiver, transmits to the appropriate congressional committees a notification which includes the name of the individual and the reasons for the waiver.”

(c) SANCTIONS AGAINST CERTAIN JANJAWEED COMMANDERS AND COORDINATORS.—The President should immediately consider imposing the sanctions described in section 6(c) of the Comprehensive Peace in Sudan Act of 2004 (as added by subsection (a)) against the Janjaweed commanders and coordinators identified by the

former United States Ambassador-at-Large for War Crimes before the Subcommittee on Africa of the House International Relations Committee on June 24, 2004.

SEC. 6. ADDITIONAL AUTHORITIES TO DETER AND SUPPRESS GENOCIDE IN DARFUR.

(a) UNITED STATES ASSISTANCE TO SUPPORT AMIS.—Section 7 of the Comprehensive Peace in Sudan Act of 2004 (Public Law 108-497; 50 U.S.C. 1701 note) is amended—

(1) by striking “Notwithstanding” and inserting “(a) GENERAL ASSISTANCE.—Notwithstanding”; and

(2) by adding at the end the following new subsection:

“(b) ASSISTANCE TO SUPPORT AMIS.—Notwithstanding any other provision of law, the President is authorized to provide assistance, on such terms and conditions as the President may determine and in consultation with the appropriate congressional committees, to reinforce the deployment and operations of an expanded African Union Mission in Sudan (AMIS) with the mandate, size, strength, and capacity to protect civilians and humanitarian operations, stabilize the Darfur region of Sudan and dissuade and deter air attacks directed against civilians and humanitarian workers, including but not limited to providing assistance in the areas of logistics, transport, communications, materiel support, technical assistance, training, command and control, aerial surveillance, and intelligence.”

(b) NATO ASSISTANCE TO SUPPORT AMIS.—The President should instruct the United States Permanent Representative to the North Atlantic Treaty Organization (NATO) to use the voice, vote, and influence of the United States at NATO to advocate NATO reinforcement of the African Union Mission in Sudan (AMIS), upon the request of the African Union, including but not limited to the provision of assets to dissuade and deter offensive air strikes directed against civilians and humanitarian workers in the Darfur region of Sudan and other logistical, transportation, communications, training, technical assistance, command and control, aerial surveillance, and intelligence support.

(c) DENIAL OF ENTRY AT UNITED STATES PORTS TO CERTAIN CARGO SHIPS OR OIL TANKERS.—

(1) IN GENERAL.—The President should take all necessary and appropriate steps to deny the Government of Sudan access to oil revenues, including by prohibiting entry at United States ports to cargo ships or oil tankers engaged in business or trade activities in the oil sector of Sudan or involved in the shipment of goods for use by the armed forces of Sudan until such time as the Government of Sudan has honored its commitments to cease attacks on civilians, demobilize and demilitarize the Janjaweed and associated militias, grant free and unfettered access for deliveries of humanitarian assistance, and allow for the safe and voluntary return of refugees and internally displaced persons.

(2) EXCEPTION.—Paragraph (1) shall not apply with respect to cargo ships or oil tankers involved in an internationally-recognized demobilization program or the shipment of non-lethal assistance necessary to carry out elements of the Comprehensive Peace Agreement for Sudan.

(d) PROHIBITION ON ASSISTANCE TO COUNTRIES IN VIOLATION OF UNITED NATIONS SECURITY COUNCIL RESOLUTIONS 1556 AND 1591.—

(1) PROHIBITION.—Amounts made available to carry out the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) may not be used to provide assistance (other than humanitarian assistance) to the government of a country that is in violation of the embargo on military assistance with respect to Sudan imposed pursuant to United Nations Security Council Resolutions 1556 (July 30, 2004) and 1591 (March 29, 2005).

(2) WAIVER.—The President may waive the application of paragraph (1) if the President determines and certifies to the appropriate congressional committees that it is in the national interests of the United States to do so.

SEC. 7. MULTILATERAL EFFORTS.

The President shall direct the United States Permanent Representative to the United Nations to use the voice and vote of the United States to urge the adoption of a resolution by the United Nations Security Council that—

(1) supports the expansion of the African Union Mission in Sudan (AMIS) so that it achieves the mandate, size, strength, and capacity needed to protect civilians and humanitarian operations, and dissuade and deter fighting and violence in the Darfur region of Sudan, and urges Member States of the United Nations to accelerate political, material, financial, and other assistance to the African Union toward this end;

(2) reinforces efforts of the African Union to negotiate peace talks between the Government of Sudan, the Sudan Liberation Movement/Army (SLM/A), the Justice and Equality Movement (JEM), and associated armed groups in the Darfur region, calls on the Government of Sudan, the SLM/A, and the JEM to abide by their obligations under the N'Djamena Ceasefire Agreement of April 8, 2004 and subsequent agreements, urges all parties to engage in peace talks without preconditions and seek to resolve the conflict, and strongly condemns all attacks against humanitarian workers and African Union personnel in the Darfur region;

(3) imposes sanctions against the Government of Sudan, including sanctions against individual members of the Government of Sudan, and entities controlled or owned by officials of the Government of Sudan or the National Congress Party in Sudan until such time as the Government of Sudan has honored its commitments to cease attacks on civilians, demobilize and demilitarize the Janjaweed and associated militias, grant free and unfettered access for deliveries of humanitarian assistance, and allow for the safe and voluntary return of refugees and internally displaced persons;

(4) extends the military embargo established by United Nations Security Council Resolutions 1556 (July 30, 2004) and 1591 (March 29, 2005) to include a total prohibition on the sale or supply of offensive military equipment to the Government of Sudan, except for use in an internationally-recognized demobilization program or for non-lethal assistance necessary to carry out elements of the Comprehensive Peace Agreement for Sudan; and

(5) calls upon those Member States of the United Nations that continue to undermine efforts to foster peace in Sudan by providing military assistance and equipment to the Government of Sudan, the SLM/A, the JEM, and associated armed groups in the Darfur region in violation of the embargo on such assistance and equipment, as called for in United Nations Security Council Resolutions 1556 and 1591, to immediately cease and desist.

SEC. 8. CONTINUATION OF RESTRICTIONS.

(a) CONTINUATION OF RESTRICTIONS.—Restrictions against the Government of Sudan that were imposed pursuant to Executive Order 13067 of November 3, 1997 (62 Federal Register 59989), title III and sections 508, 512, 527, and 569 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2006, or any other similar provision of law, shall remain in effect and shall not be lifted pursuant to such provisions of law until the President transmits to the appropriate congressional committees a certification that the Government of Sudan is acting in good faith to—

(1) peacefully resolve the crisis in the Darfur region of Sudan;

(2) disarm, demobilize, and demilitarize the Janjaweed and all government-allied militias;

(3) adhere to United Nations Security Council Resolutions 1556 (2004), 1564 (2004), 1591 (2005), and 1593 (2005);

(4) negotiate a peaceful resolution to the crisis in eastern Sudan;

(5) fully cooperate with efforts to disarm, demobilize, and deny safe haven to members of the Lords Resistance Army; and

(6) fully implement the Comprehensive Peace Agreement for Sudan without manipulation or delay, including by—

(A) implementing the recommendations of the Abyei Commission Report;

(B) establishing other appropriate commissions and implementing and adhering to the recommendations of such commissions consistent with the terms of the Comprehensive Peace Agreement for Sudan;

(C) adhering to the terms of the Wealth Sharing Agreement; and

(D) withdrawing government forces from southern Sudan consistent with the terms of the Comprehensive Peace Agreement for Sudan.

(b) WAIVER.—The President may waive the application of subsection (a) if the President determines and certifies to the appropriate congressional committees that it is in the national interests of the United States to do so.

SEC. 9. ASSISTANCE EFFORTS IN SUDAN.

(a) ADDITIONAL AUTHORITIES.—Section 501(a) of the Assistance for International Malaria Control Act (50 U.S.C. 1701 note) is amended—

(1) by striking “Notwithstanding any other provision of law” and inserting the following:

“(1) IN GENERAL.—Notwithstanding any other provision of law”;

(2) by inserting “civil administrations,” after “indigenous groups,”;

(3) by striking “areas outside of control of the Government of Sudan” and inserting “southern Sudan, southern Kordofan/Nuba Mountains State, Blue Nile State, and Abyei”;

(4) by inserting at the end before the period the following: “, including the Comprehensive Peace Agreement for Sudan”; and

(5) by adding at the end the following new paragraph:

“(2) CONGRESSIONAL NOTIFICATION.—

“(A) IN GENERAL.—Assistance may not be obligated under this subsection until 15 days after the date on which the President has provided notice thereof to the congressional committees specified in section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394–1) in accordance with the procedures applicable to reprogramming notifications under such section.

“(B) RULE OF CONSTRUCTION.—The notification requirement of subparagraph (A) shall not apply in the case of assistance subject to notification in accordance with section 634A of the Foreign Assistance Act of 1961 pursuant to any provision of an Act making appropriations for foreign operations, export financing, and related programs.”.

(b) EXCEPTION TO PROHIBITIONS IN EXECUTIVE ORDER NO. 13067.—Section 501(b) of the Assistance for International Malaria Control Act (50 U.S.C. 1701 note) is amended—

(1) in the heading, by striking “EXPORT PROHIBITIONS” and inserting “PROHIBITIONS IN EXECUTIVE ORDER NO. 13067”;

(2) by striking “any export from an area in Sudan outside of control of the Government of Sudan, or to any necessary transaction directly related to that export” and inserting “activities or related transactions with respect to southern Sudan, southern Kordofan/Nuba Mountains State, Blue Nile State, or Abyei”; and

(3) by striking “the export or related transaction” and all that follows and inserting “such activities or related transactions would directly benefit the economic recovery and development of those areas and people.”.

SEC. 10. REPORTS.

(a) REPORT ON AFRICAN UNION MISSION IN SUDAN (AMIS).—Section 8 of the Sudan Peace Act (Public Law 107–245; 50 U.S.C. 1701 note) is amended—

(1) by redesignating subsection (c) as subsection (d); and

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

“(c) REPORT ON AFRICAN UNION MISSION IN SUDAN (AMIS).—In conjunction with reports required under subsections (a) and (b) of this sec-

tion, the Secretary of State shall submit to the appropriate congressional committees a report, to be prepared in conjunction with the Secretary of Defense, on—

“(1) efforts to fully deploy the African Union Mission in Sudan (AMIS) with the size, strength, and capacity necessary to stabilize the Darfur region of Sudan and protect civilians and humanitarian operations;

“(2) the needs of AMIS to ensure success, including in the areas of housing, transport, communications, equipment, technical assistance, training, command and control, intelligence, and such assistance as is necessary to dissuade and deter attacks, including by air, directed against civilians and humanitarian operations;

“(3) the current level of United States assistance and other assistance provided to AMIS, and a request for additional United States assistance, if necessary;

“(4) the status of North Atlantic Treaty Organization (NATO) plans and assistance to support AMIS; and

“(5) the performance of AMIS in carrying out its mission in the Darfur region.”.

(b) REPORT ON SANCTIONS IN SUPPORT OF PEACE IN DARFUR.—Section 8 of the Sudan Peace Act (Public Law 107–245; 50 U.S.C. 1701 note), as amended by subsection (a), is further amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following new subsection:

“(d) REPORT ON SANCTIONS IN SUPPORT OF PEACE IN DARFUR.—In conjunction with reports required under subsections (a), (b), and (c) of this section, the Secretary of State shall submit to the appropriate congressional committees a report regarding sanctions imposed under subsections (a) through (d) of section 6 of the Comprehensive Peace in Sudan Act of 2004, including—

“(1) a description of each sanction imposed under such provisions of law; and

“(2) the name of the individual or entity subject to the sanction, if applicable.”.

SEC. 11. RULE OF CONSTRUCTION.

Nothing in this Act (or any amendment made by this Act) or any other provision of law shall be construed to preempt any State law that prohibits investment of State funds, including State pension funds, in or relating to the Republic of the Sudan.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey (Mr. SMITH) and the gentleman from California (Mr. LANTOS) each will control 20 minutes.

The Chair recognizes the gentleman from New Jersey.

Mr. SMITH of New Jersey. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise in very strong support of H.R. 3127, the Darfur Peace and Accountability Act, and I want to commend the gentleman from Illinois (Chairman HYDE) of the International Relations Committee for drafting a bill that has the best chance of becoming law and dealing with the genocidal situation in Sudan. Despite sometimes difficult and complex efforts needed to move this legislation, Mr. HYDE has remained steadfast in moving forward and that is why I have continued to support his efforts throughout this process.

Madam Speaker, no single country in Africa has been subject to greater partisan and bipartisan attention and deliberation by the United States Congress than the Republic of Sudan. Over

the past 3 years, at least nine major bills and resolutions regarding Sudan have been passed by this body, including an historic declaration that genocide was occurring in the Darfur region of western Sudan in September of 2004.

For its own part, the administration of President Bush has led both humanitarian and diplomatic efforts to address the crisis in Darfur. The United States has provided more than \$617 million in assistance to help ease the suffering of those most affected by the conflict, and more than \$150 million to support the African Union mission in Darfur.

I would say parenthetically, last August Greg Simpkins, our expert on the subcommittee, and I went to Darfur. We spent several days in Khartoum and then made our way up to Mukjar and Kalma camp. Mukjar is a very remote camp, where we saw the beneficiaries of that aid, men and women and children, who have suffered so much, lost so many of their loved ones to this genocide. But it was reassuring and quite gratifying, to be blunt, to see American aid providing them with healthy and nutritious meals as well as the medicines and at least some of the security that they so desperately need.

We also knew, especially with Mukjar, that if you traveled just a kilometer outside camp, the Janjaweed and other killers were waiting to continue their genocidal deeds. It was very sobering to know the risks and the security fright that they face each and every day knowing that they cannot go past the perimeters of the refugee camps.

We also met in Khartoum with not only Salva Kiir, the Vice President, who is doing an extraordinarily good job to try to bring peace to the region, but we also met with President al-Bashir. He and his junta continue to be largely responsible for many of the crimes committed both in Darfur and earlier in the south of Sudan.

Let me finally point out to my colleagues that at the direction of the President, President Bush, the United States Ambassador to NATO has pressed for NATO reinforcement of the African Union mission. We all know they do not have enough people to do the job. The mission was designed and configured in a way that almost doomed it to failure despite herculean efforts on their part. We are now pressing for reinforcement of those AU troops.

The U.S. Ambassador to the United Nations, John Bolton, continues to seek authorization to incorporate the African Union Mission into a larger, more robust U.N. peacekeeping mission. As Mr. LANTOS knows when we traveled to New York just a week ago and met with Kofi Annan and others, that was one of the key topics we talked about: How do we get this AU mission blue helmeted so they can grow the mission, as well as boots on the ground to try to mitigate this misery.

The United States also continues to play a significant role in facilitating peace talks in Abuja, Nigeria, between the Government of Sudan and the rebels of Darfur.

Notwithstanding the multiple legislative initiatives and the best efforts of this administration and many of our friends in Europe, and despite the conclusion of a peace agreement for southern Sudan, the passage of six U.N. Security Council resolutions and the deployment of nearly 7,000 African Union peacekeepers in Darfur and the conduct of seven rounds of peace talks, the crisis in Darfur continues with catastrophic consequences. This conflict is real. It is ongoing, it is every day, and it demands our resolute attention.

Madam Speaker, as many as 400,000 people have died and more than 2 million people have been forced from their homes. Entire villages have been looted and destroyed, and countless men, women and children have been abducted, murdered, abused and raped. Weapons continue to flow into the region unabated despite the existence of an arms embargo, and attacks against civilians, humanitarian convoys, and African Union peacekeepers increase almost daily as peace talks in Nigeria flounder.

Despite 14,000 aid workers that make up some 82 NGOs, 13 U.N. agencies and the International Committee for the Red Cross, a lack of security and reliable transportation means that food aid and other humanitarian assistance is becoming increasingly more difficult to deliver. While it is clear that something must be done, it is also clear that we cannot legislate an end to the atrocities and no number of forces from the African Union, NATO, U.N. or even the U.S. can impose a permanent peace without the commitment of the Sudanese themselves to lay down their arms.

Still, as humanitarians we cannot stand by idly as the Sudanese government officials and rebel commanders jockey for power while tragedy continues to unfold in Darfur and threatens to return to the rest of Sudan.

According to a recent International Crisis Group report, Sudan's ruling National Congress Party lacks the will to implement the North-South peace agreement and has frustrated the Darfur peace process by "facilitating increased chaos on the ground and promoting divisions within the rebels."

We are all aware of the complexity of the situation in Sudan and must respond accordingly to all of its facets and manifestations. This legislation, I believe, attempts a comprehensive effort to deal with the tragedy of that country. The committee amendment before you, which is the result of 8 months of bipartisan collaboration, contains the following measures:

One, while it does not authorize the use of United States Armed Forces in Darfur, it confers upon the President the authority to provide assistance to reinforce the deployment and oper-

ations of an expanded AU mission with the mandate, size, strength and capacity to protect civilians and humanitarian operations.

Two, it encourages the imposition of targeted sanctions against the Janjaweed commanders and coordinators.

Three, it calls for the extension of the military embargo established pursuant to U.N. Security Council Resolutions 1556 and 1591 to include the government of Sudan.

Four, it amends the Comprehensive Peace in Sudan Act of 2004 to impose an asset freeze and travel ban against individual perpetrators of genocide, war crimes, or crimes against humanity in Darfur.

Next, it asserts that existing restrictions imposed against Sudan shall not be lifted until the President certifies to the Congress that the government of Sudan is acting in good faith to:

One, peacefully resolve the crisis in Darfur;

Two, disarm, demobilize and demilitarize the Janjaweed;

Three, adhere to U.N. Security Council resolutions;

Four, negotiate a peaceful resolution to the crisis in eastern Sudan;

Five, cooperate with efforts to disarm and deny safe havens to the Lord's Resistance Army; and

Six, fully implement the terms of the Comprehensive Peace Agreement.

The legislation also amends the International Malaria Control Act to enable the United States Government to continue providing assistance to southern Sudan and other marginalized areas and lift restrictions on imports and exports for those same areas.

It also adds a section regarding the preemption of State laws that prohibit investment of State pension funds in Sudan.

Madam Speaker, Sudan is a very sensitive and emotional issue for Members of this body. While Sudan may be providing the United States with valuable information relevant to the global war on terror, or so it says, it is still on the State Sponsors of Terrorism list. It is a country where the government has unleashed campaigns of terror and genocide against its own citizens.

It is a country where slavery still exists. Back in 1996, I chaired the first hearing ever on the continuing use of chattel slavery in Sudan, something that we thought was abolished in the 1860s.

For many, the National Congress Party-led faction of the Sudanese government represents pure evil. Although we may differ on our views on how best to confront the regime in Khartoum, the need to promote peace and accountability throughout Sudan is not a partisan issue. Members, such as the gentleman from New Jersey (Mr. PAYNE) and the gentleman from Colorado (Mr. TANCREDO), have been tenacious on this. Of course the ranking member, Mr. LANTOS, and all of us have worked on both sides of the aisle to try

to ensure that this body remains focused on Sudan in a meaningful and constructive way. Their leadership has been inspiring, and I want to thank them all.

That being said, the bill that lies before you today is the result of 8 months of inclusive consultations and intense negotiations, and represents a truly bipartisan compromise on the efforts to address genocide in Darfur while supporting the consolidation of peace in southern Sudan.

□ 1100

And while it represents a compromise, don't be mistaken. This is a strong bill. It is an important bill. It is an urgent bill. The people of Darfur cannot afford to wait while we continue discussions on how best to confront Khartoum. They need our help now.

I would also like to thank our esteemed ranking member of the Judiciary Committee, the chairman and ranking member, Mr. SENSENBRENNER and Mr. CONYERS, for acting so quickly to allow us to get this measure to the floor without further delay.

Mr. Speaker, I reserve the balance of my time.

Mr. LANTOS. Mr. Speaker, I rise in strong support of this resolution, and I am very pleased to yield 1 minute to the distinguished Democratic leader who is in the forefront of every single fight globally on behalf of human rights and who has just returned a few weeks ago from a visit to Darfur, Congresswoman NANCY PELOSI.

Ms. PELOSI. Thank you very much, Mr. LANTOS, our distinguished ranking member on the International Relations Committee, also a cochair of the Human Rights Caucus. Thank you for your great leadership on fighting for human rights throughout the world. You have a long history of that. You have personal experience in terms of being the only Member of Congress who escaped the Holocaust, and you have brought that conviction, your ideas, your courage to this fight once again in helping the people of Darfur.

And I want to commend Mr. CHRIS SMITH. He and FRANK WOLF have been such leaders on this issue for so very many years, and all of us who are concerned about Sudan, in particular now, Darfur are deeply in your debt.

I join the gentleman in commending HENRY HYDE, as well as Mr. LANTOS and DONALD PAYNE, our colleague, who have brought this issue to the forefront in the Congress of the United States. I thank you for authorizing this legislation, for your steadfast leadership in calling attention to the crisis in Darfur.

Mr. Speaker, I bring to the floor a picture of the children, a picture of the children of Darfur. All of us on our trip that Mr. LANTOS mentioned, who visited Darfur, 11 members of a bipartisan delegation, all of us wanted to take these children home with us, but that wasn't possible. There were so many of

them. And it wouldn't be right anyway, because they wanted to go home. They wanted to go home to their homes which no longer existed.

When we were there, we visited with them. And after a day in the refugee camp, our bipartisan delegation traveled to Khartoum to meet with Vice President Taha. He asked us, he said, "The Sudanese people want to know, why are you so interested in Sudanese domestic affairs? I know the American people are free-thinking people, but maybe your free-thinking does not create a clear understanding of the facts in my country."

Vice President Taha was denying what we had seen with our very own eyes that day, refugee children struggling in the heat without shade, without adequate clothing and sleeping in make-shift tents that were made, some of them, from USAID food bags stitched together.

The Darfuris are forced to walk miles outside the camps for firewood and water, with the constant fear that they may be attacked.

As Vice President Taha was denying all of this, we could not help recalling the stories of villages torched, women raped, children kidnapped and men tortured and killed. But even in the horror of all of that, we saw hope in the bright and playful eyes of the toddlers. That hope, however, was diminished in the eyes of the older children. They had really seen too much. They had seen too much.

The camps we visited were homes to over 100,000 people. That was just what we saw when we were there. There are many more. That is just a fraction of the staggering toll of the violence in Darfur. But you can see these camps, and you can see that some of them are made out of USAID food bags.

According to the United Nations, 3 million people are in need of assistance. Two million Darfuris have been displaced, pushed out of their homes and their villages, and nearly 200,000 people have been killed thus far, and that is a conservative estimate.

Furthermore, the full human toll is yet to be exacted. Concentrated in camps with deplorable conditions, when the rainy season comes, Darfuris are now vulnerable to further death from disease. Sickneses like cholera and dysentery could take tens of thousands more lives.

We have seen variations on this "problem from hell," most recently in Rwanda. And at that time, that short time ago, we promised never again. We have heard never again over and over again.

The humanitarian disaster in Darfur challenges the conscience of the world. It is the systemic destruction of a people. It is genocide.

While we were in the Sudan, back home President Bush reaffirmed that this is, indeed, genocide. When some of us, Mr. PAYNE, Mr. JOE WILSON and Mr. CLYBURN and I met with the President at the White House to thank him for

his leadership and report on our trip, we also asked him to appoint a special envoy, special U.S. envoy for the Sudan. This envoy would signal that bringing peace and stability to the Sudan is a priority of the United States, and it is a part of this legislation that is on the floor today. This envoy, U.S. special envoy, is necessary because it will help stop the violence, bring the parties to the negotiating table, and get humanitarian relief to the people who need it.

Essential to stopping the violence is stopping the Janjaweed. I heard Congressman SMITH talking about the Janjaweed in his remarks, and after persistent questioning in our meeting with Vice President Taha, Congresswoman MAXINE WATERS, in a very diplomatic but persistent way, questioned him about the Sudanese government's support of the Janjaweed, which he first denied but later admitted that they had supported the Janjaweed in the past. This was the first admission that we had seen.

Before we went into Darfur, the U.S. military briefed us that the Janjaweed is an extension of the Sudanese military, and they are engaged in state sponsored violence. This must end.

The African Union is to be commended for its efforts to protect Darfur. We saw the AU's camps there where people were getting at least something to eat and perhaps some medical attention for the first time. But so much more needs to be done.

So that is why this legislation on the floor today is so important, because I don't even know if these children are even alive 1 month after we came home, these beautiful children.

Many people in our country have been actively involved in the effort to get more support and humanitarian assistance on the ground. The United Nations dollars for Darfur were running out in March.

Humanitarian workers in Sudan are harassed, their convoys diverted and attacked, and some of these workers have been kidnapped. Humanitarian workers bring no political agenda or no destabilizing intentions to the Sudan. They carry with them hope and sometimes health. They must be protected. Their supplies must not be diverted, and their volunteers must not be detained.

So that is why I am very pleased that we were able to pass, in the supplemental, the President's request for \$439 million, and that Mr. CAPUANO's initiative to add \$50 million for assistance was accepted by the House. We hope it will be considered in the Senate.

So this legislation, as was spelled out by Mr. LANTOS and Mr. SMITH, so I won't go into it again, contains very, very important initiatives to help make matters better. Stop the violence, bring the parties to the table, get the humanitarian assistance to the people.

This brings us back to Vice President Taha's question, why is the United

States so interested in Sudan? The answer is that genocide is not the domestic affair of any nation. It concerns the world. And as our colleague, JOE WILSON, said to him, Americans care about people. Our care is reflected in the working done for the people of Darfur here in this Congress, in State legislatures, in corporate board rooms, on college campuses, even on high school campuses and yes, indeed, even in the White House.

This care was spurred by our religious communities which have taken the lead in our efforts. I salute many of the religious leaders who have taken the lead on this. And on April 30, many people will converge, thousands will converge on Washington, and there will be events around the country put together by the Save Darfur Coalition.

Each day that the genocide continues, and each day that we wait, the hope we saw in the eyes of the youngest children can disintegrate into disease, despair and death.

Again, on April 30, Americans of conscience will come to Washington to echo the call, never again. These citizens will demonstrate on behalf of the children of Darfur and demonstrate that, not only is America great, but America is good. And this legislation on the floor today is a reflection of that goodness. I support it, and salute the bipartisan cooperation that wrote it and brought it to floor.

Again, I thank Mr. LANTOS for his exceptional leadership on human rights throughout the world and in the Sudan, and Mr. SMITH, Mr. PAYNE and Mr. FRANK WOLF for their exceptional leadership as well.

Mr. SMITH of New Jersey. Mr. Speaker, I yield such time as she may consume to my good friend and colleague from Ohio (Mrs. SCHMIDT).

(Mrs. SCHMIDT asked and was given permission to revise and extend her remarks.)

Mrs. SCHMIDT. Mr. Speaker, I rise today in strong support of H.R. 3127, the Darfur Peace and Accountability Act. I commend Chairman HYDE and Chairman SMITH for their work in moving this important legislation forward.

Defending the basic human rights of the world's most vulnerable populations should be a priority for all of us. Sudan, the largest country in Africa, has been ravaged by civil war intermittently for four decades. An estimated 2 million people have died due to war-related causes and famine, and millions more have been displaced from their homes. This ongoing crisis in the Darfur region in Western Sudan has led to a major humanitarian disaster.

Estimates are that up to 300,000 people have been killed in the Darfur region over the past 24 months alone. In 2004, the House, the Senate and the White House declared the atrocities taking place in Darfur as genocide.

I am proud to be a cosponsor of this important legislation to impose sanctions against individuals responsible for genocide, support humanitarian op-

erations and promote peace efforts in the region. This is not only an issue of religion or politics. This is a matter of mercy and humanity.

I urge my colleagues to vote for H.R. 3127.

I want to thank Chairman SMITH, again, for this great bipartisan legislation.

Mr. LANTOS. Mr. Speaker, I yield myself such time as I may consume.

I first would like to thank my colleagues, Chairman HENRY HYDE and Chairman CHRIS SMITH and the ranking member, my good friend from New Jersey, DONALD PAYNE, for keeping this House focused on the grave atrocities unfolding every single day in Darfur.

Mr. Speaker, the U.S. Congress determined some 2 years ago that the atrocities in Darfur are genocide. We don't use that term lightly. I certainly don't. But it was my privilege to lead the debate on the Democratic side designating what is unfolding in Darfur a genocide. President Bush later addressed the U.N. General Assembly and reaffirmed that our government also designates what is happening in Darfur a genocide.

The United Nations Under Secretary General for Humanitarian Affairs yesterday reported that the government of Sudan is preventing him from visiting Darfur as an eyewitness to the most recent wave of war crimes taking place there. In the past few months, marauding Arab militia, backed by Khartoum, have killed an estimated 10,000 children and women and men.

□ 1115

These Arab militias attacked 60 villages, sending thousands of people fleeing into the desert. As we speak, Mr. Speaker, Khartoum's Arab surrogates continue to disrupt U.N. humanitarian services, kill and displace civilians, and destabilize the entire security situation in Darfur.

While the government of Sudan grudgingly acceded to the Comprehensive Peace Agreement, so-called, it continues to block every effort to protect civilians, stop the genocide, and bring peace to Darfur.

The numbers of individuals killed, raped, tortured, and displaced is staggering. Genocide has destroyed well over 60 percent of the villages in Darfur. It has displaced over 2 million human beings and killed an estimated 400,000 and driven additional hundreds of thousands into refugee camps in neighboring Chad.

Meanwhile, the escalating violence on the Chad-Sudan border between Chadian rebels and the Chadian military is threatening thousands in refugee camps and making humanitarian assistance almost impossible. Refugee men and boys are forced into recruitment into the rebel militia. Rather than getting better, the situation for Darfur refugees is becoming all the more precarious with every passing day.

The President has proposed to our allies that the United Nations have a

concrete plan to stop the violence in Darfur, deploy NATO staff and resources to the region immediately to aid the embattled African Union peacekeepers, and within 6 months establish a formal United Nations peacekeeping mission in Darfur. Mr. Speaker, I strongly support this plan.

And yesterday I had the occasion to talk to the distinguished Foreign Minister of Germany, and I am pleased to state that Germany and the United States will stand together as members of NATO in Darfur.

In a cynical move, the government of Sudan is putting up every possible roadblock to prevent this from happening. The regime even threatened to pull out of the African Union if it endorsed a U.N. handover.

The government of Sudan opposes a U.N. peacekeeping force for one simple reason: it wants to complete the genocide. Working with the African Union, the United Nations, and our NATO allies, we have a moral obligation to foil this plan by actively bolstering African Union forces already there before a U.N. force can finally be deployed.

The African Union has an urgent need for underground NATO advisers and mentors in the areas of command and control, use of intelligence, enhanced communications, and for NATO to continue its current assistance such as strategic airlift for troop protection and training at African Union headquarters.

As the most powerful countries in the world, all of the governments of NATO have a responsibility to contribute in whatever way we can to stopping this genocide. It is not a matter of means, Mr. Speaker. It is a matter of political will.

To this end my distinguished colleague Congressman JOE PITTS and I have introduced House Resolution 723 that calls on the African Union, the United Nations, and NATO to work closely together to strengthen the African Union's capacity to deter the ongoing violence until the U.N. peacekeepers are fully deployed.

Recently, the other body passed a similar resolution sponsored by my friends and colleagues JOE BIDEN and SAM BROWNBACK. This effort to bridge between the current African Union mission and the fully implemented U.N. peacekeeping operation will save tens of thousands of lives and allow uninterrupted humanitarian access to the vast numbers today in camps in Chad and in Darfur. I urge all of my colleagues to cosponsor H. Res. 723, the Lantos-Pitts resolution.

Mr. Speaker, H.R. 3127, under consideration today, demands accountability on the part of the government of Sudan and those most responsible for genocide, war crimes, and crimes against humanity in Darfur. Our bill imposes sanctions against the perpetrators who either directly or indirectly are causing such large-scale human suffering and devastation.

I encourage all of my colleagues to support this important bipartisan bill.

Mr. Speaker, it is with great pride and respect for his work on this subject that I yield 5 minutes to the gentleman from New Jersey (Mr. PAYNE), who has been our conscience on the issue of the Darfur genocide.

(Mr. PAYNE asked and was given permission to revise and extend his remarks.)

Mr. PAYNE. Mr. Speaker, I rise today in absolute strong support of H.R. 3127, the Darfur Peace and Accountability Act. I thank Mr. LANTOS, our ranking member of the International Relations Committee, for his continued leadership on issues of importance to the committee, a person who can speak of genocide, being the only Member in Congress who is a Holocaust survivor. So this is very personal, as it is with all of us.

I would like to thank Chairman HYDE for the work that he and his staff did for being open to negotiations with me and my staff and other Members as well as those of other members of the Subcommittee on Africa, Global Human Rights and International Operations, chaired by Representative SMITH, my friend from New Jersey, who has done an outstanding job chairing the subcommittee.

I would also like to thank Congressman WOLF for his continued work, who for many, many years has been involved in Sudan; and Congressman TANCREDO, who went to Southern Sudan on his first CODEL a number of years ago with Senator BROWNBACK and myself; and to MELVIN WATT of the Congressional Black Caucus and BARBARA LEE and others who have stood shoulder to shoulder opposing this horrendous genocide.

It was nearly 2 years ago on June 24 in 2004 where I stood with the Congressional Black Caucus, Leader PELOSI, and TOM TANCREDO and introduced H. Con. Res. 467, declaring that genocide was occurring in Darfur, Sudan and that the government of Sudan was responsible. This is the government which harbored Osama bin Laden for 5 years in his country and aided and abetted him and assisted him.

Tragically and to our own shame, the genocide continues today, almost 2 years later, unabated. Many people were surprised when the Congress approved the genocide resolution. And then the next night Senator FRIST, with unanimous consent in the Senate, had the genocide resolution passed in the Senate and the President indicated at the United Nations that genocide was going on after Colin Powell declared it for the State Department.

Mr. Speaker, I have walked through the camps of the Darfur people who were violently forced by government troops and the Janjaweed mercenaries to run for their lives. I have seen the faces in the pictures that Leader PELOSI showed and to hear the horror stories.

Try to imagine what it is like to run away from everything you have known in an instance at gunpoint, to look

back at your home, at your village, to see them engulfed in flames. Imagine the cries of scores of men and women, young and old, being brutally killed, terrorized, raped, beaten.

What continues to go on in Darfur today is the ultimate form of terrorism. An estimated 400,000 have already died from murder, starvation, diarrhea, and preventable diseases. Nearly 3 million were forced from their homes into other parts of the region or into Chad. Now the security nightmare has spilled over because the Janjaweed has gone into Chad. And this is the same government that for 20 years had a North-South war where 4 million people were displaced and 2 million people died. So this is a government responsible for 6 million displaced people, 2½ million people dead. This government does not deserve to even be called a government.

Truthfully, it is difficult to imagine. We are half a world away, safe. That is why we bear even a greater responsibility.

What can we do? We must call on President Bush to immediately push the National Congress Party to disarm the Janjaweed, to give the command to the government troops to stop killing innocent people, stop raping, to send those responsible for atrocities in Darfur to appropriate international authorities as called for in Security Council Resolution 1593, and to comply with Security Council Resolutions 1564, 1591, and 1556.

Whether they are government officials such as Security and Intelligence Chief Salah Gosh or Vice President Taha, who leads the Janjaweed, as alleged, we must make sure that this ends.

I would like to just conclude by saying even in my district on Sunday, April 9, the End the Genocide-Save Darfur will be having a rally with the American Jewish Congress, the American Jewish World Service, the United Jewish Communities of MetroWest, Help Darfur Now. So everyone is coming together.

Mr. LANTOS. Mr. Speaker, I am pleased to yield 4 minutes to my good friend and distinguished colleague from California, an indefatigable fighter for human rights, Ms. BARBARA LEE.

Ms. LEE. Mr. Speaker, first, let me thank our ranking member for yielding, and also for your leadership and for making sure that wherever genocide is occurring, you take action to stop it, Mr. LANTOS. Thank you so much.

I want to thank also Chairman HYDE and Chairman SMITH for their leadership and for making sure that as we move forward in addressing this atrocity that we work together in a bipartisan fashion. It is so important that the world see Democrats, Republicans, Independents, all of us coming together on this issue.

And to Mr. PAYNE, let me just thank you again for your leadership, for being oftentimes the lone voice in the wilder-

ness and for staying there and plugging along and making sure that this House and the other body puts this as a priority because you knew early on what was taking place when many did not. So thank you for your leadership.

And let me also thank Mr. ROYCE and all of those who have been working and in the forefront of this effort because all of us understand now that we can no longer stand by as millions of innocent people are being displaced and hundreds of thousands are being murdered.

I visited Chad and Sudan last year with Chairman ROYCE and the Academy Award nominee Don Cheadle, and let me tell you we visited those refugee camps on the Chadian-Sudanese border.

□ 1130

Children drew pictures of airplanes flying with bombs dropping. Then they had the helicopters going underneath the airplanes. Then the militia, the Janjaweed on the horses, coming in burning and raping women and kidnapping people. These pictures were vivid that the children painted. It convinced me that the Khartoum government was clearly responsible for this slaughter.

We visited also just recently with our great minority leader, NANCY PELOSI, El Fasher and the refugee camps around the AU headquarters. Quite frankly, it has gotten worse. I want to thank Congresswoman PELOSI for her leadership, because we were able once again, and you heard her earlier, to visit the refugee camps and talk to people and see and learn what we must do in order to stop this slaughter.

This is an important bill. It addresses not only the immediate needs of the Darfurian people, but also the long-term goals of a political settlement. First of all, it also asks the Secretary of State to declare the Janjaweed a terrorist organization, because that is what it is, and we need to be very clear on that. The AU is currently doing a remarkable job, and this legislation helps us to help the AU in a better way in terms of providing for more support. They need more troops.

This legislation also blocks assets and restricts travel of any individual the President determines is responsible for acts of genocide, war crimes or crimes against humanity in the Darfur region.

It also supports the International Criminal Court's efforts to prosecute those responsible for acts of genocide in Darfur.

Mr. Speaker, I am disappointed that my provision for capital market sanctions, which our subcommittee approved unanimously, did not stay in the bill as it moved forward, but my provision to support state-sponsored divestment campaigns throughout our Nation is in there.

I want to thank our Chairs for making sure that that is there, because efforts to divest from companies that support the Khartoum regime should be applauded and the growing divestment movement must be supported.

The University of California is getting ready to divest, Harvard University has divested, Stanford has divested, as well as the States of Illinois, New Jersey and Oregon. These provisions with regard to divestment are very important.

Mr. Speaker, this bill makes sure that we step up to the plate now and put some teeth into our declaration of genocide. We cannot have another Rwanda, Mr. Speaker. One million people died, and all we could do there was go there later and apologize. Sometimes you see some of us wearing "Not on Our Watch, Save Darfur," because we do not intend to have on our watch another genocide of that magnitude. 200,000 people is too many already. One person is too many.

So this bill will help us address the growing humanitarian crisis, and also the security crisis. In the long run, of course, we know that we must have a political solution and a peace accord.

I want to thank all of you, again, for making sure this remained a bipartisan effort.

Mr. LANTOS. Mr. Speaker, I am very pleased to yield 2 minutes to my good friend and distinguished colleague from Rhode Island (Mr. LANGEVIN).

(Mr. LANGEVIN asked and was given permission to revise and extend his remarks.)

Mr. LANGEVIN. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I want to commend Mr. LANTOS on his outstanding leadership on this issue, as well as Chairman HYDE and Chairman SMITH on this all-important issue. I commend their leadership.

Mr. Speaker, I rise today in support of H.R. 3127, the Darfur Peace and Accountability Act of 2006. I also want to express my deep concern as well as the concern of an overwhelming number of my constituents over the situation in Sudan.

The ongoing violence and humanitarian disaster in Sudan has led to as many as 400,000 villagers killed by militias and left more than 2 million Sudanese in refugee camps. This dire situation has also strained the resources of countries bordering Sudan.

In the past, I have supported measures that call on the President to improve the security in Darfur and increase funding for peacekeeping forces and humanitarian assistance. Today, I am proud to be a cosponsor of H.R. 3127, which directs President Bush to impose sanctions on the government of Sudan as well as freeze the assets of anyone responsible for acts of genocide, war crimes or crimes against humanity in Sudan. This measure also calls on NATO to send a civilian protection force to assist the African Union mission in Sudan, which has been expanded.

Mr. Speaker, the plight of the people in Darfur resonates with all of us, and we should all be ashamed that the atrocities that have taken place and that are taking place right now are happening in our time. Where is the

world's outrage? Why have we not learned from the mistakes of the past, the Holocaust, Armenia, Cambodia, Rwanda?

Mr. Speaker, now is the time to act. It is our duty to end this humanitarian suffering, and I will remain steadfast in my commitment to stopping this conflict and promoting peace in Sudan.

The SPEAKER pro tempore (Mr. LAHOOD). The time of the gentleman from California has expired.

Mr. LANTOS. Mr. Speaker, I ask unanimous consent that an additional 20 minutes of debate time be made available, equally divided between the two sides.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. LANTOS. Mr. Speaker, I am pleased to yield 2 minutes to my good friend from Massachusetts, our distinguished colleague, MICHAEL CAPUANO.

Mr. CAPUANO. Mr. Speaker, first I would like to add my voice to congratulate the leadership of the International Relations Committee and to this House for bringing this bill to the floor. I will be honest, I had some doubts that this bill would ever get to the floor, and the fact that it is here I think is something that deserves recognition.

I think everybody here and everybody who is listening who cares about this issue already knows what is going on in the Sudan.

I just wanted to rise today to express my opinion that this bill coming to this floor at this time is representative of what America can be in the world. It is representative of what America is. It is the best of America. I am not so sure that this bill or anything we can do here will actually stop the genocide in Sudan, but we need to do what we can do, and that is what this bill does.

This bill represents the hopes and dreams of the world, for all the people who care, honestly care, about human rights, basic human rights. I am not talking about the kinds of things we talk about here in America which are the extra-human rights we would all like to see. These are basic: life and death; enslavement and freedom; torture and no torture.

This bill addresses those issues to the best of our ability, and I think just for a moment, every American who cares about this issue should take a second and congratulate themselves and to feel good about their country and their representatives here in the House who have taken action today that we don't need to take. I don't think any of us will get a single vote at home because of this action. But it is the morally correct thing to do if America wants to continue to be the beacon of hope for the entire world.

Mr. Speaker, I repeat what I said before. I congratulate the leadership of this House, and thank them for bringing this bill to the floor.

Mr. LANTOS. Mr. Speaker, I am pleased to yield 3 minutes to my fellow

Californian and good friend, who is a fighter for human rights in Africa and everywhere, Ms. MAXINE WATERS.

Ms. WATERS. Mr. Speaker, I thank the gentleman from California. I would like to commend the bipartisan effort of the International Relations Committee, and thank you for the work that you have done on this most important issue.

I was just part of a bipartisan delegation led by minority leader NANCY PELOSI to the Sudan. Genocide is taking place as we stand here today. We met with Vice President Taha. He was unapologetic, he was arrogant and he was uncompromising on their position in Darfur. They don't like the use of the word "genocide," but he admitted that they had funded the Janjaweed because they retaliated against the rebels of the south who were resisting the Sudanese government.

We are on the right track. This Congress has been good in helping to identify that, number one, genocide is indeed taking place. Over 200,000 people have died.

We watched what happened in Rwanda. We have noted over and over again the atrocities of the Holocaust. Yet we can't seem to get the U.N. and others to move fast enough to stop this genocide that is taking place in Darfur.

I support this resolution today, this Darfur Peace and Accountability Act of 2006 today, because this will impose sanctions on the government of Sudan and it will block the assets of and restrict travel for individuals who are responsible for acts of genocide, war crimes or crimes against humanity in the Darfur region of Sudan. It is long past due. We should be tough about it. The sanctions movement is growing. We need to squeeze them. We need to make sure that we have the kinds of actions that will be felt.

I was up in the camps. As far as the eyes can see, millions of displaced persons who have been driven from their homes, driven from their camps, living literally on the ground with little tarps just covering them. It is unconscionable that this should continue.

Again, I thank the International Relations Committee.

Mr. LANTOS. Mr. Speaker, I am very pleased to yield 4 minutes to our distinguished colleague and my good friend from Texas, SHEILA JACKSON-LEE.

Ms. JACKSON-LEE of Texas. Mr. Speaker, let me again applaud the International Relations Committee, Chairman HYDE and the ranking member for never stepping away from a very difficult challenge on the international arena.

Mr. SMITH, the chairman of the Subcommittee on Africa, let me again acknowledge your ongoing stand against the brutalization of peoples who are disenfranchised around this world and taking the responsibility that this moral Congress has, the one entity that is looked upon around the world for that extended helping hand.

I, too, traveled to Chad and to Sudan and looked at this whole complex situation. On the one hand, the Sudanese government in a certain sense having a mea culpa, "not me, not I." The African Union being somewhat helpless to the extent that the charge they are given is only to watch and to see. And then in Chad, a country that is now being in essence not destroyed, but certainly charged and challenged with responsibilities that they cannot handle, thousands upon thousands of displaced persons, many of them women and children.

I visited in the heat of the spring and saw no water for the children to go to school, women being raped as they were leaving the camps to find survival, the Chad economy not being able to survive because of this enormous influx of new human beings. Yet, the Sudanese government continues, continues, to deny.

Might I say that in the course of this work, Mr. LANTOS, you know that I have worked very hard to be, as many Members of Congress, a bridge builder between nations in the Mideast. But it is important for our friends, our Arab friends and our friends in China, to understand that they are participants, that they are doing all that is good; if they become implementers or affirmers of the genocide, that this excellent legislation that has the handprint of the outstanding gentleman from New Jersey, Mr. PAYNE, who consistently has been on the battlefield, along with, of course, the excellent leadership of Leader PELOSI, who passionately went to the Sudan just a couple of months ago with members of the Congressional Black Caucus and others, who symbolize the concern of this Congress, that if they don't understand our allies, China being an emerging ally, certainly the work we are trying to do in the Mideast, that they are affirming this disaster.

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Then they are not reading the tea leaves. So I come to this floor acknowledging the excellence of H.R. 3127, asking for the other body to immediately move forward. This is not a can-do piece of legislation. This is an emergency piece of legislation. And the President, who should have listened to Secretary Powell over a year ago, who declared after we pressed as Members of Congress, members of the congressional black caucus in particular, that genocide was going on, that it was crucial that the genocide that is going on, that Americans, Americans in every corner of this particular nation would be empathetic and sympathetic to say stop this massive killing. And when I say that, it is like horses going into your suburban neighborhoods, men and women or men on horses and attacking your homes and sending you out of your homes and burning your homes. That is what is going on in Sudan.

So let me join in the sanctions of this particular legislation, but let me say

to the gentleman on this floor, I do think it is time to re-energize the movement that expressed to the Sudanese government by way of the embassy, to be very honest with you, that people be at the embassy to again express our disappointment with their lack of sensitivity. And then I must say that what I intend to do is to begin a movement of divestiture. I want to see the investment houses of America divest of any investment in the Sudan, and we will begin this as others have done in their States, and Texas needs to hear my call. Get your money out of Sudan. They are not listening. And the only way that they can be heard or we can be heard is the same way that apartheid was destroyed in South Africa, was to isolate them and to determine that they cannot any longer murder and pillage without impunity in this particular country.

I thank the distinguished gentleman, but I hope that we will be able to wage an effort, a bipartisan effort of divestiture, which ultimately brought South Africa to its recognition, that of separation of black and white and the brutality that occurred had to stop, and look at South Africa today. Sudan can be the kind of nation we all can be proud of.

Mr. LANTOS. Mr. Speaker, I want to thank all my colleagues on both sides of the aisle for their powerful and impassioned statements. This is a legislation of conscience. I urge all of my colleagues to support it.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SMITH of New Jersey. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me just say, in closing, how grateful I am to Members on both sides of the aisle for working so steadfastly on this legislation. There were some glitches, there were some areas where there was broad agreement as well as disagreement. We worked out those differences, and I want to thank the Members, but also the staff. Joan Condon has done an incredibly good job in walking us through this legislation and writing many parts of it. Greg Simpkins, our Africa specialist on the subcommittee, who also worked on this legislation, as I said earlier, accompanied me to Darfur last August. We saw firsthand the devastating impact of this horrific genocide on men, women, and children in that beleaguered land. Pearl-Alice Marsh is always a great friend of the Africa Subcommittee, who provides very good insights. I want to thank her, as well as Noelle Lusane, DON PAYNE's lead staffer who works very well with us, and Ted Dagne. Together we were able to work through these differences.

Ms. ESHOO. Mr. Speaker, I rise today in support of H.R. 3127, the Darfur Peace and Accountability Act, legislation aimed at stopping the ongoing genocide in the Darfur region of Sudan.

As a longtime cosponsor of this critical legislation, I'm pleased that this bill has been

brought before us today for a vote. With as many as 400,000 killed by the orchestrated violence in Darfur, it's imperative that the U.S. act quickly and decisively to put an end to the crisis.

H.R. 3127 goes after the individuals both inside and outside the Sudanese government who are responsible for the ongoing bloodshed by directing the President to seize the assets of and refuse future visas to any individual (or their family members) responsible for acts of genocide, war crimes, or crimes against humanity in Sudan. It also forbids any U.S. port from accepting any goods or cargo from Sudanese ships should the Sudanese government continue to fail to take steps to resolve the crisis. Furthermore, in order to give military protection for victims on the ground, H.R. 3127 authorizes the President to provide assistance for an expanded peacekeeping force in Sudan; the African Union Mission in Sudan, AMIS, and directs the President to seek NATO reinforcement of AMIS, upon the request of the African Union.

Last month I voted for and the House passed the Capuano Amendment to the FY2006 Supplemental Appropriations Bill for Iraq and Other International Activities, which added \$50 million in funding to expand the African Union's peacekeeping operations in Darfur. This critical funding will help the African Union forces provide humanitarian relief and protection until further assistance arrives from the U.S. and the international community.

For the past three years I have voted for and cosponsored legislation condemning the atrocities in Darfur and appropriately labeling them "genocide." Both Houses of Congress have concurred with this assessment, but little has been effective in stopping the killings and displacement. We need to do more, and we need to come up with new methods to target those perpetuating the violence. The provisions within the Darfur Peace and Accountability Act will give us a fresh set of tools to apply to the situation and deliver assistance to those who need it. I urge all of my colleagues to support H.R. 3127.

Mr. OLVER. Mr. Speaker, for three years the Sudanese government and its armed militia have been engaged in a violent conflict against two major rebel groups in Sudan. This struggle has evolved into an ongoing campaign of government-backed violence and ethnic cleansing, but the international community has failed to take sufficient action to put an end to these atrocities. Congress and the Bush Administration have recognized the slaughter in Darfur as genocide, but it is time to also hold the government in Khartoum accountable for the horrendous actions against civilians and provide international assistance to the victims in Darfur.

To date, more than two million people in Darfur have been driven from their homes and hundreds of thousands have been brutally murdered. Many who have been fortunate enough to escape the violence in Darfur have sought sanctuary in the neighboring country of Chad, but now acts of violence and genocide are following them over the border. The New York Times reported on February 28 that Chadians are now becoming the target of cross-border attacks by Sudanese militia. These assaults are sending civilians from Chad over the border to Sudan, directly into the heart of the violence and bloodshed.

The African Union Mission in Sudan, AMIS, is charged with monitoring an ineffective

ceasefire that has been consistently ignored by both sides of the conflict. But the African Union does not have the resources, training or mandate to provide real protection for the people of Darfur. The African Union needs support from the international community, and H.R. 3127 is the first step in this process. This legislation directs the President to instruct the U.S. representative to NATO to advocate for NATO reinforcement of AMIS and to urge the Security Council to adopt a resolution supporting the expansion of AMIS.

Today I offer my support for the Darfur Peace and Accountability Act, and I hope that Congress, the Bush Administration and the International Community can work together to put an end to crisis in Darfur.

Mr. ANDREWS. Mr. Speaker, I rise in support of the Darfur Peace and Accountability Act, and urge my colleagues to join me in voting yes on this important piece of legislation. I commend Chairman HYDE and my fellow New Jerseyans, African Subcommittee Chairman CHRIS SMITH and Ranking Member DONALD PAYNE for bringing this bill to the floor and helping keep our focus on the terrible crisis in Darfur and humanitarian needs in Sudan.

Three years ago, the people of Sudan began a bloody civil war, with two rebel groups in the South rising up against the government in Khartoum. The response from the Sudanese government was swift and brutal, and its aerial bombardment and support of the criminal militia known as the Janjaweed continues today throughout the country. But what has been done in the Southern region of Darfur is beyond anything we have seen in many years.

Mr. Speaker, it was not lightly that Congress declared the situation in Darfur a genocide on July 22, 2004. The government and its Janjaweed allies have killed hundreds of thousands of its non-Arab citizens in the region, and this genocide continues unabated today. More than two million civilians have been displaced from their homes, over 100,000 fleeing to neighboring Chad, and these refugees live in the most difficult situations, still surrounded by Janjaweed abusers and fearful for their safety. Rape has been widespread, and as the Janjaweed move across the region they leave a path of destruction that makes living nearly impossible for the few survivors left behind.

The military of the African Union, now 7,000 strong in Sudan, is doing valiant work but has never received adequate support. The recent discussions with NATO and the United Nations to bring additional forces and military material to the peacekeeping and stabilization mission are promising, but are not enough. The bill under consideration today would authorize much needed assistance to the African Union Mission in Sudan, and direct the President to support the expansion of this force to strengthen their work to bring peace to the region.

Mr. Speaker, I am proud to be a cosponsor of this bill, which lends significant support to ongoing efforts to end the crisis in Darfur. The bill supports the use of sanctions on the government of Sudan to pressure it to end its support for the Janjaweed and return to the negotiating table. Only through strong U.S. involvement will there be an end to the violence in Darfur, and this bill provides the backing the administration needs to take further action.

Mr. Speaker, it is important to note that the American people are in firm support of the

U.S. taking action on Darfur, and are strongly moved by this tragedy, which some have likened to the Holocaust. In my own district, a wide range of faith communities have joined together in the South Jersey Interfaith Coalition to Save Darfur. I am proud to be an honorary co-chair of this group which brings together people from southern New Jersey to take action on this issue. I am also proud of the students of Voorhees Middle School, who, with the help of their teacher Joyce Laurella, organized "Project: Save Darfur," which has raised awareness of the crisis as well as money for UNICEF activities in Sudan. Individual action can make a difference, and the U.S. government should join its citizens in mobilizing on this important issue.

Mr. Speaker, time is of the essence in this matter, which grows more dire every day. We cannot stand idly by, as we did in the face of the genocide in Rwanda and in the early stages of the Nazi holocaust, and then report sadly from the gravesites of those who died. I strongly urge my colleagues to vote yes on the Darfur Peace and Accountability Act, and support these steps to end the genocide.

Mr. McNULTY. Mr. Speaker, I join today with many of my colleagues in strongly supporting H.R. 3127, the Darfur Peace and Accountability Act of 2006. As a co-sponsor of this measure since July 2005, I am extremely pleased this measure is finally being considered by the full House.

I traveled to Sudan in 1989. I did not know much about the Horn of Africa at the time. But I knew this: 280,000 people starved to death the year before and it was not because there was not enough food. There was a tremendous outpouring of support from people all over the world, and I am proud to say that it came primarily from the United States of America. But that food did not get through to the innocent civilian populations because of this civil war.

I went to Sudan with the late Mickey Leland and the late Bill Emerson and my colleague GARY ACKERMAN. I watched in awe as Mickey Leland negotiated with tyrant Sadiq al-Mahdi and with the leader of the SPLA John Garang, and even that unsavory character next door President Mengistu of Ethiopia to create "corridors for peace." He was successful that year. And in the following year, deaths due to starvation dropped dramatically.

But in the time since then, we have focused our attention elsewhere. We have looked away from this tragedy, and the situation today continues to deteriorate.

Over 2 million people have already died over the past two decades due to war-related causes and famine in Sudan and millions more are internally displaced—more than any other nation on the face of the Earth. And we continue to look the other way.

As we approach the 91st anniversary of the Armenian Genocide, we must also recognize that what has been happening in the Darfur region of Sudan is also genocide. On July 22, 2004, the House of Representatives declared that the atrocities occurring in the Darfur region of Sudan are genocide. This bill, H.R. 3127, also includes this declaration.

We need to get our priorities straight. Let's stop this war and end this human suffering. We can start by passing and implementing the provisions of this important measure, the Darfur Peace and Accountability Act.

Mr. AL GREEN of Texas. Mr. Speaker, today I am offering my support for H.R. 3127,

the Darfur Peace and Accountability Act. This bill would be an important step in ending the crisis that continues to plague the Darfur region of Sudan.

Since civil unrest erupted in Sudan in February 2003, roughly 400,000 people have died and an astounding 2.5 million have become displaced as a result of policies by the government of Sudan and attacks by government troops and government-backed militias. The human inhabitants of that beautiful land suffer daily from unimaginable torments including rape, hunger, looting, and indiscriminate killing.

The U.S. government has officially acknowledged that what is happening in Darfur is genocide. Now, it is imperative that the U.S. and the global community act in defense of those in Sudan who are suffering at the hands of their government. If we do not do all that we can to bring stability to this humanitarian crisis, then we are essentially participating in the problem.

H.R. 3127 aims to end this deplorable violence through a variety of means including increasing asset and travel sanctions, urging the expansion and a stronger mandate for the African Union Mission, AMIS, bringing perpetrators of genocide, war crimes, or crimes against humanity in Darfur to justice through the International Criminal Court, and urging the President to apply additional methods of diplomatic pressure.

As a member of the Congressional Sudan Caucus, I have had the opportunity to express my commitment to developing a solution that will put an end to this continuing genocide. Furthermore, I intend to do what I can in my capacity as a Member of Congress to demonstrate this august body's dedication to supporting human rights around the world. I am optimistic that, by working with advocates and the international community, peace will return to Sudan.

I support the Darfur Peace and Accountability Act. I also urge my colleagues to vote "yes" on this important legislation.

Mr. LARSON of Connecticut. Mr. Speaker, I rise today in strong support of the Darfur Peace and Accountability Act. This legislation is a much needed step towards ending the unprecedented tragedy taking place in Sudan, and its consideration today is long overdue.

Over the past 3 years, the world has watched as the situation in Darfur has escalated into an unprecedented humanitarian and human rights crisis. Since February 2003, civilians in the impoverished Darfur region of Sudan have been subject to indiscriminate killings, abductions, torture and rape at the hands of the Janjaweed—a lawless militia that has the alleged support of the Sudanese government. It is clear that the government of Sudan has offered their tacit approval for these attacks, and in many instances has engaged in air and ground strikes to augment the Janjaweed assaults on the people of Darfur.

The scope of this ongoing tragedy is hard to imagine. The numbers, unfortunately, speak for themselves. An estimated 3.5 million people are starving and some 2 million have been displaced from their homes, including hundreds of thousands who have fled to Chad for refuge. When then Secretary of State Colin Powell called the crisis in Darfur "genocide" in September 2004, an estimated 50,000 people had been killed. That number may now reach

as high as 400,000 today, with 180,000 of these deaths occurring in the past 18 months alone according to the United Nations. These numbers continue to grow everyday; however we may never fully appreciate the enormous human toll these atrocities have taken on Sudan, the continent of Africa, and the world.

The atrocities taking place are nothing less than a human tragedy, a world wide cause that we cannot ignore—and yet the international community remains essentially paralyzed and unable to stop it. To date, there have been 8 rounds of peace talks, the deployment of 6,000 African Union troops, 6 U.N. Security Council resolutions and declarations of genocide by the administration and this Congress. Despite this pressure, the Sudanese government has steadfastly refused to take any constructive steps towards ending this humanitarian crisis.

As the leader of the free world and a role model for human rights and democracy, we must live up to our own example. To this end, the Darfur Peace and Accountability Act takes several important steps toward increasing pressure on the government of Sudan to end the current crisis. Among its many provisions, this legislation strengthens sanctions on individuals and governments responsible for, or connected to, the atrocities in Darfur. It also provides strong support for the expansion of humanitarian and peacekeeping efforts in the region, and calls for the suspension of Sudan's membership in the United Nations. While this legislation alone will not end the atrocities in Darfur, it will send a strong message to Sudan and the world community that the U.S. is serious about bringing an end to the violence.

Many grassroots groups around the country, such as the Connecticut Coalition to Save Darfur, have been working to educate policymakers and the public on the urgent need for action in this troubled region of the world. Their efforts have ensured that the crisis in Darfur stays in the public mind and today's consideration of the Darfur Peace and Accountability Act is a testament to their tireless work. I am proud to support this legislation, and strongly urge its quick approval in conference so that we can get this important bill to the President's desk without delay.

Mr. SCHIFF. Mr. Speaker, I rise in strong support of H.R. 3128, the Darfur Peace and Accountability Act of 2006.

Three years ago, the United Nations Security Council declared its grave concern at the widespread human rights violations in Darfur and expressed its determination to do everything possible to halt a humanitarian catastrophe. Since then, at least 300,000 people are estimated to have died in Darfur. Currently, more than 3.5 million Darfurians depend on international aid for survival and another 2 million have been driven from their homes.

In 2004, pressure from Congress and American citizens prompted the Bush administration to become the first government to recognize the mass killing in Darfur as a genocide. Since then, the U.S. has played an important role by pressing for an international response to the crisis in Darfur at the U.N. supporting the deployment and expansion of the African Union Mission In Sudan (AMIS), and providing critical humanitarian aid. Unfortunately, the U.S. and the international community have yet to muster the will or cooperative action nec-

essary to adequately protect civilians, end the killing, and broker lasting peace.

Last week the U.N. Security Council issued a resolution reaffirming that the situation in the Sudan continues to constitute a threat to international peace and security. In Darfur large scale attacks on villages have been replaced by rampant banditry, a campaign of sexual violence, and the practical entrapment of civilians in camps. Government backed militias have not been reined in and rebel groups are contributing to violence on the ground. Civilians continue to be attacked, women and girls raped, humanitarian workers harassed, and critical aid supplies disrupted. For people of Darfur, the situation remains one of daily violence and insecurity, desperate living conditions, and the persistent threat of hunger and disease.

Sixty years ago, in the wake of the Holocaust, the international community vowed, "Never again." Ten years ago, confronted with the death toll of the Rwandan genocide, leaders of the same nations again declared, "Never again." Today, tens of thousands of women, men, and children have been murdered and hundreds of thousands continue to suffer in Darfur. The Darfur Peace and Accountability Act reminds the administration and the international community that the genocide in Darfur demands urgent attention and action, and calls upon the President to use both economic and political leverage to elicit cooperation from the Sudanese government.

Passing the Darfur Peace and Accountability Act is a small, but important demonstration of this nation's commitment to human rights. I hope that passage of this important legislation will spur more concerted national and international efforts to bring security and stability to the people of Darfur.

Mr. CARDIN. Mr. Speaker, I rise today in support and as a co-sponsor of H.R. 3127, the Darfur Peace and Accountability Act of 2006.

Since February 2003, the Sudanese government—through its proxy, the Janjaweed Arab militia—has carried out a campaign to loot and burn African villages in the Darfur region of western Sudan. Hundreds of thousands of people have been killed, and over 2 million people have been displaced. This systematic pattern of attacks against civilians includes arbitrary killings, abductions, looting, torture, and rape, and such attacks are supported by air and land strikes by Sudanese government forces. Congress declared in the summer of 2004 that genocide was occurring in Darfur, and the administration followed suit in the fall of 2004.

This bill strengthens the Sudan Peace Act of 2004 by expanding sanctions, authorizing funding for humanitarian and peacekeeping efforts, and by taking additional steps to bring international attention to this conflict.

First, this bill specifically targets individuals in the government as opposed to punishing the coalition government as a whole. It holds Sudanese government officials and Janjaweed officers accountable for genocidal acts. The bill also targets oil revenues of the Sudanese government by denying access to U.S. ports to any ships involved in the Sudanese arms or oil industries. It is important that we force those responsible for the violence to account for their actions and that we prevent the Sudanese government from continuing to profit while thousands are being killed.

Second, the bill increases humanitarian aid to southern Sudan and other marginalized

areas, which are currently under the control of the Sudanese government and thus sanctioned. With this provision, our aid will more efficiently reach those in need, even if they live under the coalition government. In this way, we can hope to protect those who have lost their homes and their livelihoods to the violence of the region.

Third, the bill reinforces the African Union Mission in Sudan (AMIS) in order to protect civilians and carry out humanitarian operations. Currently, the African Union Mission in Sudan consists of only a few thousand troops, and AMIS will require a significant number of supplies and additional troops to effectively carry out its mission. The United Nations Security Council should also consider authorizing a separate, more robust peacekeeping force under U.N. auspices.

I was pleased that the House appropriated \$500 million last month in emergency assistance to southern Sudan and Darfur. I urge the House to adopt this legislation today, which takes important steps to stop the ongoing genocide in Darfur.

Mr. MCGOVERN. Mr. Speaker, I rise in support of H.R. 3127, the Darfur Peace and Accountability Act of 2006. I wish to thank my good friends and colleagues on the House International Relations Committee, in particular Chairman HENRY HYDE and Ranking Member TOM LANTOS. I would also like to thank the honorable gentleman from New Jersey, Representative DONALD PAYNE, for his leadership on Darfur and peace in Sudan, as well as my Massachusetts colleague, and Co-Chair of the Sudan Caucus, Representative MICHAEL CAPUANO.

Mr. Speaker, the genocide in Darfur is an affront to the world, and a challenge to the moral and political leadership of the U.S., the European Union, the NATO Alliance, the African Union, and the international community and its representative body, the United Nations. To date, we have failed, individually and collectively, to rise and meet this challenge.

Every day, the carnage continues.

Every day, villages are destroyed.

Every day, women and girls are raped.

Every day, children are held in servitude.

Every day, the Sudanese government in Khartoum and its terrorist allies, the Janjaweed militias, sit fat and happy, secure in their knowledge that the world is all bark, and no bite—and they continue their pillage and their terror and their violent acts with impunity.

This bill, Mr. Speaker, attempts to hold the Government of Sudan, its leadership and its militia allies accountable for their acts and their crimes.

It is not enough, Mr. Speaker, but it takes important steps to strengthen current sanctions, increase the pressure on Khartoum, demand greater support for the African Union peacekeeping mission (AMIS), and require greater action by the international community, including the U.S., to put an end to the slaughter.

I wish the bill would have required the establishment and enforcement of a no-fly zone over Darfur, but at least it includes a sense of Congress provision in support of the no-fly zone. But I warn you, Mr. Speaker, in the absence of controlling the skies over Darfur, government planes and helicopters will continue to support and protect the terrorist militias as they carry out genocidal acts against the defenseless population.

Mr. Speaker, everyone talks about Darfur. For the past 3 years the world has called what is happening in Darfur genocide. And yet the situation continues, the crisis worsens, the blood continues to flow, smoke still rises over the few remaining villages, refugees from the region pour into overcrowded camps, hunger and famine stalk the refugees, and the conflict spills over into neighboring countries.

We cannot continue to talk about Darfur, yet turn our eyes away.

We cannot continue to talk about Darfur, yet take no actions to stop the killing.

I fear, Mr. Speaker, the peace of the dead.

This is not an African problem, this is a crime against humanity—all humanity—our humanity.

I support H.R. 3127; it is a good step in the right direction; but it is not enough.

We in this Congress; we in this Nation; we in this world have failed to meet the test of Darfur—and we will continue to fail until the killing stops, peace is achieved, and the murderers—and all those who aid and abet them—are held accountable and brought to justice.

I urge my colleagues to support H.R. 3127.

Mr. TANCREDO. Mr. Speaker, I want to begin by thanking Chairman HYDE, Ranking Member LANTOS, Africa Subcommittee Chairman SMITH and my good friend and long time collaborator on Sudan related legislation and issues, DONALD PAYNE of New Jersey.

Mr. Speaker, we all know the numbers: the genocide in Darfur has claimed 400,000 lives and displaced over 2.5 million people. More than 100 people continue to die each day; 5,000 die every month.

Led and supported by their puppet masters in Khartoum, the Janjaweed militia have raped, pillaged, killed and according to this Congress, have committed acts of genocide against Darfur's innocent inhabitants.

Mr. Speaker, despite the efforts of this Congress and the numerous governmental and non-governmental organizations who are active on the ground in Darfur, the situation continues to deteriorate: atrocity crimes are continuing and people are still dying in large numbers from malnutrition and disease.

The humanitarian situation remains catastrophic, due to layers of aid obstruction, the lack of an overall humanitarian strategic plan, and the

weakened state of displaced Sudanese. Refugees and internally displaced civilians (IDPs), a disproportionate number of them women, are in terribly weakened states, subject to sexual abuse and without adequate shelter. The numbers of at-risk civilians continue to increase. And as need far outstrips the ability of agencies to deliver aid, localized famine is feared.

To be perfectly frank, I find it reprehensible, Mr. Speaker; simply reprehensible that the international community has failed to act on the promises made after the Holocaust that never again would genocide occur on this planet.

While I stand here today as a Member of Congress and applaud my colleagues for their efforts, I also stand here outraged that the United Nations and NATO have allowed despicable war criminals in Khartoum, the same criminals that once provided safe harbor to Osama Bin Laden and as of Monday, have denied a senior U.N. official from entering Darfur, to dictate the method by which the international community may respond to acts of genocide.

Despite my sadness Mr. Speaker, despite my outrage, I come to the floor today slightly uplifted over the fact that later today this body will vote on and hopefully pass H.R. 3127, the Darfur Peace and Accountability Act.

As I have stated repeatedly during the various markups of this legislation, the final version of this bill is certainly not what I had hoped for; despite the best efforts of my staff and others, there is no authorization of force language; the sanctions could have been stronger; there was no mention of a no fly zone; the list goes on.

Despite these shortcomings, Chairman HYDE's legislation provides the President with the necessary authorization authority to help alleviate the suffering of the people of Darfur;

It denies entry to U.S. ports to certain cargo ships if the Government of Sudan fails to take specified peace measures in Darfur; prohibits, with waiver authority, U.S. assistance to a country that violates U.N. Security Council Resolutions that prohibit military sales to Sudan; and while the bill provides the President with the authority to direct our Ambassadors to NATO and the U.N. to take various action to stop the genocide in Darfur; and while those Ambassadors have acted accordingly; as I mentioned earlier, both of those organizations have been sluggish and as of now ineffective in taking proactive action to prevent further atrocities.

Mr. Speaker, no matter how stringent this piece of legislation could have been, it would not have ended the killing, the rape and the pillaging that continues to occur in Darfur.

While the President has taken some action to alleviate the suffering of innocent Darfurians, some is simply not enough when a genocide is occurring on our watch.

As I conclude, it is my hope that this piece of legislation sends a signal to Khartoum that this Congress will not stand by idly while the innocent are slaughtered; in addition, I hope the President will increase his pressure on the international community to take decisive action to end the genocide and bring those responsible to justice.

Mr. ENGEL. Mr. Speaker, I rise in strong support of H.R. 3127, The Darfur Peace and Accountability Act of 2006. As the entire world already knows and our Government has already recognized, genocide is today occurring in the Sudanese region of Darfur. Hundreds of thousands of civilians have died and almost 1.5 million displaced by Sudanese government backed militias. It is a shame that much of the world has stood idly by while the slaughter continues and Sudan's vulnerable neighbors are left to cope with the tragedy. Additionally, the perpetrators have not been held to account.

I commend my 162 bi-partisan colleagues who have co-sponsored this important bill. It includes additional targeted economic and diplomatic sanctions against the Sudanese regime and increases support for the African Union Mission in Sudan, AMIS, by offering assistance from NATO.

As privileged citizens of the free world we must be ever vigilant toward those who commit barbaric acts in our world. Unfortunately, our country has a poor record in this respect. Therefore, we must work to ensure that the future generations will not bear this same guilt by acting decisively now. As a cosponsor of The Darfur Peace and Accountability Act, I will continue to work with my colleagues to see that the genocide in Darfur is finally halted and urge the House to pass this important legislation.

Mr. HOLT. Mr. Speaker, I rise today in strong support of the Darfur Peace and Accountability Act, H.R. 3127.

This important bill would block the assets and deny visas and entry to any individual (and family member) responsible for acts of genocide, war crimes, or crimes against humanity in Sudan. H.R. 3127 authorizes support for the African Union peacekeeping mission in Darfur. It prohibits U.S. assistance to a country in violation of U.N. Security Council embargo on military assistance to Sudan. It also urges a Security Council resolution supporting expanding the African Union peacekeeping mission.

For too long the world community turned its back to the ongoing genocide in the Sudan. But the actions of students, religious leaders, and concerned citizens in the United States and around the globe raised awareness about the horrors occurring in Darfur. I want to thank all who shared with me their concern about Darfur in town hall meetings, letters, phone calls, and e-mails over the last three years.

Today the Congress is answering their calls for action. Passing this bill is an all important step to ending the genocide and beginning to hold those who are guilty accountable.

Yet, today there is great suffering in Darfur. The murders continue. The brutal violence still occurs. The rapes persist. People still live in fear. Since 2003, over 200,000 innocent civilians have been slaughtered. More than two million Sudanese civilians are displaced and many live in temporary refugee camps. More disturbing, over three million Sudanese are in need of humanitarian assistance.

The images are stark. The stories are horrifying and sickening. But each one is the picture or story of a single person: a fellow human. We need to remember that we are all bound together in a common existence and a member of the global community. Those who have been slaughtered and those who are suffering in Darfur are family. They are our brothers, they are our sisters. They share the same earth we do and we share a commitment to their safety and wellbeing. My faith, and the faith of many others, says that it is immoral to sit idly by.

Our commitment to end this conflict and to the people of the region must not begin and end today. We must remain focused and dedicated to ending the genocide and healing the wounds of a prolonged civil war. Justice must be served on those who perpetrated these heinous immoral crimes and we must help rebuild and restore the lives of the people who, through the grace of God, survive this hellish civil war.

We, here in Congress, have worked to end this civil war before. We went on record in September of 2004, declaring Darfur a genocide. Just recently, the House approved over \$550 million to pay for additional peacekeepers, increased humanitarian assistance and resettlement of refugees. This money is essential to maintaining the current peacekeeping mission and ease the suffering of those who are displaced.

It is long past time for the United Nations to become involved in Sudan. The UN needs to deploy a robust and sizable international mission to end the genocide and then work to bring peace to the Sudan.

After the systematic genocide of the Holocaust, we said never again. After the horrors of Rwanda and the Kosovo we committed ourselves to preventing genocide before it surfaced elsewhere. Sadly, we are close to adding Darfur to this list.

I call on the President to continue to push this issue with world leaders and push in the United Nations to end the genocide in Darfur and to internationalize the response. I pray that the suffering will soon end, but that we will not soon forget our brothers and sisters in Africa.

Mr. HOYER. Mr. Speaker, the United Nations has identified the situation in Darfur, Sudan, as the worst current humanitarian and human rights statement of crisis in the world. And, the United States has labeled the killings in Darfur as genocide.

History is littered with examples of the international community recognizing the existence of genocide, while at the same time failing to put an end to the murder, rape and dislocation of innocent men, women and children.

Sadly, the case of Sudan is yet another sorry demonstration of the international community's collective lack of will to confront those who would commit such horrific acts of cowardice.

The nations of the world must stop turning a blind eye to the suffering of innocents.

I am pleased that we are considering legislation to provide further assistance to the African Union Mission in Sudan, and to strengthen the arms embargo against the Janjaweed militia.

But we must not delude ourselves: the resolution before us today will not by itself solve the crisis or put an end to the suffering in Sudan.

As recognized in this legislation, the mission of the African Union peacekeepers must be

expanded to allow them to intervene when acts of violence are being committed against innocent Sudanese.

How can we not have learned the lessons of Bosnia, Kosovo and Rwanda, where we watched in horror as troops in blue helmets stood by and witnessed the rape, murder and displacement of thousands?

The humanitarian crisis currently taking place in Sudan is among the most grave the world has seen in the past decade, and at its heart is the genocidal campaign being waged by the Khartoum government.

The most important, immediate step the world can take to stem the violence is to empower the forces already in place to actually protect the people of Darfur.

I urge my colleagues to support this legislation. And, I urge the U.S. Representatives at the United Nations to carry out their mission as directed in this bill to provide to African Union peacekeepers the authority to stop this genocide.

Mr. RANGEL. Mr. Speaker, the Darfur Peace and Accountability Act passed the House today, Wednesday April 5, 2006. This Act calls for action. The specific intent and purpose of this Act must be implemented immediately by the Administration. It is too late for more words on the horrors of Darfur no matter how strong the words. As Nicholas Kristoff in his persistent, piercing Times columns has pointed out that for years, we have said "Never Again, Again." And yet, the slow genocide continues in Darfur. Babies die of hunger and thirst, women suffer a deliberate policy of rape; men are castrated and shot in the head. The starvation, the deaths, the burning of villages, the poisoning of wells, the slaughter of domestic animals on which people depend, the brutal killing of children in front of their mothers continues while the world watches. "Uncover Your Eyes" Mr. Kristoff tells us. "Uncover Your Eyes." (Nicholas D. Kristoff, June 7, 2005).

The killing in Darfur is the first Genocide of the 21st Century. There is only one approach to a genocide: It must be stopped using all necessary means; and those that perpetuate it must be held accountable. There is no excuse for failing to hold accountable those who arm, condone and assist in genocide; most especially the excuse for a failure to hold a government accountable must not be "the war on terror." Those who arm and support the Janjaweed militia as the government in Khartoum continues to do are terrorists. If you doubt it, then uncover your eyes: the Janjaweed seized nine boys from a village called Saleya, stripped them naked, tied them up, cut off their noses and ears, gouged out their eyes and shot them to death before leaving them near a public well. Nearby villagers got the message and fled. Currently rapes take place when women collect firewood. If the men collect the firewood, they are castrated and then shot in the head.

The United States has given a great deal of humanitarian aid to the refuge camps where thousands of people of Darfur live. They cannot go back to their villages. The representatives from the State Department say the starvation and malnutrition rates for these people have slowed since 2004. However, they are unable to feed themselves; if they go back to their villages and try to restore their dwellings and grow crops; they will be killed. There is nothing to indicate the genocide has been

called off. The non-Arab tribes from the Darfur region of Sudan are marked for death because of their tribal membership and the fact that they are non-Arab Africans.

We know what needs to be done. We have the time to do what needs to be done. We have the means, the influence, and the power. What we need is the will and the leadership. First the United States must recognize that if the genocide is to be stopped, the United States will have to stop it. This is a most wonderful opportunity never before presented to a leader or a country. President Bush on behalf of all the compassionate citizens of this country must seize this opportunity.

Second, the State Department with the leadership of the President must recognize that neither the mandate nor the troop strength of the African Union Mission in Sudan (AMIS) is adequate to protect civilians in Darfur. Third, although the United Nations Security Council has taken steps toward establishing a United Nations peacekeeping mission for Darfur, it could take up to a year for such a mission to deploy fully and the people of Darfur cannot wait that long. Therefore, the African Union must request assistance not only from the United Nations but also from NATO. NATO is needed immediately; Pursuant to Chapter VII of the Charter of the United Nations a peacekeeping force for Darfur must be approved. It must be well trained and equipped and have adequate troop strength to protect the people of Darfur and stop the deaths of helpless, unarmed civilians many of whom are under the age of five.

In order to achieve this, President Bush must propose that NATO consider how to implement and enforce a declared no-fly zone in Darfur and deploy troops to Darfur to support to the African Union Mission in Sudan (AMIS) until a United Nations peacekeeping force is fully deployed in the region. President Bush must also approve supplemental funding to support a NATO mission in Darfur and the African Union Mission in Sudan and called upon NATO allies led by the United States to support such a mission and to call upon NATO headquarters staff to begin planning for such a mission.

President Bush has the opportunity that comes once in a presidency and perhaps once in a lifetime. He can save an entire people, their elders, their parents, their children. He can stop the rapes, the maiming of children and women, the acts of barbarism we have shut our eyes to because they are unbearable to look at. I implore President Bush on behalf of his fellow Americans, uncover your eyes and open your heart. Stop the genocide in Darfur.

Ms. SOLIS. Mr. Speaker, I rise in strong support of H.R. 3127, the Darfur Peace and Accountability Act of 2006.

Nearly 2 years ago, I joined my colleagues in Congress to declare the atrocities in Darfur "genocide." Despite this declaration, hundreds of thousands are dead, millions remain displaced and peacekeepers continue to lack needed support. It is clear that additional action is needed and I am pleased to join my colleagues today in supporting passage of the Darfur Peace and Accountability Act of 2006.

The Khartoum government must be held accountable. It is my hope that with this legislation President Bush will exercise the influence of the United States at the United Nations to

garner greater support from the world community to end the crisis in Darfur and bring peace to the Sudanese people.

Mr. MORAN of Virginia. Mr. Speaker, I rise today to support the passage of the Darfur Peace and Accountability Act. This bill reflects the United States' continued commitment to see that the violence ends and a lasting peace is achieved in Darfur.

Darfur has already been acknowledged as the worst human rights tragedy since the 1994 Rwandan genocide. Nowhere else have we recently seen such a massive attack on innocent civilians who are left to suffer in complete isolation, cut off from the rest of the world.

Nearly 400,000 people have already died in Darfur and over two million people continue to live as refugees and internally displaced persons. Thousands of women have been raped and sexually abused and children are left to die from malnutrition, dysentery and infectious diseases.

Mr. Speaker, last month's approval by the House of funding for Sudan is a solid commitment that brings us closer to resolving the crisis in Darfur and helping those in need. But it is not enough. Congress must continue and hold steadfast to the basic principles of freedom and human rights that we stand for and press on until justice is brought to the Darfurians.

Mr. HONDA. Mr. Speaker, I rise today to reiterate my grave concern about the situation in Darfur and to express my support for H.R. 3127, the Darfur Peace and Accountability Act of 2006. International efforts to end the genocide now occurring in Darfur have been lackluster. We should be doing more to intervene on behalf of the thousands of innocent men, women and children in that region. I am hopeful that this legislation will give added momentum to ending that genocide. Authorizing the President to provide assistance to the African Union Mission on the ground through NATO is just one of the ways that we can fight to bring an end to the violence.

In addition to supporting H.R. 3127, there are several other measures that send a message to the Sudanese that the United States cannot accept the current state situation such as supporting H. Res. 675, a resolution expressing disapproval of the Arab League's decision to hold its 2006 summit in Khartoum, Sudan. The resolution calls on the Arab League, the government of Sudan, the Sudanese rebels, and the world community to do all they can to end acts of genocide in the Darfur Region of Sudan.

One of the most effective tools in sending a message to the Sudanese government is divestment. I, along with many colleagues, have requested that the University of California Office of the President develop a plan of divestment from Sudan.

Mr. Speaker, the Sudanese government is in complete denial of their role in supporting genocide and we must act now to send a message that the U.S. will not tolerate this situation—we must pass H.R. 3127.

Mr. SCHIFF. Mr. Speaker, I rise in strong support of H.R. 3128, the Darfur Peace and Accountability Act of 2006.

Three years ago, the United Nations Security Council declared "its grave concern at the widespread human rights violations" in Darfur and "expressed its determination to do everything possible to halt a humanitarian catastrophe." Since then, at least 300,000 people

are estimated to have died in Darfur. Currently, more than 3.5 million Darfurians depend on international aid for survival and another 2 million have been driven from their homes.

In 2004, pressure from Congress and American citizens prompted the Bush Administration to become the first government to recognize the mass killing in Darfur as a genocide. Since then, the U.S. has played an important role by pressing for an international response to the crisis in Darfur at the UN, supporting the deployment and expansion of the African Union Mission in Sudan (AMIS), and providing critical humanitarian aid. Unfortunately, the U.S. and the international community have yet to muster the will or cooperative action necessary to adequately protect civilians, end the killing, and broker lasting peace.

Last week the UN Security Council issued a resolution reaffirming "that the situation in the Sudan continues to constitute a threat to international peace and security." In Darfur large scale attacks on villages have been replaced by rampant banditry, a campaign of sexual violence, and the practical entrapment of civilians in camps. Government backed militias have not been reined in and rebel groups are contributing to violence on the ground. Civilians continue to be attacked, women and girls raped, humanitarian workers harassed, and critical aid supplies disrupted. For people of Darfur, the situation remains one of daily violence and insecurity, desperate living conditions, and the persistent threat of hunger and disease.

Sixty years ago, in the wake of the Holocaust, the international community vowed, "Never again." Ten years ago, confronted with the death toll of the Rwandan genocide, leaders of the same nations again declared, "Never again." Today, tens of thousands of women, men, and children have been murdered and hundreds of thousands continue to suffer in Darfur. The Darfur Peace and Accountability Act reminds the Administration and the international community that the genocide in Darfur demands urgent attention and action, and calls upon the President to use both economic and political leverage to elicit cooperation from the Sudanese government.

Passing the Darfur Peace and Accountability Act is a small, but important demonstration of this nation's commitment to human rights. I hope that passage of this important legislation will spur more concerted national and international efforts to bring security and stability to the people of Darfur.

Mr. PALLONE. Mr. Speaker, I would like to express my strong support for the Darfur Peace and Accountability Act and urge my colleagues to vote for it. This important bill takes critical steps towards ending the genocide in Darfur by authorizing the President to provide assistance to expand the African Union Mission in Sudan while also strengthening sanctions on countries that provide military assistance to Sudan.

The crisis in Darfur, Sudan began in February 2003 when two rebel groups emerged to challenge the National Islamic Front government in Darfur. Since then, over 300,000 people have died and nearly 2 million have been displaced from their homes. It is unfortunate that it took the United States until July of 2004 to recognize that these events in Darfur constituted genocide and it has taken until April of 2006 for the House of Representatives to con-

sider this bill. We have seen far too many times the consequences of ignoring genocide or failing to get involved quickly.

The fact is that while we take a crucial step today, more remains to be accomplished to ensure a lasting peace in the Darfur region of Sudan. Yesterday, in the New York Times, Jan Egeland, the U.N. under-secretary-general for Humanitarian Affairs and Emergency Relief, stated, "Many believe the problems are over in Darfur. They are getting worse." The United States government must continue to work in conjunction with the United Nations and other allies to put pressure on the Sudanese government to allow U.N. peacekeeping forces into the country.

I have introduced legislation expressing disapproval of the Arab League's decision to hold its 2006 summit in Khartoum, Sudan. The world community needs to join us as one in condemning the tragedy in Darfur and pressing the Sudanese government to end it.

Mr. Speaker, the Darfur Peace and Accountability Act is a crucial step towards ending the violence. We need to remember, however, that we have more to do to end this humanitarian crisis. With nearly two million people displaced from their homes and hundreds of thousands dead, resolving this conflict should be a priority for Congress and the Administration. We cannot allow a tragedy of this magnitude to occur in today's world.

Ms. SCHWARTZ of Pennsylvania. Mr. Speaker, since February 2003, it is estimated that the government-sanctioned violence in Darfur has displaced 2 million people, forced 200,000 people into exile and led to the murder of 300,000 civilians. In July 2004, the United States Congress declared the atrocities in Darfur genocide.

Mr. Speaker, I have a deep and personal understanding of the horrors of genocide. My mother, Renee Perl, was forced to flee Austria—alone—at the age of 14 to escape the Holocaust, leaving behind her family and friends.

As my mother fled the Nazis, the world stood by as Hitler sent Jews to their deaths at Auschwitz, Dachau and Treblinka. Six million deaths later, the world pledged "Never Again".

Yet, only years after the Nazi-era, millions were sent to their deaths in places such as Cambodia, Bosnia and Rwanda, and the world once again took too long to act. And today, millions of innocent Darfurian men, women and children are being persecuted by the Sudanese government and government-backed militias. To date, however, the perpetrators of these atrocities have faced little to no punishment for their actions and the genocide continues.

The 20th century taught us how far unbridled evil can and will go when the world fails to confront it. It is time that we heed the lessons of the 20th century and stand up to these murderers. It is time that we end genocide in the 21st century.

The bill we are considering today is an important step in this direction. By imposing direct penalties on those responsible for crimes in Darfur, we are sending a strong message to the Sudanese government. But, more must be done.

The serious crimes by the Sudanese government and the government-supported militias must be met with serious consequences. We must work for tough international economic sanctions on the Sudanese government. We must continue to support efforts to

bring those responsible for crimes against humanity before the International Criminal Court. And, most importantly, we must continue pressing for a strong, international military engagement with a robust mandate to protect civilians in Darfur.

All across America, millions of Americans are demanding that we take action. I urge my colleagues to support this bill and I urge the administration to do all it can to end this genocide.

Mrs. LOWEY. Mr. Speaker, I rise in support of H.R. 3127, the Darfur Peace and Accountability Act. Passage of this bill, which is long overdue, will help fulfill the U.S.'s role in ending the genocide in Sudan.

More than a year and a half ago, Congress voted unanimously to condemn the genocide in Darfur. Then-Secretary of State Colin Powell declared the atrocities in Darfur to be genocide, a statement that was hailed as significant and meaningful coming from the highest echelons of the U.S. government. Despite these clear pronouncements, however, more people die every day and the slow genocide in Darfur persists unabated.

It is beyond imagination that the collective might and concerted will of the nations of the world cannot find a way to end this daily toll of human misery. I hope and pray that Sudan will allow the proposed UN peacekeeping mission to move forward so that we can end this devastation. While we wait, however, we must find ways to make the African Union Mission in Sudan (AMIS) stronger, and to bolster these efforts with a NATO support.

We must also send the message to those who perpetrate genocide that there will be consequences. The Darfur Peace and Accountability Act would impose harsh sanctions against those who are complicit in or responsible for acts of genocide, freezing their assets and restricting their ability to travel, and would block the Government of Sudan's access to the oil revenues used to fund the ongoing genocide.

The bill also properly recognizes that ending the genocide in Darfur is not a challenge to be solved by the United States alone. It provides clear support for efforts to establish a U.N. peacekeeping presence in Darfur and other multilateral initiatives to pressure the Sudanese government to end the genocide.

My colleagues, "Never Again" is a phrase we have all heard before. We have all said it before. It is one of the most powerful expressions of the natural human inclination to stop suffering, to end the death and destruction that stems from senseless hatred and indifference to human life.

Never Again will we let 6,000,000 Jews perish under the noses of the civilized world. Never Again will we let Rwandans be rounded up and indiscriminately killed because of their tribal affiliation. Never Again will we allow ethnic cleansing in the Balkans.

The problem with the phrase "Never Again," however, is that it is usually uttered after the violence is over, as a rallying cry against history repeating itself. We have seen, time and time again, that history does repeat itself, and it is simply not enough to say that we will prevent it next time. We must end the genocide in Darfur now.

The Darfur genocide is not a Sudanese problem or an African problem. It is a human tragedy, and it is ours to solve. If we are serious about "Never Again," let passage of the

Darfur Peace and Accountability Act today be just one step along this long and arduous road.

Mr. SMITH of New Jersey. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. LAHOOD). The question is on the motion offered by the gentleman from New Jersey (Mr. SMITH) that the House suspend the rules and pass the bill, H.R. 3127, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. LANTOS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this question will be postponed.

GENERAL LEAVE

Mr. SMITH of New Jersey. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and include extraneous material on H.R. 3127.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

CONCERNING THE GOVERNMENT OF ROMANIA'S BAN ON INTERCOUNTRY ADOPTIONS AND THE WELFARE OF ORPHANED OR ABANDONED CHILDREN IN ROMANIA

Mr. SMITH of New Jersey. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 578) concerning the Government of Romania's ban on intercountry adoptions and the welfare of orphaned or abandoned children in Romania.

The Clerk read as follows:

H. RES. 578

Whereas following the execution of Romanian President Nicolae Ceausescu in 1989, it was discovered that more than 100,000 underfed, neglected children throughout Romania were living in hundreds of squalid and inhumane institutions;

Whereas United States citizens responded to the dire situation of these children with an outpouring of compassion and assistance to improve conditions in those institutions and to provide for the needs of abandoned children in Romania;

Whereas, between 1990 and 2004, United States citizens adopted more than 8,200 Romanian children, with a similar response from Western Europe;

Whereas the United Nations Children's Fund (UNICEF) reported in March 2005 that more than 9,000 children a year are abandoned in Romania's maternity wards or pediatric hospitals and that child abandonment in Romania in "2003 and 2004 was no different from that occurring 10, 20, or 30 years ago";

Whereas there are approximately 37,000 orphaned or abandoned children in Romania

today living in state institutions, an additional 49,000 living in temporary arrangements, such as foster care, and an unknown number of children living on the streets and in maternity and pediatric hospitals;

Whereas, on December 28, 1994, Romania ratified the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption which recognizes that "intercountry adoption may offer the advantage of a permanent family to a child for whom a suitable family cannot be found in his or her State of origin";

Whereas intercountry adoption offers the hope of a permanent family for children who are orphaned or abandoned by their biological parents;

Whereas UNICEF's official position on intercountry adoption, in pertinent part, states: "For children who cannot be raised by their own families, an appropriate alternative family environment should be sought in preference to institutional care, which should be used only as a last resort and as a temporary measure. Intercountry adoption is one of a range of care options which may be open to children, and for individual children who cannot be placed in a permanent family setting in their countries of origin, it may indeed be the best solution. In each case, the best interests of the individual child must be the guiding principle in making a decision regarding adoption.";

Whereas unsubstantiated allegations have been made about the fate of children adopted from Romania and the qualifications and motives of those who adopt internationally;

Whereas in June 2001, the Romanian Adoption Committee imposed a moratorium on intercountry adoption, but continued to accept new intercountry adoption applications and allowed many such applications to be processed under an exception for extraordinary circumstances;

Whereas on June 21, 2004, the Parliament of Romania enacted Law 272/2004 on "the protection and promotion of the rights of the child," which creates new requirements for declaring a child legally available for adoption;

Whereas on June 21, 2004, the Parliament of Romania enacted Law 273/2004 on adoption, which prohibits intercountry adoption except by a child's biological grandparent or grandparents;

Whereas there is no European Union law or regulation restricting intercountry adoptions to biological grandparents or requiring that restrictive laws be passed as a prerequisite for accession to the European Union;

Whereas the number of Romanian children adopted domestically is far less than the number abandoned and has declined further since enactment of Law 272/2004 and 273/2004 due to new, overly burdensome requirements for adoption;

Whereas prior to enactment of Law 273/2004, 211 intercountry adoption cases were pending with the Government of Romania in which children had been matched with adoptive parents in the United States, and approximately 1,500 cases were pending in which children had been matched with prospective parents in Western Europe; and

Whereas Romanian children, and all children, deserve to be raised in permanent families: Now, therefore, be it

Resolved, That the House of Representatives—

(1) supports the desire of the Government of Romania to improve the standard of care and well-being of children in Romania;

(2) urges the Government of Romania to complete the processing of the intercountry adoption cases which were pending when Law 273/2004 was enacted;

(3) urges the Government of Romania to amend its child welfare and adoption laws to decrease barriers to adoption, both domestically and intercountry, including by allowing intercountry adoption by persons other than biological grandparents;

(4) urges the Secretary of State and the Administrator of the United States Agency for International Development to work collaboratively with the Government of Romania to achieve these ends; and

(5) requests that the European Union and its member States not impede the Government of Romania's efforts to place orphaned or abandoned children in permanent homes in a manner that is consistent with Romania's obligations under the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey (Mr. SMITH) and the gentleman from California (Mr. LANTOS) each will control 20 minutes.

The Chair recognizes the gentleman from New Jersey.

Mr. SMITH of New Jersey. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H. Res. 578 expresses deep disappointment that the Romanian government has instituted a virtual ban on intercountry adoptions with serious implications for the well-being of orphaned and abandoned children in Romania.

Immediately after the December 1989 revolution, Mr. Speaker, which ousted the much-hated dictator Nicolae Ceausescu, the world learned that tens of thousands of underfed, neglected children were living in institutions, called orphanages, throughout Romania. A month after the fall of Ceausescu, Dorothy Taft, who is our deputy chief of staff at the Commission on Security and Cooperation in Europe, and I traveled to Bucharest and visited those orphanages. We also met with government officials and spoke about the hope for democracy in that country. But one of the most lasting impressions that I have from that trip is being in an orphanage in Bucharest, where dozens of children were lined up with no one to turn them, to change their diapers and, in some cases, even to feed them with the frequency that their little bodies required. It left a lasting impression upon me.

Sadly, all these years later, Mr. Speaker, Romania's child abandonment rate that we witnessed firsthand on that trip has not changed significantly over those years. As of December 2005, 76,509 children are currently in the child protection system.

While the Romanian government deserves at least some credit for reducing the number of children living in institutions from 100,000 to 28,000, this is only part of the picture. The government statistics do not include the abandoned infants living for years in maternity and pediatric hospitals, where donations from charities and individuals keep the children alive; and more than 40,000 of the children moved out of the institutions are living in nonpermanent settings or foster care,

or with maternal assistance, paid by the government or with a distant relative who do not intend to adopt them, but do accept them for a stipend.

In the context of Romania's ascension to the European Union, unsubstantiated allegations have been made about the qualifications and motives for those who adopt internationally and the fate of those adopted children.

Intercountry adoption, Mr. Speaker, was falsely equated with child trafficking, and Romania faced relentless pressure to prohibit intercountry adoptions. Sadly, rather than focusing on the best interest of the children, Romanian policymakers acquiesced to the European Union's pressure, especially its rapporteur, Lady Emma Nicholson, by enacting a law in 2004 that banned intercountry adoption, except by biological grandparents. By foreclosing foreign adoptions, the laws codified the misguided proposition that a foster family, or even an institution, is preferable to an adoptive family outside of the child's country of birth.

Between 1990 and 2004, I would note, more than 8,000 Romanian children found permanent families in the United States and thousands more joined families in Western Europe and elsewhere. This possibility is now gone. Some Romanians and Europeans argue that this law, this misguided law, is somehow consistent with Hague Convention on the Intercountry Adoptions and the Rights of the Child Convention. They also allege that "there is little scope, if any, for international adoptions in Romania because there are so few children who are legally adoptable."

Mr. Speaker, the low numbers declared "legally adoptable" is not something to be proud of. It is a contrivance. Indeed, it is a denunciation of the child welfare system, which now places such an unrealistic priority on unification with blood relatives that it is nearly impossible to determine any child is adoptable, no matter how old and how long they have been in state care without contact with the blood relatives.

If more children were made available for adoption, there would be a great need for intercountry adoption. Barely a thousand children have ever been domestically adopted in Romania in any given year. As a result of the new laws, only 333 children were entrusted for domestic adoption last year.

For thousands of children abandoned annually in Romania, domestic or intercountry adoption offered the hope of a life outside of foster care or an institution. That hope has now been dashed and destroyed.

Last September, Mr. Speaker, I chaired a hearing of the Commission on Security and Cooperation in Europe at which Maura Harty, the Deputy Under Secretary of State, rebutted the argument that the adoption ban is somehow consistent with Romania's intercountry international treaty obligations. Likewise, our witnesses, including Dr. Dana Johnson, Director of the

International Adoption Clinic and Neonatology Division at the University of Minnesota's Children's Hospital, testified that Romania's concentration on reunification of an abandoned child with his or her biological family is only superficially consistent with the U.N. Convention on the Rights of the Child.

He also talked about the deleterious effect of such waiting, being held in foster care and especially in institutions, has on a child's mental, as well as their physical health.

When Romania enacted its intercountry adoption ban, there were 211 pending cases in which children have been matched with adoptive parents in the United States. Approximately a thousand more have been matched with parents in Western Europe, Israel and Australia. In the past few weeks there have been unofficial reports that pending applications are being rejected across the board and the dossiers returned to the adoptive parents.

A document from the Romanian Office for Adoption acknowledged that fewer than 300 of these children have been placed in permanent situations, either returned to biological parents or adopted within Romania. The vast majority remain in limbo. This cannot be the last word of what we often call "the pipeline cases."

The Romanian government repeatedly promised to analyze each pending case thoroughly, but the review that has supposedly been done was not transparent, was not done on a case-by-case basis, and was not conducted according to clear and valid criteria that is in the best interest of each individual child. These cases involve prospective families who have proven their good faith, by waiting for years for these children. Many cases involve children who will not be domestically adopted due to their special needs, medical or societal prejudices.

In at least three cases, Mr. Speaker, children are already living in the United States with their prospective adoptive parents while receiving life-saving medical treatment, including a child with spina bifida. These children were legally adoptable until Romania's new law took effect.

Let me say that when I introduced this resolution in November, I asked the question, who in the European Union will stand with Members of our Congress, to protect these defenseless children?

Today I am happy to say, members of the European Parliament are challenging the anti-adoption monopoly over this issue and that is encouraging. On December 15, the European Parliament urged Romania to act in the pending cases with the goal of allowing intercountry adoptions to take place where justified and appropriate. In March, the European Parliament's rapporteur for Romania's EU accession, Mr. Pierre Moscovici, reported that he notably differs on the issue of international adoption of Romanian

children from the previous rapporteur, Baroness Emma Nicholson, whose virulent anti-adoption views that hurt the children of Romania are now very, very well known.

I applaud the European Parliament and I am glad that our parliament, this Congress, is poised to go on record very strongly in trying to resolve these pipeline cases.

Mr. Speaker, I reserve the balance of my time.

Mr. LANTOS. Mr. Speaker, I rise in strong support of this resolution and yield myself such time as I may consume.

Mr. Speaker, it is remarkable that more than 15 years after the fall of the Berlin Wall we are still dealing with the vestiges of failed experiments in totalitarian social engineering.

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One of these cases is the shocking situation of children in Romania in orphanages. For many years, the dictator of Romania, Nicolae Ceausescu, had a policy of encouraging population growth to enhance the country's international importance. He encouraged parents to have large numbers of children, but the economic and social conditions in Romania made it impossible to support large families. As a result, many parents were forced to abandon their children to state-run institutions that were grossly underfunded and understaffed.

My wife, Annette, and I visited a large number of these Romanian orphanages, and what we saw was worse than pathetic. Many children spent long periods of time in miserable conditions that stunted their development and left them detached from the society at large.

Upon the discovery of the large number of Romanian orphans, people from around the world, particularly in the United States, opened up their hearts and proceeded to try to adopt Romanian orphans. In 1990, 121 Romanian children were adopted by American parents. A decade later, the number had increased tenfold.

Because of a new Romanian law, Mr. Speaker, last year this number shrank to zero, and the hundreds of U.S. couples who had already been approved for international adoption were caught up in the change of law that did not allow those adoptions already in the pipeline to go forward. Their dream of having children and creating a family has been devastated.

No one doubts that there have been serious problems regarding the international adoption situation in Romania since the earlier 1990s. Exorbitant fees and false medical information, in some cases, have blazed across the media, and the Romanian moratorium on international adoptions that was instituted in 2001 may well have been a wise move, although children in mid-process were caused needless suffering.

Rather than creating a pause and developing a new system, Romania has

instituted a new law that virtually prohibits international adoptions. Clearly, we all support children remaining in their home countries, being integrated into their own societies. However, where there are not enough willing parents, international adoption is one way to address the best needs of the orphan child.

I am very pleased, Mr. Speaker, that our Department of State has taken a strong interest in this matter and that they are pushing the Romanians, at a minimum, to deal with American citizens whose petitions were in mid-process. I also support their efforts to clarify the European Union's role in this new law, since the Romanian government has suggested that the new approach is based on accession talks with the European Union.

Mr. Speaker, let me say that in the next year the United States will become a party to The Hague Convention on Inter-Country Adoptions. This will work to ensure that all countries avoid the abuses that led Romania to close their adoptions in the first place.

I urge all of my colleagues to support our carefully crafted resolution.

Mr. Speaker, I yield back the balance of our time.

Mr. SMITH of New Jersey. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from New Hampshire (Mr. BRADLEY), who has several cases in his own district that he has been advocating for.

Mr. BRADLEY of New Hampshire. Mr. Speaker, I would like to first start out by congratulating my friend, the gentleman from New Jersey (Mr. SMITH), as well as the bipartisan support from Mr. LANTOS on this effort, and certainly their leadership in trying to resolve this issue. While it only affects a couple of hundred American families right now, for those families that it does affect, it is a profound issue in their lives.

As I think Mr. LANTOS has very eloquently summarized, as has Mr. SMITH, the large implications of the cases, I would like to bring it down to what it means to an individual family, that family in New Hampshire being Allison and Mike Schaaf of Stratham.

They have adopted a Romanian child. They have provided that child with a loving home, a home that would not have been possible for that young man, Hunter, to have been able to have had in Romania, where there were some 100,000 orphans living in orphanages, and the Schaafs and a number of other people in my district have done that.

As a result of the success that they had and the ability to be able to bring this child to the United States and provide him a loving home, they wanted to have a second Romanian baby that they adopted, and in the course of going through the paperwork and getting the final approval, all of which were in place, the Romanian government changed their laws, which is understandable given the fact that they wanted to become a member of the European Union.

What we are advocating and what this resolution would help us do is, once again, remind the Romanian government that for those cases that were previously approved and for everything, except actually releasing the orphans to their American parents when this law changed, that in fact the Romanian government should follow through on that commitment for those 200 or so American families that have gotten all of their paperwork approved and the cases all but resolved except for this law.

It is my hope that the European Union and the leaders of the European Union are going to recognize the legitimacy of the claims of the 200 or so American families and perhaps as many as 2,000 other European families and resolve these cases that have been previously approved for the benefit of families in this country, like Allison and Mike Schaaf, who provided such loving, kind and warm homes.

I once again thank the bipartisan sponsors, Mr. LANTOS and Mr. SMITH, for their continued advocacy on this and look forward to continuing to work with you to try to resolve this situation, and I thank you again.

Mr. SMITH of New Jersey. Mr. Speaker, I thank the gentleman very much and his work on behalf of his constituents.

GENERAL LEAVE

Mr. SMITH of New Jersey. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and include extraneous material on the resolution under consideration.

The SPEAKER pro tempore (Mr. HAYES). Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. SMITH of New Jersey. Mr. Speaker, I yield myself such time as I may consume.

In closing, I want again to thank Chairman HYDE and Ranking Member LANTOS for their tremendous support for this resolution and the underlying issue of trying to encourage inter-country adoption in a country, Romania, that has now, in a misguided fashion, turned their back on those children who could find loving, durable homes with the adoption option.

Let me also thank so many other people who were a part of this, but especially Maureen Walsh, who is our General Counsel for the Commission on Security and Cooperation in Europe, for her extraordinary expertise and work on the issue and this resolution. We have had an ongoing process, contacting the highest levels of the government of Romania, from the President on down. It has been ongoing. It has been frequent.

Our hearing that BEN CARDIN and I put on last year I think brought all of these issues to the fore in a way that were very persuasive on the part of the pipeline families, as well as the issue itself. The intercountry adoption is a

loving, compassionate option, and certainly is far better than languishing in an orphanage somewhere where the child is warehoused.

Mr. Speaker, so we call upon the Romanian government again to reverse its position, to cease its mucking under Lady Nicholson's pressure, which is now going into reverse. The European Union, as I said before, is showing clear signs that it concludes it has made a profound mistake.

I want to thank Mr. CARDIN, who is our ranking member on the Commission on Security and Cooperation in Europe, who has been working on these issues side by side.

Mr. MORAN of Virginia. Mr. Speaker, I rise today in strong support of H. Res. 578 encouraging the nation of Romania to complete the processing of intercountry adoption cases that have already begun, and to amend its laws to decrease this and other barriers to adoption.

The statistics regarding abandoned children in Romania are shocking: 9,000 children are abandoned by Romania's maternity wards and pediatric hospitals every year; 37,000 remain in adoption institutions; and 49,000 more live in foster care or with their extended families. These children deserve every possible opportunity to be raised in loving, permanent families, and many such opportunities are available outside of their home nation. Romania's current laws are detrimental not only to these children, but to the American families that are ready and willing to welcome them into their homes.

Since June 2004, one of these children, Otilia Rotaru, has lived in Falls Church, Virginia with Scott and Lisa Lampman, two of my constituents. Otilia was born with a form of cerebral palsy known as Spastic Diplegia, preventing her from walking independently and causing her significant visual impairment in her right eye. She was abandoned by her biological parents soon after her birth in 1996, and was placed with a foster family who abandoned her in 2003.

Otilia received permission to come to the United States in 2004 for medical treatment, and after surgery and rehabilitation, she can now walk with the assistance of a walker. The Lampmans continue to provide love, physical care and financial support for Otilia, who attends 3rd grade at the local elementary school, has joined the local Brownie Troop, and is taking swimming lessons at the local pool.

Despite living in a loving, well adjusted home, the Lampmans' petition to adopt Otilia was rejected by the Romanian Government because their petition was filed after the appropriate deadline for international adoption. If returned to Romania, Otilia would be returned to an institution, with no family and no access to the medical treatment that will one day allow her to walk independently for the first time.

Mr. Speaker, we must give Otilia and the thousands of children like her the opportunity to grow up in a loving, caring, stable home, whether that home is in Romania or here in the United States. I strongly encourage my colleagues to support H. Res. 578 and ask the Romanian Government to open their adoption laws and provide such opportunities to these children.

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I rise today in support of the thousands of

children currently overflowing Romania's orphanages and hospitals, hopefully awaiting the chance to find a permanent home. Today there are over 1,000 pending adoption cases that have been left in limbo as a result of Romania's ban on inter-country adoptions. Right now, parents in the U.S. and EU are separated from their children, left wondering if they will ever be able to bring them home.

I have to admit I find it difficult to understand the rationale behind Romania's ban on inter-country adoptions. No one denies the importance and significant advantage permanency brings to a child's life. In fact, in its interpretation of the Convention on the Rights of the Child in January 2004, UNICEF clarified the importance of permanent placement for children and its support for intercountry adoption. Yet, permanency for children is precisely what the Romanian government has taken away.

I am pleased to join my colleagues in supporting this important and timely resolution. The United States stands with Romania's children. I hope our colleagues in the European Union will also assert their support for the welfare of Romanian children, and that the Romanian government will reconsider this oppressive ban and expedite the pending adoption cases.

Mr. Speaker, we do not have time to waste. These families should not have to wait any longer. I urge my colleagues to let the Romanian children know we stand with them, and pass H. Res. 578.

Mrs. NORTHUP. Mr. Speaker, I rise today in support of H. Res. 578 concerning the Government of Romania's ban on intercountry adoptions and the welfare of orphaned or abandoned children in Romania and throughout the world. I would like to thank the Co-Chairman of the Commission on Security and Cooperation in Europe (Helsinki Commission), Representative CHRIS SMITH, for continuing to raise this issue of adoption as part of the Commission's human rights portfolio.

As the case in Romania has shown us, the barriers to adoption for children and families continue to be great. These barriers are cultural, political and often have deep roots in a community. While some of these barriers will continue to be difficult to cross, I believe others can be overcome succinctly as part of a continuing dialogue on child welfare between the United States and the European Union (EU) and nations such as Romania. In this particular case, I am saddened that one Member of the European Parliament can hold so much sway over a country on important child welfare issues and successfully play on the fears of a nation that is trying to become a participant in the enormous social and economic opportunities offered by the EU.

For signatories of the Hague Convention on Intercountry Adoption, including the United States, Romania and current Members of the EU, there is supposed to be a formal international and intergovernmental recognition of intercountry adoption. Intercountry adoption, as defined and treated by the Convention, is a means of offering the advantage of a permanent family to a child for whom a suitable family has not been found in the child's country of origin.

However, Romania turned from its obligations under the treaty when they enacted a law in 2004 effectively banning intercountry adoption and limiting any domestic adoption.

Of course, it is in Romania's authority to enact such laws. But as Members of the United States Congress, acting in the best interests of our own children and as a Nation committed to fighting for all human dignity, we shall continue to advocate for the placement of children in permanent homes. Furthermore, as long as there are thousands of families in the U.S. wishing to adopt and to give a child a loving home that would otherwise not have one, I will continue to take every opportunity to explain to our counterparts abroad why this is such an important cause—for our children and for the health of our nations. There is simply no greater gift than a home and no greater support network than a family.

Meanwhile, there are currently 37,000 children in orphanages in Romania and an estimated 49,000 living in temporary arrangements, such as foster care. These numbers are staggering. This is an entire generation of young people who will not have the support of a parent to excel in school, the comfort of a family when sick or in need, and more fundamentally, the love and care essential to the development of a child.

It is not just Americans that advocate for lowering barriers to adoption. Citizens of several European countries and Israel had a number of pipeline adoption cases that were pending when the moratorium was instilled in 2001. The U.S. is also a sender country of American orphans, something that people often forget. Last December, the European Parliament voted unanimously on an amendment to their Report on the Extent of Romania's Readiness for Accession to the European Union in favor of the completion of all the pending international adoption cases in Romania. Additionally, according to UNICEF:

For children who cannot be raised by their own families, an appropriate alternative family environment should be sought in preference to institutional care which should be used only as a last resort and as a temporary measure, until the child can return to the family environment.

I am disheartened by the actions so far of Romania in failing to complete the pipeline adoption cases which would have resulted in placing over 1,000 orphans with permanent, loving homes abroad. I hope that as we face more of these challenges and political barriers down the road which directly impact children, we will work together to get past those barriers which are artificial.

Mr. Speaker, I will conclude by respectfully requesting that this body continue to engage in a dialogue with our allies and colleagues abroad on the importance of adoption, both domestic and international, as a preferable alternative to institutional care.

Thank you.

Mr. SMITH of New Jersey. Mr. Speaker, I yield back the balance of our time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. SMITH) that the House suspend the rules and agree to the resolution, H. Res. 578.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. LANTOS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this question will be postponed.

CALLING ON VIETNAM TO IMMEDIATELY AND UNCONDITIONALLY RELEASE DR. PHAM HONG SON AND OTHER POLITICAL PRISONERS AND PRISONERS OF CONSCIENCE

Mr. SMITH of New Jersey. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 320) calling on the Government of the Socialist Republic of Vietnam to immediately and unconditionally release Dr. Pham Hong Son and other political prisoners and prisoners of conscience, and for other purposes, as amended.

The Clerk read as follows:

H. CON. RES. 320

Whereas in March 2002, Dr. Pham Hong Son was arrested after he had translated an article entitled "What is Democracy?" from the Web site of the United States Embassy in Vietnam and sent it to both friends and senior party officials;

Whereas Dr. Son has written and published on the Internet articles entitled "The Promotion of Democracy: A Key Focus in a New World Order", "Sovereignty and Human Rights: The Search for Reconciliation", and "Hopeful Signs for Democracy in Viet Nam";

Whereas in none of his activities did Dr. Son advocate violence in his opposition to the Vietnamese Government or its policies;

Whereas Dr. Son has been arrested for the peaceful exercise of his fundamental rights to freedom of expression and association in violation of Article 69 of the Vietnamese Constitution which states: "The citizen shall enjoy freedom of opinion and speech, freedom of the press, the right to be informed and the right to assemble, form associations and hold demonstrations in accordance with the provisions of the law";

Whereas Dr. Son has been arrested, tried, convicted, and imprisoned in contravention of the rights enshrined in the International Covenant on Civil and Political Rights (ICCPR) to which Vietnam is a state party, specifically Article 19 (freedom of expression) and Article 22 (freedom of association);

Whereas Dr. Son did not have a trial that would be considered fair and that met even the most basic standards of internationally accepted justice, in contravention of Article 14 (right to a fair trial) of the ICCPR;

Whereas Dr. Son was sentenced in June 2003, after a half-day closed trial in Hanoi, to 13 years of imprisonment and three years of house arrest on spurious espionage charges;

Whereas such spurious charges are routinely used to suppress peaceful democracy activists, as in the notorious cases of Father Thadeus Nguyen Van Ly, his two nephews and niece, and in the cases of Pham Que Duong, Tran Khue, and Tran Dung Tien;

Whereas Dr. Son's appeal was held on August 26, 2003, in a closed trial before Vietnam's Supreme Court, from which international observers and Western journalists were barred, although diplomats from more than eight countries gathered outside the courthouse during the trial to register their concern;

Whereas, although the Vietnamese Supreme Court upheld Dr. Son's sentence, it reduced the sentence of imprisonment from 13 to five years;

Whereas Dr. Son remains imprisoned in harsh conditions, including imprisonment for more than a year in solitary confinement, which have endangered his health;

Whereas Vietnam has imprisoned, detained, placed under house arrest, or otherwise restricted numerous other peaceful democratic and religious activists for reasons related to their political or religious views, such as Do Van My, Mai Thi Dung, Nguyen Thanh Phong, Nguyen Thi Ha, Nguyen Van Dien, Nguyen Vu Binh, Phan Van Ban, To Van Manh, Vo Van Buu, Vo Van Thanh Liem (Nam Liem), Bui Thien Hue, Nguyen Lap Ma, Nguyen Nhat Thong, Nguyen Van Ly, Phan Van Loi, Thich Dong Tho, Thich Huyen Quang, Thich Nguyen Ly, Thich Nguyen Vuong, Thich Phuoc An, Thich Quang Do, Thich Tam Lien, Thich Thai Hoa, Thich Thanh Huyen, Thich Tien Hanh, Thich Tue Sy, Thich Vien Dinh, Ngo Van Ninh, Le Van Chuong, Le Van Tinh, Phuong Van Kiem, Nguyen Van Si, Tran Van Thien, Thich Thien Tam, Hoang Chinh Minh, and Do Nam Hai (Phuong Nam);

Whereas Dr. Son and other political prisoners and prisoners of conscience have been deprived of their basic human rights by being denied their ability to exercise freedom of opinion and expression;

Whereas the arbitrary imprisonment and the violation of the human rights of citizens of Vietnam are sources of continuing, grave concern to Congress;

Whereas Vietnam continues to restrict access to Western diplomats, journalists, and humanitarian organizations to the Central Highlands and the Northwest Highlands, where there are credible reports that ethnic minorities suffer serious violations of their human and civil rights, including property rights, and ongoing restrictions on religious activities, including forced conversions;

Whereas there are continuing and well-founded concerns about forcibly repatriated Montagnard refugees, access to whom is restricted;

Whereas on December 1, 2005, the European Parliament adopted a resolution calling on the Vietnamese authorities, among other measures, to undertake political and institutional reforms leading to democracy and the rule of law, starting by allowing a multi-party system and guaranteeing the right of all currents of opinion to express their views;

Whereas the resolution further calls on Vietnamese authorities to end all forms of repression against members of the Unified Buddhist Church of Vietnam and officially recognize its existence and that of other non-recognized Churches in the country;

Whereas the resolution further calls on Vietnamese authorities to release all Vietnamese political prisoners and prisoners of conscience detained for having legitimately and peacefully exercised their rights to freedom of opinion, expression, the press, and religion;

Whereas the resolution further calls on Vietnamese authorities to guarantee full enjoyment of the fundamental rights enshrined in the Vietnamese Constitution and the International Covenant on Civil and Political Rights, in particular by allowing the creation of a genuinely free press; and

Whereas the resolution further calls on Vietnamese authorities to ensure the safe repatriation, under the Cambodia-Vietnam-UNHCR Agreement, of the Montagnards who fled Vietnam, and allow proper monitoring of the situation of the returnees by the UNHCR and international nongovernmental organizations: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That—

(1) Congress—

(A) condemns and deprecates the arbitrary detention of Dr. Pham Hong Son by the Gov-

ernment of the Socialist Republic of Vietnam and calls for his immediate and unconditional release, and for the immediate and unconditional release of all other political prisoners;

(B) condemns and deprecates the violations of freedom of speech, religion, movement, association, and the lack of due process afforded to individuals in Vietnam;

(C) strongly urges the Government of Vietnam to consider the implications of its actions for the broader relationship between the United States and Vietnam;

(D) urges the Government of Vietnam to allow unfettered access to the Central Highlands and to the Northwest Highlands by foreign diplomats, the international press, and nongovernmental organizations; and

(E) applauds the European Parliament for its resolution of December 1, 2005, regarding human rights in Vietnam, and urges the Government of Vietnam to comply with the terms of the resolution; and

(2) it is the sense of Congress that the United States should—

(A) make the immediate release of Dr. Pham Hong Son a top concern;

(B) continue to urge the Government of Vietnam to comply with internationally recognized standards for basic freedoms and human rights;

(C) make clear to the Government of Vietnam that it must adhere to the rule of law and respect the freedom of the press in order to broaden its relations with the United States;

(D) make clear to the Government of Vietnam that the detention of Dr. Son and other persons and the infliction of human rights violations on these individuals are not in the interest of Vietnam because they create obstacles to improved bilateral relations and cooperation with the United States; and

(E) reiterate the deep concern of the United States regarding the continued imprisonment of Dr. Son and other persons whose human rights are being violated and discuss the legal status and immediate humanitarian needs of such individuals with the Government of Vietnam.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey (Mr. SMITH) and the gentleman from California (Mr. LANTOS) each will control 20 minutes.

The Chair recognizes the gentleman from New Jersey.

Mr. SMITH of New Jersey. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am proud to present this bill to my colleagues today in defense of a man who has fought for democracy in Vietnam at great personal cost. There has been a tremendous amount of publicity lately about Internet dissidents in China. As a matter of fact, we had a day-long hearing on this use of the Internet to capture and to really decapitate the dissidents and religious freedom movements in China, in Vietnam and Belarus and in other countries, but we now focus on one particular man, as well as others who have suffered because of that, in the case of Dr. Pham Hong Son of Vietnam.

In March 2002, Mr. Speaker, police arrested Dr. Son. He had translated an article from the Web site of the U.S. Embassy Hanoi that was entitled, "What is democracy?" and he sent it to some of his friends and senior Vietnamese officials. In addition, he had

written an open letter, published on the Internet, protesting the fact that his house had been searched illegally and his computer and documents confiscated.

Dr. Son was charged with espionage by the government, which accused him of collecting and dispatching news and documents for a foreign country to be used against the Socialist State of Vietnam. Let us not forget who that foreign country is. It is us. It is the U.S. Embassy's Web site in Hanoi, and that is where he went to download that essay, "What is democracy?"

After a closed trial and a closed appeal, from which Western reporters and diplomats from Europe, the United States and Canada were barred, Dr. Son was sentenced to 5 years, plus an additional 3 years of house arrest.

Dr. Son's case has been highlighted repeatedly by the U.S. Department of State's Human Rights Report for Vietnam and by Human Rights Watch, Reporters without Borders, the Committee to Protect Journalists, and Amnesty International.

Mr. Speaker, I went to Vietnam last year, accompanied by Eleanor Nagy, who is our Director of Policy on the Subcommittee on Africa, Global Human Rights and International Operations, and met with some 60 dissidents in the course of the better part of a week in Hanoi, Hue and in Ho Chi Minh City. We met with Dr. Son's extraordinary and courageous wife, Vu Thuy Ha, who continues to campaign for her husband's freedom despite constant surveillance and harassment, which I personally witnessed. I knew that we could not let this brave woman battle alone.

As a matter of fact, when Eleanor and I, along with some people from the embassy, sat with his wife, right across from us at a hotel were some thugs from the secret police who were taking pictures of her and trying to intimidate her, which they have been doing day in and day out.

The State Department, to its credit, put Dr. Son at the head of their list of political prisoners who need to be released during the February Human Rights Dialogue with Vietnam. As Assistant Secretary of State for Democracy, Barry Lowenkron told the Vietnamese, and this is his quote, "I bluntly told them that the American people will not understand why a country that wants to have better relations with us would imprison someone for translating an article on democracy."

On Friday March 31, Vietnam flatly rejected Lowenkron's call to release Dr. Son and 20 other religious and political prisoners, saying it only jails criminals. In Vietnam, they said, there are no prisoners of conscience, and no one has been arrested for their viewpoints or their religion.

That is unmitigated nonsense and a big lie, Mr. Speaker, and that has to be confronted by this Congress.

Less than a day after the unanimous subcommittee markup of this resolu-

tion on December 9, plainclothes officers detained two other well-known Internet writers, Do Nam Hai, whom I met with in Vietnam and who is mentioned in our resolution. They were at a public Internet cafe. The police also forced Hai to open his personal e-mail account and printed about 30 of his sent messages.

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The two writers were interrogated for 6 hours at the cafe and later at a police station in Hanoi. Both were released from police custody that day.

And the persecution continues, Mr. Speaker. On March 12, according to Reporters Without Borders, an Internet user calling himself "Freedom For the Country," joined the discussion group "Democracy and Freedom the Only Way for Vietnam." He went on-line in a Hanoi cyber cafe, and he discussed politics for about half an hour with two other people in the group. During the discussion, he said he was a member of a pro-democracy working group. The entire on-line conversation was recorded by the forum administrator, police entered the cyber cafe, and they arrested him.

On the recording, someone could be heard asking the Internet user to go with them, and then someone else shouting, hit him. The administrator continued recording after the police intervention, and no one came to disconnect the computer linked to Pal Talk. Afterwards, a man's voice is heard on the microphone introducing himself as the cyber cafe's owner and confirming that one of his customers had been taken away by the police. He added that he had been fined for violating Internet law. The Vietnamese denied the arrest, and the victim's identity is unknown. He joins three other cyber dissidents who were arrested in October and whose whereabouts remain unknown.

This sort of persecution, Mr. Speaker, will obviously not go away by itself. But tyranny hates and fears public exposure, and we need to keep attention focused on Vietnam's continuing violation of the rights that it claims to grant to its people.

Vietnam is at a critical crossroads. It wants to expand its burgeoning trade relations with the United States and seeks to join the WTO. There would be no better way to convince Vietnam of the seriousness of our human rights concerns and their centrality in any relation with the U.S. It seems to me you can't trust a country on intellectual property rights and copyright infringement if they jail, incarcerate, and beat their own people because they simply espouse basic fundamental human rights.

The European Parliament, I might add, has already passed a resolution calling for Vietnam to release all of its prisoners of conscience, allowing democracy and political pluralism and ensuring the human rights for Vietnam's Montagnards. It is appropriate

that we do likewise and that we do it today.

Mr. Speaker, I reserve the balance of my time.

Mr. LANTOS. Mr. Speaker, I rise in strong support of this resolution, and I yield myself such time as I may consume.

I would first like to commend my very good friend and distinguished colleague from New Jersey, Congressman CHRIS SMITH, for introducing this important resolution and for his unique, dogged pursuit of Vietnamese human rights issues.

None of us here today should be under any illusions about the Vietnamese government. According to the State Department's Human Rights Report, the Vietnamese government is an unrepentant authoritarian regime, and true political opposition is not allowed. Freedom of expression does not exist in Vietnam, and Vietnamese are locked in prison for simply expressing political opinions.

In the case which is the focus of this resolution, the Vietnamese government has even imprisoned someone from translating into Vietnamese an article entitled "What is Democracy," from the U.S. embassy Web site in Hanoi. It boggles the mind, Mr. Speaker, that the Vietnamese government is so fearful of dissent that it won't even allow citizens to discuss, let alone implement, meaningful democracy.

The Vietnamese government also places severe restrictions on the expression of religious beliefs, particularly upon Buddhists, who do not worship as part of the official church, and upon Christians in the Vietnamese highlands.

With the approval of the U.S.-Vietnam Bilateral Trade Agreement 5 years ago, the political security and economic relationship between the United States and Vietnam has become increasingly more complex, but we must continue to send a strong signal to Hanoi that the United States continues to make it a top priority to promote internationally recognized human rights everywhere, including Vietnam.

Passage of our resolution will indicate to the administration and to the government of Vietnam that we in Congress expect to see real progress on the human rights front in Vietnam, and that we have not forgotten those Vietnamese who are being persecuted for their beliefs.

Mr. Speaker, I urge all of my colleagues to support this carefully crafted resolution.

Mr. Speaker, I am pleased to yield 3 minutes to my good friend and distinguished colleague from California, Congresswoman LORETTA SANCHEZ.

Ms. LORETTA SANCHEZ of California. Mr. Speaker, I rise today in support of a dangerous man. In Vietnam, Dr. Pham Hong Son is considered a criminal, a man who must be silenced and incarcerated for the good of society.

Is Dr. Pham a violent man, a terrorist, perhaps? Does he advocate the

violent overthrow of his government? No, absolutely not. Dr. Pham is a dangerous man not because of his dangerous actions, but because of his dangerous ideas. Dr. Pham's great crime was to translate articles on democracy into Vietnamese and to write and publish his own articles about democracy and human rights in Vietnam.

Dr. Pham's case is typical of how the government of Vietnam deals with voices of peaceful and patriotic dissent. A case in point is a personal one for me. I was scheduled next week to go to Vietnam. I was interested in talking with their government about issues of human rights and religious freedom, issues that are very important to the people of Orange County, California. Unfortunately, I was informed last night that my visa application was denied by the Vietnamese government for the third time in 2 years, despite the fact that we have welcomed their dignitaries to the United States and that I was personally invited by Madam Ninh, the Vice Chair of the Committee of Foreign Affairs of the Vietnamese National Assembly.

Some of my colleagues continue to push for closer ties with Vietnam through trade relations and military partnerships and other forms of non-humanitarian cooperation and assistance. We, as a Congress, will be asked in the coming months to decide on issues fundamental to the nature of our relationship with Vietnam. Supporting this concurrent resolution today is an important step in the right direction, but I would also ask my colleagues to keep Dr. Pham and others like him in our minds for the future.

Vietnam's actions against its own patriots demonstrate that they are not ready yet to be full partners with the United States. The United States must live by our own professed values, our true values, and we must do everything we can do to protect the human rights of the people of Vietnam.

Mr. LANTOS. Mr. Speaker, I am pleased to yield 3 minutes to our distinguished colleague, my good friend from Texas, Congresswoman SHEILA JACKSON-LEE.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank Mr. LANTOS. Again, I express my appreciation to Mr. SMITH, and I express my appreciation to Congresswoman SANCHEZ, who has been a strong stalwart of vocalizing the inconsistencies with the image of Vietnam, a united country, and the reality.

And let me express my personal outrage that Members of Congress extend themselves to a foreign land to be able to be a fact-finder, to find out information, to share that with their constituents; that foreign governments who are welcomed into the United States would be so arrogant as to deny a visa so that information could be written.

I have a personal story, of course, which I did not mention previously in the same way of attempting to visit the Sudan and going through the normal channels and finding that visas

would not be rendered. And they have done that to Members of Congress who are there doing the work of the American people. So to the Vietnamese government, we know what you are and what you are doing.

This is an important resolution that establishes the importance of human rights and dignity in Vietnam. Although the war is behind us, we realize that the Vietnamese people in the United States love democracy. They fled the country because they love democracy, but they want democracy for the existing Vietnam.

The plight of Dr. Pham and many, many others that are now being detained is a poor story, a poor assessment of the outright rejection of human rights and freedom of expression that should be the call of this Nation that claims that it wants to be part of the world human family. So I call upon this issue to be addressed not only by this resolution, which I enthusiastically support, and I thank the authors of this bill, but also for the United Nations to get in gear and get a grip.

The Human Rights Council, Mr. LANTOS, as you well know, has been revised just recently with some difficulty and opposition from the American government because it was a little less strong, if you will, a little less in great depth than we would have wanted it to be, where we could have prevented some of the more heinous actors against human rights from even being on this council. But it is a first step.

Now is the time for the United Nations, along with this resolution, to show itself truly committed to human rights. Do something about the Sudan. Do something about Vietnam. This is not to suggest that we don't want a thriving economy. For years, I voted against the Jackson amendment that deals with trade in Vietnam. Why? Not because I am against Vietnam, Mr. Speaker, but because I want human dignity and human rights.

So I rise in support of this resolution, H. Con. Res. 320, but I am asking that as we put forward this resolution, that institutions that deal with human rights wake up and smell the coffee or the tea and begin to address these questions in a forthright way.

And let me close by simply saying that there is a whole mountain of people that are being detained and their human rights violated. Can we suffer this indignity? I ask that this resolution be supported, and I ask the United Nations to do its job.

GENERAL LEAVE

Mr. SMITH of New Jersey. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and include extraneous material on the resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. SMITH of New Jersey. Mr. Speaker, I would close by especially

thanking Dennis Curry, Eleanor Nagy, and Dan Freeman, our staff who have worked so hard on this resolution. The hearing that we held recently was a very insightful hearing that focused on the ongoing and persistent violations of fundamental human rights in Vietnam. Last year, right before Prime Minister Khai came to the United States, we held another Vietnam human rights hearing, and it was very telling.

We can't reduce human rights to an asterisk or a "see page 3" footnote in our relationship with the government of Vietnam. I would urge every Member, when and if they travel to Vietnam, that they prepare themselves by really understanding the nature of this government. Yes, there may be some modest progress being made in the area of religious freedom, and I underscore the word "modest," but they still are a country of particular concern, so designated by the Department of State because of their egregious violations of religious freedom and the persecution of people, whether they be members of the Montagnards, the Evangelical Christians, or the Unified Buddhist Church, people like the Venerable Thich Quang Do, whom I met with.

Let me say finally that I met with the Venerable Thich Quang Do in his pagoda, as he is under house arrest. When we began to leave, all of a sudden he stopped, and he said, "I take one step beyond this and the guys across the street will have me in handcuffs." That is the reality of what is going on in Vietnam today. I would hope Members, before they go to Hanoi or Ho Chi Minh City, acquaint themselves very thoroughly with the human rights abuses the Vietnamese commit and raise those issues, particularly as it relates to trade.

Mr. TOM DAVIS of Virginia. Mr. Speaker, I rise today in support of H. Con. Res. 320, calling on the Government of the Socialist Republic of Vietnam to immediately and unconditionally release Dr. Pham Hong Son and other political prisoners and prisoners of conscience.

The Vietnamese people have endured extensive struggles for many years in their ongoing fight for basic human rights and freedom.

As a member of the Vietnam Caucus, I am dedicated to promoting awareness and policy debates among the U.S. Congress, the American public, and the international community about the greater need for fundamental human rights in the Socialist Republic of Vietnam.

I would like to voice my support for H. Con. Res. 320, as it calls for the immediate release of Dr. Pham Hong Son and other political prisoners of conscience.

In March 2002, Dr. Pham was arrested after he had translated an article entitled "What is Democracy?" from the Web site of the United States Embassy in Vietnam and sent it to both friends and senior party officials. On August 26, 2003, the Vietnamese Supreme Court sentenced Dr. Pham to 5 years in prison, to be followed by 6 years of house arrest.

The arrests of Dr. Pham, along with many others, demonstrate the ongoing human rights abuses and lack of religious freedom in Vietnam. We must continue to bring attention to

these issues, generate pressure on Vietnamese officials, and hold the Vietnamese government accountable.

I am hopeful H. Con. Res. 320 will serve as a small stepping-stone towards the ultimate liberation and freedom of the Vietnamese people, and I urge my colleagues to join me in supporting this resolution.

Ms. ZOE LOFGREN of California. Mr. Speaker, I rise in strong support of House Concurrent Resolution 320, a resolution that calls for the release of Dr. Pham Hong Son and other political prisoners and prisoners of conscience in Vietnam.

Dr. Pham was imprisoned in 2002 for the simple act of translating a document posted on the U.S. Embassy's website entitled, "What is Democracy?" He has tirelessly worked in non-violent ways to promote democracy and freedom of speech, expression, and association in Vietnam.

But Dr. Pham is not alone. Thousands of peaceful activists have been harassed, imprisoned, or been placed under house arrest for calling for basic human rights in Vietnam. The State Department, the U.S. Commission on International Religious Freedom, Amnesty International, the Committee to Protect Journalists, and various Vietnamese-American groups have documented egregious violations of religious freedom, human rights, and free speech in the country.

For the past two years, the State Department has designated Vietnam a "country of particular concern" which means Vietnam has been engaged in systematic, ongoing, egregious violations of religious freedom. In company with Vietnam are such human rights violators as Sudan, Burma, China, Iran, and North Korea.

In its 2005 report, the U.S. Commission on International Religious Freedom states, "the government of Vietnam continues to commit systematic and egregious violations of religious freedom by harassing, detaining, imprisoning, and discriminating against leaders and practitioners from all of Vietnam's religious communities. Religious freedom conditions in Vietnam remain poor, and the overall human rights situation has deteriorated in the past two years."

The Committee to Protect Journalists says, "Press conditions in Vietnam largely stagnated in 2005, despite efforts by the country's leaders to project an image of greater openness. Three writers remained imprisoned on anti-state charges for material distributed online; print and broadcast media continued to work under the supervision of the government; and attacks on journalists were common."

For the past year, Vietnam has sought a new relationship with the United States. Prime Minister Phan Van Khai and several other high-level members of the Vietnamese government visited the U.S. in 2005. But if the Vietnamese government expects to cultivate this new relationship, it must start by respecting basic human rights of all citizens of Vietnam.

I hope this Congress will show strong support for change in Vietnam by unanimously passing House Concurrent Resolution 320 today.

Ms. BORDALLO. Mr. Speaker, I rise today in strong support of H. Con. Res. 320 which calls for the immediate and unconditional release of Dr. Pham Hong Son and other political prisoners in Vietnam. The Socialist Republic of Vietnam has been holding prisoners

because of their exercise of basic human rights including freedom of speech, religion, movement, and association.

Dr. Pham Hong Son was indicted and imprisoned for translating an article on the Web site of the U.S. Embassy in Vietnam entitled "What is Democracy?" and circulating the article among friends and senior party officials. He was subsequently sentenced to 13 years imprisonment and 3 years of house arrest on espionage charges after a half-day closed trial that deprived him of due process. The Vietnamese Constitution and the International Covenant on Civil and Political Rights (ICCPR), of which Vietnam is a state party, both protect the rights to freedom of opinion and speech. The government of Vietnam should uphold their obligations under the ICCPR and honor other internationally recognized standards for basic freedoms and human rights before their accession into the World Trade Organization.

The fall of the Republic of Vietnam displaced approximately three million Vietnamese. My late husband Ricardo J. Bordallo was Governor of Guam at the time of Operation New Life. I vividly remember how the Guam community came together in solidarity with the Vietnamese people and worked hard to help comfort these brave individuals who had left all their worldly possessions behind in the name of freedom. The people of Guam empathized with the Vietnamese refugees, and we opened our hearts as well as our island to them. One of my assignments as First Lady was to organize the care for the hundreds of orphan babies that arrived in Operation Baby Lift. This was a moving experience that has remained one of my fondest memories of my husband's first term as Governor of Guam.

Of the 150,000 Vietnamese who arrived on Guam in April 1975, many decided to return to Vietnam to help rebuild their motherland. Unfortunately, those who remained in Vietnam now face a Socialist government that denies them basic human rights of freedom of speech, religion, movement, and association. They deserve the right to a fair trial and due process.

Today, Congress calls on Vietnamese authorities to end all forms of repression against small religious sects and for the release of all Vietnamese political prisoners who have legitimately and peacefully exercised their rights. I urge passage of H. Con. Res. 320.

Mr. SMITH of New Jersey. Mr. Speaker, I yield back the balance of my time.

Mr. LANTOS. Mr. Speaker, I yield back the balance of my time.

□ 1230

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. SMITH) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 320, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. LANTOS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the

Chair's prior announcement, further proceedings on this question will be postponed.

EXPRESSING SENSE OF CONGRESS THAT SAUDI ARABIA SHOULD FULLY LIVE UP TO WORLD TRADE ORGANIZATION COMMITMENTS AND END BOYCOTT ON ISRAEL

Mr. SHAW. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 370) expressing the sense of the Congress that Saudi Arabia should fully live up to its World Trade Organization commitments and end all aspects of any boycott on Israel.

The Clerk read as follows:

H. CON. RES. 370

Whereas the United States supported the accession of Saudi Arabia to the World Trade Organization (WTO) in 2005;

Whereas, as part of the working party report for the accession of Saudi Arabia to the WTO, Saudi Arabia reiterated its commitment to terminate the secondary and tertiary boycotts on Israel;

Whereas Saudi Arabia also committed not to discriminate against any WTO members and specifically did not invoke the non-application provisions of the WTO Agreement, and thus has rights and obligations to all WTO members, including Israel;

Whereas, in spite of these commitments to WTO members and United States officials, press reports indicate that an official of the Government of Saudi Arabia has stated that Saudi Arabia has not committed to ending the primary boycott on Israel, which would violate Saudi Arabia's WTO obligations toward Israel;

Whereas United States Trade Representative Portman has testified to the Committee on Ways and Means of the House of Representatives that Saudi Arabia's application of the boycott is a "big concern" of the United States; that Saudi Arabia did not invoke non-application of WTO commitments to Israel, so that Saudi Arabia is required to provide nondiscriminatory treatment to Israel; and that the United States Trade Representative has received assurances from Saudi Arabia that it will abide by its WTO commitments; and

Whereas the Organization of the Islamic Conference (OIC) scheduled its "Ninth Meeting of the Liaison Officers of Islamic Regional Officers for the Boycott of Israel" for the week of March 13, 2006, at the OIC's headquarters in Saudi Arabia: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that—

(1) Saudi Arabia should maintain and fully live up to its commitments under the World Trade Organization (WTO) and end all aspects of any boycott on Israel; and

(2) the President, the United States Trade Representative, and the Secretary of State—

(A) should continue their active involvement on this issue by strongly urging the Government of Saudi Arabia to comply with its WTO obligations; and

(B) should urge Saudi Arabia to end any boycott on Israel.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida (Mr. SHAW) and the gentleman from Maryland (Mr. CARDIN) each will control 20 minutes.

The Chair recognizes the gentleman from Florida.

Mr. SHAW. Mr. Speaker, I yield myself such time as I may consume.

I am delighted to introduce this resolution and support it, which has also the support of the gentleman from Maryland (Mr. CARDIN) and I believe probably is one of the best bipartisan resolutions to come before this Congress in a while.

This resolution would express the sense of the Congress that Saudi Arabia should fully live up to its World Trade Organization commitments and end all aspects of any boycott on Israel.

In 2005, the United States supported the accession of Saudi Arabia to the World Trade Organization. During this process, Saudi Arabia reiterated its commitment to terminate the secondary and tertiary boycotts on Israel.

Additionally, it committed not to discriminate against any World Trade Organization members; and specifically, it did not invoke the nonapplication provision of the World Trade Organization agreement. Because of this, Saudi Arabia has rights and obligation to all the World Trade Organization members, including Israel. Given this, we should not have to be here today debating this resolution on the floor of the House.

Instead, today Members should be able to praise Saudi Arabia for its forward thinking and its upcoming expanded role in the global economy. Unfortunately, though, many of my colleagues and I have read press reports that an official of the government of Saudi Arabia has stated that Saudi Arabia has not committed to ending the primary boycott on Israel. This would be a clear violation of its World Trade Organization commitments to Israel.

I am pleased that when United States Trade Representative Rob Portman testified before the Ways and Means Committee he stated that Saudi Arabia's application of the boycott is a big concern of the United States. He also reiterated that Saudi Arabia is required to provide nondiscriminatory treatment to Israel. I appreciate Ambassador Portman's efforts in this area.

This resolution would provide further support for the stated position of the USTR by establishing that it is the sense of the Congress that Saudi Arabia should maintain and fully live up to its commitments under the World Trade Organization and end all aspects of any boycott on Israel. It also urges the President, the U.S. Trade Representative and the Secretary of State to continue their efforts to ensure that this is exactly what happens. I ask my colleagues to vote "aye" on this resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. CARDIN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to join the gentleman from Florida (Mr. SHAW) in introducing this resolution we are considering today. As Mr. SHAW pointed

out, last year the United States negotiated a bilateral trade agreement with Saudi Arabia which paved its admission into the WTO in December.

A key commitment as part of the United States' agreement with the Saudis was that they would not have any further boycott with Israel, either primary or secondary. It was also clear that they would not invoke the non-application provision of the WTO agreement, meaning that it agreed it would treat all WTO members, including Israel, equally.

Yes, the primary responsibility was to eliminate the secondary boycott; but in not invoking the nonapplication provision, it agreed to treat all WTO countries equally, including Israel. This was a key commitment for the United States' approval of an agreement that paved the way for the Saudis entering the WTO.

Unfortunately, the Saudis' action in recent months appears to fly in the face of that commitment. In December, Saudi officials were quoted in the press as insisting that Saudi Arabia would continue its participation in the primary boycott against Israel which prohibits imports of Israeli goods. Saudi Arabia's continued participation in the boycott conflicts directly with the country's commitment as a WTO member to treat all nations in a non-discriminatory manner.

What is even more disturbing is that Saudi Arabia has not only continued to participate in the boycott, but Saudi Arabia has helped to promote it. In March, Saudi Arabia hosted a meeting of the Organization of Islamic Conference, an international organization with 57 member countries. The purpose of this meeting was to discuss strengthening the Arab League boycott against Israel.

Mr. Speaker, I believe the United States must not stand silently while the Saudis disregard the commitments that it made to us and the WTO to treat all countries equally. We must insist that the Saudis live up to their commitments.

I urge President Bush, the U.S. Trade Representative and all members of the administration to call upon the Saudis to adhere to the commitments that they made to us, that they made to the WTO. It is time for them to end their boycott against Israel, not just the secondary but the primary boycott. I urge my colleagues to support this resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. SHAW. Mr. Speaker, I reserve the balance of my time.

Mr. CARDIN. Mr. Speaker, I yield 5 minutes to the gentlewoman from Nevada (Ms. BERKLEY).

Ms. BERKLEY. Mr. Speaker, I rise in strong support of this resolution expressing the sense of Congress that Saudi Arabia should end its economic boycott of Israel. I want to personally thank the gentleman from Florida (Mr. SHAW) and my very good friend, the

gentleman from Maryland (Mr. CARDIN), for introducing this resolution.

Mr. Speaker, no one is born knowing how to hate. Hate needs to be taught. The Saudi Kingdom, our so-called partner in peace and ally in the fight against terrorism, has turned teaching hatred into a perverted science and a twisted art form.

Last year the Bush administration supported Saudi Arabia's accession to the World Trade Organization. As a condition of joining the WTO, the Saudis agreed to end all boycotts of Israel. Their Foreign Minister repeated this pledge to our Secretary of State. Israel is our strongest ally in the Middle East. This boycott has hurt Israel's economy since its founding in 1948. The Israeli Chamber of Commerce estimates that Israeli exports are 10 percent less than they would be without the boycott; investment in Israel, 10 percent lower.

It is no surprise to me that the Saudis have not honored their commitment to end the boycott. The reasons to me are painfully apparent: anti-Semitism and a hatred for Israel. Saudi Arabia continues to be one of the few nations to participate in the boycott when many of its neighbors have given up. In 1990, Egypt was the first nation to abandon the boycott. Jordan followed in 1995. The Palestinian Authority dropped the boycott in 1995 as well. In 1994, several of the gulf states abandoned their secondary and tertiary boycotts. In 2005, just last year, Bahrain announced it was completely withdrawing from the boycott.

The Saudi government has repeatedly said that Saudi Arabia is not anti-Semitic. Oh, really, Mr. Speaker. These are the same Saudis that support terrorism, export terrorism, finance terrorism, the same Saudis that spew racist and anti-Semitic hatred, and the same Saudis that have the worst record on the planet when it comes to religious intolerance and discrimination.

The Saudis say they share our values. Exactly what values do they think they share with the United States? They do not value a hate-free education for their children. Saudi schoolbooks paint an ugly, distorted portrait of a world in which Israel does not exist. The 9/11 attacks were perpetrated by so-called Zionist conspiracies, and the anti-Semitic and fictitious "Protocols of the Elders of Zion" is taught as actual history. These schoolbooks are the official publications of the education ministry.

They do not value religious freedom and pluralism. Saudi Arabia bans all religions except Islam. Saudi Arabia's religious beliefs have even gone so far as banning the Barbie doll, calling them Jewish toys that are offensive to Islam.

They couldn't value honesty because last year the Saudi Crown Prince told Saudi television that "Zionists" were behind the attack at the oil facility in Yanbu. The Crown Prince also is

quoted as saying, "Our country is targeted. You know who is behind all of this. It is Zionism." That is dishonest. That is a lie, Mr. Speaker.

The United States Congress, by voting for this resolution, can take a strong stand against this type of religious and racial intolerance. Congress can take a strong stand on behalf of a fellow democracy and our most reliable ally in the Middle East. And Congress can take a strong stand to demand that the Saudis live up to their obligations and promises, the ones they made in order to get into the WTO with American support.

I urge the Saudis to fulfill their international obligations and promises by ending the Israeli boycott. I urge immediate passage of this resolution.

Mr. CARDIN. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. DAVIS).

Mr. DAVIS of Illinois. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in strong support of H. Res. 370 expressing the sense of Congress that Saudi Arabia should fully live up to its World Trade Organization commitments and end all aspects of any boycott on Israel.

I take this position because I believe that as we continue to move towards resolution of problems and towards peaceful resolution of difficulty, we have to begin someplace. I am often reminded of something that John Kennedy supposedly said, and that is that peace is not found only in treaties, covenants and charters, but in the hearts of men, and I imagine if he was around today he would say men and women.

I think that resolution of this boycott would move positively in the direction of peace in the Middle East, and so I strongly support this resolution.

Mr. CARDIN. Mr. Speaker, I yield myself the balance of my time.

Let me just say that this is an important resolution because I think all of us believe that for peace in the Middle East it is important to open up economic opportunity within the entire region. This administration has put a priority on moving forward with free trade agreements in the Middle East with the support of both Democrats and Republicans. Because we do believe in commerce, there is an opportunity for better understanding in that region of the world.

We have concluded free trade agreements with other countries and we have made it clear that the boycott against Israel must be eliminated. Not only eliminated, but the country must reach out so there is full participation among all of the countries of the region so they all can benefit economically from commerce within that region.

Saudi Arabia is a major country in the Middle East. They need to exercise leadership in the Middle East. And in doing that, they must join us in our fight against terror and our fight

against terrorism. They also must join us in making it clear that all countries in the Middle East need to be included in economics and commerce. They need to eliminate their boycott against Israel.

We thought we had an understanding when we entered into an agreement that led to their accession into the WTO. Clearly the Saudis are not living up to that commitment. I think it is extremely important that this country make it clear that we cannot tolerate that type of conduct by the Saudis. It is time for them to end their boycott against Israel and exercise leadership in the Middle East so we can move forward with peace in the Middle East. I urge my colleagues to support this resolution.

Mr. Speaker, I yield back the balance of my time.

□ 1245

Mr. SHAW. Mr. Speaker, this resolution is important beyond just the pages of the resolution itself. It is important as to the future of world trade. Are we as a member of the World Trade Organization, are we going to support the values, the obligations that we have and that other nations have to other nations within the World Trade Organization?

We pride ourselves as being a government of laws. This means that we have to adhere to our own laws. And also it goes beyond that. We have to adhere to our obligations. And our trading partners should also be required to do so.

But this particular one, pinpointing this boycott of Israel, is particularly important because through free trade comes understanding. It comes the free flow of goods. It also brings about the free flow of ideas which brings about understanding, which brings about world peace. This is the pathway to world peace, and there is no place it is needed more than it is in the Middle East. And our good friend Israel needs help with regard to getting along with its neighbors. And this is a good step forward.

So I would ask all Members to support this resolution.

Mr. LANTOS. Mr. Speaker, I rise in strong support of this bill, and I commend my good friends Mr. SHAW and Mr. CARDIN for introducing this timely and very important resolution.

Mr. Speaker, after a years-long quest, Saudi Arabia finally acceded to membership in the World Trade Organization late last year.

Unfortunately, the Saudis acceded in letter only—and in a spirit utterly contrary to the principles of free trade embodied by that organization. Moreover, it now appears that Saudi Arabia, having gained accession, has absolutely no intention of implementing even the letter of WTO rules.

As Saudi Arabia has now made clear in the aftermath of its accession, it has absolutely no intention of ending its boycott of trade with Israel. This is a direct violation of Saudi Arabia's WTO obligations to Israel.

Earlier this month, as if to underscore its disregard for the WTO rules to which it is for-

mally committed, Saudi Arabia hosted a conference called "Ninth Meeting of the Liaison Officers of Islamic Regional Officers for the Boycott of Israel."

Mr. Speaker, there is indeed a mechanism by which a WTO member-state can invoke an exception regarding its commitments to another member-state, but Saudi Arabia did not invoke that exception regarding Israel. And it doesn't take a genius to figure out why: The ruling royals no doubt thought that, if they invoked that exception, the U.S. Congress would persuade the Administration to veto their accession to the WTO.

So they deceitfully and cynically deceived us into thinking that they had taken a dramatic decision to open trade ties with Israel, all the while planning to continue their boycott unabated.

Clearly, USTR thought they had an agreement for an end to the boycott. After signing off on Saudi accession in September last year, USTR boasted that Saudi membership in the WTO meant that—and I quote from a USTR press release—"Saudi Arabia is legally obligated to provide most-favored nation treatment to all WTO members, including Israel. Any government sanctioned activity on the Boycott would be a violation of Saudi Arabia's obligations and subject to dispute settlement. This legal obligation cannot be changed."

So the Saudis not only deceived the U.S. Congress; they have embarrassed the U.S. Trade Representative and left themselves open to dispute settlement mechanisms.

Mr. Speaker, the U.S. helped shepherd Saudi Arabia into the WTO. We have a right to expect the Saudis to obey its rules. Most of all, we have a right to expect them to honor their commitments to us.

Mr. Speaker, our Nation has many issues of concern regarding Saudi Arabia—including lack of human rights, a benighted educational system, and ongoing support for extremist madrasas around the world. Nevertheless, this body has every right to expect that the Administration will place an extremely high priority on persuading the Saudis to fulfill their pledges as WTO members, particularly regarding trade with Israel.

The Saudis, we now see, entered the WTO under false premises. They must put this situation aright once and for all. They must end their boycott of Israel without delay, and the Administration should not let Saudi rulers have a moment's rest until they comply.

Mr. Speaker, I strongly support this resolution, and I urge all my colleagues to do likewise.

Mr. ANDREWS. Mr. Speaker, after 12 years of difficult negotiation, Saudi Arabia joined the World Trade Organization last November. This was good news—the Saudi government has the potential to further join the world community as a responsible actor on the world stage, and the Saudi economy is a large one that will benefit from international trade, as will the U.S. in turn from increased commerce with the Arab nation. However, the Saudis are yet again missing a unique opportunity to reform, blinded by an irrational hatred of their neighbor, Israel.

This is part of a larger fabric of unacceptable behavior on the part of Saudi Arabia, which seeks greater ties with the West while maintaining its autocratic and anti-democratic policies. State-sponsored Saudi TV regularly broadcasts not just anti-Israeli diatribes, but

anti-American propaganda as well, further encouraging the attitudes that lead to terrorism. The fact that Saudi nationals continue to significantly fund international terrorism, as reported this week by the U.S. Treasury Department, means that Saudis have a long way to go to match their anti-terror rhetoric with their actions. As I have in the past, I once again call on Saudi leader Prince Faisal to take responsibility for his government's actions which promote hatred and the repercussions it has on Saudi Arabia's relations with other countries.

As President Carter said in 1977, the Israeli boycott "goes to the heart of free trade among nations," and is clearly unacceptable from a member of the World Trade Organization. This boycott, in place since the founding of Israel in 1945, has no place in the modern, globalized world. Recognizing this, several Gulf States are withdrawing from the boycott, and gaining both political and economic benefits. In the face of these events, Saudi Arabia's recalcitrance is all the more puzzling.

Mr. Speaker, Saudi Arabia has reportedly agreed to end the secondary and tertiary aspects of the anti-Israeli boycott, but is stopping short of allowing direct trade with its neighbor. Such half-measures are clearly not acceptable. All World Trade Organization members must treat all other members equally. According to diplomats, Saudi Arabia affirmed this principle with respect to Israel before being admitted to the WTO. Today's resolution expresses the sense of Congress that Saudi Arabia must live up to its commitments as a member of the World Trade Organization and end its boycott against Israel. I strongly urge my colleagues to support this resolution.

Mrs. MALONEY. Mr. Speaker, I rise in strong support of H. Con. Res. 370, a resolution that calls on Saudi Arabia to end its boycott of Israel.

In 2005, Saudi Arabia pledged to the United States that it would end its boycott of Israel as part of its accession to the World Trade Organization. Foreign Minister Saud al-Faisal assured Secretary of State Condoleezza Rice that Saudi Arabia would follow all WTO rules, including the anti-boycott provisions and specifically pledged to dismantle the secondary and tertiary elements of the boycott against Israel during negotiations for WTO accession. However, shortly after joining the WTO in December, a Saudi official stated unequivocally that the boycott would be maintained.

Mr. Speaker, this blatant disregard for the terms of agreement must be addressed. We must force an end to the Saudi boycott on Israel which has been going on far too long.

I have been fighting the Israel boycott since I came to Congress. In 1993, I introduced H.R. 1407, the Arab Boycott Arm Sales Prohibition Act, a version of which was signed into law in September 1993. Thirteen years ago we talked about the harm the Arab boycott was causing—that it is a blatantly discriminatory practice which is contrary to free trade. It is now 2006 and we are still trying to end the boycott.

Mr. Speaker, I urge this Administration to continue to take a strong position against the Saudi boycott on Israel. It undermines our efforts in the Middle East to bring peace, stability and prosperity and it runs contrary to the obligations of membership in the WTO.

GENERAL LEAVE

Mr. SHAW. Mr. Speaker, I ask unanimous consent that all Members have 5

legislative days in which to revise and extend their remarks and include extraneous material on the subject of the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. SHAW. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. SHAW) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 370.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

MAYOR JOHN THOMPSON "TOM" GARRISON MEMORIAL POST OFFICE

Mr. WESTMORELAND. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4688) to designate the facility of the United States Postal Service located at 1 Boyden Street in Badin, North Carolina, as the "Mayor John Thompson 'Tom' Garrison Memorial Post Office".

The Clerk read as follows:

H.R. 4688

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

SECTION 1. MAYOR JOHN THOMPSON "TOM" GARRISON MEMORIAL POST OFFICE.

(a) DESIGNATION.—The facility of the United States Postal Service located at 1 Boyden Street in Badin, North Carolina, shall be known and designated as the "Mayor John Thompson 'Tom' Garrison Memorial Post Office".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Mayor John Thompson 'Tom' Garrison Memorial Post Office".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Georgia (Mr. WESTMORELAND) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Georgia.

GENERAL LEAVE

Mr. WESTMORELAND. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. WESTMORELAND. Mr. Speaker, I yield myself such time as I might consume. Mr. Speaker, I rise in support of H.R. 4688 offered by the distinguished gentleman from North Carolina (Mr. HAYES). This bill would designate the postal facility in Badin,

North Carolina, as the "Mayor John Thompson 'Tom' Garrison Memorial Post Office."

Tom Garrison was born on May 25, 1925. He was educated at Badin High School and completed his postgraduate work at Staunton Military Academy. In September of 1943, Mr. Garrison entered the Army and played an active role in the European Theater of Operations for 22 months. He received a battlefield commission and was decorated with the Silver Star and other honors.

After returning home, Mr. Garrison married and graduated from the University of North Carolina at Chapel Hill. He also served stateside in the Korean conflict and retired after 20 years with the North Carolina National Guard. With the conclusion of his military career, Tom Garrison became an active member in his community of Badin, serving as the town's mayor for over 10 years. He was also a member of the First Baptist Church, in which he served in many capacities, as well as being involved in the Rotary Club, the Troop Committee of Boy Scout Troop 82, and a member of the board of the Badin Museum and the Better Badin Committee.

I urge all members to come together to honor a man that promoted excellence in government and community by passing H.R. 4688.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I might consume.

Mr. Speaker, as a member of the House Government Reform Committee, I am pleased to join my colleague in consideration of H.R. 4688, legislation naming a postal facility in Badin, North Carolina after the late John Thompson Garrison. This measure, which was introduced by Representative ROBIN HAYES on February 1, 2006 and unanimously reported by our committee on March 9, 2006, enjoys the support and sponsorship of the entire North Carolina delegation.

Tom Garrison was born and raised in Badin. He served in the U.S. Army in World War II and returned to his hometown to settle into the insurance and real estate business. Active in his church, community and numerous local civic organizations, Tom served as mayor of Badin from 1990 until his death last year at the age of 80.

Mr. Speaker, I commend my colleague for seeking to recognize Mayor Tom Garrison and honor his memory in this manner.

I yield back the balance of my time. Mr. WESTMORELAND. Mr. Speaker, I yield as much time as he may consume to my distinguished colleague from the State of North Carolina (Mr. HAYES).

Mr. HAYES. I thank the gentleman from Georgia (Mr. WESTMORELAND) for yielding the time. And I want to thank my good friend, DANNY DAVIS, for his kind and most appropriate words about this outstanding and honorable gentleman, Mr. John T. Garrison, Sr.

Mr. Speaker, H.R. 4688 honors Mayor John T. Garrison, Sr., a good friend and wonderful leader known to his friends and family as simply Tom. Tom served as mayor of Badin from the town's incorporation in 1990 until his passing last October. Tom's 15 years of honorable service as mayor of Badin represented merely a small fraction of his career in public service.

Whether it was in the European theater in the Army during World War II where he distinguished himself among his peers earning a battlefield commission and numerous commendations including a Silver Star, or working with volunteer organizations in Stanley County, including among others, an active member of the Committee of Boy Scout Troop 82, serving as president of his local Rotary Chapter in Albemarle, or serving on the Badin Museum and Better Badin Committee, Tom never hesitated to selflessly give his time and talents to causes that bettered his community.

We can all look at these accomplishments and know he had lived a full and complete life. In addition to Tom's impressive record of public service, he was a successful professional in real estate and insurance.

Most important in Tom's life was his family. He was married to his wife, Anne, until her passing, and together they raised three children, Ellen, John, Jr., and Lenora.

Mr. Speaker, Tom Garrison embodies the great American pride and spirit we all desire. He worked tirelessly with his twin brother, Jim, who was very active in State and local politics in efforts to create hope, opportunity and prosperity for the people in the region, the State and the country.

I am proud to call Tom a friend and am grateful I had the opportunity to have him also as a neighbor. Tom, like many other champions around the Nation, did not seek public accolades for his efforts. He simply wanted to make the lives of the people in his community the best they could be. The current mayor of Badin, Jim Harrison, put it well when he said, "Tom was one who could build you up, and no matter how small the task or responsibility, he would make you feel very good about yourself and your importance to the Badin community. It was one of this life's many blessings to have known Tom Garrison."

Mr. Speaker, I urge all Members to join me in saluting this dedicated and honorable man by passing H.R. 4688.

Mr. WESTMORELAND. Mr. Speaker, I urge all Members to support the passage of H.R. 4688. I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SHAW). The question is on the motion offered by the gentleman from Georgia (Mr. WESTMORELAND) that the House suspend the rules and pass the bill, H.R. 4688.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

SUPPORTING THE GOALS AND IDEALS OF FINANCIAL LITERACY MONTH

Mr. WESTMORELAND. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 737) supporting the goals and ideals of Financial Literacy Month, and for other purposes.

The Clerk read as follows:

H. RES. 737

Whereas personal financial literacy is essential to ensure that individuals are prepared to manage money, credit, and debt, and become responsible workers, heads of households, investors, entrepreneurs, business leaders, and citizens;

Whereas a 2004 survey completed by the National Council on Economic Education found that the number of States that include personal finance in education standards for students in kindergarten through high school has improved since 2002 but still falls below 2000 levels;

Whereas a study completed in 2004 by the JumpStart Coalition for Personal Financial Literacy found that high school seniors know less about principles of basic personal finance than did high school seniors 7 years earlier;

Whereas 55 percent of college students acquire their first credit card during their first year in college, and 92 percent of college students acquire at least 1 credit card by their second year in college, yet only 26 percent of people between the ages of 13 and 21 reported that their parents actively taught them how to manage money;

Whereas studies show that as many as 10 million households in the United States are "unbanked" or are without access to mainstream bank products and services;

Whereas personal savings as a percentage of personal income decreased from 7.5 percent in the early 1980s to -0.2 percent in the last quarter of 2005;

Whereas, although more than 42 million people in the United States participate in qualified cash or deferred arrangements described in section 401(k) of the Internal Revenue Code of 1986 (commonly referred to as "401(k) plans"), a Retirement Confidence Survey conducted in 2004 found that only 42 percent of workers surveyed have calculated how much money they will need to save for retirement and 37 percent of workers say that they are not currently saving for retirement;

Whereas personal financial management skills and lifelong habits develop during childhood;

Whereas financial literacy has been linked to lower delinquency rates for mortgage borrowers, higher participation and contribution rates in retirement plans, improved spending and saving habits, higher net worth, and positive knowledge, attitude, and behavior changes;

Whereas expanding access to the mainstream financial system provides individuals with lower-cost and safer options for managing finances and building wealth and is likely to lead to increased economic activity and growth;

Whereas a credit report and credit score can impact an individual's ability to, for example, obtain a job, insurance, or housing, and a March 2005, report by the Comptroller General entitled "Credit Reporting Literacy" found that "educational efforts could potentially increase consumers' under-

standing of the credit reporting process" and those "efforts should target those areas in which consumers' knowledge was weakest and those subpopulations that did not score as well on GAO's survey," including those with "less education, lower incomes, and less experience obtaining credit";

Whereas public, consumer, community-based, and private sector organizations throughout the United States are working to increase financial literacy rates for Americans of all ages and walks of life through a range of outreach efforts, including media campaigns, websites, and one-on-one counseling for individuals;

Whereas Congress sought to implement a national strategy for coordination of Federal financial literacy efforts through the establishment of the Financial Literacy and Education Commission (FLEC) in 2003, the designation of the Office of Financial Education of the Department of the Treasury to provide support for the Commission, and requirements that the Commission's materials, website, toll-free hotline, annual report, and national multimedia campaign be multilingual;

Whereas Members of the United States House of Representatives established the Financial and Economic Literacy Caucus (FELC) in February 2005 to (1) provide a forum for interested Members of Congress to work in collaboration with the Financial Literacy and Education Commission, (2) highlight public and private sector best practices, and (3) organize and promote financial literacy legislation, seminars, and events, such as Financial Literacy Month in April 2006 and the annual Financial Literacy Day fair on April 25, 2006; and

Whereas the National Council on Economic Education, its State Councils and Centers for Economic Education, the JumpStart Coalition for Personal Financial Literacy, its State affiliates, and its partner organizations, and Junior Achievement have designated April as Financial Literacy Month to educate the public about the need for increased financial literacy for youth and adults in the United States: Now, therefore, be it

Resolved, That the House of Representatives—

(1) supports the goals and ideals of Financial Literacy Month, including raising public awareness about the importance of financial education in the United States and the serious consequences that may result from a lack of understanding about personal finances; and

(2) requests that the President issue a proclamation calling on the Federal Government, States, localities, schools, nonprofit organizations, businesses, other entities, and the people of the United States to observe the month with appropriate programs and activities with the goal of increasing financial literacy rates for individuals of all ages and walks of life.

The SPEAKER pro tempore (Mr. HAYES). Pursuant to the rule, the gentleman from Georgia (Mr. WESTMORELAND) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Georgia.

GENERAL LEAVE

Mr. WESTMORELAND. Mr. Speaker, I ask unanimous consent that always Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. WESTMORELAND. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Resolution 737 offered by the distinguished gentlewoman from Illinois (Mrs. BIGGERT). This resolution would support the goals and ideals of a Financial Literacy Month.

According to the Associated Press, personal bankruptcies have nearly doubled in the past decade, even though modern technological advances have made it easier and more convenient for us to manage our money through online services at most banks and credit unions. Every day, people of all ages face choices that will affect their financial future. It is important that we raise awareness about how these choices will affect financial health. These decisions we make today will affect how we buy houses, finance education, start businesses, save for retirement and meet our everyday needs in the future.

More than 42 million people in the United States currently participate in qualified cash or deferred arrangements known as 401(k) plans. A Retirement Confidence Survey conducted in 2002 found that only 32 percent of workers surveyed have calculated how much money they will need to save for retirement, and 25 percent of those workers have not started planning for their retirement at all. The goal of this resolution is to increase the awareness of the significance of thoughtful and well-planned personal financial management so that retirement can be an enjoyable time. It can be an overwhelming time for people of any age to manage money, but learning simple financial principles can help protect you against any financial pitfall that might occur.

I ask all Members to join me in supporting House Resolution 737 in the hopes that we can educate young and old about the importance of financial literacy.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, it is my pleasure to yield such time as he might consume to the principal cosponsor of this resolution, Representative RUBÉN HINOJOSA.

Mr. HINOJOSA. Mr. Speaker, I rise in support of House Resolution 737 that the gentlewoman from Illinois, Congresswoman BIGGERT, and I introduced earlier this year. The legislation supports the ideals and goals of Financial Literacy Month, which falls in April of each year.

Before I proceed, I want to take this opportunity to thank my good friend and colleague, Congressman DANNY DAVIS, the ranking member on the Government Reform Federal Workforce Subcommittee, and especially Tania Shand of the minority staff for helping

expedite committee consideration of our bill.

I also want to thank Congressman WESTMORELAND for managing time on this bill.

My colleague and friend from Illinois, Congressman DAVIS, has always been a strong supporter of economic education and financial literacy, and I want to thank him for managing the bill today for our side of the aisle.

Mrs. BIGGERT and I have also worked closely on financial literacy issues with House Rules Chairman DAVID DREIER over the years. I think all of us owe him and Vince Erse, on his staff, a great deal of gratitude for being one of the first Members of Congress to bring attention to the need to improve financial literacy rates here in the United States.

□ 1300

Every day consumers deal with money, from balancing a checking account to shopping for a mortgage or auto loan, researching ways to pay for a college education, checking credit card statements, saving money for retirement, understanding a credit report, or simply deciding whether to pay cash or charge a purchase. The list goes on and on. But many consumers do not really understand their finances.

In 2004 reports from Jump\$tart and the National Counsel on Economic Education, the Schwab Foundation and others indicated that almost 66 percent of high school students failed a basic financial literacy exam. The numbers are not much better for adults. High bankruptcy rates, increased credit card debt, data security breaches, and identity theft make it imperative that all of us take an active role in providing financial and economic education during all stages of one's life.

On February 15, 2005, I co-founded, and currently co-chair, the Congressional Financial and Economic Literacy Caucus with Congresswoman BIGGERT. The caucus seeks to address these issues head on by increasing public awareness of poor financial literacy rates and will work to improve those rates. The caucus has provided a forum for my colleagues to promote policies that advance financial literacy and economic education.

It is my hope that through the Financial and Economic Literacy Caucus we can continue to further educate Americans about financial and economic topics ranging from the importance of saving, reducing credit card debt, obtaining a free annual credit report, and taking care of your finances to lead you down the path to the American dream of homeownership.

At this point, Mr. Speaker, I will insert into the RECORD letters in support of this resolution. They include a letter from the Financial Planning Association, the Independent Bankers Association of Texas, the Credit Union National Association, from MasterCard, from the Networks Financial Institute,

as well as from the North American Securities Administrators Association. And then it includes a press release from the Independent Community Bankers of America.

NORTH AMERICAN SECURITIES
ADMINISTRATORS ASSOCIATION, INC.,
Washington, DC, April 5, 2006.

Hon. JUDY BIGGERT,
House of Representatives,
Washington, DC.

Hon. RUBÉN HINOJOSA,
House of Representatives,
Washington, DC.

DEAR CONGRESSWOMAN BIGGERT AND CONGRESSMAN HINOJOSA: On behalf of NASAA I thank you for introducing H. Res. 737, which supports the goals and ideals of Financial Literacy Month. As the Resolution details, the need for financial education in the United States has never been greater. With a majority of Americans investing in our capital markets, there is a growing obligation to ensure our citizens are equipped with a basic understanding of the principles of savings and investing and the ability to recognize and avoid financial fraud.

State securities regulators have a long tradition of protecting investors through education, and many have established an investor education department within their regulatory agency. Several years ago, recognizing the importance of financial literacy to the prevention of fraud and abuse, the NASAA Board of Directors created an Investor Education Section to develop and support financial literacy and education programs to be delivered at the state level.

As part of the effort to educate our nation's youth, in April, state securities division staffs will join in celebrating "Financial Literacy Month" by visiting schools throughout their state to teach students about personal finance, the capital markets, investment choices and fraud.

Reaching out to our young citizens is just one component of the ongoing financial education effort undertaken by state securities regulators. We are dedicated to improving financial literacy for our constituents of all ages, recognizing that financial education has a direct impact on the economic health of our families, communities, states and this country overall.

We commend you for your continued efforts to draw attention to the importance of financial literacy programs. Please contact Daphne Smith, Tennessee Securities Commissioner and Chair of NASAA's Investor Education Section, or Deborah House in NASAA's corporate office if we may be of further assistance to you. We look forward to continuing our work with you and your offices on this particular issue.

Sincerely,

PATRICIA D. STRUCK,
NASAA President,
Wisconsin Securities Administrator.

NETWORKS FINANCIAL INSTITUTE
AT INDIANA STATE UNIVERSITY,
Terre Haute, IN, April 4, 2006.

Hon. JUDY BIGGERT,
House of Representatives, Co-Founder and Co-Chair, Financial and Economic Literacy Caucus, Washington, DC.

Hon. RUBÉN HINOJOSA,
House of Representatives, Co-Founder and Co-Chair, Financial and Economic Literacy Caucus, Washington, DC.

DEAR REPRESENTATIVES BIGGERT AND HINOJOSA: We are writing to express our support for H. Res. 737, "Supporting the goals and ideals of Financial Literacy Month." The resolution is an important step in raising awareness among individuals, policy-makers, and institutions about the need for

a more competent, financially literate country.

A lack of basic money-management skills is widespread among Americans. Over a quarter of our population have not received adequate financial literacy education in order to manage household finances. Personal bankruptcies increased 19% in 2002 over 2001, and increased by over 10% in 2003 with young adults between 20 and 24 representing the fastest growing segment of bankruptcy filings. In 2004, America's teenagers scored a failing grade in basic financial literacy knowledge, and more people filed for bankruptcy than graduated from college. Now more than ever, there is a critical need for research-based financial literacy educational programs to reach individuals at all age and socioeconomic levels, particularly in the early years. Our nation's educational systems are an effective conduit through the use of quality programming with a common set of educational standards, pre- and post-education assessment tools, effective training programs for educators, and materials which appropriately serve various segments of adult and child populations. The goal of these efforts is to develop an adult population of consumers that have adequate skills and confidence for making day-to-day financial decisions, and planning for their financial futures.

Thank you again for introducing H. Res. 737. Your continued leadership and commitment to financial literacy is essential to raise awareness of the need to implement a national strategy, and improve the money, credit, and debt management skills of all individuals.

Sincerely,

LIZ COIT,
Executive Director.

LAW DEPARTMENT,
MASTERCARD INTERNATIONAL,
Purchase, NY, April 4, 2006.

Hon. JUDY BIGGERT,
House of Representatives,
Washington, DC.

Hon. RUBÉN HINOJOSA,
House of Representatives,
Washington, DC.

DEAR CONGRESSWOMAN BIGGERT AND CONGRESSMAN HINOJOSA: I am writing to communicate MasterCard's dedication and commitment to increasing financial literacy rates, and we commend the efforts of you and your colleagues on H.R. 737. This bill is yet another example of your admirable devotion to this critical issue.

MasterCard International will continue consumer education during Financial Literacy Month by hosting activities across the country that help Americans successfully manage their personal finances. Events include the launch of the Spanish language version of our Debt Know How web site (www.debtknowhow.com), activities with policymakers on Capitol Hill that showcase MasterCard's consumer education programs, and a debt training seminar at the 2006 California Summit on Financial Literacy.

Please let us know if we can ever be of assistance to you or your staff.

Sincerely,

JOSHUA PEIREZ,
Senior Vice President &
Associate General Counsel.

ICBA APPLAUDS RESOLUTION DECLARING
APRIL FINANCIAL LITERACY MONTH
WASHINGTON, D.C. (April 5, 2006).—The Independent Community Bankers of America (ICBA) strongly supports the bi-partisan resolution passed by the U.S. House of Representatives today designating April as "Financial Literacy Month."

"Managing money wisely is critical to success in life," said Terry J. Jorde, ICBA chairman and president and CEO of CountryBank USA in Cando, N.D. "Too many Americans lack the skill and knowledge to make appropriate financial decisions. The more consumers know, the better they are at managing their finances and the better they manage their finances the more likely they are to enjoy a secure financial future."

ICBA has an on-going commitment to financial literacy programs, encouraging community banks to provide programs within their communities, as well as forging government, nonprofit and private-sector partnerships such as the FDIC Money Smart program.

"We commend Reps. Judy Biggert (R-Ill.) and Ruben Hinojosa (D-Tex.) for introducing a resolution that calls for the federal, state and local government, as well as schools, businesses and other groups to observe Financial Literacy Month," said Camden R. Fine, ICBA president and CEO "Financial education is important for today's consumers to understand and make decisions when faced with the complex array of financial products and services available."

For more information, visit the consumer education and resources section of www.icba.org.

CREDIT UNION
NATIONAL ASSOCIATION,
Washington, DC, April 3, 2006.

Hon. RUBÉN HINOJOSA,
Rayburn House Office Building,
Washington, DC.

DEAR REPRESENTATIVE HINOJOSA: On behalf of the Credit Union National Association (CUNA), which represents 87 million credit union members, I would like to thank you for your introduction of H. Res. 737, which supports the goals and ideals of Financial Literacy Month.

CUNA strongly supports H. Res. 737 which supports financial literacy initiatives by calling on schools, nonprofit organizations, businesses, government entities on the federal, state, and local levels, and citizens to observe the month with appropriate programs and activities.

To aid in this endeavor, CUNA establishes a yearly National Credit Union Youth Week, this year scheduled to take place April 23rd—29th. To date, 278 credit unions have committed to participating in CUNA's Youth Savings Challenge for that week, and are estimating to tally 50,000 youth deposits valued at \$3.6 million.

CUNA provides financial literacy resources to credit unions year-round to assist young people and help them manage their own money wisely, and has partnered with the National Endowment for Financial Education (NEFE) and the Cooperative Extension Service to provide schools with free workbooks on financial literacy that can easily fit into an existing curriculum. Many credit unions have volunteered their time to teach the materials to better prepare students for college, covering issues such as credit cards, interest, minimum payments, and checking accounts. Additionally, CUNA recently developed a program called "Thrive by Five" which offers free materials on our website for parents to work with pre-school aged children on basic financial concepts such as spending and saving.

Again, CUNA and its member credit unions strongly support H. Res. 737, as well as your leadership with the Congressional Caucus on Financial and Economic Literacy. We look forward to working with you and greatly appreciate your efforts to bring financial literacy to students nationwide.

Sincerely,

DANIEL A. MICA,
President & CEO.

INDEPENDENT BANKERS
ASSOCIATION OF TEXAS,
Austin, TX, April 3, 2006.

Hon. RUBÉN HINOJOSA,
House of Representatives,
Washington, DC.

DEAR CONGRESSMAN HINOJOSA: I am pleased that House Resolution 737, which strongly supports the important and admirable goal of financial literacy for our citizens, is scheduled for a vote on the House floor this week.

As you are aware, The Independent Bankers Association of Texas (IBAT) is committed to improving and enhancing the financial well-being of all Americans, and strongly believes that financial literacy initiatives targeting all age and socio-economic groups is a key component for success. Indeed, our association, through our Main Street Foundation, has worked with a number of partners to further this important cause, and we and our member banks will continue to focus on this vital issue.

We applaud you for your leadership in this area, and appreciate all the good work you and your fine staff have done to heighten the awareness of financial literacy.

All of us at IBAT look forward to working with you and your colleagues on this important issue.

Sincerely,
CHRISTOPHER L. WILLISTON,
President and CEO.

THE FINANCIAL
PLANNING ASSOCIATION,
Washington, DC, April 4, 2006.

Re H.R. 737.

Hon. RUBÉN HINOJOSA,
House of Representatives,
Washington, DC.

MR. HINOJOSA: The Financial Planning Association (FPA) would like to voice its support for House Resolution 737, which you are co-sponsoring and which was introduced on March 28, 2006, in support of the goals and ideals of Financial Literacy Month.

Our 28,000 members are well situated to understand the vital importance of personal financial education for all Americans. We believe that qualitative individual financial security must be built on a foundation of education and financial literacy.

In the context of rising personal debt and lower individual savings, there has seldom been a time of greater need for financial literacy. It is against that backdrop that we heartily support the introduction of H.R. 737, and hope your congressional colleagues and the President will share your enthusiastic support of financial literacy for all people.

Sincerely,
DANIEL B. MOISAND,
FPA President.

Mr. Speaker, financial literacy means empowerment, power to manage money, credit, and debt, and become responsible workers, heads of households, investors, entrepreneurs, and leaders. It means banking the unbanked and bringing them into the mainstream financial system to protect them from abusive, predatory, or deceptive credit offers and financial products. At present several of these financial literacy programs are operating in my district.

The Security Industry Association's Stock Market Game is one of such programs. I am proud that my district was chosen again this year to participate in the SIA's second annual "Capitol Hill Challenge" Stock Market Game. This year the game is being played by many

more districts across the United States so that the competition amongst the students is daunting.

To meet the challenge, I selected La Feria High School, located in Cameron County, to participate in this program. I wish them well and want to let them know that I am rooting for them.

Numerous programs exist to improve financial literacy. Recently, I reviewed JumpStart's Web site and found more than 500 financial literacy programs. While this means that many groups and individuals are working towards the goal of improving financial literacy rates, it also means that more coordination and collaboration amongst the programs and the groups are needed.

Mr. Speaker, yesterday the Financial Literacy Economic Commission released its National Strategy for Financial Literacy. While they were behind schedule, the report contains some good ideas, especially public service announcements and a public media campaign. Although it is a good start, much remains to be done. Other actions need to be taken and different venues need to be employed to achieve our goal. I remain committed to convince our appropriators that they should provide at least \$3.5 million for the multimedia campaign.

With our savings rate currently at a negative .2 percent, or two-tenths of 1 percent, I believe that \$3.5 million is a paltry sum if we are to improve financial literacy rates in this country. The funds are also needed to afford the multimedia campaign the ability to educate our constituents who remain subject to predatory lenders, potential identity theft from increasing data breaches, and much more.

Mr. Speaker, last month the House Financial Services Committee agreed to hold a hearing on the National Strategy on Financial Literacy as required by title V of the FACT Act. This is a crucial step towards reaching our goals.

I want to take this opportunity to again thank my friend Congresswoman BIGGERT and her staff, Nicole Austin and Brian Colgan, for working with us on today's legislation. I look forward to continuing my collaboration with Mrs. BIGGERT on any and all efforts that will increase public awareness of the need to improve financial literacy, to promote programs that increase financial literacy for all during all stages of life, and significantly improve financial literacy rates across the country. We are already moving forward on this, and we will host our annual Financial Literacy Day Fair April 25 with JumpStart, with Junior Achievement, and the National Council on Economic Education and together with Senator DANIEL AKAKA. The fair is open to the public and will be held from noon to 5 p.m. in the Senate Hart building. I have learned that more than 40 vendors will be sharing their financial literacy products with those who attend the event, and I encourage all my colleagues and all of their staffs and the public to attend the event.

I urge my colleagues to support this legislation.

Mr. WESTMORELAND. Mr. Speaker, I yield such time as she may consume to the distinguished gentlewoman from the State of Illinois (Mrs. BIGGERT), the author of the bill.

Mrs. BIGGERT. Mr. Speaker, I thank the gentleman from Georgia for yielding me the time.

Mr. Speaker, I rise today in support of House Resolution 737 to designate April as Financial Literacy Month. This is the third year that I have introduced this resolution with my colleague from Texas (Mr. HINOJOSA) to raise public awareness about the importance of financial education in the United States.

The state of financial literacy among our citizens may not garner much in the way of headlines, but it is an issue that should command our attention. It is a problem that is serious and urgent but is one that could be solved through education, and that is why I urge my colleagues to support this resolution.

In 2003 I worked with my colleagues and again Mr. HINOJOSA to establish within the Fair and Accurate Credit Transaction Act, or the FACTA, the Financial Literacy and Education Commission. We tasked the commission with establishing a Web site, a toll-free hotline, and a national financial literacy strategy. I am happy to say that the commission immediately launched www.mymoney.gov and 1-888-MY MONEY, and just yesterday it unveiled the national strategy report.

It is called "Taking Ownership of the Future: The National Strategy for Financial Literacy." And it highlights best practices and outlines outreach and education goals for the public and private sectors. I would urge my colleagues to go to mymoney.gov and take a look at the report. It is a great roadmap for how Americans can improve their understanding of issues such as credit management, savings, and homeownership. It is my hope that this national strategy can serve as a focal point for the hundreds of groups out there who are stepping up to the plate on financial literacy. There are so many issues and so many groups of individuals who need help and want to help.

Since my colleague Mr. HINOJOSA and I founded the Financial and Economic Literacy Caucus, which now has 68 Members of Congress, literally hundreds, if not a thousand, not-for-profit groups and private sector organizations have called us to offer their help or tell us about their financial literacy programs.

And I would like to take a moment to insert into the CONGRESSIONAL RECORD letters of support for these resolutions from four such organizations.

NETWORKS FINANCIAL INSTITUTE
AT INDIANA STATE UNIVERSITY,
Terre Haute, IN, April 4, 2006.

Hon. JUDY BIGGERT,
House of Representatives, Co-Founder and Co-Chair, Financial and Economic Literacy Caucus, Washington, DC.

Hon. RUBÉN HINOJOSA,
House of Representatives, Co-Founder and Co-Chair, Financial and Economic Literacy Caucus, Washington, DC.

DEAR REPRESENTATIVES BIGGERT AND HINOJOSA: We are writing to express our support for H. Res. 737, "Supporting the goals and ideals of Financial Literacy Month." The resolution is an important step in raising awareness among individuals, policy-makers, and institutions about the need for a more competent, financially literate country.

A lack of basic money-management skills is widespread among Americans. Over a quarter of our population have not received adequate financial literacy education in order to manage household finances. Personal bankruptcies increased 19% in 2002 over 2001, and increased by over 10% in 2003 with young adults between 20 and 24 representing the fastest growing segment of bankruptcy filings. In 2004, America's teenagers scored a failing grade in basic financial literacy knowledge, and more people filed for bankruptcy than graduated from college. Now more than ever, there is a critical need for research-based financial literacy educational programs to reach individuals at all age and socioeconomic levels, particularly in the early years. Our nation's educational systems are an effective conduit through the use of quality programming with a common set of educational standards, pre- and post-education assessment tools, effective training programs for educators, and materials which appropriately serve various segments of adult and child populations. The goal of these efforts is to develop an adult population of consumers that have adequate skills and confidence for making day-to-day financial decisions, and planning for their financial futures.

Thank you again for introducing H. Res. 737. Your continued leadership and commitment to financial literacy is essential to raise awareness of the need to implement a national strategy, and improve the money, credit, and debt management skills of all individuals.

Sincerely,

LIZ COIT,
Executive Director.

NORTH AMERICAN SECURITIES
ADMINISTRATORS ASSOCIATION, INC.,
Washington, DC, April 4, 2006.

Hon. JUDY BIGGERT,
House of Representatives, Washington, DC.

Hon. RUBÉN HINOJOSA,
House of Representatives, Washington, DC.

DEAR CONGRESSWOMAN BIGGERT AND CONGRESSMAN HINOJOSA: On behalf of NASAA thank you for introducing H. Res. 737, which supports the goals and ideals of Financial Literacy Month. As the Resolution details, the need for financial education in the United States has never been greater. With a majority of American investing in our capital markets, there is a growing obligation to ensure our citizens are equipped with a basic understanding of the principles of savings and investing and the ability to recognize and avoid financial fraud.

State securities regulators have a long tradition of protecting investors through education, and many have established an investor education department within their regulatory agency. Several years ago, recognizing the importance of financial literacy

to the prevention of fraud and abuse, the NASAA Board of Directors created an Investor Education Section to develop and support financial literacy and education programs to be delivered at the state level.

As part of the effort to educate our nation's youth, in April, state securities division staffs will join in celebrating "Financial Literacy Month" by visiting schools throughout their state to teach students about personal finance, the capital markets, investment choices and fraud.

Reaching out to our young citizens is just one component of the ongoing financial education effort undertaken by state securities regulators. We are dedicated to improving financial literacy for our constituents of all ages, recognizing that financial education has a direct impact on the economic health of our families, communities, states and this country overall.

We commend you for your continued efforts to draw attention to the importance of financial literacy programs. Please contact Daphne Smith, Tennessee Securities Commissioner and Chair of NASAA's Investor Education Section, or Deborah House in NASAA's corporate office if we may be of further assistance to you. We look forward to continuing our work with you and your offices on this particular issue.

Sincerely,

PATRICIA D. STRUCK,
NASAA President,
Wisconsin Securities Administrator.

VISA U.S.A. INC.,
Washington, DC, April 4, 2006.

Hon. JUDY BIGGERT,
House of Representatives,
Washington, DC.

Hon. RUBÉN HINOJOSA,
House of Representatives,
Washington, DC.

DEAR REPRESENTATIVES BIGGERT AND HINOJOSA: I am writing to commend you for introducing H. Res. 737, a "Resolution Supporting the Goals of Financial Literacy Month."

Visa, through its "Practical Money Skills for Life" program, has been working to expand and improve financial literacy for youth in schools, as well as consumers at all stages of life. This is an award-winning comprehensive educational program, which includes interactive, computer based activities, as well as plans that can be used by teachers to deliver financial literacy lessons in the classroom. We developed Practical Money Skills for Life in close consultation with educational and nonprofit financial literacy organizations. These materials are available for free through the Internet at <http://www.practicalmoneyskills.com/>.

We look forward to working with you, the House Financial and Economic Literacy Caucus, the Financial Literacy and Education Commission, and other policymakers, to advance this very important cause.

Thank you again for your leadership on this critical issue.

Sincerely,

LISA B. NELSON,
Senior Vice President & Director,
Government Relations.

LAW DEPARTMENT,
MASTERCARD INTERNATIONAL,
Purchase, NY, April 4, 2006.

Hon. JUDY BIGGERT,
House of Representatives,
Washington, DC.

Hon. RUBÉN HINOJOSA,
House of Representatives,
Washington, DC.

DEAR CONGRESSWOMAN BIGGERT AND CONGRESSMAN HINOJOSA: I am writing to communicate MasterCard's dedication and commit-

ment to increasing financial literacy rates, and we commend the efforts of you and your colleagues on H.R. 737. This bill is yet another example of your admirable devotion to this critical issue.

MasterCard International will continue consumer education during Financial Literacy Month by hosting activities across the country that help Americans successfully manage their personal finances. Events include the launch of the Spanish language version of our Debt Know How Web site (www.debtknowhow.com), activities with policymakers on Capitol Hill that showcase MasterCard's consumer education programs, and a debt training seminar at the 2006 California Summit on Financial Literacy.

Please let us know if we can ever be of assistance to you or your staff.

Sincerely,

JOSHUA PEIREZ,
Senior Vice President &
Associate General Counsel.

Mr. Speaker, I would also like to thank some of the people in my home State of Illinois who have demonstrated their commitment to educating Americans of all ages about savings and finance: Susan Beecham, founder of Money Savvy Generation and the inventor of my favorite financial literacy tool, the Money Savvy Pig; and then there is Joanne Dempsey, Illinois Council on Economic Education; and one of my good friends, the other Judy from Illinois, Illinois State Treasurer Judy Baar Topinka.

Mr. Speaker, most of our States do not require schools to have financial literacy programs, and the majority of students failed a basic financial literacy exam. Many eighth graders do not know the difference between cash, checks, and credit cards. And most college students have at least one credit card with a large unpaid cash balance. Adults have not fared very well either, and the number of "unbanked" households in the United States is estimated to be close to 10 million.

Studies show that Americans are not saving for life's expensive, and at times unexpected, needs such as education, retirement, and health care. Now is the time for us to encourage our children and adults to learn about finance and economics and engage in good budget and long-term savings habits.

I want to thank my distinguished colleague and friend, the gentleman from Texas (Mr. HINOJOSA), for his dedication to this issue and sponsorship of this resolution. I would also like to thank the chairman of the Committee on Government Reform, the gentleman from Virginia (Mr. DAVIS) for cosponsoring this resolution and moving it through his committee. And I would especially like to thank the gentleman from Georgia for managing this resolution and my colleague from Illinois (Mr. DAVIS) for managing the resolution. And last I would like to thank the gentleman from California (Mr. DREIER) and the gentlewoman from Connecticut (Mrs. JOHNSON) for their support of the resolution and their commitment to financial literacy.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

I want to commend my colleagues, Representatives BIGGERT and HINOJOSA, for the outstanding work that they continue to do in this important area.

The importance of financial and fiscal responsibility cannot be overstated. Personal financial literacy is essential to ensure that individuals are prepared to manage money, credit, and debt and become responsible workers, heads of households, investors, entrepreneurs, business leaders, and citizens. And that is why I am pleased to support H. Res. 737, introduced by Representative BIGGERT of our great State, that is, the State of Illinois.

Personal savings as a percentage of personal income decreased from 7.5 percent in the early 1980s to a negative 0.2 percent in the last quarter of 2005. As the resolution notes, 92 percent of college students acquire at least one credit card by their second year in college; yet only 26 percent of people between the ages of 13 and 21 reported that their parents actively taught them how to manage money.

The JumpStart Coalition for Personal Financial Literacy seeks to improve the personal financial literacy of young adults. JumpStart's purpose is to evaluate the financial literacy of young adults; develop, disseminate, and encourage the use of financial education standards for grades K-12; and promote the teaching of personal finance.

□ 1315

To that end, JumpStart has established 12 must-know personal finance principles for young people to improve their financial future. It would not hurt if adults also followed these 12 steps as well.

The 12 financial principles stressed during Financial Literacy Month for Youth are map your financial future; do not expect something for nothing; high returns equal high risk; know your take-home pay; compare interest rates; pay yourself first, money doubles by the rule of 72, to determine how long it would take your money to double, divide the interest into 72; your credit past is your credit future; start saving young; stay insured; budget your money; do not borrow what you cannot repay; and let me add one more, especially since the 15th is not too far away, pay all of your taxes.

Mr. Speaker, I am pleased to support this resolution supporting the goals of financial literacy month, and urge all of my colleagues to support it.

Mr. Speaker, I reserve the balance of my time.

Mr. WESTMORELAND. Mr. Speaker, I yield such time as he may consume to my distinguished colleague from the State of California (Mr. DREIER), the chairman of the powerful Rules Committee.

(Mr. DREIER asked and was given permission to revise and extend his remarks.)

Mr. DREIER. Mr. Speaker, I thank my friend for yielding, and congratulate him and his colleagues on the Government Reform and Oversight Committee for their hard work on this important issue.

As I look around the Chamber, Mr. Speaker, I, of course, want to say that this Illinois nexus here between DAVIS and BIGGERT is obviously a great one and very committed to the issue of financial literacy, and my good friend from Texas, RUBEN HINOJOSA, has done so much to further this cause.

I want to say that I remember it was probably a decade ago that Mr. POMEROY and I stood here beginning to focus attention on this issue. I want to again say how much I appreciate the fact that Mrs. BIGGERT and Mr. HINOJOSA have led the charge here. I believe that this resolution is very deserving of our support. I see my friend EDDIE BERNICE JOHNSON here as well, so I suspect she is supportive of this, and Mr. SHERMAN and others.

I do believe if we look at where we are as a Nation today, it is amazing what the 21st century has wrought. We are all so supportive of these dramatic changes that have been made, improving the quality of life and the standard of living for people. But one of the things we point to is the fact we see this emerging investor class; 56.7 million American families are today members of the investor class.

What has all of this technological change brought about? Well, one thing is the explosion of the access to all kinds of different financial products and services out there. Many of them are offered to young people who, unfortunately, don't really have much of a grasp or understanding of financial responsibility and financial literacy.

That is why what we are doing here today is the right thing. In fact, I am very pleased to see that the Commission on Financial Literacy that has been put into place just yesterday made the decision to move ahead with positive methods of education advancing this cause.

If we are going to see the number of investors in the United States of America grow, and as we want to continue to see the standard of living increase for so many people, with that obviously comes responsibility. As people take on responsibility, the best way for them to do it is if they have the kind of literacy that is necessary in dealing with this explosion of financial products and services that are out there.

So, I simply want to say congratulations. Here we are, trying to encourage education in science, technology, engineering and math, the STEM Program we were talking about just last week, and as well we are proceeding with the work on our very important higher education bill, and key to that is our quest to ensure that people understand these different financial products that are there.

Mr. Speaker, I congratulate my colleagues who have been so involved in

this, and I hope very much that we will be able to have strong support for this measure. I hope we have unanimous passage of it. We will be able to at that point see a greater understanding and an enhancement of these toll-free numbers that are out there and all the other educational tools that my friend Mrs. BIGGERT talked about.

With that, I encourage strong support for the resolution.

Mr. DAVIS of Illinois. Mr. Speaker, I yield such time as she may consume to the gentleman from California (Ms. LORETTA SANCHEZ).

Ms. LORETTA SANCHEZ of California. Mr. Speaker, I thank the gentleman from Illinois. I rise in strong support of H. Res. 737, supporting the goals and the ideal of Financial Literacy Month.

Mr. Speaker, we need to care more about financial literacy in this country and making sure our constituents have the tools to be responsible consumers, to make them good savers and to make them great investors.

In a new survey conducted by the Financial Literacy Forum, two of every five Americans say they know only some, little or not much about how to manage their finances and only 10 percent of college students have had financial education in high school. We used to learn financial skills at home or at school, but now Americans aren't even being taught these crucial life skills in either place.

Now, more than ever before, we Americans need to be financially literate. The average American family spends \$200,000 to raise a child to the age of 18, and yet the United States savings rate barely breaks above 1 percent. The cost of education, as everyone knows, is skyrocketing. Undergraduate students have an average credit card balance of about \$3,000.

I am not saying that greater financial literacy will solve all of our problems, but it will help people to manage their financial issues better. Sound financial knowledge helps individuals prepare to own a home, to save for retirement, to protect themselves from fraud, to start a business, to plan for college. And the benefits of financial literacy accrue not just to the individual, but to our communities as well. The more people in our communities save, the more they can invest, the more they can create business, the more we create and build America. Financial literacy is really the cornerstone to lasting wealth creation. And, above all, remember it is not how much you make, it is what you do with the money you get.

So I would like to thank my colleagues again for introducing this important legislation, and I would urge the House to support H. Res. 737.

Ms. JONES of Ohio. Mr. Speaker, making thoughtful and informed decisions about your finances is more important than ever. Financial literacy and education are the foundation for wealth building. Being knowledgeable of the different financial products available leads

to increased wealth among individuals and families and is key to stimulating the economy.

There are many more aspects of financial literacy than knowing how to open and maintain a savings or checking account. In today's society, increasingly more adults, young and old participate in financial decision making including, life insurance coverage, 401(k)s, stocks, business, investments, credit cards, mortgage loans, and automobile financing.

I believe that financial literacy should be taught at an early age. Parents should instill in their young children the value of saving and investing. According to the American Bankruptcy Institute, more young people filed for bankruptcy than graduated from college in 2001. In addition, personal bankruptcy filings were up 7.4 percent last year.

There are several programs like JumpStart, which are geared toward teaching children and young adults the basics of financial management. The JumpStart Organization in Ohio was recently awarded a \$10,000 grant from The McGraw-Hill Companies to launch Financial Literacy for Teachers Training Workshops for Pre-Teachers and Teacher Training in Personal Finance Basics in five different regions in Ohio. This grant will equip them with the knowledge, tools, skills and resources to instruct their students to develop personal financial skills and to enable them to apply money management skills effectively in their everyday lives.

Surprisingly, half of all Americans are living paycheck to paycheck. In addition, 40 percent of Americans say they live beyond their means. I realize it is often more difficult for lower income individuals and those who live on a month to month basis to save, but one would be surprised how much a small weekly or monthly saving could accumulate over a period of time if it is allowed to grow.

I am pleased to be a cosponsor of this resolution, and urge my colleagues on the House and Senate to pass this important measure.

Mr. HOLT. Mr. Speaker, I rise in support of H. Res. 737, which would support the goals and ideals Financial Literacy Month, among them raising public awareness about the importance of financial literacy.

As many of my colleagues are aware, borrowing—particularly on credit—has increased dramatically in recent years, while private savings have fallen. At the end of 2004, Americans carried 657,000,000 bank credit cards, 228,000,000 debit cards, and 550,000,000 retail credit cards—that comes to 6.3 bank credit cards, 2.2 debit cards, and 6.4 retail credit cards per household. The household debt of United States citizens climbed to \$11,000,000,000 by the close of the third quarter of 2005. Meanwhile, personal savings as a percentage of personal income have decreased from 7.5 percent in the early 1980s to negative 0.5 percent in 2005, the first year that the rate has been negative since the Great Depression.

My colleagues are familiar with these statistics and the problems that such trends create for our economy, among them our low current accounts balance and our oft-cited trade deficit.

Americans should be familiar with the financial tools and strategies that can reverse these trends—tools and strategies made available by programs like Financial Literacy Month. By working to improve the financial literacy of people from all ages and walks of life, we can

help high school and college students prepare themselves for more responsible adult lives, help parents continue to provide for their children, and help retirees create sustainable plans for their golden years. Greater financial literacy will reduce the number of Americans forced to file for bankruptcy, increase the nation's private savings, and empower more Americans to make informed decisions in an increasingly complex market. Altogether, it will spur growth in our nation's economy.

In New Jersey, our credit unions have come together with the Department of Banking and Insurance for initiatives like the New Jersey Financial Literacy Awareness Network (NJFLAN) to help New Jerseyans better understand and manage their finances. NJFLAN partners with community organizations, schools, corporations, and financial institutions to distribute multilingual educational materials. The New Jersey Credit Union also set up a grant-making foundation to back initiatives to improve financial literacy within our state. These are two examples of positive, practical efforts that can be made at the state and district levels to further the goals and ideals of Financial Literacy Month.

I am proud to cosponsor this resolution and urge my colleagues to pass this resolution today.

Mr. BACA, Mr. Speaker, I rise in recognition of Financial Literacy Month and in full support of H. Res. 737, which I have cosponsored. As a member of the Congressional Financial and Economic Literacy Caucus, I encourage all of my colleagues to use this time to raise awareness about the importance of financial education and to support efforts that prepare Americans with the skills and know-how they need to manage money, credit and debt.

I'd also like to take this time to call attention to an important consumer issue that is affecting millions of Americans all across the nation.

Among the most vital pieces of information that can prepare individuals to make informed financial decisions is a credit report. Understanding one's credit report plays a key role in home-ownership readiness, increasing financial literacy, and monitoring for identity theft and or/fraud.

In recognition of the important role a credit report plays in enhancing financial literacy and combating identity theft, Congress passed legislation that entitles all consumers to one free credit report each year.

However, since the law's passage in 2003 nearly 30 million Latinos within the United States including almost 3 million in Puerto Rico—who have limited English language skills, are being excluded from this new right. They cannot obtain access because the system to order free credit reports—a website and toll-free hotline—is only available in English. As a result, millions are denied this information, which is essential to making informed financial decisions and to guarding against identity theft.

Identity theft is a serious and pervasive crime that affects millions of American families. According to a recent study by the Department of Justice, an estimated 3.6 million U.S. households—or about 3 out of every 10—were victims of identity theft in 2004.

During last month's markup of the Financial Data Protection Act (H.R. 3997) in the House Financial Services Committee, I called on America's leading credit bureaus to implement new procedures and services to help Spanish

speakers obtain copies of their free credit report, understand the financial information it contains and learn about ways they can guard against identity theft, detect it or take corrective action if they discover they have been victimized. The right to a free credit report is a right for all consumers. In order for tens of millions of Spanish speakers to gain access, the system for ordering free credit reports must be made available in Spanish.

Last week, members of the Congressional Hispanic Caucus, of which I am First Vice Chair, met with executives from Equifax, Experian and TransUnion to discuss this issue and to ask them to take additional steps to protect Latinos who have limited English language skills. The CHC will continue to monitor this issue to ensure their full compliance with the law. They must be held accountable.

I urge my colleagues to support the adoption of H. Res. 737 and encourage all members to support the ideals and goals of Financial Literacy Month.

Mrs. JOHNSON of Connecticut. Mr. Speaker, in an era when Americans' dependence on federal entitlements is increasing, when the number of Americans filing for personal bankruptcy rose an astounding 30 percent in the past year, and when our national savings rate is at its lowest point since the Great Depression, it is imperative that our Nation's youth understand the importance of long-term financial planning, particularly personal savings and investment.

We need young Americans to develop basic financial skills and knowledge to help them prepare for their future. They need to learn and understand basic principles such as compound interest, market capitalization, and how to avoid credit card debt. Learning simple concepts such as these during childhood cultivates lifelong habits of responsible financial management.

In particular, we must emphasize the value of investing early. We must stress the significance of tax-advantaged savings opportunities such as Roth IRA's, Health Savings Accounts, and 401(k) contribution plans offered by employers—especially when a match is offered—as well as numerous other vehicles for building substantial nest eggs for retirement.

Improving the financial literacy of our youth will equip the American workforce of tomorrow with the tools to grow our national economy and to achieve personal financial success and security in retirement. I urge my colleagues to join me in offering House Resolution 737 their full support.

Mr. DAVIS of Illinois. Mr. Speaker, I yield back the balance of my time.

Mr. WESTMORELAND. Mr. Speaker, I urge all Members to support the adoption of House Resolution 737, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. BOOZMAN). The question is on the motion offered by the gentleman from Georgia (Mr. WESTMORELAND) that the House suspend the rules and agree to the resolution, H. Res. 737.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. DAVIS of Illinois. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this question will be postponed.

FRANCISCO 'PANCHO' MEDRANO POST OFFICE BUILDING

Mr. WESTMORELAND. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4561) to designate the facility of the United States Postal Service located at 8624 Ferguson Road in Dallas, Texas, as the "Francisco 'Pancho' Medrano Post Office Building".

The Clerk read as follows:

H.R. 4561

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

SECTION 1. FRANCISCO "PANCHO" MEDRANO POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 8624 Ferguson Road in Dallas, Texas, shall be known and designated as the "Francisco 'Pancho' Medrano Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Francisco 'Pancho' Medrano Post Office Building".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Georgia (Mr. WESTMORELAND) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Georgia.

GENERAL LEAVE

Mr. WESTMORELAND. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. WESTMORELAND. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4561, offered by the distinguished gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON). This bill would designate the postal facility in Dallas, Texas, as the Francisco "Pancho" Medrano Post Office Building.

Francisco "Pancho" Medrano was a driving force in bringing the Hispanic culture into the City of Dallas and working to eliminate discrimination. Medrano was an activist and a hero with Dallas' Hispanic communities and promoted the importance of civic responsibility and political participation.

Mr. Medrano is well-known for his years of union and civil rights work with the United Auto Workers. During his years with the UAW, he integrated lunch counters in Dallas, took part in civil rights marches in the Deep South and organized farm workers in the Texas valley. However, his work was

not just confined to the UAW. He participated in numerous equality campaigns in Mississippi, Arkansas and Texas.

I urge all Members to honor the perseverance of this honorable civil rights leader by passing H.R. 4561.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, it is my pleasure to yield such time as she may consume to the author of this resolution, the Honorable EDDIE BERNICE JOHNSON from Texas.

(Ms. EDDIE BERNICE JOHNSON of Texas asked and was given permission to revise and extend her remarks.)

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I would like to thank Mr. TOM DAVIS and the ranking member, HENRY WAXMAN, of the House Government Reform Committee and also the gentleman from Georgia, Mr. WESTMORELAND, and the ranking member, Mr. DANNY DAVIS, for moving this important legislation through the committee. This resolution has been endorsed by every single Member from the Texas delegation.

Francisco "Pancho" Medrano played an integral part in bringing Hispanics into the cultural and social mainstream in Dallas. He was a leader to his community in the struggle against discrimination.

The son of a Mexican laborer, Pancho Medrano was born in Dallas in 1920. In his youth, in 1952, he was heavyweight boxing champion of Mexico, and grew up as a community activist in the fight for social and economic equality.

He grew up in an area of Dallas called Little Mexico and he encountered much prejudice and segregation. But he never was considered violent. As a young man, he was banned from public swimming pools and all of the other things, and frequently said that he didn't see that he should be any different from any other black American because he was treated the same way.

At the beginning of World War II, when unions began to form in the Dallas area, he was inspired by the political conditions around him. He was captivated by the political agenda of the United Auto Workers and he was then named by Walter Reuther to be organizer of the UAW Union in Dallas. His work had an immeasurable impact on the lives of thousands of working women and minorities.

In 1960, when television began to change the visibility of the American civil rights movement, the UAW president commissioned him to be an international representative for civil rights. So he participated in all the landmark marches with Martin Luther King. He was probably one of the only Mexican Americans in the Montgomery boycott and in Selma along with Dr. King.

He continued his organizing throughout the country, including Chicago, Detroit, Indianapolis, California and Arizona. He worked to help repeal the poll tax in 1964, and he really spoke all the time about understanding the struggle

of all of the African Americans, because he fought the same battle for all.

He was a father of five. Pancho, Jr., had preceded him in death. He died in 2002 but continued to be active up to his death. His only daughter, Pauline, is a member of the city council, his son Robert has been, and his son Ricardo has been on the school board.

It is important I think for all young people to know that we have had leadership that came along and made things better for them and did not have to be violent. He was always a gentleman, but never silent when it came to rights.

Mr. Speaker, I would like to thank Chairman TOM DAVIS and Ranking Member HENRY WAXMAN of the House Government Reform Committee for their leadership on moving this important resolution through the committee and to the House floor for its consideration today.

"Pancho" Medrano played an integral part in bringing Hispanics into the cultural and social mainstream in Dallas.

He was a leader to his community in the struggle against discrimination.

The son of a Mexican laborer, Pancho Medrano was born in Dallas in 1920.

Pancho Medrano, who in his youth was the 1952 Heavyweight Boxing Champion of Mexico, grew up to be a community activist in the fight for social and economic equality.

Growing up in the Little Mexico area of Dallas, Medrano encountered prejudice and segregation. As a young man, he was banned from the public swimming pool as well as banned from watching movies within the public park in Little Mexico.

Medrano attended St. Ann's Catholic School and Dallas public schools through the eighth grade. At the beginning of 9th grade, his high school principal told him he could no longer attend classes and directed him to go to work at the local rock quarry.

While working at the quarry, Medrano trained to become a riveter and eventually went to work at the North American Aviation Company. There were few skilled minority workers at the plant, and the majority of white workers refused to work with Medrano. Conditions at the plant were even worse for African Americans, as nearly all of them were assigned to cleaning restrooms. Medrano was surrounded by an environment where everything, even the punch clocks, were segregated.

At the beginning of World War II, unions began forming in the Dallas area.

Inspired by the political conditions around him Medrano was captivated by the political agenda of the United Auto Workers, in particular the motto that there shall be no discrimination based upon race, color, or creed, and sex.

Medrano played a key part in organizing the UAW union in Dallas.

His work made an immeasurable impact in the lives of thousands of working women and minorities.

In 1960, when television began to change the visibility of the American Civil Rights Movement, UAW President, Walter Reuther, commissioned Medrano as a special UAW International Representative for Civil Rights.

Medrano went on to participate in virtually all of the landmark events of the civil rights movement.

Mr. Medrano integrated lunch counters in Dallas, and took part in civil rights marches in the Deep South.

He organized demonstrations in Dallas and was involved in the integration in Little Rock.

Often times there were no Mexican-Americans organizing these civil rights demonstrations. Medrano played a key part in organizing and energizing the Mexican-American community throughout the South.

Medrano participated as one of the only Mexican-Americans in the Montgomery Bus Boycott.

He also marched in Selma along with Dr. King.

He continued his organizing throughout the country including: Chicago, Detroit, Indianapolis, California and Arizona.

In addition, he organized farm workers in the Texas Valley alongside civil rights leader César Chávez.

In 1967, Texas Rangers broke up a peaceful protest where Medrano and five women attempted to picket a train carrying melons picked by non-union workers. The protest in Mission, Texas, was part of a year-long effort by farm workers.

During this time, Medrano and others were subjected to persistent harassment and violence from law enforcement officers for their union-organizing protests. Medrano sued the Ranger who broke up the protest. He took his case all the way to the Supreme Court—overturning the Texas laws that barred mass demonstrations.

Medrano worked with the UAW to help repeal the poll tax in 1964. Mr. Medrano said, "I could understand the struggle of black people because my people were experiencing the same sort of thing." Medrano was driven to fight for economic and social justice for all individuals—Hispanics, Blacks, Women, and others.

Mr. Medrano's work to end discrimination and prejudice has had a profound and lasting effect on myself and on the lives of millions of Americans.

We must all work to carry on his remarkable legacy.

Even when he retired in Dallas, Medrano continued to be an active member of UAW Local 848's retiree group.

Mr. Medrano passed away in April of 2002.

In addition to his daughter, Pauline, he is survived by three sons, Robert, Ricardo, and Rolando.

There are many young people who may not know of, or did not experience Mr. Medrano's battle towards equality. It is imperative we recognize and celebrate our civil rights leaders as a nation. Honoring leaders such as Pancho Medrano teaches our young people about the leaders who came before them—and hopefully gives a new generation the inspiration to fight for change.

I urge my colleagues to support H.R. 4561, to name the postal facility at Ferguson Road in Dallas, Texas in honor of Pancho Medrano.

□ 1330

Mr. WESTMORELAND. Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, just to close, I strongly rise in support of this postal facility naming for Mr. Frances Pancho Medrano, who was an outstanding community activist. I think it is the kind of people that he

was who really make America and have made America what it ought to be, and so I strongly support this resolution.

Mr. SESSIONS. Mr. Speaker, I rise to recognize the naming of a United States Postal Facility in Dallas, Texas as the "Francisco 'Pancho' Medrano Post Office Building." Pancho Medrano was the embodiment of the civil rights movement for the Hispanic community in Dallas. He was a decisive leader in encouraging Hispanics to actively participate in the political process in Dallas. Mr. Medrano brought Hispanics into the city's mainstream community and mentored a generation of Dallas political leaders. His operational base centered in Little Mexico, an enclave immediately north of downtown Dallas. In this neighborhood where he was banned from swimming in the public pool as a child, he raised a family whose name became synonymous with civic life.

Not only was he a strong civil rights leader, but along the way, he became a very talented and successful heavyweight prize fighter.

Today Pancho Medrano would be most proud of his family's achievements. One of his sons was a Dallas ISD school board member. Another was selected to serve on the Dallas City Council and Dallas/Fort Worth International Airport Board. Additionally, his daughter, Pauline Medrano, was recently elected to the Dallas City Council, representing the area that has long been home for the Medrano family. She proudly carries on the legacy of leadership and passion to serve the community. I will continue to work with her locally to better our great city.

Therefore, it is with distinction that I recognize the designation of the United States Postal Facility located at 8624 Ferguson Road in Dallas, Texas as the "Francisco 'Pancho' Medrano Post Office Building." I ask that all of my fellow colleagues support H.R. 4561.

Mr. DAVIS of Illinois. Mr. Speaker, I yield back the balance of my time.

Mr. WESTMORELAND. Mr. Speaker, I urge all Members to support the passage of H.R. 4561.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. BOOZMAN). The question is on the motion offered by the gentleman from Georgia (Mr. WESTMORELAND) that the House suspend the rules and pass the bill, H.R. 4561.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

COACH JOHN WOODEN POST OFFICE BUILDING

Mr. WESTMORELAND. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4646) to designate the facility of the United States Postal Service located at 7320 Reseda Boulevard in Reseda, California, as the "Coach John Wooden Post Office Building".

The Clerk read as follows:

H.R. 4646

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

SECTION 1. JOHN WOODEN POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 7320 Reseda Boulevard in Reseda, California, shall be known and designated as the "Coach John Wooden Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Coach John Wooden Post Office Building".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Georgia (Mr. WESTMORELAND) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Georgia.

GENERAL LEAVE

Mr. WESTMORELAND. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. WESTMORELAND. Mr. Speaker, I yield myself as much time as I may consume.

Mr. Speaker, I rise in support of H.R. 4646, offered by the distinguished gentleman from California (Mr. SHERMAN). This bill would designate the postal facility in Reseda, California, as the Coach John Wooden Post Office Building.

John Wooden is often referred to as the most successful coach in college basketball history. At UCLA, Mr. Wooden's team scaled unprecedented heights. The Bruins set all-time records with four perfect 30-0 seasons, 88 consecutive victories, 38 straight NCAA tournament victories, 20 PAC-10 championships, and 10 national championships in which seven of these championship victories were won consecutively.

Considered one of the finest teachers the game has ever known, Coach Wooden's approach was centered on conditioning, skill, and teamwork. Coach Wooden's principles both on and off the court dictated his success in creating what is certainly the greatest dynasty in basketball history. I urge all Members to honor this dedicated and inspiring teacher by passing H.R. 4646. And I want to wish Coach Wooden a speedy recovery and a return back to his home.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield such time as he might consume to the gentleman from California (Mr. SHERMAN), the author of this resolution.

Mr. SHERMAN. Mr. Speaker, it is fitting as we have concluded March Madness, the NCAA Championship playoff for men's basketball, that we reflect upon the great success of a man I think is the greatest coach of all time in any

sport. That is the Wizard of Westwood, Coach John Wooden, a man who meant so much to basketball players, fans, to sport in general, to our society, and especially to us in his home area, the San Fernando Valley.

I attended UCLA and graduated in 1975. I was there for 3 years. And in just my 3 years, I saw in the 1972-1973 season a 30-0 record, National Championship, and Coach John Wooden named Coach of the Year.

Then in my next year at UCLA, Coach John Wooden achieved a record of 26-4, reached the semi-finals in the national tournament, and coached the great Bill Walton in his final season. And then finally, not in Bill Walton's final season, but in Coach John Wooden's final season at UCLA, 1974-1975, a record of 28-3, and a National Championship. What a way to end a coaching career; a coaching career that included ten National Championships.

Now, as the gentleman pointed out, Coach John Wooden was hospitalized just a few days ago. He watched the UCLA team come in second in the nation from his hospital bed. But I am pleased to report that he is to be discharged from the hospital today and has been given a basically clean bill of health. I hope very much that he is watching us either as he is about to leave the hospital or as he has just returned home to his home in Encino.

Coach John Wooden was the first individual inducted to the Basketball Hall of Fame as both a player and a coach, and in fact, only three individuals to date have been so inducted. He is now 95 years old, has been a resident of my district for the 10 years that I have served with Congress, and for far longer than that.

He was born in 1910. He went on to Purdue University, where in 1932, he was National Player of the Year and led his team, the Boilermakers, to the National Championship.

In the 1940s, he came to us at UCLA, having first served his country as lieutenant in World War II. There at UCLA, he led us to 10 National Championships, including 7 in a row. Under his tutelage, UCLA had 7 perfect 30-0 seasons and won 19 conference championships. His teams once won 88 games in a row, the longest streak in basketball history and I believe the longest streak in any major sport. He also won a record 38 consecutive NCAA tournament games.

Wooden was the NCAA Basketball Coach of the Year six times. He was named Man of the Year By Sporting News in 1970, and by Sports Illustrated in 1973. When he reached retirement at UCLA in 1975, his total record was 620 wins versus 147 losses.

But his leadership was not just on the court. He inspired so many by his testament to leadership, to success, to dedication, and to sportsmanship. He wrote several books, including *Wooden On Leadership*, also including *My Personal Best: Life Lessons From An All-American Journey*, and even a children's book, *Inches and Miles: the*

Journey to Success. He was famous for his Pyramid of Success which inspired so many in their adult lives to focus on team spirit, competitiveness, and teamwork.

In conclusion, I cannot think of a better way to honor Coach John Wooden in the San Fernando Valley than naming a Federal building in Reseda, the Reseda Post Office, after Coach John Wooden. Reseda is the community located immediately adjacent to Coach John Wooden's home community of Encino.

Just a few years ago, we named the Encino Post Office after another basketball luminary, Chick Hearn, the most famous basketball broadcaster of all time. And so now we will have two post offices located just a few miles apart honoring the two greatest basketball names in the history of the San Fernando Valley. Coach John Wooden's daughter, Nancy, lives in Reseda with her husband, as does his grandson-in-law Paul, who was recently honored at a celebration that I was able to attend—the Walk of Hearts, where we honor in Canoga Park the great teachers of the San Fernando Valley. Of course, just a few years earlier, the first teacher so honored was Coach John Wooden himself.

Coach John Wooden means so much to our area, so much to sports fans around the country and around the world. I thank the gentleman for yielding me time and I think we should move forward with this bill.

Mr. WESTMORELAND. Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as a member of the House Government Reform Committee, I am pleased to join with my colleagues in consideration of H.R. 4646, legislation naming a postal facility in Reseda, California after Coach Wooden. This measure which was introduced by Representative SHERMAN on December 18, 2005, and unanimously reported by our committee on March 30, 2006, enjoys the support and co-sponsorship of the entire California delegation.

John Wooden, a native of Indiana, actually began his love of the game by playing basketball at Martinsville High School in Martinsville, Indiana. He was an All-State selection in high school and an All-American guard at Purdue University.

After graduating from Purdue, he became a high school teacher and coach, gaining a record of 218 to 42 as a high school coach. After serving in World War II, John Wooden took a coaching position at Indiana State University prior to becoming the head coach at the University of California at Los Angeles.

Well, we have heard all the things that he did in California, but those of us who were not from California were actual admirers of John Wooden through the whole period of watching him direct his teams, knowing that in

all likelihood they were going to win, that it was virtually impossible to defeat them. So I can understand the kind of feeling that Representative SHERMAN and all of the people of that great area where he lived and spent the last days of his life, and still is there, and he is, indeed, an icon.

So I join with you, Mr. SHERMAN, in urging passage of this resolution, and I commend you for bringing it before us and putting it before the House.

Mr. Speaker, I yield back the balance of my time.

Mr. WESTMORELAND. Mr. Speaker, I yield such time as he may consume to the gentleman from Nebraska (Mr. OSBORNE), another great coach that this country has known.

Mr. OSBORNE. Mr. Speaker, I would like to thank Mr. SHERMAN for bringing this legislation to the floor.

I just wanted to say a couple of words about Coach Wooden. I have known him personally and I understand he has been ill. I hope he is watching today. Of course everyone has discussed his record, the seven straight national championships and 10 national championships in 12 years, which is remarkable, 88 straight wins. But the thing I thought I would mention is that the most significant thing that I know about John Wooden is not his record, but it is rather the way he went about achieving that record.

One thing that I picked up from him that was invaluable to me as a coach was that he never talked to his players about winning. You would think in a business that is so keyed to winning that you would frequently mention the word winning, but he never did. He always talked about process. He always talked about how you went about achieving excellence, starting with the way you put your socks on, the way you shot free throws, the way you passed the ball. He was a tremendous detail person, a great emphasis on fundamentals.

One quote that he had in one of his books that I thought was significant was he talked about Cervantes. Cervantes mentioned that the journey is more important than the end. What he was saying was that it is not the final destination but it is how you get there. Of course, we are in a business here that is very end, very goal-oriented, and sometimes the end justifies the means. And so I have always appreciated that about John. It was simply what he taught his players and what he taught people in coaching in general about how to approach the game. So there could not have been a finer person chosen for this honor.

Thank you for so honoring him and we hope that he recovers quickly and is out of the hospital.

Mr. WESTMORELAND. Mr. Speaker, I urge all Members to support the passage of H.R. 4646. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Georgia (Mr.

WESTMORELAND) that the House suspend the rules and pass the bill, H.R. 4646.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

□ 1345

EXPRESSING SENSE OF HOUSE OF REPRESENTATIVES THAT A NATIONAL METHAMPHETAMINE PREVENTION WEEK SHOULD BE ESTABLISHED

Mr. WESTMORELAND. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 556) expressing the sense of the House of Representatives that a National Methamphetamine Prevention Week should be established to increase awareness of methamphetamine and to educate the public on ways to help prevent the use of that damaging narcotic.

The Clerk read as follows:

H. RES. 556

Whereas methamphetamine is a highly addictive, man-made drug that can be injected, snorted, smoked, or ingested orally, the effects of which include feelings of euphoria that last for up to 24 hours and psychotic behavior such as auditory hallucinations, mood disturbances, delusions, and paranoia, potentially causing the user to experience homicidal or suicidal thoughts as well as violent behavior and brain damage;

Whereas the number of admissions to treatment in which methamphetamine was the primary substance of abuse increased exponentially from 20,776 in 1993 to 116,604 in 2003;

Whereas methamphetamine is easily produced in clandestine laboratories, known as "meth labs", using a variety of volatile and toxic ingredients available in stores, and presents a danger to the individual preparing the methamphetamine, the community surrounding the laboratory, and the law enforcement personnel who discover the laboratory;

Whereas the Drug Enforcement Administration reports that domestic meth lab seizures have increased from 7,438 in 1999 to 17,170 in 2004;

Whereas studies have found that methamphetamine use is strongly linked to identity theft, domestic violence, overall crime rates, child abuse, and child neglect;

Whereas the National Association of Counties has conducted surveys with law enforcement and child welfare officials in more than 500 counties, and found that 87 percent of all law enforcement agencies surveyed reported increases in methamphetamine-related arrests in recent years, and 40 percent of all the child welfare officials in the survey reported increased out-of-home placements of children due to methamphetamine use;

Whereas methamphetamine use and production is prevalent around the world;

Whereas approximately 65 percent of the methamphetamine supply in the United States is trafficked in the form of a finished product from other countries;

Whereas the United Nations Office on Drugs and Crime reports that more than 30,000,000 people around the world use amphetamine-type stimulants, a number that eclipses the combined global use of cocaine and heroin;

Whereas methamphetamine and narcotics task forces, judges, prosecutors, defense attorneys, substance abuse treatment and rehabilitation professionals, law enforcement officials, researchers, students and educators, community leaders, parents, and others dedicated to fighting methamphetamine have a profound influence within their communities; and

Whereas the establishment of a National Methamphetamine Prevention Week would increase awareness of methamphetamine and educate the public on effective ways to help prevent methamphetamine use at the international, Federal, State, and local levels: Now, therefore, be it

Resolved, That it is the sense of the House of Representatives that—

(1) a National Methamphetamine Prevention Week should be established to increase awareness of methamphetamine and educate the public on effective ways to help prevent methamphetamine use at the international, Federal, State, and local levels; and

(2) the people of the United States and interested groups should be encouraged to observe National Methamphetamine Prevention Week with appropriate ceremonies and activities.

The SPEAKER pro tempore (Mr. BOOZMAN). Pursuant to the rule, the gentleman from Georgia (Mr. WESTMORELAND) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Georgia.

GENERAL LEAVE

Mr. WESTMORELAND. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. WESTMORELAND. Mr. Speaker, I yield myself such time as I may consume.

I rise in support of H. Res. 556 offered by the distinguished gentleman from Washington (Mr. BAIRD). This resolution would recognize the importance of educating people of all ages about the dangers of methamphetamines.

Methamphetamines are highly addictive, dangerous stimulants that are sold in powder, pill and capsule forms and can be inhaled, swallowed or injected. The physical effects of methamphetamines use include alertness, euphoria, appetite loss, elevated heart rate, and increased respiration. The most popular form of the drug, referred to as crystal meth, has become increasingly widespread and can result in overdose, causing both stroke and heart failure.

While the median age of the habitual meth user is 30 years, the drug is starting to strengthen its hold on younger generations. The number of teenagers who have reported using meth has increased dramatically over the past few years. It is extremely easy for young people to access Internet information outlining recipes and places to obtain ingredients for manufacturing the drug.

This legislation would help to increase awareness of this serious epidemic and educate the public about the dangers of meth use.

I urge all Members to come together and to commit to the task of educating our youth about the dangers of methamphetamines use by adopting H. Res. 556.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield such time as he might consume to the gentleman from Washington (Mr. BAIRD), the author of this legislation.

Mr. BAIRD. Mr. Speaker, I thank the gentleman from Illinois and the gentleman from Georgia as well.

Mr. Speaker, I want to rise in strong support of H. Res. 556, a resolution I have introduced to establish National Methamphetamine Prevention Week.

As was mentioned earlier, methamphetamine is a cheap, addictive drug that has penetrated the smallest of communities and has reached epidemic proportions in this country and throughout the world. In fact, the United Nations Office on Drugs and Crime reports that more than 30 million people around the world use amphetamine-type stimulants, a number that surpasses the global use of cocaine and heroin combined.

Domestically, we have seen the number of meth lab seizures decline in some areas over the last years, yet increase in others as the epidemic has moved from west to east. For example, in 1999, California busted 2,579 meth labs domestically, while Missouri that year busted 439. However, by 2004, California had reduced their labs to 764, while Missouri increased to an astonishing 2,788.

The situation with methamphetamine is evolving, and as local police and drug task forces become more efficient in shutting down the local, clandestine labs, the supply shifts to become increasingly filled by finished product imported from Mexico and other countries, often in a more potent form.

In my home district in southwest Washington, for example, we have seen the purity of meth increase on the street by over 43 percent in just the last 4 years. This is a disturbing pattern. Its history has taught us that along with increases in purity, so goes admissions to treatment centers, drug-related crimes, arrests and overdoses.

Judge Woolard from Clark County in my home district has explained to me that the meth epidemic can be encapsulated in the following statistics: 80 percent of the kids in foster care in my home county have parents who are meth addicts; 80 percent of the criminal cases brought before the courts involve drug use; and 75 percent of the kids in juvenile detention are now involved with meth.

This is not a problem that is going away without a comprehensive plan for action.

My colleagues and I have recently addressed the issue of domestic supply with the passage of the Combat Meth Act which had overwhelming support in this body. We also continue to move forward on efforts to deal with the international supply of meth precursors, and will soon insist that companies where these products are produced limit and track the shipment of methamphetamine.

We have to address the demand side as well, and we can do this by continuing to fund programs such as the National Youth Anti-Drug Media Campaign and Safe and Drug Free Schools. Additionally, we can encourage our communities to get involved in the fight against meth at the ground level. That is why National Meth Prevention Week is so important.

This bill will allow and encourage local communities in a nationwide effort to address all aspects of the meth problem from prevention to intervention to treatment.

It will also provide us an opportunity to dedicate 1 week out of the year that should actually be a nationwide effort to engage students and children in discussions and activities that will underscore the importance of avoiding methamphetamine use.

I am pleased that the legislation has 63 bipartisan cosponsors, as well as the support of the National Association of Counties, National Narcotic Officers Coalition, National Criminal Justice Association and the Association for Addiction Professionals.

I want to particularly thank the co-chairs of the Meth Caucus, Chairmen LARSEN, BOSWELL, CANNON and CALVERT, as well as Chairman SOUDER who has been a leader on this issue throughout the Congress. They have been tremendous allies in this fight, and I am happy to work with them on a bipartisan basis.

I also want to again thank Chairman DAVIS, Ranking Member WAXMAN and Ranking Member CUMMINGS for their support of the bill.

Mr. Speaker, finally, I want to thank my own staff, Katie Stevens, for her work on this, as well as the law enforcement treatment and prevention professionals in my district who have done such an outstanding job combating this horrific drug.

I urge my colleagues to support the adoption of H. Res. 556 today. I hope the action will then be followed by the speedy adoption of the companion bill in the other body, S. Res. 313, offered by my colleague and friend Senator CANTWELL.

Let us unite today to send a joint message to our local communities, as well as our friends overseas, that we acknowledge the devastating impact of this drug and are united in our fight against it.

I thank the gentleman for the time.

Mr. WESTMORELAND. Mr. Speaker, I yield as much time as he may consume to the gentleman from the great State of Georgia (Mr. GINGREY), my friend and distinguished colleague.

Mr. GINGREY. Mr. Speaker, I thank my colleague, the gentleman from Georgia, as well as my colleague, Representative DAVIS from Illinois, and I thank Representative BAIRD from Washington for bringing this bill up, H. Res. 556.

I am a physician Member of the body, and I see, and I did in my practice, of course this has been 4 years ago, a lot of drug addiction unfortunately, and this methamphetamine issue, Mr. Speaker, has reached exponential and unbelievable proportions.

When some of us were in college, Mr. Speaker, I do not know if you remember this or not, but I certainly do, to study and cram for a test at the last minute, there were always these little pills floating around the fraternity house that you could take. It would literally allow you to stay up all night, and you had an accelerated sense of awareness and could not sleep, and sometimes you literally could go through a whole calculus textbook and do a whole semester's worth of work in one night and think that you were going to go in and ace the test. That rarely happened. That sense of euphoria was there, Mr. Speaker, but when you got that final grade back, that A you thought you had made might more often was a C- or a D. But that was then and this is now.

Just listen to this little bit of background and why this idea of Representative BAIRD's of having a National Methamphetamine Prevention Awareness Week is so important.

Methamphetamine is a highly addictive, man-made drug that can be, and I remember you just swallowed a pill, but today can be injected, snorted, smoked and, of course, ingested orally. It causes these feelings, Mr. Speaker, of euphoria that last up to 24 hours, psychotic behavior, auditory hallucinations, mood disturbances, delusions, paranoia, potentially causing the user to experience homicidal or suicidal thoughts, as well as violent behavior, brain damage.

The scary part about this is it is so easily made, as the previous speakers have talked about, and these clandestine labs in these homes are a lot of times in rural areas.

Mr. Speaker, I represent a fairly rural area, northwest Georgia. I have one county in particular who are a great people. I will not mention the name of the county because they do not deserve, I do not think, to be overly criticized because they are working really hard to try to solve this problem in the northwest, but it is a huge problem, and I wanted to take an opportunity in particular, and in this instance I will name names.

One of my constituents, she is a real estate agent, works hard, single parent. Her name is Betty Brady. When I was in that county recently, Betty gave me a book that she had written, and it was just kind of a small paper-back, almost a syllabus. It was the first time, Mr. Speaker, that she had

ever made any attempt at authoring a book. That was not her profession. She is not a professional writer, but she wrote that book talking about her daughter Jennifer.

Jennifer's now, thank God, recovered fully from her methamphetamine addiction. She is 24 years old, young lady who is working very hard in the community now, with an outreach, working with law enforcement, talking in school, trying to bring awareness, just as this bill is going to do and why I am so much in favor of it. But it is a heart-rending story of this perfect child. They have a son as well and this little perfect daughter, you know, the apple of their eye, and then all of the sudden she fell in with the wrong crowd and got into this methamphetamine addiction and just about destroyed her life. As Betty says in the book, so many of this young lady, her daughter Jennifer's friends did lose their lives, either by getting too much or main-lining something and then going into respiratory depression or whatever.

I am just shocked when I read some of the statistics, Mr. Speaker, the fact that the United Nations Office on Drugs and Crime reports that more than 30 million people around the world use methamphetamine-type stimulants, a number that eclipsed the combined global use of cocaine and heroin.

That is the problem that Representative BAIRD is so aware of and why this H. Res. 556 is such an important thing to do, so that people like Betty Brady that are out there in the trenches struggling to make youngsters aware, this will be a week where they can really bring that focus and get into the schools and let people know that this is highly addictive. This is not just the speed that truck drivers used to take so they could drive to the west coast without stopping. This is something that is a very, very serious drug.

I thank the gentleman from Georgia, my colleague, Representative WESTMORELAND, for letting me take a few minutes and just talk about this, and I commend Representative BAIRD. We are fully supportive of it, and I am sure that an overwhelming majority, if not unanimous, vote on this is in order.

Mr. DAVIS of Illinois. Mr. Speaker, it is my pleasure to yield such time as he might consume to the gentleman from Maryland (Mr. CUMMINGS), the ranking member of the Subcommittee on Drug Policy and the former Chair of the Congressional Black Caucus.

□ 1400

Mr. CUMMINGS. I want to thank the gentleman for yielding, and I want to thank Mr. BAIRD for this resolution, which I strongly support.

As the ranking member of the Drug Subcommittee of the Government Reform Committee, I have traveled, along with Congressman SOUDER, throughout this entire country, and we have had an opportunity to go to many, many places that are usually rural in nature,

and we have seen the effects of methamphetamine use. We have heard drug court judges, we have listened to foster care parents, we have listened to wonderful people like the lady that was just mentioned who have seen their children go through being addicted to methamphetamine.

While I am from an urban area, if I were to close my eyes and if we were to substitute the name of this drug for crack cocaine or cocaine, a lot of the same types of stories I have been hearing for many, many years in the 7th Congressional District of Maryland are the stories Mr. SOUDER and I heard all over urban areas throughout our country.

Drugs are a major damaging element in our society. I have seen so many families destroyed. And by the way, it is not just the person who uses the drug but their families are affected, their communities are affected and their children are affected. So often the property values go down in a neighborhood because of the use. Methamphetamines fall right in that category.

Methamphetamines are easy to produce. As a matter of fact, you can find the ingredients and how to do it and make them on the Internet, and that is one of the things that is so frightening about this. When I think about some of the addicts that live in my district, they often have a hard time getting ahold of the crack cocaine or getting ahold of the cocaine. When I think about methamphetamines, however, it seems as if this is one of the things that folks could do and find it might be a little easier and a little bit cheaper to get to.

That is one of the many reasons why we have to stand up and we have to do things like Representative BAIRD has suggested in this legislation. We have to make sure that parents are aware, that coaches, and that people in our communities are aware, neighbors and friends are aware so that perhaps we can prevent some of this.

As we traveled throughout the United States in our subcommittee, we had people come and testify and show us pictures of how they looked before using methamphetamines. And when we would see them, sometimes maybe a year later after using them, maybe 7 months later, they looked like a ghost of themselves.

As one young man said to me, and I shall never forget it as long as I live, it is embedded in the DNA of every cell in my brain, he said, when I went out there to simply get a high, I went and I got high over and over again. I would stay up for days. Stay up for days. And he said, I got high. Man, I thought I was on cloud nine. He said, then there came a time when I tried to get off and it was very difficult to do it. He said, but I finally licked it. But he said, then I looked at myself in the mirror and I said, self, will you forgive me? And he said self said back to him, yeah, I forgive you. And then he said something

that is embedded in the DNA of every cell of my brain. He said but my body wouldn't forgive me. My body that now looked about 10 or 15 years older with all kinds of sores all over his body.

So we must continue this fight. It is a very important fight. It is a fight for the soul of America. So often what happens is that people look at the drug war, if you want to call it that, the efforts to stop drugs, as a negative issue. But let me tell you something, there are too many lives that are being robbed every day, too much potential. When we think about our children and we think about people who are living a wonderful family life and doing well, the one thing that can suck the blood out of them, suck the life out of them and their communities is drugs.

So I applaud Mr. BAIRD and all of our colleagues who have made this methamphetamine war effort their effort. For I have often said that our children are the living messages we send to a future we will never see. But the fact is, if we do not address this issue now with prevention, intervention, and treatment, they will never see that future either.

And so I would hope that all of the Members of this great House will vote in favor of this legislation and that when methamphetamine week comes around that we will not just think of the rural areas and what is going on there with methamphetamines, but we will think about all our efforts dealing with drugs, all kinds of drugs, and remind ourselves that we are determined to make sure that this element, that this negative element, that this poison of death does not invade our communities. And if it does, that we will stand up and fight with everything we have got, as if our lives depended on it, because they do.

Mr. WESTMORELAND. Mr. Speaker, I yield such time as he may consume to my distinguished colleague from the State of Nebraska (Mr. OSBORNE).

Mr. OSBORNE. Mr. Speaker, I too would like to add my congratulations to Congressman BAIRD for H.R. 556.

First of all, the good news. In many parts of the country, cocaine and heroin are being diminished rather rapidly. The bad news is that the reason in many cases this is happening is simply because methamphetamine has come in. Methamphetamine is cheaper. It is more addictive. If we had a map here, we could see the sweep of the growth of methamphetamine from the southwestern part of the United States all the way across the country, and now maybe just a few States in the northeast are somewhat preserved from having to battle this problem. But, of course, that problem is going to be coming in their direction.

The State of Nebraska recently released a study which indicated there were 22,000 people addicted to methamphetamine. In the State of Nebraska, that would be equivalent to about the eighth or ninth largest community in the State of Nebraska. A

study in Arkansas recently indicated that the average meth addict will cost the State of Arkansas \$47,500, in view of crimes, children in foster care, time in prison and so on. So if you multiplied that out, 22,000 people by \$47,500, you are talking about over \$1 billion in a State with 1.7 million people. So it is a significant, huge problem.

Just as an example of one of the more innocent victims, a child born to a mother addicted to methamphetamine will usually cost anywhere from \$700,000 to \$1.7 million to get that child from birth to age 18 because of the devastation and the defects the methamphetamine has caused in that child, not to mention the amount of pain the child goes through.

So as has been mentioned earlier, there really is not one answer to this problem. It has to be multifaceted. And, really, we are looking at three things.

Number one is education. And as Congressman BAIRD mentioned, the scary thing is that the age is getting less and less and less. So you have to start in about the 3rd or 4th grade letting kids know what this is, what is in it. You also have to educate parents, because parents are the number one determinant as to an attitude that a person is going to have towards substance abuse.

So for every dollar that we spend at the front end in education and prevention, it has been proven that we save \$10 or \$15 at the back end in terms of the devastation that the drugs cost. So we have to spend more in prevention, we have to spend more in education, and I think that is something this body needs to keep in mind.

Secondly, law enforcement. The number one law enforcement tool we have for methamphetamine is the drug task forces, and this is funded primarily by the Byrne Grants. Last year, we zeroed out the Byrne Grants. And we fought with every fiber that we had here to get about two-thirds of that funding back, but it wasn't enough. So we have to make sure that the Byrne Grants are fully funded, because again, in the White House budget, they have been zeroed out this year. We absolutely have to have those.

And the last issue is treatment. It has been proven that drug courts are much more effective than throwing people in prison. We have so many people who are simply addicted and they are sent to prison. A drug court enables them to be tested twice a week, they get treatment, and they can usually hold their families together and pay taxes. So we think these are all things that are very, very important.

Mr. DAVIS of Illinois. Mr. Speaker, may I inquire as to how much time I have left?

The SPEAKER pro tempore (Mr. BOOZMAN). The gentleman from Illinois has 8 minutes.

Mr. DAVIS of Illinois. Mr. Speaker, I yield 3 minutes to the gentleman from Colorado (Mr. SALAZAR).

Mr. SALAZAR. Mr. Speaker, I would like to thank the gentleman from Illinois (Mr. DAVIS) for giving me time to speak in favor of H.R. 556. I would like to especially thank one of my own constituents, way in the past, back in the early 1950s, I think, when Congressman BAIRD stomped my district, the Third Congressional District. I want to thank him for his leadership in this arena.

Mr. Speaker, an epidemic is sweeping our great Nation. It is an epidemic that affects people in all congressional districts, especially those congressional districts that are mainly rural. It has no regard for gender, race, economic status or where you live. Of course, I am speaking about the use of methamphetamine. This drug is easy to make, easy to get, and easy to fall victim to.

We have all seen the ways in which meth transforms individuals, from soccer moms to addicts living on the streets. Mr. Speaker, I fully support H.R. 556, and I am a cosponsor of this important resolution.

I am a believer in the old saying that an ounce of prevention is worth a pound of cure, and it is clearly understood that for every dollar that the Federal Government spends in prevention programs, it saves the Federal Government \$7 in cure. By passing this important resolution and expressing our support for the National Methamphetamine Prevention Week, we take one more important step towards eliminating meth.

As we are having this debate, I want to raise awareness of other actions, as our previous speaker talked about. I have joined my colleagues in urging the Budget Committee to restore funding for the JAG-Byrne Grants and the COPS programs. Both of these funding streams aid local law enforcement agencies in their work to eradicate meth from our neighbors. This money goes towards paying the cost of investigating, prosecuting, and cleaning up peddlers of meth and their highly toxic labs. We cannot stop idly by and watch this important funding disappear.

Mr. Speaker, today I urge my colleagues to support H.R. 556 and support restoring funding for other important law enforcement tools as we take up the budget this week.

Mr. WESTMORELAND. Mr. Speaker, I have no further speakers at this time, and I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield 2 minutes to the gentleman from Washington (Mr. BAIRD).

Mr. BAIRD. Mr. Speaker, I want to thank Mr. SALAZAR, Mr. CUMMINGS, Mr. OSBORNE, and Mr. GINGREY for their thoughtful remarks.

Just to close my portion of this commentary, people sometimes ask why I am so committed to this. Before I was in Congress, I spent 23 years as a clinical psychologist and I saw cases of families and lives devastated by meth. Since coming to Congress, I visit every high school in my district, I try to do it every 2 years, and last fall, I visited

a little tiny rural school and was talking to the kids about the danger of methamphetamines.

And this little 16-year-old gal said quietly to her classmates, you really need to listen to what he says. I was taken aback that a young lady would speak out in front of her peers. And I gently said, you know, you must have some experience with this. And she said, I do. My mother died of methamphetamine use 3 months ago.

Then I was back this spring, on our spring recess which we all just came back from a couple of weeks ago, and a woman handed me a letter that described how her 2-year-old granddaughter was beaten to death by a meth addict boyfriend who was in the house at the time and was tweaking on methamphetamine. He struck her so hard she died, and then just put her in bed for someone else to find the next day. This was a little 2-year-old girl, the apple of her family's eye.

And as if that isn't enough, I was speaking to a rotary club about something entirely different, and a prominent leading businessman came up to me quietly, shook my hand, and said, thank you for what you are doing on the issue of methamphetamine. My 25-year-old son is addicted to this drug and it would not surprise us if he died of his use of this drug.

Methamphetamine, as my colleagues have said, is a devastating drug, and we must do everything in our power to keep families' lives from being further destroyed by it. And I thank all my colleagues for supporting this important resolution and hope we can make a difference, and I know we can if we work together.

Mr. DAVIS of Illinois. Mr. Speaker, I will use the rest of my time to close.

Mr. Speaker, let me commend all those who have spoken on this issue, and I commend Mr. BAIRD for bringing it before us.

Drug use and abuse is one of the major problems facing our country today, not in any one part of the country but all over America. I happen to live in a county where there are 800,000 drug users, where there are 300,000 who admit to using drugs on a regular basis.

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I admit it is a large county. It is the second largest county in the Nation. But even with it being the second largest county in the Nation, 800,000 people, that is an awful lot. Much of the crime that exists in our country is associated with drug use and abuse. We have to make sure that we provide the resources for prevention. We also have to make sure that we provide the resources for treatment. I am an advocate for something called treatment on demand where we try and make sure when people who are addicted are ready for treatment, resources are available for them. I commend the gentleman from Washington for introducing this legislation, and I urge its passage.

Ms. WATERS. Mr. Speaker, I rise in support of H. Res. 556, a resolution expressing the sense of the House of Representatives that a National Methamphetamine Prevention Week should be established to increase awareness of methamphetamine and to educate the public on ways to help prevent the use of that damaging narcotic.

Meth addiction is a growing problem in the United States and one that is destroying lives, families and towns.

I agree that the United States must face this problem head on. However, there are many drugs that are equally as damaging and should not be overlooked.

Crack cocaine has ravaged our cities for more than 20 years. Crack is very addictive, and after even a small amount of use can cause significant damage to a user's health.

One way the U.S. Government attempted to fight the crack epidemic was to impose mandatory minimum prison sentences. Under the terms of these mandatory minimum sentences, someone caught carrying just 5 grams of crack received an automatic 5-year prison sentence. To receive the same sentence for powder cocaine, a person must be caught with 500 grams of powder cocaine under current law.

As Families Against Mandatory Minimums (FAMM) notes, mandatory minimum sentences affect people of color disproportionately in three ways: More arrests for drug crimes, overall increases in the severity of drug sentences, and harsher treatment compared to white arrestees.

This sad fact is clearly revealed in our Nation's prison statistics: Two-thirds of the 2 million Americans in jail or prison are African American or Hispanic. African Americans make up approximately 12 percent of the population and are 13 percent of the drug users, yet they constitute 38 percent of all drug arrests and 59 percent of those convicted of drug offenses. Nationwide, African American males sentenced in State courts on drug felonies receive prison sentences 52 percent of the time, while white males are sentenced to prison 34 percent of the time.

Mr. Speaker, as Congress debates how best to address the meth problem, I urge my colleagues to resist the simple answer of "more jail time." Mandatory prison sentences do not work and do not provide hope for our Nation's drug users.

Instead, we should push education, as this resolution calls for. We should also substantially increase funding for treatment and job training because without these tools, addiction will be a vicious cycle for most people.

Mr. OBERSTAR. Mr. Speaker, I rise today in support of H. Res. 556, a resolution expressing the sense of the House of Representatives that a National Methamphetamine Prevention Week should be established to increase awareness about methamphetamine and to educate the public on ways to help prevent the use of this damaging narcotic. Methamphetamine, or meth, has become the most dangerous drug problem of small-town America.

Meth is a highly-addictive and treatment-resistant drug produced from readily-accessible materials found in every local hardware or drug store in America. The explosion of this very destructive synthetic drug has already taken a brutal toll on children, families and the environment in my district in Minnesota and

across the Nation. Dealing with the enormous economic and social effects of meth—whether it is diverting tax dollars from already-strapped county budgets, or devoting manpower hours to locate and clean up remote meth labs, or treating meth addicts at the local hospitals and clinics—consumes our society's resources at an astounding rate.

A daunting challenge of the meth epidemic lies in the very nature of this drug; it is a highly addictive substance that is considered to be the most treatment-resistant of all illegal drugs. Many people get hooked after only one use, and some recent studies have demonstrated that meth causes more damage to the brain than heroin, alcohol, or cocaine. Meth use not only modifies behavior in an acute state, but after taking it repeatedly, the drug also literally changes the brain in fundamental and long-lasting ways. Helping meth addicts is a very difficult and expensive proposition, because 30 days of treatment is often not enough. This all-consuming addiction is harmful not only to the user, but to that user's children, who are robbed of nurturing parents and a secure home; nationwide, approximately 3,200 children were present during the seizure of meth labs last year alone.

Our health care and social services systems need more funding for prevention and treatment, because only by breaking that cycle of demand can we bring lasting change to the entire community. Parents and educators play a vital role in encouraging young people to make the right decisions, because many children do not understand the inherent risks associated with experimenting with the drug. Preventing drug use is the first step to avoiding drug addiction, and H. Res. 556 will provide the opportunity to dedicate one week out of the year to engage students and children in discussions and activities that will underscore the importance of living a meth free life.

Like many of my colleagues on both sides of the aisle, I am very concerned about the threat that the meth epidemic poses to local communities in my Congressional district and across the Nation. Earlier this year, I introduced the Methamphetamine Eradication Act (H.R. 4763), which is a balanced, comprehensive federal approach to addressing problems related to meth abuse. As a Co-Chair of the Congressional Rural Caucus' Meth Task Force, I will continue to work with my colleagues in Congress to increase public awareness and to find a bipartisan solution to the meth epidemic.

The Federal Government must be a more effective partner in the fight to eliminate the threat posed by meth. By establishing a National Methamphetamine Prevention Week, we can give our local communities the opportunity to highlight their meth-related activities and take pride in their response to the scourge of this drug.

Ms. BORDALLO. Mr. Speaker, I rise today in strong support of H. Res. 556. This resolution supports the establishment of a National Methamphetamine Prevention Week to increase public awareness throughout the country of the harmful effects of methamphetamine and to educate local communities on ways to effectively prevent and curb methamphetamine use.

The production, trafficking, and use of methamphetamine are growing and significant substance abuse and public health issues for the United States. Methamphetamine has

emerged in recent years as a leading national drug control policy challenge. Coordination between all levels of government is needed if the challenge of curbing methamphetamine use is to be met and fulfilled. Public awareness and involvement is also important to effectively preventing the use of methamphetamine within our local communities.

Guam is no exception to the alarming trends in methamphetamine use. The trafficking and use of methamphetamine on Guam has risen in recent years and directly affected the youth of our island. Today methamphetamine-related arrests on average constitute three quarters of the adult drug-related arrests on Guam each year. The Guam Department of Customs and Quarantine has seized more grams of amphetamines than any other illegal narcotic over the past several years. Additionally, more than half of the individuals admitted for substance abuse treatment on Guam are methamphetamine users.

The increase in the abuse of the drug spans all ethnic, cultural, and age groups. There are currently no national observances or coordinated programs dedicated to the fight against methamphetamine despite the alarming national and local trends. A "National Meth Prevention Week" would be the first of its kind. I strongly support H. Res. 556 for this reason and know that such an undertaking would facilitate a national dialogue for communities to share information on what programs, methods and initiatives work best for combating methamphetamine use.

I look forward to promoting National Meth Prevention Week on Guam. I thank our colleague from Washington, Mr. BAIRD, and our colleague from Indiana, Mr. SOUDER, for their leadership on national drug control policy and in particular for the efforts in promoting national awareness of the dangers associated with methamphetamine abuse.

Mr. DAVIS of Illinois. Mr. Speaker, I yield back the balance of my time.

Mr. WESTMORELAND. Mr. Speaker, I urge all Members to support the adoption of House Resolution 556, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. BOOZMAN). The question is on the motion offered by the gentleman from Georgia (Mr. WESTMORELAND) that the House suspend the rules and agree to the resolution, H. Res. 556.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. DAVIS of Illinois. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this question will be postponed.

AUTHORIZING USE OF CAPITOL GROUNDS FOR NATIONAL PEACE OFFICERS' MEMORIAL SERVICE

Mr. SHUSTER. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 360) authorizing the use of the Capitol Grounds for the National Peace Officers' Memorial Service.

The Clerk read as follows:

H. CON. RES. 360

Resolved by the House of Representatives (the Senate concurring).

SECTION 1. USE OF CAPITOL GROUNDS FOR NATIONAL PEACE OFFICERS' MEMORIAL SERVICE.

(a) IN GENERAL.—The Grand Lodge of the Fraternal Order of Police and its auxiliary (in this resolution referred to as the "sponsor") shall be permitted to sponsor a public event, the 25th annual National Peace Officers' Memorial Service (in this resolution referred to as the "event"), on the Capitol Grounds, in order to honor the law enforcement officers who died in the line of duty during 2005.

(b) DATE OF EVENT.—The event shall be held on May 15, 2006, or on such other date as the Speaker of the House of Representatives and the Committee on Rules and Administration of the Senate jointly designate.

SEC. 2. TERMS AND CONDITIONS.

(a) IN GENERAL.—Under conditions to be prescribed by the Architect of the Capitol and the Capitol Police Board, the event shall be—

(1) free of admission charge and open to the public; and

(2) arranged not to interfere with the needs of Congress.

(b) EXPENSES AND LIABILITIES.—The sponsor shall assume full responsibility for all expenses and liabilities incident to all activities associated with the event.

SEC. 3. EVENT PREPARATIONS.

Subject to the approval of the Architect of the Capitol, the sponsor is authorized to erect upon the Capitol Grounds such stage, sound amplification devices, and other related structures and equipment, as may be required for the event.

SEC. 4. ENFORCEMENT OF RESTRICTIONS.

The Capitol Police Board shall provide for enforcement of the restrictions contained in section 5104(c) of title 40, United States Code, concerning sales, advertisements, displays, and solicitations on the Capitol Grounds, as well as other restrictions applicable to the Capitol Grounds, in connection with the event.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Pennsylvania (Mr. SHUSTER) and the gentleman from New York (Mr. HIGGINS) each will control 20 minutes.

The Chair recognizes the gentleman from Pennsylvania.

GENERAL LEAVE

Mr. SHUSTER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on H. Con. Res. 360.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. SHUSTER. Mr. Speaker, I yield myself such time as I may consume.

House Concurrent Resolution 360 authorizes the use of the Capitol Grounds for the annual National Peace Officers' Memorial Service to be held on Monday, May 15, 2006.

I am pleased to join the gentlewoman from the District of Columbia (Ms. NORTON) for the second consecutive year in sponsoring the use of the Capitol Grounds for the National Peace Officers' Memorial Service.

The Grand Lodge of the Fraternal Order of Police and its auxiliary annually sponsor this event honoring some of America's bravest men and women. The memorial service will honor the 155 Federal, State and local law enforcement officers who have made the ultimate sacrifice while protecting their communities in 2005.

I would also like to recognize the five peace officers killed in the line of duty in 2005 from my home State of Pennsylvania: Edward Schroeder, Jr., Jesse Sollman, Paris Williams, Sr., Brian Gregg, and Joseph Pokorny. We are grateful for their service and sacrifice.

This will be the 25th time that this event has been held on the grounds of the Capitol. This memorial service is part of National Police Week, which was created by law in 1962 and runs this year from May 9 through May 15.

Police Week draws officers, their families, and survivors of fallen officers from around the country, and includes such events as the Blue Mass at St. Patrick's Cathedral Church, a candlelight vigil at the National Law Enforcement Memorial, and a 50-K relay race.

The memorial service begins at noon on Monday. Following the ceremony on the Capitol Grounds, there will be a procession to the Law Enforcement Memorial and a wreath-laying ceremony.

I encourage my colleagues to attend this much-deserved memorial service and honor those who protect our communities on the front lines.

I would also like to recognize Jacob Joseph Chestnut and John Michael Gibson, the two Capitol Police officers killed in the line of duty in 1998. Both 18-year veterans of the Capitol Police, their sacrifice will never be forgotten.

The authorization of the use of the Capitol Grounds is just one of the ways Members of Congress recognize the service of peace officers and memorialize those who have fallen in the line of duty.

I was proud to be part of the First Annual Congressional Longest Yard Classic, a bipartisan fund-raiser to benefit the Capitol Police Memorial Fund, which assists the families of the fallen Capitol Police officers like Jacob Chestnut and John Gibson, who bravely gave their lives defending the United States Capitol and many of us who work here.

The idea of a football game fund-raiser was conceived by the gentleman from Arizona (Mr. RENZI). It was a takeoff of the movie "The Longest Yard" with Members of Congress acting as the inmates and the Capitol Hill Police the guards. We were to battle it out on the gridiron. I thank Mr. RENZI for his help in organizing the fund-raiser and thank the 33 Members of Congress who participated. Some would say it was a wonderful experience despite the rain, but I would say it was a wonderful experience because of the rain.

Those 33 Members of Congress, all of us washed-up athletes, were able to

play the much-superior Capitol Police Force to a 12-12 tie. For us it was a great joy. But most importantly, we were able to raise nearly \$60,000 for the Capitol Police Memorial Fund. I look forward to next year and for the match-up to continue to honor these brave men and women, and also for the National Peace Officers' Memorial Service, which will be held on Monday, May 15. I support this measure and urge my colleagues to do the same.

Mr. Speaker, I reserve the balance of my time.

Mr. HIGGINS. Mr. Speaker, I yield myself such time as I may consume.

House Concurrent Resolution 360 authorizes the use of the Capitol Grounds for the 25th annual National Peace Officers' Memorial Service, a most solemn and respectful public event honoring the brave, heroic officers who have fallen in the line of duty. The event, scheduled for May 15, will be in coordination with the Office of the Architect of the Capitol and the Capitol Police.

Mr. Speaker, on average, one officer is killed in this country every other day. Approximately 23,000 are injured every year, and thousands more assaulted. Sadly, 155 names will be added to the memorial wall this year, including the names of five women who were killed in the line of duty. The fallen officers come from 32 States, the Federal Government, and Puerto Rico. Their average age was 38 years and 7 months. The youngest officer was 21 years old.

The memorial service is a fitting tribute to Federal, State and local police officers who gave their lives protecting our families, our homes, our places of work. They serve every day on the front lines in the battle to keep our communities safe. They sacrifice so much, and for this we are all, each of us, eternally grateful.

It is in this spirit of appreciation that in my hometown, Buffalo, Police Officer Greg O'Shei initiated the public recognition of fallen officers by memorializing their names on signs posted throughout the city of Buffalo. Officer O'Shei's efforts have reminded us every day in Buffalo and throughout the Nation of these brave sacrifices that are made daily.

The ceremony to be held on May 15 is the 25th anniversary of this memorial service which was established as a national event by President Kennedy in 1962. Consistent with all Capitol Hill events, the memorial service will be free and open to the public. I support the resolution and urge my colleagues to join me in supporting this tribute to our fallen peace officers.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SHUSTER. Mr. Speaker, I urge all of my colleagues to support this measure and thank my colleague from New York for his tribute to those fallen officers and people who serve and protect us every day.

Mr. OBERSTAR. Mr. Speaker, I rise in support of H. Con. Res. 360, a resolution to au-

thorize use of the Capitol Grounds for the National Peace Officers' Memorial Service on May 15, 2006.

In October 1962, President Kennedy proclaimed May 15th as National Peace Officers' Memorial Day. Each year on this date we, as a Nation, have an opportunity to honor the devotion with which peace officers perform their daily task of protecting our families, co-workers, friends, and ourselves. The 2006 event marks the 25th anniversary of the Capitol Hill event. In the post September 11 environment, the work of selfless police and firemen has become our model of courage and moral strength.

There are approximately 700,000 sworn law enforcement officers serving the American public today. Ten percent of the police force officers are women. Law enforcement officers include those that work not only for states, counties and the federal government, but also military police, correction officers, and peace officers in the U.S. territories. In 2005, 155 officers were killed on the job; 5 of these officers were women. The leading cause of death was gunshot wound.

It is most fitting and proper to honor the lives, sacrifices, and public service of our brave peace officers. I urge my colleagues to support H. Con. Res. 360.

Mr. SHUSTER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania (Mr. SHUSTER) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 360.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

HONORING AND CONGRATULATING MINNESOTA NATIONAL GUARD ON ITS 150TH ANNIVERSARY

Mr. KLINE. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 371) honoring and congratulating the Minnesota National Guard, on its 150th anniversary, for its spirit of dedication and service to the State of Minnesota and the Nation and recognizing that the role of the National Guard, the Nation's citizen-soldier based militia, which was formed before the United States Army, has been and still is extremely important to the security and freedom of the Nation.

The Clerk read as follows:

H. CON. RES. 371

Whereas the Minnesota National Guard traces its origins to the formation of the Pioneer Guard in the Minnesota territory in 1856, two years before Minnesota became the 32nd State in the Union;

Whereas the First Minnesota Infantry regiment was among the first militia regiments in the Nation to respond to President Lincoln's call for troops in April 1861 when it volunteered for three years of service during the Civil War;

Whereas during the Civil War the First Minnesota Infantry regiment saw battle at Bull Run, Antietam, and Gettysburg;

Whereas during a critical moment in the Battle of Gettysburg on July 3, 1863, 262 soldiers of the First Minnesota Infantry, along with other Union forces, bravely charged and stopped Confederate troops attacking the center of the Union position on Cemetery Ridge;

Whereas only 47 men answered the roll after this valiant charge, earning the First Minnesota Infantry the highest casualty rate of any unit in the Civil War;

Whereas the Minnesota National Guard was the first to volunteer for service in the Philippines and Cuba during the Spanish-American War of 1898, with enough men to form three regiments;

Whereas one of the three Minnesota regiments to report for duty in the War with Spain, the 13th Volunteer regiment, under the command of Major General Arthur MacArthur, saw among the heaviest fighting of the war in the battle of Manila and suffered more casualties than all other regiments combined during that key confrontation to free the Philippines;

Whereas after the cross-border raids of Pancho Villa and the attempted instigation of a war between the United States and Mexico, the border was secured in part by the Minnesota National Guard;

Whereas the Minnesota National Guard was mobilized for duty in World War I, where many Minnesotans saw duty in France, including the 151st Field Artillery, which saw duty as part of the famed 42nd "Rainbow" Division;

Whereas the first federally recognized Air National Guard unit in the Nation was the 109th Observation Squadron of the Minnesota National Guard, which passed its muster inspection on January 17, 1921;

Whereas a tank company of the Minnesota National Guard from Brainerd, Minnesota was shipped to the Philippines in 1941 to shore up American defenses against Japan as World War II neared;

Whereas these men from Brainerd fought hard and bravely as American forces were pushed into the Bataan Peninsula and ultimately endured the Bataan Death March;

Whereas men of the Minnesota National Guard's 175th Field Artillery, as part of the 34th "Red Bull" Division, became the first American Division to be deployed to Europe in January of 1942;

Whereas when the 34th Division was shipped to North Africa, it fired the first American shells against the Nazi forces;

Whereas the 34th Division participated in six major Army campaigns in North Africa, Sicily, and Italy, which led to the division being credited with taking many of the enemy-defended hills in the European Theater as well as having more combat days than any other division in Europe;

Whereas the Minnesota National Guard served with distinction on the ground and in the air during Operations Desert Shield and Desert Storm;

Whereas Minnesota National Guard troops have helped keep the peace in the former Yugoslavia, including 1,100 troops who have seen service in Bosnia, Croatia, and Kosovo;

Whereas the Minnesota National Guard has participated in keeping America safe after September 11th, 2001, in numerous ways, including airport security;

Whereas the Duluth-based 148th Fighter Wing's F-16s flew patrols over cities after September 11th for a longer time than any other air defense unit;

Whereas over 11,000 members of the Minnesota National Guard have been called up for full-time service since the September 11th terrorist attacks;

Whereas as of March 20, 2006, Minnesota National Guard troops are serving in national defense missions in Afghanistan, Pakistan, Kuwait, Qatar, Oman, and Iraq;

Whereas more than 600 Minnesota National Guard troops have been deployed to Afghanistan in Operation Enduring Freedom;

Whereas members of the Minnesota National Guard, serving in the 1st Brigade Combat Team of the 34th Infantry Division, have been a part of the State's largest troop deployment since World War II, with more than 2,600 citizen soldiers called to service in support of Operation Iraqi Freedom;

Whereas the Minnesota National Guard has greatly contributed not only to battles but to the suppressing of violent riots, such as the 1947 national meat processors strike, in which they aided helpless police officers, and the fight against natural disasters such as the Red River flood in 1997 in which they organized search and rescue missions, helped shelter people who were left homeless, ran logistics, and helped sandbagging efforts; and

Whereas on April 17, 2006, the Minnesota National Guard will celebrate its 150th anniversary along with its historical and recent accomplishments: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That Congress—

(1) honors and congratulates the Minnesota National Guard for its spirit of dedication and service to the State of Minnesota and to the Nation on its 150th anniversary; and

(2) recognizes that the role of the National Guard, the Nation's citizen-soldier based militia, which was formed before the United States Army, has been and still is extremely important to the security and freedom of the Nation.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Minnesota (Mr. KLINE) and the gentleman from North Carolina (Mr. BUTTERFIELD) each will control 20 minutes.

The Chair recognizes the gentleman from Minnesota.

GENERAL LEAVE

Mr. KLINE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. KLINE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in strong support of H. Con. Res. 371 honoring and congratulating the Minnesota National Guard on its 150th anniversary. Since Minnesota's early days as a frontier territory, Minnesotans have stepped forward to protect and defend their fellow citizens.

Tracing their origins back to the Territorial Pioneer Guard, today's National Guardsmen continue to proudly serve their State and Nation in times of crisis and need. It is this dual service that makes the National Guard unique among our Nation's military services. Whether it is reinforcing levees along the Red River that borders Minnesota and North Dakota, patrolling the skies above New York City, or escorting supply convoys in Iraq, members of Minnesota's National Guard have answered the call of State and na-

tional leaders, as they have done for 150 years.

In recent years, unprecedented natural disasters have highlighted the Minnesota National Guard's traditional State role. In April 1997, heavy winter snowfall and unseasonably warm spring temperatures combined to cause massive flooding of the Red River which forced the evacuation of 50,000 citizens from Grand Forks, North Dakota. As we stand here today, Minnesota's National Guard is again moving to the Red River.

National Guardsmen and residents of both States struggled valiantly to keep the rising water at bay. Despite their best efforts that year, the river could not be contained. Floodwaters quickly breached the levee near Breckenridge, Minnesota, forcing its 4,000 residents to flee. In the midst of heavy rain, snow and 60-mile-an-hour winds, Minnesota National Guardsmen seamlessly switched from their engineering mission to rescue and evacuation operations. Residents of western Minnesota remember the destruction wrought by the floodwaters, later described as a once-in-500-years event; but they also recalled that Minnesota's citizen soldiers were there to assist them throughout the disaster.

In 2005, members of the Minnesota Guard were again called to the scene of a major natural disaster, and the aftermath of Hurricane Katrina soon developed into our Nation's largest evacuation and recovery operation.

Quickly overwhelmed by the devastating effects of the hurricane, the State governments of Mississippi and Louisiana urgently requested assistance, and Minnesota National Guard in conjunction with units from other States responded. C-130s from the St. Paul-based 133rd Airlift Wing hauled more than 600 passengers and 370 tons of cargo to the stricken States while Minnesota Army National Guard aviators transported over 400,000 pounds of sand bags to help reinforce the failing levees.

Since the tragedy of September 11, 2001, the Minnesota National Guard has also answered the calls of our national leadership to perform vital Federal missions.

□ 1430

Following the attacks on New York and Washington, D.C., F-16s from the Duluth-based 148th Fighter Wing provided combat air patrols over the two cities and deployed personnel and aircraft to an alert facility at Tyndall Air Force Base in Florida.

In the years since 9/11, Minnesota's Army National Guard has assumed key stabilization missions throughout the world.

Though the treaty that ended years of conflict in the Balkans bears the name of an Ohio city, soldiers from the Minnesota National Guard played a large role in implementing that peace. In 2003, over 1,000 soldiers from Minnesota took over peacekeeping oper-

ations in Bosnia, performing such vital missions as collecting weapons and identifying mine fields to protect the civilian population.

The Balkan peacekeeping mission was expanded in 2004 when 1,000 members of the 34th Infantry Division, the famed "Red Bulls," deployed to neighboring Kosovo. I was privileged to witness the great work performed by Major General Erlandson and his Minnesota Guardsmen who served on the KFOR mission in Kosovo.

The camaraderie and experience gained in Bosnia and Kosovo has lived on as those two previous deployments volunteered to accompany and assist their fellow Guardsmen as the 1st Brigade Combat Team from the 34th Infantry Division moves out for duty in Iraq. Having just completed 6 months of training in Mississippi, the first BCT has now moved into theater to assume responsibility for stability operations in Iraq.

As the 2,600 Minnesotans travel into harm's way, we must commend and remember the three members of the Minnesota National Guard who preceded them and made the ultimate sacrifice last year in defense of our freedom, 1st Lieutenant Jason Timmerman, Staff Sergeant David Day, and Sergeant Jesse Lhotka.

As we honor the Minnesota National Guard today for 150 years of service, we would do well to heed the words taken from a speech Lieutenant Timmerman wrote for the Lake Benton High School Veterans Day Ceremony in 2003: "Show respect to those who have served. Most important of all, show your gratitude by enjoying the freedoms and rights that so many service members have fought and died for. Don't let their deaths be in vein. Exercise your right to vote, your right to free speech, and be happy for your freedom to do as you wish."

Mr. Speaker, I reserve the balance of my time.

Mr. BUTTERFIELD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I too rise in support of House Concurrent Resolution 371, honoring and congratulating the Minnesota National Guard for its dedication and service to the State of Minnesota and to the people of this Nation. The role of the National Guard has been and will continue to be extremely important to the security and freedom of the United States, and it is especially appropriate that we recognize this great organization. And so I join my colleague from the other side of the aisle in supporting this measure.

I would also like to recognize the gentlemen from Minnesota, Mr. KENNEDY and Mr. KLINE, for bringing this resolution forward today.

Mr. Speaker, the National Guard represents the spirit of our Founding Fathers and our country's first citizen soldiers who formed the Guard before there was an Army. And the Minnesota National Guard traces its origins to

the formation of the Pioneer Guard in the Minnesota territory in 1856, 2 years before Minnesota became the 32nd State in the Union. The 1st Minnesota Infantry was among the first regiments in the Nation to respond to President Abraham Lincoln's call for troops in April of 1861, when these courageous soldiers volunteered for 3 years of service during the Civil War.

Since then, the Minnesota National Guard has served our Nation in countless ways. Its historical accomplishments are too numerous to list, and its recent contributions have been extraordinary.

Today, Mr. Speaker, we are a Nation at war. Since the September 11 terrorist attacks, members of the Minnesota Guard have been keeping America's airports and waterways safe, and over 11,000 members have been called up for full-time service.

More than 600 troops have been deployed to Afghanistan for Operation Enduring Freedom. More than 2,600 citizen soldiers have been sent to Iraq. Other members of the Minnesota Guard are conducting important national defense missions in Pakistan and Kuwait and Qatar and Oman.

And so I urge my colleagues to join me in supporting this resolution. The Minnesota National Guard deserves strong recognition, strong recognition for 150 years of dedicated service, and this is a fitting opportunity to honor its members, the sacrifices they are making every day, and their valuable contributions to the security and freedom of our Nation.

Mr. Speaker, I reserve the balance of my time.

Mr. KLINE. Mr. Speaker, I now take a great deal of pleasure in yielding 5 minutes to the author of this bill, the gentleman from Minnesota (Mr. KENNEDY).

Mr. KENNEDY of Minnesota. I thank the gentleman from Minnesota (Mr. KLINE), my good friend and my colleagues.

I am pleased to stand here and rise to speak in support of this resolution that we have offered to honor and congratulate the Minnesota National Guard on their 150th anniversary.

On April 17, 2006, the Minnesota National Guard will celebrate 150 years of history, a history that extends from the battlefields of the Civil War to the war on terror in the desert sands of Iraq.

When President Lincoln sent out his calls for troops in the early days of the Civil War, among the first militia units to respond were from Minnesota. These men, who were from the 1st Minnesota Infantry Regiment, saw battle at Bull Run, Antietam and Gettysburg.

At a pivotal moment in the pivotal Battle of Gettysburg in the fight to preserve our national union, the 1st Minnesota answered the call, even though it resulted in the suffering of the highest casualties of any unit in that war. In a real sense, they may have saved the Union.

On July 3, 1963, as my colleague, Gil Gutknecht, so eloquently will speak of, 262 men of the 1st Minnesota Infantry closed the gap in the Union line, stopped the desperate Confederate attack at the center of the line on Cemetery Ridge. Only 47 of them answered the roll call the next day.

Had these men not acted with courage and boldness to turn back the charge and buy the rest of the U.S. Army precious time to reinforce, Confederate forces may have been able to breach Union lines. What began as the beginning of the end of the war would have turned out differently on that day.

Mr. Speaker, I have had the privilege to go to Iraq three times to meet our soldiers and the commanders on the ground. I prefer to talk to the people who are there to learn what is going on, not to see the latest sensationalist 30-second story of gloom and doom and defeat.

On one of these trips, I met with members of the Minnesota Guard serving with the 1st Cavalry Division. I asked them, what is your best and your worst experience here in Iraq? One of them said to me that his best experience was listening to the Iraqis complain to him. I said, you should be in Congress.

He told me that you knew that they knew that the Iraqis would never have dreamed of complaining to one of Saddam's soldiers. But even though he stood there with a rifle over his shoulder, clearly having power over them, they felt comfortable complaining to him, confirming that he and his colleagues had given them a gift of incomparable value, the gift of freedom, the gift of freedom of speech, the gift of protest.

That is what 2,600 members of the Minnesota National Guard now staging in Kuwait as part of the 1st Brigade Combat Team of the 34th Red Bull Division, the highest rated brigade in the whole Guard, are bringing to the Middle East. That is why my nephew interrupted his college studies to recently serve a tour of duty with the Minnesota Guard.

At the same time, while they are bringing safety and security to America by battling terrorists abroad, the Guard is also helping to bring relief to families in need at home. As we speak here today, members of the Minnesota National Guard are responding to destructive flooding in northwestern Minnesota where their experience, professionalism and planning are saving property and lives.

These selfless deeds, at home and abroad, show the sacrifice and heartfelt dedication of every member of the Minnesota National Guard.

That is why, Mr. Speaker, it is appropriate that my colleagues and I rise to honor and congratulate the Minnesota National Guard for 150 years of service to their State and country.

I have absolute confidence that future generations of Americans will con-

tinue to witness firsthand the great deeds of the Minnesota National Guard, and will continue to have cause to say thank you.

Mr. BUTTERFIELD. Mr. Speaker, I yield 5 minutes to the gentlewoman from Minnesota (Ms. MCCOLLUM).

Ms. MCCOLLUM of Minnesota. Mr. Speaker, today I rise to honor the brave men and women who for the past 150 years have served Minnesota and Americans as members of the Minnesota National Guard.

I would also like to honor the family members who have stood by our Guardsmen and women during times of peace and war.

The men and women of the National Guard have contributed to the freedom and security of this country from their heroism in the Civil War to their service today in Iraq.

The Minnesota National Guard was key in ensuring victory for the Union forces at Gettysburg. They saw battle in the Spanish American War, World War I, World War II, Afghanistan, and Operations Desert Shield and Desert Storm.

These brave men and women have also worked to help and keep the peace in Bosnia, Kosovo and Croatia.

Since September 11, over 11,000 members of the Minnesota National Guard have been activated to help serve and protect Minnesota and the United States. Today the members of the National Guard are serving both within the State and around the world.

In Minnesota, members of the National Guard are critical to helping Minnesotans protect their businesses, their homes and their schools. And they are prepared to stand with them to help these very same citizens rebuild their lives after the flooding recedes in the Red River Valley.

Just last month, I had the honor of attending, along with Congressman COLLIN PETERSON, a send-off celebration for over 2,600 members of the Minnesota National Guard. They were being deployed to Iraq from Camp Shelby, Mississippi.

And I also had the privilege of attending a deployment at St. Paul Holman Field. It was wonderful and a very special moment to be with these men and their families, these women and their families as they were deployed, because the sacrifices these men and women are making to serve our country, and being separated from their families and loved ones is truly something that we as Americans should honor and respect.

It has also been my privilege to work closely with the Minnesota National Guard in my district to maintain the Arden Hills National Guard training site, as well as the Air Guard's Holman field facility. These two facilities are essential to keeping our community strong and the Guard prepared and Minnesota and our country safe.

Mr. Speaker, the history of Minnesota's National Guard is a proud and distinguished history. Farmers, factory

workers, policemen, students, doctors, business owners, for the past 150 years, have become citizen soldiers serving their country and their community.

Every Minnesotan, and all of America, owes a debt of gratitude to the brave men and women who serve our country today as in years past. And today, we send them our thoughts and our prayers for a speedy return home and a very safe return home.

And I would like to take a second to honor a veteran from Minnesota who is on the floor, Mr. KLINE, and his family for the service that they have given our country, for the active duty are also standing side by side.

Mr. KLINE. Mr. Speaker, I want to thank the gentlewoman for her kind words. And now I yield 4 minutes to the gentleman from Minnesota (Mr. RAMSTAD).

Mr. RAMSTAD. Mr. Speaker, I too pay tribute to Colonel KLINE for your heroic service to the country that we all love.

Mr. Speaker, I rise today in strong support of House Concurrent Resolution 371, to honor, congratulate and thank the brave men and women of the Minnesota National Guard on its 150th anniversary.

The Minnesota National Guard represents the very best of duty, honor and country. I join the people of the Third Congressional District of Minnesota in thanking each and every Guard member, past and present, for their selfless service.

Mr. Speaker, as has been pointed out by previous speakers today, the Minnesota National Guard traces its origins to the Pioneer Guard of the Minnesota territory in 1856, formed 2 years before Minnesota became the 32nd State. The 1st Minnesota Infantry was among the very first regiments to respond to President Lincoln's call for troops during the Civil War.

□ 1445

In fact, the 1st Minnesota Infantry had the highest casualty rate of any unit in the Civil War. The Minnesota National Guard went on to serve bravely in the Spanish-American War, World War I, and World War II. The Minnesota National Guard also served with great distinction on the ground and in the air during Operations Desert Shield and Desert Storm, and Minnesota Guard troops have helped keep the peace in the former Yugoslav republics.

Following the September 11, 2001, attacks by the terrorists on our country, the Minnesota National Guard provided airport security and the 148th Fighter Wing flew F-16 security patrols over United States cities for a longer time than any other air defense unit.

Today, Mr. Speaker, Minnesota National Guard troops are serving in the war on terror in Afghanistan, Iraq, and elsewhere. More than 3,000 citizen soldiers just recently were called to service in support of Operation Iraqi Freedom, and our thoughts and prayers are with each of those Minnesota troops. In

addition, Minnesota National Guard troops are serving in national defense missions in numerous other countries as well.

Off the battlefield, Mr. Speaker, the Minnesota National Guard has provided countless services to our communities, assisting citizens devastated by natural disasters and maintaining law and order.

Mr. Speaker, great moments and triumphs in American history require valor, bravery, and selfless service, and the brave men and women of the Minnesota National Guard have led the charge for 150 years.

To the men and women of the Minnesota National Guard, congratulations on your 150th anniversary, and thank you. Thank you for your service to Minnesota and your service to our Nation.

Mr. BUTTERFIELD. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Minnesota (Mr. OBERSTAR), the ranking member of the Transportation and Infrastructure Committee.

Mr. OBERSTAR. Mr. Speaker, I thank the gentleman for yielding.

I join my colleagues, Mr. Speaker, in congratulating our Minnesota National Guard on its 150th anniversary. As my colleagues from Minnesota and our floor manager on the Democratic side have mentioned, this Minnesota National Guard has had a great and distinguished career of service to the Nation.

There is no greater public service than that of military duty. There is no longer a tradition than that of the citizen soldier. It goes back to the very beginnings and foundation of our Nation and of our fight in the Revolutionary War for independence.

Our National Guardsmen served in the Civil War, Gettysburg. They served in the Spanish-American War and World War I, World War II, at Wood Lake, Philippines, Meuse-Argonne in France, and Bataan, North Africa, Sicily, in Korea, in Vietnam, in Kuwait, in Iraq. They have served in Bosnia and Kosovo. And after September 11 it was our Minnesota Air National Guard that flew cover for months over our Nation's capital. Our Guard unit from my district, from Duluth, put in endless and wearying hours. We could hear those aircraft in the wee hours of the morning, protecting us against the foe unknown or terrorist attack that we could not imagine, and they did it without complaint but with enormous professionalism.

This coming Saturday Cloquet E Battery, the 216th Air Defense Artillery Unit, will return safely from their duty in Saudi Arabia and in Iraq.

Over 11,000 of our Minnesota Guardsmen have served some two and three tours of duty in the gulf. We salute them, congratulate them for their extraordinary service.

I have been, as many of my colleagues have already attested in their own experience, to both send-off and

return ceremonies. The most impressive is the open arms, the love with which our citizen soldiers are received on their return, the grateful hearts, the admiration of friends and family for the service that they have performed so selflessly, the tears that are shed, the joy of relief at coming home, but also the anxiety about returning to their job, their place of employment.

After two or three displacements, some have had concerns. Fortunately, employers in most cases have been responsive to their duty to our National Guard, and as they return home and continue their citizen soldier service to America, as we provide for those in the field the necessary body armor, equipment, support services to carry out their duties in the field, we must provide for them as they eventually become veterans and assure that they are treated with the respect of our World War II vets, our Korea vets. And we have learned a great deal from the Vietnam veterans. They too have taught us great lessons, and those lessons must not be lost upon this body nor upon the American public as we welcome home the Iraqi veterans and incorporate them again into society and accord them the support services that they will need and that they deserve and have truly earned.

I join my colleagues in the delegation in saluting our Minnesota National Guard on its 150th anniversary, and I join my colleague, Ms. MCCOLLUM, in congratulating our colleague, the gentleman from Minnesota, manager of the bill on the floor, for his service to our country in the Marine Corps.

Mr. KLINE. Mr. Speaker, I thank the gentleman for his kind remarks.

I would like now to yield 4 minutes to a real historian of this famous Minnesota National Guard, my colleague from the First District of Minnesota, Mr. GUTKNECHT.

Mr. GUTKNECHT. Mr. Speaker, I thank the gentleman for yielding.

I am very pleased to be here and join my colleagues from Minnesota. I want to thank my colleague from North Carolina for his kind remarks as well.

Like the mighty Mississippi River, the tradition and pride of the Minnesota National Guard is long and deep. For 150 years Minnesotans have proudly taken their places in that long line of citizen soldiers, that long line that has never failed us.

Much has been said already today and I will try not to be redundant, but I do want to share some of the history of this very historical Guard. As has been mentioned, they were organized before Minnesota even became a State. Now, 150 years is a long time and many things have changed in our State, in our Nation, in our world. But there has been one constant, and that is the professionalism and the sense of service that we take for granted from our own National Guard.

As was mentioned, in April of 1861, it just so happened that the Governor of

the State of Minnesota, Governor Ramsey, was here in Washington, D.C. on other business when we heard of the firing on Fort Sumter. And President Lincoln put out a call for troops, and Governor Ramsey became the first Governor in the Union to rush over to the White House and volunteer troops to serve to defend the Union. And it then fell upon the Minnesota 1st Infantry to be the first regiments volunteered to serve in that battle for the Union. And the story has been told that when they marched off to war, they were 1,066 strong, but by the end of the day of fighting of July 2, 1863, only 47 could answer the call. They suffered on the late afternoon of July 2, 1863, the highest percentage of casualties of any unit that fought in that tragic war. But they held the line that day. And to this day many people believe that they deserve to be called the saviours of our country because of their sacrifices.

Many years later the colonel who led that regiment, Colonel William Colville, was asked what he thought about as they charged down that hill that day, and he said, "Gad, I thought of Washington." They knew what the stakes were, and they knew that they had to hold that line.

Earlier in the day that pivotal battle was fought, General Hancock rolled by and he asked Colonel Colville, "How long can you hold your position?"

And he responded with a sentence which made military and political history and survives to this day as the motto of the 1st Infantry. He said, "General, to the last man." And as we know, it became no idle boast.

Since the Civil War, the Minnesota National Guard has honorably served in the Spanish-American War, World War I, World War II, Operation Desert Shield, Desert Storm. These soldiers helped defend the border against Pancho Villa and maintain the peace in Bosnia, Croatia, and Kosovo.

Today more than 600 National Guardsmen from Minnesota have been deployed to Afghanistan in Operation Enduring Freedom. More than 2,600 Minnesota citizen soldiers are serving in support of Operation Iraqi Freedom. In January I saw firsthand the courage and dedication of the Minnesota National Guard at Camp Shelby. Awaiting their deployment to Iraq, these volunteer men and women maintain the historic spirit and tradition of the Minnesota National Guard.

Mr. Speaker, I proudly rise in support of this resolution, and I congratulate and recognize the Minnesota National Guard's 150 years of dedicated service. Because of their sacrifices, our Nation and our State are more secure and millions around the world can look forward to a future of peace and freedom.

Mr. BUTTERFIELD. Mr. Speaker, I yield 5 minutes to my friend and colleague from Minnesota, the ranking member of the House Committee on Agriculture, Mr. PETERSON.

Mr. PETERSON of Minnesota. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I rise as well today to congratulate the Minnesota National Guard for their 150th anniversary, which I believe is officially on April 17. And it is with great pride that I do this because, as people have said, we have great shoulders in the Minnesota National Guard.

As has been mentioned by other speakers, they have a rich history, 2 years older than the State of Minnesota. They have participated in every military action that we have been involved in in this country. And as was mentioned today, we have over 2,600 soldiers that have recently been deployed, some of them yesterday, I believe, to Operation Iraqi Freedom. Many of those soldiers are from my district. Soldiers, too, of the 136th Infantry, called the Bearcats, they were also deployed in Bosnia. I had an opportunity to visit them there. I was as well in Camp Shelby a couple times to visit those folks. And typical of the Minnesota tradition, the Bearcats racked up the highest scores in the training that was done in Mississippi, higher than a lot of our regular Army forces. So we are very proud of them, and they believe in their mission. They are ready to go, and I am sure they are going to uphold the fine tradition of the Minnesota National Guard.

I would also like to recognize and thank their families, their loved ones, and their communities and their employers because those are the folks that probably have got the toughest job in this whole situation, especially with these people that have been deployed two or three times in the last 5 years, which a lot of these soldiers have. So we want to recognize them as well.

I also would like to recognize and thank the Guard and the members that are currently deployed to my communities in the Seventh District of Minnesota along the Red River in the north. We are again having another flood event up there that we seem to have every once in a while. We had a very serious one in 1997, where events very similar to what happened in New Orleans happened in the Red River Valley. The Guard did an outstanding job during that particular event. And today we have 136 Guardsmen that have been deployed up to the Red River Valley, and they are helping us get through this event again today.

I also want to applaud the State of Minnesota, which has undertaken a conscientious policy of providing pay differential to State employees that serve in the National Guard.

□ 1500

Of the approximately 12,000 Guard members in the State, about 500 of them work for the State of Minnesota, and their lives and the lives of their families, during this difficult time of activation, have been made easier by Minnesota's pay differential policy.

Mr. Speaker, I am also a cosponsor and strong supporter of legislation that would allow the Federal Government to follow Minnesota and provide pay differential for Federal employees activated in the Guard and Reserve. I hope that this body will pass this legislation soon, because it has worked well in Minnesota, and I know it will work well for the rest of the country.

So, once again, I rise to congratulate the men and women of the Minnesota National Guard on their 150th anniversary, and thank all of them for their service to the State of Minnesota and their service to the country. I know that they will make us proud, as they always have.

Mr. BUTTERFIELD. Mr. Speaker, I have no further speakers, and I yield back the balance of my time.

Mr. KLINE. Mr. Speaker, I yield myself such time as I may consume just to take a few seconds to extend my thanks to the gentleman from North Carolina and my colleagues from Minnesota for their support today of the Minnesota National Guard and their very kind remarks. I would urge all of my colleagues to support H. Con. Res. 371 and say happy birthday to the Minnesota National Guard.

Mr. SABO. Mr. Speaker, I rise today in strong support of this resolution. I am proud of the Minnesota National Guard and its rich history. The First Minnesota Infantry regiment answered President Lincoln's call to duty in April 1861 and those Minnesota soldiers set the tone for the tenacity and bravery that has become the ingrained ethic of the Minnesota Guard.

The people who make up the Minnesota Guard are some of the brightest our state has to offer. Today, more than 2600 Minnesota National Guard members are in or en route to Kuwait for final preparations before they head to Iraq. The 1st Brigade Combat Team will be deployed to Iraq and is expected to be the only National Guard Brigade Combat Team in Iraq—all others are from active duty Army. This is the largest deployment of the Minnesota Guard since World War II.

While these brave men and women are serving our State and our country in a dangerous place, it is extremely important that we do our part to support them and their loved ones during and after the mission in Iraq. We must provide a strong network of support for families of deployed soldiers, and assist those families and soldiers during the difficult transition period following deployment.

I rise today in support of this resolution, in recognition of the Minnesota Guard's rich history, and in gratitude to those Minnesotans who have answered the federal call to duty.

Mr. KLINE. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. BOOZMAN). The question is on the motion offered by the gentleman from Minnesota (Mr. KLINE) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 371.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 513, 527 REFORM ACT OF 2005

Mr. DREIER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 755 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 755

Resolved, That upon the adoption of this resolution it shall be in order without intervention of any point of order to consider in the House the bill (H.R. 513) to amend the Federal Election Campaign Act of 1971 to clarify when organizations described in section 527 of the Internal Revenue Code of 1986 must register as political committees, and for other purposes. The bill shall be considered as read. The amendment in the nature of a substitute recommended by the Committee on House Administration now printed in the bill, modified by the amendment printed in the report of the Committee on Rules accompanying this resolution, shall be considered as adopted. All points of order against the bill, as amended, are waived. The previous question shall be considered as ordered on the bill, as amended, to final passage without intervening motion except: (1) one hour of debate on the bill, as amended, equally divided and controlled by the chairman and ranking minority member of the Committee on House Administration; and (2) one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from California (Mr. DREIER) is recognized for 1 hour.

Mr. DREIER. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to my very good friend from Fort Lauderdale (Mr. HASTINGS), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

(Mr. DREIER asked and was given permission to revise and extend his remarks, and include extraneous material.)

Mr. DREIER. Mr. Speaker, House Resolution 755 provides 60 minutes of debate in the House, equally divided and controlled by the chairman and ranking minority member of the Committee on House Administration. The rule waives all points of order against consideration of the bill and provides that the amendment in the nature of a substitute recommended by the Committee on House Administration, modified by the amendment printed in the Rules Committee report, shall be considered as adopted.

Mr. Speaker, I rise today in full support of H. Res. 755 and the underlying bill, H.R. 513, the 527 Reform Act of 2005.

Mr. Speaker, I have had the privilege of working on the lobbying and ethics reform effort currently underway in the House. Having worked so closely with so many Members on both sides of the aisle, I am very confident that there is a shared goal to protect the integrity of Congress and to uphold the public trust by implementing bold reform.

The Lobbying Accountability and Transparency Act is moving, as Speaker HASTERT directed, through regular order, and it is being considered by five different committees. One way or another, many of the provisions of the bill focus on outside sources of influence, which have rightly been the targets of good government reform for decades, and I am very proud that we have provided leadership in that effort over the years.

As Members know very well, the current reform process has looked at everything from travel rules, to gift limits, to lobbying disclosure, a wide range of things. However, this entire good faith effort and the bipartisan effort that we are working on would come up woefully short if we did not address an area where outside influence in the form of unlimited contributions continues to play an enormous role. So today we are considering H.R. 513, the 527 Reform Act.

Congress has tried to limit big money in campaigns for many, many years. In fact, I will tell you, I wrote my senior thesis in college on the issue of campaign finance reform on the 1974 act, which was the first big Campaign Reform Act implemented in the post-Watergate era.

As colleagues who were here in 2002 will remember very well, we had a very spirited debate on the Bipartisan Campaign Reform Act. Among other goals that were put forward, this bill aimed to get rid of soft money. That was the goal that was stated by those who were champions of the Bipartisan Campaign Reform Act. They wanted to do everything possible to ban soft money contributions from political parties, getting it out of the political process altogether.

Along with many of my colleagues, I expressed very strong reservations about banning soft money from parties. I voted against the Bipartisan Campaign Reform Act. I was very concerned about it. I worried that by limiting contributions and dictating who could give how much to whom, that we would be violating the first amendment.

I also seriously doubted that banning soft money from parties would effectively get that money out of the system itself. As many pointed out at the time, BCRA left an obvious and easy loophole to exploit because it did not, in fact, ban unlimited money from being raised and spent by political groups called 527s.

And make no mistake, Mr. Speaker, 527s are political organizations. The purpose of 527s under the law is to influence elections. The Supreme Court has written that 527 groups "by definition engage in partisan political activity."

527s were the natural recipients of the soft money that the Bipartisan Campaign Reform Act denied to political parties expressly because they are defined by law as political organizations. In fact, many of these 527s were

set up only after the Bipartisan Campaign Reform Act passed just so they could be the recipients of the soft dollar contributions.

Now, as our colleague, Mr. LINDER, pointed out during that 2002 debate on BCRA, he said, "By eliminating the role of parties, corporations and labor unions could become increasingly reliant on loopholes, allowing them to spend funds from their general treasuries to influence elections." Mr. LINDER went on to say, "activities that would be undertaken without Federal regulation."

Mr. Speaker, this is exactly what has happened. Mr. LINDER was absolutely right when he portended this. Nonetheless, supporters of BCRA promised that it would indeed get big money out of politics. That, as one colleague said during those debates, would "end the influence, the undue influence of big money in the political process."

Where does this leave us today? For starters, the issue of free speech as it relates to limiting campaign donations is no longer a theoretical argument that many of us engaged in. Campaign limits are allowed, and BCRA is the law of the land, even though so many of us opposed it.

So while many of us did oppose those limits in contributions, we realize that we are governed by laws. We regularly talk about the rule of law. We are not simply governed by our principles, but, in fact, we are governed by the laws, and now every Member's duty, regardless of how we voted on the 2002 act, is to ask ourselves, is the Bipartisan Campaign Reform Act working as it was intended?

Clearly, Mr. Speaker, the answer is a resounding no, it is not. Soft money still dominates the political landscape. A handful, a very small handful of wealthy people, still funnel money to organizations involved in campaigns. But now it is going to 527s instead of to political parties.

Mr. Speaker, the money involved is enormous. In the 2003-2004 election cycle, 527 committees raised \$425 million, nearly half a billion dollars. That is \$273 million more than before the Bipartisan Campaign Reform Act was enacted. As predicted, the soft money that used to go to political parties found its home in the so-called 527s. In fact, the top 25 individual donors gave more than \$146 million in 2004. As I said, it is a very small group of people, from my perspective, exercising their first amendment rights. But with limits that the court has upheld, I think we have no response other than to respond. Twenty-five individuals, 25 individual donors, again, \$146 million in 2004.

During the current election cycle, Mr. Speaker, that trend has already continued, and we have already seen more than \$58 million expended by the 527s.

Now, we are not talking about a leaky roof here where just a little soft money is dripping into the system. We

are talking about half the roof missing, and money is literally pouring in to this political system.

Since the Bipartisan Campaign Reform Act failed to take soft money out of politics, as even the bill's original authors concede, it is our duty to correct a flaw in the 2002 law. After all, if we are going to have Federal regulation of campaign finance, it better be fair, it better be consistent and it better be effective.

H.R. 513, the 527 Reform Act, restores balance and fairness to the system by making 527s register with Federal Election Commission and by subjecting them to the same Federal campaign finance laws as political parties, political committees and other political organizations. They would be allowed to raise a maximum of \$25,000 per year for their non-Federal accounts and \$5,000 for their Federal accounts.

Under this bill, 527s will still be able to engage in their political activities, such as Get Out the Vote and voter registration drives. They will just be subject to the hard dollar requirements for their spending. For instance, they will be required to spend only hard money for ads that refer to Federal candidates, and at least 50 percent hard money for ads that refer to a political party.

Mr. Speaker, I have offered an amendment to H.R. 513 that removes the limit on the amounts parties can spend in coordination with their own candidates. This was a bipartisan effort that was put together. Parties and their candidates should be free to work together to promote the issues they believe in and the arguments that they support. This change will increase transparency in campaign spending by allowing them to work together, rather than continuing the charade that the two entities don't know each other. There is no danger of corruption when a political party supports its own candidate.

527 reform has the backing of Democracy 21, Campaign Legal Center, the League of Women Voters, Common Cause, Public Citizen and U.S. PIRG.

Mr. Speaker, this bill is not revolutionary; it is common sense. We are simply closing an enormous loophole by extending existing Federal campaign laws to 527s.

Opponents of this legislation claim that soft money now going to 527s would simply be funneled to other groups, such as the 501(c)s, yet there is a huge difference under the Tax Code and in real life between 527s and the 501(c) groups, namely, 527s are organized for political purposes. They exist for the purpose of influencing campaigns. 501(c)s are not established for that purpose. In fact, as a matter of Federal law, 501(c)s are not allowed to engage in political activity as their primary mission.

If, as opponents contend, soft money is funneled to 501(c)s and if politics becomes their major purpose, they will be in violation of the law.

□ 1515

I will add, if it becomes clear that further reforms are needed, Congress will act. Just as we are taking action now to tighten the existing law, we will be ready to act again. We all know, we have said it time and time again, reform is an ongoing process, and we are very proud to lead the effort for reform.

As long as the Bipartisan Campaign Reform Act remains the law of the land, we must ensure that its provisions are applied fairly to all groups engaged in political campaigns. Now, some opponents of H.R. 513 also argue that subjecting 527s to campaign finance regulations limits free speech. I have to ask, where was this first amendment devotion during the 2002 debate? When I and others were making the point in 2002 that free speech would be violated, supporters of BCRA were awfully quiet on that issue.

Regardless of how one feels about that issue, the United States Supreme Court has ruled on numerous occasions that limiting political donations is constitutional. Most recently, they did it when they upheld the Bipartisan Campaign Reform Act in *McConnell v. FEC*. So critics of this bill, Mr. Speaker, the very same people who predicted the demise of our democracy if soft money was allowed to flow to parties, now seem to have no trouble opposing a bill that allows soft money to flow to the 527s.

Just to be clear, some Members on the other side of the aisle want the very groups that spent more than \$320 million on behalf of their candidates and policies in 2004 to be the only ones that can influence elections without dollar limits.

To be consistent, opponents of this bill would have to also oppose the Bipartisan Campaign Reform Act ban on soft money going to parties. You cannot just pick and choose who is worthy of soft money. If it is bad, if it corrupts the system, if it silences the average voter, if it allows the wealthy to buy influence, all things that they argued in 2002, then it is not who receives soft money that is the issue; soft money itself is the issue.

Are my friends on the other side of the aisle saying they made a mistake in 2002? Have they reversed their position? Do they now support the utilization of so-called soft money? Do they wish to repeal the soft money provisions that were included in the Bipartisan Campaign Reform Act? I suspect not.

I would urge my colleagues to be consistent with their past positions on campaign finance reform and oppose any dual system for free speech where one group has more protections than another.

Mr. Speaker, as with our entire reform effort, we are simply seeking to attain the proverbial level playing field, to make rules fair, to make them effective, and to make sure that they are enforced. We have an opportunity

to patch a hole in the Bipartisan Campaign Reform Act that would go a long way toward getting big money out of campaigns, as The Washington Post editorialized just this morning, to close the biggest remaining loophole in the campaign finance system. This is something that supporters in the Bipartisan Campaign Reform Act believed strongly in in 2002. They have a chance to reaffirm their support today with this up or down vote on this simple issue. And for Members like myself who opposed BCRA back in 2002, we can support H.R. 513 because the legal challenges to the original reforms have been settled, and the shortcomings that we predicted have in fact come to pass.

Mr. Speaker, altogether, this should result in a strong bipartisan vote for transparency, disclosure, accountability, and reform.

Mr. Speaker, I reserve the balance of my time.

Mr. HASTINGS of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the chairman of the Rules Committee, my very good friend, the gentleman from California (Mr. DREIER), for the time.

Mr. Speaker, I rise today in strong opposition to this closed rule, which blocks every single Member in this body from offering an amendment to the 527 Reform Act of 2006. This bill would amend the Federal Election Campaign Act of 1971, and require, among other things, certain political organizations involved in Federal election activities to register with the Federal Election Commission.

Yesterday, during the Rules Committee hearing, the majority on the committee reported out a closed rule. In doing so, this limited any opportunity for the House to fully vet this important issue. If Congress is the place for true deliberation of all points of view, then I ask, why are the Republicans so hasty to ramrod this bill through without opportunities to amend? Surely the majority realizes that abolishing spending limits is a move that intentionally pushes aside the interests of women, minorities, and other voters who may not be a part of the Republican base and therefore apparently are not worthy of regard. Or is it simply a maneuver to deny us serious debate about viable alternatives, such as one from Massachusetts offered by Representative TIERNEY? Representative TIERNEY's amendment, had it been made in order, would have completely eliminated the ability of industries and interest groups to unduly influence elections. His idea? The full public financing of elections. This proposal, which Republicans have blocked from consideration, is the only one that I have heard to date that completely protects the integrity of our elections and public policymaking process.

I am equally disappointed that my very good friends, Representatives

WYNN and PENCE, were denied an opportunity to offer their bipartisan proposal before the House. Let us force candidates to get themselves elected based on the merits of their argument rather than the depth of their campaign accounts, which have been padded heavily by the richest of U.S. industries.

One can only imagine what the Medicare bill would have looked like if the pharmaceutical industry hadn't contributed the hundreds of millions in campaign contributions to the President and Republican candidates. What about the energy bill, reeking with billion dollar tax breaks for energy companies? What would that bill have looked like if it weren't for campaign contributions to Members of Congress?

If we want to get serious about corruption in Congress, then we have to get serious about corruption in our elections. For those in America, myself included, who believe that outside influences have too much control in the political process, I say take them out of the process. Make it illegal for them to write campaign checks and support publicly financed congressional elections.

Seats in this and the other body are for sale to the highest bidder. But the majority of the American people do not have enough money to buy them.

My colleagues on the other side of the aisle would have us to believe that this legislation, among other things, protects the integrity of campaign finance because it brings 527s out of secrecy. This is a false claim that could not be further from the truth.

My good friend, Representative DREIER, cited Common Cause. I guess it is about time for me to cite a former colleague of his and mine, Pat Toomey, the president of the Club for Growth; or John Berthoud, the president of the National Taxpayers' Union; or David Keene, the chairman of the American Conservative Union; or Grover Norquist, the president of Americans for Tax Reform. All of these peoples are opposed to this measure.

It is kind of interesting to me in Congress how up gets to be down and down gets to be up. But 527s are far from the clandestine operations that some may want us to believe. 527s do not operate behind closed doors. If you think they do, ask JOHN KERRY. Their work combines social awareness, advocacy, and political activities that provide everyone with tools for political knowledge.

Receipts and expenditures from 527s must be publicly disclosed and made available. In fact, 527s are already required by law to register with and report to the Internal Revenue Service. Their name is actually derived from the section of the United States Tax Code that regulates their financial activities. I think that we would all agree that it is difficult to have much more oversight than the Internal Revenue Service.

The administration and their friends in the Republican majority also intend

for this new legislation to simultaneously stamp out free speech, voter outreach and the free flowing exchange of ideas. Unfettered political speech, be it at issues in the mail, by phone, on TV, on the radio, and especially over the Internet, is the basis for why our Founding Fathers fought so hard to make it a part of the very first amendment in our Constitution.

These are the tools Americans use to make informed decisions on the political issues before them. These are the activities that register people to vote, bring them to the polls, and engage them in necessary debate.

We should take heed from those who are only now establishing free and fair elections in some parts of the world. They found out the hard way that once freedom of speech eroded, it began a slippery slope that soon crushed their liberties as well as their governments.

Any time the majority wants to get serious regarding campaign finance and the influence of campaign dollars in the House, Democrats stand ready to have that discussion. And I am having a hard time understanding if way out there in America that people really do know the difference between soft money and hard money. In the meantime, I urge my colleagues for the sake of free speech and for the sake of a campaign process in which we all believe to oppose this closed rule and the underlying legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. DREIER. Mr. Speaker, I yield 4 minutes to the gentleman from Oklahoma (Mr. COLE), a very able member of the Rules Committee and a great champion and understander of the issue of campaign finance and campaigns in general.

(Mr. COLE of Oklahoma asked and was given permission to revise and extend his remarks.)

Mr. COLE of Oklahoma. Mr. Speaker, I rise to speak in favor of the 527 Reform Act. This legislation will strengthen our political parties while subjecting 527s to the same regulations as other actors under our campaign finance system.

One of the most important provisions in this bill is the elimination of the limit on expenditures coordinated between party committees and candidates. That limit as it currently exists is unquestionably one of the worst features of our campaign finance system. It creates a needless barrier between parties and their candidates. The first step towards a better, cleaner campaign reform system that places candidates in control of their own campaigns is repealing of that provision as this bill does.

Mr. Speaker, political parties, other than perhaps the candidates themselves, are the most accountable actors in our campaign finance system. They have to answer to their members, to their donors, to the media, and most importantly of all, to the voters. Their activities are disclosed and well docu-

mented. National parties in particular seldom violate either the letter or the spirit of the law. They are responsible participants in the political process, unlike many 527s.

Additionally, parties serve a very useful role in our political process. One essential thing they have historically done is to rechannel factions of narrow special interests into broader, more public-spirited coalitions. Although not foreseen by our Founders, it is impossible to imagine the success of our democracy without the vital role parties have played.

As Clinton Rossiter, the scholar of American politics, once put it, No America without democracy, no democracy without politics, and no politics without parties.

Past efforts at reforming the campaign finance system often have had the unintended consequence of weakening political parties. The understandable desire of citizens to influence the outcome of elections does not go away with campaign restrictions.

□ 1530

Instead, the money they contribute sometimes flows from candidates and parties to unaccountable actors like 527s. This bill will help impede that process.

In 2004, after the passage of the McCain-Feingold bill, there was more money in politics than ever before, with just 25 wealthy individuals accounting for \$146 million raised by 527 groups to influence that year's elections. That is not removing big money from politics. That is the manipulation of the political process by a wealthy elite.

Mr. Speaker, I want to say a word to those who spoke so eloquently in favor of the Bipartisan Campaign Finance Reform Act of 2002. If that law was not intended to limit the influence of money from unaccountable actors like 527s, then what was its purpose? And yet, many who voted for the McCain-Feingold bill will today vote against reforming 527s. That is, to put it politely, inconsistent.

Mr. Speaker, to paraphrase a fine American, many of the opponents of 527 reform are effectively saying: "I voted for campaign finance reform before I voted against it." Today, the supporters of the McCain-Feingold bill have an opportunity to pass real reform in a bipartisan way. McCain-Feingold supporters can choose between the principles they profess to hold or they can vote for what many believe is to their own short-term, partisan political advantage. And if they vote for the latter, after previously claiming to vote for the former, they will set off a political finance "arms race" that will flood the American political system with tens of millions of dollars from a few fabulously wealthy individuals.

That is an outcome we should all seek to oppose.

Mr. Speaker, I urge my colleagues to support the rule and the underlying legislation.

Mr. HASTINGS of Florida. Mr. Speaker, I am very pleased to yield 10 minutes to the gentleman from Maryland (Mr. HOYER), the distinguished Democratic whip, my very good friend. (Mr. HOYER asked and was given permission to revise and extend his remarks.)

Mr. HOYER. Mr. Speaker, I thank the gentleman from Florida.

At a time when this Congress is embroiled in the most serious scandal in a generation, when a culture of corruption has swept over this body with no sign the Ethics Committee is addressing it, this body should be devoting the precious few days it has here to reforming its own culture and practices.

Today, the Republicans are doing what they so often do. They are trying to gag their opponents and further empower their supporters. They again abuse their legislative power to assault their adversaries. This is not reform. It is retaliation.

It is ironic that so many of the Republican leadership in opposing campaign finance reform argued so strenuously against campaign expenditure limits but now advocate limitations, not because of principle but because of political power and the abuse of that power.

The Republican leadership has chosen to take on political organizations in a cynical attempt to appear serious about reform and divert attention from its own ethical failures.

Mr. Speaker, the problem confronting our polity is not independent groups whose political activities are legal and are disclosed regularly to either the IRS or the FEC. We know who spends this money. The public can make a judgment.

Rather, it is the degree to which the Republican leadership has sacrificed the public interest, good public policy, and its own ethical conduct in order to amass, consolidate and perpetuate power through unseemly and unethical alliances with special interests like Jack Abramoff.

If this body were serious about reform, we would be debating the best way to eliminate the culture of corruption, not restrict the first amendment rights of political organizations.

Now, the previous speaker mentioned campaign finance reform. Let me quote some debate during the course of that consideration of that bill. The gentleman who brings this bill to the floor today, Mr. DREIER, I always like to quote Mr. DREIER because they are such different points of view that are reflected; you can almost get the whole spectrum of thought.

“Mr. DREIER: So we have these attempts being made by some to impose extraordinary, onerous regulations on the American people, jeopardizing their opportunity to come together and pursue their political interests that they have, that a shared group has; and I believe that is wrong,” says Mr. DREIER. “I believe it is wrong,” Mr. DREIER said on February 13, 2002, “to impose those kinds of regulations.”

We then had a vote on campaign finance reform by the same folks who are offering this bill to reform, and Mr. HASTERT voted “no,” Mr. BOEHNER voted “no,” Mr. BLUNT voted “no,” Mr. DELAY voted “no,” and, yes, my friend and my colleague from California (Mr. DREIER) voted “no.”

Mr. DREIER. Mr. Speaker, will the gentleman yield?

Mr. HOYER. I yield to the gentleman from California.

Mr. DREIER. Mr. Speaker, very, very briefly, not to get into the issue of the dueling quotes, but let me quote from 1998 in the debate on this issue from my friend Mr. HOYER, who loves to carry in his pocket Dreier quotes. I do not regularly carry this one, but this was just provided to me.

In the CONGRESSIONAL RECORD on June 19, 1998, my friend said, “In my view, genuine reform must purge from Federal elections unregulated soft money which has become so pervasive. The issue ads, which are so clearly intended to influence elections, must be covered.” That was the statement made.

Let me say also, I completely stand by exactly what I said in that 2002 debate and I stand by that vote as my colleagues stand by that vote.

If the gentleman had heard my opening statement, I refer to the fact that we were not supporters of the Bipartisan Campaign Reform Act. We were concerned about first amendment rights. We still are concerned about first amendment rights, but across the street, the United States Supreme Court upheld BCRA when they chose in *McCConnell v. FEC*—

Mr. HOYER. Mr. Speaker, reclaiming my time, if you will yield yourself some time, I will be glad to have some debate with you.

Mr. DREIER. I thank my friend for yielding.

Mr. HOYER. I would be glad to have a debate with you but you need to yield some of the time.

Mr. DREIER. I think the gentleman still has time.

Mr. HOYER. I still have time, thank you very much.

Mr. DELAY said in another quote, “Those who want to regulate through government the participation in the political process, I respect them trying to do that; I disagree with it.” That is the way he voted, as you have pointed out. “We ought to let the voters decide through instant disclosure to be able to tell and see while people are collecting their money and spending it to decide.” In other words, disclosure. These are disclosed.

My view is, in light of the fact they are disclosed, you will vote “no” on this bill. My obvious supposition is you are not going to do that.

Today, this bill is about politics. You have changed your principle, in my opinion. You have changed your point of view. That is why you are voting differently than you did on campaign finance reform.

Mr. DREIER. Mr. Speaker, if the gentleman will yield, I respond by saying, we stand by our commitment to first amendment rights. We stand by our position of the Bipartisan Campaign Finance Reform Act, but that is the law of the land. We live with it today. We are simply trying to implement exactly what you said on June 19, 1998, when you said there should be evenhanded regulation.

Mr. HOYER. Mr. Speaker, reclaiming my time, what the gentleman has just said, he stands by what he said but he is going to adopt what I said to support this legislation. As usual, we have somewhat of an Alice in Wonderland approach.

This bill is about politics. This bill is about getting opponents that they presumed who have outraced them in the last election, but until the last election they did not want regulation. Why? Because their premise was they would raise more money, but when they found out that their opponents who disagreed with their failed policies for this country were communicating with the American public, then they said, oh, my goodness, we have to do something about that. They had this included in lobbying legislation, which we need to reform, as I have said, but guess what, they have taken it out, for political reasons, not for principle, I tell my friend from Massachusetts, not for principle, but for political reasons to try to undermine their opponents.

Today, we are missing an opportunity to look inward and expose ugly truths about the devolution of the legislative process from the one that the Framers had in mind when they created Article I of the Constitution.

I challenge the other side to explain to me why, 15 months into the 109th Congress, nothing, nothing has been done by this House to come to terms with the culture of corruption.

I challenge the other side to explain how H.R. 513 will increase the public's faith that elected representatives are addressing and adhering to the strictest ethical code and will pay an appropriate price if they veer from it.

I would suggest that today's debate underscores the extent to which a party that came to power 12 years ago, promising a bold new direction, has become insensitive to the issues that really matter in our Nation in 2006.

This bill is about politics. This bill is about a fear of losing power. This bill is about trying to undermine the voice of opposition in this country. This bill results from a fear that those who are opposing policies bad for the United States, bad for our people, bad for our families, undermining the security here at home and around the world will somehow be communicated correctly to the American people.

It was not until the last election, not until then, did those 176 people who on principle said we should not constrain this speech, this constitutional right that we have, and testified before the House Administration Committee, including Speaker Gingrich at one point

in time, and said that it was disclosure that was the issue, not constraint. It was not until the last election that that opinion was changed, that this bill came to the floor to undermine and gag those who oppose the policies being pursued.

Mr. DREIER. Mr. Speaker, let me yield myself such time as I might consume to respond to some of the arguments of my friend Mr. HOYER.

First of all, let me make it very clear, our position has not changed one iota from what it was. We still believe in transparency and disclosure. We stand by the testimony that was provided before the House Administration, our concern, our opposition to the Bipartisan Campaign Reform Act. So the gentleman is wrong in concluding that we somehow have changed.

What we are saying with this legislation is that we should not in any way allow loopholes to exist. All we are trying to do is close a loophole which addresses the concern that my colleague raised when he talked about the need to get unregulated soft money out of the process. We know that every single one of us in our individual campaigns and political parties is forced to comply with the Bipartisan Campaign Reform Act, and yet we have seen \$425 million, almost a half a billion dollars, expended in unregulated ways, providing an opportunity for them to influence Federal elections.

That is a complete contravention of the goal of campaign reform, and that has been argued by the people who were the greatest proponents of campaign reform, Democracy 21, Common Cause, a wide range of groups, which worked closely and tried to implement the Bipartisan Campaign Reform Act.

On this issue of our having taken no action, on this very day, the House Rules Committee has actually been scheduled in the last hour to be marking up our bill H.R. 4975, the Lobbying Accountability Transparency Act. The Judiciary Committee today marked it up. As the gentleman knows, we at the very early part of this year passed legislation designed to get at the access that registered lobbyists had to the House floor.

□ 1545

So we have taken action, and I believe, Mr. Speaker, that we are continuing to focus attention on reform and our quest for the proverbial level playing field.

Mr. Speaker, I yield 3½ minutes to my very good friend from Michigan, a former Secretary of State, Mrs. MILLER.

Mrs. MILLER of Michigan. Mr. Speaker, I thank the gentleman for yielding, and I rise to support the rule and to support the underlying bill.

Mr. Speaker, it was just 4 years ago that the Congress passed a Bipartisan Campaign Finance Reform Act, and the purpose of that legislation was to "eliminate" hundreds of millions of dollars of unregulated soft money and

the influence that wealthy donors had on the electoral process. However, the 2004 election cycle clearly demonstrated that BCRA was unable to deliver on what it promised.

In fact, the great irony of all of this is that while soft money to political parties was eliminated, wealthy donors found a new avenue to fund their candidates and to have more influence than they had ever had under the old rules. In 2004, we saw George Soros and Peter Lewis inject more than \$20 million each, each of them injecting more than \$20 million into the election process. So, so much for eliminating soft money.

Overall, federally focused 527s raised and spent over \$550 million. Now, by contrast, George W. Bush and John Kerry combined to spend \$655 million on their entire Presidential campaigns. The numbers are strikingly similar. The only difference is the Presidential candidates had to file with and abide by the rules of the FEC. The 527s did not.

The Presidential campaigns were accountable to the voters. The 527s were not. And instead of the political parties providing key support for their candidates, 527s began to act as surrogate political parties. Essentially what happened here is the political parties were outsourced. Political parties were outsourced. The 527s ran TV ads, they operated Web sites, they ran phone banks, they mobilized the get-out-the-vote efforts, all with money not regulated by the FEC.

In fact, the 527s proved so significant that MoveOn.org actually sent an e-mail to all of their supporters after the 2004 election and said this about the Democratic Party. This is what MoveOn.org said: "Now it's our party. We bought it. We own it, and we're going to take it back." So, so much for eliminating the big dollars and big money.

Often I hear my Democratic colleagues complaining about the Swift Boat Veterans For Truth, another 527. Well, today, my Democratic colleagues have an opportunity to strike back. All of this activity was conducted with less oversight than when the political parties were able to accept soft money. And it is abundantly clear that something must be done. We need to do something to level the playing field that has shifted in favor of the unaccountable 527s. Right now, we have numerous groups operating under the cover of shadows, moving money back and forth in hopes of convincing voters to support a particular candidate.

Mr. Speaker, prior to my service in this House, I had the great honor and privilege of serving for 8 years as Michigan Secretary of State, and I was responsible for enforcing the campaign finance act in my State and increasing voter participation. My administration was very honored with the highest grade in the entire Nation by the NAACP for being on the forefront of campaign reform. We were honored

with the Digital Sunshine Award for our program to provide voters with more information on who was trying to influence the outcome of the election process.

So I have had some experience with this issue, and I believe transparency is always the key. It is always the critical element.

I do believe that if we do not act now, the nauseating ugliness, negativity and hyperpartisanship that we saw in 2004 will only intensify in 2006 and 2008. We must protect our democratic electoral process and keep those who seek to influence our votes accountable. I urge my colleagues to support the rule and the underlying bill.

Mr. HASTINGS of Florida. Mr. Speaker, would you be good enough to tell both sides of the remaining amount of time.

The SPEAKER pro tempore (Mr. KUHLMANN of New York). The gentleman from Florida has 12½ minutes remaining and Mr. DREIER has 4½ minutes remaining.

Mr. HASTINGS of Florida. Mr. Speaker, I am pleased at this time to yield 3 minutes to the gentleman from Massachusetts, my friend, (Mr. MEEHAN).

Mr. MEEHAN. Mr. Speaker, I thank my friend from Florida.

Mr. Speaker, I rise to urge a "no" vote on the rule, although I have been listening to the debate. This will be an amusing, if not interesting, debate as those who supported campaign finance reform are opposed to 527 reform, and those who opposed campaign finance are for campaign finance reform. I guess everyone is changing around their positions, so we should have a very good time. Actually, I want to compliment the chairman of the Rules Committee. At least the debate is only going to last an hour, so it won't be too tough on all of us.

Just for the record, this is basically a legal issue. 527s are political committees that are designed to influence an election, either the election or defeat of a candidate. The legal basis for regulation by the FEC comes from the reform act that was passed not in 2000 but after Watergate. That is where the legal basis is to regulate 527s.

The Federal Election Commission decided not to regulate 527s, hence there was a lawsuit that was filed in Federal District Court in Washington. There was a decision by Judge Sullivan recently in that case basically saying that the FEC did not have justification to not promulgate rules and regulations with regard to 527s. So regardless of what happens here today, ultimately, I think the court is clearly going to instruct the FEC to promulgate rules and regulations relevant to 527s.

In any event, I think we should have an open debate on this and discuss the merits of 527s and campaign finance reform. I am particularly troubled that this rule also allows the repeal of coordinated contribution limits, or a vote

on coordinated contribution limits. I believe a repeal of coordinated spending limits may make it easier for wealthier individuals to use donations to the political parties in order to evade campaign finance laws. I also think we should have had an open debate on this and been allowed to offer other amendments that would strike this controversial provision.

Furthermore, there are a number of Democrat amendments that had been offered in the Rules Committee. RAHM EMANUEL, who has been active on this, had two amendments related to this debate but, unfortunately, those amendments were ruled out of order.

In any event, for this reason I believe that the rule should be defeated. But, Mr. Speaker, I really look forward to this interesting, if not amusing, debate we are about to have on 527s.

Mr. DREIER. Mr. Speaker, may I inquire again exactly how much time is remaining on both sides?

The SPEAKER pro tempore. Mr. DREIER, you have 4½ minutes, and I believe the gentleman from Florida has 10 minutes remaining.

Mr. HASTINGS of Florida. Mr. Speaker, I have no additional speakers at this time and I am prepared to go forward.

Mr. DREIER. Mr. Speaker, I would like to yield to Mr. SHAYS, who wanted to respond and then you can close your debate and we will do the same.

Mr. Speaker, I yield 2 minutes to my friend from Connecticut, the great champion of campaign finance reform (Mr. SHAYS).

Mr. SHAYS. Mr. Speaker, I thank the gentleman for yielding. There is nothing funny about this debate. Nothing funny at all.

The vast majority of my colleagues to my right voted for campaign finance reform. The vast majority of my colleagues to my left voted against it. The difference is my colleagues to the right, once it passed, looked for loopholes behind the law; and my colleagues here, my Republican colleagues who voted against the law said we will abide by it.

The problem is there is one loophole and the loophole is 527s. When we passed the law, we banned corporate money, union dues money and unlimited sums from individuals. We enforced the 1907 law, the 1947 law, and the 1974 law. That is what we did, we enforced it. But the FEC refuses to abide by the law as it relates to this one issue, 527s. We want to close the loophole.

Now, the reason is, if we are going to have the law, it better work. So my own Republican colleagues have been very consistent. They opposed the law. But if you are going to have the law, it should be consistent and work. And my colleagues, with all due respect, are being extraordinarily inconsistent. You voted for the law and now you want loopholes to it and you do not want to fix the loopholes. That is an outrage, and I plead with you to remember your

rhetoric when you spoke. When you spoke, you supported the law. Now abide by it and make sure the loopholes are taken care of.

My colleague, Mr. MEEHAN, is right. We will win in court. The court has said that the 527s are primarily a campaign expense, and therefore need to abide by the law. So eventually, someday, I think they will be forced to write a rule to do what this bill does, but we are taking care of it now.

Mr. HASTINGS of Florida. Mr. Speaker, I yield myself such time as I may consume.

Apparently my good friend, and he is my good friend, from Connecticut was not mindful that there were 100 Members of the House of Representatives who wrote to the FEC asking that the McConnell v. FEC decision be upheld.

But I don't want to get bogged down in all of these legal mores. The simple fact of the matter is that if we intend to do something that would make a difference, we could all support public financing. I challenge any of you to tell me that that would not cure the problems that we continue to talk about.

I also would urge my friend from Connecticut, who argues about loopholes, to ask the chairman what I say about laws that we pass here. You show me a law and I will show you a loophole. I have been involved in politics as long as anybody in this room, and for the 41 years that I have been involved, we have continued to reform campaign finance by calling it campaign finance reform. Every time we reform it, the Republicans or the Democrats, the majority or the minority, somebody comes up with a way to get around the law.

So make this one, if you will, Mr. Chairman, and be mindful of all of the people that have spoken with reference to the myth that I think that you perpetuate. One of the biggest myths, the National Review says, is that this bill would level the playing field. That is language you used earlier, Mr. Chairman, ending the ability of the wealthy to fund propaganda. This is completely false, according to the National Review. Wealthy individuals would still be free to say whatever they want, whenever they want. The proposal would end only the ability of individuals of lesser means to pool their money to independently speak out on issues.

The simple fact is when you cite to the law, my recollection is you didn't say anything at all about Buckley v. Valeo, which simply said in its holding that money is speech, and that is ultimately what winds up happening here.

Mr. Speaker, I will be asking Members to vote "no" on the previous question, so I can amend the rule to provide that immediately after the House adopts this rule, if it does, it will bring H.R. 4682, the Honest Leadership and Open Government Act of 2006 to the House floor for consideration.

Mr. Speaker, I ask unanimous consent to insert the text of the amend-

ment and extraneous materials immediately prior to the vote on the previous question.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. HASTINGS of Florida. Mr. Speaker, before we go reforming campaign finance laws and telling those on the outside what they can and cannot do, I think we need to fix up our own house. H.R. 4682 is a comprehensive reform package introduced by Leader PELOSI that is designed to clean up this Congress and show the American people we are serious about our roles as legislators and that we put the people we represent first.

This bill does many things. It curbs the abuses of power by stopping the practice of keeping votes open to twist arms and lobbying Members on the floor of the House. It shuts down the K Street Project by making it a criminal offense and violation of the House rules to take or withhold official action or threaten to do so with the intent to influence private employment decisions. It ends the practice of adding special interest provisions to conference reports in the dead of night and behind closed doors. It imposes strict and enforceable new disclosure requirements on lobbyists. It curbs abuses of power and it blocks cronyism and corrupt contracting practices that endanger our troops in Iraq and Afghanistan and around the world.

It is important for Members to know that defeating the previous question will not, I repeat, will not, block the underlying bill. H.R. 513 will still be considered by the House. But by voting "no" on the previous question, we will be able to consider the Honest Leadership and Open Government Act under a completely open rule that gives all Members of this body the opportunity to be heard on this matter.

I urge all Members of this body to vote "no" on the previous question.

Mr. Speaker, I yield back the balance of my time.

□ 1600

Mr. DREIER. Mr. Speaker, I yield myself the balance of my time.

Let me just say that my friend is correct in saying we should look at loopholes and do everything we can to close them. The Republican Party is the party of reform. We are very proud of the fact that we have been and continue to be the party of reform.

This is a loophole that needs to be closed so we can get to the kind of fairness that Mr. SHAYS, the great champion of campaign finance reform, talked about. He and I still disagree to this moment about the issue itself. I believe these kind of limits undermine first amendment rights, but the Supreme Court has upheld the Campaign Reform Act, and I believe if you look at the great champions of campaign reform, Common Cause, Democracy 21, and a wide range of other groups, they

are strongly supportive of this measure. I believe we should support this.

AMENDMENT OFFERED BY MR. DREIER

Mr. Speaker, I offer an amendment. The Clerk read as follows:

Amendment offered by Mr. DREIER:

On page 2, line 6, strike "printed in the report of the Committee on Rules accompanying this resolution" and insert "numbered 1 for printing in the Congressional Record pursuant to clause 8 of rule XVIII".

The material previously referred to by Mr. HASTINGS of Florida is as follows:

PREVIOUS QUESTION ON H. RES. 755, THE RULE PROVIDING FOR CONSIDERATION OF H.R. 513, 527 REFORM ACT OF 2005

At the end of the resolution add the following new sections:

"SEC. 2. Immediately upon the adoption of this resolution, the Speaker shall, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 4682) to provide more rigorous requirements with respect to disclosure and enforcement of ethics and lobbying laws and regulations, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. The bill shall be considered as read. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

SEC. 3. If the Committee of the Whole rises and reports that it has come to no resolution of the bill, then on the next legislative day the House shall, immediately after the third daily order of business under clause 1 of Rule XIV, resolve into the Committee of the Whole for further consideration of the bill."

THE VOTE ON THE PREVIOUS QUESTION: WHAT IT REALLY MEANS

This vote, the vote on whether to order the previous question on a special rule, is not merely a procedural vote. A vote against ordering the previous question is a vote against the Republican majority agenda and a vote to allow the opposition, at least for the moment, to offer an alternative plan. It is a vote about what the House should be debating.

Mr. Clarence Cannon's Precedents of the House of Representatives, (VI, 308-311) describes the vote on the previous question on the rule as "a motion to direct or control the consideration of the subject before the House being made by the Member in charge." To defeat the previous question is to give the opposition a chance to decide the subject before the House. Cannon cites the Speaker's ruling of January 13, 1920, to the effect that "the refusal of the House to sustain the demand for the previous question passes the control of the resolution to the opposition" in order to offer an amendment. On March 15, 1909, a member of the majority party offered a rule resolution. The House defeated the previous question and a member of the opposition rose to a parliamentary inquiry, asking who was entitled to recognition. Speaker Joseph G. Cannon (R-Illinois) said: "The previous question having been refused,

the gentleman from New York, Mr. Fitzgerald, who had asked the gentleman to yield to him for an amendment, is entitled to the first recognition."

Because the vote today may look bad for the Republican majority they will say "the vote on the previous question is simply a vote on whether to proceed to an immediate vote on adopting the resolution * * * [and] has no substantive legislative or policy implications whatsoever." But that is not what they have always said. Listen to the Republican Leadership Manual on the Legislative Process in the United States House of Representatives, (6th edition, page 135). Here's how the Republicans describe the previous question vote in their own manual: Although it is generally not possible to amend the rule because the majority Member controlling the time will not yield for the purpose of offering an amendment, the same result may be achieved by voting down the previous question on the rule * * * When the motion for the previous question is defeated, control of the time passes to the Member who led the opposition to ordering the previous question. That Member, because he then controls the time, may offer an amendment to the rule, or yield for the purpose of amendment."

Deschler's Procedure in the U.S. House of Representatives, the subchapter titled "Amending Special Rules" states: "a refusal to order the previous question on such a rule [a special rule reported from the Committee on Rules] opens the resolution to amendment and further debate." (Chapter 21, section 21.2) Section 21.3 continues: Upon rejection of the motion for the previous question on a resolution reported from the Committee on Rules, control shifts to the Member leading the opposition to the previous question, who may offer a proper amendment or motion and who controls the time for debate thereon."

Clearly, the vote on the previous question on a rule does have substantive policy implications. It is one of the only available tools for those who oppose the Republican majority's agenda to offer an alternative plan.

Mr. DREIER. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the amendment and on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. HASTINGS of Florida. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to clause 9 of rule XX, this 15-minute vote on ordering the previous question on the amendment and on the resolution will be followed by 5-minute votes, if ordered, on amending the resolution and adopting the resolution, as amended (or not).

The vote was taken by electronic device, and there were—yeas 226, nays 198, not voting 8, as follows:

[Roll No. 85]

YEAS—226

Aderholt	Alexander	Baker
Akin	Bachus	Barrett (SC)

Bartlett (MD)	Goodlatte	Osborne
Barton (TX)	Granger	Otter
Bass	Graves	Oxley
Beauprez	Green (WI)	Paul
Biggert	Gutknecht	Pearce
Bilirakis	Hall	Pence
Bishop (UT)	Harris	Peterson (PA)
Blackburn	Hart	Petri
Blunt	Hastings (WA)	Pickering
Boehlert	Hayes	Pitts
Boehner	Hayworth	Platts
Bonilla	Hefley	Poe
Bonner	Hensarling	Pombo
Bono	Herger	Porter
Boozman	Hobson	Price (GA)
Boustany	Hostettler	Pryce (OH)
Bradley (NH)	Hulshof	Putnam
Brady (TX)	Hunter	Radanovich
Brown (SC)	Hyde	Ramstad
Brown-Waite,	Inglis (SC)	Regula
Ginny	Issa	Rehberg
Burgess	Istook	Reichert
Burton (IN)	Jenkins	Renzi
Buyer	Jindal	Reynolds
Calvert	Johnson (CT)	Rogers (AL)
Camp (MI)	Johnson (IL)	Rogers (KY)
Campbell (CA)	Johnson, Sam	Rogers (MI)
Cannon	Jones (NC)	Rohrabacher
Cantor	Keller	Royce
Capito	Kelly	Ryan (WI)
Carter	Kennedy (MN)	Ryun (KS)
Castle	King (IA)	Saxton
Chabot	King (NY)	Schmidt
Choccola	Kingston	Schwarz (MI)
Coble	Kirk	Sensenbrenner
Cole (OK)	Kline	Sessions
Conaway	Knollenberg	Shadegg
Crenshaw	Kolbe	Shaw
Cubin	Kuhl (NY)	Shays
Culberson	LaHood	Sherwood
Davis (KY)	Latham	Shimkus
Davis, Jo Ann	LaTourette	Shuster
Davis, Tom	Leach	Simmons
Deal (GA)	Lewis (CA)	Simpson
DeLay	Lewis (KY)	Smith (NJ)
Dent	Linder	Smith (TX)
Doolittle	LoBiondo	Sodrel
Drake	Lucas	Souder
Dreier	Lungren, Daniel	Stearns
Duncan	E.	Sullivan
Ehlers	Mack	Sweeney
Emerson	Manzullo	Tancredo
English (PA)	Marchant	Taylor (NC)
Everett	McCaul (TX)	Terry
Feeney	McCotter	Thomas
Ferguson	McCrery	Thornberry
Fitzpatrick (PA)	McHenry	Tiahrt
Flake	McHugh	Tiberi
Foley	McKeon	Turner
Forbes	McMorris	Upton
Fortenberry	Mica	Walden (OR)
Fossella	Miller (FL)	Walsh
Fox	Miller (MI)	Wamp
Franks (AZ)	Miller, Gary	Weldon (FL)
Frelinghuysen	Moran (KS)	Weldon (PA)
Gallely	Murphy	Weller
Garrett (NJ)	Musgrave	Westmoreland
Gerlach	Myrick	Whitfield
Gibbons	Neugebauer	Wicker
Gilchrest	Ney	Wilson (NM)
Gillmor	Northup	Wilson (SC)
Gingrey	Norwood	Wolf
Gohmert	Nunes	Young (AK)
Goode	Nussle	Young (FL)

NAYS—198

Abercrombie	Butterfield	Davis (IL)
Ackerman	Capps	Davis (TN)
Allen	Capuano	DeFazio
Andrews	Cardin	DeGette
Baca	Cardoza	Delahunt
Baird	Carnahan	DeLauro
Baldwin	Carson	Dicks
Barrow	Case	Dingell
Bean	Chandler	Doggett
Becerra	Clay	Doyle
Berkley	Cleaver	Edwards
Berman	Clyburn	Emanuel
Berry	Conyers	Engel
Bishop (GA)	Cooper	Eshoo
Bishop (NY)	Costa	Etheridge
Blumenauer	Costello	Farr
Boren	Cramer	Fattah
Boswell	Crowley	Finer
Boucher	Cuellar	Ford
Boyd	Cummings	Frank (MA)
Brady (PA)	Davis (AL)	Gonzalez
Brown (OH)	Davis (CA)	Gordon
Brown, Corrine	Davis (FL)	Green, Al

Green, Gene	McCarthy	Ryan (OH)	Brown (SC)	Hensarling	Peterson (PA)	Johnson, E. B.	Millender-	Sanchez, Loretta
Grijalva	McCollum (MN)	Sabo	Brown-Waite,	Herger	Petri	Jones (OH)	McDonald	Sanders
Gutierrez	McDermott	Salazar	Ginny	Hobson	Pickering	Kanjorski	Miller (NC)	Schiff
Harman	McGovern	Sánchez, Linda	Burgess	Hulshof	Platts	Kaptur	Miller, George	Schwartz (PA)
Hastings (FL)	McIntyre	T.	Burton (IN)	Hunter	Poe	Kennedy (RI)	Mollohan	Scott (GA)
Herseth	McKinney	Sanchez, Loretta	Buyer	Hyde	Pombo	Kildee	Moore (KS)	Scott (VA)
Higgins	McNulty	Sanders	Calvert	Inglis (SC)	Porter	Kilpatrick (MI)	Moore (WI)	Serrano
Hinchey	Meehan	Schiff	Camp (MI)	Issa	Price (GA)	Kind	Moran (VA)	Sherman
Hinojosa	Meek (FL)	Schwartz (PA)	Campbell (CA)	Istook	Pryce (OH)	Kucinich	Murtha	Skelton
Holden	Meeks (NY)	Scott (GA)	Cannon	Jenkins	Putnam	Langevin	Nadler	Slaughter
Holt	Melancon	Scott (VA)	Cantor	Jindal	Radanovich	Lantos	Napolitano	Smith (WA)
Honda	Michaud	Serrano	Capito	Johnson (CT)	Ramstad	Larsen (WA)	Neal (MA)	Snyder
Hooley	Millender-	Sherman	Carter	Johnson (IL)	Regula	Larson (CT)	Oberstar	Solis
Hoyer	McDonald	Skelton	Castle	Johnson, Sam	Rehberg	Lee	Obever	Spratt
Inslie	Miller (NC)	Slaughter	Chabot	Jones (NC)	Reichert	Levin	Olver	Stark
Israel	Miller, George	Smith (WA)	Chocola	Keller	Renzi	Lewis (GA)	Ortiz	Strickland
Jackson (IL)	Mollohan	Snyder	Coble	Kelly	Reynolds	Lipinski	Owens	Stupak
Jackson-Lee	Moore (KS)	Solis	Cole (OK)	Kennedy (MN)	Rogers (AL)	Lofgren, Zoe	Pallone	Tauscher
(TX)	Moore (WI)	Spratt	Conaway	King (IA)	Rogers (KY)	Lowe	Pascrell	Taylor (MS)
Jefferson	Moran (VA)	Stark	Crenshaw	King (NY)	Rogers (MI)	Lynch	Pastor	Thompson (CA)
Johnson, E. B.	Murtha	Strickland	Cubin	Kingston	Rohrabacher	Maloney	Payne	Thompson (MS)
Jones (OH)	Nadler	Stupak	Culbertson	Kirk	Royce	Markey	Pelosi	Tierney
Kanjorski	Napolitano	Tauscher	Davis (KY)	Kline	Ryan (WI)	Marshall	Peterson (MN)	Towns
Kaptur	Neal (MA)	Taylor (MS)	Davis, Jo Ann	Knollenberg	Ryun (KS)	Matheson	Pomeroy	Udall (CO)
Kennedy (RI)	Oberstar	Thompson (CA)	Davis, Tom	Kolbe	Saxton	Matsui	Price (NC)	Udall (NM)
Kildee	Obever	Thompson (MS)	Deal (GA)	Kuhl (NY)	Schmidt	McCarthy	Rahall	Van Hollen
Kilpatrick (MI)	Olver	Tierney	Dent	LaHood	Schwarz (MI)	McCollum (MN)	Rangel	Velázquez
Kind	Ortiz	Town	Doolittle	Latham	Sensenbrenner	McDermott	Reyes	Visclosky
Kucinich	Owens	Udall (CO)	Drake	LaTourrette	Sessions	McGovern	Ross	Wasserman
Langevin	Pallone	Udall (NM)	Dreier	Leach	Shadegg	McIntyre	Rothman	Schultz
Lantos	Pascrell	Van Hollen	Duncan	Lewis (CA)	Shaw	McKinney	Roybal-Allard	Waters
Larsen (WA)	Pastor	Velázquez	Ehlers	Lewis (KY)	Shays	McNulty	Ruppersberger	Watt
Larson (CT)	Payne	Visclosky	Emerson	Linder	Sherwood	Meehan	Rush	Waxman
Lee	Pelosi	Wasserman	English (PA)	LoBiondo	Shimkus	Ryan (OH)	Waxman	Weiner
Levin	Peterson (MN)	Schultz	Everett	Lucas	Shuster	Meek (FL)	Sabo	Wexler
Lewis (GA)	Pomeroy	Waters	Feeney	Lungren, Daniel	Simmons	Meeks (NY)	Salazar	Woolsey
Lipinski	Price (NC)	Watt	Ferguson	E.	Simpson	Melancon	Sánchez, Linda	Wu
Lofgren, Zoe	Rahall	Waxman	Fitzpatrick (PA)	Mack	Smith (NJ)	Michaud	T.	Wynn
Lowe	Rangel	Weiner	Flake	Manzullo	Smith (TX)			
Lynch	Reyes	Wexler	Foley	Marchant	Sodrel			
Maloney	Ross	Woolsey	Forbes	McCaul (TX)	Souder			
Markey	Rothman	Wu	Fortenberry	McCotter	Stearns			
Marshall	Roybal-Allard	Wynn	Fossella	McCrery	Sullivan			
Matheson	Ruppersberger		Fox	McHenry	Sweeney			
Matsui	Rush		Franks (AZ)	McHugh	Tancredo			
			Frelinghuysen	McKeon	Thompson			
			Gallegly	McMorris	Thornberry			
			Garrett (NJ)	Mica	Tiahrt			
			Gerlach	Miller (FL)	Tiberi			
			Gibbons	Miller (MI)	Turner			
			Gilchrist	Miller, Gary	Upton			
			Gillmor	Moran (KS)	Walden (OR)			
			Gingrey	Murphy	Walsh			
			Gohmert	Musgrave	Wamp			
			Goode	Myrick	Weldon (FL)			
			Goodlatte	Neugebauer	Weldon (PA)			
			Granger	Ney	Weller			
			Graves	Northup	Westmoreland			
			Green (WI)	Norwood	Whitfield			
			Gutknecht	Nunes	Wicker			
			Hall	Nussle	Wilson (NM)			
			Harris	Osborne	Wilson (SC)			
			Hart	Oxley	Wolf			
			Hastings (WA)	Paul	Young (AK)			
			Hayes	Pearce	Young (FL)			
			Hayworth	Pence				
			Hefley					

NOT VOTING—10

DeLay	Hoekstra	Tanner
Diaz-Balart, L.	Pitts	Watson
Diaz-Balart, M.	Ros-Lehtinen	
Evans	Schakowsky	

□ 1635

So the resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PRIVILEGES OF THE HOUSE—PRIVILEGED RESOLUTION REQUIRING ETHICS INVESTIGATION OF MEMBERS OF CONGRESS INVOLVED IN JACK ABRAMOFF SCANDAL

Ms. PELOSI. Mr. Speaker, pursuant to rule IX, I rise in regard to a question of the privileges of the House, and I offer a privileged resolution.

The SPEAKER pro tempore (Mr. LAHOOD). The Clerk will report the resolution.

The Clerk read the resolution, as follows:

Whereas, on March 31, 2006, Tony Rudy, a former top Republican Leadership staff person, pleaded guilty to charges that he conspired with Republican lobbyist Jack Abramoff to bribe public officials, including accepting money, meals, trips, and tickets to sporting events from Mr. Abramoff in exchange for official acts that included influencing legislation to aid Mr. Abramoff's clients;

Whereas The Washington Post has stated that Mr. Rudy's plea bargain is an admission of a "far-reaching criminal enterprise operating out of" the Republican Leader's office, "an enterprise that helped sway legislation, influence public policy, and enrich its main players." (The Washington Post, April 1, 2006)

Whereas the press has reported that "court papers point out official actions that were taken in (the Republican Leader's) office that benefited Abramoff, his clients or (the

NOT VOTING—8

Diaz-Balart, L.	Hoekstra	Tanner
Diaz-Balart, M.	Ros-Lehtinen	Watson
Evans	Schakowsky	

□ 1626

Ms. BERKLEY and Messrs. ROTHMAN, KUCINICH and CROWLEY changed their vote from "yea" to "nay."

Mr. HUNTER changed his vote from "nay" to "yea."

So the previous question was ordered. The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. KUHLE of New York). The question is on the amendment offered by the gentleman from California (Mr. DREIER).

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the resolution, as amended.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. HASTINGS of Florida. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered. The vote was taken by electronic device, and there were—ayes 223, noes 199, not voting 10, as follows:

[Roll No. 86]

AYES—223

Aderholt	Bass	Boehner
Akin	Beauprez	Bonilla
Alexander	Biggart	Bonner
Bachus	Bilirakis	Bono
Baker	Bishop (UT)	Boozman
Barrett (SC)	Blackburn	Boustany
Bartlett (MD)	Blunt	Bradley (NH)
Barton (TX)	Boehlert	Brady (TX)

NOES—199

Abercrombie	Case	Etheridge
Ackerman	Chandler	Farr
Allen	Clay	Fattah
Andrews	Cleaver	Filner
Baca	Clyburn	Ford
Baird	Conyers	Frank (MA)
Baldwin	Cooper	Gonzalez
Barrow	Costa	Gordon
Bean	Costello	Green, Al
Becerra	Cramer	Green, Gene
Berkley	Crowley	Grijalva
Berman	Cuellar	Gutierrez
Berry	Cummings	Harman
Bishop (GA)	Davis (AL)	Hastings (FL)
Bishop (NY)	Davis (CA)	Herseth
Blumenauer	Davis (FL)	Higgins
Boren	Davis (IL)	Hinchey
Boswell	Davis (TN)	Hinojosa
Boucher	DeFazio	Holden
Boyd	DeGette	Holt
Brady (PA)	Delahunt	Honda
Brown (OH)	DeLauro	Hooley
Brown, Corrine	Dicks	Hostettler
Butterfield	Dingell	Hoyer
Capps	Doggett	Inslie
Capuano	Doyle	Israel
Cardin	Edwards	Jackson (IL)
Cardoza	Emanuel	Jackson-Lee
Carmahan	Engel	(TX)
Carson	Eshoo	Jefferson

former Republican Leader's Chief of Staff Ed Buckham." (Roll Call, April 3, 2006);

Whereas, according to Mr. Rudy's plea agreement, his crimes involving illegal favors and lobbying activity lasted from 1997 through 2004;

Whereas on March 31, 2006, Assistant U.S. Attorney General Alice S. Fisher stated, "The American public loses when officials and lobbyists conspire to buy and sell influence in such a corrupt and brazen manner. By his admission in open court today, Mr. Rudy paints a picture of Washington which the American public and law enforcement will simply not tolerate."

Whereas Mr. Rudy is the second former high-ranking Republican Leadership staff person, in addition to Michael Scanlon, to admit wrongdoing in the corruption investigation centered on Mr. Abramoff;

Whereas, on March 29, 2006, Mr. Abramoff was sentenced to five years and ten months in prison after pleading guilty to conspiracy and wire fraud;

Whereas it is the purview of the Committee on Standards of Official Conduct to investigate allegations that relate to the official conduct of a Member or a staff person, the abuse of a Member's official position, and violations of the Rules of the House, and to take disciplinary action in cases of wrongdoing;

Whereas, the fact that cases are being investigated by the U.S. Justice Department does not preclude the Committee on Standards of Official Conduct from determining investigative steps that must be taken;

Whereas, in the first session of the 109th Congress, for the first time in the history of the House of Representatives, the rules of procedure of the Committee on Standards of Official Conduct were changed on a partisan basis, the Chairman of the Committee and two of his Republican Colleagues were dismissed from the Committee, the newly appointed Chairman of the Committee improperly and unilaterally fired non-partisan staff, and the Chairman attempted to appoint supervisory staff without a vote of the Committee in direct contravention of the intent of the bi-partisan procedures adopted in 1997;

Whereas, because of these actions, the Committee on Standards of Official Conduct conducted no investigative activities in the first session of the 109th Congress;

Resolved, That the Committee on Standards of Official Conduct shall immediately initiate an investigation of the misconduct by Members of Congress and their staff implicated in the scandals associated with Mr. Jack Abramoff's criminal activity.

The SPEAKER pro tempore. The resolution qualifies as a question of the privileges of the House.

MOTION TO TABLE OFFERED BY MR. BOEHNER

Mr. BOEHNER. Mr. Speaker, I move to table the resolution.

The SPEAKER pro tempore. The question is on the motion to table.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Ms. PELOSI. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 218, noes 198, answered "present" 5, not voting 11, as follows:

[Roll No. 87]

AYES—218

Aderholt	Gibbons	Norwood
Akin	Gilchrest	Nunes
Alexander	Gillmor	Osborne
Bachus	Gingrey	Otter
Baker	Gohmert	Oxley
Barrett (SC)	Goode	Pearce
Bartlett (MD)	Goodlatte	Pence
Barton (TX)	Granger	Peterson (PA)
Bass	Graves	Petri
Beauprez	Gutknecht	Pickering
Biggert	Hall	Pitts
Bilirakis	Harris	Poe
Bishop (UT)	Hart	Pombo
Blackburn	Hastings (WA)	Porter
Blunt	Hayes	Price (GA)
Boehlert	Hayworth	Pryce (OH)
Boehner	Hefley	Putnam
Bonilla	Hensarling	Radanovich
Bonner	Herger	Ramstad
Bono	Hobson	Regula
Boozman	Hostettler	Rehberg
Boustany	Hulshof	Reichert
Bradley (NH)	Hunter	Renzi
Brady (TX)	Hyde	Reynolds
Brown (SC)	Inglis (SC)	Rogers (AL)
Brown-Waite,	Issa	Rogers (KY)
Ginny	Istook	Rogers (MI)
Burgess	Jenkins	Rohrabacher
Burton (IN)	Jindal	Royce
Buyer	Johnson (CT)	Ryan (WI)
Calvert	Johnson (IL)	Ryun (KS)
Camp (MI)	Johnson, Sam	Saxton
Campbell (CA)	Keller	Schmidt
Cannon	Kelly	Schwarz (MI)
Cantor	Kennedy (MN)	Sensenbrenner
Capito	King (IA)	Sessions
Carter	King (NY)	Shadegg
Castle	Kingston	Shaw
Chabot	Kirk	Sherwood
Choccola	Kline	Shimkus
Coble	Knollenberg	Shuster
Cole (OK)	Kolbe	Simmons
Conaway	Kuhl (NY)	Simpson
Crenshaw	LaHood	Smith (NJ)
Cubin	Latham	Smith (TX)
Culberson	LaTourrette	Sodrel
Davis (KY)	Lewis (CA)	Souder
Davis, Jo Ann	Lewis (KY)	Stearns
Davis, Tom	Linder	Sullivan
Deal (GA)	LoBiondo	Sweeney
Dent	Lucas	Tancredo
Diaz-Balart, L.	Lungren, Daniel	E.
Diaz-Balart, M.	E.	Mack
Doolittle	Drake	Manzullo
Drake	Marchant	Thomas
Dreier	McCaul (TX)	Thornberry
Duncan	McCotter	Tiahrt
Ehlers	McCrery	Tiberi
Emerson	McHenry	Turner
English (PA)	McHugh	Upton
Everett	McKeon	Walden (OR)
Feeney	McMorris	Walsh
Ferguson	Mica	Wamp
Fitzpatrick (PA)	Miller (FL)	Weldon (FL)
Flake	Miller (MI)	Weldon (PA)
Foley	Miller, Gary	Weller
Forbes	Moran (KS)	Westmoreland
Fortenberry	Murphy	Wicker
Fossella	Musgrave	Wilson (NM)
Fox	Myrick	Wilson (SC)
Franks (AZ)	Neugebauer	Wolf
Frelinghuysen	Ney	Young (AK)
Galleghy	Northup	Young (FL)
Garrett (NJ)		

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Abercrombie	Brown (OH)	Cummings
Ackerman	Brown, Corrine	Davis (AL)
Andrews	Capps	Davis (CA)
Baca	Capuano	Davis (FL)
Baird	Cardin	Davis (IL)
Baldwin	Cardoza	Davis (TN)
Barrow	Carnahan	DeFazio
Bean	Carson	DeGette
Becerra	Case	DeLahunt
Berkley	Chandler	DeLauro
Berman	Clay	Dicks
Berry	Cleaver	Dingell
Bishop (GA)	Clyburn	Doggett
Bishop (NY)	Conyers	Edwards
Blumenauer	Cooper	Emanuel
Boren	Costa	Engel
Boswell	Costello	Eshoo
Boucher	Cramer	Etheridge
Boyd	Crowley	Farr
Brady (PA)	Cuellar	Fattah

Filner	Lynch	Ruppersberger
Ford	Maloney	Rush
Frank (MA)	Markey	Ryan (OH)
Gerlach	Marshall	Sabo
Gonzalez	Matheson	Salazar
Gordon	Matsui	Sánchez, Linda
Green (WI)	McCarthy	T.
Green, Al	McCollum (MN)	Sanchez, Loretta
Grijalva	McDermott	Sanders
Gutierrez	McGovern	Schiff
Harman	McIntyre	Schwartz (PA)
Hastings (FL)	McKinney	Scott (GA)
Herseth	McNulty	Scott (VA)
Higgins	Meehan	Serrano
Hinchey	Meek (FL)	Shays
Hinojosa	Meeks (NY)	Sherman
Holden	Melancon	Skelton
Holt	Michaud	Slaughter
Honda	Millender-	Smith (WA)
Hooley	McDonald	Snyder
Hoyer	Miller (NC)	Solis
Inlee	Miller, George	Spratt
Israel	Moore (KS)	Stark
Jackson (IL)	Moore (WI)	Strickland
Jackson-Lee	Moran (VA)	Stupak
(TX)	Murtha	Tauscher
Jefferson	Nadler	Taylor (MS)
Johnson, E. B.	Napolitano	Thompson (CA)
Jones (NC)	Neal (MA)	Thompson (MS)
Jones (OH)	Oberstar	Tierney
Kanjorski	Obey	Towns
Kaptur	Olver	Udall (CO)
Kennedy (RI)	Ortiz	Udall (NM)
Kildee	Owens	Van Hollen
Kilpatrick (MI)	Pallone	Velázquez
Kind	Pascarell	Vislosky
Kind	Pastor	Wasserman
Kucinich	Payne	Schultz
Langevin	Pelosi	Waters
Lantos	Peterson (MN)	Watt
Larsen (WA)	Platts	Waxman
Larson (CT)	Pomeroy	Weiner
Leach	Price (NC)	Wexler
Lee	Rahall	Woolsey
Levin	Rangel	Wu
Lewis (GA)	Reyes	Wynne
Lipinski	Ross	
Lofgren, Zoe	Rothman	
Lowey		

ANSWERED "PRESENT"—5

Doyle	Mollohan	Roybal-Allard
Green, Gene	Paul	

NOT VOTING—11

Allen	Hoekstra	Tanner
Butterfield	Nussle	Watson
DeLay	Ros-Lehtinen	Whitfield
Evans	Schakowsky	

□ 1656

Mr. GORDON changed his vote from "aye" to "no."

So the motion to table was agreed to. The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

527 REFORM ACT OF 2005

Mr. EHLERS. Mr. Speaker, pursuant to House Resolution 755, I call up the bill (H.R. 513) to amend the Federal Election Campaign Act of 1971 to clarify when organizations described in section 527 of the Internal Revenue Code of 1986 must register as political committees, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. LAHOOD). Pursuant to House Resolution 755, the bill is considered read.

The text of H.R. 513 is as follows:

H.R. 513

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 "527 Reform Act of 2005".

SEC. 2. TREATMENT OF SECTION 527 ORGANIZATIONS.

(a) DEFINITION OF POLITICAL COMMITTEE.—Section 301(4) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(4)) is amended by striking the period at the end of subparagraph (C) and inserting “; or” and by adding at the end the following:

“(D) any applicable 527 organization.”.

(b) DEFINITION OF APPLICABLE 527 ORGANIZATION.—Section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431) is amended by adding at the end the following new paragraph:

“(27) APPLICABLE 527 ORGANIZATION.—For purposes of paragraph (4)(D)—

“(A) IN GENERAL.—The term ‘applicable 527 organization’ means a committee, club, association, or group of persons that—

“(i) is an organization described in section 527 of the Internal Revenue Code of 1986, and

“(ii) is not described in subparagraph (B).

“(B) EXCEPTED ORGANIZATIONS.—Subject to subparagraph (D), a committee, club, association, or other group of persons described in this subparagraph is—

“(i) an organization described in section 527(1)(5) of the Internal Revenue Code of 1986,

“(ii) an organization which is a committee, club, association or other group of persons that is organized, operated, and makes disbursements exclusively for paying expenses described in the last sentence of section 527(e)(2) of the Internal Revenue Code of 1986 or expenses of a newsletter fund described in section 527(g) of such Code, or

“(iii) an organization which is a committee, club, association, or other group of persons whose election or nomination activities relate exclusively to—

“(I) elections where no candidate for Federal office appears on the ballot, or

“(II) one or more of the purposes described in subparagraph (C).

“(C) ALLOWABLE PURPOSES.—The purposes described in this subparagraph are the following:

“(i) Influencing the selection, nomination, election, or appointment of one or more candidates to non-Federal offices.

“(ii) Influencing one or more State or local ballot initiatives, State or local referenda, State or local constitutional amendments, State or local bond issues, or other State or local ballot issues.

“(iii) Influencing the selection, appointment, nomination, or confirmation of one or more individuals to non-elected offices.

“(D) SECTION 527 ORGANIZATIONS MAKING CERTAIN DISBURSEMENTS.—A committee, club, association, or other group of persons described in subparagraph (B)(ii) or (B)(iii) shall not be considered to be described in such paragraph for purposes of subparagraph (A)(ii) if it makes disbursements aggregating more than \$1000 during any calendar year for any of the following:

“(i) A public communication that promotes, supports, attacks, or opposes a clearly identified candidate for Federal office during the 1-year period ending on the date of the general election for the office sought by the clearly identified candidate occurs.

“(ii) Any voter drive activity (as defined in section 325(d)(1)).”.

SEC. 3. RULES FOR ALLOCATION OF EXPENSES BETWEEN FEDERAL AND NON-FEDERAL ACTIVITIES.

(a) IN GENERAL.—Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by adding at the end the following:

“SEC. 325. ALLOCATION AND FUNDING RULES FOR CERTAIN EXPENSES RELATING TO FEDERAL AND NON-FEDERAL ACTIVITIES.

“(a) IN GENERAL.—In the case of any disbursements by any separate segregated fund

or nonconnected committee for which allocation rules are provided under subsection (b)—

“(1) the disbursements shall be allocated between Federal and non-Federal accounts in accordance with this section and regulations prescribed by the Commission, and

“(2) in the case of disbursements allocated to non-Federal accounts, may be paid only from a qualified non-Federal account.

“(b) COSTS TO BE ALLOCATED AND ALLOCATION RULES.—Disbursements by any separate segregated fund or nonconnected committee for any of the following categories of activity shall be allocated as follows:

“(1) 100 percent of the expenses for public communications or voter drive activities that refer to one or more clearly identified Federal candidates, but do not refer to any clearly identified non-Federal candidates, shall be paid with funds from a Federal account, without regard to whether the communication refers to a political party.

“(2) At least 50 percent of the expenses for public communications and voter drive activities that refer to one or more clearly identified candidates for Federal office and one or more clearly defined non-Federal candidates shall be paid with funds from a Federal account, without regard to whether the communication refers to a political party.

“(3) At least 50 percent of the expenses for public communications or voter drive activities that refer to a political party, but do not refer to any clearly identified Federal or non-Federal candidate, shall be paid with funds from a Federal account, except that this paragraph shall not apply to communications or activities that relate exclusively to elections where no candidate for Federal office appears on the ballot.

“(4) At least 50 percent of the expenses for public communications or voter drive activities that refer to a political party, and refer to one or more clearly identified non-Federal candidates, but do not refer to any clearly identified Federal candidates, shall be paid with funds from a Federal account, except that this paragraph shall not apply to communications or activities that relate exclusively to elections where no candidate for Federal office appears on the ballot.

“(5) At least 50 percent of any administrative expenses, including rent, utilities, office supplies, and salaries not attributable to a clearly identified candidate, shall be paid with funds from a Federal account, except that for a separate segregated fund such expenses may be paid instead by its connected organization.

“(6) At least 50 percent of the direct costs of a fundraising program or event, including disbursements for solicitation of funds and for planning and administration of actual fundraising events, where Federal and non-Federal funds are collected through such program or event shall be paid with funds from a Federal account, except that for a separate segregated fund such costs may be paid instead by its connected organization.

“(c) QUALIFIED NON-FEDERAL ACCOUNT.—For purposes of this section—

“(1) IN GENERAL.—The term ‘qualified non-Federal account’ means an account which consists solely of amounts—

“(A) that, subject to the limitations of paragraphs (2) and (3), are raised by the separate segregated fund or nonconnected committee only from individuals, and

“(B) with respect to which all other requirements of Federal, State, or local law are met.

“(2) LIMITATION ON INDIVIDUAL DONATIONS.—

“(A) IN GENERAL.—A separate segregated fund or nonconnected committee may not accept more than \$25,000 in funds for its qualified non-Federal account from any one individual in any calendar year.

“(B) AFFILIATION.—For purposes of this paragraph, all qualified non-Federal accounts of separate segregated funds or nonconnected committees which are directly or indirectly established, financed, maintained, or controlled by the same person or persons shall be treated as one account.

“(3) FUNDRAISING LIMITATION.—No donation to a qualified non-Federal account may be solicited, received, directed, transferred, or spent by or in the name of any person described in subsection (a) or (e) of section 323.

“(d) DEFINITIONS.—For purposes of this section—

“(1) VOTER DRIVE ACTIVITY.—The term ‘voter drive activity’ means any of the following activities conducted in connection with an election in which a candidate for Federal office appears on the ballot (regardless of whether a candidate for State or local office also appears on the ballot):

“(A) Voter registration activity.

“(B) Voter identification.

“(C) Get-out-the-vote activity.

“(D) Generic campaign activity.

Such term shall not include any activity described in subparagraph (A) or (B) of section 316(b)(2).

“(2) FEDERAL ACCOUNT.—The term ‘Federal account’ means an account which consists solely of contributions subject to the limitations, prohibitions, and reporting requirements of this Act. Nothing in this section or in section 323(b)(2)(B)(iii) shall be construed to infer that a limit other than the limit under section 315(a)(1)(C) applies to contributions to the account.

“(3) NONCONNECTED COMMITTEE.—The term ‘nonconnected committee’ shall not include a political committee of a political party.”.

(b) REPORTING REQUIREMENTS.—Section 304(e) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(e)) is amended—

(1) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5); and

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

“(3) RECEIPTS AND DISBURSEMENTS FROM QUALIFIED NON-FEDERAL ACCOUNTS.—In addition to any other reporting requirement applicable under this Act, a political committee to which section 325(a) applies shall report all receipts and disbursements from a qualified non-Federal account (as defined in section 325(c)).”.

SEC. 4. CONSTRUCTION.

No provision of this Act, or amendment made by this Act, shall be construed—

(1) as approving, ratifying, or endorsing a regulation promulgated by the Federal Election Commission,

(2) as establishing, modifying, or otherwise affecting the definition of political organization for purposes of the Internal Revenue Code of 1986, or

(3) as affecting the determination of whether a group organized under section 501(c) of the Internal Revenue Code of 1986 is a political committee under section 301(4) of the Federal Election Campaign Act of 1971.

SEC. 5. JUDICIAL REVIEW.

(a) SPECIAL RULES FOR ACTIONS BROUGHT ON CONSTITUTIONAL GROUNDS.—If any action is brought for declaratory or injunctive relief to challenge the constitutionality of any provision of this Act or any amendment made by this Act, the following rules shall apply:

(1) The action shall be filed in the United States District Court for the District of Columbia and shall be heard by a 3-judge court convened pursuant to section 2284 of title 28, United States Code.

(2) A copy of the complaint shall be delivered promptly to the Clerk of the House of Representatives and the Secretary of the Senate.

(3) A final decision in the action shall be reviewable only by appeal directly to the Supreme Court of the United States. Such appeal shall be taken by the filing of a notice of appeal within 10 days, and the filing of a jurisdictional statement within 30 days, of the entry of the final decision.

(4) It shall be the duty of the United States District Court for the District of Columbia and the Supreme Court of the United States to advance on the docket and to expedite to the greatest possible extent the disposition of the action and appeal.

(b) INTERVENTION BY MEMBERS OF CONGRESS.—In any action in which the constitutionality of any provision of this Act or any amendment made by this Act is raised (including but not limited to an action described in subsection (a)), any Member of the House of Representatives (including a Delegate or Resident Commissioner to Congress) or Senate shall have the right to intervene either in support of or opposition to the position of a party to the case regarding the constitutionality of the provision or amendment. To avoid duplication of efforts and reduce the burdens placed on the parties to the action, the court in any such action may make such orders as it considers necessary, including orders to require intervenors taking similar positions to file joint papers or to be represented by a single attorney at oral argument.

(c) CHALLENGE BY MEMBERS OF CONGRESS.—Any Member of Congress may bring an action, subject to the special rules described in subsection (a), for declaratory or injunctive relief to challenge the constitutionality of any provision of this Act or any amendment made by this Act.

(d) APPLICABILITY.—

(1) INITIAL CLAIMS.—With respect to any action initially filed on or before December 31, 2006, the provisions of subsection (a) shall apply with respect to each action described in such subsection.

(2) SUBSEQUENT ACTIONS.—With respect to any action initially filed after December 31, 2006, the provisions of subsection (a) shall not apply to any action described in such subsection unless the person filing such action elects such provisions to apply to the action.

SEC. 6. EFFECTIVE DATE.

The amendments made by this Act shall take effect on the date which is 60 days after the date of the enactment of this Act.

The SPEAKER pro tempore. The amendment in the nature of a substitute printed in the bill, modified by amendment No. 1 for printing in the CONGRESSIONAL RECORD, is adopted.

The text of the bill, as amended, is as follows:

H.R. 513

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 "527 Reform Act of 2006".

SEC. 2. TREATMENT OF SECTION 527 ORGANIZATIONS.

(a) DEFINITION OF POLITICAL COMMITTEE.—Section 301(4) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(4)) is amended—

(1) by striking the period at the end of subparagraph (C) and inserting "; or"; and

(2) by adding at the end the following:

"(D) any applicable 527 organization."

(b) DEFINITION OF APPLICABLE 527 ORGANIZATION.—Section 301 of such Act (2 U.S.C. 431) is amended by adding at the end the following new paragraph:

"(27) APPLICABLE 527 ORGANIZATION.—

"(A) IN GENERAL.—For purposes of paragraph (4)(D), the term 'applicable 527 organization' means a committee, club, association, or group of persons that—

"(i) has given notice to the Secretary of the Treasury under section 527(i) of the Internal Revenue Code of 1986 that it is to be treated as an organization described in section 527 of such Code; and

"(ii) is not described in subparagraph (B).

"(B) EXCEPTED ORGANIZATIONS.—A committee, club, association, or other group of persons described in this subparagraph is—

"(i) an organization described in section 527(i)(5) of the Internal Revenue Code of 1986;

"(ii) an organization which is a committee, club, association or other group of persons that is organized, operated, and makes disbursements exclusively for paying expenses described in the last sentence of section 527(e)(2) of the Internal Revenue Code of 1986 or expenses of a newsletter fund described in section 527(g) of such Code;

"(iii) an organization which is a committee, club, association, or other group that consists solely of candidates for State or local office, individuals holding State or local office, or any combination of either, but only if the organization refers only to one or more non-Federal candidates or applicable State or local issues in all of its voter drive activities and does not refer to a Federal candidate or a political party in any of its voter drive activities; or

"(iv) an organization described in subparagraph (C).

"(C) APPLICABLE ORGANIZATION.—For purposes of subparagraph (B)(iv), an organization described in this subparagraph is a committee, club, association, or other group of persons whose election or nomination activities relate exclusively to—

"(i) elections where no candidate for Federal office appears on the ballot; or

"(ii) one or more of the following purposes:

"(I) Influencing the selection, nomination, election, or appointment of one or more candidates to non-Federal offices.

"(II) Influencing one or more applicable State or local issues.

"(III) Influencing the selection, appointment, nomination, or confirmation of one or more individuals to non-elected offices.

"(D) EXCLUSIVITY TEST.—A committee, club, association, or other group of persons shall not be treated as meeting the exclusivity requirement of subparagraph (C) if it makes disbursements aggregating more than \$1,000 for any of the following:

"(i) A public communication that promotes, supports, attacks, or opposes a clearly identified candidate for Federal office during the 1-year period ending on the date of the general election for the office sought by the clearly identified candidate (or, if a runoff election is held with respect to such general election, on the date of the runoff election).

"(ii) Any voter drive activity during a calendar year, except that no disbursements for any voter drive activity shall be taken into account under this subparagraph if the committee, club, association, or other group of persons during such calendar year—

"(I) makes disbursements for voter drive activities with respect to elections in only 1 State and complies with all applicable election laws of that State, including laws related to registration and reporting requirements and contribution limitations;

"(II) refers to one or more non-Federal candidates or applicable State or local issues in all of its voter drive activities and does not refer to any Federal candidate or any political party in any of its voter drive activities;

"(III) does not have a candidate for Federal office, an individual who holds any Federal office, a national political party, or an agent of any of the foregoing, control or materially participate in the direction of the organization, so-

licit contributions to the organization (other than funds which are described under clauses (i) and (ii) of section 323(e)(1)(B)), or direct disbursements, in whole or in part, by the organization; and

"(IV) makes no contributions to Federal candidates.

"(E) CERTAIN REFERENCES TO FEDERAL CANDIDATES NOT TAKEN INTO ACCOUNT.—For purposes of subparagraphs (B)(iii) and (D)(ii)(II), a voter drive activity shall not be treated as referring to a clearly identified Federal candidate if the only reference to the candidate in the activity is—

"(i) a reference in connection with an election for a non-Federal office in which such Federal candidate is also a candidate for such non-Federal office; or

"(ii) a reference to the fact that the candidate has endorsed a non-Federal candidate or has taken a position on an applicable State or local issue, including a reference that constitutes the endorsement or position itself.

"(F) CERTAIN REFERENCES TO POLITICAL PARTIES NOT TAKEN INTO ACCOUNT.—For purposes of subparagraphs (B)(iii) and (D)(ii)(II), a voter drive activity shall not be treated as referring to a political party if the only reference to the party in the activity is—

"(i) a reference for the purpose of identifying a non-Federal candidate;

"(ii) a reference for the purpose of identifying the entity making the public communication or carrying out the voter drive activity; or

"(iii) a reference in a manner or context that does not reflect support for or opposition to a Federal candidate or candidates and does not reflect support for or opposition to a State or local candidate or candidates or an applicable State or local issue.

"(G) APPLICABLE STATE OR LOCAL ISSUE.—For purposes of this paragraph, the term 'applicable State or local issue' means any State or local ballot initiative, State or local referendum, State or local constitutional amendment, State or local bond issue, or other State or local ballot issue."

(c) DEFINITION OF VOTER DRIVE ACTIVITY.—Section 301 of such Act (2 U.S.C. 431), as amended by subsection (b), is further amended by adding at the end the following new paragraph:

"(28) VOTER DRIVE ACTIVITY.—The term 'voter drive activity' means any of the following activities conducted in connection with an election in which a candidate for Federal office appears on the ballot (regardless of whether a candidate for State or local office also appears on the ballot):

"(A) Voter registration activity.

"(B) Voter identification.

"(C) Get-out-the-vote activity.

"(D) Generic campaign activity.

"(E) Any public communication related to activities described in subparagraphs (A) through (D).

Such term shall not include any activity described in subparagraph (A) or (B) of section 316(b)(2)."

SEC. 3. RULES FOR ALLOCATION OF EXPENSES BETWEEN FEDERAL AND NON-FEDERAL ACTIVITIES.

(a) IN GENERAL.—Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by adding at the end the following:

"SEC. 325. ALLOCATION AND FUNDING RULES FOR CERTAIN EXPENSES RELATING TO FEDERAL AND NON-FEDERAL ACTIVITIES.

"(a) IN GENERAL.—In the case of any disbursements by any political committee that is a separate segregated fund or nonconnected committee for which allocation rules are provided under subsection (b)—

"(1) the disbursements shall be allocated between Federal and non-Federal accounts in accordance with this section and regulations prescribed by the Commission; and

"(2) in the case of disbursements allocated to non-Federal accounts, may be paid only from a qualified non-Federal account.

“(b) COSTS TO BE ALLOCATED AND ALLOCATION RULES.—

“(1) IN GENERAL.—Disbursements by any separate segregated fund or nonconnected committee, other than an organization described in section 323(b)(1), for any of the following categories of activity shall be allocated as follows:

“(A) 100 percent of the expenses for public communications or voter drive activities that refer to one or more clearly identified Federal candidates, but do not refer to any clearly identified non-Federal candidates, shall be paid with funds from a Federal account, without regard to whether the communication refers to a political party.

“(B) At least 50 percent, or a greater percentage if the Commission so determines by regulation, of the expenses for public communications and voter drive activities that refer to one or more clearly identified candidates for Federal office and one or more clearly identified non-Federal candidates shall be paid with funds from a Federal account, without regard to whether the communication refers to a political party.

“(C) At least 50 percent, or a greater percentage if the Commission so determines by regulation, of the expenses for public communications or voter drive activities that refer to a political party, but do not refer to any clearly identified Federal or non-Federal candidate, shall be paid with funds from a Federal account, except that this paragraph shall not apply to communications or activities that relate exclusively to elections where no candidate for Federal office appears on the ballot.

“(D) At least 50 percent, or a greater percentage if the Commission so determines by regulation, of the expenses for public communications or voter drive activities that refer to a political party and refer to one or more clearly identified non-Federal candidates, but do not refer to any clearly identified Federal candidates, shall be paid with funds from a Federal account, except that this paragraph shall not apply to communications or activities that relate exclusively to elections where no candidate for Federal office appears on the ballot.

“(E) Unless otherwise determined by the Commission in its regulations, at least 50 percent of any administrative expenses, including rent, utilities, office supplies, and salaries not attributable to a clearly identified candidate, shall be paid with funds from a Federal account, except that for a separate segregated fund such expenses may be paid instead by its connected organization.

“(F) At least 50 percent, or a greater percentage if the Commission so determines by regulation, of the direct costs of a fundraising program or event, including disbursements for solicitation of funds and for planning and administration of actual fundraising events, where Federal and non-Federal funds are collected through such program or event shall be paid with funds from a Federal account, except that for a separate segregated fund such costs may be paid instead by its connected organization. This paragraph shall not apply to any fundraising solicitations or any other activity that constitutes a public communication.

“(2) CERTAIN REFERENCES TO FEDERAL CANDIDATES NOT TAKEN INTO ACCOUNT.—For purposes of paragraph (1), a public communication or voter drive activity shall not be treated as referring to a clearly identified Federal candidate if the only reference to the candidate in the communication or activity is—

“(A) a reference in connection with an election for a non-Federal office in which such Federal candidate is also a candidate for such non-Federal office; or

“(B) a reference to the fact that the candidate has endorsed a non-Federal candidate or has taken a position on an applicable State or local issue (as defined in section 301(27)(G)), including a reference that constitutes the endorsement or position itself.

“(3) CERTAIN REFERENCES TO POLITICAL PARTIES NOT TAKEN INTO ACCOUNT.—For purposes of paragraph (1), a public communication or voter drive activity shall not be treated as referring to a political party if the only reference to the party in the communication or activity is—

“(A) a reference for the purpose of identifying a non-Federal candidate;

“(B) a reference for the purpose of identifying the entity making the public communication or carrying out the voter drive activity; or

“(C) a reference in a manner or context that does not reflect support for or opposition to a Federal candidate or candidates and does reflect support for or opposition to a State or local candidate or candidates or an applicable State or local issue.

“(c) QUALIFIED NON-FEDERAL ACCOUNT.—

“(1) IN GENERAL.—For purposes of this section, the term ‘qualified non-Federal account’ means an account which consists solely of amounts—

“(A) that, subject to the limitations of paragraphs (2) and (3), are raised by the separate segregated fund or nonconnected committee only from individuals, and

“(B) with respect to which all requirements of Federal, State, or local law (including any law relating to contribution limits) are met.

“(2) LIMITATION ON INDIVIDUAL DONATIONS.—

“(A) IN GENERAL.—A separate segregated fund or nonconnected committee may not accept more than \$25,000 in funds for its qualified non-Federal account from any one individual in any calendar year.

“(B) AFFILIATION.—For purposes of this paragraph, all qualified non-Federal accounts of separate segregated funds or nonconnected committees which are directly or indirectly established, financed, maintained, or controlled by the same person or persons shall be treated as one account.

“(3) FUNDRAISING LIMITATION.—

“(A) IN GENERAL.—No donation to a qualified non-Federal account may be solicited, received, directed, transferred, or spent by or in the name of any person described in subsection (a) or (e) of section 323.

“(B) FUNDS NOT TREATED AS SUBJECT TO ACT.—Except as provided in subsection (a)(2) and this subsection, any funds raised for a qualified non-Federal account in accordance with the requirements of this section shall not be considered funds subject to the limitations, prohibitions, and reporting requirements of this Act for any purpose (including for purposes of subsection (a) or (e) of section 323 or subsection (d)(1) of this section).

“(d) DEFINITIONS.—

“(1) FEDERAL ACCOUNT.—The term ‘Federal account’ means an account which consists solely of contributions subject to the limitations, prohibitions, and reporting requirements of this Act. Nothing in this section or in section 323(b)(2)(B)(iii) shall be construed to infer that a limit other than the limit under section 315(a)(1)(C) applies to contributions to the account.

“(2) NONCONNECTED COMMITTEE.—The term ‘nonconnected committee’ shall not include a political committee of a political party.

“(3) VOTER DRIVE ACTIVITY.—The term ‘voter drive activity’ has the meaning given such term in section 301(28).”

(b) REPORTING REQUIREMENTS.—Section 304(e) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(e)) is amended—

(1) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5); and

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

“(3) RECEIPTS AND DISBURSEMENTS FROM QUALIFIED NON-FEDERAL ACCOUNTS.—In addition to any other reporting requirement applicable under this Act, a political committee to which section 325(a) applies shall report all receipts and disbursements from a qualified non-Federal account (as defined in section 325(c)).”

SEC. 4. REPEAL OF LIMIT ON AMOUNT OF PARTY EXPENDITURES ON BEHALF OF CANDIDATES IN GENERAL ELECTIONS.

(a) REPEAL OF LIMIT.—Section 315(d) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(d)) is amended—

(1) in paragraph (1)—

(A) by striking “(1) Notwithstanding any other provision of law with respect to limitations on expenditures or limitations on contributions, the national committee” and inserting “Notwithstanding any other provision of law with respect to limitations on amounts of expenditures or contributions, a national committee”;

(B) by striking “the general” and inserting “any”; and

(C) by striking “Federal office, subject to the limitations contained in paragraphs (2), (3), and (4) of this subsection” and inserting “Federal office in any amount”; and

(2) by striking paragraphs (2), (3), and (4).

(b) CONFORMING AMENDMENTS.—

(1) INDEXING.—Section 315(c) of such Act (2 U.S.C. 441a(c)) is amended—

(A) in paragraph (1)(B)(i), by striking “(d),”; and

(B) in paragraph (2)(B)(i), by striking “subsections (b) and (d)” and inserting “subsection (b)”;.

(2) INCREASE IN LIMITS FOR SENATE CANDIDATES FACING WEALTHY OPPONENTS.—Section 315(i) of such Act (2 U.S.C. 441a(i)(1)) is amended—

(A) in paragraph (1)(C)(iii)—

(i) by adding “and” at the end of subclause (I),

(ii) in subclause (II), by striking “; and” and inserting a period, and

(iii) by striking subclause (III);

(B) in paragraph (2)(A) in the matter preceding clause (i), by striking “, and a party committee shall not make any expenditure.”;

(C) in paragraph (2)(A)(ii), by striking “and party expenditures previously made”; and

(D) in paragraph (2)(B), by striking “and a party shall not make any expenditure”.

(3) INCREASE IN LIMITS FOR HOUSE CANDIDATES FACING WEALTHY OPPONENTS.—Section 315(A) of such Act (2 U.S.C. 441a—1(a)) is amended—

(A) in paragraph (1)—

(i) by adding “and” at the end of subparagraph (A),

(ii) in subparagraph (B), by striking “; and” and inserting a period, and

(iii) by striking subparagraph (C);

(B) in paragraph (3)(A) in the matter preceding clause (i), by striking “, and a party committee shall not make any expenditure.”;

(C) in paragraph (3)(A)(ii), by striking “and party expenditures previously made”; and

(D) in paragraph (3)(B), by striking “and a party shall not make any expenditure.”

SEC. 5. CONSTRUCTION.

No provision of this Act, or amendment made by this Act, shall be construed—

(1) as approving, ratifying, or endorsing a regulation promulgated by the Federal Election Commission;

(2) as establishing, modifying, or otherwise affecting the definition of political organization for purposes of the Internal Revenue Code of 1986; or

(3) as affecting the determination of whether a group organized under section 501(c) of the Internal Revenue Code of 1986 is a political committee under section 301(4) of the Federal Election Campaign Act of 1971.

SEC. 6. JUDICIAL REVIEW.

(a) SPECIAL RULES FOR ACTIONS BROUGHT ON CONSTITUTIONAL GROUNDS.—If any action is brought for declaratory or injunctive relief to challenge the constitutionality of any provision of this Act or any amendment made by this Act, the following rules shall apply:

(1) The action shall be filed in the United States District Court for the District of Columbia and shall be heard by a 3-judge court convened pursuant to section 2284 of title 28, United States Code.

(2) A copy of the complaint shall be delivered promptly to the Clerk of the House of Representatives and the Secretary of the Senate.

(3) A final decision in the action shall be reviewable only by appeal directly to the Supreme Court of the United States. Such appeal shall be taken by the filing of a notice of appeal within 10 days, and the filing of a jurisdictional statement within 30 days, of the entry of the final decision.

(4) It shall be the duty of the United States District Court for the District of Columbia and the Supreme Court of the United States to advance on the docket and to expedite to the greatest possible extent the disposition of the action and appeal.

(b) INTERVENTION BY MEMBERS OF CONGRESS.—In any action in which the constitutionality of any provision of this Act or any amendment made by this Act is raised (including but not limited to an action described in subsection (a)), any Member of the House of Representatives (including a Delegate or Resident Commissioner to Congress) or Senate shall have the right to intervene either in support of or opposition to the position of a party to the case regarding the constitutionality of the provision or amendment. To avoid duplication of efforts and reduce the burdens placed on the parties to the action, the court in any such action may make such orders as it considers necessary, including orders to require intervenors taking similar positions to file joint papers or to be represented by a single attorney at oral argument.

(c) CHALLENGE BY MEMBERS OF CONGRESS.—Any Member of Congress may bring an action, subject to the special rules described in subsection (a), for declaratory or injunctive relief to challenge the constitutionality of any provision of this Act or any amendment made by this Act.

(d) APPLICABILITY.—

(1) INITIAL CLAIMS.—With respect to any action initially filed on or before December 31, 2008, the provisions of subsection (a) shall apply with respect to each action described in such subsection.

(2) SUBSEQUENT ACTIONS.—With respect to any action initially filed after December 31, 2008, the provisions of subsection (a) shall not apply to any action described in such subsection unless the person filing such action elects such provisions to apply to the action.

SEC. 7. EFFECTIVE DATE.

The amendments made by this Act shall take effect on the date of the enactment of this Act.

The SPEAKER pro tempore. The gentleman from Michigan (Mr. EHLERS) and the gentlewoman from California (Ms. MILLENDER-MCDONALD) each will control 30 minutes.

The Chair recognizes the gentleman from Michigan.

Mr. EHLERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 513, the 527 Reform Act of 2006. Today we have an opportunity to right one of the wrongs of the Bipartisan Campaign Reform Act of 2002. All my friends on the other side of the aisle who voted for BCRA because they believed we needed to get soft money out of politics must support this legislation today because it does indeed get the soft money out of politics.

Just a word of explanation. I have used the term "BCRA." That is the acronym for Bipartisan Campaign Reform Act, which we worked on very, very hard a few years ago to get the soft money out of politics. What do we mean by soft money? That is money that is unregulated, both in quantity and disclosure to the Federal Election Commission.

While BCRA was supposed to curtail the influence of soft money in Federal elections, it did not achieve that goal. In the 2004 election cycle, the first conducted under the rules imposed by BCRA, over a half a billion dollars in soft money was spent to influence the outcome. Just four individuals alone spent over \$73 million total.

□ 1700

While BCRA was supposed to reduce the influence of special interests, it actually empowered these ideologically driven outside groups. The power these outside groups gained came at the direct expense of political parties which saw many of the activities they had traditionally performed limited by BCRA, and thence taken over by these new organizations, the 527s. Again, let me explain, the term 527 refers to the section of IRS Code which governs their operation, and we simply use that designation for them.

We now have a system where soft money continues to thrive. Our political parties, especially those at the State and local level, are increasingly unable to carry out core functions such as voter registration activities. We now have a system where the influence of billionaires is greatly enhanced. In some cases, representatives of 527s have made boasts about taking over the party. For example, Eli Pariser of MoveOn.org sent an e-mail to supporters after the 2004 elections stating, "Now it's our party. We bought it, we own it, and we're going to take it back." What more evidence do we need of the corruption that has appeared here? This does not represent progress. Today we have an opportunity to reverse this negative trend, and this bill will help restore some balance to our system.

H.R. 513 would require 527 groups spending money to influence Federal elections to register as Federal political committees and comply with Federal campaign finance laws, including limits on the contributions they receive. Thus, 527 groups would be subject to the same contribution limits and source restrictions that are applicable to Federal political action committees. There would be no more \$23 million soft money contributions allowed from a lone, extremely wealthy donor. When this bill passes, individuals will be limited to \$30,000. In other words, soft unregulated money will be replaced by hard regulated money which will be reported to the Federal Elections Commission.

Those 527s that engage exclusively in State or local elections or in ballot initiatives would not be restricted by this bill. However, if they decide to engage in Federal election activity such as making public communications that promote, support, attack, or oppose a Federal candidate during the year prior to a Federal election, or conduct voter drive activities in connection with an election in which a Federal candidate appears on the ballot, they will be re-

stricted by this bill. In other words, State and local activities would be free to continue as they have in the past. Those dealing with Federal candidates or issues will be restricted by the bill, and will have to use hard money.

H.R. 513 would also impose new allocation rules on 527 groups regarding expenses for Federal and non-Federal activities. For instance, 100 percent of expenses for public communications or voter drive activities that refer only to a Federal campaign would have to be paid for with hard money. If both Federal and non-Federal candidates were mentioned, then at least 50 percent of such expenses would have to be paid for with hard money. In addition, under H.R. 513, at least 50 percent of a 527 group's administrative overhead expenses would have to be paid for with hard money.

This bill, H.R. 513 has been endorsed by the reform community and rightfully so. Common Cause, Democracy 21, the Campaign Legal Center, and other like-minded reform groups have sent several letters to House Members asking them to support H.R. 513. In a letter sent just this week, these groups argued that H.R. 513 is needed in order to "close the loophole that allowed both Democrat and Republican 527 groups to spend hundreds of millions of dollars in unlimited soft money to influence the 2004 presidential and congressional elections."

Mr. Speaker, I will be including a copy of the letter for the RECORD.

Mr. Speaker, I know many of my friends on the other side of the aisle are usually interested in what The New York Times has to say on these issues, so I would like to include some editorials from The Times as well; and an editorial from today's Washington Post also calls on the House to pass this bill.

Mr. Speaker, I will include these editorials in the RECORD.

Mr. Speaker, I expect many of my friends on the other side of the aisle would be arguing that BCRA should not be applied to 527s because they are independent organizations and have no connection to officeholders. The claim will be that we have already severed the link between large donors and Federal officeholders. This is nonsense; this is bunk. The 527s that have soaked up all the soft money were, in many cases, set up and staffed by former party operatives and congressional staffers. In some cases, Federal officeholders attend fundraising events for these 527s in an attempt to grant an official stamp of approval and signal to their donors where soft money donations should be steered. I do not intend to name names, but I will include in the RECORD a number of articles that describe how 527s have been set up by people who used to work for Federal officeholders or national parties.

The soft money shell game we spawned 4 years ago is clearly demonstrated in these articles. They demonstrate that these so-called "independent" 527s are, in many cases, independent in name only. In reality, they

have been set up by people who used to work for our parties. They left to organize 527s to escape the restrictions BCRA placed on the parties. Had their candidate for the presidency won, many of them would be working in the administration. Would not they feel indebted to the millionaire donors who helped put them in office? Is not that what BCRA was supposed to stop? Let us stop pretending that these 527s are anything other than campaign organizations established to influence our Federal elections.

This is not the first time Congress has dealt with the 527 issue. In fact, some time ago, 6 years ago to be exact, Roll Call reported on the debate that was going on at the time and included a quote from a powerful congressional leader of the time. In 2000, 527s did not have any disclosure requirements, and a bill was pending to require them to disclose their donors. At an event held to rally support for the bill, this leader was quoted as saying, "Now more than ever, we need to assure the American people that we are not willing to let our system of government be put in jeopardy by wealthy special interests, unregulated foreign money, and, most importantly, a system of secrecy. It is time for disclosure." The leader who said these words was Minority Leader Richard Gephardt. We passed a disclosure bill then, but the problem of wealthy special interest money jeopardizing our system of government has only gotten worse in the ensuing 6 years, and I suspect the minority leader would say the same thing today.

Not extending the contributions restrictions in BCRA to all 527s was a terrible mistake that we are today seeking to rectify. Today we can restore some sanity to our system. The status quo allowing 527 groups to raise unlimited amounts of soft money while our parties continue to lose power and influence is unacceptable. It threatens the health of our democracy.

We must subject 527s to the same regulatory restrictions that are applicable to all other parties, candidates and committees. I urge my colleagues to support H.R. 513.

Mr. Speaker, I reserve the balance of my time.

Ms. MILLENDER-McDONALD. Mr. Speaker, I yield myself as much time as I may consume.

Mr. Speaker, I rise in opposition to H.R. 513, the so-called 527 Reform Act of 2005 and the restriction that they are placing on the first amendment rights of Americans. 527s are named after a section of the Internal Revenue Code that specifies certain political organizations as tax exempt for tax exempt purposes under the Federal law.

Added to the Tax Code in 1975, 527 organizations have been legally recognized as operating entities for over 30 years. The Federal Election Commission has recently implemented additional regulations of these groups, which are subject to rigorous Federal reporting and disclosure requirements.

Anyone with a computer can go online and see that millionaire Bob Perry gave \$4.5 million to bankroll the Swift Boat Veterans.

How do I know this? 527 organizations regularly submit detailed financial information to the IRS. They have to disclose where they get their money and how they get it. In fact, just last week, a Federal court remanded part of a case back to the FEC to present a more reasoned explanation for its decision that 527 organizations are more effectively regulated through case-by-case adjudication rather than general law.

I believe that FEC should be given a chance to review this matter before further legislation is introduced in this House. The Senate is providing leadership in this area. They set out to do what they wanted to do and that was lobby reform, unlike this House, which is just bringing up this type of legislation to circumvent their lobbying reform bill that they do not have, and downplaying groups that had more voters than ever before in history outside demonstrating their democracy and getting the vote out. This is what the BCRA bill was all about.

I voted for BCRA because it would sever the connection between Members of Congress in raising non-Federal funds, so-called soft money, and to ensure that there were limits on what we did in terms of money. BCRA was necessary to cut the perceived corruption link between Members of Congress, the formation and adoption of Federal policy and soft money.

However, BCRA was not passed to impede legitimate voter registration and Get Out the Vote by those 527 community groups which did just that, but this bill impedes that democratic process. It impedes the 527 organizations.

This bill is not needed, Mr. Speaker. It is very interesting listening to the majority speak in favor of campaign finance reform after they did everything possible to stonewall the Bipartisan Campaign Reform Act of 2002. Also interesting is watching the Republicans avoid any discussion about the activities of 501(c)6s and those organizations that have no disclosure requirements, and yet are running television ads designed to directly reelect a Senator from Pennsylvania. Unfair and impartial regulating 527s is a step in the wrong direction for political speech.

Mr. Speaker, I would like to put in the RECORD a statement by the National Review magazine, which is a conservative magazine, and the National Review states, One of the biggest myths about this bill is that it would level the playing field ending the ability of the wealthy to fund propaganda. This is completely false. Wealthy individuals will still be free to say whatever they want and whenever they want. This proposal would end only the ability of individuals of lesser means to pool their money to independently speak out on issues and speak and criticize Members of Congress.

Mr. Speaker, I will include this statement in the RECORD as follows:

Advocates of this bill have yet to identify the problem they hope to correct with this misguided proposal. 527s wield no corruptive influence over parties or candidates, which is the only constitutional justification for restricting free expression.

One of the biggest myths about this bill is that it would "level the playing field," ending the ability of the wealthy to fund "propaganda." This is completely false. Wealthy individuals would still be free to say whatever they want whenever they want. The proposal would end only the ability of individuals of lesser means to pool their money to independently speak out on issues.

America needs the First Amendment and the ability of individual citizens to form groups precisely for speech that is controversial. To suppress views of those we dislike will inevitably risk suppression of our own.

We who oppose such a proposal want to continue to freely debate our ideas in the public arena. We want Americans to hear all sides—and to decide for themselves who's right.

When you were sworn into office, you took an oath to "support this Constitution." We ask you to faithfully uphold that oath by rejecting H.R. 513, S. 1053, and any other bill that restricts political free speech.

Sincerely,

Pat Toomey, President, Club for Growth; John Berthoud, President, National Taxpayers Union; Thomas A. Schatz, President, Council for Citizens Against Government Waste; David Keene, Chairman, American Conservative Union; Grover Norquist, President, Americans for Tax Reform; Paul M. Weyrich, National Chairman, Coalitions for America; Matt Kibbe, CEO and President, Freedom Works; James Bopp, Jr., General Counsel, James Madison Center for Free Speech; Bradley A. Smith, Professor of Law, Capital University Law School, and former Chairman, Federal Election Commission; Fred Smith, President, Competitive Enterprise Institute.

Mr. Speaker, unfairly regulating 527s is a step in the wrong direction for political speech. I believe this legislation will have a negative impact on the voter participation bill silencing segments of the population that we need to hear from. Of particular concern is that the fundamental rights and the needs of all Americans including the voices of women, the elderly, and the poor not be left out of the political dialogue just because of the perceived notion that a few millionaires are funding all 527s.

In fact, thousands of Americans gave to 527s through small donations of \$25, \$50 and the like because they believe, Mr. Speaker, in the message of 527 organizations.

□ 1715

Through the first amendment, Americans are playing an ever increasing role in holding public officials accountable for their actions, through the debate of public policy, and the shaping of this American democracy. Their voices should not be silenced.

In fact, I would like to put in the RECORD again the statement by Assistant U.S. Attorney General Alice S. Fisher when she stated upon the plea

agreement of Mr. Rudy of his crimes involving illegal favors and lobbying activities which lasted from 1997 to 2004, and she says, "The American public loses when officials and lobbyists conspire to buy and sell influence in such a corrupt and brazen manner. By his admission in open court today, Mr. Rudy paints a picture of Washington which the American public and law enforcement will simply not tolerate."

The American public, Mr. Speaker, will not tolerate what is about to happen here with this elimination of 527 organizations, transferring them into 501(c)s, not allowing them to work independently of Members of Congress and having to deal with any congressional campaign committees.

In fact, this bill sharply curtails the ability of individuals and groups to associate in the pursuit of political and policy goals, and I will say to you, Mr. Speaker, that the unjust shade of Federal policy holders, which are us, the Members of Congress, this bill will allow the public to not criticize or even ask for accountability because they want to outlaw those groups who engage in the type of public speech, the public speech that might criticize us or ask for accountability.

This is what they are trying to muffle. They are trying to muffle the voices of the American people who spoke through 527s. They are independent groups. The majority should not be in the business of legislating for partisan gain at the expense of the American people.

I will vote in opposition of this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. EHLERS. Mr. Speaker, it is my pleasure to yield 4½ minutes to the gentleman from California (Mr. DOOLITTLE).

Mr. DOOLITTLE. Mr. Speaker, legislating for partisan gain is all that campaign finance regulation has ever been about. Who are we kidding?

Let us go back to 1974. Watergate, Republicans are under heavy fire. Democrats took advantage of that, demanded reform, and one of their reforms was the Federal Election Commission Act amendments. Those amendments were quite far-reaching, and many of them became the law, and when it went to the Supreme Court, the Court finally struck out many of them. What was left was the campaign finance law until we passed BCRA in 2002.

It is interesting, though, to talk about that because eventually the Republicans made up for their disadvantage, and actually the Republicans were the leaders with soft money in 2002. This is very upsetting to the Democrats, who developed votes off soft money. It was a wonderful tool they could take advantage of, and they were a little behind. So they came up with BCRA in 2002. BCRA, of course, was going to take the money out of politics.

Now, going back to 1974 for a minute, let us remember that President Nixon

was much criticized by the Democrats when he took a campaign contribution from one wealthy individual of \$2 million. Fast forward to 2004, after BCRA is passed, and at that point, having taken the big money out of politics, you will note with interest that one man, George Soros, gave \$27 million to efforts to elect JOHN KERRY President of the United States. So we went from 1974 with \$2 million to Richard Nixon to 2004 to \$27 million to JOHN KERRY. I do not think we got the money out of politics. We just sort of reshuffled the deck chairs to the partisan advantage of the Democrats.

We are charged with partisan advantage today in trying at least to give full effect to the Democrats' several years ago stated intent, which was to take the big money out of politics and put 527s within the rule that applies to donations to political parties. I do not think that is unreasonable.

I have got to tell you, as someone who is obviously a participant but also as an observer of the political process, what advantage does it serve to move political speech farther and farther away from the candidate? Third party groups, whether they are 527, 501(c)(4)s, whatever, do not have the same vested interest in currying favor with the public. There is no sense of self-restraint whatsoever. Therefore, the more we move speech away from the candidate into somebody else doing the speaking, the less accountable your campaigns become and the more negative they become.

I am constantly fascinated how the left uses the negativity of campaigns as justification for yet further campaign regulation when, in fact, their regulations are creating the very negativity they claim to oppose.

This bill is a reasoned bill, it is a balanced bill, and it is one that we should adopt. Will it eliminate the problems? Of course it will not because we have the monstrosity of Federal regulation of political speech, something the first amendment to the United States Constitution expressly would seem to prohibit. It certainly seems clear to me when it says in the first amendment Congress shall make no law abridging the freedom of speech, and yet marvelously the Supreme Court or at least a majority of it managed to find that these provisions did not violate the first amendment.

So my point is we have got to deregulate political speech and quit tinkering and turning about here and a dial here and trying to get partisan advantage won over the other. Wipe this whole monstrous system out, give full effect to the first amendment, repeal all the limits and have full and timely disclosure. That is the solution long term. In the meantime, short term today, please support this legislation, recognize there is great language about coordination that promotes responsibility, accountability and allows parties to help their candidates rather than running an independent expenditure.

I urge support for this bill.

Ms. MILLENDER-McDONALD. Mr. Speaker, contrary to the last speaker, he has a bill that wants to repeal all hard money limits, and this is what this bill is all about, the flow of unregulated amounts of money. This is what the American people do not want, Mr. Speaker.

Mr. Speaker, I yield 5 minutes to the gentlewoman from California (Ms. ZOE LOFGREN).

Ms. ZOE LOFGREN of California. Mr. Speaker, yesterday former majority leader TOM DELAY announced that he is resigning from the House. His former aides, Michael Scanlon and Tony Rudy, have pled guilty to crimes for their involvement in the Jack Abramoff corruption affair, and other aides to Mr. DELAY and even other current Members of this body remain under investigation.

Last November, Republican Congressman Duke Cunningham resigned from Congress for taking over \$2 million in bribes from a defense contractor. He is now serving an 8-year prison sentence for his crimes.

The House Ethics Committee is broken and has done no work in the past 15 months. The committee managed to have its first meeting of the 109th Congress last week. On Sunday, The Washington Post said, "The panel's inactivity in the face of scandal is itself scandalous."

Today's bill is characterized as important campaign finance reform by the House Republicans. The question is, what effect would this bill have on the countless scandals that are currently engulfing Washington? The answer is nothing.

This bill does nothing to address those very serious charges of corruption. It would do nothing to prevent another Jack Abramoff or Duke Cunningham scandal.

Further, in addition to doing nothing, the bill actually makes it easier for scandals to occur by opening up the flood gates and removing all limits on State and national party committee spending in the Federal races.

Since this bill does nothing to reverse the Republican culture of corruption, let us look at this bill on the merits to see what it actually does.

What this proposal would do is curtail the free speech rights of millions of Americans. The bill would limit the ability of average citizens to band together and speak out about issues, both during and beyond election. It limits participation in the electoral process.

In 2004, 527 organizations helped to educate and register voters across the country. Now in 2002, the Shays-Meehan-McCain-Feingold bill actually was real reform with a clear purpose. It took Members of Congress out of the business of asking lobbyists and special interests for large, unregulated donations.

527 organizations, however, are not made up of elected officials. In fact, 527s are barred from coordinating with

office holders, candidates or public officials. By law, these groups are independent, and I am not aware of any allegations that there was any illegal coordination between 527s and political parties in 2004. If there is, I would urge people with that knowledge to go to the Attorney General or to the FEC and report on this conduct. If there is some, there are mechanisms for enforcement, but the remedy to a non-problem in that area is not to shut down free speech.

In fact, in *Buckley v. Valeo*, the Supreme Court upheld limitations on contributions as appropriate legislative tools to guard against the reality or appearance of improper influence stemming from candidates' dependence on large campaign contributions. *Buckley* also invalidated limitations on independent expenditures, on candidate expenditures from personal funds, and on overall campaign expenditures. The Court ruled that these provisions placed direct and substantial restrictions on the free speech rights guaranteed in the first amendment.

This bill directly contradicts the *Buckley* ruling. It violates the first amendment and will not withstand scrutiny by the Court.

Why are we considering this bill today? I suspect this is a last ditch effort for Republicans to keep their hold on power. They have read the polls. They know that most Americans are going to support Democrats this November, and the Republicans are losing on issue after issue. So they are going to try and change the rules which will keep them in power against the wishes of a majority of Americans.

Let me finish by reviewing the ethics rules that this Congress has passed this year. At the beginning of the year, shortly after Jack Abramoff pled guilty, House Republicans boldly pushed through their reform plan for Congress. What did their plan to crack down on ethics do? It banned former Members from lobbying in the House gym and on the House floor. So America, you can rest easy knowing that at least the cesspool of corruption at the Stairmaster is no more.

Today's bill is really a travesty. It is a joke. The country really should be embarrassed by the efforts this Congress is making, by the corruption that has been shown and I fear the corruption that is yet to be exposed in this body.

Mr. EHLERS. Mr. Speaker, I am pleased to yield 2 minutes to the gentlewoman from Florida (Ms. GINNY BROWN-WAITE).

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I thank the gentleman very much.

If this bill becomes law, let us speculate about exactly what will happen. What would elections and politics be like if the Federal Election Commission regulated 527s? Let us see. There might be some honesty. For example, candidates and elected officials would not be able to rely on partisan political

groups like moveon.org to do their dirty work.

Let us see, they might be a lot cleaner because billions of dollars in soft money contributions would stop, and so would the false and misleading message campaigns that take place in various districts almost daily.

One of my colleagues said if they are aware of any misuse of the 527s in the political area, let me just state but one. The ACORN Group, which is a political front for a liberal 527 group called America Votes, has also been implicated in political escapades. A former ACORN worker admitted to deliberately throwing out Republican registration forms and paying gatherers only to collect Democrat registration forms in 2004. Actually, in at least one State this is being investigated.

□ 1730

Is this fairness? What about those who chose not to register in the Democrat Party? They may have been Republican; they may have decided to be an independent. Do they not have a right to have their registrations turned into the local election commissioner?

You know, allowing groups to hide behind faulty, arcane and outdated FEC and IRS rules is not an option. Congress must move forward and reform the laws that allow these 527s to spew their lies and fraudulent tactics on the American people. Regularly in my district, I get the 527 calls. My constituents are wise to the fact that this is an unregulated entity.

Ms. MILLENDER-McDONALD. Mr. Speaker, I yield 3½ minutes to the gentleman from Illinois (Mr. EMANUEL).

Mr. EMANUEL. Mr. Speaker, in the wake of the Jack Abramoff scandal, we have seen multiple indictments, Members of Congress resigning under a cloud of scandal, congressional approval at an historic low, and a public demand for reform. You would think that the Republican leadership would want to get these scandals behind them, but it is clear they do not.

What is the first stage of grief? Denial and isolation. So here we are today discussing a bill that doesn't do anything to address the problems of the scandals facing this Congress, this institution, which require an institutional solution to an institutional problem.

Nope, this bill doesn't do anything to stop the pay-to-play policies of the party in power. Nope, it doesn't. Doesn't do anything to shut down the K Street Project, rewarding lobbyists who show party loyalty, or to slow the revolving door. Nope, it doesn't do that.

Many of you will recall our former colleague, Mr. Tauzin, who negotiated a million dollar lobbying job with the pharmaceutical industry at the same time that he was rewriting the Medicare prescription drug bill. This legislation doesn't affect that.

Now, take a hypothetical for a moment. What if a Member just resigned,

middle of a term, and was thinking of working for companies and sitting on boards. This legislation doesn't change what would happen. It happened when Mr. Tauzin was out here on the floor. And if you had a hypothetical, the Member resigned, maybe just a hypothetical, 2 months left on his tenure here, this legislation doesn't affect who he meets with, who he talks with, how he negotiates and how he votes while he is negotiating.

Why, to do that, you would have to have a desire for reform, and I wouldn't want to impose on the majority party in any way. All the while, while they are voting on this legislation, they are negotiating jobs and they have no responsibility to report to the public of their conduct. It is just business as usual here in Washington.

And then what are they trying to do; take the legislation regarding the 527s, and my colleagues on the other side voted the McCain-Feingold campaign finance reform of past years. Well, that reform leveled the playing field for both parties. This legislation does not intend to do that. This legislation intends to do a very partisan thing to the campaign finance laws affecting 527s.

Now, I introduced legislation to affect 501(c)6s. Right now, in the State of Pennsylvania, one of those organizations is actually running ads. I say, you want the same rhetoric, you want 527s to report, well, I suggest 501(c)6s report. That amendment was not allowed. Why? Because it would actually have leveled the playing field. It would have applied to both parties, not one party. So in the name of reform, once again, we have partisan tactics.

Now, all the while, you are going to go home and wonder why the American people have such low esteem for the Congress. It is quite obvious why they have such low esteem: College costs at a record high, 38 percent and going up; health care costs are up 58 percent, \$3,600 in 4 years; energy costs are up 70 percent; medium incomes are down. All that Congress hasn't paid attention to.

So as we have scandals swirling around this institution, Members resigning, Members pleading guilty, you once again go whistling past the graveyard on the chance to do real reform and play partisan politics. I do not know what tune you are singing right now, but you will come to know that tune this November.

Mr. EHLERS. Mr. Speaker, I am pleased to yield 3¾ minutes to my colleague from New York (Mr. REYNOLDS). (Mr. REYNOLDS asked and was given permission to revise and extend his remarks.)

Mr. REYNOLDS. Mr. Speaker, I find it such an ironic message that my colleague from Illinois chose about his remarks. As he talks about so many problems in Washington, he failed to mention any on his side of the aisle. We kind of nicknamed that the culture of hypocrisy. It is a hypocrisy of attack the Republicans, slash and burn, no debate, no real issues, just the party

of “no” from the Democrats on the other side of the aisle.

When you look at some of the discussions he talked about, with lobbying reform and others, he must remember that the colloquy between the majority leader and the minority would also show clearly that the majority leader fully intends to bring reform legislation to this body for debate and for final solution.

I also think about hypocrisy when I think about some of my colleagues on the other side of the aisle addressing so many things about the majority, except they forgot that our leaders step down when they are indicted, because that is what our party rules say. Our chairman stepped down because that is what our party rules say. And in the 10 years while you have been reflecting, your rules don't say the same. Your leaders can get indicted, or the ranking members can get indicted and you don't have to step down because you haven't even recognized that as a basic element of your own party, let alone your quick criticisms of this institution.

I also want to say that while I confess I did not think that BCRA was the solution for campaign finance reform, and voted that way on both the House Administration Committee and on this floor, I accepted it as the law of the land. It was legislation passed by both bodies, signed by the President, affirmed by the Supreme Court. But as I was listening to those who are pro-BCRA, that wanted this law as it sits today, they found a loophole, called 527s.

And all the debate on leveling the playing field was get the big money out of politics. Well, four individuals on the Democratic side had over \$80 million; four Republicans had over \$23 million as they were engaged in obscene, big money, unregulated in campaigns influencing Presidential, congressional, and referendum votes.

So when we look at some common sense, I think the American people are going to, quite frankly, think this makes sense. Let us get unregulated big money out of the campaigns by having a level playing field across the system, universal, in the money you give to your political party.

As we level the playing field, all we are asking is that rich individuals who want to be in the process have the same rights extended to them that individuals who want to give to the political party, whether it is the Democratic National Committee or its subordinate parties or the Republican National Committee and its subordinate parties, the same amount of money to 527s as they invest in the opportunity to express themselves however they want, with the same reviewed Supreme Court aspect of having a level playing field across the entire system.

Anyone who doesn't vote for this that supported BCRA is a hypocrite. Anyone on the other side that doesn't recognize that this is a loophole in the

law, and they have a chance to at least level the field under the law we are going to live under, misses the point. I urge that you support this legislation that is before us today.

Ms. MILLENDER-McDONALD. Mr. Speaker, I yield 1½ minutes to the gentleman from Illinois for a response.

Mr. EMANUEL. There must be something in the water here in Washington.

To remind my colleague and my friend from Buffalo, the first vote of this Congress by the majority party was to strip the Ethics Committee that investigates Members of its authority to do that, which is why after 15 months in this Congress, the Ethics Committee has not met until last week.

Since that time, one Member stepped down with a guilty plea, another Member stepped down with a cloud of ethics, and others are under Federal investigation at this point. And why? Because the first vote by the Republican majority was to strip the Ethics Committee of its authority.

The second thing. In fact, the majority party did vote this Congress that when a Member of their party was indicted, they were allowed to hold their party position. You have that vote. You stripped your party of that authority and that moral voice when you cast your vote to allow the majority leader to retain his position when indicted.

Now, maybe there is a rampant disease called short-term memory over there, but two votes in this Congress: one, if you got indicted, in fact, you are allowed to keep your position. You cast those votes on your side. And this Congress, when it opened up, rather than address the scandals, this Congress, under the majority, not with any Democratic support, stripped the bipartisan Ethics Committee from its ability to hold investigations, which is why not a single Member to date, with all these scandals, some reported by others, congressional historians, as the worst scandals in the history of the Congress, still the Ethics Committee has failed to do its job because you have stripped it of its abilities to do its job.

That will be the moral stain on this Congress. Your votes.

Mr. EHLERS. Mr. Speaker, I am pleased to yield 30 seconds to the gentleman from New York to respond.

Mr. REYNOLDS. Mr. Speaker, I look forward to the day when, in our Ethics Committee, the Democrats will give the tools to a bipartisan five-five Ethics Committee to begin reviewing both Democrats and Republicans who need to go before that committee to have resolution of stuff that has been stalled for the entire 2005 year by the Democratic leadership.

Ms. MILLENDER-McDONALD. Mr. Speaker, I yield 20 seconds to respond to the gentleman.

Mr. EMANUEL. My good friend from Buffalo, you may not get health care legislation done this year, you may not get educational reform this year, and

for sure, you won't balance the budget. But this Congress will be remembered as the Congress that Jack and Tom built. Because the scandals continue to swirl around this institution.

Until you do serious lobbying reform and close the loopholes, close the revolving door, have real transparency, real enforcement, this Congress, when that gavel comes down, which is intended to open the people's House, not the auction House, and you have allowed it to become an auction house, then this is the House that Jack built.

Ms. MILLENDER-McDONALD. Mr. Speaker, how much time do we have remaining?

The SPEAKER pro tempore (Mr. LAHOOD). The gentlewoman from California has 11½ minutes remaining; the gentleman from Michigan has 8 minutes remaining.

Mr. EHLERS. Mr. Speaker, I reserve the balance of my time.

Ms. MILLENDER-McDONALD. Mr. Speaker, I yield 3 minutes to the gentleman from Arizona (Mr. FLAKE).

Mr. FLAKE. Mr. Speaker, I thank the gentlewoman for yielding.

Mr. Speaker, this isn't the first time the Congress has debated the effects of public campaign discourse. Let me take you back to 1798, when about 20 or so independent newspapers aligned with Thomas Jefferson started openly criticizing the policies of John Adams, the President. Adams used his power and influence to have Congress pass the Alien and Sedition Acts, which declared that the publication of false, scandalous, and malicious writing was punishable by fine and imprisonment. By virtue of this legislation, 25 editors were arrested and their newspapers were forced to shut down.

The first amendment was established to ensure that citizens are able to protect themselves from government, not so that government can protect itself from the people. If this bill passes, we will be standing here having the same debate in a couple of years on how to regulate 501(c)4 organizations. 501(c)4s require no disclosure and have no contribution limits. They will surely become the 527s of 2008 if this legislation passes.

This legislation, H.R. 513, simply compounds an existing problem. Loopholes will always exist, because there will always be money in politics. Instead of stifling speech and forcing it to go underground, we ought to be lifting up other players in the political system and provide more freedoms with greater transparency and more accountability.

Where will this lead? That is the question. If Republicans happen to lose in November, lose the majority, what happens when Democrats try to level the playing field by applying the so-called fairness doctrine to radio talk shows? Surely the Democrats will make the same arguments about Rush Limbaugh that Republicans are making about George Soros.

□ 1745

Back to the implications of the Alien and Sedition Acts. Americans were smart enough to realize what President Adams was using. He was using the powers of government to stifle free speech and they reacted accordingly. Public opposition to the Alien and Sedition Acts was so great that was a large reason Adams was defeated by Thomas Jefferson a few years later. This is history worth remembering, Mr. Speaker.

Mr. EHLERS. Mr. Speaker, I yield 5½ minutes to the gentleman from Connecticut (Mr. SHAYS), the author of this legislation.

Mr. SHAYS. Mr. Speaker, I thank the gentleman for yielding me this time.

This is a surreal debate because it is a debate that has consequences and yet it seems to almost be like a game. When we passed campaign finance reform, it passed primarily with Democratic support and there wasn't any talk about free speech because Democrats made the proper argument. They made the argument that this was about letting people have their speech and not being drowned out by the wealthy.

That is what the Democrats said: Don't let the wealthy drown out people who don't have a lot of resources.

So what the Democrats are now arguing is that for instance 25 individual donors should be able to contribute \$142 million, or 56 percent of all of the individual contributions to 527 groups in the 2004 election. That is what Democrats are saying. They are saying we want the wealthy to be able to dominate. But that was not their argument when they voted for campaign finance reform, and it was not my argument.

Our argument was that we wanted to have a level playing field. Our argument was we wanted to enforce the 1907 law that banned corporate treasury money, we wanted to enforce the 1947 Taft-Hartley Act that banned forced union dues money, and we wanted to support the 1974 campaign finance law that said you could not make unlimited contributions to federal campaigns. That is what Democrats argued for and supported. And they blamed Republicans for being against campaign finance reform.

The amazing thing is once the campaign finance reform bill passed Democrats immediately started to break the law. They were looking to get around the very law they voted for. And when Mr. Soros, who helped fund the campaign finance movement, argued that he should be able to contribute unlimited funds to 527s and that he should be able to bring his \$20-plus million to the table, just this one individual, Democrats wanted to protect him and allow him to do that. And Republicans who were against the law said this is the law, we are going to abide by it.

The amazing thing is the very people who did not vote for the law were willing to abide by it, and the very people who voted for the law are trying to get

around the law. That is what I find so amazing about this debate.

So what this amendment does is it just enforces the law that you, my fellow colleagues on the other side of the aisle, voted for. It enforces the Campaign Finance Act, the McCain-Feingold bill, the bill you all supported.

Now why do we have to pass this bill before us? Because unfortunately when we gave it to the Federal Elections Commission, the FEC, who does not believe in the law, decided not to enforce the law. They are happy to have loopholes. They are the ones who introduced the whole soft money issue in the first place.

So what do we have? We have a loophole that needs to be closed, and the way you close it, is to pass this bill that requires 527s to come under the campaign finance law. This is because their primary activity, in fact their only activity, is campaigns.

And the law is clear. Mr. MEEHAN and I brought forward a case against the FEC. We threw out 14 of their regulations because they did not abide by the law, and then we proceeded to take a court action against them on enforcing the law and put 527s under their jurisdiction.

The court made a decision that Mr. MEEHAN and I were right, that 527s should be under the law. In fact, the judge said not putting them under the law circumvented the law. So what we are doing is simply making the law consistent. And frankly, this talk of (c)(3)s, (c)(4)s and (c)(5)s, is not on point. Their primary responsibility and activity is not campaigns. And because of that, you are not going to have the same problem that you have with 527s. If in fact their primary activity becomes campaigns, then they will come under it.

This bill is consistent to the law. It is imperative it passes. It is consistent with what my colleagues voted for, and I applaud my side of the aisle for, in spite of the fact of not voting for the law, be willing to live by the law.

Ms. MILLENDER-McDONALD. Mr. Speaker, I yield myself such time as I may consume.

I would say to the gentleman who just spoke, this is not what we voted for. We did not vote to transfer 527s to 501(c)s. That is dishonesty. I oppose those who say this is an obscene bill, 527s are not obscene.

What they are trying to do now here with this bill would provide each national and State party committee to be free from any limits in spending on behalf of its candidates and the spending would take place at any time for the primary or general elections.

This is the flow of money that the American people are saying take out of campaigns.

Mr. EHLERS. Mr. Speaker, I reserve the balance of my time to close.

Ms. MILLENDER-McDONALD. Mr. Speaker, I yield myself the balance of my time to close.

Mr. Speaker, I want to clarify that the 527s have been and must always file

with the Internal Revenue Service. They have to do quarterly reports. Unlike what has been said, that they do not have disclosure and they do not have reporting, that is not true, and I include for the RECORD the IRS filing dates so that can be placed in the RECORD.

INTERNAL REVENUE SERVICE—UNITED STATES DEPARTMENT OF THE TREASURY
FORM 8872 FILING DATES (FOR 2006)

During an election year, a political organization has the option of filing on either a quarterly or a monthly schedule. The organization must continue on the same filing schedule for the entire calendar year.

OPTION 1.—QUARTERLY FILING SCHEDULE

Report	Filing Date
1st Quarter (January 1–March 31)	April 17, 2006
2nd Quarter (April 1–June 30)	July 17, 2007
3rd Quarter (July 1–September 30)	October 16, 2006
12-Day Pre-General Election*	October 26, 2006 (October 23, is posting report by certified or registered mail)
30-Day Post-General Election	December 7, 2006
Year-End	January 31, 2007
12-Day Pre-Election*	12 days before the election (Varies according to date of election. See pre-election reporting dates chart)

*A political organization files a 12-day pre-election report(s) prior to a federal election (primary, convention, and/or general election) if the political organization makes or has made contributions or expenditures with respect to a federal candidate(s) participating in that election. Therefore, if the organization supported a federal candidate in a primary election, it files a 12-day pre-election report prior to that candidate's primary election. If the organization made contributions or expenditures in connection with a federal candidate(s) in the general election, the organization also files the 12-day pre-general election report.

OPTION 2.—MONTHLY FILING SCHEDULE

Report	Filing Date
January	February 21
February	March 20
March	April 20
April	May 22
May	June 21
June	July 20
July	August 21
August	September 20
September	October 20
12-Day Pre-General Election*	October 26 (October 23, if posting report by certified or registered mail)
30-Day Post-General Election*	December 7
Year-End	January 31, 2007

*A political organization files a 12-day pre-election report(s) prior to a federal election (primary, convention, and/or general election) if the political organization makes or has made contributions or expenditures with respect to a federal candidate(s) participating in that election. Therefore, if the organization supported a federal candidate in a primary election, it files a 12-day pre-election report prior to that candidate's primary election. If the organization made contributions or expenditures in connection with a federal candidate(s) in the general election, the organization also files the 12-day pre-general election report.

Mr. Speaker, this bill, H.R. 513, will have a chilling effect on tax exempt 501(c) organizations. Despite a provision exempting nonprofit charities and social service organizations, this bill, H.R. 513, regulates the same activities that such entities are permitted to engage in.

Should this bill become law, a precedent may be set that all nonprofit activities should be heavily regulated leading to significant new restrictions on 501(c)3s. H.R. 513 thus may represent a trend with chilling implications for the nonprofit sector.

Mr. Speaker, I include for the RECORD a statement from the CATO Institute, a conservative think tank.

CATO INSTITUTE—Free Speech and the 527
Prohibition

(By Stephen M. Hoersting—April 3, 2006)

LIMITING THE SPEECH OF INDEPENDENT
SPEAKERS IS UNWISE AND UNCONSTITUTIONAL
*Forcing PACs on citizens is a matter for courts,
not just Congress*

To constitutionally regulate campaign finance, the government must demonstrate that the “harms it recites are real,” not “mere speculation or conjecture.” Proposals to subject section 527 organizations to political committee status, with scant regard to their activities, effectively impose an “any purpose” test in brazen disregard of the “major purpose” test the Supreme Court established in *Buckley v. Valeo*. Such proposals presume that any communication mentioning a candidate that promotes, supports, attacks, or opposes that candidate at any time of the year—or any “voter drive activity,” even if totally non-partisan—is sufficient to trigger political committee status. If such proposals were in effect during the last cycle, any mention of President Bush’s or Senator Kerry’s policies from November 2, 2003 to November 2, 2004, or any attempt to identify voters, would have turned the 527 organization into a federal political committee. In *FEC v. Beaumont*, the Court noted that a non-profit corporation entitled to the MCFE exemption of federal campaign law—which exempts certain non-profit corporations from FECA’s registration requirement—would have to register as a political committee to make contributions to federal candidates, though it would not have to register to make independent expenditures. The direct nexus to a federal candidate and the entity’s enjoyment of the corporate form were ample reason to require it to register. There is no such connection here, however, or existing 527 organizations would already be covered.

Establishing and maintaining a PAC, however, is not a minor administrative task, and it has become more onerous with each new round of restrictions on PACs and those who run them. Gone will be the ability of citizens to adapt quickly and associate freely in support of a position when issues arise. The various funding source, amount, and disclosure requirements of PAC compliance make it difficult to raise the quantities of money for broadcast communications. New or small organizations may have a hard time, given the limited number of employees or members from whom they can solicit at all: not just anyone may contribute to a PAC; you have to belong to the organization, or work for the company or union that sponsors it. That has practical consequences of which courts are aware. The Swift Vets’ communications would have been impossible, for example, without the modest seed money that would become illegal under current 527 proposals. Or if the PAC were wildly successful, however unlikely, it would come at the expense of other right-leaning PACs or party committees, all of which rely on individual contributors bound by biennial aggregate limits on their contributions to all political committees during an election cycle. In other words, the question of who will join your PAC in time to raise enough funds at a maximum of \$5000 per person for advertising is a very real constraint on an organization’s ability to run advertising—independent advertising, no less.

Independent voices can’t be limited

Forcing political committee status on the organizations is only one question in assessing constitutionality. The “key question is whether individual contributions to any political committee—527 or not—that does not make contributions to a candidate but in-

stead makes only expenditures can be subject to limitation.” In *Buckley v. Valeo*, the Supreme Court stated that the First Amendment permits the government to regulate campaign spending to prevent the corruption of officeholders or its appearance. The Court has not recognized any interest in “equalizing” speech. Contributions and funds spent in coordination with a candidate can be limited to protect against legislative quid pro quos. The Court has also said that contributions to an organization that in turn makes both contributions and independent expenditures (defined constitutionally as “express advocacy”) can also be limited to make regulatory oversight feasible; to prevent the possibility that unlimited funds would flow to candidates. But independent spending lacks the necessary connection to officeholders, is not corrupting, and cannot be limited. The “absence of prearrangement and coordination of an expenditure with the candidate or his agent not only undermines the value of the expenditure to the candidate, but also alleviates the danger that expenditures will be given as a quid pro quo for improper commitments from the candidate.” Independent spending is not corrupting. Likewise, contributions to organizations that engage in independent spending are also not corrupting. The Court has already granted constitutional protection to an individual’s independent spending. George Soros may buy all the advertising he wants. That right extends also to an individual’s donation to an organization that engages in independent spending. “The independent expenditure ceiling fails to serve any substantial governmental interest in stemming the reality or appearance of corruption in the electoral process . . . and ‘heavily burdens core First Amendment protection.’”

As stated by Professor Richard Briffault, “[t]wo Supreme Court decisions provide support for the argument that if an independent expenditure does not present a danger of corrupting or appearing to corrupt officeholders, then contributions to a political committee that makes only independent expenditures cannot be limited.” The first case is *California Medical Ass’n v. FEC*, a case involving limits on contributions by a trade association to its own PAC. In the plurality was Justice Blackmun, who wrote in concurrence that although the limit on contributions to a political committee is valid “as a means of preventing evasion of the limitations on contributions to a candidate[.] . . . a different result would follow [if the limit] were applied to donations to a political [organization] established for the purpose of making independent expenditures, rather than contributions,” because “a committee that makes only independent expenditures . . . poses no threat” of corruption. Professor John Eastman has noted that contributions to a committee that does not give to candidates, such as most section 527 organizations contemplated by current proposals, are deserving of even more constitutional protection because “the principal message expressed by a contribution to a noncandidate committee is agreement with and furtherance of that committee’s views,” unlike the message expressed by contributions to a candidate committee or a committee that in turn gives to candidates. This approach is bolstered by the second case, *Citizens Against Rent Control*, which invalidated a contribution limit to a ballot proposition committee because the lack of a nexus to a candidate made corruption inapplicable. Similarly, where the nexus to an officeholder is not present, the anti-circumvention rationale of *McConnell* is also not furthered by a limit on contributions to organizations that engage in wholly independent activity.

Even though the contribution limit applies to the independent spending of political com-

mittees that also contribute to candidates or make coordinated expenditures, it is not clear that the Court would approve limits on organizations that engage in wholly independent activity. As noted by Professor Briffault, the *McConnell* Court’s treatment of this issue related to BCRA’s application of contribution limits to the activities of political parties.⁴⁷ But the section 527 organizations Congress appears interested in and political party committees are not alike. “[F]ederal candidates and officeholders enjoy a special relationship and unity of interest” with their political party, said the *McConnell* Court.⁴⁸ “The national committees of the two major parties are both run by, and largely composed of, federal officeholders and candidates.”⁴⁹ The “close connection and alignment of interests” between candidates and their political parties means that “large soft-money contributions to national parties are likely to create the actual or apparent indebtedness on the part of federal officeholders, regardless of how those funds are ultimately spent,”⁵⁰ and the same is true of “the close ties between federal candidates and state party committees.”⁵¹

The same cannot be said of 527 organizations. There is no record that candidates or party committees coordinated their spending with the 527s. Section 527 organizations simply have no comparable ties to candidates, thus making the anti-circumvention rationale of *McConnell* far too tenuous and unsuitable. Spending by section 527 organizations does not corrupt the legislative process because there is no nexus to lawmakers. It does not corrupt the balloting process. And spending by section 527 organizations does not corrupt the process of information exchange in the run up to the election. Indeed, spending by section 527 organizations is an integral part of the process of information exchange. And the information exchange needs to be open, robust and uninhibited.

More speech is what is needed, not less

Studies indicate that campaign spending diminishes neither trust nor involvement by citizens in elections. Indeed, spending increases public knowledge of candidates among all groups in the population. “Higher campaign spending produces more knowledge about candidates,” whether measured by name identification, association of candidates with issues, or ideology; and setting a cap on spending would likely produce a less informed electorate.⁵² Unlimited spending does not confuse the public,⁵³ and the benefits of campaign spending are broadly dispersed across advantaged and disadvantaged groups alike. That is, as incumbents are challenged by spending, both advantaged and disadvantaged groups gain in knowledge.⁵⁴ And so-called negative advertising campaigns do not demobilize the public, as many have alleged.⁵⁵

Razing speech to the same level

Yet many persons inside the beltway believe that 527s should be regulated on egalitarian grounds. Republican Party chairman Ken Mehlman is outspoken in support of 527 regulation, declaring that Congress “must reform 527s, so that everyone plays at the same level, and billionaires can’t once again use loopholes to try to buy elections.”⁵⁶ Democratic Party chairman Howard Dean signed expenditure limit legislation as Governor of Vermont and had the DNC file an amicus brief to the Supreme Court in support of the legislation.⁵⁷ Senator John McCain “said that lawmakers should support the bill out of self-interest, because it would prevent a rich activist from trying to defeat an incumbent by diverting money into a political race through a 527 organization. ‘That should alarm every federally elected Member of Congress,’ he said.”⁵⁸ Senator Trent Lott

has called for limits on 527s to “level the playing field.”⁵⁹ That these candidates and party chairs notice the spending and how it may benefit or hurt them is also a tenuous justification for regulation. Dissenting in *McConnell*, Chief Justice William Rehnquist wrote that benefit—even benefit expressed in gratitude—is not enough to justify restrictions, otherwise this rationale could serve as a basis to regulate “editorials and political talk shows [that] benefit federal candidates and officeholders every bit as much as a generic voter registration drive conducted by a state party.”⁶⁰ A position adopted by the *McConnell* majority.⁶¹ Preventing circumvention of applicable contribution limits and source prohibitions was the rationale employed by the Court in *McConnell*. The rationale was not to foster egalitarianism.⁶²

Buckley long ago rejected the argument that “equalizing the relative ability of individuals and groups to influence the outcome of elections”⁶³ is a compelling interest, adding that “the concept that government may restrict the speech of some elements of our society in order to enhance the relative voice of others is wholly foreign to the First Amendment.”⁶⁴ The Court has said elsewhere that trying to manipulate groups’ relative ability to speak “is a decidedly fatal objective.”⁶⁵ And there is good reason to be suspicious of the motives of incumbent legislators and party chairmen seeking egalitarianism in campaign spending. After a certain level of spending, the utility of further spending declines, and incumbents hit the point of marginal utility earlier than opponents.⁶⁶ Political free trade is both the norm and normative prescription for a healthy and constitutional political system in America. And “[p]olitical ‘free trade’ does not necessarily require that all who participate in the political marketplace do so with exactly equal resources.”⁶⁷

Mr. Speaker, the CATO Institute writes that limiting the speech of independent speakers is unwise and unconstitutional. In fact, forcing PACs on citizens is a matter for courts and not Congress. To constitutionally regulate campaign finance, the government must demonstrate that the harms it recites are real, not just mere speculation or conjecture. Proposals to subject section 527 organizations to political committee status with scant regard to their activities effectively imposes an any-purpose test in brazen disregard for the major purpose test of the Supreme Court established under *Buckley v. Valeo*.

Mr. Speaker, conservative groups are saying this is not good policy, that this policy is shutting down those groups that were independent, free of Congress, free of the Members of Congress, and this bill influences the outcome of elections and in fact money will be flowing all over the place as it is doing right now. Money will be flowing all over the place as we are speaking today.

This is a bad bill. The American people do not want more money into these campaigns. They want less money. I urge a “no” vote on this bill.

Mr. Speaker, I yield back the balance of my time.

Mr. EHLERS. Mr. Speaker, I yield 1½ minutes to the gentleman from Massachusetts (Mr. MEEHAN), the other sponsor of the bill from the minority side.

Mr. MEEHAN. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, basically this is a legal issue. 527s are legally established because their primary purpose is to influence the election or defeat of a Federal candidate. They have to file with the FEC because after Watergate in 1974 this Congress passed a law that said if you are going to have a political committee whose primary purpose is to influence an election, then they have to register with the FEC.

The FEC ignored 30 years of congressional actions and Supreme Court jurisprudence in allowing 527s to evade the law. In short, the FEC failed to do its job and regulate 527s as required under the Watergate statute. So in September of 2004, Congressman SHAYS and I filed a suit against the FEC for failing to enforce the regulations.

You know what is interesting, just last Wednesday the U.S. District Court Judge Sullivan ruled in favor of our position that the FEC had failed to present a reasonable explanation for its decision in 2004 not to regulate 527s. Judge Sullivan remanded the case back to the FEC and said either you articulate a reason for not regulating 527s or promulgate a new rule. A new rule that regulates 527s is called for under the law. That is all we are seeking to do here. That is all we are seeking to do. One way or the other, the court is going to rule in favor. This is one way for us to do it quickly.

Mr. EHLERS. Mr. Speaker, I yield myself the balance of my time to close.

I just have to say, I am a little disappointed in this debate. In fact, I am greatly disappointed in this debate. I am just a simple person who grew up in a small town, and I grew up in an area where we said what we meant, and we meant what we said.

I have heard so much diversionary discussion on this topic from the minority today, it is very disappointing to me.

The proposition of the bill is very simple: unlimited spending of soft money was intended to be banned under BCRA. A diversionary tactic has developed which allows the expenditures of huge amounts of money, unregulated soft money, and this bill today is an attempt to stop that practice which is being carried out by people who are violating the intent of a law we passed a few years ago. That plain and simple is the issue here.

I urge the body to adopt the bill and stop the abominable practice of huge amounts of unregulated, unreported money influencing elections. Let’s get back to the original intent of BCRA and put it in place and enforce it.

Mr. Speaker, I include for the RECORD the material I previously referred to.

[From the New York Times, Dec. 29, 2004]

THE SOFT MONEY BOOMERANG

It’s encouraging to see signs of life in Washington, particularly on the Republican side of the aisle, over the obvious need to

plug the newest subterranean pipe for unregulated campaign funds from big labor, big corporations and just plain big money.

Of all the subplots in the presidential election, none were as sorry as the Democrats’ pioneering “527” groups—named for the section of the tax code that governs them. The 527’s were intended to circumvent the law’s strictures against having unlimited soft money flood into political races. The Democrats built these new shadow-party advocacy groups to attack the president early in the campaign season and build voter-turnout machines. Then they watched Bush partisans adapt the same financing device to float the campaign’s most notorious and devastating attack ads, the Swift boat assaults on John Kerry’s heroic war record and his antiwar activities after he returned from Vietnam.

Dollar-wise, the Democrats proved better at milking the 527 strategy, spending more than three times as much as the Republicans in stealth-party ads favoring their presidential ticket. But the Republicans wielded their ads like a rapier once the Federal Election Commission, true to its track record, shirked its responsibility by deciding that the new breed of advocacy groups should not be controlled under the campaign finance reform laws.

A commission majority endorsed the fiction that the 527’s are independent. The truth is that they were strategically linked to the candidates and perfect targets for aggressive F.E.C. regulation and spending limits. The 527 fund-raisers were the V.I.P. toast of the party conventions last summer, raising money in luxury suites with a wink and a grin.

After this year’s election drubbings, you would think the Democrats would now see the folly of the 527 committees. But, no, ranking Democrats are determined to make them a permanent campaign weapon, with no dollar caps on the corporations, labor unions and fat-cat partisans who spent more than \$550 million on such committees in this year’s races.

President Bush condemned the 527’s and promised a crackdown when the Democrats first exploited them and caught the G.O.P. short. But later in the campaign, he failed to condemn the Swift boat ads when Senator John McCain did so and pointedly asked for the president’s support. Now Mr. Bush has another chance to put his considerable political weight behind Mr. McCain, who is determined to use the coming Congressional session to pass legislation that would force this blowzy lucre-genie back into the bottle.

Senator McCain overcame whatever past bad feeling there was between himself and the president and became a dogged Bush campaigner this year. We hope the president repays him by explicitly backing the McCain fight to stop the 527 gamesmanship as an abuse of fair elections. And it’s equally important for the president to enlist in the senator’s campaign to overhaul the election commission. The F.E.C. is a transparent extension of hack party politics, beholden to members of Congress who are more concerned with their own incumbency than the public interest.

[From the Washington Post, Apr. 5, 2006]

CLOSE THE 527 LOOPHOLE

CONGRESS SHOULD BEACH THE SWIFT BOATS AND GEORGE SOROS, TOO

The House plans to take up legislation today that would close the biggest remaining loophole in the campaign finance system. It would require the political groups known as 527s to play by the same rules as other committees that aim to influence federal elections. The House ought to pass the measure, sponsored by Reps. Christopher Shays (R-

Conn.) and Martin T. Meehan (D-Mass.), and shut down the kind of 527 "soft money" operation that flourished during the 2004 campaign, like Democrats' America Coming Together and Republicans' Swift Boat Veterans for Truth.

These committees, named after the section of the tax code under which they're established, are by definition "organized and operated primarily" to influence elections. When those elections are for federal office, it makes no sense to let such groups collect six-, seven- and even eight-figure checks to elect or defeat candidates, while candidates, political parties and political action committees are limited to receiving contributions a small fraction of that size. Similarly, corporations and labor unions—barred by law from contributing directly to federal candidates or parties—shouldn't be allowed to write checks to 527s, which exist for the same purpose.

The usual politics of campaign finance reform—Democrats for (at least publicly), Republicans against—are upside down this time around. The reason is that Republicans do better than Democrats at raising the (relatively) small donations known as "hard money," while Democrats took the lead in the past election cycle in raising soft money for 527 groups. Connoisseurs of hypocrisy should enjoy this spectacle, but the partisan calculations are probably overstated. Democrats, with the rise of the Internet, have been improving their hard-money fund-raising. Republicans are bound to draw even in the 527 race if it continues.

There are concerns that regulating money to 527s would drive spending further into the shadows, to nonprofit groups and trade associations that, unlike 527s, don't even have to disclose their donors and spending. But there are restrictions on the partisan activity of such groups, and if a problem develops with the misuse of such organizations, that could be addressed in future legislation. It's not a reason for inaction now.

[From the Washington Post, Nov. 11, 2003]

SOROS'S DEEP POCKETS VS. BUSH; FINANCIER CONTRIBUTES \$5 MILLION MORE IN EFFORT TO OUST PRESIDENT

(By Laura Blumenfeld)

NEW YORK.—George Soros, one of the world's richest men, has given away nearly \$5 billion to promote democracy in the former Soviet bloc, Africa and Asia. Now he has a new project: defeating President Bush.

"It is the central focus of my life," Soros said, his blue eyes settled on an unseen target. The 2004 presidential race, he said in an interview, is "a matter of life and death."

Soros, who has financed efforts to promote open societies in more than 50 countries around the world, is bringing the fight home, he said. On Monday, he and a partner committed up to \$5 million to MoveOn.org, a liberal activist group, bringing to \$15.5 million the total of his personal contributions to oust Bush.

Overnight, Soros, 74, has become the major financial player of the left. He has elicited cries of foul play from the right. And with a tight nod, he pledged: "If necessary, I would give more money."

"America, under Bush, is a danger to the world," Soros said. Then he smiled: "And I'm willing to put my money where my mouth is."

Soros believes that a "supremacist ideology" guides this White House. He hears echoes in its rhetoric of his childhood in occupied Hungary. "When I hear Bush say, 'You're either with us or against us,' it reminds me of the Germans." It conjures up memories, he said, of Nazi slogans on the walls, *Der Feind Hort mit* ("The enemy is

listening"). "My experiences under Nazi and Soviet rule have sensitized me," he said in a soft Hungarian accent.

Soros's contributions are filling a gap in Democratic Party finances that opened after the restrictions in the 2002 McCain-Feingold law took effect. In the past, political parties paid a large share of television and get-out-the-vote costs with unregulated "soft money" contributions from corporations, unions and rich individuals. The parties are now barred from accepting such money. But non-party groups in both camps are stepping in, accepting soft money and taking over voter mobilization.

"It's incredibly ironic that George Soros is trying to create a more open society by using an unregulated, under-the-radar-screen, shadowy, soft-money group to do it," Republican National Committee spokeswoman Christine Iverson said. "George Soros has purchased the Democratic Party."

In past election cycles, Soros contributed relatively modest sums. In 2000, his aide said, he gave \$122,000, mostly to Democratic causes and candidates. But recently, Soros has grown alarmed at the influence of neoconservatives, whom he calls "a bunch of extremists guided by a crude form of social Darwinism."

Neoconservatives, Soros said, are exploiting the terrorist attacks of Sept. 11, 2001, to promote a preexisting agenda of preemptive war and world dominion. "Bush feels that on September 11th he was anointed by God," Soros said. "He's leading the U.S. and the world toward a vicious circle of escalating violence."

Soros said he had been waking at 3 a.m., his thoughts shaking him "like an alarm clock." Sitting in his robe, he wrote his ideas down, longhand, on a stack of pads. In January, PublicAffairs will publish them as a book, "The Bubble of American Supremacy" (an excerpt appears in December's Atlantic Monthly). In it, he argues for a collective approach to security, increased foreign aid and "preventive action."

"It would be too immodest for a private person to set himself up against the president," he said. "But it is, in fact"—he chuckled—"the Soros Doctrine."

His campaign began last summer with the help of Morton H. Halperin, a liberal think tank veteran. Soros invited Democratic strategists to his house in Southampton, Long Island, including Clinton chief of staff John D. Podesta, Jeremy Rosner, Robert Boorstin and Carl Pope.

They discussed the coming election. Standing on the back deck, the evening sun angling into their eyes, Soros took aside Steve Rosenthal, CEO of the liberal activist group America Coming Together (ACT), and Ellen Malcolm, its president. They were proposing to mobilize voters in 17 battleground states. Soros told them he would give ACT \$10 million.

Asked about his moment in the sun, Rosenthal deadpanned: "We were disappointed. We thought a guy like George Soros could do more." Then he laughed. "No, kidding! It was thrilling."

Malcolm: "It was like getting his Good Housekeeping Seal of Approval."

"They were ready to kiss me," Soros quipped.

Before coffee the next morning, his friend Peter Lewis, chairman of the Progressive Corp., had pledged \$10 million to ACT. Rob Glaser, founder and CEO of RealNetworks, promised \$2 million. Rob McKay, president of the McKay Family Foundation, gave \$1 million, and benefactors Lewis and Dorothy Cullman committed \$500,000.

Soros also promised up to \$3 million to Podesta's new think tank, the Center for American Progress.

Soros will continue to recruit wealthy donors for his campaign. Having put a lot of money into the war of ideas around the world, he has learned that "money buys talent; you can advocate more effectively."

At his home in Westchester, N.Y., he raised \$115,000 for Democratic presidential candidate Howard Dean. He also supports Democratic presidential contenders Sen. John F. Kerry (Mass.), retired Gen. Wesley K. Clark and Rep. Richard A. Gephardt (Mo.).

In an effort to limit Soros's influence, the RNC sent a letter to Dean Monday, asking him to request that ACT and similar organizations follow the McCain-Feingold restrictions limiting individual contributions to \$2,000.

The RNC is not the only group irked by Soros. Fred Wertheimer, president of Democracy 21, which promotes changes in campaign finance, has benefited from Soros's grants over the years. Soros has backed altering campaign finance, an aide said, donating close to \$18 million over the past seven years.

"There's some irony, given the supporting role he played in helping to end the soft money system," Wertheimer said. "I'm sorry that Mr. Soros has decided to put so much money into a political effort to defeat a candidate. We will be watchdogging him closely."

An aide said Soros welcomes the scrutiny. Soros has become as rich as he has, the aide said, because he has a preternatural instinct for a good deal.

Asked whether he would trade his \$7 billion fortune to unseat Bush, Soros opened his mouth. Then he closed it. The proposal hung in the air: Would he become poor to beat Bush?

He said, "If someone guaranteed it."

APRIL 4, 2006.

DEAR REPRESENTATIVE: The House is scheduled to consider this week H.R. 513, legislation sponsored by Representatives Chris Shays (R-CT) and Marty Meehan (D-MA) to require that 527 groups spending money to influence federal elections comply with federal campaign finance laws.

Our organizations support H.R. 513, which is necessary to close the FEC-created loophole that allowed both Democratic and Republican 527 groups to spend hundreds of millions of dollars in unlimited soft money to influence the 2004 presidential and congressional elections.

The organizations include the Campaign Legal Center, Common Cause, Democracy 21, the League of Women Voters, Public Citizen and U.S. PIRG.

Under H.R. 513, the 527 political groups would be able to continue to undertake activities to influence federal elections, but would do so under the same campaign finance laws that apply to candidates, political parties and other political committees whose major purpose is to influence federal elections. Enclosed is a Q and A on H.R. 513.

Much of the soft money contributed to 527 groups to influence the 2004 federal elections came from a relatively small number of very wealthy individuals. According to campaign finance scholar Anthony Corrado, just 25 individuals accounted for \$146 million raised by Democratic and Republican 527 groups that spent money to influence the 2004 federal elections.

In order to qualify as a 527 group under the Internal Revenue Code and receive tax-exempt status, Section 527 groups must be "organized and operated primarily" to influence elections. They are, by definition, "political organizations," not "issue groups," and they should not be operating outside federal campaign finance laws when they are spending money to influence federal elections.

As the Supreme Court stated in the McConnell case upholding the constitutionality of the Bipartisan Campaign Reform Act, Section 527 groups “by definition engage in partisan political activity.” The Court stated in McConnell that 527 groups “are, unlike §501(c) groups, organized for the express purpose of engaging in partisan political activity.”

Section 527 groups are treated differently under campaign finance laws than Section 501(c) groups because they are fundamentally different entities than 501(c) groups.

Section 527 groups, by definition, are organized and operated “primarily” to influence elections. This standard has long been used to define political groups that are covered by and must comply with federal campaign finance laws. Section 527 groups have the same organizing principle as candidate committees, political party committees and PACs—their primary purpose is to influence elections—and should be subject to the same campaign finance laws.

Section 501(c) groups, by contrast, are prohibited by their tax status from having a primary purpose to influence elections. Although Section 501(c) groups (except for charitable groups) are permitted to spend some money for political purposes, tax laws impose constraints on the political activity they can engage in, while similar constraints are not imposed on 527 groups.

The 2004 election demonstrated widespread soft money abuses by 527 groups, which spent hundreds of millions of dollars to influence the presidential and congressional elections without complying with the federal campaign finance laws. H.R. 513 addresses this demonstrated problem.

As we noted in our letter yesterday, an amendment may be offered by Representative Mike Pence (R-IN) to repeal the existing aggregate limit on the total contributions that an individual can give to all federal candidates and political parties in a two-year election cycle. The Pence amendment would repeal an essential Watergate reform that was enacted to prevent corruption and the appearance of corruption, and was upheld as constitutional on this basis by the Supreme Court.

We strongly oppose the Pence proposal, which would allow a President, Senator or Representative to solicit, and a single donor to contribute, a total of more than \$3,000,000 for the officeholder’s party and the party’s congressional candidates in a two-year election cycle.

We urge you to vote against the Pence “poison pill” amendment and also urge you to vote against H.R. 513 if it includes the Pence proposal or any variation of it.

Another proposal may be made to repeal section 441a(d) of the campaign finance laws, a provision which imposes limits on spending by political parties in coordination with their federal candidates.

We oppose repealing the limits on coordinated party spending with candidates.

Under Supreme Court rulings, a political party can spend an unlimited amount of hard money in a federal candidate’s race, independently of that candidate, even if the party has reached its limit on coordinated spending with that candidate in the race.

Thus, repeal of the limits on coordinated spending will not change the total amount of money a political party can spend in a given race, but rather will change the amount that can be spent in coordination with the party’s candidate in the race.

Supporters of repealing the limit argue that this is a more effective way for parties to assist their candidates. We oppose repeal of the coordinated spending limit, however, since it provides a constraint on parties serving as a vehicle for individual donors to

evade the limits on contributions from individuals to candidates.

H.R. 513 is based on the simple proposition that a 527 group that spends money to influence federal elections should abide by the same set of rules that apply to other political groups whose purpose is to spend money to influence federal elections. There is no basis for allowing a 527 group to claim the advantage of a tax exemption as a “political organization” under the tax laws, while at the same time failing to comply with the federal campaign finance laws on the claim that it is not a “political committee.”

We strongly urge you to vote for H.R. 513, provided it does not include the Pence “poison pill” proposal to repeal or undermine the aggregate limit on individual contributions.

CAMPAIGN LEGAL CENTER
COMMON CAUSE
DEMOCRACY 21
LEAGUE OF WOMEN VOTERS
PUBLIC CITIZEN
U.S. PIRG

HOUSE OF REPRESENTATIVES,
Washington, DC, April 4, 2006.

Hon. VERNON J. EHLERS,
Chairman, Committee on House Administration,
House of Representatives, Washington, DC.

DEAR CHAIRMAN EHLERS: In recognition of the desire to expedite consideration of H.R. 513, the “527 Reform Act of 2005,” the Committee on the Judiciary hereby waives consideration of the bill. There are provisions contained in H.R. 513 that implicate the rule X jurisdiction of the Committee on the Judiciary. Specifically, section 5 provides for judicial review of certain constitutional challenges to the legislation. This provision implicates the rule X(1)(1) jurisdiction of the Committee over “the judiciary and judicial proceedings, civil and criminal.”

The Committee takes this action with the understanding that by foregoing consideration of H.R. 513, the Committee on the Judiciary does not waive any jurisdiction over subject matter contained in this or similar legislation. The Committee also reserves the right to seek appointment to any House-Senate conference on this legislation and requests your support if such a request is made. Finally, I would appreciate your including this letter in the Congressional Record during consideration of H.R. 513 on the House floor. Thank you for your attention to these matters.

Sincerely,
F. JAMES SENSENBRENNER, JR.,
Chairman.

U.S. HOUSE OF REPRESENTATIVES,
Washington, DC, April 4, 2006.

Hon. JAMES SENSENBRENNER,
Chairman, Committee on the Judiciary, House
of Representatives, Washington, DC.

DEAR CHAIRMAN SENSENBRENNER: Thank you for your recent letter regarding your Committee’s jurisdictional interest in H.R. 513, the 527 Reform Act of 2006, scheduled for floor consideration this week.

I acknowledge your committee’s jurisdictional interest in Section 5 of the bill, and agree that your decision to forego further action on it will not prejudice the Committee on the Judiciary with respect to its jurisdictional prerogatives on this or similar legislation. I will include a copy of your letter and this response in the Congressional Record when the legislation is considered by the House.

Thank you again for your assistance.
Sincerely,

VERNON J. EHLERS,
Chairman.

Mr. EHLERS. Mr. Speaker, I yield back the balance of my time.

Mr. BLUMENAUER. Mr. Speaker, throughout my career, I have consistently and strongly supported sensible campaign finance reform. As introduced, H.R. 513, the 527 Reform Act, was a measure I could have supported. In the long run, it would have been politically neutral; not giving an advantage to either Republicans or Democrats.

However, with the changes that have been made to the bill by the Republican leadership, this bill would needlessly allow unlimited contributions from party committees to coordinate with campaigns and thereby dramatically raising the amount of money spent on elections, not reduce it. This provision alone would dramatically undermine the campaign finance reforms we worked so hard to put in place in 2002. The bill is neither necessary nor fair and would increase the role of money in campaigns and elections.

Mr. VAN HOLLEN. Mr. Speaker, today I voted against H.R. 513, the “527 Reform Act of 2005” introduced by Congressmen SHAYS and MEEHAN. As a strong and long-term supporter of the Shays-Meehan/McCain-Feingold campaign reform legislation, I want to take this opportunity to explain my decision to vote against H.R. 513 today.

On the surface, H.R. 513 appears to be simple. It would require “527 groups,” which represent individuals or groups that are not directly affiliated with political party organizations, to register and report with the Federal Election Commission in the same manner as political committees. I support that part of this bill.

However, the Republican Leadership inserted a poison pill into the bill. In the dark of night, the Republican-controlled House Rules Committee added an amendment to roll back current limits on Congressional campaign committee spending in supporting a candidate in a House general election. In 2006, Congressional committees are limited to spending a maximum of \$79,200 in a Congressional race. This amount is set by law and adjusted for inflation. Under current law, Congressional campaign committees possess the authority to spend unlimited amounts on a campaign. Congressional committees must currently borrow and use the limits assigned by law to each party’s national committee and each state party committee. The amended bill will lift current caps and upset the balance of spending.

A second killer amendment eliminates Congressional campaign committee limits on party spending for Congressional candidates. This bill allows each party to accept transfers from other committees within the party structure when spending for a candidate. This change will enable the National Republican Congressional Committee to accept unlimited transfers from the Republican National Committee for use in spending on any Congressional campaign. It is not a coincidence that Republicans outspend Democrats 5:1.

We have just seen the former Republican Majority Leader resign from Congress in disgrace. Another prominent member of the majority party sits in jail for accepting tawdry bribes while selling his office. Prominent administration officials have been arrested or are under indictment. This is not a time to be playing parliamentary games with the ethical process.

And that is why I voted against this shamefully amended version of H.R. 513 today.

Mr. CASTLE. Mr. Speaker, I am proud to join my colleagues in strong support of H.R.

513, the 527 Reform Act of 2006. H.R. 513 takes an important step in closing a “soft-money” loophole by requiring 527 groups to comply with the same federal campaign laws that political parties and political action committees must follow.

In fact, the Federal Election Commission should have already done this. A federal district judge in Washington recently called for action, ruling that the Federal Election Commission had “failed to present a reasoned explanation” for not requiring 527 groups to register as political committees.

H.R. 513 will close this FEC-created loophole that has allowed 527 groups, of both parties, to spend hundreds of millions of dollars in unlimited soft money to influence presidential and congressional elections without complying with campaign finance laws.

During the last election cycle, 527 groups raised \$426 million. Likewise, much of the soft money came from a relatively small number of very wealthy individuals. According to campaign finance scholar Anthony Corrado, just 25 individuals accounted for \$146 million raised by Democratic and Republican 527 groups that spent money to influence the 2004 federal elections. And, we are already seeing an increase in the rate at which 527s are raising money this election cycle.

If the primary role of 527 groups is to influence federal elections, which it clearly is, they must play by the same set of rules that apply to other political groups whose purpose is to spend money to influence federal elections. There should be no exception.

At a time when the public is calling for transparency and accountability, no longer can we tolerate a loophole that allows this type of money from the wealthy few to unfairly influence the political process.

If you voted for the Shays-Meehan/McCain-Feingold Bipartisan Campaign Finance Reform bill in 2002—and 240 of us did—it would be wholly out of step to not support H.R. 513.

I urge all my colleagues to vote in favor of H.R. 513.

Mr. HOLT. Mr. Speaker, I would like to commend the efforts of my colleagues CHRIS SHAYS and MARTY MEEHAN to strengthen elections in this country. However, I oppose the measure they offer today because it seeks to address the wrong problem, and as a result, this proposal squelches participation by individuals and small donors in the electoral process. For that reason, and because there are First Amendment implications as well, I will vote against this measure.

On my first day as a Member of Congress in 1999, I joined the fight for campaign finance reform. I did so because we needed to curtail the influence of money in politics. The Bipartisan Campaign Finance Reform Act (BCRA) was critical to that effort because it eliminated corporate money and capped the size of donations that could be made to political candidates and political parties. These steps made it less likely that elected officials will be beholden to large donors instead of to their constituents.

The critical distinction between BCRA and the proposal before us today is that BCRA limited the amount of money that could go toward political candidates and parties. Today's proposal limits donations to organizations that advocate for a policy or a point of view. That is a radically different approach. Let's remember something: Elected officials are supposed to

hear from their constituents at election time. A group of citizens speaking loudly through the collective action of a 527 is a democracy behaving as it should.

Organizations that attain 527 status under the Internal Revenue Code are dedicated to specific ideals and legislative objectives that they believe are best for America. Some 527s want more investment in education. Some want lower taxes. Some support the right to choose. Others oppose it. None of these organizations, however, may be dedicated to a specific person or party. They may not advocate for or against a specific candidate, nor coordinate their activities with a candidate's campaign. By definition, their involvement is the stuff of political discourse.

As a strong, early, and vocal supporter of the Bipartisan Campaign Finance Reform Act, I agree with the ban on raising and spending unregulated “soft” money by candidates and political parties. BCRA helps prevent elected Members of Congress from developing a “second constituency,” one that is different from their actual constituency, which is the people they represent. However, BCRA did not intend to prohibit robust debate of political ideals, values, and proposals for the betterment of our country. Doing so not only stifles political discourse, it runs afoul of the First Amendment right to speak freely. In February of 2004, I joined several of my colleagues in writing to the Federal Elections Commission (FEC) stating my view that while we need to break the link between unregulated contributions and federal officeholders, we need to protect, preserve, and even increase political involvement by ordinary citizens and independent associations.

If this bill passes, it's important to note who would be affected. According to the Institute for Politics, Democracy and the Internet, 527 fundraising and spending increased fourfold between 2000 and 2004, while at the same time, voter turnout reached an unprecedented high of almost 126 million voters in 2004—15 million more than in 2000. This was largely a direct result of voter registration, education, and mobilization activities organized by 527s. Most importantly, although it has been widely reported that certain wealthy individuals made multi-million dollar contributions to 527s, the vast majority of 527 receipts were from individual donations of under \$200. The liberal 527 organization “America Coming Together,” for example, raised \$80 million in 2004, 80 percent of which was from donations of less than \$200. Similarly, the conservative 527 organization “Progress for America” raised \$45 million in 2004, 85 percent of which was from donations of less than \$200.

These statistics are in stark contrast to much of the debate on this issue. Supporters of the proposal before us today have pointed to wealthy individuals who contributed large sums to 527s as evidence that 527s should be curtailed. My question is this: Even if this bill passes, what is to stop wealthy individuals from simply paying for the same television ads, mail pieces, and organizational efforts on their own, without 527s? If this bill passes, these same individuals will simply spend their money on their own. It is small donors—who, as I said already, are the majority of donors to 527s—who will be denied the benefit of collective action. Squelching 527s will not curb the involvement of wealthy individuals, it will simply make them towering figures on the playing

field of public discourse. This is exactly the wrong outcome.

If we want to tighten issue advocacy, we should do so by enforcing the already existing requirement that 527s remain truly independent of political candidates and parties. Truly independent 527 organizations expand the political debate, increase the public's opportunity to hold elected officials accountable, and increase participation in the political process by ordinary Americans.

The SPEAKER pro tempore (Mr. LAHOOD). All time for debate has expired.

Pursuant to House Resolution 755, the previous question is ordered on the bill, as amended.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Ms. MILLENDER-MCDONALD. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to clause 8 of rule XX, this 15-minute vote on the question of passage will be followed by 5-minute votes on House Resolution 692 and H.R. 3127.

The vote was taken by electronic device, and there were—yeas 218, nays 209, not voting 6, as follows:

[Roll No. 88]

YEAS—218

Aderholt	Coble	Gutknecht
Akin	Cole (OK)	Hall
Alexander	Conaway	Harris
Bachus	Crenshaw	Hart
Baker	Cubin	Hastert
Baldwin	Culberson	Hastings (WA)
Barrett (SC)	Davis (KY)	Hayes
Barton (TX)	Davis, Jo Ann	Hayworth
Bass	Davis, Tom	Hefley
Beauprez	Deal (GA)	Heger
Biggert	DeLay	Hobson
Billirakis	Dent	Hostettler
Bishop (UT)	Diaz-Balart, L.	Hulshof
Blackburn	Diaz-Balart, M.	Hunter
Blunt	Doolittle	Hyde
Boehlert	Drake	Inglis (SC)
Boehner	Dreier	Issa
Bonilla	Duncan	Jenkins
Bonner	Ehlers	Jindal
Bono	Emerson	Johnson (CT)
Boozman	English (PA)	Johnson (IL)
Boren	Everett	Johnson, Sam
Boustany	Feeney	Keller
Bradley (NH)	Ferguson	Kelly
Brady (TX)	Fitzpatrick (PA)	Kennedy (MN)
Brown (SC)	Foley	King (NY)
Brown-Waite,	Forbes	Kingston
Ginny	Fortenberry	Kirk
Burgess	Fox	Kline
Burton (IN)	Frelinghuysen	Knollenberg
Buyer	Gallegly	Kolbe
Calvert	Gerlach	Kuhl (NY)
Camp (MI)	Gibbons	LaHood
Campbell (CA)	Gilchrest	Latham
Cannon	Gillmor	LaTourette
Cantor	Gingrey	Leach
Capito	Goode	Lewis (CA)
Carter	Goodlatte	Lewis (KY)
Case	Granger	Linder
Castle	Graves	LoBiondo
Chabot	Green (WI)	Lucas

Lungren, Daniel E.
 Maloney
 Manzullo
 Marchant
 McCaul (TX)
 McCotter
 McCrery
 McHenry
 McHugh
 McKeon
 Meehan
 Mica
 Miller (FL)
 Miller (MI)
 Miller, Gary
 Moran (KS)
 Murphy
 Musgrave
 Myrick
 Ney
 Northup
 Norwood
 Nunes
 Nussle
 Osborne
 Otter
 Oxley
 Pearce
 Peterson (PA)
 Petri
 Pickering
 Pitts

NAYS—209

Abercrombie
 Ackerman
 Allen
 Andrews
 Baca
 Baird
 Barrow
 Bartlett (MD)
 Bean
 Becerra
 Berkley
 Berman
 Berry
 Bishop (GA)
 Bishop (NY)
 Blumenauer
 Boswell
 Boucher
 Boyd
 Brady (PA)
 Brown (OH)
 Brown, Corrine
 Butterfield
 Capps
 Capuano
 Cardin
 Cardoza
 Carnahan
 Carson
 Chandler
 Chocola
 Clay
 Cleaver
 Clyburn
 Conyers
 Cooper
 Costa
 Costello
 Cramer
 Crowley
 Cuellar
 Cummings
 Davis (AL)
 Davis (CA)
 Davis (FL)
 Davis (IL)
 Davis (TN)
 DeFazio
 DeGette
 Delahunt
 DeLauro
 Dicks
 Dingell
 Doggett
 Doyle
 Edwards
 Emanuel
 Engel
 Eshoo
 Etheridge
 Farr
 Fattah
 Filner
 Flake

Smith (NJ)
 Smith (TX)
 Sodrel
 Souder
 Price (GA)
 Price (OH)
 Putnam
 Radanovich
 Ramstad
 Regula
 Rehberg
 Reichert
 Renzi
 Reynolds
 Rogers (AL)
 Rogers (KY)
 Rogers (MI)
 Rohrabacher
 Royce
 Ryan (WI)
 Ryun (KS)
 Saxton
 Schmidt
 Schwarz (MI)
 Sensenbrenner
 Sessions
 Shaw
 Shays
 Sherwood
 Shimkus
 Shuster
 Simmons
 Simpson

McMorris
 McNulty
 Meek (FL)
 Meeks (NY)
 Melancon
 Michaud
 Millender-
 McDonald
 Miller (NC)
 Miller, George
 Mollohan
 Moore (KS)
 Moore (WI)
 Moran (VA)
 Murtha
 Nadler
 Napolitano
 Neal (MA)
 Neugebauer
 Oberstar
 Obey
 Olver
 Ortiz
 Owens
 Pallone
 Pascarell
 Pastor
 Paul
 Payne
 Pelosi
 Pence
 Peterson (MN)
 Pomeroy
 Price (NC)
 Rahall
 Rangel
 Reyes
 Ross
 Rothman
 Roybal-Allard
 Ruppersberger
 Rush
 Ryan (OH)
 Sabo
 Salazar
 Sánchez, Linda
 T.
 Sanchez, Loretta
 Sanders
 Schiff
 Schwartz (PA)
 Scott (GA)
 Scott (VA)
 Serrano
 Sherman
 Shimkus
 Shuster
 Simmons
 Simpson
 Skelton
 Slaughter
 Smith (NJ)
 Smith (TX)
 Smith (WA)
 Snyder
 Solis
 Spratt
 Stark
 Strickland

Stupak
 Tauscher
 Thompson (CA)
 Thompson (MS)
 Tierney
 Towns
 Udall (CO)
 Udall (NM)
 Van Hollen
 Velázquez
 Visclosky
 Wasserman
 Schultz
 Waters
 Evans
 Hoekstra
 Ros-Lehtinen
 Schakowsky

NOT VOTING—6

□ 1829

Mr. WATT changed his vote from “yea” to “nay.”

Messrs. FORBES, OSBORNE, WELDON of Florida, MANZULLO, and POE changed their vote from “nay” to “yea.”

So the bill was passed. The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

COMMENDING THE PEOPLE OF THE REPUBLIC OF THE MARSHALL ISLANDS FOR THE CONTRIBUTIONS AND SACRIFICES THEY MADE TO THE UNITED STATES NUCLEAR TESTING PROGRAM IN THE MARSHALL ISLANDS

The SPEAKER pro tempore (Mr. DANIEL E. LUNGREN of California). The unfinished business is the question of suspending the rules and agreeing to the resolution, H. Res. 692.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa (Mr. LEACH) that the House suspend the rules and agree to the resolution, H. Res. 692, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 424, nays 0, not voting 8, as follows:

[Roll No. 89]
YEAS—424

Abercrombie
 Ackerman
 Aderholt
 Akin
 Alexander
 Allen
 Andrews
 Baca
 Bachus
 Baird
 Baker
 Baldwin
 Barrett (SC)
 Barrow
 Bartlett (MD)
 Barton (TX)
 Bass
 Bean
 Beauprez
 Becerra
 Berkley
 Berman
 Berry
 Biggert
 Bilirakis
 Bishop (GA)
 Bishop (NY)
 Bishop (UT)
 Blackburn
 Blumenauer
 Blunt
 Boehlert
 Boehner
 Bonilla
 Bonner
 Bono
 Boozman
 Boren
 Boswell
 Boucher
 Boustany
 Boyd
 Bradley (NH)
 Brady (PA)
 Brady (TX)
 Brown (OH)
 Brown (SC)
 Brown, Corrine
 Brown-Waite,
 Ginny
 Burgess
 Burton (IN)
 Butterfield
 Buyer
 Calvert
 Camp (MI)
 Campbell (CA)
 Cannon
 Cantor
 Capito
 Capps
 Capuano
 Cardin
 Cardoza
 Carnahan
 Carson
 Carter
 Case
 Castle
 Chabot
 Chandler
 Chocola
 Clay
 Cleaver
 Clyburn
 Coble
 Cole (OK)
 Conaway
 Conyers
 Cooper
 Costa
 Costello
 Cramer
 Crenshaw
 Crowley
 Cubin
 Cuellar
 Culberson
 Cummings
 Davis (AL)
 Davis (CA)
 Davis (FL)
 Davis (IL)
 Davis (KY)
 Davis (TN)
 Davis, Jo Ann
 Davis, Tom
 Deal (GA)
 DeFazio

DeGette
 Delahunt
 DeLauro
 DeLay
 Dent
 Diaz-Balart, M.
 Dicks
 Dingell
 Doggett
 Doolittle
 Doyle
 Drake
 Dreier
 Duncan
 Edwards
 Ehlers
 Emanuel
 Emerson
 Engel
 English (PA)
 Eshoo
 Etheridge
 Everett
 Farr
 Fattah
 Feeney
 Ferguson
 Filner
 Fitzpatrick (PA)
 Flake
 Foley
 Forbes
 Ford
 Fortenberry
 Fossella
 Fox
 Frank (MA)
 Franks (AZ)
 Frelinghuysen
 Gallegly
 Garrett (NJ)
 Gerlach
 Gibbons
 Gilchrest
 Gillmor
 Gingrey
 Gohmert
 Gonzalez
 Goode
 Goodlatte
 Gordon
 Granger
 Graves
 Green (WI)
 Green, Al
 Green, Gene
 Grijalva
 Gutierrez
 Gutknecht
 Hall
 Harman
 Harris
 Hart
 Hastings (FL)
 Hastings (WA)
 Hayes
 Hayworth
 Hefley
 Hensarling
 Herger
 Hereth
 Higgins
 Hinchey
 Hinojosa
 Hobson
 Holden
 Holt
 Honda
 Hooley
 Hostettler
 Hoyer
 Hulshof
 Hunter
 Hyde
 Inglis (SC)
 Inslee
 Israel
 Issa
 Istook
 Jackson (IL)
 Jackson-Lee
 (TX)
 Jefferson
 Jenkins
 Jindal
 Johnson (CT)
 Johnson (IL)
 Johnson, E. B.
 Johnson, Sam

Osborne
 Otter
 Owens
 Oxley
 Pallone
 Pascarell
 Pastor
 Paul
 Payne
 Pearce
 Pelosi
 Pence
 Peterson (MN)
 Peterson (PA)
 Petri
 Pickering
 Pitts
 Platts
 Poe
 Pombo
 Pomeroy
 Porter
 Price (GA)
 Price (NC)
 Pryce (OH)
 Putnam
 Radanovich
 Rahall
 Ramstad
 Rangel
 Regula
 Rehberg
 Reichert
 Renzi
 Reyes
 Reynolds
 Rogers (AL)
 Rogers (KY)
 Rogers (MI)
 Rohrabacher
 Ross
 Rothman
 Roybal-Allard
 Royce
 Ruppersberger
 Rush
 Ryan (OH)
 Ryan (WI)
 Ryan (KS)
 Salazar
 Sánchez, Linda
 T.
 Sanchez, Loretta
 Sanders
 Saxton
 Schiff
 Schmidt
 Schwartz (PA)
 Schwarz (MI)
 Scott (GA)
 Scott (VA)
 Sensenbrenner
 Serrano
 Sessions
 Shadegg
 Shaw
 Shays
 Sherman
 Sherwood
 Shimkus
 Shuster
 Simmons
 Simpson
 Skelton
 Slaughter
 Smith (NJ)
 Smith (TX)
 Smith (WA)
 Snyder
 Solis
 Souder
 Spratt
 Stark
 Stearns
 Strickland
 Stupak
 Sullivan
 Sweeney
 Tancredo
 Tauscher
 Taylor (MS)
 Taylor (NC)
 Terry
 Thomas
 Nussle
 Oberstar
 Thompson (CA)
 Thompson (MS)
 Thornberry
 Tiahrt

Tiberi	Wamp	Whitfield	Farr	Leach	Ramstad	Wolf	Wu	Young (AK)
Tierney	Wasserman	Wicker	Fattah	Lee	Rangel	Woolsey	Wynn	Young (FL)
Towns	Schultz	Wilson (NM)	Feeney	Levin	Regula			
Turner	Waters	Wilson (SC)	Ferguson	Lewis (CA)	Rehberg			
Udall (CO)	Watt	Wolf	Filner	Lewis (GA)	Reichert	Flake	Kolbe	Paul
Udall (NM)	Waxman	Woolsey	Fitzpatrick (PA)	Lewis (KY)	Renzi			
Upton	Weiner	Wu	Foley	Linder	Reyes			
Van Hollen	Weldon (FL)	Wynn	Forbes	Lipinski	Reynolds	Crenshaw	Herseth	Schakowsky
Velázquez	Weldon (PA)	Young (AK)	Fortenberry	LoBiondo	Rogers (AL)	Diaz-Balart, L.	Hoekstra	Tanner
Visclosky	Weller	Young (FL)	Fossella	Lofgren, Zoe	Rogers (KY)	Dicks	Ros-Lehtinen	Watson
Walden (OR)	Westmoreland		Fox	Lowey	Rogers (MI)	Evans	Ryan (OH)	
Walsh	Wexler		Frank (MA)	Lucas	Rohrabacher	Ford	Sabo	

NOT VOTING—8

Diaz-Balart, L.	Ros-Lehtinen	Tanner
Evans	Sabo	Watson
Hoekstra	Schakowsky	

□ 1838

So (two-thirds of those voting having responded in the affirmative) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

DARFUR PEACE AND ACCOUNTABILITY ACT OF 2006

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 3127, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. SMITH) that the House suspend the rules and pass the bill, H.R. 3127, as amended, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 416, nays 3, not voting 13, as follows:

[Roll No. 90]

YEAS—416

Abercrombie	Boustany	Costa	Ackerman	Boyd	Costello	Aderholt	Bradley (NH)	Cramer	Akin	Brady (PA)	Crowley	Alexander	Brady (TX)	Cubin	Allen	Brown (OH)	Cuellar	Andrews	Brown (SC)	Culberson	Baca	Brown, Corrine	Cummings	Bachus	Brown-Waite,	Davis (AL)	Jenkins	Jindal	Baird	Ginny	Davis (CA)	Johnson (CT)	Baker	Burgess	Davis (FL)	Johnson (IL)	Baldwin	Burton (IN)	Davis (IN)	Johnson, E. B.	Barrett (SC)	Butterfield	Davis (KY)	Johnson, Sam	Barrow	Buyer	Davis (TN)	Jones (NC)	Bartlett (MD)	Calvert	Davis, Jo Ann	Jones (OH)	Barton (TX)	Camp (MI)	Davis, Tom	Kanjorski	Bass	Campbell (CA)	Deal (GA)	Kaptur	Bean	Cannon	DeFazio	Keller	Beauprez	Cantor	DeGette	Kelly	Becerra	Capito	Delahunt	Kennedy (MN)	Berkley	Capps	DeLauro	Kennedy (RI)	Berman	Capuano	DeLay	Kildee	Berry	Cardin	Dent	Kilpatrick (MI)	Biggart	Caroza	Diaz-Balart, M.	Kind	Bilirakis	Carnahan	Dingell	King (IA)	Bishop (GA)	Carson	Doggett	King (NY)	Bishop (NY)	Carter	Doolittle	Kingston	Bishop (UT)	Case	Doyle	Pickering	Blackburn	Castle	Drake	Pitts	Blumenauer	Chabot	Dreier	Platts	Blunt	Chandler	Duncan	Poe	Boehrlert	Chocola	Edwards	Pomero	Boehner	Clay	Ehlers	Porter	Bonilla	Cleaver	Emanuel	Price (GA)	Bonner	Clyburn	Emerson	Price (NC)	Bono	Coble	Engel	Pryce (OH)	Boozman	Cole (OK)	English (PA)	Putnam	Boren	Conaway	Eshoo	Radanovich	Boswell	Conyers	Etheridge	Rahall	Boucher	Cooper	Everett	LaTourette
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NAYS—3

NOT VOTING—13

□ 1846

So (two-thirds of those voting having responded in the affirmative) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT OF INTENTION TO OFFER MOTION TO INSTRUCT CONFEREES ON H.R. 4297, TAX RELIEF EXTENSION RECONCILIATION ACT OF 2005

Mr. CARDIN. Mr. Speaker, under rule XXII, clause 7(c), I hereby announce my intention to offer a motion to instruct on H.R. 4297, the tax reconciliation conference report.

The form of the motion is as follows:

I move that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the Senate amendment to the bill H.R. 4297 be instructed—

(1) to agree to the provisions of section 102 (relating to credit for elective deferrals and ira contributions), and section 108 (relating to extension and modification of research credit), of the Senate amendment,

(2) to agree to the provisions of section 106 of the Senate amendment (relating to extension and increase in minimum tax relief to individuals),

(3) to recede from the provisions of the House bill that extend the lower tax rate on dividends and capital gains that would otherwise terminate at the close of 2008, and

(4) to the maximum extent possible within the scope of conference, to insist on a conference report which will neither increase the Federal budget deficit nor increase the amount of the debt subject to the public debt limit.

ANNOUNCEMENT OF INTENTION TO OFFER MOTION TO INSTRUCT CONFEREES ON H.R. 2830, PENSION PROTECTION ACT OF 2005

Mr. GEORGE MILLER of California. Mr. Speaker, subject to rule XXII, clause 7(c), I hereby announce my intention to offer a motion to instruct on H.R. 2830, pension conference report.

The form of the motion is as follows:

I move that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the Senate amendment to the bill H.R. 2830 be instructed to agree to the provisions contained in the Senate amendment regarding the prohibition of wearaway in connection with conversions to cash balance plans and the establishment of procedures affecting participants' benefits in connection with the conversion to such plans and not to agree to the provisions contained in title VII of the bill as passed the House.

ANNOUNCEMENT BY THE SPEAKER
PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Record votes on postponed questions will be taken tomorrow.

Proceedings on motions to suspend the rules postponed earlier today will also resume tomorrow.

CONGRATULATING NASA ON THE
25TH ANNIVERSARY OF THE
FIRST FLIGHT OF THE SPACE
TRANSPORTATION SYSTEM

Mr. CALVERT. Mr. Speaker, I move to suspend the rules and pass the resolution (H. Con. Res. 366) to congratulate the National Aeronautics and Space Administration on the 25th anniversary of the first flight of the Space Transportation System, to honor Commander John Young and the Pilot Robert Crippen, who flew Space Shuttle *Columbia* on April 12-14, 1981, on its first orbital test flight, and to commend the men and women of the National Aeronautics and Space Administration and all those supporting America's space program for their accomplishments and their role in inspiring the American people.

The Clerk read as follows:

H. CON. RES. 366

Whereas Space Shuttle *Columbia* was the first manned, reusable spacecraft that was flown into orbit without benefit of previous unmanned orbital test flights;

Whereas the Space Shuttle *Columbia* was the first spacecraft to launch with wings, using solid rocket boosters;

Whereas the Space Shuttle *Columbia* was the first reentry spacecraft to land on a conventional runway;

Whereas the Space Shuttle program has allowed the United States to partner with other nations to build and to inhabit the International Space Station;

Whereas the successful return to flight of the Space Shuttle represents the first leg of the Nation's Vision for Space Exploration;

Whereas the men and women of America's Space Shuttle program have been instrumental in ensuring the Nation's preeminence in space exploration for 25 years;

Whereas the very specialized and highly valued workforce of the Space Shuttle program will contribute greatly to the Vision for Space Exploration as we return to the Moon, and go on to Mars and beyond;

Whereas, like the explorers Lewis and Clark who explored our great Nation, John Young and Robert Crippen opened a new era of human exploration beyond our planet; and

Whereas heroes such as John Young and Robert Crippen are a great inspiration to our next generation of Americans as they stimulate interest in the study of math and science: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress—

(1) congratulates the National Aeronautics and Space Administration on the 25th anniversary of the first flight of the Space Transportation System;

(2) honors Commander John Young and the Pilot Robert Crippen, who flew Space Shut-

tle *Columbia* on April 12-14, 1981, on its first orbital test flight; and

(3) commends the men and women of the National Aeronautics and Space Administration and all those supporting America's space program for their accomplishments and their role in inspiring the American people.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. CALVERT) and the gentleman from Washington (Mr. BAIRD) each will control 20 minutes.

The Chair recognizes the gentleman from California.

GENERAL LEAVE

Mr. CALVERT. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks and to include extraneous material on H. Con. Res. 366.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. CALVERT. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. HALL).

(Mr. HALL asked and was given permission to revise and extend his remarks.)

Mr. HALL. Mr. Speaker, I rise today to commemorate the 25th anniversary of the first flight of the Space Shuttle.

On April 12, 1981, Commander John Young and Pilot Robert Crippen launched from the Kennedy Space Center in the Space Shuttle *Columbia*. Their successful 3-day test flight of the manned, reusable spacecraft marked the beginning of a long career for the Space Shuttle that continues today.

Because of the design of the Shuttle, the spacecraft is uniquely qualified to help America build and supply the International Space Station. As we work with our international partners to complete the Space Station, the Shuttle will help us achieve that goal. For 25 years, the men and women of our Shuttle program have done a remarkable job returning the Shuttle to flight year after year to continue America's prominence in space. This resolution not only commends the first flight of the Shuttle, but it also recognizes and honors these dedicated citizens who work every day to this singular goal.

The Shuttle has seen glory and it has seen tragedy. The loss of *Challenger* and *Columbia* remind us that space travel is difficult and dangerous. Astronauts are today's Columboes and Magellans—and their mission is a fragile and dangerous one. And yet, the Space Shuttle program continued on because of the men and women dedicated to the important work of the space program—work that benefits all sectors of society and improves the quality of all our lives.

America now has a new Vision for Space Exploration. We have already achieved the first step in the new Vision for Space Exploration when the Space Shuttle returned to flight last summer. Commander Eileen Collins and her crew successfully executed the 14-day mission into outer space and delivered more than 6 tons of needed supplies to the Space Station. Like many of my colleagues, I am eagerly anticipating the Shuttle's next flight this summer.

I am also looking forward to our next step in the process—the development of a new ve-

hicle to replace the Shuttle. We need to make sure that the transition between these two spacecrafts is as seamless as possible because we cannot afford to lose the very specialized and highly valued Shuttle workforce. We also need to make sure that the new spacecraft includes a crew escape system because our astronauts deserve to be as safe as possible. I am pleased that NASA will require this system on the new crew exploration vehicle, and I will be continuing to monitor that development.

America leads the world in space exploration, and this is due, in large part, to the men and women of the Space Shuttle program. And this is only the beginning. With astronauts like the ones who traveled over the years on the Space Shuttle, and specialists and staff at NASA, America will continue to push frontiers and lead the world in space exploration and discovery.

Mr. CALVERT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, on April 12, 1981, two American heroes, Commander John Young and Pilot Robert Crippen, were strapped into their seats in the Space Shuttle *Columbia* and took off into history, orbiting the Earth for 54 hours, 20 minutes, and 53 seconds. This was the boldest test flight in history.

The space shuttle was the first reusable spacecraft to be flown into orbit without the benefit of previous unmanned orbital test flights, and was the first spacecraft to land on a conventional runway at Edwards Air Force Base in my home State of California.

Like the explorers Lewis and Clark who explored our great Nation and who opened up the West, John Young and Robert Crippen opened a new era of human exploration beyond our planet Earth. Now, as we move forward with the vision for space exploration, the successful return to flight of the space shuttle represents the first step toward going to the Moon, Mars, and beyond.

Today as a Nation, we want to pay tribute to the National Space and Aeronautics Administration on the 25th anniversary of the first flight of the space shuttle. We want to honor Commander John Young and Pilot Robert Crippen, who flew the first Space Shuttle *Columbia*, on April 12-14, 1981, on its first orbital test flight. We want to commend the men and women of NASA and our aerospace industry for the roles they play in inspiring the American people. This is what provides the inspiration to our next generation to study math and science. This is what keeps our Nation competitive.

Mr. Speaker, I reserve the balance of my time.

Mr. BAIRD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to commend my colleague and rise in strong support of H. Con. Res. 366, a resolution to commemorate the first flight of the Space Shuttle STS-1 and to honor its crew, Commander John W. Young and Pilot Robert L. Crippen.

It is hard to believe now, but 25 years have passed since the Space Shuttle *Columbia* took off on its maiden voyage

on April 12, 1981. The space shuttle was the first and remains the only reusable crewed orbital spacecraft in the world, and its design represented a dramatic step towards human space flight.

Parenthetically, I might say I was talking to some of my younger staff today, and we who have been around for a while remember that flight well. But when you try to explain to young people, or to anybody for that matter, that these people were landing in this enormous and weighty bird that had never been tested, and it had no power, never been tested in this kind of conditions and it had no power, you understand the undertaking that these courageous crew members had set themselves up for.

This vehicle, of course, had the capacity to carry twice the crew members of its predecessors, to launch large scientific instruments such as the Hubble Space Telescope, the Compton Gamma Ray Observatory, as well as interplanetary probes like Galileo and Ulysses.

On that same subject, I must say that, personally, I believe the deep space image of Hubble is something that struck me as powerful as the first images we saw of Earth in the early Apollo days. When that telescope looked off into the heavens at a tiny speck and saw thousands of galaxies, it is an awe inspiring sight that I think the entire world should perhaps contemplate what it means to us.

More recently, of course, the shuttle has served as a workhorse for the assembly of the international space station, and on April 12, 1981 those accomplishments were still in the future.

On that day as the space shuttle crew carried two intrepid astronauts, John Young and Robert Crippen, into the heavens on that courageous journey, we all held our breath because therein lay the future of manned space flight and womaned spaced flight as we would later see on shuttles.

We should not underestimate the magnitude of that task. STS was not the first time that the space shuttle would carry a crew of astronauts; it was the first time the space shuttle would be flown into space, period. The willingness of these brave commanders to accept this mission shows that they certainly had the right stuff and it is entirely fitting that this Congress commemorate their accomplishments on this, the 25th anniversary of the first flight of the space shuttle.

I think it is also appropriate to express our appreciation to all of the individuals, whether civil servants or contractors, who have worked so hard over the many years on the space shuttle program and over, particularly, the last quarter century.

Mr. Speaker, I urge my colleagues to support the adoption of H. Con. Res. 366. I hope that action will be followed by speedy adoption in the other body.

Mr. Speaker, I reserve the balance of my time.

Mr. CALVERT. Mr. Speaker, I yield 3 minutes to the gentleman from Texas

(Mr. DELAY), a champion of America's space program.

Mr. DELAY. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, 25 years ago, America and the world were introduced to a new generation of heroes and a new era of human imagination. The moment the Space Shuttle *Columbia* first launched into low-Earth orbit, every other mode of space transportation was rendered obsolete.

The shuttle was then, and remains today, the most dependable and most technologically advanced spacecraft in the world.

In the last quarter century, the shuttle has become a global icon of American ingenuity and American courage. Since Commander John Young and Pilot Robert Crippen took the shuttle's maiden voyage, dozens of men and women, scientists, soldiers and school teachers have followed them in NASA's mission to conquer the unknown. And in that time, 14 shuttle astronauts have been lost in the pursuit of that noble mission, men and women whose names we remember and whose valor we can never forget.

Where I come from, the space shuttle is more than a symbol. It is part of our community. The shuttle's managers, engineers, astronauts, contractors and designers have long called the Houston region their home. They are the people who have made our Johnson Space Center America's "laboratory of the impossible," and for 25 years have stretched both the technological capacity and the collective imagination of the American people.

It is an honor to represent such heroes in this House and it is an honor to cast my vote in favor of this resolution congratulating NASA and America's space community for 25 years of making history and fulfilling dreams. I urge my colleagues to support NASA's heroes and support this resolution.

Mr. BAIRD. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio (Mr. KUCINICH).

(Mr. KUCINICH asked and was given permission to revise and extend his remarks.)

Mr. KUCINICH. Mr. Speaker, I thank the gentleman for yielding me time.

I rise in support of this resolution honoring the Space Shuttle program at NASA on the anniversary of its test flight.

Commander John Young and Pilot Robert Crippen flew Space Shuttle *Columbia* on its first low-earth orbit flight for 3 days. Such a feat was made possible by the world-class workers and supporters of NASA, who are also commended in this resolution.

The Space Shuttle was remarkable in part because it was the first spacecraft to launch with wings, using solid rocket boosters. It was also the first reentry spacecraft to land on a conventional runway. Notice that both these firsts are visual, if not literal, reminders of the strength of the agency itself: NASA excels in both spaceflight and flight in the atmosphere, or aeronautics. It is proof of the value of having an agency that is strong in both fields.

It is unfortunate, then, that the Vision for Space Exploration, which has the potential to

build on the Shuttle successes, has not been adequately funded. Instead, the proposed budget pits the Vision against aeronautics in an internal battle for insufficient funding. In fact, ever since the Vision for Space Exploration was released, there has not been adequate funding for it in the Administration's budget. The result is that other critical NASA programs lose money to the Vision as NASA is forced to pick one important program over another. For example, in FY06, there was a proposed cut in aeronautics of roughly \$60 million. In FY07, that number is \$179 million, despite Congress' clear support in both the appropriations and authorization bills last year. That is a 20 percent cut in 1 year.

This resolution before us today will send a message that Congress is proud of what NASA has accomplished. I urge my colleagues to prove their reverence by working to fund it.

Mr. WELDON of Florida. Mr. Speaker, I rise in support of H. Con. Res. 366 to congratulate NASA on the 25th anniversary of the inaugural Space Shuttle mission.

Twenty-five years ago on April 12th, all Americans were riveted to the activities taking place at Kennedy Space Center. The excitement was even more palpable in my Congressional District—America's Space Coast.

How proud Americans were that day when, after 2 years of training and preparation, Space Shuttle *Columbia* lifted into space, boosted not only by 7 million pounds of thrust but, more importantly, by the ingenuity and imagination of the American people.

America had selected two incredibly capable astronauts for this first shuttle mission—Bob Crippen, a decorated Naval aviator, and John Young, a veteran of the Gemini and Apollo programs. Our Nation needed the best astronauts for this mission since the risks were immense. As the most complex spacecraft ever built, the Shuttle *Columbia* had countless possibilities for error and serious disaster.

STS-1 served as a 2-day test flight of the first reusable, piloted spacecraft's ability to go into orbit and return safely to Earth. NASA's goal was to herald in a new era of spaceflight and it succeeded.

The astronauts are obviously the most visible face on Space Shuttle missions. And while I, like everyone else, extend the utmost praise to Young and Crippen for their extraordinary talent and boldness, it was the highly skilled and competent NASA and contractor workforce that made this shuttle mission possible. As with the astronauts, America needed its best and brightest to build and launch the Space Shuttle back in 1981 and it remains so today.

From the scientists and engineers to the launch crews and contractor personnel, each Shuttle launch is a manifestation of the pride that the people of the Space Coast have in America's space program.

Each launch lifts the spirits of all Americans and nothing gives those from the Space Coast more honor than serving as America's entryway to space. Today, the people of the Space Coast feel as honored to be America's space launch center as they did 25 years ago.

And as a representative from America's Space Coast, I share in the feelings of pride in past achievements as well as the expectation of success in the new NASA missions that will launch from our community.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise today in support of H. Con.

Res. 366, legislation honoring the 25th anniversary of the first flight of the Space Transportation System at NASA.

It is hard to believe that 25 years have passed since Space Shuttle *Columbia* took flight. *Columbia* was the first manned, reusable spacecraft that was flown into orbit.

The heroic courage of *Columbia* astronauts and the NASA scientists and engineers on the ground has inspired a generation of future scientists, engineers and mathematicians.

NASA and the Johnson Space Center have had a tremendous impact on the Texas economy. This partnership has led to the development of many new technologies and is an economic powerhouse for our State.

The Johnson Space Center's combined workforce accounts for 16,000 Texas jobs.

The total economic impact of the Space Center on the State of Texas exceeds over 26,000 employees with personal incomes of over \$2.5 billion and total spending exceeding \$3.5 billion.

NASA also provides \$72 million for grants and contracts to Texas universities and colleges, as well as \$44 million to Texas non-profit organizations.

Mr. Speaker, NASA touches every State in our great Nation, and I believe it is fitting to honor this milestone in NASA's history.

My warm congratulations go to NASA and the Space Shuttle *Columbia*, its crew and team on the ground.

I support this bipartisan legislation and urge my colleagues' support.

Mr. WU. Mr. Speaker, I rise to honor all the men and women who have made our space shuttle program possible. I would like to commend Commander John Young and Pilot Robert Crippen for being pioneers in their field. With the lift-off of the Space Shuttle *Columbia* on April 12, 1981, we were launched into a new era of space flight and exploration. The importance of their mission to our Nation cannot be overestimated.

Our desire to explore space, to go beyond this world, is rooted firmly in a human desire that has existed since the first of us stared into the night sky. It is a desire that has been passed down through human history and has found deep roots in America. We live in a land where pioneers stood on the frontier and bravely journeyed beyond what was known. Our space program continues that proud tradition of accomplishments.

When challenged by President Kennedy to put a man on the moon before the decades end, America could not even put a man into earth's orbit, but we answered the call. We've stood on the Moon, and have begun to unlock many of the secrets of Mars. We could not have come so far without the knowledge and experience gained from the shuttle flights.

With our accomplishments, we've also experienced tragedy. The brave men and women who gave their lives in pursuit of knowledge are a constant reminder that no matter how hard we try to ensure safety, exploration always comes with a risk. As a nation, we should not shirk these risks, just as our forbearers did not. We should use them as guideposts to remind ourselves of the challenges and difficulties of exploring space. The men and women of NASA have taken our dreams and made them real. I thank them for their vision, sacrifice, and dedication.

Mr. MCCAUL of Texas. Mr. Speaker, in 1981, NASA embarked upon a new mission

with an amazing vehicle that would take America's astronauts, satellites and space stations into the next age of man's exploration of the final frontier. Next week we will honor the 25th anniversary of that first Space Shuttle mission and reflect upon the great success of the Space Transportation System.

The Space Shuttle is widely considered the most complex machine ever built, and to date is the only spacecraft capable of putting into orbit large payloads such as the Hubble Telescope and the Chandra X-ray Observatory. It is this capacity that enables NASA and its partners to build the International Space Station, which will pave the way back to the Moon, Mars and beyond.

Accordingly, President Bush has laid out a plan that sets a goal of returning Americans to the Moon within 15 years.

President Bush's "Vision for Space Exploration" is a plan that is again making space exploration an exciting and educational priority for America. He has made it clear, within the next half century America will be the world leader in space exploration.

In this respect, the shuttle program remains an integral part of the President's vision as we continue the return to flight missions, complete the International Space Station and phase in the Crew Exploration Vehicle.

Equally important is the Space Shuttle's role as an icon for manned space flight, a symbol for exploration and an example of man's eternal thirst for knowledge. In this role, the Space Shuttle's mission will never end.

Mr. BAIRD. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. CALVERT. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. CALVERT) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 366.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. CALVERT. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this question will be postponed.

□ 1900

HONORING RECIPIENTS OF NOBEL PRIZES IN PHYSICS AND CHEMISTRY FOR 2005

Mr. EHLERS. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 541) honoring Drs. Roy J. Glauber, John L. Hall, and Theodor W. Hansch for being awarded the Nobel Prize in Physics for 2005, and Drs. Yves Chauvin, Robert H. Grubbs, and Richard R. Schrock for being awarded the Nobel Prize in Chemistry for 2005, and for other purposes.

The Clerk read as follows:

H. RES. 541

Whereas on October 10, 2005, the Royal Swedish Academy of Sciences awarded the Nobel Prize in Physics for 2005 to Drs. Roy J. Glauber, John L. Hall, and Theodor W. Hansch for their pioneering discoveries in the field of optics;

Whereas their contributions to the quantum theory of optical coherence and development of laser-based precision spectroscopy, including the optical frequency comb technique, has led to improvements in the accuracy of precision instruments such as GPS locators, atomic clocks, and navigation systems;

Whereas John L. Hall recently retired from a long career with the National Institute of Standards and Technology (NIST), Quantum Physics Division, and was one of the founding fellows of the JILA, a joint Federal lab/university cooperative effort supporting research and post-graduate training;

Whereas the NIST, founded in 1901, and its laboratories and collaborations with academia have contributed to the achievements of present and past Nobel Prize winners by supporting research that strengthens the global economic competitiveness of the United States through the development of technologies, measurement methods, and standards;

Whereas John L. Hall is one of three NIST researchers to have received a Nobel Prize;

Whereas on October 10, 2005, the Royal Swedish Academy of Sciences awarded the Nobel Prize in Chemistry for 2005 to Drs. Yves Chauvin, Robert H. Grubbs, and Richard R. Schrock for their pioneering discoveries in the field of organic chemistry;

Whereas their research on metathesis reactions and the development of the metathesis method in organic synthesis has resulted in a major advance for "green chemistry" and the development of pharmaceuticals that can be made through methods that are more efficient and generate fewer hazardous wastes: Now, therefore, be it

Resolved, That the House of Representatives—

(1) recognizes and honors Drs. Roy J. Glauber, John L. Hall, and Theodor W. Hansch;

(2) recognizes and honors Drs. Yves Chauvin, Robert H. Grubbs, and Richard R. Schrock; and

(3) acknowledges the importance of National Institute of Standards and Technology research and its contributions to United States industry, academia, and government.

The SPEAKER pro tempore (Mr. DANIEL E. LUNGREN of California). Pursuant to the rule, the gentleman from Michigan (Mr. EHLERS) and the gentleman from Washington (Mr. BAIRD) each will control 20 minutes.

The Chair recognizes the gentleman from Michigan.

GENERAL LEAVE

Mr. EHLERS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and include extraneous material on H. Res. 541, the resolution now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. EHLERS. Mr. Speaker, I yield myself such time as I may consume.

I am very pleased that we are considering this resolution honoring the winners of the 2005 Nobel Prizes in chemistry and physics. This is especially a pleasurable experience for me because I

know two of them personally and have worked with one of them rather closely for a period of over a year.

Our Nation has a long, proud history of pushing forward the boundaries of human knowledge, and few awards bestow more recognition and honor on those who devote their lives to this quest than does the Nobel Prize. As a fellow scientist, I offer to each of the laureates my congratulations and heartfelt appreciation for your outstanding contributions to your fields.

I am particularly honored to offer congratulations to Dr. John Hall for his commendable contributions to the field of laser-based precision spectroscopy. His careful and dedicated work has resulted, among other things, in improved accuracy in vital navigation systems such as the GPS. John's long and noteworthy career includes a founding role as a fellow of JILA, formerly known as the Joint Institute of Laboratory Astrophysics, which is a joint research institute of the National Institute of Standards and Technology and the University of Colorado in Boulder.

It was at that institution where I worked with him doing research in atomic physics, a little nuclear physics and also in science education. I am proud to say that Dr. Hall is a wonderful scientist, and I was delighted to work with him.

I am most pleased as the chairman of the Science Committee Subcommittee on Environment, Technology and Standards, where I oversee NIST, the National Institute of Standards and Technology, to offer John congratulations and wishes for many more years of exciting discovery.

I would also like to point out that this is the third Nobel Prize awarded to scientists at the National Institute of Standards and Technology, which is basically a standard-setting organization, which includes a lot of research on standards; but in spite of the restriction on the research, three individuals from that outstanding organization have now been awarded Nobel Prizes.

Mr. Speaker, I reserve the balance of my time.

Mr. BAIRD. Mr. Speaker, I yield myself such time as I might consume, and I wish to begin by thanking Dr. EHLERS for his distinguished leadership on the committee, on the subcommittee, and it has been a privilege to serve with him. It is nice to have a fellow scientist on the Science Committee who can speak so eloquently to these matters and actually understand the kind of research that these Nobel Prize winners have conducted.

Mr. Speaker, I want to rise in strong support of H. Res. 541, a resolution I introduced along with a number of my colleagues to honor the 2005 Nobel Laureates in the fields of physics and chemistry, as well as to acknowledge the importance of National Institute of Standards and Technology, its research and its contributions to the United

States industry and the academic world and government.

On October 10, 2005, two of America's finest scientists, Richard H. Grubbs and Richard R. Schrock, along with Yves Chauvin of France, shared in the Nobel Prize in chemistry.

The basic research of these scientists was recognized by the Royal Swedish Academy of Sciences as "a great step forward for 'green chemistry,' reducing potentially hazardous waste through smarter production."

Their research on metathesis reactions and the development of the metathesis model in organic synthesis has served as an important tool in the creation of new pharmaceuticals, including drugs that will help fight many of the world's major diseases, including cancer, Alzheimer's and AIDS. They also are used to develop herbicides and new polymers and fuels.

Another scientific prize was also conferred on October 10, 2005.

Again, two American scientists, this time Roy J. Glauber and John L. Hall, along with Theodor W. Hansch of Germany, shared the Nobel Prize in physics.

Their pioneering research in the fields of optics and contributions to the quantum theory of optical coherence and development of laser-based precision spectroscopy, including the optical frequency comb technique, has led to improvements in the accuracy of precision instruments such as GPS locators, atomic clocks, and navigation systems.

It is true this year, as in preceding years, that research conducted at such well-respected universities such as MIT, Harvard, and Caltech has produced Nobel Prize-worthy research. However, what is rarely acknowledged is the work of Federal labs and the additional Federal investment that supports and produces such prize-worthy results from such outstanding scientists.

Such is the case with the work of the National Institute of Standards and Technology, or NIST. Their collaboration with the University of Colorado at Boulder resulted in the third Nobel Prize awarded to an NIST scientist, John Hall, a scientist emeritus from the NIST Quantum Physics Division.

Interestingly enough, NIST was founded in 1901, around the same time as the Nobel Prize Foundation in 1900. Since that time, both institutions have served a similar purpose in supporting research that produces, in the words of Dr. Alfred Nobel, "the greatest benefit to mankind."

NIST, with its laboratories and collaborations with academia, has contributed to the achievements of present and past Nobel Prize winners by supporting research that strengthens the global economic competitiveness of the United States through the development of technologies, measurement methods, and standards.

Today, I am pleased to have the opportunity to honor the work of these

scientists representing academia and research labs from across the globe.

It is my hope that the passage of this bill and continued support for the Nobel Prizes in the fields of chemistry and physics will inspire a new generation of students to eagerly pursue careers in math and science.

Additionally, I believe we must continue our investment in our research infrastructure if we hope to take advantage of the innovative potential emerging from our basic research laboratories.

I am happy that the Optical Society of America, the American Chemical Society and other organizations have supported this bill. These organizations provide a vital service in supporting peer collaboration and career development important for scientific advances and innovation.

I would like to particularly thank our chairman, Chairman BOEHLERT, and Ranking Member GORDON for their support and assistance on this bill, as well as my colleagues Mr. UDALL of Colorado, Mr. EHLERS, Mr. HOLT and Mr. WU for their cosponsorship.

Mr. Speaker, I urge support of H. Res. 541 and urge my colleagues to join me in supporting and honoring the 2005 Nobel Laureates.

Mr. Speaker, I reserve the balance of my time.

Mr. EHLERS. Mr. Speaker, I yield myself such time as I may consume.

This resolution recognizes and honors Drs. Roy J. Glauber, John L. Hall and Theodor W. Hansch for being awarded the Nobel Prize in physics for 2005, and Drs. Yves Chauvin, Robert H. Grubbs and Richard R. Schrock for being awarded the Nobel Prize in chemistry for 2005.

As I mentioned earlier, John Hall is a personal friend of mine, and I have worked with him. Theodor Hansch was also a colleague of mine for some time many years ago, even though we did not work together, and we were not addressing the same issue.

Additionally, the resolution acknowledges the importance of the National Institute of Standards and Technology research and its contributions to U.S. industry, academia and government.

On October 10, 2005, the Royal Swedish Academy of Sciences awarded the Nobel Prize in physics for 2005 to Drs. Roy J. Glauber, John L. Hall and Theodor W. Hansch for their pioneering discoveries in the field of optics. Their contributions to the quantum theory of optical coherence and development of laser-based precision spectroscopy, including the optical frequency comb technique, has led to improvements in the accuracy of precision instruments such as GPS locators, atomic clocks, and navigation systems.

I would love to spend another 10, 15 minutes explaining exactly what that means, but I risk boring you, Mr. Speaker, and the rest of the audience, but let me say it is a fascinating field of research. It has led to great improvements, and people who ask me

how can this possibly be of value should simply look at their TV set and remind themselves of years ago when they turned on the TV set and spent 5 minutes adjusting the hue and the color to get everything correct. The type of work done by these individuals created such accurate time standards that everything went automatically now on their TV set.

That was one minor trivial example of all the benefits that arise from basic research.

Continuing, John L. Hall recently retired from a long career with the National Institute of Standards and Technology, better known as NIST, in the Quantum Physics Division, and was one of the founding fellows of JILA, a joint Federal lab/university cooperative effort supporting research and post-graduate training.

NIST was founded in 1901, and its laboratories and collaborations with academia have contributed to the achievement of present and past Nobel Prize winners by supporting research that strengthens the global economic competitiveness of the United States through the development of technologies, measurement methods and standards. Indeed, NIST used to be known as the National Bureau of Standards and received its more modern name somewhat recently.

John L. Hall is one of three NIST researchers that have received the Nobel Prize.

On October 10, 2005, the Royal Swedish Academy of Sciences awarded the Nobel Prize in chemistry for 2005 to Drs. Yves Chauvin, Robert H. Grubbs and Richard R. Schrock for their pioneering discoveries in the field of organic chemistry. Their research on metathesis reactions and the development of the metathesis method in organic synthesis has resulted in a major advance for "green chemistry" and the development of pharmaceuticals that can be made through methods that are more efficient and generate less hazardous waste.

This is an outstanding advancement, and we must concentrate greater efforts on green chemistry, in other words, chemistry that provides results in fewer residuals that endanger the environment. The Science Committee, I might add, has developed a new bill on this topic, and I am very eager to see that passed into law.

This resolution recognizes and honors Drs. Roy J. Glauber, John L. Hall, and Theodor W. Hansch, Yves Chauvin, Robert H. Grubbs and Richard R. Schrock, and acknowledges the importance of National Institute of Standards and Technology research and its contributions to United States industry, academia and government.

Mr. Speaker, I reserve the balance of my time.

Mr. BAIRD. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio (Mr. KUCINICH).

Mr. KUCINICH. Mr. Speaker, I want to thank the Chair and the ranking

member for this opportunity to speak and thank them for bringing this resolution forward.

I think it is important that this Congress take a stand and make noteworthy the achievements of many men and women of science who in this case have been accorded the highest award of a Nobel Prize in physics and in chemistry. It is manifestly clear that this country needs to put forth an emphasis on scientific achievement.

It is this emphasis on scientific achievement which characterized the Kennedy administration, which gave America vision to shoot for the stars, and it is an emphasis on scientific achievement which will cause more Nobel Prize winners in future to come forward from the United States, not only in physics and chemistry but in economics and literature.

We need to emphasize our quest for knowledge, and in this resolution we are helping to confirm our belief that the quest for knowledge needs to be recognized nationally.

I want to add one more note. Recently the Nobel Prize winner for economics and peace a few years ago, Joseph Stiglitz, made an assessment of what the economic cost would be of the United States' continued presence in Iraq. I think that we need to look at what our Nobel Prize winners tell us about the world in which we live.

□ 1915

They have achieved a level of excellence which can be communicated to Members of Congress and our constituents. They have achieved the level of credibility which we should give credence to, which we are doing this evening with this important resolution.

Mr. EHLERS. Mr. Speaker, I have no further speakers, and I reserve the balance of my time.

Mr. BAIRD. Mr. Speaker, I would close my comments by sharing with Dr. EHLERS the observation of how important this research is. Our Nation, as a whole, just celebrated the men's and women's Final Four, and I am sure many Americans could list the names of who hit the final jump shot and who the star players were. That is fitting and appropriate. But on a daily basis, our lives are affected far more by the basic research conducted by the individuals we are honoring today, as Dr. EHLERS so eloquently put it.

When the GPS system helps keep an aircraft on track, when radar works more efficiently, when medical devices work more successfully, when environmental applications are more efficient, all of that derives from the kinds of basic research that we are acknowledging and recognizing today. And while I think it is unrealistic to expect most Members of this Chamber, or certainly the general public, to know the names or the accomplishments of these individuals, it is absolutely fitting that this body recognize these individuals, and I think especially because some of

them are Federal Government employees who well deserve our recognition and our honor.

And so I join Chairman EHLERS in celebrating them, and I thank him for his support on this and for his leadership in the committee.

Mr. Speaker, I yield back the balance of my time.

Mr. EHLERS. Mr. Speaker, I yield myself such time as I may consume.

I thank the gentleman from Washington for his eloquent comments. He stated it extremely well. And I would like to point out that our basic research programs in the United States have led to incredible discoveries and developments, but also have made incredible contributions to the economy of this Nation.

Just to pick one example, something that happened when I was a graduate student, which is obviously many years ago, about roughly 50 years ago, the development of the laser by a good friend of mine, Charlie Towns. And I did not work with Dr. Towns, but I knew of the experiments, I knew what was going to emerge, I knew that he would discover the laser. And even though I am a scientist, I am in the field, I never envisioned the results of that.

We were all extremely excited at the development of the laser, because it enabled us to do scientific experiments we had only dreamed about doing before. What we didn't realize, or what I didn't realize, is that we would have a world where lasers are ubiquitous; where you would not think of putting in a ceiling tile without having a laser to level the tiles and make it all look good; we would not think of putting in sewer or water mains without lasers to help us align them so that they are in the proper location.

Today, you can go into novelty stores and buy lasers for \$15. Children play with them, cat lovers use them to have cats chase the little red dot around. They are ubiquitous. And out of that small investment from the United States Government in that research, which I would estimate was roughly \$10 million or less, today we have a multibillion dollar industry in the United States.

The problem this Nation faces is that that research is not being supported by this Nation the way it was in the past and we are in danger of losing our leadership because of that. I deeply, deeply appreciate the leadership of President George Bush in announcing in his State of the Union speech the American Competitiveness Initiative, which will help restore our lead in research in this world. It will help provide the education our children need so that they can be leaders in the world.

I strongly urge this Congress to provide the funding that the President has requested so that we can not only maintain, but increase, our leadership in the world and maintain our economic competitiveness and continue to be the giant in the world that we have been so that our people will have jobs and we won't be shipping them abroad.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise today supporting H. Res. 541, legislation honoring the 2005 winners of the Nobel Prizes in Physics and Chemistry.

The Nobel Prize represents the pinnacle of achievement in any academic area.

The 2005 Prize in Physics was awarded to three scientists in the field of optics.

Dr. Roy Glauber was awarded half of the Prize for his theoretical description of the behavior of light particles.

Drs. John Hall and Theodor Haensch share the other half of the Physics Prize for their development of laser-based precision spectroscopy.

The work has enabled the determination of the color of the light of atoms and molecules with great precision.

The 2005 Nobel Prize in Chemistry was shared by Drs. Yves Chauvin, Richard Schrock and Robert Grubbs for their work in the area of metathesis.

Metathesis is important to the chemical industry, mainly in the development of medicines and of certain types of plastic materials.

The Nobel Laureates' work has enabled chemical synthesis to be simpler, more efficient, and more environmentally friendly.

Mr. Speaker, I congratulate the recipients of the Nobel Prizes in Physics and Chemistry and urge my colleagues to support H. Res. 541.

Mr. CALVERT. Mr. Speaker, H. Res. 541 commends the great American ingenuity and level of excellence represented by our National Laboratories, particularly the National Institute of Standards and Technology (NIST), whose work is so consistently stellar that it is often taken for granted.

American John Hall, who is one of the three scientists sharing the Nobel Prize for Physics, is the third NIST scientist to win a Nobel Prize. He is sharing the Prize for Physics with American Roy J. Glauber and German Theodor W. Haensch. Their studies reversed the earlier belief that the quantum theory of the behavior of particles did not describe the behavior of particles of light. These scientists, in fact, have changed the modern understanding of the behavior of light. Their discoveries could allow better GPS systems, better space navigation, and even better digital animation.

The 2005 Nobel Prize for Chemistry was won by American Robert H. Grubbs, from Southern California's California Institute of Technology, American Richard R. Schrock, and Frenchman Yves Chauvin. They made great breakthroughs in their work with olefin metathesis. This is a chemical reaction describing the changing of bonds between atoms.

Their work has great commercial potential in areas like pharmaceuticals, the biotechnology industry, and the foodstuff industry. The great work that these scientists produce contributes to our competitiveness and to our great standard of living.

I want to commend all of these outstanding scientists for their contributions to physics and chemistry and to the Royal Swedish Academy of Scientists for their recognition of their achievements, and to NIST and its laboratories who have supported research that strengthens our global competitiveness through the development of groundbreaking technologies.

Mr. EHLERS. Mr. Speaker, I am pleased to yield back the balance of my time.

The SPEAKER pro tempore (Mr. WESTMORELAND). The question is on the motion offered by the gentleman from Michigan (Mr. EHLERS) that the House suspend the rules and agree to the resolution, H. Res. 541.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

COMMUNICATION FROM SENIOR LEGISLATIVE ASSISTANT OF HON. SAM FARR, MEMBER OF CONGRESS

The Speaker pro tempore laid before the House the following communication from Troy Phillips, Senior Legislative Assistant of the Honorable SAM FARR, Member of Congress:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC., April 5, 2006.

Hon. J. DENNIS HASTERT,
Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: This is to notify you formally, pursuant to Rule VIII of the Rules of the House of Representatives, that I have been served with a grand jury subpoena for testimony issued by the Superior Court of the District of Columbia.

After consultation with the Office of General Counsel, I have determined that compliance with the subpoena is consistent with the precedents and privileges of the House.

Sincerely,

TROY PHILLIPS,
Senior Legislative Assistant.

COMMUNICATION FROM THE HON. J. GRESHAM BARRETT, MEMBER OF CONGRESS

The Speaker pro tempore laid before the House the following communication from the Honorable J. GRESHAM BARRETT, Member of Congress:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC., March 30, 2006.

Hon. J. DENNIS HASTERT,
Speaker, U.S. House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: This is to notify you formally, pursuant to Rule VIII of the Rules of the House of Representatives, that I have been served with a civil subpoena, issued by the Court of Common Pleas for Anderson County, South Carolina, for testimony.

After consultation with the Office of General Counsel, I have determined that compliance with the subpoena is inconsistent with the precedents and privileges of the House.

Sincerely,

J. GRESHAM BARRETT,
Member of Congress.

PARTY OF THE 1 PERCENT

(Mr. McDERMOTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McDERMOTT. Mr. Speaker, it is budget week. Over the past 5 years, the number of Americans falling on hard times has soared. A new analysis of

major Federal Government programs by USA Today confirms the gut-wrenching truth.

Republicans in the White House and the Congress have wielded their political power like a club on America's low income and America's middle class. The single largest increase came in Medicaid, which added 15 million Americans on the President's watch from 2000-2005. Medicaid is the health care program for the poor. It speaks volumes about how the Republican Party has treated low and middle income Americans during this administration.

All but the wealthiest Americans have been left behind by the Republican Party and the Republican budget. This is a party of the 1 percent. The Republican Party deals with what is good for the 1 percent at the top, not what is good for everybody else.

This is not conjecture, it is a grim statistic. Despite this administration's watch, the poverty rate has grown dramatically, as has the budget deficit. Over the last 5 years, the very rich got very much richer. At the same time, the Republicans were giving millionaires new \$100,000 tax breaks, the poverty rate in the United States was climbing to 12.7 percent.

This is a time to think about what the budget says, about your priorities. Remember, they are the party of the 1 percent.

Republicans love the top one percent. They cater to them. They coddle them. They kowtow to them. Republicans are the One Percent Party.

The other 99 percent of America does not matter to the Party of One Percent.

You need proof? Look at health care. Over the last five years, another 15 million Americans have been forced onto Medicaid.

And the Republican health care proposal is the One Percent illusion.

Republicans want everyone to have a Health Savings Account, so you can save all the money that Middle America does not have, to pay for all those health care expenses Middle America cannot possibly afford.

That is the Republican Solution to America's health care crisis.

Last year, they wanted to privatize Social Security to destroy the safety net under our most distinguished citizens.

This year, the President and Republican Party want to anesthetize the Middle Class, so they don't know Republicans want to amputate their financial security with a plan meant to benefit only the rich.

The One Percent Party created Health Savings Accounts because these are new tickets to an all expense-paid tax holiday for the wealthy. They get to save tens of thousands of dollars tax free. The Middle Class gets to watch.

It's like standing outside the window looking in, except we are standing in the middle of a country that is losing its Middle Class.

The nation's number one reason for personal bankruptcy is unpaid medical expenses, but the Republican Party of One Percent can't be bothered with providing every American access to affordable health care coverage.

Republicans have middle class Americans on their knees, and they are praying for change this November.

The Republican Party of One Percent can't respond to the other 99 percent of America.

When hurricanes destroy lives and property in the Gulf Coast, Republicans send condolences instead of competent leaders.

While more vulnerable American children and families fall into poverty, Republicans call for more tax holidays for the wealthy.

When distinguished Americans need help paying for prescription drugs, Republicans have drug companies write the legislation, and forbid the federal government from negotiating cheaper prices for distinguished Americans, every American 65 and older, like my Mom.

The Republican Party of one percent has done more to undermine America's financial security than any administration in history. The Republican Party of one percent uses the word security every chance it gets.

But our Ports are not secure, our environment is not secure, our financial future is not secure, our most vulnerable children are not secure, and America's Middle Class is anything but secure.

The Republican One Percent Party has spent the last five years concerned with only one thing—the top one percent of America.

Poverty is up.

Middle Class wages are down in real dollars.

Health care costs are up.

The number of Americans with health care coverage is down.

Every day, America's Middle Class hurts a little more, and every day the top one percent earn a lot more.

That's Republican math. Divide a nation into the very wealthy and nobody else.

That's the Republican Party of One Percent.

Not all of my Republican colleagues think this way, but they have to vote the way they're told by the White House.

Independence is another one percent illusion.

And that is precisely why the Republican One Percent Party has to receive a one-way ticket out of power this November. They're out of touch with 99 percent of America.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 2005, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

H.R. 4808, THE UNFAIR CHINESE AUTOMOTIVE TARIFF EQUALIZATION ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. JONES) is recognized for 5 minutes.

Mr. JONES of North Carolina. Mr. Speaker, I would like to submit in its entirety for the RECORD a letter from the United States Business and Industry Council at the conclusion of my remarks, but I will be reading from parts of this letter.

Mr. KILDEE and myself have introduced H.R. 4808, the Unfair Chinese Automobile Tariff Equalization Act. I am going to read several paragraphs from this letter that I will submit. It is a letter to me from Mr. Kevin Kearns,

President of the United States Business and Industry Council.

"Dear Representative JONES: On behalf of the 1,500 U.S. companies comprising the U.S. Business and Industry Council, I am writing to express our strong support for H.R. 4808, the Unfair Chinese Automobile Tariff Equalization Act.

"Equalizing U.S. and Chinese tariffs on passenger cars, as the bill would require, is an important and greatly overdue step toward restoring equitable competition in both U.S.-China trade and global automobile trade. Such competition in turn is essential to restoring the health of the U.S.-owned automotive sector, which makes us such a large share of our economy and which has undergirded the American middle class for so many decades."

I am going to skip on with paragraphs, Mr. Speaker. Again, I have asked that this entire letter be submitted for the RECORD.

"In fact, according to the latest data available, imports have grabbed two-thirds of the domestic U.S. auto market in 2004, up from 50 percent just 7 years earlier. Small wonder that Ford and GM are downsizing as fast as they can.

"Much of the blame clearly falls on incompetent trade policies, many of course supported by Detroit itself in a triumph of shortsightedness. Presidents of both parties have signed numerous free trade agreements over the years. But despite the promises made to sell them to an increasingly skeptical public, they have manifestly failed to open foreign markets for U.S. producers, or even to limit predatory foreign commercial practices such as subsidizing, dumping, and exchange rate manipulation.

"In fact, the trade flows clearly shows that the main new accomplishments of these trade agreements have been to help U.S. and foreign-brand automakers alike supply the American market from low-wage export platforms like Mexico.

"As symbolized by the ludicrously unequal auto tariffs left in place by U.S. negotiators of China trade deals, U.S. policy on automotive trade with China is speeding down the same road and will likely produce the same results. The United States still runs a small trade surplus in autos with China, but since 2000, Chinese auto exports to the United States have outpaced the United States vehicle exports to China by a four-to-one ratio.

"The Unfair Chinese Automotive Tariff Equalization Act can begin reversing this process and help put the U.S.-owned auto industry and the domestic manufacturing base as a whole back on the path of high-wage growth not low-wage stagnation. And the time to pass it is now, before the Chinese export drive takes off."

Mr. Speaker, the close on this letter is, "We strongly urge prompt House and Senate passage, and we will do ev-

erything we can to help make it the law of the land."

Mr. Speaker, I also want to mention that the Chair of the caucus known as the House Automotive Caucus has urged Members of this House to support 4808 that is signed by Mr. KILDEE and Mr. UPTON, and we are asking just fairness in this trade issue. That is all we are asking, is that the Congress send a message to the trade negotiators that we in this Congress want our manufacturers and our workers to be treated fairly. That is all we are asking in 4808 is to send a message.

If we could get this bill to the floor of the House and pass this legislation, we would say to our trade negotiators that we need you, the trade negotiators, to make sure that we have fair trade as it relates to the American worker and the American manufacturers.

With that, Mr. Speaker, I want to thank you for this time, and I want to close by asking God to please bless our men and women in uniform, and to ask God to please bless the families and to ask God to please bless America.

UNITED STATES BUSINESS
AND INDUSTRY COUNCIL,
Washington, DC, Mar. 9, 2006.

Congressman WALTER JONES,
House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE JONES: On behalf of the 1,500 domestic U.S. companies comprising the U.S. Business and Industry Council, I am writing to express our strong support for H.R. 4808, The Unfair Chinese Automotive Tariff Equalization Act.

Equalizing U.S. and Chinese tariffs on passenger cars, as the bill would require, is an important and greatly overdue step toward restoring equitable competition in both U.S.-China trade and global automotive trade. Such competition in turn is essential to restoring the health of the U.S.-owned automotive sector, which makes up such a large share of our economy, and which has undergirded the American middle class for so many decades.

For many years, America's trade performance in passenger cars has been nothing less than disastrous. Despite the proliferation of foreign transplant factories throughout the country, the United States ran a \$101.8 billion trade deficit in autos and light trucks in 2005. U.S. imports of these products last year, which totaled more than \$126 billion, represented fully 84 percent of two-way global U.S. vehicle trade.

In fact, according to the latest data available, imports had grabbed two-thirds of the domestic U.S. auto market in 2004, up from 50 percent just seven years earlier. Small wonder that Ford and GM are downsizing as fast as they can.

Much of the blame clearly falls on incompetent trade policies (many, of course, supported by Detroit itself in a triumph of short-sightedness). Presidents of both parties have signed numerous free trade agreements over the years. But despite the promises made to sell them to an increasingly skeptical public, they have manifestly failed to open foreign markets for U.S. producers, or even to limit predatory foreign commercial practices such as subsidization, dumping, and exchange-rate manipulation.

In fact, the trade flows clearly show that the main new accomplishments of these trade agreements have been to help U.S.- and foreign-brand automakers alike supply the American market from low-wage export platforms like Mexico.

As symbolized by the ludicrously unequal auto tariffs left in place by U.S. negotiators of China trade deals, U.S. policy on automotive trade with China is speeding down the same road, and will likely produce the same results. The United States still runs a small trade surplus in autos with China. But since 2000, Chinese auto exports to the U.S. have outpaced U.S. vehicle exports to China by a four-to-one ratio.

Yet it is vital to realize that the development of China as an automotive export platform has only just begun. Vehicle makers from all over the world (Japan, Europe, the United States, and China itself) are building far more auto production capacity in the People's Republic than the Chinese market can possibly absorb. And since China desperately needs to create jobs to keep politically explosive unemployment in check, Beijing has no interest in preventing or even slowing this production glut. Indeed, to reduce joblessness, it has every interest in encouraging overproduction and exporting the surplus. The United States, the world's largest single national automotive market, and the most open major market by far, is the most promising destination.

Chinese auto makers, who frequently steal U.S. know-how outright or force their U.S. partners to transfer it, have already announced plans to sell hundreds of thousands of vehicles in the United States by 2012. And foreign auto makers in China (including U.S. multinational companies) will jump on the export bandwagon as well.

The bottom line is that, without dramatic changes in U.S. trade policy, China's inevitable emergence as an auto export power will either further undermine U.S.-owned, U.S.-based auto production, or it will permit such production to survive only on a greatly reduced scale, and with a dramatically lower pay structure.

The Unfair Chinese Automotive Tariff Equalization Act can begin reversing this process, and help put the U.S.-owned auto industry and the domestic manufacturing base as a whole back on the path of high-wage growth not low-wage stagnation. And the time to pass it is now, before the Chinese export drive takes off.

We strongly urge prompt House and Senate passage, and we will do everything we can to help make it the law of the land.

Sincerely,

KEVIN L. KEARNS,
President.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF HOUSE CONCURRENT RESOLUTION 376, CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2007

Mrs. CAPITO, from the Committee on Rules, submitted a privileged report (Rept. No. 109-405) on the resolution (H. Res. 766) providing for consideration of the concurrent resolution (H. Con. Res. 376) establishing the congressional budget for the United States Government for fiscal year 2007 and setting forth appropriate budgetary levels for fiscal years 2008 through 2011, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION WAIVING REQUIREMENT OF CLAUSE 6(a) OF RULE XIII WITH RESPECT TO CONSIDERATION OF CERTAIN RESOLUTIONS

Mrs. CAPITO, from the Committee on Rules, submitted a privileged report (Rept. No. 109-406) on the resolution (H. Res. 767) waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules, which was referred to the House Calendar and ordered to be printed.

A DYNASTY IS BORN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland (Mr. HOYER) is recognized for 5 minutes.

Mr. HOYER. Mr. Speaker, for years, the University of Maryland Terrapin sports fans have advised our opponents that they should "fear the turtle." Well, tonight, in my opinion, we can alter that formulation somewhat. They should "revere the turtle."

Tonight, Mr. Speaker, I want to extend my congratulations to Coach Brenda Frese and her coaching staff and the University of Maryland Women's Basketball Team on winning the national championship last night with an exciting, nail-biting 78-75 victory in overtime over a talented, courageous Duke University team.

Mr. Speaker, there is a deep, long-standing rivalry between University of Maryland, my alma mater, and Duke University. But I think anyone watching that game last night, regardless of who they were cheering for, had to be unbelievably impressed by the athleticism, the teamwork, the sportsmanship, the determination shown by the women of both teams, the University of Maryland and Duke, two great universities.

□ 1930

Quite simply, this was college athletics at its finest, and I might say, at least in the second half for me, the most entertaining. Who could not be impressed by this awesome display of basketball fundamentals, from shooting, to passing, to rebounding, to sound team defense.

In their come-from-behind win, the Terrapins erased a 13-point second-half deficit. The largest deficit that had been overcome, except for a 14-point deficit, and the freshman guard, Kristi Toliver, hit a 3-point shot with 6.1 seconds left to play, and she hit that shot over an extraordinary center who plays for Duke who is 6 foot 7 fully extended, and she got that shot over her outstretched hand. Kristi is not lacking in confidence, you can tell.

Terp Marissa Coleman said, "We've played like this all year. Nothing gets to us. We never thought we were going to lose this game." That positive psychology led to victory.

The Terps win caps a tremendous 34-4 season and makes Maryland only the

fourth university in America, and the gentleman from Connecticut is here, and Connecticut is one of those universities who has had both of its men's team win the national championship and its women's team win the national championship. They are two extraordinary programs, both the men and women in Connecticut. Stanford is one of those four, and then there are two ACC schools that fit that category, the University of North Carolina and the University of Maryland. Our men's team won the national championship just a few years ago in 2002.

The Lady Terps' championship quest was not paved with ease, however. Before reaching the final matchup with Duke University, the team defeated Sacred Heart 91-80; St. John's, an outstanding program, 81-74; and defending national champion Baylor 82-63; Utah in overtime 75-65; then perennial powers North Carolina, 81-70. And lastly, for the national championship, the extraordinarily good Duke team.

Mr. Speaker, this was a consummate team win for the most unselfish of teams. In this championship game, for example, three Terps scored 16 points each. One scored 12 points, and another scored 10 points. In other words, all five starters were in double figures.

And, what makes this championship win even more impressive is that the Terps have no seniors on their team. They started two freshmen, two sophomores and one junior so we are going to be around for a little bit of time. The Lady Terps are extraordinary young women, proud today, as they will be tomorrow when I think we are visiting the White House. They are: Charmaine Carr; Marissa Coleman; Shay Doron; Laura Harper, who was voted the most outstanding player of the tournament among a lot of outstanding players; Crystal Langhorne, an All American; Kristi Marrone; Kalika France; Ashleigh Newman; Aurelie Noriez; Jade Perry; Angel Ross; Kristi Toliver and Sa'de Wiley-Gatewood.

The coaching staff, in addition to Head Coach Frese, includes Jeff Walz, Erica Floyd, Joanna Bernabei, and Director of Basketball Operations Mark Pearson.

Let me say that Head Coach Frese deserves extraordinary credit for turning the Maryland women's program around in just 4 short years she has been at Maryland. We got her from Minnesota. I know Minnesota is sorry to have lost her, but what a great gain for us. Brenda arrived in College Park in 2003 from the University of Minnesota after leading the Gophers to a 2-8 record in 2002 and being named the Associated Press National Coach of the Year.

In 2003, the Terps went 10-18 in a rebuilding year, and in both 2004 and 2005, just the next season, Brenda Frese saw her teams advance to the second round of the NCAA tournament with records of 18-13 and 22-10 respectively in those years.

Let me also note the extraordinary leadership and vision of the University of Maryland's athletic director, Debbie Yow, who recruited Brenda Frese to take the head coaching job.

My colleagues will be interested to know that some years ago one of the curmudgeons and one of the real characters, and I think one of the most popular Members of this body came up to me, the gentleman from North Carolina (Mr. COBLE) and he said to me, You are a friend of the President of the University of Maryland.

I said, Yes, I am.

He said, Well, you have considered a woman for Athletic Director. Her name is Debbie Yow. She is from North Carolina.

Now this curmudgeon does not always impress me as being a feminist, and I thought to myself if Howard Coble thinks this woman can be the Athletic Director, and I had never met her, but I knew she was an impressive lady.

The next day I picked up the phone and called the President of the College Park campus and said I don't know Debbie Yow, but I will tell you this, in North Carolina she has a Congressman who thinks she is absolutely one of the best talents around. I think we ought to hire here. Within a week we hired Debbie Yow to be our Athletic Director. Shortly thereafter she brought Ralph Friedgen to lead our football team, and he had three 10-win seasons back to back, although we have not done too well the last 2 years.

But in closing, let me say that we are extraordinarily proud of the Lady Terps. As the father of three women in particular, I am proud of the extraordinary talent displayed and the courage displayed and the athleticism displayed by not just the Maryland team but by all of the young women who played the NCAA tournament.

The SPEAKER pro tempore (Mr. WESTMORELAND). Under a previous order of the House, the gentleman from California (Mr. DREIER) is recognized for 5 minutes.

(Mr. DREIER addressed the House. His remarks will appear hereafter in the Extensions of remarks.)

HONORING NANCY TEMPLE

Mrs. MUSGRAVE. Mr. Speaker, I ask unanimous consent to proceed at this time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado?

There was no objection.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Colorado (Mrs. MUSGRAVE) is recognized for 5 minutes.

Mrs. MUSGRAVE. Mr. Speaker, today I rise to honor the memory of Nancy Temple. She was born September 20, 1959 to Milton and Pearl Tormohlen in Fort Morgan, Colorado.

She was the only girl in a family of three and she was a delight to her family, especially her father.

Nancy was a tenacious spirit who had great love for the Lord. She was a dedicated member of her church and displayed a strong faith in the Lord and a strong commitment to her family. Nancy's commitment to family was manifested in everything she did. She was especially fond of children and treated all of them as if they were her own, and they all adored her.

Nancy taught Sunday school in her church and helped out in 4-H clubs and organized the After Prom and the After Graduation parties. She was a key leader in the booster club for both sports and academics at Fort Morgan High School. She worked at Pioneer Elementary School for almost 15 years, and was a leader in the teen parenting program. She received a scholarship to attend college for her involvement in the teen parenting program.

Her passion for life was often manifested in music. Nancy loved musicals, dancing and singing and she played the flute.

Nancy's activity in the community began during her time in Fort Morgan High School where she participated in the Morgan High Singers and the pom-pom squad. She also played volleyball, softball and later she continued to play in the city leagues.

She graduated from high school in 1977 with her classmate Keith Temple who would later become her loving husband. Keith Temple met Nancy Tormohlen while she was waiting tables at the Mouse's House in Brush, Colorado, and their first date was dinner at her brother's home. Keith and Nancy married on April 7, 1979. They would have been married for 27 years this year.

She loved all children and she was blessed to have two of her own. Tiffany was born on June 10, 1983, and Becki was born November 5, 1985. She gained a son-in-law when Tiffany married Matt Wulf, and on January 6, 2003, her grandson, Eric Alan Wulf was born. She was very close to her daughters and son-in-law and had a very special relationship with her little grandson. She brought a light into his life that will shine well beyond her time with him.

Nancy passed away unexpectedly on January 21, 2006. After she passed, members of the community recognized her commitment and honored her for it. Previously, in 2003, Nancy was one of the first recipients of the community's Crystal Apple Award. One of her students commented that she was "my second mom." Another young man serving in the Navy said "Nancy was the only one who kept in contact with me while I was out to sea."

Mr. Speaker, I applaud Nancy Temple's dedication to her community and I urge my colleagues to join me in recognizing the legacy she left behind. She touched the lives of many with her caring spirit. The world was a better place for having known her. We will miss her

dearly. We will always remember her zest for life, her loving heart and her inner and outer beauty. May God bless and comfort those who mourn her passing.

COMMUNICATION FROM EXECUTIVE ASSISTANT OF HON. THADDEUS MCCOTTER, MEMBER OF CONGRESS

The SPEAKER pro tempore laid before the House the following communication from Lisa Subrize, Executive Assistant to the Honorable THADDEUS MCCOTTER, Member of Congress:

HOUSE OF REPRESENTATIVES,

April 5, 2006.

The Hon. J. DENNIS HASTERT,
Speaker, U.S. House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: This is to notify you formally, pursuant to Rule VIII of the Rules of the House of Representatives, that I have been served with a grand jury subpoena for testimony issued by the Superior Court of the District of Columbia.

After consultation with the Office of General Counsel, I have determined that compliance with the subpoena is consistent with the precedents and privileges of the House.

Sincerely,

LISA SUBRIZE,
Executive Assistant.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. PALLONE) is recognized for 5 minutes.

(Mr. PALLONE addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

THE DELPHI MYTH

Mr. KUCINICH. Mr. Speaker, I ask unanimous consent to claim the time of the gentleman from New Jersey.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. KUCINICH) is recognized for 5 minutes.

Mr. KUCINICH. Mr. Speaker, a number of Members of Congress from the Democratic side have come together in a process known as an e-hearing where we have solicited from people across the country their concerns in particular about the auto industry, trade law, labor law and Delphi Corporation filing for bankruptcy.

This evening, a number of us will come before this House to make a presentation on behalf of people who participated in the e-hearing and to make clear the direction this country must go in with respect to our trade law, labor law and with respect to the Delphi case.

I want to begin by thanking the gentleman from California (Mr. GEORGE MILLER) who is the ranking member on our committee for his work in helping to organize this hearing, and hopefully he will be here himself to participate,

but you will be hearing shortly from the gentleman from Ohio (Mr. RYAN) and the gentleman from New Jersey (Mr. HOLT) as well as other Members with respect to the results of our e-hearing.

Much of the talk surrounding the current crisis facing U.S. automakers revolves around the toll that wages, health insurance and pensions place on companies. A loss of these benefits would be a devastating blow for workers and their families. Consider what my constituent, Betty Payer of Parma, Ohio, said during our committee's recent e-hearing.

She said, "The way the auto industry is going affects us in so many different ways. If my husband was to lose his job, we would not be able to raise our children properly. I don't even know how we would be able to give them the proper education. We can barely afford to buy them clothes and get them the things they truly need the way it is. My oldest son is getting ready to turn 3 and he needs speech therapy and physical therapy the way it is. Without insurance, we would not be able to take him to those because we cannot afford to pay for them. He has to go once a week until they see an improvement in him."

That is from Betty Payer of Parma, Ohio.

But the discussion about the auto industry is not served when certain individuals mischaracterize the actual labor costs. There is a myth put forward by the CEO of Delphi about the overpaid auto workers. He is claiming that \$65 per hour is a typical wage Delphi pays for blue color labor. The problem is Delphi doesn't pay \$65 an hour. Rather, this figure is a creation of Delphi's media consultants and it lumps together all of Delphi's labor costs and payments to unemployed and retired workers, but falsely allocates them only to Delphi's much smaller workforce. That inflates the average labor cost.

□ 1945

Actual average wage for current Delphi workers is about \$23 per hour. So whatever Delphi's financial problems, one thing that is not a cause is workers earning \$65 per hour. And it is misleading of Delphi's CEO to say otherwise.

But bad faith characterizes the Delphi CEO. It was bad faith that he filed motions in bankruptcy court to break his labor contracts. Negotiations with the union had not reached an impasse. Rather, the opposite was true. GM and Delphi had just reached an agreement with the union on a Special Attrition Program. Don't you think that one agreement could lead to another?

If Delphi's CEO is notorious for his drive to beat down the wages and benefits workers have won through their unions and impose a wage scale that is more in line with that of China, then he has been greatly helped by the official policy of the United States, both in terms of trade law and labor law.

We have a trade policy that actually permits foreign based companies to export an infinite number of goods and services to the United States, with no expectation that goods and services made in the United States will find buyers overseas. So companies locate in low wage countries, such as China, and export without limit to the U.S. Predictably, the U.S. is, in turn, suffering from a record-sized widening trade deficit with China and the world. Our trade deficit is approaching \$750 billion. Workers are threatened by plant closures, and plant owners can plausibly threaten they are going to move to Mexico where they can find lower wages, lower legal standards, and export to the U.S. what they used to manufacture in the U.S. What is needed is balance. There should be some kind of a balance between our imports and our exports. What we import from China, for example, should be roughly in line with the value of what we export to China. Our trade policies should be guided by what you could call a principle of reciprocity.

We also have a labor policy that enables foreign-owned companies to threaten and intimidate American workers when they try to organize themselves into unions. The leading foreign automakers have plants in the U.S., but they are all non union, thanks to the anti worker slant of U.S. law. That gives them an unfair advantage over the unionized American auto companies. Why do we tolerate giving Honda and Toyota such an advantage in our own country? If workers were allowed join unions, as they do in Canada, when a majority signed cards attesting that that is their wish, foreign auto companies would be less able to squash an organizing effort. Then GM and Toyota would be on a level playing field as far as labor costs were concerned.

Here in Congress, we cannot compel automakers to design cars people want to buy. We hope that they can find the people to design such vehicles. Clearly, the American automakers have made serious errors. Auto workers didn't make the errors because they are told what cars to make.

But we can make sure that the playing field is level so there is fair competition in the auto industry.

Our trade policy, Mr. Speaker, and I am speaking of NAFTA, CAFTA, WTO, for starters, has had a consistent effect. Know what that effect has been? To deindustrialize the United States. We are losing our industry, not because of the laws of nature or the invisible hand, but due to trade policy established here in Congress.

Our labor law is also responsible. American-owned companies are losing market share to foreign-owned transplants because of the viciously anti-worker environment this Congress has unfortunately established.

Mr. Speaker, I look forward to hearing my other colleagues about what we can do to protect American industry and American auto workers.

The SPEAKER pro tempore (Mr. WESTMORELAND). Under a previous order of the House, the gentleman from North Carolina (Mr. MCHENRY) is recognized for 5 minutes.

(Mr. MCHENRY addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

COMMEMORATING THE SECOND ANNIVERSARY OF THE CAPTURE OF SERGEANT KEITH MATTHEW "MATT" MAUPIN IN IRAQ

Mrs. SCHMIDT. Mr. Speaker, I would like to have Mr. MCHENRY's time, please.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mrs. SCHMIDT) is recognized for 5 minutes.

Mrs. SCHMIDT. Mr. Speaker, I rise today in special tribute to Sergeant Keith Matt Maupin, an Army reservist from Batavia, Ohio in my congressional district, who has been missing, captured in Iraq since April 9, 2004, 2 years ago this Sunday.

Matt Maupin's convoy came under attack by Iraqi insurgents, and he has been missing ever since. Matt went to Iraq because he believed in the freedom of the Iraqi people, and to make America a safer place. We are proud of him and his enormous commitment to the ideals of freedom and democracy.

I also represent Matt's parents, Keith and Carolyn Maupin. Keith is a veteran, and Matt's brother, Micah is a Marine. They are a tremendous family, and are an extraordinary example to all of us.

To support all families of the many brave servicemembers in harm's way, Keith and Carolyn Maupin lead a non-profit organization called the Yellow Ribbon Support Network. Offering moral support, helping to raise morale and coordinating communication among families, the Network has literally sent thousands of packages to the military personnel overseas. As I am speaking here tonight, they are working back in Eastgate, Ohio, assembling packages for those brave men and women.

On this second anniversary, we honor Matt Maupin, Keith and Carolyn Maupin, Micah Maupin and the entire Maupin family, and offer our prayers for Matt's safe return home.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. GEORGE MILLER) is recognized for 5 minutes.

(Mr. GEORGE MILLER of California addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

QUOTES FROM OHIO AUTO
WORKERS

Mr. RYAN of Ohio. Mr. Speaker, I ask unanimous consent to speak out of order for 5 minutes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. RYAN) is recognized for 5 minutes.

Mr. RYAN of Ohio. Mr. Speaker, as Mr. KUCINICH said earlier, we are continuing our Delphi E-hearing here, which we are going to share with the House of Representatives and the American people, stories that have come from families who are being affected by the shake-up in the auto industry in the United States of America.

I come from a district in Northeast Ohio, Youngstown, Akron, Warren, home of the original Packard car, the original Packard Electric Company. I would like to share a few stories and make a few comments, Mr. Speaker, because today not only do we have a concentration of Delphi employees in my district, today the local General Motors plant that has been in Lordstown, Ohio since the late 1960s, there was an announcement that 1,200 third shift employees would no longer be working at that facility, and it is tragic news for many, many families. And so we want to bring attention to the United States Congress and to the American people about the communities that are being affected and how the policies here under the big dome aren't exactly addressing the needs.

Let me share with you, Mr. Speaker, a couple of stories from back home. This is a letter. First of all, thank you for letting me voice my opinion. I hope someone will actually read this. I was hired in at GM, Lordstown, in January of 1971, with the negotiated promise that if I came to work for General Motors, I could retire after 30 years of service. It was always said as GM goes, so goes the country. "And I challenge all of you to look back and think of when you were young and innocent. My God, what has happened to the USA? You have the chance to stop this injustice, this rape of the American worker in its tracks. I pray that God give you the courage and wisdom to do the right thing. And isn't that what it is all about, doing the right thing? God help us all."

That is Stephen P. Medici in Lordstown, Ohio.

This is William Ruppel in Cortland, Ohio. "I was in the infantry in Vietnam in 1968. After going to college for a while, I was hired at Delphi Packard Electric in September of 1973. After working there for a while, we agreed in one of our contracts to an attrition. For every three people who retired, the company only had to replace one. This was to help the company's costs and to afford a decent wage. Next came the

movement to Mexico. The jobs would first come to us. We would work out the kinks, and then off to Mexico they would go.

Delphi, Packard Electric's 146,000 employees working for them outside the U.S. is just about exactly how many troops we have fighting in Iraq. Who is more important? Are these men and women who are supposedly fighting for democracy and fairness going to have their wages cut 60 percent, health care and pensions cut, or maybe have no job at all? I was in the infantry in Vietnam in 1968 and I support and sympathize with these brave people.

Do the rich ever get rich enough?"

"I just read where Delphi wants an extension on the reorganizations," said Charlie Stowe from Warren, Ohio. "This is not fair. I want a 30-year extension on my pension."

"With no support," this is Jean Wooler. "I have worked for Delphi Packard Electric for 38 years. It has allowed me to live a good middle class life and to raise my daughter with no support from her father. My daughter is now 21 and in college. I do not live lavishly. I have a 3-bedroom ranch and a nice car. I don't dress extravagantly. I live paycheck to paycheck as a single mother on the wages that I may make."

Mr. Speaker, in closing, let me just say that data has come out now that the Bush tax cut has lowered the tax burden on the richest people in this country. If you made \$10 million a year in 2003, you got \$1 million back, Mr. Speaker, from the Bush tax cut. And if your average income in this country was \$26 million, you paid the same share in taxes as someone that made \$200,000. We need changes, Mr. Speaker.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. POE) is recognized for 5 minutes.

(Mr. POE addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

RECOGNIZING THE 75TH ANNIVERSARY
OF THE TOWN OF
GLADEWATER

Mr. GOHMERT. Mr. Speaker I ask unanimous consent to address the House for 5 minutes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. GOHMERT) is recognized for 5 minutes.

Mr. GOHMERT. Mr. Speaker, I rise today to recognize and celebrate the 75th anniversary of the town of Gladewater, Texas. Gladewater was incorporated on April 18, 1931. That was 11 days after oil was discovered 1 mile outside of town. With the discovery of oil, the town quickly experienced tre-

mendous prosperity. During the 1930s people began to flock to the small East Texas town with the population swelling from 500 to 8,000 strong.

With the depletion of petroleum reserves in the 1980s, the town was forced to attract and develop alternative forms of commerce. Gladewater, once known for its oil production, is now regarded as the antique capitol, with over 250 antique dealers and 16 antique malls. As a result of the Main Street Project and the downtown revitalization, the charming downtown area is now bustling once again with economic activity. Tourists from all over the southeast have now made this small Texas town a travel destination because of its shopping and its many attractions.

Gladewater is a town of leaders with vision and workers with determination. From the nationally famous Gladewater Rodeo to the Fourth of July boat parade on its city lake, to its local merchants and citizens, Gladewater represents the best America has to offer. I congratulate the town of Gladewater on the remarkable first 75 years, with many more to come. It is a pleasure and an honor to be able to serve the citizens of Gladewater in the United States House of Representatives and to have so many of its citizens that I can call my friend.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. DINGELL) is recognized for 5 minutes.

(Mr. DINGELL addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

CRISIS FACING THE AUTOMOBILE
INDUSTRY

Mr. HOLT. Mr. Speaker, I ask unanimous consent to claim Mr. DINGELL's time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. HOLT) is recognized for 5 minutes.

Mr. HOLT. Mr. Speaker, I am pleased to join Mr. RYAN and Mr. KUCINICH in calling attention to the personal stories and the national hardship that is created by these plans to strip workers of their pensions.

Last December Representative MILLER conducted an on-line hearing so that General Motors and Delphi employees would have an opportunity to send to Congress their words about the meaning of these plans to strip them of their pensions and benefits. And the response was powerful.

Let me read from a few New Jersey constituents. Mr. Paluzzi from East Brunswick writes, "I have worked for GM Delphi for 34 years. And during the

hiring process I was given a package of benefits that I was entitled to. This included a pension package that the company said they would control and have for me upon my retirement. As I worked for the company, and union contracts were renegotiated, the pension package was still included. Now it seems, Delphi wants to take back the pensions and the contracts that were signed in good faith, while I and thousands like me, worked to make huge profits for the company. I felt my pension and benefits were secure all those years that I worked here."

Mr. Lauder of Somerset New Jersey wrote, "I have lived in the same area all my life except for the 4 years I served my country in the U.S. Navy on a military leave of absence from GM. I have worked at this facility for 32 years, starting at age 18. The hazards of these plants are well known. The industrial atmosphere that we work in holds many perils, such as dangerous machinery, extreme temperatures, hazardous chemicals, asbestos, et cetera. We were not always aware of some of the hazards and the effect on our health, but over the years, the unions and more responsible government representatives fought for information and equipment to protect us.

These are the types of jobs the American blue collar workforce took to feed, clothe and educate our family in the hopes of creating a better world for them. The deal was that we would do our part to help the corporations rake in billions made off of our sweat and labor, and when our time was up we could look forward to a modest pension and medical benefits."

□ 2000

"A living wage was also part of the deal so we could better the lives of our children so they could grow into healthy, educated, and productive individuals, to be contributors and not burdens on our society.

"That used to be the 'American Way,' the basis for the betterment of our great country and the world. Now it seems the Robber Barons are back."

You can hear the pride and the patriotism that comes through in this testimony from these workers.

Writes another worker: "I've been on this job for 16 years and have been a loyal and dedicated employee from day one. Over the years there have been changes, but this kind of change is a harsh one to swallow. Delphi would like to take away our negotiated benefits and leave my family and me with nothing. I have a son who would like to start college next year. My wife and I have explained to him that this just may not happen right now because of the bankruptcy proceedings that are under way. Please imagine if this was the situation you were in, how would you feel and what would you do?"

Another, Mr. Hagopian from Somerset, New Jersey, writes: "This whole bankruptcy was planned. If you let this happen," the Delphi deal, "every other

U.S. company will do the same thing . . ."

You can hear the pride and patriotism. It comes through so clearly. Now, I ask will those who engineer the plans to strip these workers of their pensions and their benefits ever understand what these men and women are going through?

A NEW BEGINNING FOR THE IRAQI PEOPLE

The SPEAKER pro tempore (Mr. WESTMORELAND). Under a previous order of the House, the gentleman from Connecticut (Mr. SHAYS) is recognized for 5 minutes.

Mr. SHAYS. Mr. Speaker, I want to salute tonight the brave men and women who are fighting in Iraq to bring democracy to the Middle East and hopefully help turn around nations, particularly Arab nations, that the U.N. has said when you add up the gross domestic product of all 22 Arab nations, their gross domestic product is smaller than Italy's. This is a U.N. report that pointed out that in the last 10 years these Arab nations collectively have had declining productivity and that they have not brought forward any inventions or innovations to contribute to world prosperity.

We are in Iraq to help the Iraqi people have a new beginning and hopefully change the face of the Middle East.

I have been to Iraq 11 times, and I have had good visits and I have had bad visits. I have had visits where I have had tremendous hope and then the recognition that we have made some mistakes. In April, 2003, there was tremendous hope. But then we proceeded, unfortunately, to disband their army, their police, and their border patrol, and that resulted in the requirement of American troops and British troops and very few coalition forces to defend 24 million people in a country the size of California.

So what I saw when I went back after April, 2003, when I went in August and then in December and then early in the spring of the next year, things were getting worse. But I began to see it turn around in June of 2004 as we transferred power to the Iraqis. A significant decision. It took it away from Defense and gave it to State Department, and State Department had a better sense of how to help this government, not how to fight the war.

The war is still being fought by our own troops. But as well, we started to train their police, their border patrol, and their army, and they have become very confident.

And what I then saw in 2005 were three elections in Iraq. I was there for the first one. I remember asking if I could stick my finger in that ink jar, and this Kuwaiti woman looked up at me and she said, No. She said, You are not an Iraqi.

That gave me a chill because she did not say I was not a Kurd. She was a Kurd. She said I was not an Iraqi.

And then what I saw was another election. I was there a week before, after now creating a government that was elected, creating a constitution and ratifying this constitution. This constitution was ratified with 79 percent favoring it, and then they proceeded to elect a government at the end of last year.

I can tell you why I know it was a success. The press did not talk about it. Seventy-six percent voted of 100 percent. In other words, of all adults, not the two-thirds that bothered to register, not 76 percent of two-thirds; 76 percent of all adults.

And now we have seen a very dicey moment. The Sunni insurgents are playing their trump card. Not their last straw, not their final gasp. They are playing their trump card, and they may succeed if the Shias give in to sectarian violence. And we are trying to make them understand that they are the majority and they can run this country. Do not allow the Sunni insurgents to get them to do what would be the stupidist thing, to give in to the violence, to give in to a civil war, and then fail.

We are going to leave Iraq when the Iraqis ask us to leave or if they give up. If they give up to the sectarian violence, we will move our troops away from harm's way and we will take them out. But they are so close and they have done so much. I have met such brave Iraqi men and women.

Quickly, one Iraqi man, Al-Alusi, after the election he lost his two sons. His security had been taken away because he had gone to Israel, and he came to visit me later in 2005, and I said, You cannot go back. You are a marked man. You are a dead man walking.

He looked at me with some surprise and said, I have to go back. My country needs me.

Which is to introduce one point I would love to make: When I ask Iraqis what their biggest fear is, it is not the bombing. Their biggest fear is that you will leave us, that you will give us a taste of democracy and then you will leave us.

Let me just conclude by saying this: That very man who went back to Iraq is now an elected member of the assembly. He is a very brave man, and he is typical of the Iraqis who are grasping very hard to have a democracy and to have a better future.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. KILDEE) is recognized for 5 minutes.

(Mr. KILDEE addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Ms. KAPTUR) is recognized for 5 minutes.

(Ms. KAPTUR addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. CONYERS) is recognized for 5 minutes.

(Mr. CONYERS addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. LEVIN) is recognized for 5 minutes.

(Mr. LEVIN addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Ms. KILPATRICK) is recognized for 5 minutes.

(Ms. KILPATRICK of Michigan addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. OWENS) is recognized for 5 minutes.

(Mr. OWENS addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington (Mr. MCDERMOTT) is recognized for 5 minutes.

(Mr. MCDERMOTT addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. EMANUEL) is recognized for 5 minutes.

(Mr. EMANUEL addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland (Mr. CUMMINGS) is recognized for 5 minutes.

(Mr. CUMMINGS addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

THE FEDERAL BUDGET

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 2005, the gentlewoman from Tennessee (Mrs. BLACKBURN) is recognized for 60 minutes as the designee of the majority leader.

Mrs. BLACKBURN. Mr. Speaker, it is budget week here in the U.S. House of Representatives, and sometimes we hear people say, Oh, no, I just dread it when we get around to talking about this budget. And then we will hear others say, I love to just really tackle this budget issue. I love looking at where we spend our money. And I kind of ap-

preciate that attitude because we are the stewards of the taxpayers' money and it is our responsibility to be a good steward and to be diligent in the work we are going to do as we work on this budget and decide what should the priorities of our government be? What should be our concerns? Where should we be looking for ways to achieve a savings?

And over the past several months, actually over the past 3 years, we have come to the floor regularly to talk about waste, fraud, and abuse and find ways and point out ways and to continue to seek ways that we can achieve a savings for the American people.

And from time to time over the past few years, we have talked about lots of different reports. Many different reports from different government agencies, from the General Accounting Office, from some of our friends who are in the media that have pointed out programs that maybe have outlived their usefulness, programs that are wasting money, programs that cannot achieve a clean audit. And some of our colleagues, we have worked on ways that we can go in and investigate and highlight and look at what this drain is on our tax dollars. And we have House committees, certainly the Government Reform Committee, that continue to hold hearings. Oversight and investigations from our Energy and Commerce Committee are certainly looking at ways to achieve a savings and find ways to review how our agencies are spending their money.

We have clear data showing places where the Federal Government is bleeding funds. And the President's budget this year has included more than 100 programs that could and should be targeted, Mr. Speaker. So the target for spending reductions is clearly enormous. We have got 100 programs, 100, that we can look at through so many different agencies and so many different spots in the Federal Government. Now, certainly, out of 100 programs, we are going to be able to find a way to achieve a savings.

One of the interesting things is no matter what part of this country that you are in and no matter whose district that you are in, whether it is a Democrat or a Republican, there is consensus among the American people that we have a problem. Government does not have a revenue problem; government has a spending problem. Government does not have a revenue problem; government has a priority problem. It is time that we begin to fine tune our focus and decide what the priority of government ought to be.

The taxpayers pay far too much of their paycheck in taxes. They are tired of every time somebody comes up with a good idea, they say well let us just go raise the taxes. And, Mr. Speaker, I tell you what, if it were not for the leadership in this House, we would see those taxes going up. If our friends across the aisle had their way, they would be raising taxes, not cutting programs. That

is not where we want to go. We know it is tough to eliminate waste.

I often quote Ronald Reagan, who is pretty close to my favorite President ever, I will have to say that, but one of my favorite remarks he ever made was that when you look at Federal programs, there is nothing so close to eternal life on Earth as a Federal Government program. When you get the thing, it is just the dickens to get rid of it. It is so tough to get rid of it, Mr. Speaker.

Sometimes in my townhall meetings in Tennessee, I will have constituents say, Why is it so tough to get rid of these programs? We see the waste. We know the waste is out there. Everybody knows these programs are wasting money. Why is it so difficult to call them into accountability? Why is it so difficult to get rid of these programs?

And to that, Mr. Speaker, I will have to say if you listen to our colleagues from across the aisle this morning when they gave their 1 minute speeches, then you can see why it is so very difficult for us to downsize this government. Those colleagues across the aisle, Democratic Members, Member after Member, came to the floor this morning, as they do on many days, and they decried our efforts to make reductions in Federal spending.

Mr. Speaker, we spend trillions of dollars to support all sorts of social spending programs; yet any reduction or even holding the line on spending, not increasing anything, just holding the line, all of a sudden it is called a "draconian cut." It is amazing how it works.

Most Americans do not get a massive salary increase every year. But we have colleagues that think if they are not giving every agency an increase every year, then they are getting a cut. It is the most incredible, most incredible, program that you have ever seen. If you do not get an increase, then you are getting a cut.

□ 2015

It does not work that way in real life, only in the bureaucracy. We have to look at this and see that it happens year after year after year.

You know, I don't think that asking the Federal Government to reduce its spending, I don't think asking bureaucrats to be accountable, I don't think asking agencies to be accountable and get clean audits and know where they are spending their money is evil. I don't think it is uncaring. But many of our colleagues across the aisle will come down here and demonize those of us who simply want the spending increases to stop.

I have talked a lot about the Great Society government that was created over 40 years of Democratic control of Congress, and I will have to tell you, yes, indeed, they built an enormous monument, a monument of spending to their party's vision of what government ought to be; a vision in which government solved society's ills and

took care of every problem by spending more money.

Mr. Speaker, you and I know that that vision is a failure. We know it is an absolute failure. You don't solve problems, you don't solve problems, by throwing more money at them. Many times all you do is mask the problem. In the long run, you make it worse, because you are not addressing the causes of the problem.

The move on. Orgs of the world, the Democratic leadership, they don't want to admit this. They want to protect and expand their monumental government, this huge bureaucracy in this town, huge bureaucracy. So many of my constituents get frustrated with it. They want us to break it apart; to send the money, send the power back to our States and back to our local governments. They want to keep their paychecks in their pocket. They don't want the Federal Government to have first right of refusal on it.

They are a little bit confused many times, and understandably so, I think all of us are, of why the Democratic leadership wants to keep, why the liberal leadership wants to keep, a big, big, big bureaucracy in this town. But it is their party's creation. It is their legacy.

I am joined by some colleagues tonight who are going to share some of their thoughts on the great ideas that we can bring to the table to look at how we are spending the Federal Government's money. This party and this leadership is the one that is keeping the attention on spending less and reducing the size of the Federal Government.

Mr. HENSARLING is joining us tonight. He is a member of the Budget Committee, and he has had the Family Budget Protection Act. Mr. HENSARLING is going to open our conversation this evening and talk a little bit about the budget, the work that they have done in the Budget Committee, the process reforms that we are beginning to look at and move forward, and add to the discussion that we are going to have this week as we continue to work on our plan to yield savings for the American people and to reduce the size of the Federal Government.

With that, I yield to the gentleman from Texas.

Mr. HENSARLING. Well, I thank the gentlelady for yielding, and I especially appreciate her leadership in this body on issues of spending, on issues of budget and trying to protect the family budget from the Federal budget. Certainly she is one of the most powerful and articulate Members that we have, helping lead this charge.

Mr. Speaker, it is that time of year again for the United States House of Representatives to consider its budget. To some people, this is about kind of green eyeshade accounting. It is about numbers. Frankly, it is a lot more than that. It is about numbers. But, more important, Mr. Speaker, it is about values.

There are going to be a number of budgets that are going to be introduced by different caucuses, different groups. I myself have written a budget. But at the end of the day, I think, as usual, by history is our guide, this is going to come down to two budgets: The one that was passed by the House Budget Committee, and the Democrat alternative, and this body, and really the American people, are going to be faced with two very different choices that represent fundamentally two very different sets of values.

One budget, our budget, the Budget Committee, the House Republican budget, is going to value the family budget over the Federal budget, because every time somebody grows a Federal program, Mr. Speaker, it takes away from some family program.

Ours will be a budget that values more freedom. Theirs will be a budget that values more government. And we know, as one of our Founding Fathers, Thomas Jefferson, once said, that as government grows, liberty yields.

We want a budget about opportunity that empowers people to go out and use their God-given talents in this wonderful land that we call America, to be able to put food on their table, to put a roof over their head.

Now, many people will say this is the debate about how much we are going to spend on health care and how much are we going to spend on nutrition programs and how much are we going to spend on education programs. To some extent, it is a debate about those subjects.

But the Democrats only value government spending, only government spending. We, Mr. Speaker, value family spending. We want families to do the spending, not government, and we know the difference. So, there will be two very different sets of values that are present presented in this budget debate.

You are going to hear a lot of things in this budget debate. You are going to hear about which budget is the more compassionate of the two. Well, Mr. Speaker, they are going to present essentially a status quo budget, only worse.

Right now, we are facing a fork in the road. If we don't change things, we know that the great entitlement programs of Medicare and Medicaid and Social Security are growing way beyond our ability to pay for them.

The Democrats will present their vision, and they will claim they want to balance the budget, but yet all they want to do is increase spending.

Mr. Speaker, if that is true, if they want to balance the budget, if they want to increase spending, if they refuse to reform any programs, and, Mr. Speaker, we know, we know, we can get better health care, we can get better retirement security at a lower cost. That is a different debate for a different night. If they want to increase government spending, if they refuse any reforms, if they want to bal-

ance the budget, well, Mr. Speaker, the General Accounting Office, the Office of Management and Budget, the Congressional Budget Office, the liberal Brookings Institution, the conservative Heritage Foundation, anybody in America who has looked at this dynamic will tell you that we are on the road to double taxes on the American people if we follow their budget. Double taxes in one generation.

So that is something, Mr. Speaker, as the American people follow this debate, they have to look at quite carefully.

Now, you will also hear a lot about budget cuts. Well, recently I went to Webster's dictionary and looked up the word "cut." It actually means to reduce. That is what it means everywhere in America except Washington, D.C. In Washington, D.C., when we listen to the Democrats, it seems to mean something else. In Washington, D.C., what it means is some program is not growing quite as fast as a big government bureaucrat liberal wants it to grow.

Mr. Speaker, I know you are going to hear a lot about how somehow government spending has been cut over the last few years. Well, don't believe me. Go to the historic tables of the Office of Management and Budget. What you will discover is over the last decade, international affairs has grown by 89.1 percent; science, space and technology spending at the Federal level has grown 49.5 percent; natural resources and environmental spending at the Federal level has grown 43.8 percent; Federal agricultural spending has grown 118.1 percent; Federal transportation spending has grown 83.5 percent. The list goes on and on and on.

Mr. Speaker, over this same time period, guess what? Median family income grew by 33 percent and inflation grew by 25 percent. In other words, government, just over the last decade, just over the last decade, government has been growing far faster than family income.

We are growing the Federal budget way beyond the ability of the family budget to pay for it, and if all we wanted to do was keep government that we had 10 years ago, we would have grown it by inflation. We are growing it at twice the rate of inflation.

So, Mr. Speaker, when we start hearing all these accusations about cuts, we have to remember how America defines that term and how liberal big government Democrats define that term, and those are two very, very different things.

Mr. Speaker, something else you are going to hear as this debate ensues is nowhere in a \$2.8 trillion Federal budget can we find any savings whatsoever for the American people. Well, Mr. Speaker, that is just absurd. Not only is it absurd, we have to find the savings. If we don't find the savings, again, we will either place massive debt on our children or they will be looking at a massive tax increase.

Recently, Mr. Speaker, the Federal Government could not account for \$24.5 billion that it spent just a couple of years ago. It just kind of disappeared into thin air. Federal auditors who are currently examining all Federal programs have reported that 38 percent of them examined have failed to show any positive impact on the populations they serve. Thirty-eight percent are not meeting the stated goals of when Congress published them.

It wasn't that long ago that the Department of Defense wasted \$100 million on unused flight tickets and never bothered to collect the refunds, even though the tickets were refundable. Mr. Speaker, if it is your money or it is my money, my best guess is we are going to go out and get that refund. But, you know, there is a truism, and that is we are never as careful with other people's money as we are with our own.

The Federal Government spends almost \$25 billion annually on what is known as earmarks, pork projects, including the infamous bridge to nowhere, grants to the Rock & Roll Hall of Fame. Hey, I love rock & roll, but, you know what? The last I looked, it was a fairly profitable industry and probably didn't need subsidies from the Federal Government. We had the infamous \$800,000 outhouse, the rain forest in Iowa, and the list goes on and on and on.

In the last year of the Clinton administration, the Department of Housing and Urban Development couldn't account for \$3.3 billion in overpayments. Ten percent of their entire budget just disappeared, 10 percent of their budget. There is no family in America, there is no small business in America, that could just watch 10 percent of their revenues disappear and expect to survive.

We have the Conservation Reserve Program paying farmers \$2 billion annually not to farm their land. We spend over \$60 billion on corporate welfare versus a smaller amount on homeland security.

Mr. Speaker, I could go on all evening, but I have given you this list just to illustrate a handful of items where we could go out and we could find savings.

Again, Mr. Speaker, what is at stake here? What is at stake here is really the kind of America we are going to leave the next generation. Are we going to go with a budget that would take this Nation from \$8 trillion in debt to, who knows, \$11 trillion, \$12 trillion? Or, if we are not going to go the debt route? Are we going to increase taxes on our children, double taxes?

The average American family is paying \$20,000 a year combined in their Federal taxes. That is what we are paying. Are we going to expect our children to pay \$40,000? How are they going to buy a first home or send a kid to college or buy that second car to get that parent to work? Is this the kind of America we want to leave our children?

Mr. Speaker, this is what this debate is all about. You are going to hear a lot about compassion, but, Mr. Speaker, I don't see any compassion in doubling taxes on our children. I see no compassion there whatsoever.

You are going to hear a lot again from the Democrats about how we have to increase this Federal program and that Federal program. I want to remind you, these are the people who voted against any tax relief whatsoever for American families and small businesses.

When we back in 2003 enacted tax relief for small businesses and families, guess what, Mr. Speaker? Five million new jobs were created. Yet the Democrats in their budget, what they want to do is, they believe that somehow paychecks are not about compassion, and yet welfare checks are. The compassion of our society should be defined by how many paychecks we create, how many opportunities there are for men and women to use their God-given talents and to go out and find good productive careers. That is how our budget is going to define compassion.

Their budget is going to define compassion by how much dependency they can create, what kind of labyrinth, what kind of tangled labyrinth of welfare can they make people more dependent upon. We want to empower people. We want to get people off of welfare and on to work so that they can have careers, so they can have opportunities, so they can have freedoms that previously they haven't been able to dream of.

□ 2030

And those are the two different values that are going to be represented in this debate, Mr. Speaker.

Mrs. BLACKBURN. Mr. Speaker, the gentleman from Texas is so right when he talks about the compassion and what is the compassionate thing to do.

Mr. Speaker, in 1994, the Republicans swept in here and took control of this body and have been working ever since to turn this ship around and turn that corner so that we look at how we handled the Federal purse, how we handle the priorities of the Federal Government, how we shift that focus and move it away from saying, let us give government the money, and then task government to go solve all the ills to say, we believe this is government of the people, by the people, and for the people, and we believe the people can solve these problems. They can do it.

We know that most people feel when they see their taxes increase, when they see more of their money going to feed that bureaucracy, they know that their freedom has been cut.

Mr. Speaker, I am joined this evening by Dr. GINGREY, who is a member of the Rules Committee and is going to have a few comments on the budget. Certainly, he is a gentleman who knows of compassion and how we should be working with and for our Federal man.

Mr. Speaker, I yield to the gentleman from Georgia.

Mr. GINGREY. Mr. Speaker, I thank the gentleman from Tennessee. It is really an honor to be part of this hour discussion tonight with some of the most fiscally responsible Members of this body. My Republican colleagues on the Republican Study Committee, that you just heard from the gentleman from Texas, you will be hearing from others, the gentleman from New Jersey, the gentleman from North Carolina, the gentleman from Ohio. These are Members, Mr. Speaker, that get it. As Mr. HENSARLING just said, this is really not green eye shade stuff; this is about people and values, as he so well pointed out. It is about real needs as distinct from just wanting more, more, more.

Mr. Speaker, my dad told me one time when I was just a teenager, he said, "Somebody asked a very rich person one time, what would it take to make him happy?" And the answer was, "Just a little bit more." That is a problem that we have in trying to satisfy all of the wants and not necessarily just the real needs.

Mr. Speaker, my colleagues here tonight and on this side of the aisle are committed to restoring some fiscal sanity to this place, and I commend Mr. HENSARLING in particular. I have told him in private that he is our modern day William Proxmire of the 109th, and indeed, the 108th Congress as we came in together in regarding to ferreting out waste, fraud, and abuse in this Federal Government. In fact, that was our class project that the gentleman from Tennessee and myself and others in the 108th class were determined to do, and that is what we are doing.

Mr. Speaker, we have talked about the other side and what they want to do and their plans. The tax cuts of 2001 and 2003 is an example of what they did not do. They voted no for those tax cuts. They said we cannot do that. That is going to, according to the Congressional Budget Office, when you do this static scoring, we are going to cut taxes, we are going to cut rates for everybody that pay taxes. We are going to lower capital gains, we are going to lower the tax on dividends, which indeed is a double taxation.

We are going to get rid of the marriage tax penalty. We are going to increase child tax credit from \$600 to \$1,000 per child. We are going to finally stomp dead the death tax. As Steve Forbes once said, there should be no taxation without respiration.

We did these things, and the opposition said, well, that is going to cost \$1.3 trillion over 10 years. Mr. Speaker, you know, I know, my colleagues know, I hope the American people know that it did not cost us any money. We gained revenue, something like \$250 billion over 10 years. That is what happened in 1960 under Democratic President Kennedy; it happened in 1980 under my colleague's favorite,

maybe all-time favorite President Reagan. We cut taxes, we raised revenue, and it works. The opposition, they not only oppose that, but they also opposed health care reform, Medicare modernization, Prescription Drug Act. They said that is going to cost \$750 billion over 10 years. But of course, actually, their plan, if we had done what they wanted us to do, would have probably cost \$3 trillion over 10 years.

Mr. Speaker, the fact is, it was only going to cost that money if it did not work. And what we are finding today, as we are getting closer and closer to that deadline of May 15, the 6-month opportunity for seniors to take that option and sign up for prescription drug benefit, we are reaching our goal. We are beyond our goal. Seniors are saying, members of my own family, my mom, my brother, constituents in my district saying, "Thank you, Congressman. We are saving money." I have had people spending \$900 a month who found out they qualified for the low income supplement and now are spending \$27 a month, they are saving \$900 a month.

We wanted to do Social Security reform to give individuals an opportunity to have an individual personal account. What does the other side do? They fight that. They are the party of no, of negative.

But these are the things that this majority and particularly the Members here tonight, Mr. Speaker, are determined to do for the American people: To reform government, to save money, to let people put that money back into the family budget, as Mr. HENSARLING has pushed so hard for.

This budget that we are going to vote on, this 2007 budget is a very fiscally sound, responsible budget. It virtually freezes nondefense discretionary spending at the 2006 level. Again, the other side will say, well, you are taking money away from the school children, you are taking money away from Head Start, you are taking money away from social welfare programs. Not at all, Mr. Speaker. All we are doing is putting a cap on discretionary spending, and then we are saying to the appropriators: You decide where that money needs to be spent. You decide whether cuts really need to be made and whether plus-ups need to be made. And that is the responsible way to do it.

In conclusion I want to say, too, to the chairman of the Budget Committee, the gentleman from Iowa (Mr. NUSSLE) and the great job that he has done and his willingness to include in this 2007 budget a rainy day fund. This is something that all of the Members here tonight who are speaking during this hour have been calling for and for a number of years saying, look, we know every year that we are going to have a hurricane, we are going to have a natural disaster.

It may not be every year, but all of a sudden you go a couple of years and then you have a Katrina. So we need to

fund this based on a 10-year average of how much we spend on a natural disaster and emergency. So this is in the budget, \$4 billion for each of the next 5 years. I think that is absolutely responsible.

In addition to that, we are going to come forward with a line item veto. The President needs it, the Congress wants it, and we are going to get that done. We are also going to have the earmark reforms that Congressman FLAKE has called for shine the light of day on those earmarks, some of which are very good and should be included in the budget; and last but not least, of course, a sunset commission.

Mr. Speaker, as I say, it is an honor. I know we want to hear from our other colleagues on this issue. But I commend the gentlewoman from Tennessee for her continued work on fiscal responsibility and putting together this hour tonight and giving us a chance to weigh in on it.

Mrs. BLACKBURN. I thank the gentleman from Georgia, and I appreciate so much that he calls our attention to some of the issues that are at hand.

Mr. Speaker, for any of our colleagues who are looking for more information on the House budget, they can go to the Web site gop.gov, and pull down the House Budget Resolution fact sheet.

Here is some interesting information on it, and it goes back to what Mr. HENSARLING was talking about on the budget. It is a \$2.7 trillion budget authority. One of the things that is so important in this is when you look at the discretionary, it is a 3.6 percent increase over what we had in fiscal year 2006. We did some interesting things here, and Chairman NUSSLE is to be commended for this. We have a \$50 billion placeholder in here for our war effort cost.

We have money for Katrina or for emergencies such as Katrina. Then we go in and we look at our discretionary spending, a near freeze in nonsecurity discretionary spending. A near freeze. Quite amazing, is not it, when you think about the growth that year after year after year took place. And I would encourage the individuals that are listening to this over TV tonight to call their legislators. Call us. Let us know what we think. We love to hear from you.

We have another Budget Committee member, and leader who is with us tonight, the gentleman from New Jersey (Mr. GARRETT), who is going to have a few things to say, and then we are going to invite some of our other colleagues in.

Mr. GARRETT of New Jersey. Mr. Speaker, I thank the gentlelady for this opportunity. I applaud her for being here not only tonight, but on so many nights when you bring these important issues to the American public. I will be brief, and I just want to go back to one of your very first comments that you made as you began this night's program.

You started out by saying, "I do not know whether people who are listening here tonight are going to be interested on this debate on the budget or whether they are not. Some people are going to be interested, other people are not."

I think the debate that we have here in Congress when it comes down to the Federal budget in reality is absolutely no different than the debate that goes around the kitchen table in the families across America, once, twice, three times a month with regard to the family budget. That is really all we are doing here, is we are just one large family, the American family and the American family budget.

You know, back at home right now, as I say, once or twice a month, people probably sit down as I do with the household checkbook, and you sit there with a stack of bills on the one side and you write out the checks to pay for them, whether it is the electric bill or the gas bill or other utility bills, the rent or the mortgage or other expenses that you have, maybe some more luxurious items, going out to eat or buying videos or other luxuries, a new car or what have you. And, at the end of it, at the end of that evening as you write out that check, you hope that you are able to write out that last check and that there was money in your checking account to pay for all those necessary and extra bills. But if there was not, if at the end of it you look at it and you say, "Gee, there just is not enough money going around this month," what does the American family have to do with their budget? What they have to do is set priorities, set boundaries, set parameters, set a limit as to what they are able to do next month in their budget.

This is nothing different than what the Founding Fathers of this country said. Madison said in Federalist Number 45 that: The powers of the Federal Government are few and limited, but the powers of the States and the people are numerous and indefinite.

For that reason, we come to the Budget Committee and the budget process here in the Federal level realizing that those are limits on us and what we have to do so that we can protect the American family budget.

So I applaud you for doing what needs to be done here, and we can discuss later today and at other times, what are those priorities, and what are those waste, fraud, and abuse, as Mr. HENSARLING has addressed in the past, that we must do to cut out so we put more priorities back into the family budget.

Mrs. BLACKBURN. Mr. Speaker, I thank the gentleman from New Jersey for his thoughts. He is such a thoughtful member of our Republican Conference, and a thoughtful and studious member of the Budget Committee, and the ideas that he brings forth are very important to us, because that is what we bring, ideas. How are we going to work through this process of reducing what the Federal Government spends?

How are we going to work through the process of being certain that Federal agencies are called into accountability for how they spend your money?

□ 2045

This is not the government's money. It is the taxpayers' money, and we need to remember that every single day.

A gentleman who does a great job of reminding us that it is the taxpayers' money is the gentleman from North Carolina (Mr. McHENRY), and at this time I yield to Mr. McHENRY.

Mr. McHENRY. Mr. Speaker, thank you. I certainly appreciate your leadership and support on these budget issue. They are so important to every working family in America and so vital to the debate we are going to have tomorrow and on Friday on the Federal budget here in Washington, D.C.

I also want to commend my colleagues Mr. GINGREY, Mr. GARRETT and Mr. HENSARLING, who I have worked extensively with on budget issues, and I am so happy that Congresswoman SCHMIDT joined us as well.

I think it is important that we let the American people know how we are spending their money and what this debate here in Washington, D.C., on our Federal budget means to average Americans.

The Democrats in the left wing represented here often times in loud ways, but represented here in this body, will scream that Republicans are cutting too much, they are hurting people. They scream, they yell and it is just all about emotion with them, and when you get down to what we are doing as Republicans, as conservatives, as the majority in this House, you see that we are just trying to reform government so it more efficiently provides services for people.

I know the American people would understand, Mr. Speaker, and see that there are programs out there that are no longer fulfilling their purpose or their mission. There are government bureaucrats who are not working as we need them to work. We have useless bureaucracies here in Washington, D.C., that in the name of big government continue to grow and prosper, all the while siphoning off money from every American, every American family.

What we are saying is conservatives have to look at those programs, and if they are not providing a service, if we have empty buildings, that perhaps we need to sell those empty buildings and gain revenue for the Treasury so we do not have to raid the American taxpayers' treasuries and the working families' treasuries.

As conservatives, we understand that this is the American people's money, that it is not, as some in the left would say, the government's money. No, it is the American taxpayers' money, and we need to be diligent on how we spend our tax money, your tax money, my tax money here in Washington, D.C.

I am so happy that we are going to begin this debate because I think the

American people will see the more fiscal party is the Republican Party, and I think they will understand the leadership we are trying to provide to change the direction of the ship of state, and in order to change the direction of a ship, you cannot turn on a dime. We are talking about a \$2.7 trillion budget, so enormous, but if we can just change the direction ever so slightly, it will have an impact over time, and that is what we are trying to begin now, Mr. Speaker.

I want to commend my colleague Congresswoman BLACKBURN from Tennessee for leading this debate, this colloquy here on the floor, and I think she, of everyone here in the House, has been so outspoken in talking about what this means to the taxpayers.

When she goes back to Tennessee, they do not know MARSHA BLACKBURN as the Congresswoman. They know MARSHA BLACKBURN as the leader of fighting taxes in Tennessee, of stopping that income tax that they wanted to put in place in Tennessee just a few years ago, and she is bringing that same leadership here to say, wait a second, let us look at our fiscal house because if we spend recklessly, they are going to tax recklessly, and that means that every American, instead of paying for their children's books, paying for their children's college, providing for their families, their perhaps retired parents or their children coming up, buying a new car or actually owning a home, that they will have to only pay their tax bill instead of doing those things.

So we need to look at how we spend money because that is directly tied to how we take money from the taxpayers. I appreciate your leadership.

Mrs. BLACKBURN. Mr. Speaker, I thank the gentleman from North Carolina, and as he said, it is so important that we keep the attention on both sides of this ledger, that we hone that focus and just target it, what we are taking in and what we are spending.

When we go back and we look at the 2003 tax cuts, we know that 91 million Americans saw a tax reduction of about \$1,100. That is real money. We also know that when government takes more of that paycheck, that the individuals are not making choices, that the government is making choices, and that is where we see a decrease in our freedom.

The gentleman is so correct. It is the debate of ideas and putting new ideas on the table that is so very important, and we are joined, as you mentioned, by the gentlewoman from Ohio (Mrs. SCHMIDT), who has a few thoughts to offer on the line item veto and some of the ideas that are being offered for our budget process, and I yield to the gentlewoman.

Mrs. SCHMIDT. Mr. Speaker, I thank the gentlewoman from Tennessee. I appreciate the opportunity to talk tonight, Mr. Speaker, about an important tool that would I believe help eliminate wasteful spending.

When I was first elected to Congress last August, I pledged to be a fiscal conservative for the residents of the 2nd District of Ohio. Taking a fiscally disciplined approach to government has always been one of my top priorities as an elected official. I am committed, as my colleagues on this side of the aisle are, to seeking out and supporting common-sense measures that promote fiscal responsibility and curb government spending.

That is why I cosponsored and strongly support the Line Item Veto Act of 2006, which the President recently sent to Congress. The line item veto would be a useful tool designed to reduce the budget deficit, improve accountability and ensure that taxpayer dollars are spent wisely.

Many people are surprised to learn that the President currently has no power to remove wasteful or unnecessary spending in appropriations bills or other pieces of legislation that are presented to him. Oftentimes, provisions are slipped into a larger spending bill that never gets discussed or debated. The result is more spending in the Federal budget.

The Legislative Line Item Veto Act would allow the President the authority to line out unjustified spending items, eliminate new entitlement spending from larger legislation, and return the bill to Congress for consideration. The Congress, us, would then have 10 days to vote on each and every proposed cut.

I am proud to say this is a bipartisan issue. Leaders and Members of the Republican and Democratic side of this aisle, in both the House and the Senate, have supported this approach in the past. They have. In fact, in 1996, the Congress gave the President a line-item veto but the Supreme Court struck down that version of the law in 1998 because the Court felt that the act gave the President too much power to change the text of enacted statutes.

But this Line Item Veto Act does not raise those constitutional issues because the President's rescission proposals must be approved by a majority in Congress and signed into law. So we do have congressional oversight.

Forty-three governments, including my own in Ohio, have the line-item veto to reduce spending, and I believe now is the time to give the President of the United States a similar tool to help control spending in the Federal budget.

The line item veto Act is not about giving the President more power or taking power away from Members of Congress. This legislation is about ensuring that hard-earned taxpayer dollars are spent more wisely, and that is our mission, is it not, to spend the taxpayer dollars more wisely, more efficiently, more prudently.

While I do believe that this legislation will go a long way toward identifying and eliminating waste in government, I caution this body to realize this is not the only solution. This is one of many, and I am committed to

working with my colleagues in Congress on both sides of the aisle to seek out other ways to promote fiscal responsibility and curb spending.

Thank you, and I commend my good colleague from Tennessee for taking on this issue and all the Members that are here.

Mrs. BLACKBURN. Mr. Speaker, I thank the gentlewoman, and it is so true. We are to spend wisely, and this week, as we look at this year's budget, there are some things that you will hear us talking, some themes that will bear themselves out as we talk about this budget this week. As I said, you can go to the Budget Committee Web site, through house.gov or go to gop.gov, our colleagues can, and get more information on the budget.

We are going to talk about strength and how we look at strength and security in this budget. We look at defense, homeland security, national security. We are going to talk about spending control, the issue that we have talked about tonight, how we work on waste, fraud and abuse, how we seek that savings and continue to seek that savings for the American people and how we continue to push for reform, so that government avails itself of every possible efficiency, every possible efficiency that is out there to be certain that the taxpayer is receiving the best buy for their dollar.

Mr. Speaker, I yield to the gentleman from New Jersey (Mr. GARRETT).

Mr. GARRETT of New Jersey. Mr. Speaker, I thank the gentlewoman for yielding.

When we talk about the Federal budget, sometimes the numbers are just so large that it goes out of our sphere of understanding, as I was referencing before our conversation with regard to the family budget and the dollars that they spend there, but at the end of the day the issue has really come down to the exact same thing, and that is, are you taking in as much money, income, your paycheck, what have you, through Federal tax revenues as you are paying out at the end of the day? Do you have a balanced budget? Do you have a paycheck?

That is a problem for the American family. This is a problem for the States, as well as the gentlewoman knows I come from the great State of New Jersey, and people from New Jersey know right now our State is having a difficult time with the State budget. Other people are looking in and they realize we are having a difficult time with the State budget. We have a new Governor who is trying to deal with this issue. As a matter of fact, in the State of New Jersey, we are looking at a \$6 billion shortfall in revenue coming in. What that means is that we have less money coming in than is going out at the end of the day for the State treasurer when he writes out his checkbook at the end of each day.

But what the State of New Jersey has to do now, of course, is the same thing as the family budget. That is, they

have to set priorities, boundaries or limits, but so, too, does the Federal Government.

The Federal Government is basically on some of the items that you have already raised. We have to decide what are the priorities of the Federal Government.

I think one major word that you described for almost all of them is security: homeland security, economic security.

In the area of homeland security, if you look at the budget that came out of the Budget Committee that I serve on, we are planning to spend a 3.8 percent increase in homeland security to make sure that Americans at home feel more secure, that our borders are secure, that the Department of Homeland Security and the people that work for them have adequate money in order to get the job done.

Another area, of course, for us in the area of security is defense. We want to make sure that we are able to protect our Nation, protect the freedoms and the liberties that our Fore Fathers have fought and other generations have fought since that time. For that reason, in this budget, we will be seeing a 7 percent increase in defense.

Veterans, of course, is another area that this budget does not skimp on at all, and I think the gentleman from Texas gave some of the numbers before as far as the policy and the goals of this administration and of this Republican Congress to make sure that our veterans are adequately taken care of and protected.

So this budget does continue what this Republican Congress has done in the past. It sets out what the appropriate priorities have got to be for this Congress and for this Nation, and once we establish those priorities, we can establish our spending.

Mrs. BLACKBURN. Mr. Speaker, the gentleman talked about priorities and where the priorities are in this budget. I think that is one of things that our colleagues will want to watch over the next couple of the days because over the past decade, we saw discretionary spending increase by an average of 7 percent each year. What we have done in last year's budget and this budget is to come to a near freeze in nonsecurity discretionary spending.

□ 2100

And that is so important, because that points to the priorities that you have mentioned and the gentleman from Texas has mentioned and the gentleman from North Carolina has mentioned.

Mr. GARRETT of New Jersey. And if the gentleman will yield. After any one, a State or a family or the Federal Government sets its priorities, the second half of the equation then must be what are the items that don't rise to that level of a significant priority? Where are those areas, again as Mr. HENSARLING referred to that we can begin to say maybe we should not be

spending all the money that we have been in the past. And I would humbly suggest a couple that I would at least suggest that may not be the top priorities.

Some of the areas where we could see some savings, for example, the Great Ape Conservation program, the Rhinoceros and Tiger Conservation program, the African Elephant Conservation program. Certain areas and important issues, I am sure, but when you compare them against making sure our veterans have the TRICARE services they need, I would say they pale in comparison.

How about the exchanges with Historic Whaling and Trading Partners program, or the Native Hawaiian Vocational Educational program, or the Native Hawaii Health Care program, for that matter.

Mrs. BLACKBURN. If the gentleman will yield, earlier we talked about our colleagues across the aisle and this morning how they were bemoaning the fact that we were going to freeze spending or reduce spending, or if they weren't going to get everything they wanted, then it is considered a cut. Now that is government speak, as the gentleman from Texas said. That is government speak. It is not really a cut.

But we have to realize that every single time, every single time we start to make reductions in what the Federal Government spends, there are some who try to keep us from doing that. And their answer is always, we need more money. Government can't afford that cut. Government can't afford that tax reduction.

And as you said, it is so important that we differentiate between this.

Mr. MCHENRY. If the gentlewoman will yield, and I thank Congresswoman BLACKBURN.

This is one of the things they always say on the other side, if you cut taxes, you are going to cut revenue to the government. Now, that is absolutely misunderstood. Because as we know, the Bush tax cuts have fueled the economy and government returns, tax returns, the money sent to government because people are working, those things have gone through the roof. And I will yield to the gentleman if he has something to add to that.

Mr. GARRETT of New Jersey. If the gentleman has yielded.

Mr. MCHENRY. Absolutely.

Mr. GARRETT of New Jersey. Normally, the press and the media would say that if you had unemployment under 6 percent that you are doing good. We have seen because of the actions of this Republican Congress in cutting the taxes and returning the money to the family budget, as opposed to keeping it here in Washington for the Federal budget, we now see unemployment in this Nation around 4.7 percent.

Normally, the press and the national media would say if you have growth in the economy of around 2 percent that

you would be doing good. Well, we, of course, know that because of those tax cuts that you referenced just a moment ago, we have seen the growth in the economy of over 3 percent for the last 11 straight quarters. So it is because of this pro-growth economic policy you just set forth that we are seeing the economy grow.

And by having a strong national economy, obviously it is helping the revenue stream on this side and obviously it also affects the family budget.

Mr. MCHENRY. If the gentleman will yield.

Mr. GARRETT of New Jersey. I yield back.

Mr. MCHENRY. This is one of the great discussions of the day. If you cut taxes does government get less in income or taxation? What we have seen through the tax cuts is it is a pro-growth policy. We allow people to keep more of what they earn, therefore they can actually provide for their child. They can go out this time of year and buy shorts and T-shirts and tennis shoes for the kids.

Mrs. BLACKBURN. If the gentleman can yield for just a second.

Mr. MCHENRY. Absolutely.

Mrs. BLACKBURN. I want to yield to the gentleman from Texas, because I think it is important for us to bring the deficit back into this. We are allowing the taxpayer to keep more of their paycheck, and the tax reductions in 2001 and 2003 certainly have done that. The gentleman from Texas can talk for a moment about the deficit and how we are speeding along and reducing that deficit faster than we had originally thought that we were because of the growth in taxes and because of the changes we have made in budgeting.

Mr. HENSARLING. Again, I thank the gentlewoman for yielding. It is a very important point that we are going to have in this debate. Number one, there is no doubt that our colleagues on the other side of the aisle will be talking about tax cuts are bad; we can't have any more tax cuts.

Well, first, Mr. Speaker, nobody is talking today about any more tax cuts. Unfortunately, in this very odd budget process we have in Washington, tax relief is temporary and spending is forever. The only thing we are trying to do, Mr. Speaker, is make sure that the American people don't have a huge automatic tax increase brought about by the Democrats.

They will tell you, my Lord, if we allow the American people, if we allow small businesses to keep more of what they earn, that is going to cost government. Well, number one, Mr. Speaker, it is not the government's money, it is the people's money.

Second of all, we have given tax relief to American families and small businesses. And, guess what? The deficit starts to come down. Revenues are up. Again, don't take my word for it, go to the United States Treasury and here is what they will tell you. We cut

marginal rates in 2003. We helped small businesses. We helped families. We cut tax rates. And guess what? We ended up with more tax revenue. More tax revenue.

Individual tax receipts were up 14.6 percent. Corporate tax receipts were up 47 percent. A huge boon of revenue. That brings the deficit down because people are going out and they are saving and they are working and they are rolling up their sleeves and they are building new businesses. In just this year, in the first few months of this fiscal year, corporate tax receipts are up 29.6 percent. Again, don't take my word for it, go to the U.S. Treasury.

Mr. GARRETT of New Jersey. Will the gentleman yield?

Mr. HENSARLING. I would be glad to yield to my friend from New Jersey.

Mr. GARRETT of New Jersey. Just for a quick point. I don't normally do this, but I would reference you to The New York Times and today's edition, because they verify that too. You can't go by what their headlines say, because their headline is a little misleading. But they did an article in the business section in The New York Times today saying who benefitted from the tax cuts that this Republican-led GOP Congress and this administration passed. And if you get beyond the headlines and you dig down into the weeds, even The New York Times admits that the benefits to them are to the middle class and the lower class, as opposed to the higher incomes, as the other side would argue.

Mrs. BLACKBURN. If the gentlemen will yield. As we wrap up our hour, I want to bring it right back to where we started, talking about the compassionate thing to do is to let the American taxpayer keep their paycheck, be certain that they have first right of refusal on that paycheck and not the Federal Government.

I also want to encourage our constituents to talk to us and our colleagues, to talk to our constituents so that we are certain that everyone understands our goal as the majority party here in this House is to be certain that we preserve individual freedom, that we preserve hope and opportunity, and that we allow the American taxpayer to keep control of their paycheck. And that as stewards of the taxpayers' money, that we are good and accountable stewards.

30-SOMETHING WORKING GROUP

The SPEAKER pro tempore (Mr. FORTENBERRY). Under the Speaker's announced policy of January 4, 2005, the gentleman from Florida (Mr. MEEK) is recognized for 60 minutes as the designee of the minority leader.

Mr. MEEK of Florida. Mr. Speaker, it is an honor to address the House once again. As you know, those of us that are in the 30-something Working Group come to the floor if not nightly, every other day to share not only with the Members but the American people

about what is happening here, what is really happening here under the Capitol dome.

Unfortunately, many times we have to share bad news, but at other times we share very good news, the good news of saying there could possibly be a brighter future. Either one of two ways, Mr. Speaker, either the Republican majority says, hey, we want to work with the Democrats in a bipartisan way on issues such as national security, education, tax reform, issues that we can all rally around, health care for American workers, making sure that American companies wouldn't have to do what they did in Congressman TIM RYAN's district when the third shift showed up for work and they said there will no longer be a third shift. That is a problem, and that is something that we have to work on in a bipartisan way.

Or, Mr. Speaker, the American people can make the decision that they are willing to go with a Democratic House of Representatives and a Democratic Senate to move us in the direction of working together on behalf of all Americans.

First, we have to deal with the issue of incompetence, we have to deal with the issue of corruption, we have to deal with the issue of cronyism in many areas, and we have to deal with the issue of governance. And I think it is very, very important as we outline a number of these issues here tonight and also pepper it with Democratic proposals that we will hopefully be able to turn the tide in many of these areas.

Mr. DELAHUNT, my good friend from Massachusetts, and my good friend from New Jersey, and we are going to have another good friend from Ohio, and a gentlelady from Florida, and we may have some folks from Texas come in tonight, because we said last night, Mr. Speaker, that this is almost not fair. Some would believe that we just make up this information, that happens to be fact. And it is sad that it is fact.

If I was looking at this as some sort of political reason why we come to the floor to share what we believe the situation may be, it would be one thing, but we come to the floor and pull the CONGRESSIONAL RECORD. We come to the floor to talk about a vote that just took place yesterday. We come to the floor with fresh statements from Members of the Republican, former members of the Republican Caucus, and also a past Speaker that gave birth to the Republican majority, making statements to the press of saying, listen, as an American, I have to say something. Not as a Republican. I have to say something. When you are the Speaker, you are the leader.

Mr. DELAHUNT. Mr. MEEK, if the gentleman would yield.

Mr. MEEK of Florida. I would certainly yield.

Mr. DELAHUNT. I think you are talking about Newt Gingrich, who was the father, if you will, of the Gingrich

revolution back in 1994. And, in fact, my friend and classmate, because we came in together into the House of Representatives back in January of 1997, STEVE ROTHMAN, we were here when Newt Gingrich presided over this House.

Both STEVE and I can attest that this was a man who was partisan, very conservative, and when you hear him saying, and this is as recent as this past Friday, "they," and by "they," he is referring to the Republican majority in this House, "they are seen by the country as being in charge of a government that can't function."

Mr. ROTHMAN. Can I first say a couple of things? I want to first thank Congressman MEEK and yourself, my dear friend Congressman DELAHUNT. We started out in Congress 9½ years ago. We are delighted to welcome this very bright young man who is now a veteran Congressman.

I represent, I suppose, the 50-some-things. I know, BILL, you are probably still 30-something. But I have been watching you young people, and Ms. WASSERMAN SCHULTZ and others, and I have always been jumping up at my television saying, gee, I wish I had the time to add my voice. Well, something happened yesterday, gentlemen, and Mr. Speaker, that so outraged me that I had to come to the floor to speak about it.

Actually, it was this past week. We had the commissioner of the IRS, Mr. Everson, before us. He announced that he was going to, according to the President's policy, in order to collect some taxes that were acknowledged to be due by the taxpayers, the IRS is now going to hire private collection firms to collect the taxes of United States citizens.

It gets worse. Private tax collecting firms collecting taxes due by United States citizens to the IRS are going to charge up to 25 percent commission. A 25 percent commission. So for every dollar they collect from the taxpayer, they are going to keep 25 cents.

Now, what is interesting is, I asked certain questions and I discovered that a Federal employee in the Internal Revenue Service who collects taxes, their overhead is about 5 cents on the dollar. Five cents on the dollar. The private collection agencies are going to get 25 cents on the dollar.

So I asked the Commissioner of the Internal Revenue Service, I said, Mr. Commissioner, why are you giving away taxpayer money? Federal employees to collect taxes costs 5 cents on the dollar, you are giving 25 cents on the dollar to a private firm to collect these taxes. Why are you giving away 20 cents of our money?

□ 2115

He said, Well, you know, the President doesn't like big government and so we are going to privatize it, in essence he was saying. We are going to give it to the private sector so we do not have it on our books that we are paying people to collect taxes.

I said, Wait a minute, the bottom line is you are wasting money, am I correct, sir?

And he said, Yes, we are.

I said, Wouldn't it make sense, Mr. Commissioner of the IRS, and by the way, we have been carrying hundreds of billions of dollars of receivables from taxpayers who didn't pay their taxes on our books for decades. So if we hired some Federal employees to add to the IRS to collect taxes, they would have plenty of work for their whole career. Isn't this a waste of money, Mr. Commissioner?

And he said, Yes.

I said, Isn't there one other element that you find frightening, to have a private company handling the private details of a taxpayers' basic and most important financial documents? Doesn't that concern you, sir?

He said, Yes, actually it does, and he pointed to some effort in New Jersey where they tried to do it and it was rife with some corruption and he was concerned about it and they were going to take steps.

I said you are worried about corruption and you are worried about the violation of the citizens' privacy by hiring these private tax collection firms, and you are going to lose 20 cents on the dollar because it costs 25 cents for these firms versus 5 cents for the IRS employee and you are wasting tens of millions of taxpayer money, and he had no answer.

Mr. DELAHUNT. Let me thank you for asking those questions. And as you explained it, I was thinking that you found something rare, and that is somebody in this administration who gave you a straight answer.

Mr. ROTHMAN. I got another one today.

Mr. DELAHUNT. And an honest answer, by the way.

Mr. ROTHMAN. It was an honest answer, and I thanked him for that. He said that it was wasteful, and he said that is the budget that the President gave me.

My subcommittee had a hearing today and we had the Secretary of the Treasury in front of us, Mr. Snow. I said Mr. Secretary, a lot of people say that tax cuts that go to the richest people in the country, people making over a million dollars a year, but if you added up all of the tax cuts, people say that we get money back from the tax cuts and it fills up the government coffers far beyond what we cut in terms of taxes to the rich.

Another honest answer, he said, Congressman ROTHMAN, for every dollar we cut in taxes, we only get back to the Federal treasury about 30 or 40 cents. For every dollar we cut in taxes, we only get back 30 or 40 cents.

I said, Wait a minute, what about the supply side notion and all this talk about the economic growth generating revenues?

He said, Well, that is the consensus of opinion, that for every dollar of taxes cut, we only get back 30 or 40 cents.

I said, Wait a minute, we are losing money every time we do a tax cut and then you tell veterans in this budget, the Bush budget, veterans have to pay more for their health care and poor people have to pay more for their prescription drugs. A family who wants to send their child to college has to pay another \$2,000 or \$3,000 a year. There is money for nothing but tax cuts.

He said, Oh, by the way, that deficit that we have, the largest deficit in the history of the United States, the one we have today under this Republican majority and this President, one-third of the deficit said Treasury Secretary Snow today, one-third of the deficit is directly related to the tax cuts.

Mr. DELAHUNT. Another honest, straight answer.

Mr. RYAN of Ohio. We have to talk to this guy. I just want to make a point because I am for tax cuts if they go to the right people, if they go to the middle class.

I couldn't believe we had other people citing this, but today in the New York Times an analysis finally came out that talked about the 2003 tax cut. What this says is that among taxpayers with incomes greater than \$10 million annually, their investment tax bill, just for the investments that they made, was reduced by \$500,000 so they got \$500,000 back, less in taxes, and total savings for someone who made \$10 million a year was \$1 million from the Bush tax cuts and the Republican bobble-head Congress who said yes, Mr. President, deficits do not matter. We can borrow from foreign countries to foot the bill for this.

We don't have money to give a guy or woman who makes \$10 million a year, we do not have the money to give them a million dollars back. We had to go out and borrow that million dollars.

Mr. ROTHMAN. Here is another interesting statistic. By the way, working people need tax cuts. They need incentives to save and incentives to work even harder than they already do, if that is possible.

But people who make over \$400,000 a year, people who make over \$400,000 a year, God bless them, this is a fact that we in America have to deal with in order to decide is the Republican majority and is the President or are each of them making the right policy judgments. People make tax cuts for people making over \$400,000 a year.

This year if you add up just those tax cuts, it will be a greater sum than all that we spend on homeland security. And yet the majority and this administration says we can only afford to inspect 5 percent of the containers coming into America, even though in Hong Kong they inspect 100 percent of the containers. This is the priority of this administration.

By the way, I asked Secretary Snow, I said, because he was very proud that perhaps tax cuts helped get us out of the recession that was very shallow. I said, Mr. Secretary, the recession is long over. It has been over for 3 years

or more. So why do we continue to give tax cuts to the wealthiest people in the country, accounting for a third of our deficit and when we tell working people and veterans and school kids we do not have money for you, in fact we are going to cut your budgets and keep those tax cuts.

Mr. RYAN of Ohio. I just want to point this out. This is publicly held debt. Tax cuts are given to a fellow, a woman who makes \$10 million a year giving a million dollars back in taxes. We do not have it so what do we do, we go out and borrow it. This is the publicly held debt by China. It had quadrupled under President Bush. In 2000 it was \$62 billion. In 2005 it was \$257 billion. We are borrowing money from the Chinese to give a person in America who makes \$10 million a year \$1 million in a tax cut.

Now somebody come down here and explain how that is a good thing for our country because the money that they get, that \$1 million, they are not investing it in Delphi stock. They are not investing it in General Motors stock, they are not investing it into the United States of America. They are investing it in China.

Mr. MEEK of Florida. Mr. Speaker, I would like to have Mr. RYAN please tell us the phone call that you got, what happened in your district today to the workers?

Mr. RYAN of Ohio. About 6:30, 7:00 this morning my e-mail goes off. I pick it up. The third shift at a General Motors plant that I have in Lordstown, Ohio, the third shift is being eliminated, and 1,200 United Auto workers, nothing is official, but the third shift is being eliminated and 1,200 people will be out of work. Those are average people in the United States of America that are making \$60,000 or \$70,000 a year, paying taxes and trying to send their kids to school and we are giving a person who makes \$10 million a year a \$1 million tax cut. That makes no sense to anybody except the Republican majority.

Mr. MEEK of Florida. Mr. Speaker, I thank Mr. RYAN.

This is something to be very concerned about. We started at the top of the hour, and I am glad the Ms. WASSERMAN SCHULTZ has also joined us.

The bottom line is that Mr. ROTHMAN is 110 percent right. What they say on the Republican side, especially here in this Chamber and in this city and what the White House says, I am going to tell you, I am not talking about anybody, but I am just talking about what I am talking about. You hear one thing and there is another.

You got an answer out of the IRS official that came before your committee. You got an answer out of Secretary Snow, and you got to nail them to the wall to get the answer because the administration said this is the direction we are going to go, we are going to write it in the budget; and Mr. Secretary, you will do as you are told.

Secretary Snow, the Secretary of the United States Treasury Department, appointed by the President and confirmed by the Senate, he is a great American and I appreciate his service. But he has to do his job. He did not only send one letter that said we had to raise the debt ceiling or we are going to run out of money on the eve of New Year's eve, December 29th, 2005, he came back into the office while the rest of us were baking cookies and celebrating religious holidays back home with the family, to say we are going to run out of money because the Republican Congress has passed policies, Mr. Speaker, that cannot hold water and it is going to run us into a fiscal nightmare.

Not only did he write that letter, he turned around again when the Congress did not act, February 16, same letter. Hey, things are really getting bad, you all, we have to do something. Please help us. We have to do something about this debt ceiling.

March 6, and these are the Republican rubber stamps here, but on March 6 he writes again in almost desperation. Please, raise the debt ceiling. He begged the Congress to do it. Here is the gentleman who is in charge of what we do.

Now what Mr. RYAN was sharing with us a little earlier was the fact that when you have Members come to the floor and say Mr. Speaker, or what have you, or Members, we are fiscally responsible, our tax cuts are working for the American people. What Mr. RYAN was saying, and I am going to take it home a little further, tax cuts for whom? What, we are going to borrow money from another country, Mr. ROTHMAN, Ms. WASSERMAN SCHULTZ, Mr. Speaker, we are going to borrow money from another country to give millionaires a tax break here in this country? I am sorry, and it has been done by this Republican majority. Guess what, it is history in all the wrong way. In 4 years, and here is the President, here is the Republican Congress.

Mr. ROTHMAN. Mr. Speaker, if the gentleman would yield, not only is the gentleman absolutely correct that this is what this President and the Republican majority have done for 5½ years, they want to make this policy permanent. They want to make it permanent. Permanent tax cuts for individuals making over a million dollars a year. Permanent tax cuts for people making over \$400,000 a year, the sum of which is greater than all we spend on homeland security, and they want to make it permanent. If we vote against it, you know what they say, there they go again, the Democrats want to raise taxes. We do not want to raise taxes, we want sensible fiscal policy that does not give us the biggest deficit in the history of the United States and does not give the people making millions of dollars a year a million dollar tax cut.

□ 2130

Ms. WASSERMAN SCHULTZ. Will the gentleman yield?

Mr. ROTHMAN. Yes, of course.

Ms. WASSERMAN SCHULTZ. Do you know what else we want as Democrats? We just want the Congress to do what American families all across this country do. They only pay for what they have money to pay for. They pay as they go. Now, there are a lot of families, unfortunately in this country that get themselves into trouble. They run up debt on their credit cards. They end up spending a lifetime hand wringing over how much debt they have because they have paid for luxuries on credit that they didn't have revenue in their household coming in to cover. That is what we are doing here. And there is no end in sight.

Mr. MEEK of Florida. Will the gentleman yield for a second?

Ms. WASSERMAN SCHULTZ. Yes, be happy to yield.

Mr. MEEK of Florida. I am just going to close out on this and then I am going to back up, because I know that Congressman DELAHUNT, sir, you were very reserved last night. We were limited to 50 minutes. I just want you to be able to share, because I know you are ready to come out of the locker room on some of this stuff, and I think it is important that we hear from you this evening.

But I want to make sure, Ms. WASSERMAN SCHULTZ, that we break this down, because we don't want any Members to go back home and say, you know, I didn't quite understand that at the time I voted for it. I want to make sure that their constituents know exactly what is going on.

And the bottom line is that we are borrowing from foreign nations more than we have ever borrowed in the history of the republic, Mr. Speaker, in the history of the United States Congress.

You heard it. They want to make it permanent. It is not what we are saying. That is what the majority is saying. 1.05 trillion in 4 years. That is what the Republican Congress and the President has done, more than 42 presidents, and was only able to borrow 1.01 trillion over 224 years. 224 years. And I don't even need to get into what happened in the 224 years.

Who are we borrowing from? Well, let's just look at it. I am not going to pull this off because it came apart last night. It is just so much here.

Look at Japan, Mr. Speaker. Japan. We owe Japan. While folks are running around here defending people that are making \$10 million a year, that they may very well have to pay their fair share for homeland security and all of that as it relates to the tax cut that this majority wants to make permanent. Japan, \$882.8 billion of American apple pie. It pains me to stand here and hold this poster like this. I am glad it's not my creation. I am glad I voted against all of this debt that we have given foreign nations.

Mr. DELAHUNT. If the gentleman would just yield for a minute.

Mr. MEEK of Florida. I would just yield for a minute, but please allow me to get through this.

Mr. DELAHUNT. 30 seconds. I will let you get back to it. But you know what? I am just looking at that, Japan at \$680 billion. Japan is actually subsidizing partially that tax cut, or that tax refund for the extremely wealthy in this country. I mean, that is where that money is going. I wonder if that extremely wealthy taxpayer might consider taking that tax refund in yen?

Mr. RYAN of Ohio. Just save the transactional cost.

Mr. DELAHUNT. Because the way we are going, we are going to bankrupt this United States of America.

Mr. ROTHMAN. Will the gentleman yield? I have a statistic you won't believe. I happen to serve on the House Appropriations Committee.

Mr. MEEK of Florida. Yes, sir.

Mr. ROTHMAN. And we were only inspecting 5 percent of the containers. That was the Republican majority's policy. They were in charge. They made the rule. The majority rules, and they won.

We said in the House Appropriations Committee, we said to our colleagues, our Republican friends, if we cut \$5,000 from the 80 or \$100,000 tax cut, 80 or \$100,000 tax cut, depending how much money these folks make, if we just take 5,000 from the 80,000 we are sending them, we could triple the number of containers we inspect from 5 percent to 15 percent.

And do you know what every single one of my Republican colleague on the House Appropriations Committee did? They voted against it.

And I went to them and I said hey, man, what are you doing? I have nothing against people who are worth a fortune. This isn't class warfare. Do you want to give it to them, or do you want to spend it on inspecting our containers coming into the port? And they said, we are sorry, STEVE. This was the President's directive.

Ms. WASSERMAN SCHULTZ. Will the gentleman yield?

Mr. ROTHMAN. Yes.

Ms. WASSERMAN SCHULTZ. Because I want to illuminate what you just said because actually, we put our action where our words are, because it is not just that we said that we should drop those tax cuts by just a little bit and make sure we could fund port security. Here is the third party validation that we always talk about.

On June 18, 2004, there was an amendment by Representative DAVE OBEY, who is the ranking member on the Appropriations Committee that Mr. ROTHMAN sits on. He offered an amendment to increase port and container security by \$400 million. Republicans refused to allow consideration of that amendment.

October 7, 2004 an amendment offered by Representatives OBEY and SABO and Senator BYRD that would have in-

creased funding to enhance port security by \$150 million. Republicans defeated this amendment along party lines.

September 29, 2005, just last fall, there was an amendment which Representatives OBEY, SABO and Senator BYRD, again, to increase funding for port and container security by \$300 million; all of these proposing to drop the tax cut for the wealthiest Americans by just a small amount of money. The House Conferees, led by the Republicans, defeated this amendment along party lines.

And March 2, 2006, Republicans blocked an effort by Democrats to bring the King-Thompson Dubai port deal bill to the floor, which would have expedited procedures to ensure a congressional vote on the Dubai port deal bill sponsored by a Republican and a Democrat. And Republicans voted against that 197-216. So who is for port security?

Mr. ROTHMAN. By the way, the incomes of the people who were going to have their tax cut reduced by 5,000 were only individuals whose annual income was \$1 million or more. And we said, can we take 5,000 from the 80 or 100 or 150,000 they are going to get in tax cuts, take 5,000 to increase our port inspection of our containers. And every Republican said no. Mr. Speaker, that is the priority of this Republican majority and this President.

Mr. DELAHUNT. You know, if I can interject for a moment, your point is well made. And I think the American people have to realize that these statistics that they are hearing tonight are accurate. That New York Times piece that we were referring to earlier, it goes on to say that because of these recent tax cuts, even the merely rich, even those that are very rich, making hundreds of thousands of dollars a year, and I am reading from that piece, are falling behind the very, very wealthiest. In other words, what we are doing, we are creating a super rich elite in this country.

There was another New York Times story that came across my desk. And for those that are listening to our conversation this evening, I would refer them to an article that appeared in the New York Times on January 29 of this year. Corporate wealth share rises for top income Americans. In 2003, and this is the most recent data, the top 1 percent of households owned 57½ percent of corporate wealth in this country. That was up from 53.4 percent the year before. This top group, this 1 percent, in 1991 had 38.7 percent. In other words, this 1 percent is doing so well that they are leaving everybody behind. The top 1 percent is gaining so much money and corporate wealth in this Nation that the other 99 percent have experienced a decline in their share of the wealth of America.

Mr. ROTHMAN. Will the gentleman yield?

Mr. DELAHUNT. Sure.

Mr. ROTHMAN. You know, some people will say, oh, there the Democrats

go again, class warfare. There they go again, class warfare. Nonsense. We love rich people. We love poor people. We love middle class people. We love Americans. This is about the choices that America is going to make with their tax dollars.

What should we do with the tax dollars that people send to Washington? Should we give them, by the way, the recession is over. We are in the start of the fourth year of the war in Iraq. We are still paying for Katrina and Hurricane Rita.

With all of these problems and the recession over 3 years ago, is this the time not only to continue these tax cuts that benefit the wealthiest people making over \$400,000 a year, millions of dollars a year? Or should we, in fact, pay off some of the debt, spend down the deficit, pay for college for kids.

Mr. DELAHUNT. How about restraining spending?

Mr. ROTHMAN. And remember this, not only has this been the policy that has put us in the largest deficit in the history of the country, the Republican majority and the President want to make this policy permanent. They want to make their tax cuts for the rich permanent.

They will claim we are against wealthy people. Class warfare. Nonsense. We want the money that we send to Washington spent wisely and not given away.

Ms. WASSERMAN SCHULTZ. It is important to note that this is a matter of priorities. What is sad, and I am the least senior among the five of us, and what I have found the most sad since joining the Congress and joining you all last year, is how far astray we have come from when President Clinton was in office.

When President Clinton was in office and I was in my state legislature in Florida, what I watched Congress debate was what we were going to spend the surplus on. Were we going to use the surplus that we had at that time to shore up Social Security? Were we going to shore up Medicare? We didn't have a deficit. We had a surplus.

And Mr. MEEK, I think it would be a good idea for you to get back to really describing the scope of the foreign debt that we have here, because we got you mid map. But we really need to make sure that people understand the stark contrast between what we were able to debate during the Clinton administration and what we are forced to debate now. So I yield to the gentleman.

Mr. MEEK of Florida. And if we could, Ms. WASSERMAN SCHULTZ, I am going to go through this, because it was really to drive home a point that Mr. RYAN was making. And then Mr. RYAN was going to share that chart there, because I think these visual aids are needed at this particular time, because we have some Members that don't necessarily, I mean, I just don't want the American people to be hoodwinked. Some may say bamboozled. We say here in Washington, D.C., you

know, to get the Potomac 2-step on folks saying they didn't quite understand what they were doing while they were making history here in the United States of America of allowing these countries to own, Mr. Speaker, own a part of the American apple pie.

I am just, once again, going to mention Japan. We stopped there. But I think we could move across the country, okay? I think we can. \$692.8 billion. Japan has bought our debt.

Again, this Republican Congress is saying we want to make tax cuts permanent to billionaires and we want to give subsidies to companies that come in number one in profits this year, and that is one industry, which is the oil industry.

China, \$249.8 billion. They bought up our debt. That means that they have given us money to spend in a way as though we are spending our own money. We owe them this money.

America will be forever changed. But if you want to do away with allowing these countries to cover our States because of the debt that we owe them, then you can elect a Democratic Congress. I am going to slide this over a little bit.

The U.K, United Kingdom, \$223.2 billion that they own of our debt.

Now, you have got to remember. This is a 4-year deal. This is the Bush policies and the Congress, the Republican majority that have voted time after time to back the President up on this. They have even lost the former speaker, Mr. Speaker, of the House, Newt Gingrich. And we need to read his quote to the Knight Ridder newspapers that cover this Nation.

Caribbean nations. Many of you will be spending time there, vacation time there. It is important. It is important that people understand that they own \$115.3 billion of our debt.

Taiwan. You go in your room, unfortunately many of the toys there that your kids and grandkids may have may have Taiwan on it. We owe them \$71.33 billion that they have bought of our debt.

Canada, just north of us. We owe them \$53.8 billion of our debt.

□ 2145

We will take them off there. Korea, \$66.5 billion we owe Korea because this Congress has said that we have to give subsidies to industry because they wanted it and that is something that we need to get back to. I do not blame industry. I blame the Republican Congress.

Germany, \$65.7 billion we owe Germany. OPEC nations, Saudi Arabia, Iraq, Iran, Iran, we owe them \$67.8 billion of the American apple pie.

Now, before I yield to you, Mr. RYAN, I just want to say it is almost like I bust through the door at home and say, Hey, let us go on a European vacation. We are living to from paycheck to paycheck, but let us go because I am going to put it all on the credit card. As a matter of fact, in this case our credit

cards are maxed out, but I am going to sign one of those little letters that come into the house that say just sign here, automatic country. That is what we are going to use to vacation on. Everyone is happy, jumping up and down, but guess what. The bill is coming in in 30 days.

And soon folks, Mr. Speaker, are going to start calling the House, and they are not going to call and say, "May I speak to Mr. MEEK." They are going to say, "I want to speak to KENDRICK," because they disrespect you when owe them. Too many men and women laid down their lives and that are bleeding now, getting sand in their teeth for us to have the right to salute one flag, and I will be doggone if we stand here like it is just regular business here in Congress and allow this Republican majority to go without anyone checking them on this. But it is not just us. We have even got Republicans coming out, folks over there are talking about spending, that we are responsible, that we are good spenders. Yes, you are great spenders and borrowers at the same time. And so when you come to the floor, majority, and start talking about fiscal responsibility, just because you say it does not necessarily mean it is happening. I want you to come to this floor, grab these charts here that are sitting right over here in the corner, and explain what is good about them because these are your policies.

So, Mr. RYAN, what you were mentioning earlier, I just want to drive this point home because when folks start talking about "we want to make sure the American people keep their money," well, we want to make sure the American people keep their money. But who are the people? Is it the \$10 million annual salary individual? Is it the individual sitting over there at some company that is getting a bonus at the same time they are telling their third shift that there will no longer be a third shift?

So the real issue here is whose side are we on? Whose side is the Republican majority on? And from what I am seeing of the polls, Ms. WASSERMAN SCHULTZ, when I am hearing prominent Republicans saying "because we are Americans first," put that party stuff aside just for a moment and look at Democrats, Republicans, Independents, Green Party, nonvoters, they are all concerned about what is happening in this country. And I am going to tell you right now the Republican majority, and it is not what I am saying but what they are saying, cannot govern. We are ready to govern.

Mr. RYAN, I yield to you, sir.

Mr. RYAN of Ohio. I appreciate that, and I wish the Republican majority would start putting the country before their own political interests. It seems that time and time again they have chosen the loyalty to their own party.

We have got a nice third party validator here. The former Republican Director of the Congressional Budget

Office, who was talking about the borrow and spend Republican Congress, he said, Budgeting is about making choices, and this period the Bush presidency and Republican Congress is one that shows a complete absence of that.

They do not have to make any choices. Why? You get the credit card out. But let us take your analogy one step further. You have got the credit card. You are going to Europe, but you are living paycheck to paycheck. Who ultimately suffers in that little family scenario there? The kids. Because there will not be money for education. There will not be money for the health care bill, and they will become a burden on the rest of society. All the way down the line the ripple effect goes.

And as Mr. MEEK and Ms. WASSERMAN SCHULTZ were saying earlier, this is what they are doing. They have increased the debt limit in the United States by \$3 trillion, trillion with a big fat "t." In June of 2002, May of 2003, November of 2004, March of 2006, total over \$3 trillion, this Congress raised the debt ceiling that would allow the Secretary of Treasury to go out and borrow money from all the countries that Mr. MEEK showed. Time and time and time again.

I just want to reiterate the point that Ms. WASSERMAN SCHULTZ made, and that point is this: The Democrats, whether it is port security or pay-as-you-go, time and time again we tried to restrain, pull in this Republican Congress, get yourselves under control.

And I know, Mr. ROTHMAN, you were probably in the committee when these amendments were being offered time and time again by Mr. OBEY, not once but twice, by Mr. SPRATT and the Budget Committee, by Charlie Stenholm when he was here. The Democratic Party was trying to say if you are going to raise the debt limit, you had better put some restraints on the runaway spending that these Republicans have gotten into a very bad habit of doing over the past 4 or 5 years. This is ridiculous. We are sacrificing the future of the United States of America, selling it off piece by piece, diminishing opportunity for our kids and our grandkids, and at the same time just spending money like it does not matter. Let us be responsible in the United States Congress, Mr. MEEK. Mr. Speaker, let us be responsible here. We have a solemn oath that we swear to when we come into this Congress. One of the great honors is to be in this Chamber. Only 10,000 people have actually served in this body. Let us take the responsibility seriously.

And one final point, like Mr. MEEK said, we have a responsibility. And people may grumble when we walk by them in the hall, and they may look at us a little cross eyed because we come down here every night, but we have an obligation to the American people. And if we have got to crack a few eggs to make an omelet, then so be it. And I have a lot of respect for the people on the other side of the aisle, and many of

them are our friends, but we have legitimate differences here.

And I would say this to my friends, Mr. Speaker: You have borrowed \$3 trillion from foreign interests, raised the debt ceiling, cut funding for education, and you gave tax cuts to people who make \$10 million a year. You have given them \$1 million back. Do you expect us to sit up in our office and go to the little refrigerator and get out a Diet Dr. Pepper and a bag of Cheetos and just sit there and watch VH-1 in our office? No, we are not going to do it. We are going to keep coming down here until the American people get the message.

Ms. WASSERMAN SCHULTZ. And that is because we did not come here to just sit idly by and not express the outrage that our constituents communicate to us when we go home.

The chart that you had up there a minute ago, Mr. RYAN, the one with the blue background that says "Borrow and spend Republican Congress," that really says it all because what Mr. ROTHMAN said earlier is that our critics, Democratic critics, like to throw around that Democrats are supportive of class warfare, and I am not going to repeat their message. I am going to make sure that we get across like we do every single night here in the 30-Something Working Group that what is going on here in Washington is a borrow and spend Republican Congress. And it is not true just because we are here on the floor of the United States House of Representatives saying it is true. We have third-party validators that say it is true.

USA Today on Monday, April 3, 2006, headline: "Growth in Federal Spending Unchecked." The borrow and spend Republican Congress. A USA Today editorial on February 21 of this year, the title of it was "Who's Spending Big Now? The party of 'small government.'"

"Tax cuts, they say, force hard decisions and restrain reckless spending. The last time we looked, though, Republicans controlled both Congress and the White House. They are the spenders. In fact, since they took control in 2001, they have increased spending by an average of nearly 7.5 percent a year, more than double the rate in the last 5 years of Clinton-era budgets."

Now, what we talk about on this floor every night is the difference between words and actions. They can say that they are the party of small government and more personal responsibility and the claptrap that they like to throw around that are just words.

Mr. ROTHMAN. Will the gentleman yield?

Mr. MEEK. I yield to the gentleman from New Jersey.

Mr. ROTHMAN. It is important for people to understand that this majority came in saying that we needed to balance the budget and that is why the American people should elect a Republican majority. When I was the mayor of my hometown 25 years ago, a little

city in New Jersey, we had to balance the budget every year. And we did. We left them with a surplus, but at least balance the budget. And they said, well, let us make a constitutional amendment. And we said, Why are you amending the Constitution? You are in the majority. Balance the budget. You have the majority. Balance the budget.

So in terms of third-party validation, Mr. Speaker, the American people know that the Republican Party has been in power, in the majority, in the House and the Senate for about 5½ years, with President Bush as our President for 5½ years. And we have the greatest deficits in history. We are projected to have deficits for the next 15, 20 years with no end in sight, with budget cuts to education, health care, veterans, college loans, the environment, clean air, clean water. Cut, cut, cut, cut everything, except tax cuts for the wealthiest. And, again, I do not want to harp on that because tax cuts for the working people are important. But is this the time to continue that policy ad infinitum and make them permanent? I do not think so.

Ms. WASSERMAN SCHULTZ. What you are pointing out is there are consequences to the fiscal recklessness. That is what I have observed for the last 15 months. It is just fiscal recklessness.

The most glaring consequence is right here in front of us with what Mr. RYAN talked about that happened in a town in his district. Twelve hundred jobs gone. Seven point two million Americans today remain unemployed with an additional 4.2 million who want a job but who are not counted among the unemployed. Since this President took office, the economy has posted only 15 months of job gains that have 150,000 or more. That is just the number of jobs that we need to keep up with population growth.

But the most telling, which is the one that is evidenced by what happened in the town in your district, Mr. RYAN, is that there are now 1.3 million more unemployed private sector workers than in January, 2001. The long-term unemployment rate, people who are unemployed for more than 26 weeks, has nearly doubled since that time. And the manufacturing jobs that we have lost literally have reached 2.9 million since 2001.

There are day-to-day policy implications that affect people's lives that result from the fiscal recklessness. There are consequences. The Republican economic disaster is hurting real people.

Mr. RYAN of Ohio. Can I intervene here for one second because I am thrilled with everything that is happening here. But I came down here to listen to Mr. DELAHUNT a little bit.

Mr. ROTHMAN. That is a good idea.

Mr. DELAHUNT. I just want to congratulate you all for a very thoughtful conversation. You have hammered home the truth.

And I think what we are saying to the American people is that if you gov-

ern, you have to govern responsibly and that your rhetoric has to match your deeds. Otherwise, you fail the American people. And the truth is that today in America, this administration, this Bush White House, and this Bush Congress are failing the American people.

DEBBIE was making a point about the job growth. I think what is more telling is that the jobs that are being produced today and the jobs that currently exist are paying less. A family of four in America today is making less than that same family income 10 years ago. This is not about criticism. This is about telling the truth and being responsible.

□ 2200

We use terms like PAYGO. Well, I think we owe the American people an explanation of what PAYGO means. It means what they do most every day of their lives. They make decisions and choices based upon what they have in their pocket, and if they don't have the money in their pocket, they don't buy it. It is really that simple.

That is what we are talking about this evening and on other occasions. Let's go back to those real conservative values, those genuine American, conservative values. I can't believe I am saying this. But the longer I serve in this body and listen to the neoconservatives, I find myself describing my own philosophy as fiscally conservative.

Ironically, it is the Democratic Party today that stands for sanity and stands for responsibility and doing it the old-fashioned way. That is what we are. Maybe we are an old, traditional party. But, do you know what? We made America great. When America was in trouble because of the Depression, it was those great Democrats Franklin Delano Roosevelt and Harry Truman that brought the country back, because we know there is a social compact out there that doesn't say only the very, very wealthy get most of everything. In a society which is really a community, where there are mutual rights and responsibilities, everybody has a shot.

Today what we are seeing is America becoming much like a banana republic, where it is the haves, the elites, and then there are the rest of us, and that is sad.

Mr. RYAN of Ohio. Madam Speaker, I think the gentleman makes a great point. America is not the only country with really, really rich people. There are wealthy people in every country. The difference in America is that we had a strong, vibrant, energetic middle-class of people who worked as of last night on the third shift at the GM plant in Lordstown, Ohio. That is what makes America America, and that resolve to go back and say we want everybody on board here, at least to have the opportunity; not to give the top 10 million people who make \$10 million a year a tax cut, \$1 million back, but to

create that middle-class again and the economic environment that would do it.

Ms. WASSERMAN SCHULTZ. I just want to give one quick statistic. Here is another third-party validator, the Tax Policy Center. And here is the startling contrast between the tax cuts that Mr. ROTHMAN was talking about that go to the wealthiest few and what the tax cuts have provided for the average working family in middle income America. In 2006, according to the Tax Policy Center, millionaires received an average tax cut of \$111,550, while the middle-class American received a tax cut of \$750.

When I asked in my town hall meetings, and I represent a pretty middle-income, even middle to upper-middle income district, I have a lot of wealthy communities and a lot of upper-middle class communities and some middle to lower-middle income communities, no matter what kind of room, other than the wealthiest few, that I ask people to raise their hands to tell me whether they got money in their pocket from the Bush tax cuts, maybe in rooms full of several hundred people I will get two or three people that raise their hand.

If this tax relief was benefiting a wide swath of Americans, the broad spectrum of Americans of varied income, in a district like mine you would get more than three hands.

Mr. ROTHMAN. May I just remind the Speaker that today Secretary of the Treasury John Snow said in his testimony before our subcommittee of the House Appropriations Committee that the tax cuts of this majority and President Bush account for one-third of the deficit, and that every dollar that is cut for the wealthiest folks in tax cuts, we don't get back more than a dollar in revenue. We lose. For every tax dollar we cut, we only get back 30 to 40 cents. We lose 60 to 70 cents for every tax dollar we cut.

Whether that is a good thing or bad thing, the American people can decide. But in a time of war, the biggest deficits in our history, is that what we want to be doing with our money, and should we be making those tax cuts permanent?

Ms. JACKSON-LEE of Texas. If the gentleman would yield, as I was in my office and I saw this very focused message, let me just briefly say that today we added insult to injury by the debate on the floor regarding the 527s.

I know we are talking about the massive tax cuts, but I think the American people should know, rather than focusing on the seriousness of addressing these monumental tax cuts, frankly, as was distributed on the floor today, we are just passing legislation that allows random excessive spending as relates to campaigns.

So what I say to my friends on this side, the other side of the aisle, is why waste time with, as they say, this massive spending of dollars in campaigning, and not really providing transparency for the American people

to note, making a mirage on the Floor of the House that we are trying to do something good about scandal and corruption, and, at the same time, not spending our time focusing on correcting this deficit, correcting this increasing debt limit and spending the people's money by enormous tax cuts.

Mr. MEEK of Florida. If I can, as it relates to time, Mr. RYAN, if you could give our website. We have to close out.

Mr. RYAN of Ohio. I want to do one-third party final validator. The former speaker the House, Mr. Gingrich, the leader of the Republican Revolution in '94. He said the Republicans, they are seen by the country as being in charge of a government that can't function.

As my friend from Florida so eloquently put it earlier today on the House floor, it is scary when the head of the Republican Revolution is referring to his friends on the other side of the aisle as "they." I think that is a tremendous point.

www.housedemocrats.gov/30something. Madam Speaker. www.housedemocrats.gov/30something for e-mails that folks may want to send to us. All these charts that were available here tonight, Madam Speaker, are available on this website. I thank everyone for the vigorous discussion.

Mr. MEEK of Florida. Madam Speaker, we would like to thank the leadership for the opportunity to speak tonight.

IRAN: THE NEXT NEOCON TARGET

The SPEAKER pro tempore (Ms. Foxx). Under the Speaker's announced policy of January 4, 2005, the gentleman from Texas (Mr. PAUL) is recognized for half the time remaining until midnight.

Mr. PAUL. Madam Speaker, it has been 3 years since the U.S. launched its war against Saddam Hussein and his weapons of mass destruction. Of course, now almost everybody knows there were no weapons of mass destruction and Saddam Hussein posed no threat to the United States. Though some of our soldiers serving in Iraq still believe they are there because Saddam Hussein was involved in 9/11, even the administration now acknowledges that there was no connection.

Indeed, no one can be absolutely certain why we invaded Iraq. The current excuse, also given for staying in Iraq, is to make it a democratic state friendly to the United States. There are now fewer denials that securing oil supplies played a significant role in our decision to go into Iraq and stay there. That certainly would explain why the U.S. taxpayers are paying such a price to build and maintain numerous, huge, permanent military bases in Iraq. There are also funding a new \$1 billion embassy, the largest in the world.

The significant question we must ask ourselves is, what have we learned from these 3 years in Iraq? With plans now being laid for regime change in Iran, it appears we have learned abso-

lutely nothing. There still are plenty of administration officials who daily paint a rosy picture of the Iraq we have created. But I wonder, if the past 3 years were nothing more than a bad dream and our Nation suddenly awakened, how many would for national security reasons urge the same invasion? Or would we instead give a gigantic sigh of relief that it was only a bad dream, that we need not relive the 3-year nightmare of death, destruction, chaos and stupendous consumption of tax dollars? Conceivably, we would still see oil prices under \$30 a barrel, and, most importantly, 20,000 severe U.S. casualties would not have occurred. My guess is 99 percent of all Americans would be thankful it was only a bad dream and would never support the invasion knowing what we know today.

Even with the horrible results of the past 3 years, Congress is abuzz with plans to change the Iranian government. There is little resistance to the rise and clamor for democratization in Iran, even though their current President, Mahmoud Ahmadinejad, is an elected leader.

Though Iran is hardly a perfect democracy, its system is far superior to most of our Arab allies, about which we never complain. Already the coordinated propaganda has galvanized the American people against Iran for the supposed threat it poses to us with weapons of mass destruction that are no more present than those Saddam Hussein was alleged to have had.

It is amazing how soon after being thoroughly discredited over the charges levied against Saddam Hussein the neoconservatives are willing to use the same arguments against Iran. It is frightening to see how easily Congress, the media and the people accept many of the same arguments against Iran that were used to justify an invasion of Iraq.

Since 2001, we have spent over \$300 billion and occupied two Muslim nations, Afghanistan and Iraq. We are poorer, but certainly not safer, for it. We invaded Afghanistan to get Osama bin Laden, the ringleader behind 9/11. This effort has been virtually abandoned. Even though the Taliban was removed from power in Afghanistan, most of the country is now occupied and controlled by warlords who manage a drug trade bigger than ever before. Removing the Taliban from power in Afghanistan actually served the interests of Iran, the Taliban's arch-enemy, more than our own.

The long time neocon goal to remake Iraq prompted us to abandon the search for Osama bin Laden. The invasion of Iraq in 2003 was hyped as a noble mission, justified by misrepresentation of intelligence concerning Saddam Hussein and his ability to attack us and his neighbors. This failed policy has created the current chaos in Iraq, chaos that many describe as a civil war.

Saddam Hussein is out of power, and most people are pleased. Yet some

Iraqis who dream of stability long for his authoritarian rule. But, once again, Saddam Hussein's removal benefited the Iranians, who considered Saddam Hussein an arch-enemy.

Our obsession with democracy, which is clearly conditional when one looks at our response to the recent Pakistani elections, will allow the majority Shia to claim leadership title if Iraq's election actually leads to an organized government. This delights the Iranians, who are close allies of the Iraqi Shia.

Talk about unintended consequences. This war has produced chaos, civil war, death and destruction and huge financial costs. It has eliminated two of Iran's worst enemies and placed power in Iran's best friends.

Even this apparent failure of policy does nothing to restrain the current march towards a similar confrontation with Iran. What will it take for us to learn from our failures? Common sense tells us the war in Iraq soon will spread to Iran. Fear of imaginary nuclear weapons or an incident involving Iran, whether planned or accidental, will rally the support needed for us to move on Muslim country number three.

□ 2215

All the past failures and unintended consequences will be forgotten. Even with deteriorating support for the Iraq war, new information, well-planned propaganda, or a major incident will override the skepticism and heartache of our frustrating fight. Vocal opponents of an attack on Iran again will be labeled unpatriotic, unsupportive of the troops, and sympathetic to Iran's radicals.

Instead of capitulating to these charges, we should point out that those who maneuver us into war do so with little concern for our young people serving in the military and theoretically think little of their own children if they have any. It is hard to conceive that political supporters of the war would consciously claim that a preemptive war for regime change where young people are sacrificed is only worth it if the deaths and the injuries are limited to other people's children. This I am sure would be denied, which means their own children are technically available for the sacrifice that is so often praised and glorified for the benefit of families who have lost so much. If so, they should think more of their own children. If this is not so and their children are not available for such sacrifice, the hypocrisy is apparent. Remember, most neocon planners fall into the category of chicken hawks.

For the past 3 years, it has been inferred that, if one is not in support of the current policy, one is against the troops and supports the enemy. Lack of support for the war in Iraq was said to be supportive of Saddam Hussein and his evil policies. This is an insulting and preposterous argument. Those who argued for the containment of the Soviets were never deemed sympathetic

to Stalin or Krushchev. Lack of support for the Iraq war should never be used as an argument that one was sympathetic to Saddam Hussein. Containment and diplomacy are far superior to confront an enemy, and are less costly and far less dangerous, especially when there is no evidence that our national security is being threatened.

Although a large percentage of the public now rejects the various arguments for the Iraq war 3 years ago, they were easily persuaded by the politicians and media to fully support the invasion. Now, after 3 years of terrible pain for so many, even the troops are awakening from their slumber and sensing the fruitlessness of our failing effort. Seventy-two percent of our troops now serving in Iraq say it is time to come home. Yet, the majority still cling to the propaganda that they are there because of the 9/11 attacks, something even the administration has ceased to claim. Propaganda is pushed on our troops to exploit their need to believe in a cause that is worth the risk to life and limb.

I smell an expanded war in the Middle East and pray that I am wrong. I sense that circumstances will arise that demand support regardless of the danger and the cost. Any lack of support once again will be painted as being soft on terrorism and al Qaeda. We will be told we must support Israel, support patriotism, support the troops, defend freedom. The public too often only smells the stench of war after the killing starts. Public objection comes later on, but eventually it helps to stop the war.

I worry that before we can finish the war we are in and extricate ourselves, the patriotic fervor for expanding into Iran will drown out the cries of, "Enough already." The agitation and congressional resolutions painting Iran as an enemy about to attack us have already begun. It is too bad we cannot learn from our mistakes. This time, there will be a greater pretense of an international effort sanctioned by the U.N. before the bombs are dropped. But even without support from the international community, we should expect the plan for regime change to continue. We have been forewarned that all options remain on the table, and there is little reason to expect much resistance from Congress. So far there is little resistance expressed in Congress for taking on Iran than there was prior to going into Iraq.

It is astonishing that after 3 years of bad results and tremendous expense there is little indication, we will reconsider our traditional non-interventionist foreign policy. Unfortunately, regime change, nation-building, policing the world, protecting our oil still constitutes an acceptable policy by the leaders of both major parties. It is already assumed by many in Washington I talk to that Iran is dead serious about obtaining a nuclear weapon and is a much more formidable opponent than Iraq. Besides, Mahmud

Ahmadinejad threatened to destroy Israel, and that cannot stand. Washington sees Iran as a greater threat than Iraq ever was, a threat that cannot be ignored.

Iran's history is being ignored just as we ignored Iraq's history. This ignorance or deliberate misrepresentation of our recent relationship to Iraq and Iran is required to generate the fervor needed to attack once again a country that poses no threat to us. Our policies toward Iran have been more provocative than those toward Iraq. Yes, President Bush labeled Iran part of the axis of evil and unnecessarily provoked their anger at us. But our mistakes with Iran started a long time before this President took office. In 1953, our CIA, with the help of the British, participated in overthrowing the democratic-elected leader, Mohammed Mossadegh. We placed in power the Shah. He ruled ruthlessly but protected our oil interests, and for that, we protected him. That is, until 1979. We even provided him with Iran's first nuclear reactor.

Evidently, we did not buy the argument that his oil supplies precluded a need for civilian nuclear energy. From 1953 to 1979, his authoritarian rule served to incite a radical opposition led by the Ayatollah Khomeini who overthrew the Shah and took our hostages in 1979. This blow-back event was slow in coming, but Muslims have long memories. The hostage crisis and overthrow of the Shah by the Ayatollah was a major victory for the radical Islamists. Most Americans either never knew about or easily forgot about our unwise meddling in the internal affairs in Iran in 1953.

During the 1980s, we further antagonized Iran by supporting the Iraqis in their invasion of Iran. This made our relationship with Iran worse, while sending a message to Saddam Hussein that invading a neighboring country is not all that bad. When Hussein got the message from our State Department that his plan to invade Kuwait was not of much concern to the United States, he immediately preceded to do so. We, in a way, encouraged him to do it almost like we encouraged him to go into Iran. Of course, this time our reaction was quite different, and all of a sudden, our friendly ally, Saddam Hussein, became our arch enemy.

The American people may forget this flip-flop, but those who suffered from it never forgot. And the Iranians remember well our meddling in their affairs. Labeling the Iranians part of the axis of evil further alienated them and contributed to the animosity directed toward us.

For whatever reasons the neoconservatives might give, they are bound and determined to confront the Iranian government and demand changes in its leadership. This policy will further spread our military presence and undermine our security. The sad truth is that the supposed dangers posed by Iran are no more real than

those claimed about Iraq. The charges made against Iran are unsubstantiated and amazingly sound very similar to the false charges made against Iraq. One would think promoters of the war against Iraq would be a little bit more reluctant to use the same arguments to stir up hatred toward Iran. The American people and Congress should be more cautious in accepting these charges at face value, yet it seems the propaganda is working since few in Washington object as Congress passes resolutions condemning Iran and asking for U.N. sanctions against her.

There is no evidence of a threat to us by Iran and no reason to plan and initiate a confrontation with her. There are many reasons not to do so: Iran does not have a nuclear weapon and there is no evidence that she is working on one, only conjecture. Even if Iran had a nuclear weapon, why would this be different from Pakistan, India, and North Korea having one? Why does Iran have less right to a defensive weapon than these other countries? If Iran had a nuclear weapon, the odds of her initiating an attack against anybody, which would guarantee her own annihilation are zero, and the same goes for the possibility she would place weapons in the hands of a nonstate terrorist group.

Pakistan has spread nuclear technology throughout the world, and in particular, to the North Koreans. They flaunt international restrictions on nuclear weapons, but we reward them just as we reward India. We needlessly and foolishly threaten Iran, even though they have no nuclear weapons, but listen to what a leading Israeli historian, Martin van Creveld had to say about this: "Obviously we do not want Iran to have a nuclear weapon, and I do not know if they are developing them. But if they are not developing them, they are crazy."

There has been a lot of misinformation regarding Iran's nuclear program. This distortion of the truth has been used to pump up emotions in Congress to pass resolutions condemning her and promoting U.N. sanctions. IAEA Director General Mohamed ElBaradei has never reported any evidence of undeclared sources or special nuclear material in Iran or any diversion of nuclear material. We demand that Iran prove it is not in violation of nuclear agreements, which is asking them impossibly to prove a negative. ElBaradei states Iran is in compliance with the nuclear nonproliferation treaty required IAEA safeguards agreement.

We forget that the weapons we feared Saddam Hussein had were supplied to him by the United States, and we refused to believe U.N. inspectors and the CIA that he no longer had them. Likewise, Iran received her first nuclear reactor from us; now we are hysterically wondering if some day she might decide to build a bomb in self-interest. Anti-Iran voices beating the drums of confrontation distort the agreement made in Paris and the desire of Iran to

restart the enrichment process. Their suspension of the enrichment process was voluntary and not a legal obligation. Iran has an absolute right under the Nuclear Proliferation Treaty to develop and use nuclear power for peaceful purposes, and this is now said to be an egregious violation of the NPT. It is the U.S. and her allies that are distorting and violating the Nuclear Proliferation Treaty.

Likewise, our proliferation of nuclear material to India is a clear violation of the nuclear proliferation treaty as well.

The demand for U.N. sanctions is now being strongly encouraged by Congress. The Iran Freedom Support Act, H.R. 282 passed in the International Relations Committee and recently the House passed H. Con. Res. 341, which inaccurately condemned Iran for violating its international nuclear nonproliferation obligations. At present, the likelihood of reason prevailing in Congress is minimal. Let there be no doubt, the neoconservative warriors are still in charge and are conditioning Congress, the media, and the American people for a preemptive attack on Iran, never mind that Afghanistan has unraveled and Iraq is in a Civil War.

Serious plans are being laid for the next distraction which will further spread this war in the Middle East. The unintended consequences of this effort surely will be worse than any of the complications experienced in the 3-year occupation of Iraq.

Our offer of political and financial assistance to foreign and domestic individuals who support the overthrow of the current Iranian government is fraught with danger and saturated with arrogance. Imagine how Americans citizens would respond if China supported similar efforts here in the United States to bring about regime change. How many of us would remain complacent if someone like Timothy McVeigh had been financed by a foreign power? Is it any wonder the Iranian people resent us and the attitude of our leaders?

Even though ElBaradei and his IAEA investigations have found no violations of the NPT required IAEA safeguard agreement, the Iran Freedom Support Act still demands that Iran prove they have no nuclear weapons, refusing to acknowledge that proving a negative is impossible. Let there be no doubt, though, the words "regime change" are not found in the bill. That is precisely what they are talking about. Neoconservative Michael Ladine, one of the architects of the Iraq fiasco, testifying before the International Relations Committee in favor of the Iraq Freedom Support Act stated it plainly. "I know some members would prefer to dance around the explicit declaration of regime change as the policy of this country, but anyone looking closely at the language and the context of the Iraq Freedom Support Act and its close relative in the Senate can clearly see that this is, in fact, the essence of the matter.

□ 2230

You can't have freedom in Iran without bringing down the mullahs."

Sanctions, along with financial and political support to persons and groups dedicated to the overthrow of the Iranian government, are acts of war. Once again, we are unilaterally declaring a preemptive war against a country and a people that have not harmed us and do not have the capacity to do so. And do not expect Congress to seriously debate a declaration of war. For the past 56 years, Congress has transferred to the executive branch the power to go to war as it pleases, regardless of the tragic results and costs.

Secretary of State Rice recently signaled a sharp shift toward confrontation in Iran's policy as she insisted on \$75 million to finance propaganda, through TV and radio broadcasts into Iran. She expressed this need because of the so-called "aggressive" policies of the Iranian government. We are 7,000 miles from home, telling the Iraqis and the Iranians what kind of government they will have, backed up by the use of our military force, and we call them the aggressors? We fail to realize the Iranian people, for whatever faults they may have, have not in modern times invaded any neighboring country. This provocation is so unnecessary, costly and dangerous.

Just as the invasion of Iraq inadvertently served the interests of the Iranians, military confrontation with Iran will have unintended consequences. The successful alliance engendered between the Iranians and the Iraqi majority Shia will prove a formidable opponent for us in Iraq as that civil war spreads. Shipping in the Persian Gulf through the Straits of Hormuz may well be disrupted by the Iranians in retaliation for any military confrontation. Since Iran would be incapable of defending herself by conventional means, it seems logical that they might well resort to terrorist attacks on us here at home. They will not passively lie down, nor can they be easily destroyed.

One of the reasons given for going into Iraq was to secure our oil supplies. This backfired badly. Production in Iraq is down 50 percent, and world oil prices have more than doubled to \$60 per barrel. Meddling with Iran could easily have a similar result. We could see oil at \$120 a barrel and gasoline at \$6 a gallon. The obsession the neo-cons have with remaking the Middle East is hard to understand. One thing that is easy to understand is none of those who plan these wars expect to fight in them, nor do they expect their children to die in some IED explosion.

Exactly when an attack will occur is not known, but we have been forewarned more than once that all options are on the table. The sequence of events now occurring with regards to Iran are eerily reminiscent of the hype to our preemptive strike against Iraq. We should remember the saying: "Fool me once, shame on you; fool me twice,

shame on me." It looks to me like the Congress and the country is open to being fooled once again.

Interestingly, many early supporters of the Iraq War are now highly critical of the President, having been misled as to reasons for the invasion and occupation. But these same people are only too eager to accept the same flawed arguments for our need to undermine the Iranian government.

The President's 2006 National Security Strategy, just released, is every bit as frightening as the one released in 2002 endorsing preemptive war. In it he claims, "We face no greater challenge from a single country than from Iran." He claims the Iranians have for 20 years hidden key nuclear activities, though the IAEA makes no such assumption, nor has the Security Council in at least 20 years ever sanctioned Iran. The clincher in the National Security Strategy document is if diplomatic efforts fail, confrontation will follow. The problem is the diplomatic effort, if one wants to use that term, is designed to fail by demanding the Iranians prove an unprovable negative. The West, led by the U.S., is in greater violation by demanding Iran not pursue any nuclear technology, even peaceful, that the NPT guarantees is their right.

The President states: Iran's "desire to have a nuclear weapon is unacceptable." A desire is purely subjective and cannot be substantiated nor disproved. Therefore, all that is necessary to justify an attack is if Iran fails to prove it does not have a desire to be like the United States, China, Russia, Britain, France, Pakistan, North Korea, India and Israel whose nuclear missiles surround Iran. Logic like this to justify a new war, without the least consideration for a congressional declaration of war, is indeed frightening.

Commonsense telling us Congress, especially given the civil war in Iraq and the mess in Afghanistan, should move with great caution in condoning a military confrontation with Iran.

Madam Speaker, there are reasons for my concern and let me list those. Most Americans are uninterested in foreign affairs until we get mired down in a war that costs too much, lasts too long, and kills too many U.S. troops. Getting out of a lengthy war is difficult, as I remember all too well with Vietnam while serving in the U.S. Air Force in 1963 to 1968. Getting into war is much easier.

Unfortunately, the legislative branch of our government too often defers to the executive branch and offers little resistance to war plans, even with no significant threat to our security. The need to go to war is always couched in patriotic terms and falsehoods regarding an imaginary, imminent danger. Not supporting the effort is painted as unpatriotic and wimpish against some evil that is about to engulf us. The real reason for our militarism is rarely revealed and hidden from the public. Even Congress is deceived into sup-

porting adventurism they would not accept if fully informed.

If we accepted the traditional American and constitutional foreign policy of nonintervention across the board, there would be no temptation to go along with these unnecessary military operations. A foreign policy of intervention invites all kinds of excuses for spreading ourselves around the world. The debate shifts from nonintervention versus intervention, to where and for what particular reason should we involve ourselves. Most of the time, it is for less than honorable reasons. Even when cloaked in honorable slogans, like making the world safe for democracy, the unintended consequences and the ultimate costs cancel out the good intentions.

One of the greatest losses suffered these past 60 years from interventionism becoming an acceptable policy of both major parties is respect for the Constitution. Congress flatly has reneged on its huge responsibility to declare war. Going to war was never meant to be an executive decision, used indiscriminately with no resistance from Congress. The strongest attempt by Congress in the past 60 years to properly exert itself over foreign policy was the passage of the Foley amendment, demanding no assistance be given to the Nicaraguan contras. Even this explicit prohibition was flaunted by an earlier administration.

Arguing over the relative merits of each intervention is not a true debate, because it assumes that intervention per se is both moral and constitutional. Arguing for a Granada-type intervention because of its success and against the Iraq War because of its failure and cost is not enough. We must once again, understand the wisdom of rejecting entangling alliances and rejecting Nation building. We must stop trying to police the world and, instead, embrace noninterventionism as the proper moral and constitutional foreign policy of our country.

The best reason to oppose interventionism is that people die, needlessly, on both sides. We have suffered over 20,000 American casualties in Iraq already, and Iraqi civilian deaths probably number over 100,000 by all reasonable counts.

The next best reason is that the rule of law is undermined, especially when military interventions are carried out without a declaration of war. Whenever a war is ongoing, civil liberties are under attack at home. The current war in Iraq and the misnamed war on terror have created an environment here at home that affords little constitutional protection of our citizens' rights. Extreme nationalism is common during war. Signs of this are now apparent.

Prolonged wars, as this one has become, have profound consequences. No matter how much positive spin is put on it, war never makes a society wealthier. World War II was not a solution to the Depression, as many claim. If \$1 billion is spent on weapons of war,

the GDP records positive growth in that amount, but the expenditure is consumed by destruction of the weapons or bombs it bought, and the real economy is denied \$1 billion to produce products that would have raised someone's standard of living.

Excessive spending to finance the war causes deficits to explode. There are never enough tax dollars available to pay the bills, and since there are not enough willing lenders and dollars available, the Federal Reserve must create new money out of thin air and new credit for buying Treasury bills to prevent interest rates from rising too rapidly. Rising rates would tip off everyone that there are not enough savings or taxes to finance the war.

This willingness to print whatever amount of money the government needs to pursue the war is literally inflation. Without a fiat monetary system, wars would be very difficult to finance since the people would never tolerate the taxes required to pay for it. Inflation of the money supply delays and hides the real cost of war. The result of the excessive creation of new money leads to the higher cost of living everyone decries and the Fed denies. Since taxes are not levied, the increase in prices that results from printing too much money is technically the tax required to pay for the war.

The tragedy is that the inflation tax is borne more by the poor and the middle class than the rich. Meanwhile, the well-connected rich, the politicians, the bureaucrats, the bankers, the military industrialists and the international corporations reap the benefits of war profits.

A sound economic process is disrupted with a war economy and monetary inflation. Strong voices emerge blaming the wrong policies for our problems, prompting an outcry for protectionist legislation. It is always easier to blame foreign producers and savers for our inflation, our lack of savings, excessive debt and loss of industrial jobs. Protectionist measures only make economic conditions worse. Inevitably these conditions, if not corrected, lead to a lower standard of living for most of our citizens.

Careless military intervention is also bad for the civil disturbance that results. The chaos in the streets of America in the 1960s while the Vietnam War raged, aggravated by the draft, was an example of domestic strife caused by an ill-advised unconstitutional war that could not be won. The early signs of civil discord are now present. Hopefully, we can extricate ourselves from Iraq and avoid a conflict in Iran before our streets explode, as they did in the 1960s.

In a way, it is amazing there is not a lot more outrage expressed by the American people. There is plenty of complaining but no outrage over policies that are not part of our American tradition. War based on false pretenses, 20,000 American casualties, torture policies, thousands jailed without due

process, illegal surveillance of citizens, warrantless searches, and yet no outrage. When the issues come before Congress, executive authority is maintained or even strengthened while real oversight is ignored.

Though many Americans are starting to feel the economic pain of paying for this war through inflation, the real pain has not yet arrived. We generally remain fat and happy with a system of money and borrowing that postpones the day of reckoning. Foreigners, in particular the Chinese and Japanese, gladly participate in the charade. We print the money and they take it, as do the OPEC Nations, and provide us with consumer goods and oil. Then they loan the money back to us at low interest rates, which we use to finance the war and our housing bubble and excessive consumption. This recycling and perpetual borrowing of inflated dollars allow us to avoid the pain of high taxes to pay for our war and welfare spending. It is fine until the music stops and the real costs are realized, with much higher interest rates and significant price inflation. That is when outrage will be heard and the people will realize we cannot afford the humanitarianism of the neo-conservatives.

The notion that our economic problems are principally due to the Chinese is nonsense. If the protectionists were to have it their way, the problem of financing the war would become readily apparent and have immediate ramifications, none good.

□ 2245

Today's economic problems, caused largely by our funny money system, won't be solved by altering exchange rates to favor us in the short run or by imposing high tariffs. Only sound money with real value will solve the problems of competing currency devaluations and protectionist measures.

Economic interests almost always are major reasons for wars being fought. Noble and patriotic causes are easier to sell to a public who must pay and provide cannon fodder to defend the financial interests of a privileged class. The fact that Saddam Hussein demanded Euros for oil in an attempt to undermine the U.S. dollar is believed by many to be one of the ulterior motives for our invasion and occupation of Iraq. Similarly, the Iranian oil bourse now about to open may be seen as a threat to those who depend on maintaining the current monetary system with the dollar as the world's reserve currency.

The theory and significance of "peak oil" is believed to be an additional motivating factor for the United States and Great Britain wanting to maintain firm control over the oil supplies in the Middle East. The two nations have been protecting our oil interests in the Middle East for nearly 100 years. With diminishing supplies and expanding demands, the incentive to maintain a military presence in the Middle East is quite strong. Fear of China and Russia

moving in to this region to consume more control alarms those who don't understand how a free market can develop substitutes to replace diminishing resources. Supporters of the military efforts to maintain control over large regions of the world to protect oil fail to count the real cost of energy once the DOD budget is factored in. Remember, invading Iraq was costly and oil prices doubled. Confrontation in Iran may evolve differently, but we can be sure it will be costly and oil prices will rise significantly.

There are long-term consequences or blowback from our militant policies of intervention around the world. They are unpredictable as to time and place. 9/11 was a consequence of our military presence on Muslim holy lands; the Ayatollah Khomeini's success in taking over the Iranian government in 1979 was a consequence of our CIA overthrowing Mossaddeh in 1953. These connections are rarely recognized by the American people and never acknowledged by our government. We never seem to learn how dangerous interventionism is to us and to our security.

There are some who may not agree strongly with any of my arguments, and instead believe the propaganda Iran and her President, Mahmoud Ahmadinejad, are thoroughly irresponsible and have threatened to destroy Israel. So all measures must be taken to prevent Iran from getting nukes, thus the campaign to intimidate and confront Iran.

First, Iran doesn't have a nuke and it is nowhere close to getting one, according to the CIA. If they did have one, using it would guarantee almost instantaneous annihilation by Israel and the United States. Hysterical fear of Iran is way out of proportion to reality. With a policy of containment, we stood down and won the Cold War against the Soviets and their 30,000 nuclear weapons and missiles. If you are looking for a real kook with a bomb to worry about, North Korea would be high on the list. Yet we negotiate with Kim Jong Il. Pakistan has nukes and was a close ally of the Taliban up until 9/11. Pakistan was never inspected by the IAEA as to their military capability. Yet we not only talk to her, we provide economic assistance, though someday Musharraf may well be overthrown and a pro-al Qaeda government put in place. We have been nearly obsessed with talking about regime change in Iran, while ignoring Pakistan and North Korea. It makes no sense and it is a very costly and dangerous policy.

The conclusion we should derive from this is simple. It is in our best interest to pursue a foreign policy of non-intervention. A strict interpretation of the Constitution mandates it. The moral imperative of not imposing our will on others, no matter how well intentioned, is a powerful argument for minding our own business. The principle of self-determination should be respected. Strict nonintervention re-

moves the incentives for foreign powers and corporate interests to influence and control our policies overseas. We can't afford the cost that intervention requires, whether through higher taxes or inflation. If the moral arguments against intervention don't suffice for some, the practical arguments should.

Intervention just doesn't work. It backfires and ultimately hurts the American citizens both at home and abroad. Spreading ourselves too thin around the world actually diminishes our national security through a weakened military. As the only superpower of the world, a constant interventionist policy is perceived as arrogant, and greatly undermines our ability to use diplomacy in a positive manner.

Conservatives, libertarians, constitutionalists, and many of today's liberals have all at one time or another endorsed a less interventionist foreign policy. There is no reason a coalition of these groups might not once again present the case for a pro-American nonmilitant noninterventionist foreign policy dealing with all nations. A policy of trade and peace, and a willingness to use diplomacy is far superior to the foreign policy that has evolved over the past 60 years. It is time for a change.

CORRECTION TO THE CONGRESSIONAL RECORD OF MONDAY, MARCH 6, 2006, AT PAGE H570

HOUSE OF REPRESENTATIVES, COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE,

Washington, DC, February 28, 2006.

Hon. J. DENNIS HASTERT,
Speaker of the House,
Washington, DC.

DEAR MR. SPEAKER: Enclosed please find two resolutions approved by the Committee on Transportation and Infrastructure on February 16, 2006, in accordance with 40 U.S.C. §3307.

Sincerely,

DON YOUNG,
Chairman.

LEASE—DEPARTMENT OF JUSTICE—MIAMI/
MIRAMAR, FL

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to title 40 U.S.C. §3307, appropriations are authorized to lease up to approximately 723,780 rentable square feet of space and 1,155 outside parking spaces for the Department of Justice, currently located in multiple leased locations throughout South Florida, at a proposed total annual cost of \$25,332,300 for a lease term of 15 years, a prospectus for which is attached to and included in this resolution.

Approval of this prospectus constitutes authority to execute an interim lease for all tenants, if necessary, prior to execution of the new lease.

Provided, That the General Services Administration shall not delegate to any other agency the authority granted by this resolution.

AMENDED PROSPECTUS—ALTERNATIONS—
EMANUEL CELLER COURTHOUSE—BROOKLYN,
NY

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to 40 U.S.C. §3307,

additional appropriations are authorized for the alteration of the Emanuel Celler Courthouse located at 225 Cadman Plaza East, in Brooklyn, NY at an additional design and review cost of \$3,511,000 (design and review cost of \$3,791,000 was previously authorized), an additional estimated construction cost of \$27,193,000 (estimated construction cost of \$61,046,000 was previously authorized), and additional management and inspection cost of \$4,220,000 (management and inspection cost of \$4,465,000 was previously authorized) for a combined estimated total project cost of \$104,226,000, a prospectus for which is attached to, and included in, this resolution. This resolution amends Committee resolutions dated July 18, 2001, authorizing \$3,791,000 for design and July 23, 2003, authorizing \$65,511,000 for management and inspection and construction.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. BAIRD) to revise and extend their remarks and include extraneous material:)

Mr. HOYER, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Mr. GEORGE MILLER of California, for 5 minutes, today.

Mr. DINGELL, for 5 minutes, today.

Mr. RYAN of Ohio, for 5 minutes, today.

Mr. KILDEE, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

Mr. HOLT, for 5 minutes, today.

Mr. CONYERS, for 5 minutes, today.

Mr. KUCINICH, for 5 minutes, today.

Mr. LEVIN, for 5 minutes, today.

Ms. KILPATRICK of Michigan, for 5 minutes, today.

Mr. OWENS, for 5 minutes, today.

Mr. MCDERMOTT, for 5 minutes, today.

Mr. EMANUEL, for 5 minutes, today.

Mr. CUMMINGS, for 5 minutes, today.

(The following Members (at the request of Mr. JONES of North Carolina) to revise and extend her remarks and include extraneous material:)

Mrs. MUSGRAVE, for 5 minutes, today.

ADJOURNMENT

Mr. PAUL. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 51 minutes p.m.), the House adjourned until tomorrow, Thursday, April 6, 2006, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

6886. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 16-312, "District of Columbia Bus Shelter Amendment Act of 2006," pursuant to D.C. Code section 1-233(c)(1); to the Committee on Government Reform.

6887. A letter from the Chairman, Council of the District of Columbia, transmitting a

copy of D.C. ACT 16-309, "Home of Walter Washington Way Designation Act of 2006," pursuant to D.C. Code section 1-233(c)(1); to the Committee on Government Reform.

6888. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 16-308, "Walter E. Washington Way Designation Act of 2006," pursuant to D.C. Code section 1-233(c)(1); to the Committee on Government Reform.

6889. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 16-311, "Carolyn Llorente Memorial Designation Act of 2006," pursuant to D.C. Code section 1-233(c)(1); to the Committee on Government Reform.

6890. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 16-310, "Terry Hairston Run Designation Act of 2006," pursuant to D.C. Code section 1-233(c)(1); to the Committee on Government Reform.

6891. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 16-313, "Office and Commission on African Affairs Act of 2006," pursuant to D.C. Code section 1-233(c)(1); to the Committee on Government Reform.

6892. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 16-314, "Real Property Disposition Economic Analysis Amendment Act of 2006," pursuant to D.C. Code section 1-233(c)(1); to the Committee on Government Reform.

6893. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 16-315, "Lamond-Riggs Air Quality Study Temporary Act of 2006," pursuant to D.C. Code section 1-233(c)(1); to the Committee on Government Reform.

6894. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 16-316, "Victims of Domestic Violence Fund Establishment Temporary Act of 2006," pursuant to D.C. Code section 1-233(c)(1); to the Committee on Government Reform.

6895. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 16-318, "School Without Walls Development Project Temporary Amendment Act of 2006," pursuant to D.C. Code section 1-233(c)(1); to the Committee on Government Reform.

6896. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 16-317, "Ballpark Hard and Soft Costs Cap and Ballpark Lease Conditional Approval Temporary Act of 2006," pursuant to D.C. Code section 1-233(c)(1); to the Committee on Government Reform.

6897. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 16-335, "Way to Work Amendment Act of 2006," pursuant to D.C. Code section 1-233(c)(1); to the Committee on Government Reform.

6898. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 16-336, "Home Again Initiative Community Development Amendment Act of 2006," pursuant to D.C. Code section 1-233(c)(1); to the Committee on Government Reform.

6899. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 16-337, "Contracting and Procurement Reform Task Force Membership Authorization and Qualifications Clarification Temporary Act of 2006," pursuant to D.C. Code section 1-233(c)(1); to the Committee on Government Reform.

6900. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 16-338, "Unemployment Compensation Contributions Federal Conformity Temporary Amendment Act of 2006,"

pursuant to D.C. Code section 1-233(c)(1); to the Committee on Government Reform.

6901. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 16-339, "Procurement Practices Timely Competition Assurance and Direct Voucher Prohibition Amendment Act of 2006," pursuant to D.C. Code section 1-233(c)(1); to the Committee on Government Reform.

6902. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 16-340, "White Collar Insurance Fraud Amendment Act of 2006," pursuant to D.C. Code section 1-233(c)(1); to the Committee on Government Reform.

6903. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 16-341, "School Modernization Financing Act of 2006," pursuant to D.C. Code section 1-233(c)(1); to the Committee on Government Reform.

6904. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 16-319, "Vehicle Insurance Enforcement Amendment Act of 2006," pursuant to D.C. Code section 1-233(c)(1); to the Committee on Government Reform.

6905. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Federal Motor Vehicle Safety Standards; Rear Impact Guards and Rear Impact Protection [Docket No. NHTSA-2004-19523] (RIN: 2127-AJ80) received March 24, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6906. A letter from the Chairman, Surface Transportation Board, Department of Transportation, transmitting the Department's final rule — Regulations Governing Fees for Services Performed in Connection With Licensing and Related Services — 2006 Update [STB Ex Parte No. 542 (Sub-No. 13) received March 2, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6907. A letter from the Attorney, Pipeline & Hazardous Materials Safety Administration, Department of Transportation, transmitting the Department's final rule — Gas Gathering Line Definition; Alternative Definition for Onshore Lines and New Safety Standards [Docket No. PHMSA-1998-4868; Amdt. 192-102] (RIN: 2137-AB15) received March 24, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6908. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Delayed Implementation of the Airspace Modification Final Rule for the Grand Canyon National Park Special Flight Rule Area and Flight Free Zones [Docket No. FAA-2001-8690] (RIN: 2120-AI71) received March 24, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6909. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB-135BJ, -135ER, -135KE, -135KL, -135LR, -145, -145ER, -145MR, -145LR, -145XR, -145MP, and -145EP Airplanes [Docket No. FAA-2005-23187; Directorate Identifier 2002-NM-203-AD; Amendment 39-14397; AD 2005-25-04] (RIN: 2120-AA64) received January 24, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6910. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Turbomeca Arriel 2B and 2B1 Turbohaft Engines [Docket No. FAA-2005-22928; Directorate Identifier 2005-

NE-43-AD; Amendment 39-14406; AD 2005-25-13] (RIN: 2120-AA64) received January 24, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6911. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Vertol Model 107-H Helicopters [Docket No. FAA-2005-23085; Directorate Identifier 2005-SW-25-AD; Amendment 39-14385; AD 2005-24-05] (RIN: 2120-AA64) received February 13, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6912. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Airbus Model A319-100 Series Airplanes; Model A320-111 Airplanes; Model A320-200 Series Airplanes, and Model A321-100 and -200 Series Airplanes [Docket No. FAA-2005-20687; Directorate Identifier 2004-NM-171-AD; Amendment 39-14325; AD 2005-20-28] (RIN: 2120-AA64) received February 13, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6913. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Standards: Normal, Utility, Acrobatic, and Commuter Category Airplanes; Correction — received January 24, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6914. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Pacific Aerospace Corporation Ltd. Model 750XL Airplanes [Docket No. FAA-2005-21935; Directorate Identifier 2005-CE-37-AD; Amendment 39-14387; AD 2005-24-07] (RIN: 2120-AA64) received February 13, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6915. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 747-100, 747-100B, 747-100B SUD, 747-200B, 747-300, 747SP, and 747SR Series Airplanes [Docket No. FAA-2005-20879; Directorate Identifier 2004-NM-55-AD; Amendment 39-14326; AD 2005-20-29] (RIN: 2120-AA64) received February 13, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6916. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; SOCAT — Groupe AEROSPATIALE Model TBM 700 Airplanes [Docket No. FAA-2005-21464; Directorate Identifier 2005-CE-32-AD; Amendment 39-14320; AD-2005-20-24] (RIN: 2120-AA64) received February 23, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6917. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Airbus Model A320-111 Airplanes [Docket No. FAA-2005-22626; Directorate Identifier 2002-NM-295-AD; Amendment 39-14332; AD 2005-20-35] (RIN: 2120-AA64) received February 13, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6918. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Airbus Model A318-100, A319-100, A320-200, A321-100, and A321-200 Series Airplanes, and Model A320-111 Airplanes [Docket No. FAA-2005-23087; Direc-

torate Identifier 2005-NM-225-AD; Amendment 39-14386; AD 2005-24-06] (RIN: 2120-AA64) received February 13, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6919. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Pacific Aerospace Corporation Ltd. Model 750XL Airplanes [Docket No. FAA-2005-21935; Directorate Identifier 2005-CE-37-AD; Amendment 39-14387; AD 2005-24-07] (RIN: 2120-AA64) received February 13, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6920. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB-135 Airplanes and Model EMB-145, -145ER, -145MR, -145LR, -145XR, -145MP, and -145EP Airplanes [Docket No. FAA-2005-20011; Directorate Identifier 2003-NM-22-AD; Amendment 39-14382; AD 2005-24-02] (RIN: 2120-AA64) received February 13, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6921. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Standard Instrument Approach Procedures, Weather Takeoff Minimums; Miscellaneous Amendments [Docket No. 30464; Amdt. No. 3140] received February 15, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6922. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Supplemental Oxygen [Docket No. FAA-2005-22915; Amendment No. 121-332] (RIN: 2120-a165) received February 3, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6923. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Airbus Model A318-100, A319-100, A320-200, A321-100, and A321-200 Series Airplanes; and Model A320-111 Airplanes [Docket No. FAA-2005-23382; Directorate Identifier 2005-NM-221-AD; Amendment 39-14428; AD 2005-26-07] (RIN: 2120-AA64) received January 24, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6924. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Supplemental Oxygen [Docket No. FAA-2005-22915; Amendment No. 121-317] (RIN: 2120-a165) received January 4, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. PUTNAM: Committee on Rules. House Resolution 766. Resolution providing for consideration of the concurrent resolution (H. Con. Res. 376) establishing the congressional budget for the United States Government for fiscal year 2007 and setting forth appropriate budgetary levels for fiscal years 2008 through 2011 (Rept. 109-405). Referred to the House Calendar.

Mr. PUTNAM: Committee on Rules. House Resolution 767. Resolution waiving a requirement of clause 6(a) of rule XIII with respect

to consideration of certain resolutions reported from the Committee on Rules (Rept. 109-406). Referred to the House Calendar.

Mr. SENSENBRENNER: Committee on the Judiciary. H.R. 2955. A bill to amend title 28, United States Code, to clarify that the Court of Appeals for the Federal Circuit has exclusive jurisdiction of appeals relating to patents, plant variety protection, or copyrights, and for other purposes; with an amendment (Rept. 109-407). Referred to the Committee of the Whole House on the State of the Union.

Mr. SENSENBRENNER: Committee on the Judiciary. H.R. 4742. A bill to amend title 35, United States Code, to allow the Director of the Patent and Trademark Office to waive statutory provisions governing patents and trademarks in certain emergencies (Rept. 109-408). Referred to the Committee of the Whole House on the State of the Union.

Mr. SENSENBRENNER: Committee on the Judiciary. House Concurrent Resolution 319. Resolution expressing the sense of the Congress regarding the successful and substantial contributions of the amendments to the patent and trademark laws that were enacted in 1980 (Public Law 96-517; commonly known as the "Bayh-Dole Act"), on the occasion of the 25th anniversary of its enactment (Rept. 109-409). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. LANTOS (for himself, Mr. BURTON of Indiana, Mr. ENGEL, Ms. ROSLEHTINEN, Mr. DELAHUNT, Mr. SMITH of New Jersey, Ms. LEE, Mr. WELLER, Mr. BERMAN, Mr. WEXLER, Mr. PAYNE, Mr. CROWLEY, Mrs. NAPOLITANO, and Mr. MEEKS of New York):

H.R. 5091. A bill to authorize assistance to the people of the Republic of Haiti to fund scholarships for talented disadvantaged students in Haiti to continue their education in the United States and to return to Haiti to contribute to the development of their country, and for other purposes; to the Committee on International Relations.

By Mr. COBLE (for himself and Mr. SCOTT of Virginia):

H.R. 5092. A bill to modernize and reform the Bureau of Alcohol, Tobacco, Firearms, and Explosives; to the Committee on the Judiciary.

By Mrs. KELLY:

H.R. 5093. A bill to revise the limitation on Impact Aid special payments; to the Committee on Education and the Workforce.

By Mr. JONES of North Carolina:

H.R. 5094. A bill to require the conveyance of Mattamuskeet Lodge and surrounding property, including the Mattamuskeet National Wildlife Refuge headquarters, to the State of North Carolina to permit the State to use the property as a public facility dedicated to the conservation of the natural and cultural resources of North Carolina; to the Committee on Resources.

By Mr. ENGEL (for himself and Mrs. WILSON of New Mexico):

H.R. 5095. A bill to prohibit deceptive altering or disguising of caller identification on outbound telephone calls; to the Committee on Energy and Commerce.

By Mr. BERMAN (for himself and Mr. BOUCHER):

H.R. 5096. A bill to amend title 35, United States Code, to modify certain procedures relating to patents; to the Committee on the Judiciary.

By Mr. DAVIS of Kentucky (for himself, Mr. LEWIS of Kentucky, Mr.

ENGLISH of Pennsylvania, and Mr. ROGERS of Kentucky):

H.R. 5097. A bill to facilitate and expedite direct refunds to coal producers and exporters of the excise tax unconstitutionally imposed on coal exported from the United States; to the Committee on Ways and Means.

By Mr. MEEHAN:

H.R. 5098. A bill to amend the Internal Revenue Code of 1986 to extend and expand the deduction for tuition and related expenses for higher education and to reduce the maximum interest rate allowable on student loans; to the Committee on Ways and Means, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. PETERSON of Minnesota (for himself, Mr. BONNER, Mr. BERRY, Mr. ROGERS of Alabama, Mr. ROSS, Mr. FOLEY, Mr. POMEROY, Mr. EVERETT, Mr. BOYD, Mr. ALEXANDER, Mr. CUELLAR, Mr. KENNEDY of Minnesota, Mr. MELANCON, Mrs. EMERSON, Mr. HINOJOSA, Mr. PICKERING, Ms. KAPTUR, Mr. BOUSTANY, Mr. SCOTT of Georgia, Mr. HULSHOF, Mr. MARSHALL, Mr. JINDAL, Ms. HERSETH, Mr. PORTER, Mr. SKELTON, and Mr. BAKER):

H.R. 5099. A bill to provide disaster assistance to agricultural producers for crop and livestock losses, and for other purposes; to the Committee on Agriculture, and in addition to the Committees on Transportation and Infrastructure, Armed Services, the Budget, and Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. EHLERS (for himself, Mr. EMANUEL, Mr. REYNOLDS, Mr. KIRK, Mr. DINGELL, Mr. HOEKSTRA, Mr. BISHOP of New York, Ms. MCCOLLUM of Minnesota, Mr. RYAN of Ohio, Mr. ENGLISH of Pennsylvania, Mr. KIND, Mr. KILDEE, Ms. BEAN, Mr. HIGGINS, Ms. SLAUGHTER, Mr. STUPAK, Ms. SCHAKOWSKY, Mr. EVANS, Mr. LEVIN, Mr. BROWN of Ohio, Mr. GUTIERREZ, Ms. KAPTUR, Mr. STRICKLAND, Mr. LIPINSKI, Ms. MOORE of Wisconsin, Mr. LATOURETTE, Mr. UPTON, Mr. MCCOTTER, and Mr. CAMP of Michigan):

H.R. 5100. A bill to establish a collaborative program to protect the Great Lakes, and for other purposes; to the Committee on Transportation and Infrastructure, and in addition to the Committees on Resources, Science, and House Administration, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BEAUPREZ:

H.R. 5101. A bill to authorize a major medical facility project for the Department of Veterans Affairs at Denver, Colorado; to the Committee on Veterans' Affairs.

By Mr. BECERRA (for himself, Mr. DEFAZIO, Mr. SALAZAR, Mr. HONDA, Mr. JEFFERSON, Mr. KENNEDY of Rhode Island, Mr. BOUCHER, Mr. WEXLER, Mr. CARDOZA, Mr. MCGOVERN, Mr. MOLLOHAN, Mr. GENE GREEN of Texas, Mr. GRIJALVA, Mr. RANGEL, Mr. STARK, Mr. CONYERS, Mr. MCDERMOTT, Ms. HERSETH, Mr. HINCHEY, Mr. BROWN of Ohio, Mr. REYES, Mr. RUPPERSBERGER, Mr. LARSON of Connecticut, Mr. McNULTY, Ms. MATSUI, Mr. COSTELLO, Mrs. MALONEY,

Mr. MARSHALL, Mr. LEVIN, Ms. NORTON, Mr. INSLEE, Mr. LYNCH, Mr. DELAHUNT, Mr. OWENS, Mr. ORTIZ, Ms. SCHAKOWSKY, Mrs. NAPOLITANO, Mr. RYAN of Ohio, Mr. DOYLE, Mr. POMEROY, Mr. SCOTT of Virginia, Mr. BACA, Mr. SANDERS, Mr. CUMMINGS, Mr. OBERSTAR, Mr. PAYNE, Mr. GONZALEZ, Mr. EMANUEL, Mr. LANTOS, Mr. DOGGETT, Ms. WASSERMAN SCHULTZ, Mr. BRADY of Pennsylvania, Mrs. CAPPs, and Ms. MCCOLLUM of Minnesota):

H.R. 5102. A bill to amend title XVIII of the Social Security Act to prohibit removal of covered part D drugs from a prescription drug plan formulary during the plan year once an individual has enrolled in the plan; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BOUCHER:

H.R. 5103. A bill to provide for the conveyance of the former Konnarock Lutheran Girls School in Smyth County, Virginia, which is currently owned by the United States and administered by the Forest Service, to facilitate the restoration and reuse of the property, and for other purposes; to the Committee on Agriculture.

By Mr. DAVIS of Florida:

H.R. 5104. A bill to designate the facility of the United States Postal Service located at 1750 16th Street South in St. Petersburg, Florida, as the "Morris W. Milton Post Office"; to the Committee on Government Reform.

By Mr. HAYWORTH:

H.R. 5105. A bill to clarify that Arizona is in compliance with the Equal Educational Opportunities Act of 1974 with respect to English language learners; to the Committee on Education and the Workforce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HINOJOSA:

H.R. 5106. A bill to amend the National Science Foundation Authorization Act of 2002 to authorize grants for Partnerships for Access to Laboratory Science (PALS); to the Committee on Science, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MILLER of Florida (for himself, Mr. MEEK of Florida, Mr. DAVIS of Florida, Mr. FOLEY, Mr. BOYD, Mr. MACK, Ms. GINNY BROWN-WAITE of Florida, Ms. HARRIS, Mr. CRENSHAW, Mr. FEENEY, Mr. LINCOLN DIAZ-BALART of Florida, Ms. ROSLEHTINEN, Mr. STEARNS, Mr. PUTNAM, Mr. HASTINGS of Florida, Mr. WELDON of Florida, Mr. MICA, Mr. BILLIRAKIS, Mr. MARIO DIAZ-BALART of Florida, Mr. WEXLER, Mr. KELLER, Mr. YOUNG of Florida, Ms. WASSERMAN SCHULTZ, Mr. SHAW, and Ms. CORRINE BROWN of Florida):

H.R. 5107. A bill to designate the facility of the United States Postal Service located at 1400 West Jordan Street in Pensacola, Florida, as the "Earl D. Hutto Post Office Building"; to the Committee on Government Reform.

By Mr. POE:

H.R. 5108. A bill to designate the facility of the United States Postal Service located at 1213 East Houston Street in Cleveland,

Texas, as the "Lance Corporal Robert A. Martinez Post Office Building"; to the Committee on Government Reform.

By Mr. ROGERS of Michigan (for himself and Mr. BURGESS):

H.R. 5109. A bill to amend the Public Health Service Act to require Senate confirmation for each appointment to serve in the position of Assistant Secretary for Public Health Emergency Preparedness, Department of Health and Human Services; to the Committee on Energy and Commerce.

By Mr. UDALL of Colorado:

H.R. 5110. A bill to facilitate the use for irrigation and other purposes of water produced in connection with development of energy resources; to the Committee on Resources.

By Mr. UDALL of Colorado:

H.R. 5111. A bill to amend the Energy Policy Act of 2005 to authorize discounted sales of royalty oil and gas taken in-kind from a Federal oil or gas lease to provide additional resources to Federal low-income energy assistance programs; to the Committee on Resources.

By Mr. COSTA (for himself, Mr. POE, and Ms. HARRIS):

H. Con. Res. 378. Concurrent resolution supporting the goals and ideals of the 2006 National Crime Victims' Rights Week and efforts to increase public awareness of the rights, needs, and concerns of crime victims and survivors in the United States; to the Committee on the Judiciary.

By Mr. EMANUEL (for himself, Mr. ABERCROMBIE, Mr. VAN HOLLEN, Mr. DAVIS of Tennessee, Mr. MCDERMOTT, Mr. OWENS, Mrs. CAPPs, Mr. DOYLE, Mr. NEAL of Massachusetts, Mr. CONYERS, Mr. RYAN of Ohio, Mr. GEORGE MILLER of California, Mr. PALLONE, Mr. GRIJALVA, Ms. SCHAKOWSKY, Mr. LEWIS of Georgia, Mr. BISHOP of Georgia, Mr. CLAY, and Mr. UDALL of Colorado):

H. Con. Res. 379. Concurrent resolution directing the Architect of the Capitol to establish a temporary exhibit in the rotunda of the Capitol to honor the memory of the members of the United States Armed Forces who have lost their lives in Operation Iraqi Freedom and Operation Enduring Freedom; to the Committee on House Administration.

By Mr. SCHIFF (for himself and Mr. GOODLATTE):

H. Con. Res. 380. Concurrent resolution expressing the sense of Congress that United States intellectual property rights must be protected globally; to the Committee on International Relations, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. PELOSI:

H. Res. 762. A resolution raising a question of the privileges of the House:

By Mr. TOM DAVIS of Virginia:

H. Res. 763. A resolution supporting the goals and ideals of a National Children and Families Day, in order to encourage adults in the United States to support and listen to children and to help children throughout the Nation achieve their hopes and dreams, and for other purposes; to the Committee on Government Reform.

By Mr. WELDON of Pennsylvania:

H. Res. 764. A resolution recognizing and honoring firefighters for their many contributions throughout the history of the Nation; to the Committee on Government Reform.

By Mr. WELDON of Pennsylvania (for himself, Mr. PASCRELL, Mr. DENT, Mr. PORTER, Mr. DUNCAN, and Mrs. MALONEY):

H. Res. 765. A resolution supporting the goals and ideals of National Campus Safety Awareness Month; to the Committee on Government Reform.

By Mr. SIMMONS (for himself, Mr. JOHNSON of Connecticut, Mr. SHAYS, Ms. DELAURO, and Mr. LARSON of Connecticut):

H. Res. 768. A resolution congratulating Geno Auriemma, the University of Connecticut women's basketball head coach, upon his selection to the Naismith Memorial Basketball Hall of Fame in Springfield, Massachusetts; to the Committee on Education and the Workforce.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 65: Mr. YOUNG of Alaska.
 H.R. 138: Mr. WESTMORELAND, Mr. SCOTT of Georgia, Mr. MARSHALL, Mr. GINGREY, Mr. BISHOP of Georgia, Mr. DEAL of Georgia, Mr. PRICE of Georgia, Mr. BARROW, and Mr. NORWOOD.
 H.R. 198: Mr. CHANDLER, Mr. MEEKS of New York, and Mrs. DRAKE.
 H.R. 475: Ms. MATSUI.
 H.R. 517: Mr. MCDERMOTT.
 H.R. 521: Mr. MCCOTTER and Mr. BACHUS.
 H.R. 586: Mr. STEARNS and Mr. HULSHOF.
 H.R. 663: Ms. KILPATRICK of Michigan and Mr. CUMMINGS.
 H.R. 697: Ms. BEAN.
 H.R. 699: Mr. BISHOP of New York and Mr. BURTON of Indiana.
 H.R. 717: Mr. PAUL.
 H.R. 824: Mr. DANIEL E. LUNGREN of California.
 H.R. 867: Ms. HERSETH.
 H.R. 999: Mr. BONNER, Mr. BLUMENAUER, and Mr. LATHAM.
 H.R. 1079: Mr. TAYLOR of North Carolina.
 H.R. 1100: Mrs. SCHMIDT.
 H.R. 1105: Mr. GONZALEZ.
 H.R. 1120: Mrs. NORTUP, Mr. SAXTON, Mr. ISRAEL, and Mr. LAHOOD.
 H.R. 1125: Mr. FILNER and Mr. LATHAM.
 H.R. 1172: Mr. FRANK of Massachusetts.
 H.R. 1175: Mr. YOUNG of Alaska.
 H.R. 1182: Mr. HIGGINS and Ms. ZOE LOFGREN of California.
 H.R. 1243: Mr. DAVIS of Kentucky.
 H.R. 1256: Mr. DUNCAN.
 H.R. 1298: Mr. ROTHMAN.
 H.R. 1370: Mr. BEAUPREZ.
 H.R. 1405: Mr. RAMSTAD, and Mr. ISRAEL.
 H.R. 1447: Mrs. DAVIS of California, Mrs. TAUSCHER, Ms. MATSUI, Mr. EHLERS, and Mr. JEFFERSON.
 H.R. 1545: Mr. PAYNE and Mr. SHAYS.
 H.R. 1575: Mr. ANDREWS and Mr. STRICKLAND.
 H.R. 1578: Mr. BEAUPREZ and Mr. EVANS.
 H.R. 1652: Mr. FATTAH.
 H.R. 1704: Mr. PASTOR, and Mr. PRICE of North Carolina.
 H.R. 1709: Mr. HIGGINS.
 H.R. 1714: Mr. MEEK of Florida, and Ms. ROS-LEHTINEN.
 H.R. 1789: Mrs. MCCARTHY.
 H.R. 1792: Mr. RANGEL, Ms. CARSON, Mr. MCHUGH, and Mr. JEFFERSON.
 H.R. 1823: Ms. LEE.
 H.R. 1849: Mr. WOLF.
 H.R. 1850: Mr. SANDERS and Mr. ISRAEL.
 H.R. 1951: Mr. BISHOP of New York, Mr. EDWARDS, Mr. VAN HOLLEN, Mr. INSLEE, and Mr. HINOJOSA.
 H.R. 2034: Mr. REYES.
 H.R. 2048: Mr. YOUNG of Alaska.
 H.R. 2088: Mr. GALLEGLEY.
 H.R. 2122: Mr. BLUMENAUER.

H.R. 2317: Mrs. LOWEY.
 H.R. 2421: Mr. MICHAUD, Mr. SMITH of New Jersey, and Mr. DOYLE.
 H.R. 2456: Mr. CLAY, Mr. WYNN, Mr. LEWIS of Georgia, and Mr. HASTINGS of Florida.
 H.R. 2568: Mr. FILNER.
 H.R. 2629: Mr. BISHOP of New York.
 H.R. 2679: Mr. MILLER of Florida, Mrs. CUBIN, Mr. SAXTON, Mr. BRADLEY of New Hampshire, Mr. RAHALL, and Mrs. EMERSON.
 H.R. 2730: Mr. NADLER.
 H.R. 2943: Mr. PLATTS.
 H.R. 3103: Mr. ROTHMAN, Ms. KAPTUR, and Mr. SWEENEY.
 H.R. 3190: Ms. BORDALLO, and Mr. McNULTY.
 H.R. 3307: Mr. WAXMAN.
 H.R. 3352: Ms. BORDALLO and Ms. BERKLEY.
 H.R. 3373: Ms. HERSETH.
 H.R. 3435: Mr. GINGREY.
 H.R. 3476: Mr. FOLEY, Mr. KENNEDY of Rhode Island, and Mr. KUCINICH.
 H.R. 3590: Mr. GRIJALVA.
 H.R. 3614: Mr. MCHUGH.
 H.R. 3616: Mr. SAXTON.
 H.R. 3644: Mr. BOUCHER, Ms. SCHWARTZ of Pennsylvania, Mr. BISHOP of New York, and Mr. PORTER.
 H.R. 3809: Ms. MCCOLLUM of Minnesota.
 H.R. 3850: Mr. PRICE of North Carolina and Mr. MCDERMOTT.
 H.R. 3859: Mr. ANDREWS.
 H.R. 3883: Mr. CAMPBELL of California.
 H.R. 3949: Mr. ORTIZ.
 H.R. 4005: Mr. RANGEL, Mr. BAIRD, and Ms. ZOE LOFGREN of California.
 H.R. 4098: Mr. ALLEN.
 H.R. 4166: Mr. CONYERS.
 H.R. 4188: Mr. SMITH of Washington.
 H.R. 4298: Mr. RUPPERSBERGER, Mr. WYNN, Mr. MCGOVERN, and Ms. HART.
 H.R. 4341: Mr. MCHUGH, Mr. STEARNS, Mr. ALEXANDER, Mr. MARCHANT, Mr. MICA, Mr. WAMP, Mr. PUTNAM, Mr. DAVIS of Tennessee, Ms. GINNY BROWN-WAITE of Florida, Mr. LEWIS of Kentucky, Mr. ADERHOLT, Mr. FOLEY, Mr. GORDON, Mr. GINGREY, Mrs. SCHMIDT, Mr. SKELTON, Mr. HASTINGS of Washington, Mrs. JOHNSON of Connecticut, Mr. PEARCE, Mr. PITTS, Mr. GALLEGLEY, Mr. REGULA, Mr. COBLE, Mr. WALSH, Mr. BISHOP of Georgia, and Mr. CANTOR.
 H.R. 4409: Mr. GALLEGLEY, Mr. DEFazio, Mr. KUHL of New York, Ms. HARMAN, and Mr. BEAUPREZ.
 H.R. 4465: Ms. MATSUI, Mr. WEXLER, and Mr. EVANS.
 H.R. 4479: Mr. FATTAH.
 H.R. 4480: Mr. BONNER.
 H.R. 4493: Mr. FRANK of Massachusetts.
 H.R. 4547: Mr. BISHOP of Utah.
 H.R. 4613: Mr. HINCHEY, Mr. EVANS, Mr. LANTOS, Ms. SOLIS, Mr. MCGOVERN, Mr. CONYERS, Mr. GEORGE MILLER of California, Mr. GRIJALVA, and Mr. KUCINICH.
 H.R. 4624: Mr. CUELLAR.
 H.R. 4673: Mr. HINCHEY.
 H.R. 4740: Mr. HOYER.
 H.R. 4749: Ms. KAPTUR and Ms. DELAURO.
 H.R. 4755: Mr. KENNEDY of Rhode Island, Ms. ESHOO, Mr. BERRY, Ms. MATSUI, Mr. BRADLEY of New Hampshire, Mr. ROSS, Mr. GENE GREEN of Texas, Mr. ALEXANDER, and Mr. TIERNEY.
 H.R. 4761: Mr. BEAUPREZ, Mr. OXLEY, Mr. PETERSON of Minnesota, Mr. NORWOOD, and Mr. DEAL of Georgia.
 H.R. 4873: Mr. PETERSON of Minnesota.
 H.R. 4894: Mr. KIRK and Mr. SESSIONS.
 H.R. 4897: Mr. HOLDEN and Mr. TERRY.
 H.R. 4899: Mr. ROTHMAN, Mr. FATTAH, Mr. CAPUANO, and Mr. GONZALEZ.
 H.R. 4902: Mr. ADERHOLT, Mr. SHAW, Mrs. MCCARTHY, Mr. ORTIZ, Mr. BUTTERFIELD, Mr. ENGEL, Ms. ESHOO, Ms. HARMAN, Mr. MILLER of North Carolina, Mrs. NAPOLITANO, Mr. OLVER, Mr. SPRATT, Mr. BEAUPREZ, Mrs. CUBIN, Mr. GOODE, Mr. MCHENRY, Mr. RADAN-

OVICH, Mr. ROGERS of Michigan, Mr. ROHR-ABACHER, Mr. GEORGE MILLER of California, Mr. DOYLE, Mr. UDALL of Colorado, Ms. MILLENDER-MCDONALD, Mr. MACK, Mr. SERRANO, Mr. GARY G. MILLER of California, and Ms. CARSON.

H.R. 4904: Mr. LEACH, Mr. BLUMENAUER, Mr. GEORGE MILLER of California, Mr. GORDON, Ms. ZOE LOFGREN of California, and Mr. LOBIONDO.

H.R. 4922: Ms. HART.

H.R. 4946: Mr. ENGEL, Mr. DAVIS of Kentucky, Ms. GINNY BROWN-WAITE of Florida, Mr. BARRETT of South Carolina, Mr. HOEKSTRA, Mr. BOUCHER, Mr. SHUSTER, and Mr. BAIRD.

H.R. 4949: Mr. SAXTON, Mr. CARNAHAN, Mr. INSLEE, Mr. SODREL, and Mr. GARRETT of New Jersey.

H.R. 4959: Mr. ROGERS of Alabama.

H.R. 4975: Mr. ISSA.

H.R. 4981: Mr. CASE and Mr. PRICE of Georgia.

H.R. 5005: Ms. FOX, Mr. NEY, Mr. WESTMORELAND, Mr. GALLEGLEY, Mr. POE, Mr. DAVIS of Tennessee, Mr. BISHOP of Georgia, Mr. GOODE, Mr. BOUCHER, Mr. JINDAL, Mr. ROGERS of Alabama, Mrs. MUSGRAVE, Mr. BURTON of Indiana, Mr. SESSIONS, Mr. YOUNG of Alaska, and Mr. CANNON.

H.R. 5009: Mr. PENCE, Mr. HENSARLING, Mr. GINGREY, Mrs. MUSGRAVE, Mr. DOOLITTLE, Ms. FOX, Mr. MARCHANT, Mr. FRANKS of Arizona, Mr. ADERHOLT, Mr. TIAHRT, Mr. AKIN, and Mr. WICKER.

H.R. 5013: Mr. HENSARLING, Mr. WILSON of South Carolina, Mr. GUTKNECHT, Mr. DOOLITTLE, Mr. WELDON of Florida, Mr. KUHL of New York, Mr. MANZULLO, Mr. CULBERSON, Mr. BEAUPREZ, Mr. PEARCE, Mr. NEUGEBAUER, Mr. WAMP, Mr. KLINE, Mr. RYAN of Wisconsin, Mr. KING of Iowa, Mr. PENCE, Mr. KINGSTON, Mrs. MYRICK, Mr. MARCHANT, Mr. FRANKS of Arizona, Mr. FEENEY, Mr. COLE of Oklahoma, Mr. CANTOR, Mr. CHOCOLA, Mr. CONAWAY, Mr. HOSTETTLER, Mr. PRICE of Georgia, and Mr. AKIN.

H.R. 5015: Mr. EMANUEL, Mr. COOPER, Mr. JOHNSON of Illinois, Mr. MOORE of Kansas, Mr. LARSON of Connecticut, Mrs. MALONEY, and Mr. HOLT.

H.R. 5035: Mr. WEINER and Ms. LEE.

H.R. 5037: Mr. CONYERS, Mr. GENE GREEN of Texas, Mr. TAYLOR of Mississippi, Mr. LEVIN, Mr. BOOZMAN, Mr. EVERETT, Mr. BOSWELL, Ms. PELOSI, Mr. LEWIS of Kentucky, Mr. LIPINSKI, Mr. GINGREY, Mr. ANDREWS, Mr. LAHOOD, Mr. HINCHEY, Mr. SIMPSON, Mr. HOYER, Mr. CLYBURN, and Mr. LARSON of Connecticut.

H.R. 5052: Mr. LEWIS of Georgia, Mr. MCDERMOTT, Mr. CONYERS, and Mr. ROTHMAN.

H.R. 5063: Mr. MICHAUD, Mr. MCCOTTER, Mr. GONZALEZ, and Mrs. JO ANN DAVIS of Virginia.

H.R. 5065: Ms. HART.

H. Con. Res. 195: Mr. SWEENEY.

H. Con. Res. 320: Ms. BORDALLO and Ms. JACKSON-LEE of Texas.

H. Con. Res. 323: Mr. WALSH.

H. Con. Res. 343: Mrs. LOWEY.

H. Con. Res. 346: Mr. KOLBE and Mr. WEXLER.

H. Con. Res. 348: Mr. MCDERMOTT.

H. Con. Res. 366: Mr. MOLLOHAN, Mr. KUHL of New York, Mr. KUCINICH, Mr. JEFFERSON, and Mr. GONZALEZ.

H. Con. Res. 370: Mr. ENGLISH of Pennsylvania and Mr. GONZALEZ.

H. Res. 521: Ms. DELAURO.

H. Res. 566: Mr. PAYNE and Ms. MATSUI.

H. Res. 578: Mr. LANTOS.

H. Res. 675: Mr. VAN HOLLEN.

H. Res. 688: Mr. MATHESON, Mr. CLEAVER, Mr. EMANUEL, Mr. JOHNSON of Illinois, Mr. MOORE of Kansas, Ms. DELAURO, Mr. CROWLEY, Mr. LARSON of Connecticut, Mrs. MALONEY, Mr. HOLT, and Mr. GONZALEZ.

H. Res. 697: Mr. MEEKS of New York, Mr. KLINE, and Mr. BOYD.

H. Res. 699: Ms. HERSETH.

H. Res. 737: Mr. PRICE of North Carolina and Mr. DOYLE.

H. Res. 756: Mr. KING of Iowa, Mr. DELAY, Mr. WESTMORELAND, and Mr. LATHAM.

H. Res. 758: Mr. HYDE, Mr. LANTOS, Mr. BURTON of Indiana, Mr. PITTS, Mr. BERMAN, Mr. CROWLEY, Mr. WEXLER, Mr. ACKERMAN, Mr. BROWN of Ohio, Ms. BERKLEY, Ms. MCCOLLUM of Minnesota, Mr. CHANDLER, and Mr. CARNAHAN.

H. Res. 761: Mr. WEXLER.

AMENDMENTS

Under clause 8 of rule XVIII, proposed amendments were submitted as follows:

H.R. 513

OFFERED BY: MR. DREIER

AMENDMENT No. 1: Page 2, line 4, strike “527 Reform Act of 2005” and insert “527 Reform Act of 2006”.

Page 8, strike line 22 and all that follows through page 9, line 3.

Page 16, strike line 23 and all that follows through page 17, line 5.

Insert after section 3 the following (and designate the succeeding sections accordingly):

SEC. 4. REPEAL OF LIMIT ON AMOUNT OF PARTY EXPENDITURES ON BEHALF OF CANDIDATES IN GENERAL ELECTIONS.

(a) REPEAL OF LIMIT.—Section 315(d) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(d)) is amended—

(1) in paragraph (1)—

(A) by striking “(1) Notwithstanding any other provision of law with respect to limitations on expenditures or limitations on contributions, the national committee” and inserting “Notwithstanding any other provision of law with respect to limitations on amounts of expenditures or contributions, a national committee”;

(B) by striking “the general” and inserting “any”, and

(C) by striking “Federal office, subject to the limitations contained in paragraphs (2), (3), and (4) of this subsection” and inserting “Federal office in any amount”; and

(2) by striking paragraphs (2), (3), and (4).

(b) CONFORMING AMENDMENTS.—

(1) INDEXING.—Section 315(c) of such Act (2 U.S.C. 441a(c)) is amended—

(A) in paragraph (1)(B)(i), by striking “(d),”; and

(B) in paragraph (2)(B)(i), by striking “subsections (b) and (d)” and inserting “subsection (b)”.

(2) INCREASE IN LIMITS FOR SENATE CANDIDATES FACING WEALTHY OPPONENTS.—Section 315(i) of such Act (2 U.S.C. 441a(i)(1)) is amended—

(A) in paragraph (1)(C)(iii)—

(i) by adding “and” at the end of subclause (I),

(ii) in subclause (II), by striking “; and” and inserting a period, and

(iii) by striking subclause (III);

(B) in paragraph (2)(A) in the matter preceding clause (i), by striking “, and a party committee shall not make any expenditure,”;

(C) in paragraph (2)(A)(ii), by striking “and party expenditures previously made”; and

(D) in paragraph (2)(B), by striking “and a party shall not make any expenditure”.

(3) INCREASE IN LIMITS FOR HOUSE CANDIDATES FACING WEALTHY OPPONENTS.—Section 315A(a) of such Act (2 U.S.C. 441a—1(a)) is amended—

(A) in paragraph (1)—

(i) by adding “and” at the end of subparagraph (A),

(ii) in subparagraph (B), by striking “; and” and inserting a period, and

(iii) by striking subparagraph (C);

(B) in paragraph (3)(A) in the matter preceding clause (i), by striking “, and a party committee shall not make any expenditure,”;

(C) in paragraph (3)(A)(ii), by striking “and party expenditures previously made”; and

(D) in paragraph (3)(B), by striking “and a party shall not make any expenditure”.

Add at the end the following:

SEC. 7. EFFECTIVE DATE.

The amendments made by this Act shall take effect on the date of the enactment of this Act.



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PROCEEDINGS AND DEBATES OF THE 109th CONGRESS, SECOND SESSION

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WASHINGTON, WEDNESDAY, APRIL 5, 2006

No. 42

Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable JOHNNY ISAKSON, a Senator from the State of Georgia.

PRAYER

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

Let us pray.

Eternal Spirit, You are our dwelling place in all generations. Keep us this day from a moral casualness that leads away from ethical paths. Help our Senators to labor to please You, their most important constituent. Give them wisdom to avoid even the appearance of evil as they strive to live for Your honor. Make them fervent in their pursuit of spiritual fitness so that they will love You with passion and strength. Keep them from vacillating ways and lead them in Your righteousness.

As we take refuge in Your providence, use us all as instruments of Your grace to bring relief to a suffering world. Continue to sustain our military men and women in harm's way.

We pray in Your strong Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable JOHNNY ISAKSON led the Pledge of Allegiance, as follows:

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, April 5, 2006.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby

appoint the Honorable JOHNNY ISAKSON, a Senator from the State of Georgia, to perform the duties of the Chair.

TED STEVENS,
President pro tempore.

Mr. ISAKSON thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, this morning, we are returning to the border security bill which has been pending since last Wednesday. Last night, the minority leader filed a cloture motion on the chairman's substitute amendment. I was a little surprised when I heard this happened, although I was not on the floor when it was filed. I certainly understand the rules that permit the minority leader to file this motion. I know it is a rare occurrence when the minority leader files such a cloture motion, and at this point he did on the bill. I believe we can make real progress on addressing the amendments if we allow them to come forward, debate them openly, and then vote on them. We do still have the first amendment which was offered to the bill last week pending before the Senate; that is, the Kyl-Cornyn amendment on which we voted on the motion to table last night, 0 to 99—a unanimous vote. The motion had been made and it was not tabled; therefore, it is the pending amendment. We have three other amendments Senators have offered and debated, but we have not been given the opportunity to vote on those.

As I said at the outset of the debate last week, my intention was to give ample time to have amendments come forward, to debate, to fully understand

what is in the Judiciary bill, to modify the Judiciary bill by debate and amendment. I encourage Members to come to the floor to do just that, to offer their amendments. Members show up, and then there is an objection to even offering the amendments from the other side. I specifically set aside these weeks for the Senate to debate this particular issue, the border security and immigration issue, because it is one that is important to the safety of the American people, the security of the Nation, and fairness to immigrants. We are a nation of laws, and we are a rich nation of immigrants. Both of those principles need to be respected in the debate, but we can only do so by making sure that the laws we pass are upheld and that we address the people who have broken the law. That can be done in a comprehensive bill, and we have to have debate and amendment.

The debate over security on our borders and handling immigration has generated a lot of ideas. The debate has matured, and we have had good debate on the floor. Now we have the attention of all 100 Senators and people around the country looking at what we do. They expect us to legislate, to address the very real problems that are out there today, and that requires debate and amendment.

If you look at other large bills we have done, the Medicare prescription drug bill, we had 128 amendments considered; the Energy bill, we had 60 or 70 amendments considered; on the highway bill, 47 amendments; bankruptcy reform, 61 amendments. It is important that we debate these amendments and act on them. We just can't sit on the side lines; the problem is too big, too important. It is growing. An estimated 3 million people crossed our southwestern borders illegally last year, and we don't know who they are. We don't know what their intentions are. We need to bring a rational, fair framework to assist a system that is just flatout broken. That is our responsibility.

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



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Today is a new day, and we are just getting started. With that, I hope we will have the opportunity to start afresh. The two managers last night indicated they would be working together and would try to work out a list of amendments to be voted upon. I assume those would include the amendments that were offered last week. I would hope that they are. I encourage them to work out a process to give Senators on both sides of the aisle the chance to offer amendments and to have them voted upon so that we can complete that path to finishing a bill which is critically important to the safety and security of the American people.

RESERVATION OF LEADER TIME

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

SECURING AMERICA'S BORDERS ACT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of S. 2454, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 2454) to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes.

Pending:

Specter/Leahy amendment No. 3192, in the nature of a substitute.

Kyl/Cornyn amendment No. 3206 (to amendment No. 3192), to make certain aliens ineligible for conditional nonimmigrant work authorization and status.

Cornyn amendment No. 3207 (to amendment No. 3206), to establish an enactment date.

Isakson amendment No. 3215 (to amendment No. 3192), to demonstrate respect for legal immigration by prohibiting the implementation of a new alien guest worker program until the Secretary of Homeland Security certifies to the President and the Congress that the borders of the United States are reasonably sealed and secured.

Dorgan amendment No. 3223 (to amendment No. 3192), to allow United States citizens under 18 years of age to travel to Canada without a passport, to develop a system to enable United States citizens to take 24-hour excursions to Canada without a passport, and to limit the cost of passport cards or similar alternatives to passports to \$20.

Mikulski/Warner amendment No. 3217 (to amendment No. 3192), to extend the termination date for the exemption of returning workers from the numerical limitations for temporary workers.

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

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. SPECTER. Mr. President, we have worked on trying to break the im-

passe, and staff for Senator LEAHY and myself worked late last night and have a number of amendments where both sides think we can argue them, debate them, and vote on them. But we have still not resolved the issue as to what to do with certain pending amendments. It was my hope that the pending amendments would be included in the list, but that was not to be the case. We have debated the Kyl-Cornyn amendment. It is my thought that we ought to vote on that amendment. But that is objected to by the Democrats. In order to proceed to consideration and votes on other amendments, we have to set aside the Kyl-Cornyn amendment. Senator KYL is understandably concerned about setting aside his amendment, that he will not have an opportunity to vote on it. So we are still working to try to resolve the issue.

I have just had a short discussion with the distinguished Democratic leader. We are prepared to move ahead, not as usefully as we might but at least to use floor time on matters which we would have later. We have agreed that Senator SANTORUM would be recognized to lay down an amendment and speak about it and that Senator NELSON of Florida would lay down an amendment and speak about it. In the interim, we are continuing to talk to see if we can resolve our differences of opinion.

Mr. REID. Mr. President, it is my understanding that Senator SANTORUM would lay down his amendment, speak on it for whatever time he feels appropriate. Following the termination of his remarks, the Senator from Florida would be recognized, or someone on his behalf, to lay down amendment No. 3220 and speak for whatever time he thought appropriate.

Mr. SPECTER. That is my understanding as well. So we have agreed upon something.

Mr. REID. I ask unanimous consent on that.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Pennsylvania.

AMENDMENT NO. 3214

Mr. SANTORUM. Mr. President, I call up amendment No. 3214 and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

The Senator from Pennsylvania [Mr. SANTORUM], for himself and Ms. MIKULSKI, proposes an amendment numbered 3214.

Mr. SANTORUM. I ask unanimous consent that reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To designate Poland as a program country under the visa waiver program established under section 217 of the Immigration and Nationality Act)

At the appropriate place, insert the following:

SEC. ____ . DESIGNATION OF POLAND AS A VISA WAIVER COUNTRY.

(a) FINDINGS.—Congress makes the following findings:

(1) Since the founding of the United States, Poland has proven its steadfast dedication to the causes of freedom and friendship with the United States, exemplified by the brave actions of Polish patriots such as Casimir Pulaski and Tadeusz Kosciuszko during the American Revolution.

(2) Polish history provides pioneering examples of constitutional democracy and religious tolerance.

(3) The United States is home to nearly 9,000,000 people of Polish ancestry.

(4) Polish immigrants have contributed greatly to the success of industry and agriculture in the United States.

(5) Since the demise of communism, Poland has become a stable, democratic nation.

(6) Poland has adopted economic policies that promote free markets and rapid economic growth.

(7) On March 12, 1999, Poland demonstrated its commitment to global security by becoming a member of the North Atlantic Treaty Organization.

(8) On May 1, 2004, Poland became a member state of the European Union.

(9) Poland was a staunch ally to the United States during Operation Iraqi Freedom.

(10) Poland has committed 2,300 soldiers to help with ongoing peacekeeping efforts in Iraq.

(11) The Secretary of State and the Secretary administer the visa waiver program, which allows citizens from 27 countries, including France and Germany, to visit the United States as tourists without visas.

(12) On April 15, 1991, Poland unilaterally repealed the visa requirement for United States citizens traveling to Poland for 90 days or less.

(13) More than 100,000 Polish citizens visit the United States each year.

(b) VISA WAIVER PROGRAM.—Effective on the date of the enactment of this Act, and notwithstanding section 217(c) of the Immigration and Nationality Act (8 U.S.C. 1187(c)), Poland shall be deemed a designated program country for purposes of the visa waiver program established under section 217 of such Act.

The PRESIDING OFFICER (Mr. CHAMBLISS). The Senator from Pennsylvania is recognized.

Mr. SANTORUM. Mr. President, this is an amendment offered along with Senator MIKULSKI on the Polish visa waiver program. This is an issue I have talked about on numerous occasions along with Senator MIKULSKI. We have concern that one of our best allies—in fact, one of our staunchest allies—has great concerns about the way they are being treated in the United States with respect to the visa waiver program.

The visa waiver program is available to 27 countries around the world. That allows citizens from those countries to travel in the United States for vacation and visiting families, et cetera, without requiring a visa. This is a program which is given to countries which we have a special relationship with and which are able to meet certain criteria laid out in the law and have been certified by the Department of State as having met that criteria.

Poland, so far, has not been able to meet the criteria that has been laid out in statute, although I will say that when Senator MIKULSKI and I introduced this in the last session and

pushed for its adoption, I think we energized the administration and State Department to get to work and try to find a way for us to meet the Poles halfway with respect to getting them into the visa waiver program.

I am very pleased to see that last year, they were again writing letters, putting on pressure, threatening to bring this bill up for purposes of passage. We brought it up in the 108th Congress and tried to pass it. Unfortunately, there was an objection on the other side of the aisle. We cleared it here, and I think there is broad support for taking a country—and it is now 25 years since the strike at the Gdansk Shipyard. There has been a tremendous change in this country which was brought about by real freedom fighters, led at the time by Lech Walesa and subsequent leaders to establish a stable democracy there—a democracy that is thriving and one that had an election recently and elected a new President. It is a President who I believe will continue to have very strong ties to the United States.

I know the Polish people. I have a lot of Poles in my State, and they tell me they travel over there, and the sentiment and feeling toward America is very strong. There is support for us in the war on terror, as strong as any country in the world. They have been a terrific ally during this period of time.

Obviously, the contribution the Polish Americans have made to this country, from Revolutionary War times all the way through today, is quite striking and important. So we have a country that has made fundamental changes toward democracy and toward a free market economy, which is doing relatively well, a country that we have so much in common with. Yet while almost all of the European Union countries participate in the visa waiver program, unfortunately, Poland has not been granted that waiver.

The President, last year, in response to the activity here in Congress, was able to put together what is called the roadmap. The roadmap was negotiated on February 9 of last year with then-President Kwasniewski. He laid out some very real steps to try to help give Poland another chance to show that they are prepared to meet the requirements of the law.

Unfortunately, we still have a situation where we have very high refusal rates. That is one of the criteria, but I am not too sure it is a good criterion. It basically trusts a bureaucrat in an embassy in Poland to determine whether someone should enter this country for the purpose of travel. When they are refused, for whatever reason, that adds to the refusal rate, and that rate is high. I don't know whether the embassy there is tougher or what. Also, the refusal rate sometimes is not reflective of the actual percentage of people who are trying to come here and are refused. If 1 person wants to come and asks 10 times, that is 10 refusals, not 1. To me, that also can skew the number of refusals.

I am just suggesting that I think we have a special case here. Congress has done this in the past with Ireland. Congress stepped forward, and we pushed the executive branch at that time to allow Ireland into the visa waiver program. I think it is time for us, given the tremendous support we have gotten from the Polish people, the tremendous relationship between our countries, the tremendous contribution the Poles continue to make to this country—and I can tell you, hearing from them on a regular basis as I do, since we have a large Polish population in our State, that this is something vitally important to Polish Americans—the ability of family members to come for weddings, funerals, birthdays, et cetera, and not have to wait for the bureaucracy at the American Embassy in Poland to approve these types of activities.

This is an important sign to a good friend that we stand with them and that we want to treat them as one of our best friends because, indeed, they are one of our best friends in the world. Senator MIKULSKI and I have drafted a piece of legislation that puts Poland into the visa waiver program. I reached out to the Judiciary Committee, which is responsible for this bill. I said: Look, if you have concerns and some tweaks we can make that gets them into the program but puts reasonable standards in place, we are happy to consider that. To date, on both sides of the aisle, we have not had very much cooperation in making what I consider to be some minor tweaks that would be necessary to pass this legislation.

I have come today to offer this amendment. Hopefully, we can get this accepted. If not, I would like to have a vote on this amendment. I believe it is important for all of us to stand up before our friends in Poland and affirm our support for them, as they have affirmed over the past many years their support for the United States and the initiatives we have taken around the world.

Mr. President, if you look at some of the countries that are in this program, we have countries such as Brunei in the visa waiver program, San Marino, and Liechtenstein. I suggest that if you are looking at countries that are supportive of the United States, I am not too sure you would name those above Poland. If you name a country whose culture, whose people have close ties to the United States, I am not too sure you would list those countries above Poland.

I hope we can consider this amendment and adopt this amendment, approve this amendment, and send a very strong signal to our friends in Poland that we stand in solidarity with them for their efforts to democratize, to open markets, and to create the freedom that our President and so many in the Chamber have advocated over the past several years.

With that, I yield the floor.

Ms. MIKULSKI. Mr. President, I rise today to continue the fight to right a

wrong in America's visa program. I believe it's time for America to extend the visa waiver program to Poland. I am pleased to have formed a bipartisan partnership with Senator SANTORUM to introduce this amendment to get it done.

In September 2004, Senator SANTORUM and I met with a hero of the Cold War, Lech Walesa. When he jumped over the wall of the Gdansk Shipyard, he took Poland and the whole world with him. He told us that the visa issue is a question of honor for Poland. That day, we introduced a bill to once again stand in solidarity with the father of Solidarity by extending the visa waiver program to Poland.

Last month, I had the honor of meeting with Poland's new President, Lech Kaczynski, joined by my colleagues Senator LEVIN and Senator LUGAR. We reaffirmed and cemented the close ties between the Polish and American peoples. And we heard loud and clear that the visa waiver program remains a high priority for Poland.

My friends, Poland is not some Communist holdover or third-world country begging for a handout. The Cold War is over. Poland is a free and democratic nation. Poland is a NATO ally and a member of the European Union. But America's visa policy still treats Poland as a second-class citizen. That is just wrong.

Poland is a reliable ally, not just by treaty but in deeds. Warsaw hosted an international Conference on Combating Terrorism less than 2 months after the September 11 attacks. Poland continues to modernize its armed forces so they can operate with the Armed Forces of the U.S. and other NATO allies, buying American F-16s and Shad-ow UAVs and humvees.

More importantly, Polish troops have stood side by side with America's Armed Forces. Polish ships participated in Desert Shield and Desert Storm during the first gulf war. Poland sent troops to Bosnia as part of UNPROFOR and IFOR. Poland sent troops as part of the international coalition in Afghanistan.

Polish troops have been fighting alongside American troops from day 1 of the Iraq war. Seventeen Polish soldiers have been killed in Iraq, and more than 20 have been injured. They are in Iraq because they want to be reliable allies—because they are ready to stand with us even when the mission is risky and unpopular. Today, nearly 1,000 Polish troops are still on the ground in Iraq, sharing the burden and the risk and the casualties. Next year, Poland will send more than 1,000 troops to Afghanistan to lead NATO's International Security Assistance Force.

So why is France among the 27 countries in the visa waiver program but Poland is not?

This amendment will add Poland to the list of designated countries in the visa waiver program. That will allow Polish citizens to travel to the U.S. for tourism or business for up to 60 days

without needing to stand in line to get a visa. That means it will be easier for Poles to visit family and friends or do business in America. Shouldn't we make it easier for the Pulaskis and Kosciuszkos and Marie Curies of today to visit our country?

We know that our borders will be no less secure because of these Polish visitors to our country. But we know that our alliance will be more secure because of this legislation.

I urge our colleagues to join us in support of this important amendment.

The PRESIDING OFFICER. The Senator from Florida is recognized.

AMENDMENT NO. 3220

Mr. NELSON of Florida. Mr. President, I call up amendment No. 3220.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Florida [Mr. NELSON] proposes an amendment numbered 3220.

Mr. NELSON of Florida. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To use surveillance technology to protect the borders of the United States)

After section 102, insert the following new section:

SEC. 103. SURVEILLANCE TECHNOLOGIES PROGRAMS.

(a) AERIAL SURVEILLANCE PROGRAM.—

(1) IN GENERAL.—In conjunction with the border surveillance plan developed under section 5201 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108-458; 8 U.S.C. 1701 note), the Secretary, not later than 90 days after the date of enactment of this Act, shall develop and implement a program to fully integrate and utilize aerial surveillance technologies, including unmanned aerial vehicles, to enhance the security of the international border between the United States and Canada and the international border between the United States and Mexico. The goal of the program shall be to ensure continuous monitoring of each mile of each such border.

(2) ASSESSMENT AND CONSULTATION REQUIREMENTS.—In developing the program under this subsection, the Secretary shall—

(A) consider current and proposed aerial surveillance technologies;

(B) assess the feasibility and advisability of utilizing such technologies to address border threats, including an assessment of the technologies considered best suited to address respective threats;

(C) consult with the Secretary of Defense regarding any technologies or equipment, which the Secretary may deploy along an international border of the United States; and

(D) consult with the Administrator of the Federal Aviation Administration regarding safety, airspace coordination and regulation, and any other issues necessary for implementation of the program.

(3) ADDITIONAL REQUIREMENTS.—

(A) IN GENERAL.—The program developed under this subsection shall include the use of a variety of aerial surveillance technologies in a variety of topographies and areas, including populated and unpopulated areas located on or near an international border of the United States, in order to evaluate, for a range of circumstances—

(i) the significance of previous experiences with such technologies in border security or critical infrastructure protection;

(ii) the cost and effectiveness of various technologies for border security, including varying levels of technical complexity; and

(iii) liability, safety, and privacy concerns relating to the utilization of such technologies for border security.

(4) CONTINUED USE OF AERIAL SURVEILLANCE TECHNOLOGIES.—The Secretary may continue the operation of aerial surveillance technologies while assessing the effectiveness of the utilization of such technologies.

(5) REPORT TO CONGRESS.—Not later than 180 days after implementing the program under this subsection, the Secretary shall submit a report to Congress regarding the program developed under this subsection. The Secretary shall include in the report a description of the program together with such recommendations as the Secretary finds appropriate for enhancing the program.

(6) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this subsection.

(b) INTEGRATED AND AUTOMATED SURVEILLANCE PROGRAM.—

(1) REQUIREMENT FOR PROGRAM.—Subject to the availability of appropriations, the Secretary shall establish a program to procure additional unmanned aerial vehicles, cameras, poles, sensors, satellites, radar coverage, 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. Such program shall be known as the Integrated and Automated Surveillance Program.

(2) PROGRAM COMPONENTS.—The Secretary shall ensure, to the maximum extent feasible, the Integrated and Automated Surveillance Program is carried out in a manner that—

(A) the technologies utilized in the Program are integrated and function cohesively in an automated fashion, including the integration of motion sensor alerts and cameras, whereby a sensor alert automatically activates a corresponding camera to pan and tilt in the direction of the triggered sensor;

(B) cameras utilized in the Program do not have to be manually operated;

(C) such camera views and positions are not fixed;

(D) surveillance video taken by such cameras can be viewed at multiple designated communications centers;

(E) a standard process is used to collect, catalog, and report intrusion and response data collected under the Program;

(F) future remote surveillance technology investments and upgrades for the Program can be integrated with existing systems;

(G) performance measures are developed and applied that can evaluate whether the Program is providing desired results and increasing response effectiveness in monitoring and detecting illegal intrusions along the international borders of the United States;

(H) plans are developed under the Program to streamline site selection, site validation, and environmental assessment processes to minimize delays of installing surveillance technology infrastructure;

(I) standards are developed under the Program to expand the shared use of existing private and governmental structures to install remote surveillance technology infrastructure where possible; and

(J) standards are developed under the Program to identify and deploy the use of non-permanent or mobile surveillance platforms

that will increase the Secretary's mobility and ability to identify illegal border intrusions.

(3) REPORT TO CONGRESS.—Not later than 1 year after the initial implementation of the Integrated and Automated Surveillance Program, the Secretary shall submit to Congress a report regarding the Program. The Secretary shall include in the report a description of the Program together with any recommendation that the Secretary finds appropriate for enhancing the program.

(4) EVALUATION OF CONTRACTORS.—

(A) REQUIREMENT FOR STANDARDS.—The Secretary shall develop appropriate standards to evaluate the performance of any contractor providing goods or services to carry out the Integrated and Automated Surveillance Program.

(B) REVIEW BY THE INSPECTOR GENERAL.—The Inspector General of the Department shall timely review each new contract related to the Program that has a value of more than \$5,000,000, to determine whether such contract fully complies with applicable cost requirements, performance objectives, program milestones, and schedules. The Inspector General shall report the findings of such review to the Secretary in a timely manner. Not later than 30 days after the date the Secretary receives a report of findings from the Inspector General, the Secretary shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives a report of such findings and a description of any the steps that the Secretary has taken or plans to take in response to such findings.

(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this subsection.

Strike section 102(a).

Mr. NELSON of Florida. Mr. President, the sole intent of this amendment is to take what the committee bill provides in enhancing border security by utilizing technology and enhancing and integrating and coordinating that technology, the use of electronic surveillance on the border to augment our border patrol, and the use of unmanned aerial vehicles, which are a much cheaper version than the military version, but you can see at night and can also see during all weather—to take that technology and integrate it and coordinate it is the intent of the amendment.

The amendment was born out of an inspector general's report of the Department of Homeland Security, as well as the GAO report on how we can use additional coordination of our technology to enhance our border security. It is as simple as that.

I am assuming that the chairman of the committee will accept this amendment because it is just a commonsense amendment. We want to secure our borders. There are so many people we can hire; therefore, we ought to augment those Border Patrol personnel to secure the borders.

Here are a couple of examples. Right now, under electronic surveillance, the signal will go off that somebody has penetrated the barrier. That signal will go to a DHS employee, who then has to activate a camera and search as to where that particular electronic sensor has gone off. That is inefficient use of

personnel. We have the technology. We can integrate it so that when the electronic sensor goes off—someone has crossed the border—the cameras in that particular location can automatically go off and record the event, that event can be sent out to multiple DHS substations, and it can also be sent out into a permanent databank so that we have a permanent record of that event. That is one example.

Another example is that you have an unmanned aerial vehicle, a drone, that is flying overhead and—same thing—an event is spotted. It is a crossing of the border illegally. Right now, that event is sent back to personnel in DHS.

Both the GAO report and the inspector general's report say you ought to integrate all that. It ought to likewise—that event—be sent back to multiple DHS substations for their immediate response, and it ought to go to a permanent databank where it is recorded so that we have this vast amount of data. That is the sum and substance of the amendment.

I inquire of the Chair, is there a previous order that I was allowed to offer just this one amendment, which is No. 3220? I have a second amendment that is parallel, No. 3221. What did the previous order require?

The PRESIDING OFFICER. Under the previous order, the Senator from Florida is entitled to offer only one amendment.

Mr. NELSON of Florida. I see. Well, then, at some point, I will then likewise be offering a second amendment, which is quite similar. I explained a bit about it yesterday.

I will simply take this opportunity, while I have the floor, to point out what that amendment does, and the committee bill has moved in the right direction. The committee bill is providing 20,000 detention beds for people who are picked up for having been illegally in the country. What happens now is that somebody comes across into America, they are here illegally, and what do you know—we don't have the detention space in which to process them. They are released. There is one part of the border where up to 90 percent of the captured illegal aliens are released after being caught by DHS. Guess what happens. They completely disappear. Only 10 percent, approximately, appear for their subsequent immigration court hearings. DHS says we don't have any space. Presently, DHS has in the range of about 10,000 detention bed facilities. So 90 percent of captured aliens are released. The committee bill clearly is a step in the right direction. What they have done is doubled that to 20,000 beds. What my amendment would do is say let's be realistic: 20,000 beds is not going to cut it, and you are going to continue on this practice of finding an illegal alien and DHS is going to be required then to release them into American society, and they are not going to turn up again. We simply have to stop this.

My amendment is going to provide an additional 20,000 beds a year for 5 years

or, in other words, to get us to the point after 5 years that instead of having 20,000 detention beds, we will have 100,000 detention beds and be able to meet this problem and stop releasing illegal aliens right back into society.

At the appropriate point, I will be offering amendment No. 3221.

Mr. President, I thank you for the opportunity to speak, and I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana.

Ms. LANDRIEU. Mr. President, I believe under the previous order, Senators have been allowed to offer amendments as we proceed—not on the immigration bill but on an unrelated bill while the immigration bill is pending.

I ask unanimous consent to speak as in morning business for 10 minutes for the purpose of offering an amendment.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator is recognized for 10 minutes.

Mr. LEAHY. Mr. President, I also ask unanimous consent that at the conclusion of the senior Senator from Louisiana's time, the Senator from Vermont then be recognized to speak on the immigration bill.

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

INTERNATIONAL ADOPTIONS

Ms. LANDRIEU. Mr. President, I thought it had been cleared to present an amendment and discuss it briefly and, at a later time, have a vote on the amendment. I send the amendment to the desk.

The PRESIDING OFFICER. The amendment will be submitted for the RECORD.

Ms. LANDRIEU. Mr. President, I offer this amendment on behalf of myself and Senator DEMINT. Senator CRAIG is also a cosponsor, and several other Senators who have been working actually for several years on this proposal. In fact, my great partner on this bill was the former Senator from Oklahoma, Mr. Nickles. Unfortunately, we couldn't get this bill through by the time he left. So I know he will be pleased we are continuing the good work he actually put into place.

This is an amendment that I think is going to get great support, broad-based support from both the Republican side and the Democratic side. While there are many issues in this bill that are extremely controversial and very difficult and complicated to work out, which is why it is taking us a good bit of time and our managers are struggling with it as I speak, this particular piece I think is going to be welcomed with open arms.

Actually, the subject of this amendment is for us to welcome children into this country with open arms. These are children who are being adopted in ever increasing numbers by American families. The number of orphans around the world is growing exponentially for many reasons—extreme poverty, war, violence, the growing AIDS epidemic—

creating a tremendous increase in orphans around the world.

We are working in many different ways to address that situation, such as strengthening child welfare systems within countries of Africa, within countries such as China and India, as well as strengthening our own domestic child welfare system. Many things are underway in partnership with our Governors and our local officials to do that right here in America.

But the fact remains that despite our best efforts to strengthen families, to improve child welfare systems and procedures in our country and around the world, the number of orphans is growing. The good news, however, is Americans are stepping up in unprecedented numbers to adopt more children out of our foster care children who, through no fault of their own, have been separated from their birth families and some for very good reasons because they have been abused, neglected, and have been, unfortunately, in some instances, hideously tortured at the hands of people who are supposed to be caring for them.

We have increased the opportunities for adoption. This amendment I am offering, called the ICARE Act, as an amendment to this bill proposes to improve the international adoption process. We have increased international adoptions from 7,000 children abroad in 1990 to over 23,000 children by 2004.

You may know, Mr. President, of families from Georgia who have adopted children from other countries. In fact, Members of the Senate have themselves gone through international adoptions with great success and, of course, a great blessing to the receiving family and a great blessing to these children whose options were extremely limited to the countries from which they came.

This bill that has been thoroughly examined over the last several years by the authorizing committees would afford foreign adopted children the same automatic citizenship that is granted to a child born to an American family overseas. If you are overseas and you have a baby, that baby gets automatic citizenship. This would, at the act of adoption in a foreign country, provide that same coverage to children who are adopted.

Of course, those of us with adopted children try to explain to everyone that once you have adopted children, it is impossible to distinguish between children you have adopted and biological children. You love them the same and they are an immediate part of the family. Many of us have experienced that on our own.

The amendment would also eliminate much of the redtape and paperwork associated with foreign adoptions, centralize the current staff and resources working on international adoption into one office, the Office of International Adoption in the State Department, and it would enable our State Department

to provide greater diplomatic representation and proactive advocacy in the area of international adoption.

The fact is, in conclusion, since 1965, when these original laws were placed on the books, they have not kept up with either the pace or the change of international adoption, and that is what this amendment seeks to do.

So on behalf of Senator DEMINT, myself, Senator CRAIG, who serves with me as cochair of the adoption caucus, and others, I offer this amendment for the Senate to consider. When we get to the time when we can vote on some of these amendments, I hope to reserve some time to speak again about the importance of this amendment and, hopefully, it can be adopted by a voice vote. Hopefully we won't have to have a long debate about this, but if we do, I am prepared to debate this amendment for the thousands and thousands of families in America who, in their mind, are doing literally God's work by going to countries and adopting children who, without this intervention in their life, would literally, in many instances, die.

For Americans, the least we can do is reduce the redtape, honor their extraordinary commitment and their deep financial commitment, as well as to bring a child here at great expense and to raise them, and it is not cheap to do that in the United States. We want to honor that work Americans are doing and say we are reducing their paperwork, making things more automatic for them, all the while keeping our safeguards in place for a transparent, cost-effective system of inter-country and international adoption.

That is what my amendment does. Again, I offer it on behalf of myself and Senator DEMINT.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I am glad the senior Senator from Louisiana is on the floor. I commend her for her statement. She has been a Senate leader on this very important humanitarian matter. We have discussed the question of international adoptions many times. I know how wonderful she has been in—I don't mean to embarrass her—not just her position as a Senator, but in her personal life. She has been wonderful. She has worked with Republicans, Democrats, and those who have no political affiliation on this issue.

I have to think that because of her work there are many children throughout this country who are going to have a life much better than they would have had otherwise. I commend my colleague. I am glad to serve with her and I know she wants to bring forward an amendment on this subject. I believe it is No. 3225, which I should also note is a bipartisan amendment.

I support this amendment, the ICARE Act. I hope we can agree to have it formally offered and successfully considered. International adoption cries out for this relief. I will work

with my colleagues on the other side of the aisle to see if we can get this adopted. I would be surprised if there is any Senator—Republican or Democrat—who would object to it. I certainly will give it my strong support.

Again, I commend the Senator from Louisiana.

Ms. LANDRIEU. I thank the Senator.

Mr. LEAHY. Mr. President, we were making some progress yesterday. We had a number of amendments that were adopted—one by the distinguished Republican leader and others. But then some tried to turn this into a partisan fight, and I think that is unfortunate. I hope we are back on track. We heard from a number of Senators on both sides of the aisle who support the bipartisan comprehensive bill, some of whom came down to speak for the first time in this debate. Senator MENENDEZ spoke from his unique perspective as one who was a Member of the House during their debate on their bill. He was there when they debated their immigration bill. It turned out to be a very narrow and punitive bill, which he opposed. He is now a Member of the Senate and is supporting a far better bill here today.

Senator NELSON of Florida described amendments in which he is interested. Senator LIEBERMAN spoke about an amendment which he and Senator BROWNBACK wish to offer relating to asylum. Senator BROWNBACK and Senator LIEBERMAN have this totally bipartisan amendment to which, for some reason, my Republican colleagues on the other side of the aisle are objecting. Senator KERRY spoke forcefully and eloquently.

I wish to speak for a moment about the comments made by the distinguished Senator from Colorado, Mr. SALAZAR. I was struck by his description of the slurs to which he has been subjected for his support of the comprehensive bipartisan committee bill. I talked with Senator SALAZAR, I think it was probably about 9:30 last night. He called me at home and we talked about his experiences. I told him how proud I was of him for standing up. Some of the things that were said were things such as: "Go back to where you came from." His family came to North America in the 16th century, a lot earlier than either side of my family. He is justly and rightly proud of his background, his ethnic background, and the great contributions he and his family have made to this country. I think about how horrible it is that he has to face these kinds of slurs. We are trying to do what is right for all Americans. This is not a situation where we have tried to craft a bill for one group of Americans over others, and Senator SALAZAR has worked to help us accomplish this.

So these slurs are wrong and it should be unacceptable to all of us. Senator SALAZAR is an outstanding Senator who has made great contributions. He served previously as the attorney general of his State. He is

thoughtful and genuine, and he approaches issues in a serious manner. I am deeply offended that opponents of comprehensive immigration legislation have subjected him to these slurs. Let us debate the issues and stop the name-calling.

I think that those of us, many of us, who have been called anti-Catholic or anti-Christian or anti-Hispanic or anti-southern or anti-women or anti-American, have been subjected to these attacks because those who disagree with us find it easier to smear than honestly debate the issues. I find it most unfortunate that a Senator of the quality and integrity of KEN SALAZAR would be subjected to this form of an attack. This seems to have become a new and unfortunate way to debate. It is almost like an ethnic or religious McCarthyism we are facing. People don't want to debate the issue, so they slam somebody and suggest base motives.

I remember in another debate when some Republicans disagreed with me, they tagged me as being anti-Catholic and anti-Italian. I thought of the slurs my Italian grandparents faced when they immigrated to this country, and what my mother faced as a young girl because she spoke a language different than others were used to. But I also think of the pride my Italian relatives felt, here in the United States and in my grandparents' home in Italy, when I became a Member of the Senate. I don't feel I have to prove my bona fides for any of my heritage. My father was proud of his Irish background and my mother was proud of her Italian background. They were both proud of their heritage, but they went through a difficult time at a different time in this country.

I think of the stories of when my father was a teenager and had to support his mother and sister because my grandfather died as a stonecutter in Vermont. At that time Vermont was a much different State. It was not the wonderful, proud State it is today. My father faced signs that said: "No Irish need apply" or "no Catholic need apply." In their time, my grandparents faced similar things. That has changed.

I worry about those who are unwilling to debate issues of importance to this country, people who won't debate the merits, but simply attack people, as they have Senator SALAZAR or me with baseless religious or ethnic claims. It is a form of McCarthyism; it is just intolerance of a different nature. This Senate should be above that.

Those who have seen this happen, whether they are Democrats or Republicans, should condemn it. They should stand up and condemn it, as one of the greatest Vermont Senators ever to serve, Ralph Flanders, did when he supported a resolution of censure of Joseph McCarthy for what he was doing. They were members of the same party, and he condemned what McCarthy did.

President Bush called for a civil debate and I wish his supporters would follow that suggestion. I agree with the

President on this. We should have a civil debate. But I wish somebody, even one Republican, would step up and condemn the unfounded attacks and disassociate themselves from such poisonous conduct. We have a major piece of legislation here that will affect all 295 million Americans, and it will affect 11 million people who are here in an undocumented status in our great country. Let's talk about that and how we can best solve this difficult situation for the good of our country. Let's not impugn the character or the motives of any Senator.

During yesterday's debate, we had a procedural discussion that became unnecessarily heated. I have been here 32 years. Let's go back to having a Senate that will debate issues and get away from the polemics and the name-calling. During the course of the day yesterday, both the Democratic leader and I suggested, along with members of the staff, amendments on which we could have votes. Republican and Democratic amendments alike. I think if we had votes on these amendments, or even now if we had votes on these amendments, which are offered by Republicans and Democrats, some by both, we would have the kind of movement that, in my experience after 32 years, gets legislation through.

We sent an initial list of amendments to the other side that we believe could be scheduled for debate and votes. There is one by Senator BROWNBACK and Senator LIEBERMAN that has been rejected. It could pass with probably 80 votes in this body if it came to a vote. I don't know why we can't vote on that.

Some on the other side tried to turn this into a partisan debate. The Democratic leader, Senator MCCAIN, Senator KENNEDY, and others have taken a bipartisan approach. Senator SPECTER and I have worked very closely, along with our staffs, under extraordinarily difficult scheduling to get this bill on the floor. What we brought to the floor is a bipartisan product, and everybody says, let's have a piece of bipartisan legislation. The President of the United States has said that. Most columnists have said that. We say that in our speeches. Well, let's do it with our votes. Let's not do it just for the rhetoric; let's do it in reality.

The Democratic leader has filed a petition for cloture that I hope will be successful on comprehensive, realistic, and fair immigration reform so we can take action this week. If we don't, let's stay through the weekend and let's get this done. Let's get it done. Stop the polemics.

Finally, as I have said before, don't let politics in this country degenerate into an ethnic and religious McCarthyism, which is what this debate has become. As a man of faith, I am proud to be a U.S. Senator, but I will make my decisions based on what the facts are before me. I am proud of my ethnic background. I am proud of the rich culture it has brought to our family, as I

am proud of my wife's background as a first-generation American and the language skills and the background she brought with her. I am proud of the diversity of my grandchildren. But I make my decisions as a Senator based on one thing: the extraordinarily solemn oath I have been privileged to take in this Chamber six different times. I am mindful of the extraordinary privilege it is to walk on this floor and to have a chance to vote. I will vote my conscience. I will bring to bear my skills and my background as a prosecutor and a lawyer, as a Vermonter, aided by as fine a staff as anyone could have. I will bring that experience to these votes. But I will not be cowed by the obscene and irrational name-calling by the other side; nor, as I mentioned earlier, will Senator SALAZAR, who is a man with an extraordinary background, tremendous integrity, honor, and abilities.

Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. COBURN). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. SPECTER. Mr. President, we have not yet been able to reach agreement on voting on key amendments. We do have some peripheral amendments we will be offering and voting on. We have no agreement on laying down an amendment, but I believe there is no objection to having Senator KYL speak to an amendment he would like to lay down at a future time.

Mr. REID. Mr. President, we certainly have no objection to anyone speaking on this bill at any length they feel appropriate. But at this stage, we are not going to agree to set aside the pending amendment for laying down other amendments.

Mr. SPECTER. Mr. President, may I ask the distinguished Democratic leader if that applies to laying down an amendment?

Mr. REID. Yes.

Mr. SPECTER. I don't see the logic, but if we can move ahead for Senator KYL to discuss an amendment that perhaps one day he will be able to lay down and perhaps one day he will be able to vote upon it.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

AMENDMENT NO. 3246

Mr. KYL. Mr. President, yesterday I sought to introduce amendment No. 3246. I will not offer that again right now since the minority has indicated it would object to the offering of the amendment, but I will at least explain what it is. It is a very straightforward amendment that essentially addresses the future temporary worker program. I am not talking now about what is going to happen to the group of people who are here illegally today. We are

talking about people who in the future might want to come legally from their country to work temporarily in the United States. For that group of people, there obviously needs to be a system for verifying their eligibility and for ensuring that program can work. It is estimated that it would take about 18 months maximum to make sure that all of the things would be in place for that program to work.

This amendment simply provides that things that the bill calls for to be in place within that roughly 18-month period of time would actually have to be in place before the temporary worker program commenced. In other words, it answers the question that many people ask: If you grant people a right to come to the United States and work here, how can we be sure that you have done all of the other things you have said you would do? In effect, this answers it by saying the temporary worker program doesn't start until we can certify that those other things were done.

All of us have talked about the need to ensure that we have enough detention spaces for people who came here illegally and need to be detained; that we have enough Border Patrol agents; that we have enough appropriation for some of the other things the bill calls for—and we are talking about the underlying bill. Given the fact that we all seem to agree that those things need to be done, what this amendment does is answer the question, How do we know they will be done? One way we know they will be done is the temporary worker program doesn't kick in until they are done.

We are not talking about in toto, we are only talking about 18 months' worth of the program. For example, we know that the number of people within the Department of Homeland Security who will be required to investigate compliance with immigration laws related to the hiring of aliens needs to be increased by 2,000, and those people would need to have been employed. We know the number of Border Patrol agents within the Department would be increased by not less than 2,500 more than on the date of enactment. That is approximately 1 year's worth of increase in Border Patrol agents. In addition, detention spaces I mentioned would have to be increased to a level of not less than 2,000 more than the number of beds available on the date of enactment. That is about the number that would be created in 1 year's worth of activity under the bill.

The point is, we say there are certain things we have promised would be done. In order to make sure that promise is kept and to answer that question of the American people who say: How do we know, since the law hasn't been enforced in the past, that you are going to enforce the new one, one way we can demonstrate that is to say that the temporary worker program under the new law doesn't kick in until these certain objectives have been satisfied.

They are not unreasonable. They are what is already called for in the bill. If we mean what we say in the legislation, then this amendment should not be a difficult amendment to adopt.

I reiterate that this applies to what some on the staff have called future flow workers. It does not apply to the people who are here illegally today. There is a separate temporary worker program for those people. But for future flow, in order to make sure that program will work, we have to have certain things in place. This bill would require that some of the things that we have promised would occur within that year's period of time would, in fact, have to be in place before this new temporary worker program would kick in. As I say, when we get an opportunity to offer that amendment—it is amendment No. 3240—I hope it will be adopted.

AMENDMENT NO. 3206

Let me also speak to an amendment that is pending. It is the pending business, but we haven't been able to get a vote on it. The number on that amendment is No. 3206.

What this amendment implies is that people in certain categories would not be able to participate in the program, and those categories are primarily people who are criminals or people who are absconders. By "criminals," we mean people who have been convicted of a felony or three misdemeanors.

The current law provides that if you have been convicted of a crime of moral turpitude or a drug-related crime or five multiple offenses that amount to 5 years in prison, you cannot participate in the program. That is fine, but it leaves out a lot of other crimes. I read the list of crimes yesterday that would not be covered under the existing bill.

What this amendment says is, if you have ever committed one of these other crimes or if, instead, you have committed one of these other crimes, then the program would not be available to you, either. Let me note what a couple of those other crimes would be. Crimes which are not covered under the current bill but which would be included in this amendment include burglary, involuntary manslaughter, loan-sharking, assault and battery, possession of an unregistered sawed-off shotgun, riot, kidnapping, making a false statement to a U.S. agency—

Mr. DURBIN. Will the Senator yield for a question?

Mr. KYL. Yes, I would be happy to yield.

Mr. DURBIN. Will the Senator help me understand his amendment? As I understand it, he has spent a great deal of time explaining crimes that would be included which would disqualify a person from the possibility of legalization, but he has not spent time discussing what I think is the more troublesome aspect of his amendment, which would say that if a person overstays a visa, he or she would be ineligible for legalization.

If I could concede to the Senator from Arizona that, if he is going to add the crimes he has mentioned—I happen to think they are currently covered by the bill before us, but if there is need for some clarification in that regard, I think we could work on it—but would the Senator be kind enough to address that basic issue? Are you saying if a person, currently on a student visa, is failing a class, drops the class, no longer is a full-time student and is therefore out of compliance with the student visa, that person by virtue of dropping that class has now disqualified himself from legalization under the bill that is before us?

Mr. KYL. Mr. President, I am glad the Senator from Illinois asked the question. That was the second point I was going to get to. The first had to do with crimes, but I will be happy to leave that conversation and move to the absconders, as I said. "Absconders" is the word that is used to describe those people who have been ordered by a judge to leave the country because of something they have done—more than simply overstaying a visa—and have refused to do that. In other words, they have already demonstrated an unwillingness to comply with an order to leave the country.

Obviously, part of the enforcement of all of this legislation depends upon our ability to enforce the law for people who are unwilling to comply with the law's terms. If someone has already demonstrated an unwillingness to do that, it seems to me they should not be eligible. And let me go on to say that the suggestion that a simple visa overstayer is caught up in this is not true—not true.

Mr. DURBIN. Will the Senator yield?

Mr. KYL. Why don't I explain it, and then the Senator from Illinois won't have to keep asking questions about what it actually does.

There are four different sections. One of them has to do with the removal of people where there has been a formal proceeding and the alien has been detained. That is section 238. There are probably about 20,000—well, probably more than that, but there is at least a minimum of 20,000 because many of those are other than Mexicans. We do not have the number for people, for example, who would be Mexican citizens.

There are also formal proceedings before an immigration judge. This number of absconders is far greater. That is section 240. There are a lot more in that category, perhaps 200,000 to 300,000 people.

Mr. DURBIN. May I ask a question?

Mr. KYL. Let me finish the discussion so the Senator will not have to interrupt and ask questions, please.

Third, there are the situations where you have visa waiver countries where, because of the terms of the visa waiver, there has been a prewaiver of a right to contest removal, so there is no formal proceeding. There are about 900 removed under that provision per year. So this is not just visa overstayers.

There are millions of visa overstayers, obviously. And finally the category of expedited removal, which is section 235, where an alien is detained until deportation. We don't have data on how many were deported but are still in the United States.

These are categories of people where it is not simply violating it—it is not coming into the United States illegally that triggers a visa overstayer. In fact, I am not sure we wrote this broadly enough because a visa overstayer such as Mohamed Atta—somebody from a country that does not have a visa waiver, from a country such as Saudi Arabia—would not be caught. So here is Mohamed Atta who overstays his visa, flies an airplane into the World Trade Center, and he would not, even under the amendment we have provided here, be precluded from participating in the program.

What I am saying is I don't think we drafted this quite broadly enough, but it makes the point that merely overstaying the visa does not catch you up in this particular bill. So it is wrong to say all we have to do is overstay a visa and this amendment would catch you up. That is simply not the case. The number probably caught up in this would be in the neighborhood of 300,000.

Mr. DURBIN. Mr. President, will the Senator yield for a question?

Mr. KYL. I would be happy to.

Mr. DURBIN. Mr. President, here is what I understand the law to be and what your amendment says. The law, as I understand it, is if you are in the United States on a student visa from a foreign country, you are required to be a full-time student and to stay. If you are failing a course, you drop out of the course, you are no longer a full-time student and, therefore, you are ineligible to stay on a student visa. At that point, you are subject to a final order of removal which means you can be deported from this country, having a presence in this country that is not recognized by your student visa because you dropped the course.

Now let me read what your amendment says. It says:

An alien is ineligible for conditional non-immigrant work authorization and status under this section if the alien is subject to a final order of removal.

Mr. KYL. Keep reading.

Mr. DURBIN. "Under sections 217, 235, 238, and 240."

My question to you is this—

Mr. KYL. Mr. President, let me reclaim my time. The reason I said "keep reading" is because I just read to you under each of those sections, 217, 235, 238, and 240, the specific circumstances under which someone would be precluded from participating in the benefits of the bill. It is not, with due respect, as the Senator from Illinois said, overstaying a visa. You have to have been subject to one of these four specific sections.

As I said, the first one is a visa waiver. There were 900 people last year who were removed under that. It wouldn't

even include a person such as Mohamed Atta, as I said.

I need to go back and try to fix the amendment with regard to that. Sections 235 and 238 are the expedited removal of aggravated felons and I am sure the Senator doesn't want to allow those people to remain. Section 240 is where there has been a formal appearance before an immigration judge and a person has specifically been ordered to depart and has not done so.

It is simply wrong to say if you come across the border and stay here, or if you overstay your visa, you are caught up in my amendment. My amendment is much more specific than that and specifically only deals with those people you would not want the benefits to apply to.

Mr. DURBIN. Mr. President, if I might further ask a question without asking the Senator to surrender the floor, of course, let me ask this question: What you said and the last thing you mentioned was if you were in the United States and had an order issued that you will leave, depart, but the language of your amendment doesn't say that. The language says you are subject to a final order, which means you could be—you could be—subject to a final order. You are not saying a final order has been issued for deportation, and, therefore, you are ineligible. You are saying you are sure. If I have overstayed my visa, sadly, I am subject to an order of deportation, even if it has not been entered.

Mr. KYL. Mr. President, let me answer the question again by saying I know my colleague is a good lawyer, but you have to read the whole sentence. You can't read half of a sentence and drop off the last part of the sentence. It specifically says under section 217, 235, 238, or 240. It is not simply subject to a final order of removal. It is subject to a final order of removal under one of those four sections.

The last section the Senator referred to is section 240. That is where there has already been a formal proceeding before an immigration judge, an order of removal has been issued, and it has been violated. Yes, the person is subject to a final order of removal because that person has already violated the judge's order.

As to each of these sections, as I said, there is a specific reason why it is included and why it isn't merely subject to a final order of removal.

Mr. DURBIN. Mr. President, if I might further ask a question, if the Senator from Arizona wants to make it clear that overstays on visas do not disqualify you from the pathway to legalization unless a final order has been entered saying you must be deported, I wish the Senator would clarify that language. As it stands, you have said if you are subject to—meaning you could be charged with—having overstayed your visa, you could be deported then you are disqualified. I think if you would clarify and tighten the language, it would overcome some of the serious

concerns we have. The example the Senator used in other cases of terrorists and people we clearly don't want in the United States, I don't think you will have much, if any, argument. But when it comes to this particular circumstance, I think the language is subject to an interpretation you may not want.

Mr. KYL. I appreciate the suggestion of the Senator from Illinois. It is a usual legislative drafting tradition to say what you mean by referring to other sections of law and only those sections of law that you intend to cover. That is what we have done here. We have not referred to sections of law that would refer broadly to anyone who has overstayed a visa.

Let me reiterate. The Senator asked about the court proceeding. That was the section 240 I referred to. That is specifically where there has been a proceeding. The others I mentioned I will reiterate again.

The visa waiver: As the Senator knows, there are 27 countries where we have a relationship with a visa waiver. What that means is the individual, upon entering the United States, waives rights somebody under section 240 would not have waived because they do not even have to present a visa to the United States. They, in effect, agree as they come in, as a condition to the use of that provision, to be removable for violation of their visa.

As I said, last year, according to our information, a grand total of 900 people were removed under that particular provision.

This is not something on which we round people up and send them home. The expedited removal, sections 235 and 238—as I said, 238 is the removal of aggravated felons—and expedited removal under the provision the Department of Homeland Security has now established for other than Mexicans who come to the United States, for whom there is no detention space and who are being removed from the United States, are subject to this as well.

To talk about what this problem is and why we are trying to solve it, you have 39,000 Chinese citizens in the United States illegally whom the Chinese Government won't take back. There are similar numbers of people from other countries, although I do not know of any quite that large.

It is not a simple matter with people from countries such as this to take them to the Mexican border and turn them over to Mexico which obviously won't take them. They are not Mexican citizens. We don't have the detention space right now to accommodate about 165,000 other-than-Mexican illegal immigrants. The Department of Homeland Security has announced their streamlined procedure of expedited removal where it tries to get the country to take the individual back within a period of less than 4 weeks. They are trying to get it down to a couple of weeks.

But as I said, many countries won't take them back. What happens is you

end up with people we don't have a place to put. There is no detention space available. They are given an order to appear before the court in 90 days. Basically, they are released on their own recognizance and asked to come back in 90 days to the Department of Homeland Security and show up for their removal. They do not do so. There is no place to put them. They do not show up for removal, and they meld into our society.

I doubt the Senator from Illinois is saying these—I believe it was about 165,000 such people last year—are people we should put on a path to citizenship.

Those are the four categories of people we are talking about: aggravated felons, people who have already violated a court order, expedited removal, and a small number of visa waiver people.

It does not apply to you simply if you overstayed your visa or if you came into the country illegally and, therefore, violated our law that says you are to present yourself at a port of entry. They violated that law. But merely coming into the country illegally is not covered by this amendment.

So the roughly 12 million people, or however many we are talking about here, would not be covered by this; at most, perhaps, in the neighborhood of 300,000.

Mr. DURBIN. Mr. President, if the Senator will yield for a question, I understand the Senator's explanation, and I have to go back to a point that I think if he would clarify his language in his amendment, it would allay some of the fears we have.

Let me give an example of why we are concerned. In the original Cornyn-Kyl bill that was introduced, it was a question about the ineligibility of aliens, or deferred mandatory departure, or a similar circumstance where they would not be recognized and given this opportunity. Your language in that instance said it would be an alien who would be "ordered, excluded, deported, removed or to depart voluntarily from the United States."

There was specificity there. The decision had been made. I think that is a lot clearer and more consistent with the explanation you have given us than the words "subject to a final order" which I think is much more general in scope and perhaps too broad, maybe leading to my conclusion that may not be consistent with your intent.

I ask you if you would consider tightening your language here as you did in the original bill with Senator CORNYN so we know exactly what we are dealing with.

Mr. KYL. Mr. President, I appreciate the suggestion. I would be happy to visit with the Senator from Illinois who, as I said before, is a good lawyer and who understands the details of this to make sure we are denying the privileges of the underlying legislation only to those people whom we intend to deny those privileges to. I think we

have a rough meeting of the mind as to who those people are.

I will say, however, it does get difficult because when the Senator from Illinois says, for example, we don't just want visa overstayers to be caught up in this, as a general proposition, I agree with that.

What that means is, of course, Mohamed Atta and many of his cohorts would not have been denied the benefits of this legislation because they simply overstayed a visa.

The point here is it is hard to draw these distinctions and deny the privileges to people you don't want to get them and yet not sweep too broad a broom and preclude people you have no intention of denying the benefits to from participating in those benefits.

Mr. DURBIN. Mr. President, will the Senator yield again for a question?

Mr. KYL. I would be happy to yield again.

Mr. DURBIN. Mr. President, please let us not wave the bloody shirt of Mohamed Atta. He would be disqualified from this program under existing law. Terrorists are not going to be given a legal pathway to citizenship in America. No one wants that to happen, none of us. So I don't think that was a good example of why we need the Kyl amendment.

Wouldn't you agree that in language already in the bill before the Senate, Mohamed Atta wouldn't have a prayer if he said, I want to stick around; I know I have been convicted as a terrorist, but I want to be an American citizen?

Mr. KYL. Mr. President, with all due respect, I think that question was pretty far off the mark. Mohamed Atta committed his crime before he could have been convicted of being a terrorist, and he obviously killed himself in the process. The time to apply this legislation to him is not after the fact but hopefully before the fact.

The problem is that at the time he overstayed his visa, to our knowledge, he had not committed any other crime except perhaps forging some documents or making false statements to an immigration official—something such as that.

What I am saying is we have drafted this in a way that it would not have caught people such as Mohamed Atta because to do that would be to exclude others from the benefits of the legislation both the Senator and I agree should not be excluded.

I am simply trying to say we have to be careful with the language because if we simply say—and I know the Senator from Illinois would agree with this proposition when he says we don't want to exclude just people who have overstayed their visas, and he gave the example of the student who overstayed a visa—I know he doesn't mean to include within that somebody such as Mohamed Atta because the reality is that is exactly what we have done here. If we could find some other way to add a provision that says if we have evi-

dence to believe somebody is a terrorist, they would also be included, that probably would be a good idea, and we would both agree to do that.

Mr. DURBIN. The bill explicitly says if you want to move toward legalization, you have to submit yourself to a criminal background check; no criminal record. Frankly, I can't imagine there would be a terrorist who would say, I will wait patiently for 11 years, and I will submit to a criminal background check so that in the 12th year I will commit an act of terrorism.

Mr. KYL. Mr. President, it may well be that Mohammed Atta may not want to take advantage of the provisions of the act. That is speculation. Although these terrorists did take advantage of our immigration laws in many respects, we did not expect them to do that. We thought they would sneak into the country. Instead they filled out the forms and came in, many of them, with legal visas. I am not sure we can assume what he will do or what he will not do.

Here is the point: Under the bill as drafted, only crimes relating to drug offenses, moral turpitude, and the conviction of five offenses totaling 5 years in prison would exclude someone from the benefits. That is why we have added the other elements which, by the way, I inform my colleague from Illinois, the conviction of a felony and three misdemeanors, are precisely the language from the 1986 bill.

Those who think the 1996 act was unworkable and amnesty and not a good idea should be aware that all we are doing with respect to the criminal violations is taking that same language and putting it into this bill.

We have had a good discussion of this amendment. I am happy to see if there is any way to further clarify the language that might get the Senator from Illinois to support the amendment. I want to get a vote on it.

As I said before, I want also to be able to lay down the previous amendment which simply provides a trigger that before the temporary worker program kicks in, certain things we promised to do under the bill would have been done.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, there has been an agreement to take up a number of noncontroversial amendments. We are still trying to get a vote on the Kyl-Cornyn amendment, still trying to work out a procedure so Members on both sides of the aisle may offer controversial amendments, but we have not gotten there yet. However, there has been agreement on four noncontroversial amendments. I give notice that we will take them up as soon as the authors can come over.

Mr. KYL. Will the chairman of the Judiciary Committee tell us what those four amendments are?

Mr. SPECTER. I would. And before we can do it, we have to have consent to set aside pending amendments.

Mr. KYL. Because I advise you in advance I will object to setting aside pending amendments for consideration of further amendments.

Mr. SPECTER. The ones agreed to are these, and we cannot proceed until the pending amendment is set aside: Mikulski-Warner, 3217; Collins, 3211; Dorgan-Burns, 3223; and Isakson, 3203. But we cannot take them up, as noted, unless we have consent to set aside a pending amendment.

Mr. KYL. Mr. President, I note that under the regular order, my amendment is the first in line, having been offered on Thursday. These are subsequent amendments. It seems to me our colleagues would be willing to take up these amendments in the order they were offered.

What is curious to me is why some amendments are more worthy than others to be voted on. Maybe it is that people don't want to vote on certain amendments because they are troublesome. But if the object here is to try to get this bill completed, then we have to agree on some fundamentals, and that is that all the amendments that have been offered ought to be voted on. It is logical they would be voted on in the order they were laid down. There is no reason anyone can give me why there shouldn't be a vote on the amendment I laid down and that that should not precede the other amendments. I consider mine at least as worthy as the other amendments, particularly because it goes directly to a point in the underlying bill, and to my knowledge, the other amendments, by and large, do not do that.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, let us understand where we are at this moment. In the colloquy with Senator KYL, I raised an element of his amendment which we, I think, generally agreed needs to be clarified. I hope we can work toward clarification.

The Senator from Pennsylvania, the chairman of the Senate Judiciary Committee, has asked whether we can now take up amendments which both sides agree would be constructive, moving us toward our goal of final passage, on a bipartisan basis, asking the Senator from Arizona, would you please set your amendment aside, perhaps to work on the subject of your colloquy a few moments ago, and then you will be back in the queue.

We are not only prepared, incidentally, on the Democratic side to entertain the four amendments which have been spelled out by the Senator from Pennsylvania, we are also prepared to debate and vote on at least three other amendments, the Lieberman-Brownback asylum, an Allard amendment 3213, and a Nelson amendment 3220.

So the argument among some that we are stopping the amendment process is not true. At this point, the Senator from Arizona is stopping the amendment process because his amendment, which is not quite in the shape it

might be in, or wants to be in, is going to be first or nothing else. I hope that is not where we are going to end this.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. With all due respect, I think that is a bit of spin to say I am stopping the amendment process. On Thursday, Friday, Monday, and Tuesday, I asked unanimous consent to proceed to amendments. Democrats objected. The amendment following mine is the amendment of the Senator from Georgia. That is not on the list, either.

What is happening is that the Democratic side wants to vote on certain amendments—most of which do not go to the heart of the bill—and does not want to vote on other amendments.

What we are saying is, we have a right to lay down amendments and vote on those amendments. I am happy to vote on every single amendment that has been laid down. But Members on the other side will not give me an opportunity to lay down another amendment. I have asked for that repeatedly. Unanimous consent has been denied. I asked the distinguished minority leader this morning. He said no, there would not be consent for me to even lay down the amendment I just got through talking about.

So let's understand that the objections to moving forward are not on this side. They are on the other side. I simply ask for the regular order.

Mr. DURBIN. If there is no objection on the other side, I renew that unanimous consent that we move immediately to consideration of Mikulski-Warner, 3217; Collins, 3211; Dorgan, 3223; Isakson, 3203, with 2 minutes of debate evenly divided before each vote, and that we start taking those up immediately. I ask unanimous consent to move forward.

Mr. KYL. Reserving the right to object, I offer an amendment to that unanimous consent request which is that those amendments occur as identified but to be preceded by a vote on amendments that are in the regular order.

Mr. DURBIN. Reserving the right to object, we are back where we started. Senator KYL will not let a single amendment be considered unless he is first. We have a bipartisan agreement to move to four and perhaps three other worthy amendments while he works on the language of his, which is not acceptable. We have reached an impasse, and I object to his modification of my unanimous consent request.

The PRESIDING OFFICER. The objection is heard.

Mr. SPECTER. Mr. President, without being repetitious, although repetition is only a minor vice here since nothing of consequence is likely to be said in any event. Moving this bill along, Senator KYL has accurately articulated the situation. We are being prevented from voting on amendments which have priority in sequence, where we ought to be voting, and it is just make-work to take up other amend-

ments. It would occupy some time and we would have fewer quorum calls, but it does not move toward the heart of the issue. Senator KYL ought to be accorded the opportunity to vote on his amendment. The rules have brought us to an absolute impasse again. So then we have another day wasted.

I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. ISAKSON. Mr. President, I will take a minute. On Thursday of last week, I offered in this Senate amendment 3215 which is pending after the amendment by the distinguished Senator from Arizona, the Senator from Texas. On Friday, when the majority of the Senate went home and there were no votes, I stayed in this Senate for 3 hours and presided in order for Senator BINGAMAN and Senator ALEXANDER to offer their amendments. We had last week a spirit of cooperation in this Senate to ensure that suggestions and amendments of the Members would be dealt with as expeditiously as possible. The Senate stayed in session on Friday to accommodate Democrats and Republicans alike with the understanding we would proceed in regular order this week.

To blame the Senator from Arizona for being obstructionist is totally incorrect. The fact is, there are other amendments following his that would equally be objected to by the distinguished minority whip. So we are frozen at this time because there is a lack of spirit of cooperation in order to consider issues that are important to the people of the United States of America on what I consider to be the most important domestic issue in the United States of America.

So singular blame on any one individual such as Mr. KYL is not only inappropriate, it is not right.

I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, I become very frustrated when it is evident that nobody wants to do what is the will of the Senate. It is a historic responsibility when you bring a piece of legislation to the Senate, which is to allow Senators, Democrat and Republican, to work their will with offering amendments that are, hopefully, germane and responsible to be debated and voted on.

Why would I want any amendments? I have all I want in the bill. The Judiciary Committee included agricultural jobs, a guest worker revised program, and a program that will deal with illegal undocumented workers already in country that relate to agriculture in the bill.

Would I want anymore amendments? In fact, the Senator from Georgia has already offered an amendment against me. One of my colleagues on this side of the aisle has openly said he wants to kill the AgJOBS provision in this bill, and he has a multiple of amendments he wants to offer. I am willing to let him offer them. I am willing to debate

him. I think I can defeat him. I hope I have the prevailing argument.

But what is at hand here is a very important piece of work done by the Judiciary Committee, S. 2454. I am not going to suggest it is perfect in every way. The amendment process does refine and direct the will of the total Senate instead of the will of a single committee.

I suspect the chairman of the Judiciary Committee would be hard pressed to say this bill is flawless, it is perfect, it is without reproach. That is not what my phone calls are saying. That is not what the public is saying. In fact, the public in many instances disagrees with the provisions I have put in the bill.

What is important is exactly what the other Senator, Senator ISAKSON, said. This is one of our major domestic issues. It is an issue of national security. It is an issue of border control. It is an issue of recognizing the diverse economies of our country and the need for an employment base that is legal, documented, and controlled. It is a matter of immigration.

To suggest we are going to play games with who is on first and who is on second about who makes an amendment, who offers an amendment—why is the other side so nervous and frightened that somehow this bill might be changed a little bit? Better or worse, I don't know.

I think all who have spent time on this issue and know the issue are certainly willing to debate it or we wouldn't be with the issue. We would simply be running politically away from it as this Congress has done for a good number of years.

But the American people, in frustration, in anger, in fear, are now saying deal with it, control your border, our border, our Nation's border. Define and prescribe, background check, inspect those who cross it, at the same time, recognize that a certain type of employee is critically necessary in American agriculture to do the tough, hard, backbreaking work in the fields of America or to change the beds in our resorts or to work in certain forms of manufacturing or in oil patch.

Now, that is at that level of work, and that is an entry-level job, and it is critical to our economy that we have them. Americans, on the large part, have chosen not to do that kind of work anymore. But I recognize the need to recognize American citizens who do, and in my AgJOBS reform of the H-2A program, we create a national labor pool and recognize, first, if someone who is an American citizen is seeking that kind of employment, we make sure they are eligible and eligible first. It is Americans first in this instance, as it should be.

At the same time, there must be a clear recognition that there are now millions in this country, yes, here illegally, but all of them working, and working hard, and paying taxes, and not getting the benefit of those. Why?

Naturally, they are not citizens. We understand that. They probably ought to go home when they are through working, and 90 percent of them want to go home. But the irony is, as we continue to control our border, we create an impenetrable line, as we should, and those who have moved back and forth across that border historically no longer can do that.

Well, it is an interesting thing. It is an interesting issue. The House tried to deal with it in one way—I do not think appropriately, I do not think responsibly. I am not suggesting it is not responsible to control the border. We are doing that in this bill. But I believe we are doing it in a much more sensitive and humane way.

The border has to be secured or what we do here will not work. You cannot try to control and identify and direct employment traffic, if you will, in this country if you cannot control the flow of the traffic. That is part of what we are all about in trying to deal with this issue.

There are those who would say: Round them up and throw them out—round up 8 million, round up five times the size of the population of the State of Idaho and somehow identify them and treat them as legally as you have to under the law and get them out? We cannot do that, will not do that. It is impractical to do that. That is what this bill has struggled to accomplish.

But let's stop and suggest that if this is the issue we all believe it is, why are we fearful of amendments? Why has the other side sleepwalked us for the last 2 days? We ought to have voted on 3, 5, 8, 10 amendments by now. What are we fearful of?

I have my provision in the bill, but let Senator CHAMBLISS amend it. Let him try. Let us debate it. Let us see the differences between what he believes and what I believe. We both agree on so many things as it relates to the agricultural employment base, but we disagree on some things. There is nothing wrong with that kind of healthy debate. I do not fear it. I will not fear it.

And I must say to my colleague from Illinois, when you tried to make the straw person the Senator from Arizona, there is an expression south of the Mason-Dixon line that is simply said: That dog don't hunt. Find a new straw person. This one does not work.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, and so the Senator from Idaho says we ought to have considered three, five, eight amendments by now. Well, he suggests we are sleepwalking. Perhaps he was sleepwalking when we considered three amendments, the first by Senator FRIST, the Republican majority leader, the second by Senator BINGAMAN, the third by Senator ALEXANDER. And the fourth was a motion by the Senator from Pennsylvania to table the Kyl amendment. It is not as if we have not

been considering amendments. If I am not mistaken, moments ago I suggested, let's move to four right now, and maybe seven. So let's move forward on these amendments.

So to suggest we are not moving through the amendment process is not accurate. To suggest we are sleepwalking—if you were wide awake, you would be aware of the fact that we voted on three amendments already on this bill and others were just denied an opportunity to be called just moments ago on the floor by the Senator from Arizona.

It appears now that those who oppose this bill or those who want to slow it down are intent on making the Kyl amendment the way to do it. I would say that Senator KYL and I had a colloquy just a few moments ago on the floor, and it was very clear to me that his language in the amendment needs to be changed so that it is clear to everyone what he intends to achieve.

I thought that is where he was going. I thought that is what he acknowledged. But having even acknowledged that, he will not allow another amendment to come forward while his is still pending on the floor. That is unfortunate.

It was said earlier that—

Mr. CRAIG. Mr. President, will the Senator yield for a question?

Mr. DURBIN. I am happy to yield for a question.

Mr. CRAIG. You are really going to suggest that the last 2 days of effort are called heavy lifting? Shouldn't we redefine what work in this body is all about?

Mr. DURBIN. I would say in response, I do not believe I used that term.

Mr. CRAIG. You did not use that term; I just did. But you have suggested we have been at great industry here over the last 2 days?

Mr. DURBIN. No. I can tell you—reclaiming my time, I would say to the Senator from Idaho, most of the work that has been going on has been off the floor in the Republican caucus because the Republican majority has to decide whether we are going to have a comprehensive immigration bill. There are 55 votes on their side of the aisle, 45 votes on our side of the aisle.

We are standing firm in the belief that the bipartisan bill which emerged from the Senate Judiciary Committee, with the support of the Republican chairman, Senator SPECTER, is the good starting point for us to really address comprehensive immigration reform, for the first time in decades.

The heavy lifting has been off the floor while the party of the Senator from Idaho has been trying to decide their place in history. Will they be part of a comprehensive bipartisan immigration reform or stand in its path? They have to make that decision. We cannot make it on the floor for them. The sooner they make it, the better.

Last night, the Democratic leader, Senator REID, filed a cloture motion to make it clear there will be a moment

of reckoning. Here on the Senate floor, in very short order, the Republicans and Democrats will face a basic choice: Do we stop, do we kill this bill, this bipartisan comprehensive immigration bill or do we move forward? I hope we move forward because I think this is a good bill.

When I listened to the Senator from Idaho talk about enforcement, well, let me say, the enforcement provisions of the bill before us are amazing. And I use that term advisedly. But they are amazing.

We increase the number of Border Patrol agents over the next 5 years by 12,000—12,000. Currently, there are about 2,000. Think about that. What a dramatic increase in making our borders safer.

We increase the number of interior agents going after those who should not be in this country by 5,000 over the next 5 years.

Agents dedicated to combating alien smuggling, up 1,000 over the next 5 years.

We also require the Department of Homeland Security to construct at least 200 miles of vehicle barriers at all-weather roads in areas known as transit points for illegal crossings. This is in the bill before us.

We understand, as most would concede, that America's borders are out of control. They are broken down. Part of any comprehensive immigration package must have strong enforcement. The bipartisan bill before us does exactly that.

It goes on to require primary fencing in areas where we think it is necessary to stop illegal crossings. There are technology enhancements, replacing existing fencing, constructing vehicle barriers in certain Arizona population centers. The list goes on and on. Criminalization—greater penalties for those crossing the border illegally.

All of these things indicate this is not just a bill dealing with legalization, it is a bill dealing with enforcement. We took the provisions which Senator FRIST, the Republican leader, offered and we duplicated them. So to argue the bill before us is weak on enforcement does not stand up. It is strong on enforcement.

But let me be clear. Our lesson is this: Simply increasing enforcement will not solve the immigration problems of America. We have 2,000 border agents now. We have increased them over the years. We have done a lot over the last 4 or 5 years, and illegal immigration has continued. You need to do more.

In addition to border enforcement, you have to do two things. You have to deal with the employment. What is the magnet that draws people across that border into the United States? It is the prospect of a job, a job that will pay much more than they can make in their villages in Mexico, in Central America, or in Poland or Ireland, for that matter.

What we do is say that the employers who illegally hire people and exploit

them are going to be held accountable. There are tough penalties under the law. So border enforcement is tough. Employer enforcement is tough, as it should be.

But there is a third element. The third element gets to the heart of the issue. What are we going to do about 11 or 12 million people currently in the United States who are not documented? If you listen to some of the cable show hosts, they say: Send them home. Deport 12 million people. That is totally unrealistic. Physically, it could not be achieved. If it could be, it would be an expense far greater than anyone could imagine for this country.

What we have to do is have realistic, tough, fair answers. Here is what we have come up with. If you are here, having overstayed a visa, or without documentation, in the United States, we will give you a chance, a chance to become legal. But it is a long, hard road. It will take you 11 years—11 years—of your life. You better be committed to being part of America's future—11 years.

In the course of that 11 years, it is not going to be easy. If you break the law, you are out. If you are not working, demonstrating employment, caring for your family, you cannot qualify. If you do not pass a criminal background check, you are out. If you do not pay a fine of several thousand dollars, you are out. If you have not learned English, you are out. If you have not paid your back taxes, you are out. If you do not understand this government, its history, and what our country is all about, you cannot qualify.

Do you call that amnesty? Does that sound like something that is automatic, moving to the head of the line, a free ride? It is not. It is a hard, tough process.

I come to the floor—and I have said it before; I want to repeat it, as many have in their own personal circumstances—as the son of an immigrant. My mother was brought to America at the age of 2 in 1911. My grandmother brought her, her brother, and sister over on a boat from Lithuania. They landed not at Ellis Island but in Baltimore. They caught the train to St. Louis and went across Eades Bridge over to the east side of the river in East St. Louis, IL, to meet up with my grandfather, who was working in common immigrant labor—steel mills and stockyards and things we did in that part of the world.

I do not know if my mother, who became a naturalized citizen in her twenties, could have met the qualifications of this bill—all of them. They are tough. They are demanding. I hope she could have, but she may not have. Fortunately for me, she became a naturalized citizen. I am very proud of that. She raised a family with my dad—three boys, and one of them turned out to be the 47th Senator from the State of Illinois.

That is an American story, a story repeated over and over and over again.

We want this bill to reflect American values. We want this bill to basically say: We are going to fix a broken immigration system. We are going to repair our borders with real enforcement. We are going to make certain that the employers who are making this situation even worse are going to be penalized. We are going to do that and give those who are here a chance to become legalized.

The Presiding Officer up here from the State of South Carolina has been very articulate about this issue. He has spoken out in many places, and I admire the statements he has made. He has noted the fact that there are many people currently serving in the U.S. Armed Forces who are not citizens. That is a fact. You do not have to be a citizen to serve as a soldier. And many of them are risking their lives today, in uniform, for the United States of America. Over 50 have been killed in Iraq. They are not legally citizens but serving their country they love, willing to risk their lives for this country.

It has been raised by the Senator from South Carolina, and others: What are we saying to them? What are we saying to those who have served, those who have risked their lives and may come home having lost a limb or suffering some serious injury? Are we saying to them that their parents, their family, must still live in the shadows of America? Or are we going to give them a chance? That is what this bill is all about.

So we have a strong bipartisan bill, supported by the Senator from Pennsylvania, supported by three other members of the majority party in the Senate Judiciary Committee.

It is true. We have been rather steadfast in our belief that this process has to move forward. And we only have a few days to try to capture the moment and to bring together the political forces to do something historic.

Last Saturday, I went to a high school in Chicago. Cristo Rey is a Jesuit high school in an area of Chicago that has a largely Mexican population. It is an incredible school with dedicated teachers, administrators who are trying to give kids a fighting chance. They know what the statistics tell us. Fifty percent of Hispanic Americans drop out of school. So they are fighting against the odds to keep these kids in school. I stood there on a stage with about 20 students from that high school and surrounding high schools, some who had graduated a few years ago and some who were currently about to graduate. I listened to their stories.

Oscar Ramirez was there. I had met him before. He said: Senator, the last time you met me, I was pursuing my degree in biology from the University of Illinois in Chicago. I got it. I got my bachelor of science degree in biology. Right now, I have applied for a master's for research in neurobiology. But once I get my master's degree—and I am going to get it—I am still undocumented. In the eyes of the Government, I am supposed to leave.

I ask my colleagues, is America a better place if Oscar leaves? Is this country better that a person of that talent would leave us at this point? He came here as a child. His parents brought him here. They didn't ask for him to vote on where to live; they brought him. This is the only land he has ever known. He defied the odds—not only graduated from high school, but he has a bachelor's degree and is going for an advanced degree. Wouldn't we be a better country with Oscar Ramirez as a citizen doing neurobiological research on Parkinson's disease and Alzheimer's? Wouldn't we be a better place?

Standing next to him was a young woman about to get her bachelor's degree in the city of Chicago in computer science and math who said: All I want to do is teach. I want to teach in high school. I hope that some kids will be as excited about math as I am.

Can we give up on a person like that? Are we ready to say we don't need them in America—thank you for dropping by, but you can go back to wherever you came from? I don't think so. I think what they bring to America is exactly what we need—values that we cherish, values that distinguish us from many other countries. Why is this such a great nation? Because it is a nation of immigrants and a nation of immigrant spirit, the spirit of those who were willing to get up and take a risk where others were not.

When my mother's family left the tiny village of Jurbarkas in Lithuania, I am sure there were villagers around them shaking their heads, saying: What are they thinking? They are leaving their home, the little plot of land they are tending to grow vegetables. They are leaving the church where they were baptized, their language, their culture, to go to a place where they can't even speak the language. That Kutkin family must be crazy.

It was a crazy family like my grandparents and many like them who have made this great Nation. They brought here risk taking. They brought here family values. They were going to stick together through thick or thin, and they did it. Because of them, because of their courage and the courage of millions like them, we are a different nation. Where other nations are torn apart by divisions, our diversity gives us strength.

That is what this bill tries to capitalize on. That is what this bill tries to build on. It says: Let us take the strength of that immigrant spirit and build a stronger America for tomorrow. Create obstacles in the path, create requirements, give people a chance to earn their way to citizenship. It is a hard, long path, but an important one.

The Senate bill we passed takes this comprehensive approach. It is tough. It is fair. We improve border security, deploy new technology, increase our manpower, crack down on employers that are hiring millions of undocumented workers. We do need tougher

enforcement. We believe that. But in the Judiciary Committee bill, we acknowledge something that Senator FRIST, the Republican majority leader of the Senate, and Chairman JAMES SENSENBRENNER of Wisconsin did not acknowledge—a strategy that focuses only on enforcement is doomed to fail. In the last decade, we tripled the Border Patrol agents in America. We have spent eight times as many hours patrolling the border. During that same time, the number of undocumented immigrants has doubled. Enforcement alone is not enough. We need a realistic and comprehensive approach.

As the Department of Homeland Security acknowledges, mass deportation, which we might hear on some of the cable talk shows, isn't going to work and will cost us billions of dollars if we try. Amnesty is not an option, simply waving our hand and saying to everyone who is here: You are now legal citizens, enjoy America. That isn't the right thing to do, either.

What we try to do is find a reasonable middle ground. If we are serious about reform, we need to offer the chance for immigrants who work hard, play by the rules, pay their taxes, learn English, a chance to become legal in America.

Incidentally, what Senator KYL said earlier about those who should be disqualified, I can't argue with him. When it comes to criminal records, let's be honest, if you want to be a citizen and you want to commit crimes here, we don't want you. Can I be any clearer? If you want to commit a violent crime, if you want to endanger the life of another person with a sawed-off shotgun or commit crime of moral turpitude, you can leave right now. We don't need you, and we don't want you. We make that clear in the bill. It is already there. If you want to make it all the way to citizenship, you can't have a criminal record, period.

You have to have been employed since January 2004. Aliens who enter after that date or who have not worked continuously since then would not qualify. You have to remain continuously employed going forward. You have to pay about \$2,000 in fines and fees, pass a security background check, a medical exam, learn English, learn about our history and government, and pay all back taxes. And then, if you meet all of those requirements, you go to the back of the line so that people who are trying to move forward in this convoluted, bureaucratic legal process will still be in the front of the line before you.

It is clear that is not amnesty. That is a process, a long, arduous process. It is an 11-year pathway to citizenship.

We have an important bill before us, a bipartisan bill. We have a singular opportunity to make history this week in the Senate. If we press forward with a bipartisan spirit, the same spirit that guided the Senate Judiciary Committee, we can achieve this. Having achieved it, we will be able to say that

we tackled one of the biggest problems facing America today and dealt with it in a responsible fashion.

I will not renew my unanimous consent request because I know the Senator from Pennsylvania would object. There is no point wasting our time in that regard. I thank him for his leadership. I know he is trying to find some balance to build a bridge over the troubled waters of the Senate. But at this moment in time, we are prepared to move on the four amendments we have agreed to and three others. We would like to do that, I say to the Senator from Georgia. The amendment which we are prepared to accept may not be the one you want today, but perhaps we could get to your amendment at a later time. I hope we can.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, we are at an impasse. The rules of the Senate have been used to block meaningful consideration of the pending legislation. What we have before us is the committee bill which was voted out 12 to 6. I believe it is a good bill. It is a very good bill. But under our rules, it is subject to being amended. The Senators who wish to offer amendments are being stymied by the Democrats who are imposing technical rules—led by Senator REID, the minority leader. That is the brutal fact of life.

We worked hard to try to find some amendments where we could go forward and have votes. We came up with a list, but none were meaningful. None would advance the core considerations of this legislation.

The rules of the Senate are very complex. If an amendment is not offered prior to cloture—and cloture is the expression to cut off debate—the amendment may not be voted upon, cannot be offered after cloture if it hadn't been offered before cloture. If anybody is watching on C-SPAN 2, which I doubt—it is just too dull; perhaps not by comparison with what else is available on cable or over the air—the reason is that Senators do not want to make tough votes. Today, it is the Democrats who don't want to make tough votes. But another—

Mr. DURBIN. Will the Senator yield for a question?

Mr. SPECTER. I will as soon as I finish.

Today, it is the Democrats who don't want to make tough votes, but there have been days when it was the Republicans who didn't want to make tough votes.

Senator REID said that they were experts on being cut off from offering amendments because they have tried to offer amendments and couldn't. And he mentioned the minimum wage and stem cells, among other items. But there is a significant difference on what is happening today and yesterday during the pendency of this bill, and that is that the amendments to be offered relate to the bill, are germane to

the bill. Senator KYL wants to offer amendments that deal with the text of the bill. When Senator REID was talking about stem cells, he was talking about hypothetically, or maybe he did try to offer a stem cell amendment—I don't know—or tried to offer a minimum wage amendment, but he tried to offer it on a bill which was not germane.

It makes sense to say we are not going to vote on stem cells on the highway bill, illustratively. And although Senator REID wants to vote on stem cells, he hasn't pushed that issue as hard as I have. I have been working on the stem cell issue since it burst upon the scene in November of 1998. The subcommittee which I chair on Labor, Health and Human Services, and Education has had 16 hearings on it. I am the coauthor of the Specter-Harkin bill which has passed the House as the Castle bill. I really want to bring that up, but I can see not bringing it up on an unrelated bill. We are working now on a schedule. The majority leader has committed to finding a time to vote on stem cells in the immediate future.

The point is that when the Democrats tried to offer amendments, they were to bills where they were not germane. I think that is the situation. I do not have all of the amendments in my hand, but be that as it may, there is no doubt that the amendments which Senator KYL and others want to offer relate directly to this bill. Although I would like to pass this committee bill, we are not going to get a fair shot at it because we are not going to get cloture. After cloture is voted down tomorrow, there is going to be a mass exodus for the airports and the trains. People will be going on the Easter recess, and this very important piece of legislation is going to die.

Mr. DURBIN. Will the Senator yield for a question?

Mr. SPECTER. OK.

Mr. DURBIN. I would like to ask the chairman of the Senate Judiciary Committee if he recalls a few weeks ago on the reauthorization of the PATRIOT Act when Senator FEINGOLD of Wisconsin offered amendments which were germane postcloture but was not given an opportunity to call those amendments because the Republican majority leader, Senator FRIST, filled the tree? There was no question that they were germane amendments. Senator FEINGOLD rightfully took to the floor and held us in session for days because the Republican majority would not allow votes on germane amendments on the bill that came out of our committee.

Mr. SPECTER. Mr. President, the thought that comes to my mind is, were they subject to being offered postcloture, had they been offered precloture? Don't they have to be offered precloture? The Parliamentarian is shaking her head in the negative. Repeat the question, and I will try to answer that.

Mr. DURBIN. It is my understanding that you can offer germane amendments postcloture, but the question is

whether you can get into a queue where the amendment will be called. If there is a pending germane amendment filed precloture, it may take precedence in terms of being called, and you may not have an opportunity. I think you have a right under our rules to offer germane amendments post-cloture. Whether you will have a chance to call those for a vote depends on the process on the floor.

Mr. SPECTER. Well, as we have seen in so many situations, and where I have been willing to concede error on both sides of the aisle, I am not going to seek to defend preventing votes on relevant, germane amendments, whether they are offered by Senator FEINGOLD or Senator KYL, or anybody else. That is just not the way the Senate ought to be run. I am glad to note that the Senator from Illinois didn't hear my answer. He was talking, which he has a right to do.

Mr. DURBIN. I apologize to the Senator, who is very patient. I will listen to his remarks.

Mr. SPECTER. It is not worth repeating. It is my hope that sanity may yet return to this Chamber. If it existed, it has certainly departed. We have, in all seriousness, a bill before us that is enormously important.

Senator DURBIN spoke at some length a few moments ago, and I agree with most of what he said. We have a tremendous problem in this country with undocumented aliens. We need to get a handle on what is going on. We need to not have a fugitive class in America that is being exploited by employers. We need to control our borders. We have a serious problem with terrorism. We have a serious question whether the people coming into this country are taking American jobs or depressing American wages. We are simply not dealing with it.

To have the Senate floor empty, and we are going to have a quorum call most of the time unless people come over and talk about ideas, which are fine but are not advancing the progress of this bill. I think it is important that our constituents know we are at an impasse because of technical reasons advanced by the Democrats. I do not say that in a partisan sense. I have voted for many Democratic proposals and for many of President Clinton's judges and across the line on many occasions when I thought the ideas merited it, not as a matter of party loyalty.

The Democrats are stonewalling this bill and no one is even on the floor to defend them, so I will not attack them anymore.

I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. ISAKSON. Mr. President, I want to pose a question to the distinguished minority whip. Last Thursday, I offered amendment No. 3215, which is second in line after the Kyl amendment. I have listened intently to the distinguished Senators from Illinois with regard to the objections they have ex-

pressed to the Kyl amendment. I have not heard them say what their objection is to amendment No. 3215.

I ask the Senator from Illinois this question: Amendment No. 3215 is a simple amendment, which says that any provisions of this act which grant legal status to someone who is here illegally do not take effect until such time as the Secretary of Homeland Security has certified to the President and the Congress that our borders are reasonably secure.

Now, I would like to hear what objection someone would have to the United States of America living up to its responsibility of securing our borders?

Mr. DURBIN. Mr. President, I say to the Senator from Georgia, I think it would be an interesting debate. We may reach that debate as to what is reasonably secure. There are some, as I understand it, 300 million people who cross our border with Mexico every year in legal status, for commercial purposes and otherwise, and whether we are secure under the Senator's amendment, I would have to listen to his arguments on who makes the certification and what are the standards for that.

If we had a situation where the fate of millions of people hinged on a subjective decision about reasonable security, I think that would raise some questions about whether we are moving forward and whether people would say: I can step out of the shadows now and I think at this point I am prepared to tell you who I am, where I live, where I work, and here are my records. If there is this uncertainty, at any given time you could stop the process.

I say to the Senator from Georgia, it would be an interesting debate and I am anxious to hear his side of the argument.

His is 1 of 100 amendments that have been filed. One of his other amendments we are prepared to take up immediately. I don't think that is the same one. We are prepared to take that up because we think it would move the bill forward in a constructive, bipartisan way.

I would like to hear the Senator's argument before making a final decision.

Mr. ISAKSON. Reclaiming my time, my response to the Senator would be that I am not an attorney, but I spent 33 years in the real estate business. I saw the term "reasonable attorney's fees" on more documents than the law would allow. I never met an attorney who could not describe what reasonable attorney's fees meant. I think we can find a lot of people in the Senate who understand that.

I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. TALENT. Mr. President, I ask unanimous consent to speak as in morning business for a few moments.

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

NEGRO LEAGUES BASEBALL MUSEUM

Mr. TALENT. Mr. President, I would like to take a few minutes to talk about last night's passage of S. Con. Res. 60, a resolution that designates the Negro Leagues Baseball Museum in Kansas City, MO, as America's National Negro Leagues Baseball Museum. I can't think of a more appropriate time of the year to have passed this landmark legislation than this week—opening week of the 2006 baseball season. The passage of this historic resolution will allow an already fantastic museum to grow and become even better.

That would be reason enough to pass a resolution here were the museum on any other subject. But on this subject, which is so significant to the history of America, it made the resolution, I think, even more important. I am grateful to the Senate for passing it last night.

Many of baseball's most noted stars of the past century got their beginnings in the Negro Leagues. Greats such as Hank Aaron, Ernie Banks, Roy Campanella, Larry Doby, Willie Mays, Satchel Paige, and of course, Jackie Robinson eventually brought their fast-paced and highly competitive brand of Negro Leagues baseball to the Major Leagues. In fact, much of the fast-paced style of baseball today is owing to the influence of the Negro League's brand of ball.

Unfortunately, before the color bar was broken, many skilled African-American ballplayers were never allowed to share the same field as their White counterparts. Instead, such players played from the 1920s to the 1960s in over 30 communities located throughout the United States on teams in one of six Negro Baseball Leagues, including teams in Kansas City and St. Louis in my home State of Missouri.

The history of these leagues is an interesting one. In the late 1800s and early 1900s, African Americans began to play baseball on military teams, college teams, and company teams. The teams in those days were integrated. Many African Americans eventually found their way onto minor league teams with White players during this time. However, racism and Jim Crow laws drove African-American players from their integrated teams in the early 1900s, forcing them to form their own "barnstorming" teams which traveled around the country playing anyone willing to challenge them.

In 1920, the Negro National League, which was the first of the Negro Baseball Leagues, was formed under the guidance of Andrew "Rube" Foster—a former player, manager, and owner of the Chicago American Giants—at a meeting held at the Paseo YMCA in Kansas City, MO. Soon after the Negro National League was formed, rival leagues formed in Eastern and Southern States and brought the thrills and the innovative play of the Negro Leagues to major urban centers and

rural countrysides throughout the United States, Canada, and Latin America.

For more than 40 years, the Negro Leagues maintained the highest level of professional skill and became centerpieces for economic development in their communities. The Negro Leagues constituted the third largest African American owned and run business in the country in those days. They brought jobs and economic activity to many of the cities around the United States and played in front of crowds of ten, twenty, thirty, forty, and even fifty thousand people. These crowds were integrated. White and Black fans came to watch the Negro Leagues, and they sat together.

In 1945, Branch Rickey of Major League Baseball's Brooklyn Dodgers recruited Jackie Robinson from the Kansas City Monarchs, which made Jackie the first African American in the modern era to play on a Major League roster. That historic event led to the integration of the Major Leagues and ironically prompted the decline of the Negro Leagues because, of course, Major League teams began to recruit and sign the best African-American ballplayers.

If you stop and think about it, the integration of baseball was the first of the major events in the civil rights movement in this country—well, not the first, because that movement, of course, had begun early in the last century. But it was the first significant widely known event. Baseball was even more than it is today America's game. The effect of this on the national consciousness, the progress that made toward equality and justice for all people, cannot be underestimated. That event occurred because of the Negro Baseball Leagues. Without those leagues, we would not have the pool of ability and excellent baseball players from which Branch Rickey was able to draw when he came to an agreement with Jackie Robinson. Ironically, though, that event, which led to the integration of the Major Leagues, prompted the decline of the Negro Leagues, because Major League teams began to recruit and sign the best African-American players.

The last Negro Leagues teams folded in the late 1960s. Much of the storied history of these leagues was packed away and forgotten until 1990 when the Negro Leagues Baseball Museum was founded in Kansas City, MO, to honor the players, coaches and owners who competed in Negro Leagues Baseball. This museum is the only public museum in the Nation that exists for the exclusive purpose of interpreting the experiences of the participants of the Negro Leagues from the 1920s through the 1960s.

It is not a hall of fame, Mr. President. We don't want it to be a hall of fame. The Negro Leagues' baseball players belong in the Major League Hall of Fame. They were segregated long enough. It is a museum that exists

in order to educate and enlighten people, and to allow them to enjoy the experience of the Negro leagues in the United States.

Today the museum educates a diverse audience through its comprehensive collection of historical materials, important artifacts, and oral histories of the participants of the leagues. The museum uses onsite visits, traveling exhibits, classroom curriculum, distance learning, and other initiatives to teach the Nation about the honor, the skill, the courage, the sacrifice, the humanity, and the triumph of the Negro Leagues and their players.

This resolution designates the Negro Leagues Baseball Museum in Kansas City as America's National Negro Leagues Baseball Museum. This designation will assist the museum in its efforts to continue the collection, preservation, and interpretation of the historical memorabilia associated with the Negro Leagues. This effort is a must if we hope to enhance our knowledge and understanding of the experience of African Americans and the African-American ballplayer during the trials and tribulations of legal segregations.

The full story of the Negro Leagues should be preserved for generations to come and the passage of this legislation gives the museum another tool to do just that.

I highly recommend a visit to the Negro Leagues Baseball Museum for anybody who is in Kansas City. Whether you are a baseball fan or not, you will be moved by what you see and the stories you are told at the museum. You will be encouraged and inspired in every way by seeing how these players confronted the injustices of their times, and with great spirit and energy overcame all obstacles placed in front of them.

This museum is a first-class operation of 10,000 square feet in the historic 18th and Vine neighborhood in Kansas City. It entertains 60,000 visitors a year. There is a number of key features to the museum, but I think the passage through which you can walk and see a timeline of the Negro Leagues' development, and then next to it a timeline of important events in American history and the civil rights movement, is very enlightening and very moving. You will learn about these leagues and the players as people, and through that and through their experiences, you will learn about the times. These were not downtrodden men who played in this game, nor were the owners or the fans.

They were joyous. They played a game they loved, and they played it extremely well. Yet in the context of everything they did was the legal and social situation in the United States they were battling, over which they eventually triumphed.

Those who visit will be encouraged and inspired by seeing how those players confronted the injustices and other difficulties of their time with great

spirit and energy and overcame the obstacles in front of them.

I congratulate everybody at the museum who continues to work so very hard to make sure the story of the Negro Leagues is a piece of history that is preserved for future generations. The passage of this legislation is an important way to honor the museum, its employees, all its volunteers and supporters for their years of tireless advocacy on behalf of the baseball legends of the Negro Leagues.

I especially thank and congratulate Don Motley, Bob Kendrick, Annie Pressley, and Buck O'Neil of the Negro Leagues Baseball Museum for their dedication and assistance in passing this resolution.

I also thank Senator DURBIN for cosponsoring this resolution with me and others who cosponsored it as well.

I am not going to take up much more time of the Senate. I know we are taking a little break from the important immigration debate, but I can't pass up the opportunity to put in a good word about my friend Buck O'Neil and the tremendous work he continues to do for the Negro Leagues Baseball Museum. Buck is a true American treasure whose illustrious baseball career spans seven decades. It has made him one of the game's foremost authorities and certainly one of its greatest ambassadors.

I am not going to go through all of Buck's statistics as a player, as a manager in the Negro Leagues, or as the first African American who became a coach in the Major Leagues. He did so with the Cubs. In that capacity, he discovered superstars such as Lou Brock, for which I am very grateful. If he had been in control of the Cubs' front office, they would not have traded Lou Brock to the Cardinals for Ernie Broglio in 1964, and they might have won a couple pennants themselves. So I am grateful Buck was not the Cubs' general manager at the time. I don't think he would have made that mistake.

In 1988, after more than 30 years with the Cubs, he returned home to Kansas City to scout for the Kansas City Royals.

Today Buck serves as chairman of the Negro Leagues Baseball Museum he helped to found. The work he has done after he retired from the game may be even more significant to the history of baseball than his exploits as a player or manager. Nobody has done more to build this museum and to call the rest of us to remember the significance of Negro Leagues Baseball than Buck O'Neil.

He has reminded us that the leagues are significant in so many ways on so many different levels. They represent a triumph of the human spirit, tremendous sportsmanship, high quality of play, and were of vital importance to the African-American community of the time, and they led directly to the integration of the Major Leagues.

The work of Buck O'Neil and the museum led the Hall of Fame to hold special elections earlier this year to elect a class of Negro Leagues and pre-Negro Leagues ballplayers into the 2006 Hall of Fame induction class. On February 27, 2006, the Hall of Fame in Coopers-town announced that 17 former Negro Leagues and pre-Negro Leagues players and executives would be inducted into the Hall of Fame in July 2006. That was largely because of the efforts pushed by Buck and the Negro Leagues Baseball Museum and concurred in by Major League Baseball. It was a bittersweet day for me and many of us in Missouri because the one name missing from that list of 17 players and executives was Buck O'Neil.

I certainly think there is nobody who meets the criteria for induction into the Hall of Fame more than Buck. If you look at his statistics on the field as a player, his years as a scout, his years as a manager and a coach, even more than that, his years as an ambassador for baseball, a happy warrior for the Negro Leagues and the Negro Leagues Baseball Museum, it more than qualifies him for admission into the Hall of Fame. I hope we can find some way to correct this oversight quickly.

In closing, I thank the Senate for its patience. I thank my friend and colleague from New Mexico, Senator DOMENICI, for his assistance and support in moving this legislation swiftly through the Energy Committee.

I thank the colleagues who supported the legislation and allowed it to pass by unanimous consent last night. The story of the Negro Leagues is a story of true American heroes who contributed to this Nation on and off the field and confronted life with courage, with sacrifice, and eventually with triumph in the face of injustice. I hope the Members of the Senate will take an opportunity when they are in the area to learn more about these heroes by visiting what I hope and believe will soon become known as America's National Negro Leagues Baseball Museum in Kansas City, MO.

I thank the Senate, and I yield the floor.

Mr. SESSIONS. Madam President, if I may ask a question of the Senator.

The PRESIDING OFFICER (Ms. MURKOWSKI). The Senator from Alabama.

Mr. SESSIONS. Madam President, I thank Senator TALENT for his leadership on this important issue. As a person who lives in Mobile, AL, I am proud of Satchel Paige. I assume he will be in the museum.

Mr. TALENT. Yes; he has a big place in the museum.

Mr. SESSIONS. Satchel Paige was denied the right to fully participate in American baseball until the very end of his career. That was a tragedy. It was really a tragedy. It is something our Nation cannot take pride in and should feel great sadness over. A number of other Negro Leagues players came from Mobile, which is a great bastion

of baseball excellence, including Willie McCovey and Hank Aaron, among others, who developed out of that history of excellent baseball.

I thank the Senator from Missouri for his leadership. I think it will be an important addition to our national heritage to have this museum.

Mr. TALENT. I thank the Senator for his comments.

Mrs. BOXER. Madam President, today I wish to pay homage to Buck O'Neil a splendid athlete, a peerless ambassador of baseball, and a wonderful man who has become an American icon beloved by millions.

Many people first got to know Buck O'Neil as a major contributor to "Baseball," Ken Burns's landmark documentary on our national pastime. While narrating the history of the Negro Leagues and the breaking of the color line in Major League Baseball, Buck passed along not only his prodigious knowledge of baseball and the society it helped to change forever but also his indomitable spirit, joy of living, and love of the game.

Before becoming a television star, Buck O'Neil was a baseball star in the Negro Leagues. As a first baseman and manager between 1937 and 1955, he played on nine championship teams and three East-West All Star teams, won a batting title, starred in two Negro Leagues World Series, and managed five pennant winners and five All Star teams. As manager of the Kansas City Monarchs, he mentored more than three dozen players who eventually made it to the Major Leagues.

In 1962, Buck O'Neil became the first African-American coach in the Major Leagues, where he helped the Chicago Cubs' Ernie Banks, Billy Williams, and Lou Brock develop the skills that led them to the Baseball Hall of Fame.

Today, at age 94, Buck is still bubbling over with enthusiasm for baseball, life, and his fellow human beings. He continues to serve on the Veterans' Committee at the Hall of Fame and as chairman of the Negro Leagues Baseball Museum in Kansas City.

On May 6, 2006, the San Diego Padres will honor Buck O'Neil as part of their Third Annual Salute to the Negro Leagues. I am honored that this statement will be a part of that salute, and I send my great admiration and appreciation along to Buck O'Neil and all of the other great players of the Negro Leagues.

Mr. President, I know that you and all of our colleagues in the U.S. Senate will join me in sending our best wishes to Buck O'Neil for this very special day and for many more years of great service to baseball and the Nation.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. SALAZAR. Madam President, I thank my colleague from Missouri as well for his great words on behalf of the contribution to baseball that has been made by some of our country's finest sportsmen.

I thank my colleague from Alabama, Senator SESSIONS, for his good work in

this Chamber. I also note he and I were participants in a codel that just went into Iraq and Afghanistan. The issues we face around the world on national security are so important that it is going to require a coming together of our country to make sure we are working toward the creation of a better, safer, and more secure world.

I want to speak briefly to the bill that is currently before this Chamber, and that is the immigration reform bill in its comprehensive form that came out of the Senate Judiciary Committee. I believe from a national security and homeland security perspective this Chamber is working on one of the most very important issues facing our Nation today, and that is the issue of making sure we take our broken borders and the lawlessness coming across the borders and create a system that is comprehensive in nature to address that lawlessness.

I believe the legislation which came out of the Judiciary Committee does that, and it does so by making sure, first and foremost, that we are strengthening our borders, and secondly, making sure that within the interior, we are creating the kind of immigration law enforcement program that is going to be effective; that looking at the immigration laws and simply ignoring them is a chapter which will go away if we are able to get our hands around passage of this bill. And finally, dealing with the reality of the 11 million workers in America—those workers who toil in our fields, those workers who work in our restaurants, those workers who work in our factories, and all of those who make the kind of lifestyle we have in America possible—we need to address those issues with respect to what some have said is the big elephant in that room, and we need to do it in a thoughtful and humane manner that upholds the rule of law of our Nation.

I want to speak briefly about the importance of border security and what this legislation does.

In the days after 9/11, when we have hundreds of thousands of people coming into this country, without any sense of where they are coming from, whether they come here to seek a good job and to be a part of the American dream, or whether they come as terrorists across the border, it makes the statement that we need to make sure we are doing everything within our power to strengthen those borders. This legislation out of the Judiciary Committee does exactly that. It does so by adding 12,000 new officers to make sure our borders are being patrolled. We go from a staff level of about 12,000 Border Patrol officers up to an additional 12,000 and that will get us to almost 25,000 people who will be deployed along our borders to make sure we can enforce the law.

It creates additional border fences in those places where we know now there are significant streams of illegal and undocumented workers coming back

and forth across the borders. So it creates those additional fences.

It creates virtual fences by deploying the kind of technology that allows us to detect movement across our border.

It also makes sure we create the avenues for checkpoints and ports of entry so we don't have the massive backup on the borders on either side.

I believe the border security aspects of this legislation are where Republicans and Democrats should come together in the name of national and homeland security, and we should be supportive of this legislation for that very purpose.

Second, this legislation is also about enforcing our laws. It is about making sure we have an immigration system where everyone in our country is standing up for enforcing the rule of law.

We will do that by providing an additional 5,000 new investigators to make sure those laws are being enforced. Today there are many violations of our immigration laws that are taking place across every one of our States in America, and yet our immigration laws simply are on the books. They are not being enforced. A law on the books that is not being enforced is almost like not having a law at all. So what we will do is hire 5,000 additional investigators and create the law enforcement capacity to make sure those laws are being enforced in the interior.

In addition, when apprehension occurs of someone who is here illegally, it is difficult to find a place to house these individuals until they are deported. This legislation calls for an additional 20 detention facilities. Those 20 detention facilities will give us the capacity to process those who are breaking the laws of immigration.

The legislation also addresses a very important issue that is critical to State and local governments. State and local governments have been dealing with the influx of undocumented workers and illegal aliens in our country for a very long time. Yet there has been no system providing them compensation for what they are doing to try to enforce the laws at the State and local level, essentially on behalf of the Federal Government because this is a Federal issue, after all. What this legislation will do is provide reimbursement for the States for the detention and imprisonment of criminal aliens.

The legislation also requires a faster deportation process. I go back to the old adage of justice delayed is sometimes justice denied. We have people who are sometimes waiting in the system for months and months and years and years without coming to any kind of resolution. This legislation will require a faster deportation process.

There are significant provisions in this legislation that will make additional criminal activity for gang members, money laundering, and for human traffickers. We know human trafficking across the borders creates tremendous hardship on people. It also de-

means people and results in the deaths of many people. We know there is gang activity along the border that deals with drug trafficking and a whole host of illegal activity. We need to make sure those involved in that kind of criminal activity are brought to justice.

Finally, in terms of enforcing our immigration laws, it is important we address what has become an industry in this country in terms of production of fraudulent documents and identification cards used in this country. President Bush's wish to create a tamperproof card that will go along with this guest worker program is a step in the right direction because it will get us to the point where we will have a tamperproof card and we can avoid the identity theft and identity fraud we see going on in this arena.

Finally, I want to address a third point in what I consider to be this law and order bill, and that is our penalties that come along with this legislation for the 11 million undocumented workers who are in this country. There is a monetary penalty that is applied. In addition, unlike all Americans, there is a requirement that those who are here and undocumented have to register, and they must register on an annual basis. For all of us who are Americans, there is no requirement of registration. If we don't want to have a Social Security card or if we don't want to have a license or if we don't want to be a part of the Government, our right as an American citizen is not to register. For this group of people, we are going to require them to register with the U.S. Government.

There is a whole host of other things that is required of these 11 million people, including the requirement that they learn English, including the requirement that they pass a criminal background check and that they pass a medical exam, and the list of requirements goes on and on and on. I believe the legislation that was produced by the Judiciary Committee is, in fact, a law and order bill. It addresses a very fundamental issue that is of paramount importance to all of us in this Nation and that is the security of our Nation and the security of our homeland.

Finally, I conclude by making a statement about the humanitarian issues that ought to concern all of us with respect to our broken borders. I heard my good friend Senator JOHN MCCAIN at the outset of the consideration of this legislation by the Senate a few days ago, talking about what he had seen in Arizona and how the Arizona Republic had reported that, I believe it was in 2004, 300 people had been found in the desert. Later he discussed how in the following year there were some 406 or 407 people who had been found dead in the desert, people who had died of thirst and hunger, rape and pillage and murder, out in the desert. Perhaps it is only in America when we see those kinds of conditions that we as an American society say, That

ought to be unacceptable to us as a country. How can we have 300, 400, 500 people a year die in the deserts of Arizona? That is the kind of inhumanity that ought to cause all of us as leaders in our country and all of us in our society to say, We must do something about this.

I was moved by Senator MCCAIN's description of some of the people who were dying in the desert, including the story of the 2-year-old girl who had died in the desert and the 13 year old who had died clutching her rosary in that desert in Arizona.

I believe America can, in fact, come to grips with this problem. I believe we have an opportunity here in the Senate to deal with this issue. I am very hopeful my colleagues, both my Democratic colleagues and Republican colleagues, who are working on this issue will not let this historic opportunity we have pass us by. It is this time, it is this day, it is this week where I believe we as a nation can come together and develop comprehensive immigration reform that is long term and that will be long lasting.

Madam President, I yield the floor.

Mr. SESSIONS. Madam President, I thank Senator SALAZAR. We did indeed have a most important trip to Iraq, Afghanistan, Pakistan, and Turkey, and were able to delve into some of those matters that are so important to our national security and check on the quality of care our troops are receiving. I enjoyed that very much. He is a fine addition to our Senate. I think we have a lot of agreements on this legislation, and some disagreements. I appreciate the opportunity we have to discuss these issues.

This debate is often centered around whether we are dealing with amnesty here, and I believe this legislation, by all definitions, is amnesty. But first I want to ask the question: Why is this so? Why is it that people care about whether we use a word such as "amnesty" to describe what this legislation that is before us today is? Why is that important?

It is important because most of us, when we were out campaigning for election, promised not to do amnesty again. Many people in this body who voted for the 1986 amnesty bill agreed it was amnesty and said they wouldn't do it again. The President of the United States, President Bush, despite all of his intentions to try to enhance legal immigration in our country, has always said he did not favor amnesty. So that is the deal. I think the American people have a right to expect that those they elect to office will honor what a fair interpretation of the meaning of that word is. If you promise not to support amnesty, then you shouldn't support a bill that is amnesty.

You can redefine words to make them mean most anything you want. My definition of an activist judge is a person who redefines the meaning of words to have them say whatever he or she would like them to say so they can

accomplish a result they consider to be desirable. But words do have meaning. We can have some understanding of what these issues are about, and I want to discuss it in some detail.

Senator KENNEDY said:

Many have called this adjusted status amnesty. I reject it. Amnesty means forgiveness, not pardon.

Well, I don't know exactly what that means. He said: This bill is not amnesty.

He goes on to say: "Amnesty is not a pardon."

Senator DURBIN, the assistant Democratic leader, said: "Amnesty basically says, We forgive you."

He goes on to say:

Amnesty, very simply, is if you have been charged and found guilty of a crime, amnesty says, we forgive you. We are not going to hold you responsible for your crime.

But only if you have been charged and found guilty, apparently.

Senator FEINSTEIN says: "Amnesty is instant forgiveness, with no conditions. And there are conditions," she says, "on this" bill.

Senator SPECTER said:

Amnesty is a code word to try to smear good-faith legislation to deal with this problem. It is not amnesty because the law-breakers have not been unconditionally forgiven of their transgressions.

And Senator MCCAIN said also:

There is no requirements. There must be no requirement whatsoever to call this bill amnesty.

He said:

Amnesty is simply declaring people who entered this country illegally citizens of the United States and imposing no other requirements on them. That is not what we do, Mr. President.

So in an effort to redefine this situation to mean what they want it to mean, they have said unless there is no condition whatsoever, you can't have amnesty. But people agreed that 1986 was amnesty and placed quite a number of conditions—some more significant than the ones in this bill—on those who were given amnesty.

Those of us who are familiar with the law world—I served as a lawyer the best I could for a number of years, and I know Madam President is a lawyer—we know what Black's Law Dictionary is. It is a dictionary lawyers use to define words in their legal context. Black's Law Dictionary, as part of its definition of the word "amnesty," says this:

The 1986 Immigration Reform and Control Act provided amnesty for many undocumented aliens already present in the country.

Black's Law Dictionary, the final definition of legal words, says the 1986 Immigration Reform and Control Act provided amnesty for people here. It had conditions on it. It had some conditions on it; it just didn't have many conditions on it. So everybody recognizes it as basically amnesty, and that is why they called it that.

Again, I am not trying to use a code word here. What I am saying is there is

a systematic effort in this body to redefine the definition of amnesty so they can tell their voters back home that although they opposed amnesty, this bill is not amnesty, and that is why they voted for it. That, unfortunately, I would have to say, is where we are.

What does the Democratic leader in the Senate, Senator HARRY REID, say about what amnesty is? Does he say that 1986 was amnesty and it had quite a few restrictions on the movement to full benefits of citizenship in the United States? This is what the Democratic leader says. This is what he said on September 20, 1993, when making a speech on the floor in the Senate; it is part of the CONGRESSIONAL RECORD. He said:

In 1986 we granted amnesty, and I voted against that provision in law. We granted amnesty to 3.2 million illegal immigrants. After being in this country for 10 years, the average amnesty recipient had a sixth-grade education, earned less than \$6 an hour, and presently qualifies for the earned-income tax credit.

The earned income tax credit is if you don't make enough money to pay income taxes and don't pay income taxes, not only do you not have to pay them but they give you money back. The average benefit for a person who qualifies for the earned-income tax credit, I would say parenthetically if anybody is interested, is \$2,400 per year.

So that is what Senator REID had to say about it in 1993, that the 1986 law was amnesty. I don't think anybody disputes that 1986 was amnesty.

He made another speech. We have a chart and I want to refer to it because I want to drive this point home. On March 10 of 1994, the Democratic leader in this body today, Senator REID, said this:

In 1986, Congress gave amnesty and legal status to 3.1 million individuals not lawfully residing here. . . . Even after Congress has passed massive legalization programs, millions of individuals do not lawfully reside in the United States today.

That was true in 1994, a mere 8 years after the bill passed.

He continues:

And many more continue to cheat the rules and continue to enter unlawfully.

That is a true statement, I submit, this very day.

So did the Democratic leader have any doubt that 1986 was an amnesty law? I don't think so. In fact, everybody knows it was. That is what we defined it as.

I want to go over some of the provisions in that act and compare it to the provisions in today's act. Let's talk honestly here. There is no mystery here. I would submit, as several of the proponents of this legislation have tried to do, that you only have amnesty if you put no condition whatsoever on the person who is here illegally—and they put some conditions on those persons. Therefore, they say, Oh, no, I know we promised not to pass am-

nesty, but this isn't amnesty because there are conditions on the people who are here illegally. So there is no way to do this but go over it truthfully and analyze it and see what the facts are.

This was passed in 1986. What did it require, this amnesty of 1986? It required continuous unlawful residence in the United States before January 1, 1982. That is 4 years before the passage of the 1986 act—more than 4 years, because I am sure it didn't pass January 1. So for more than 4 years you had to be here unlawfully before this act applied to you. That is a restriction, isn't it, on amnesty, under the definition of those who want to say the current act is not amnesty?

But what does the 2006 act say? Physically present and employed in the United States before January 7, 2004—employed in the U.S. since January 7, 2004; continuous employment is not required. So the key date here is that you have to have been in the country before January 7, 2004. So we are requiring under this bill that you have to live in the country illegally for 2 years before you get on this amnesty track.

Under the previous law, they required 4 years. So with regard to 1986, I think it is a tougher standard, I submit, than we have in today's standard. I don't think anybody can dispute that.

Then you have a fee. They say they are paying a fine, a big fine. Well, in the 1986 act, they say there will be a \$185 fee for the principal applicant, \$50 for each child, a \$420 family cap. Now we have a \$1,000 fine, but it does not apply to anybody under 21 years of age; they don't pay anything. They paid \$50 per child back in 1986. They don't pay anything. I submit that is about a wash. There is a little difference in money. You had an inflation rate; what difference is \$1,000 to \$420?

Both of them say you should meet admissibility criteria. That means, I suppose, that you are not a felon. That is one of the main criteria. Both of them said that. Surely we are not going to be taking in felons into the country. In fact, regarding this bill to which Senator KYL and CORNYN have offered an amendment—which apparently is being blocked by Democratic Leader REID from ever getting a vote—they are contending that this criminality requirement is not in this bill. In fact, this bill is weaker than the 1986 bill on the question of that issue of whether you have a criminal record.

In 1986, people were worried about welfare claims and so forth, so they put in language that said you are ineligible for most public benefits for 5 years after your application. They said if you are going to come here to be a citizen of the United States, we do not want you come here to claim welfare. We are going to prohibit you from claiming welfare for at least 5 years. After that, if you get in trouble and you need help, we will help you. But you have to come here not with a desire to gain welfare benefits in our country which exceed the annual income of most people in a

lot of areas of the world. So they put that in. There is no such requirement in our bill. None of that. You can immediately go on welfare, presumably, under the legislation that is before us now.

It does require a background check and fingerprinting, but presumably that was done in 1986, also. But it focuses really on the crimes a person may have committed while they were in the United States. I don't think it has a mechanism under this act to actually go back to the country of origin—whether it is Brazil or Canada or Mexico—to see if they have a criminal history there. That is a weakness in the system. But even if it does, those systems are so immature and non-existent, it would not be very effective, I suggest.

This requires an 18-month residency period. This one authorizes immediately a 6-year stay in the country. So they said you have to stay 18 months before you make your application for adjustment to permanent resident status. In this bill, you have to stay 6 years, so that is tougher. And you have to work. What are people here for if not to work? Spouses and children don't have to work. People are here to work. It is only a minimal work requirement—not continuous employment—and the proof level is very weak. Regardless, presumably the people who are here want to work, and they ought to be able to prove that they have.

Then you adjust to permanent resident status. That is the green card. In 1986, it required English language and civics. So, in 2006, it is English language and civics, a medical exam, payment of taxes—really? Presumably the people are paying their taxes. And Selective Service registration. So you earn your right to stay in this country by coming into the country illegally and paying your taxes. Thanks a lot.

Then the final step is, in 1986, you paid an \$80 fee, \$240 for a family. In this bill, it is a \$1,000 fee and an application fee.

All I am saying is, if you add those up, I don't think a principled case can be made that 2006, in terms of conditions of entry and amnesty in our country, requires any more stringent requirements on them than in 1986, which Senator REID and everybody else, including "Black's Law Dictionary," have concluded was amnesty.

I say to my colleagues, I would be very dubious of someone who comes up to you and says: Now, Senator, I know you promised in your campaign repeatedly, just as President Bush did, that you would not support amnesty. Don't worry about it. This bill is not amnesty.

I am telling you, the American people are pretty fairminded, and they know perfection is not possible for any of us. But this has not been an issue which has not been discussed. Everybody has talked about the failure of the 1986 bill. As a result, we wanted to do something different. We said we

were not going to do that again and we were not going to grant amnesty. I submit this bill does. I wish it were not so.

We can pass legislation that will work. I have repeatedly said we can pass legislation that has good enforcement. We can pass legislation that provides fair treatment to the millions of people who are here. They are not all going to have to be removed from our country and be arrested and prosecuted. That is not so. That is not part of any plan here. But we do need to recognize that we should not give every single benefit to someone who came illegally that we give to those who follow the law and come legally.

Senator LEAHY, who says this bill is not amnesty, even admits this is amnesty in 1986. He says:

Opponents of a fair comprehensive approach are quick to claim that anything but the most punitive provisions are amnesty.

I am not claiming that.

They are wrong. We had an amnesty bill. President Reagan signed an amnesty bill in 1986.

I suppose he voted for it.

This is not an amnesty bill. Our bill is more properly called what it is, a smart, tough bill. The amnesty bill was signed by President Reagan in 1986, and this is different.

But it is not different. Fundamentally, it is the same thing. I submit that is indisputable, and that is why we have a difficulty here. Some of those masters of the universe, sitting up in those glass towers who write editorials, and the Chamber of Commerce, they don't understand what it is like to campaign for office, look your voters in the eye, and discuss directly with them the issues facing our country, and to make commitments to them about what you are going to do once you get elected. They can redefine the meaning of words and think that is just fine. They can just say whatever they want to and then write their editorials. But they don't have to answer to the people they looked in the eye and directly told they would not support amnesty.

In fact, the President, despite his drive to fix immigration and to enhance the flow of immigration into our country, has said a direct path to citizenship—by Scott McClellan, just less than 2 weeks ago. Scott McClellan said a direct path to citizenship and amnesty are two things they don't favor.

Why is this important? After 1986, we ended up with a big problem. Things were not working well in our country. So 6 years after this happened, in 1992, we did an evaluation by an independent commission of that part of the act which dealt with agricultural workers as part of the Immigration Reform and Control Act. That was the name of it, the "Immigration Reform and Control Act." We told American voters—or those in the Congress at that time did—that we are going to control the immigration system.

The congressionally created Commission on Agricultural Workers issued a

report to Congress that studied the effects of the 1986 agricultural amnesty on the agricultural industry. They did a study on it because Congress wanted to find out what had really happened with regard to that legislation they had passed. One of the first things the Commission acknowledged was that the number of workers given amnesty under the bill had been severely underestimated. They said this:

The SAW program legalized many more farm workers than expected. It appears that the number of undocumented workers who had worked in seasonal agricultural services prior to the Immigration Reform and Control Act was generally underestimated.

That is page 1 and 2 of their report, the executive summary.

What else did the Commission find? Did it tell us that the 1986 amnesty of 3 million farm workers solved our agricultural labor problems? Was that the fix that people thought it would be? How did it work?

No, their answer was this:

Six years after the IRCA was signed into law, the problems within the system of agricultural labor continue to exist. In most areas, an increasing number of newly arriving, unauthorized [illegal] workers compete for available jobs, reducing the number of work hours available to all harvest workers and contributing to lower annual earnings.

That is page 1 of the Report of the Commission of Agricultural Workers, executive summary.

What did the Commission recommend that Congress do? What did they recommend, this independent, bipartisan Commission? Did the Commission recommend that we pass a second legalization program such as the one for agricultural jobs that has been made a part of this bill, offered in committee and is now part of the committee bill that is on the floor? Did they recommend that as a second program to solve the illegal alien agricultural workforce dilemma that was still in existence in 1992, 6 years after the amnesty that was supposed to end all amnesties occurred?

No, the Commission concluded just the opposite. They found:

The worker-specific and industry-specific legalization programs as contained in the Immigration Reform and Control Act should not be the basis for future immigration policy.

That is page 6 of their report.

What did the Commission suggest that Congress should do? They concluded that the only way to have a structured and stable agricultural market was to increase enforcement of our immigration laws, including employer sanctions, and to reduce illegal immigration.

You talk to anybody on the street, and they will tell you the same thing. You talk to Americans. Overwhelmingly, 80 percent believe we are not enforcing the laws effectively on our borders, and any legalization today without an effective enforcement program in the future will bring us back to an amnesty situation just like we face now, just like they faced in 1986.

The Commission said this:

Illegal immigration must be curtailed. This should be accomplished with more effective border controls, better internal apprehension mechanisms, and enhanced enforcement of employer sanctions. The U.S. Government should also develop a better employment eligibility and identification system.

This was 1993, 13 years ago. What has been done about it? Let me repeat that. We need to establish a:

... better employment eligibility and identification system, including a fraud-proof work authorization document for all persons legally authorized to work in the United States so that employer sanctions can more effectively deter the employment of unauthorized workers.

What a commonsense statement that is. Wasn't that what they promised back in 1986 when we were going to have an amnesty to end all amnesties? Remember that they said this would be a one-time amnesty and we were going to fix the enforcement system and therefore the American people would go with us on that. We are going to do this one-time fix and be generous to those who violated our laws. But trust us, we are going to fix the enforcement system in the future. That is what happened.

We have known that for 14 years—that the key to securing our borders and ending illegal immigration includes more border enforcement, more interior enforcement, and a foolproof worksite verification system. Still, we are not prepared to do that. We are told we should do the same thing we did in 1986 on a much larger scale.

I note that in 1986, we estimated there were 1 million people here who would claim amnesty. That is what people were told when the bill passed. After the bill passed, how many showed up? Three-point-one million people, three times as many.

I don't know where they are saying 12 million people, and that is how many will be given amnesty now, not 1 million. They are saying there will be 11 million and that those would all be given a direct path to citizenship.

Let me point this out. When you adjust to permanent resident status, you get a green card. You are able to stay here permanently, as long as you live here, and after a period of time—5 years—you can make application and you become a citizen. If you haven't been convicted of a felony in the meantime, presumably if you don't pay your taxes and don't get caught for it or don't get convicted of it, you can still do so. Presumably you are drawing welfare or Medicare benefits and those things, you can still make application.

We added up the years. Maybe about 11 years in this process, 10 years, maybe, in the 1986 act, and about 11 years in process. They are saying it takes 11 years for you to become a citizen. That is what it took for anyone who came here in the first amnesty and became a permanent resident. They didn't get to become a citizen the next day; they had to go through the same process as this amnesty requires.

Let me explain why 1986 was a failure and why we can have every expectation that 2006 will be a failure. I am going to be frank with our Members. I don't believe this is an extreme statement. I am prepared to defend it. I believe everyone here who is honest about it will admit it.

In 1986, we passed amnesty, and it became law as soon as that bill was signed. Those people were eligible to be made legal immediately in our country and placed on a track to citizenship that day—the day the bill was signed. What did we have about enforcement? We had a promise that we were going to enforce the law in the future. We are going to fix this border, and we are going to have workplace enforcement.

That was a mere promise. It never happened because I don't think any President wanted it to happen. We went back to the problem when President Carter was here, President Reagan, President Bush, President Clinton, and this President Bush. None of them have demonstrated that they actually intend to enforce our border laws.

I used to be a Federal prosecutor. I used to deal with law enforcement issues. I actually prosecuted one day—I think when I was an assistant U.S. attorney—an immigration case, a stow-away on a ship. A bunch of them stowed away on a ship. I know a little bit about it.

But those actions which are necessary to make the legal system work were never taken by our Chief Executives. We in Congress can study the problem at the border, we can see what those problems are, and then we can pass a law to try to fix it. We can say we want more border patrol, we want more fencing, we want more UAVs, a virtual fence. We can pass those things, but unless the executive branch really wants it to succeed, then—even then, we may not get the thing to work.

The truth is, they should be coming to us. President Bush comes to us and says what he needs to win the war in Iraq, and we give it to him. If he came to this Congress—I hate to say it because I think he is a great President and a great person, and I support him on so many things. But he has never come to our Congress and said: Congress, this border is out of control; I need A, B, C, and D, and I will get it under control. So now he wants us to grant blanket amnesty to 11 million people, and after you do that: Trust me, I will get the border under control. That is a sad fact. Securing the border is the President's responsibility.

What about Congress? We were in committee and we were debating the bill. I offered an amendment to add 10,000 detention beds for the Border Patrol. I do not know how many they need. I think that is not enough. We are at 1.1 people coming into our country illegally every year. The number of people other than Mexicans who really need to be detained, sometimes for an extended period of time, has surged. We

need the detention spaces to make the system work. Do you know what they all said, Democrats and Republicans? Fine. We accept that amendment. Senator FEINSTEIN and I offered an amendment to speed up the hiring of new Border Patrol agents. They accepted that. Then it hit me. All who have been in this body for some time know the difference between authorization and spending the money, appropriations. In this body, people authorize all the time.

I just left one of the finest groups of people you would every want to meet outside—national forensic science leaders from around the country. They came to see me because I supported a bill, and we passed it, the Paul Coverdell forensic sciences bill. It was to add \$100 million to help jump-start forensic sciences in America. Do you think that \$100 million was ever appropriated? Certainly not. I think we may have gotten to \$20 million one year. Because you authorize money to be spent for forensic sciences or for immigration enforcement does not mean that it is ever going to get spent. It has to go through the appropriations process. Maybe they want to spend it on a project back home. Maybe they decided we need more money for Katrina, health issues, education, whatever. At the end of the day, you don't get the money. So we have at least two major problems: One, will it ever be appropriated and two, if the money is appropriated, will the President actually use it effectively?

I admit that this Congress authorized a budget that set forth a projected expenditure for immigration enforcement that is larger than the President requested, but it remains to be seen if it will ever be funded.

Those are the things which cause us great concern. So I would challenge quite directly the people who support this bill and say this is going to be different than 1986 to come down on the floor of this Senate, look at their colleagues and people who may be watching back home directly in the eye, and assure them that we are going to have the money and we are going to have the will to enforce this legislation.

I was on a radio talk show earlier today. I was asked about enforcement actions that were taken against certain big businesses recently. They all called their Congressmen and complained, and the enforcement sort of went away. You have heard those stories. Do we have the will to actually make this happen? I think we could. I am not hopeless about this. I think we could, but I don't get the sense that we are there yet.

I have compared it to leaping across a 10-foot chasm but leaping only 8 feet, and like the Coyote and the Roadrunner, you fall to the bottom of the pit. That is where we are. We have some things in this bill which make enforcement much more likely to occur, but it does not all get there yet. We need to do a number of things.

For example, employment: The workplace law and provisions in the bill are

not effective and do not cover all employees of an employer. It is a critical step. You have heard it said that this bill has fencing in it. It is the most minimal amount of fencing; it is nothing like a legitimate fencing.

I wish to say this: Good fences make good neighbors. There is nothing wrong with a fence. There is nothing in the Scripture that says you can't build a fence. You have thousands of people coming across the border in a given area, and you have just a few Border Patrol officers, and they are trying to do their duty every day. And you say it is somehow offensive or improper or against the Lord's will to build a fence to try to contain it so you can maximize the capabilities of the limited number of Border Patrol agents who are out there putting their lives at risk this very day to try to enforce these laws? They arrest 1.1 million a year. What possible objection could we have to legitimate fencing?

They built one in San Diego; it was an unqualified success. They said it could be breached. I am told the one in San Diego has never been breached. What happened on both sides of the fence, where lawlessness, crime, gangs, and drugs were disrupting entire neighborhoods? Those neighborhoods have been restored. They have come back strong. They are prospering. The property values are up as a result of bringing some lawfulness to a lawless area.

Let me say this. Why is it that there has been such an aversion to fences? I will tell you why. Because those who want to have open borders, who have no desire to see the laws enforced, know, first of all, that it will work; and second of all, they have used it to twist the argument and to say that anybody who favors a fence wants no immigration, they want to stop all immigration, they just want to build a fence around America—totally mischaracterizing the need for a barrier on our borders. That is not fair. That is wrong.

The amendment I offered would have increased substantially the number of border-crossing points, so lawful people could come back and forth far easier and at less expense with a biometric card. They could enter and exit the country with it. This could work. We can make this work. We need more legal exit and entry points, and we need to block the illegal entry points. If we do that and we send a message throughout the world that the border is now closed and no longer open to those who want to come illegally, I think we will have a lot less people wandering off in the desert, being abused by those who transport them, and putting their lives at risk and many of them dying.

That is what you need to do. I am prepared to support any legislation that would increase legal immigration. When we end illegal immigration, we are going to need to increase the opportunity for people in numbers to come here lawfully, and we need to increase the exit and entry points.

Another thing. I mentioned this biometric card and entering and exiting the country. Let me tell you why some of us are concerned about promises in the future.

We passed, 10 years ago, the US-VISIT program. It is supposed to do just what I said. A person comes to this country legally, comes with a card. It is a computer-read card, and the person is then approved for entry. They need a biometric identifier, a fingerprint, and it can read that. You are allowed to come in. It also calculates when you leave, so people who do not leave can be identified and removed because they didn't comply with the law.

Well, 10 years after passing that bill, we still don't have that system up and running. They tell us that this summer, we will have some pilot program which can actually identify those when they exit in certain border places, which, of course, means it is no system at all.

We authorized 10 years ago a perfectly logical, sensible system to monitor the legal entry of people into our country, monitor their exit. What we have learned, particularly after September 11, is that many of the terrorists were overstays. They came lawfully, but they did not exit on time.

We need additional bed space. This is so basic. Not an unlimited number of beds, but we need more. What is happening is, people come across the border, and particularly those other-than-Mexicans cannot be readily taken back across the border and dumped if they are from Brazil, Russia, or China. What do we do with these people? They need to be held and they need to be transported back. We are doing that, to some degree.

But what happens when we do not have the bed space? This is what happens. I read a newspaper article in the committee a couple of months ago on this very subject. People come in from foreign countries. They come into the border, enter illegally, head off across the desert, they see a border patrol officer and they are told to go up to the border patrol officer and turn themselves in.

Why would they do that? The border patrol officer puts them in the van or his vehicle and he takes them another 100 miles inside the border to the Customs and Border Protection Office and they are taken before an administrative officer. What does the administrative officer do? He does not have any beds or place to put them, so he says we will have a hearing on whether you are legally here. We will have a hearing and we will set it in 30 days. I will release you on bail; come back in 30 days.

How many do you think come back? The newspaper reporter said at the place he examined, 95 percent did not show up. So all we have done is send the border patrol agents out to pick them up and transport people into the country illegally. That does not make sense. We have to have a certain amount of detention space.

We have an insufficient number of Border Patrol agents. There are just not enough. We need to get to that tipping point where people realize it is not going to work if they try to enter illegally. We added some Border Patrol agents in committee, but they say it takes years to hire them. That is why we passed, 5 years ago, legislation to add increased numbers of Border Patrol agents. Senator KYL got that through. Being on the Arizona border, he knew the problem. What happened? They still have just now been hired 5 years later. They say it is hard to hire enough people.

I was reading recently a book on World War I. When World War I started, we had 130,000 people in our Army, and 18 months later we had 4 million people in uniform, 2 million of them in France. To say we cannot add 10,000 trained Border Patrol agents and get them trained in a prompt period of time is not credible. There has been a lack of will to see this occur. Who is to say if we pass this legislation we will have a renewed will in the future? The American people have a right.

We had a hearing on Monday in the Judiciary Committee. It dealt with the problem of the appeals being filed by people who object to being returned to their country. Since 2001, 4 years, we have had a 600-percent increase in appeals to the Federal court, court of appeals. You can legitimately appeal a determination you are in the country illegally, but a sixfold increase in 4 years? What has that resulted in? It has resulted in a 27-month delay before your case is heard.

What does this tell an immigration lawyer who is meeting with a person who has been apprehended and who has an appeal pending about being deported and the guy or the woman does not want to leave the country and says, if you appeal, even if it is frivolous, it will be 27 months before anyone ever reads it or makes a decision. That is why we are having this surge. That system is broken.

Senator SPECTER, Judiciary Committee chairman, had legislation in his bill in the Judiciary Committee to help fix it—not completely, I didn't think—that made a substantial step toward fixing this broken system. They offered an amendment in committee to strip that language and it passed. So not only did we not improve the bill and have not improved the bill with regard to fixing the broken system, but we stripped language that would have made a good step forward in fixing.

What does that say about the intent of the Members of this Congress to actually see the immigration law be enforced?

I repeat once again, our nation is a nation of immigrants. We believe in immigration. We have been enriched by immigration. But our Nation is a sovereign nation and it has a right to decide how many people come and what kind of skill sets they bring. Once it makes that decision, it should create a

legal system that will make sure that occurs. We have not done that.

As a result, in 1986 we provided amnesty, which no one disputes. Not Senator LEAHY, not Senator REID. We gave amnesty in 1986, thinking we could fix it once and for all. And 20 years later we end up with not 3 million people here illegally but at least 11 million people here illegally and no enforcement mechanism close to being in place that would actually work. I encourage my colleagues to think carefully. We can fix our border enforcement. We can increase the number of people who come here illegally. We can tighten up the workforce workplace very easily. We can make this system work.

As we tighten up the border, we eliminate the magnet of the workplace, we can reach that magic tipping point where all of a sudden the message is going out around the world that if you want to come to America, the border is closed. You better wait in line and file your application and come lawfully because if you come unlawfully, it won't work. Then we will have a massive flip. We will not see so many bed spaces. We may not even need as many Border Patrol agents as we have today. But that message is not out there. In fact, the opposite is out there. If we pass this bill, it will be business as usual. We should not do it.

I yield the floor.

The PRESIDING OFFICER (Mr. THUNE). The Senator from Washington.

PORT SECURITY

Mrs. MURRAY. Mr. President, I rise today to report on some of the progress we have made in our effort to secure our Nation's ports and our cargo container system.

This morning, I testified before the Senate Committee on Homeland Security and Governmental Affairs about the GreenLane Maritime Cargo Security Act which I introduced last year with Senators COLLINS, COLEMAN, and LIEBERMAN. That critical and effective bill is on the fast track both in the House and in the Senate.

While that hearing was starting, we received another urgent reminder of why we need to improve our cargo security in this Nation. This morning, this very morning at the Port of Seattle, 21 Chinese nationals were discovered. They had been smuggled into the United States in a cargo container. That incident is a stark reminder that we today are still not doing enough to keep our cargo container system secure. This appears to have been a case of human smuggling, but that cargo container could have been filled with anything from a dirty bomb to a cell of terrorists. Today our country is vulnerable to a terrorist attack. Time is not on our side.

I will spend a few minutes this afternoon outlining the threat and explaining how our legislation helps. By using cargo containers, terrorists can deliver a one-two punch to our country. The first punch would create an untold

number of American casualties. The second punch would bring our economy to a halt.

Cargo containers carry the building blocks of our economy, but they can also carry the deadly tools of a terror attack. Today we are not doing enough to keep America safe.

In the Senate it can feel as though the dangers at our ports are millions of miles away, but in recent years some in our Government have said they could never have imagined the devastation caused by recent disasters.

Let me make this crystal clear. On March 21, 2 weeks ago, a container ship called the Hyundai Fortune was traveling off the coast of Yemen when an explosion occurred in the rear of that ship. Here is a photo of what happened next. About 90 containers were blown off the side of the ship, creating a debris field 5 miles long. Thankfully, there were few fatalities and the crew was rescued. They are still investigating the cause. It does not appear at this time to be terrorist related.

Imagine this same burning ship sitting a few feet from our shores in New York, or Puget Sound, off the coast of Los Angeles, Charleston, Miami, Portland, Delaware Bay, or the Gulf of Mexico. Imagine we are not just dealing with a conventional explosion but we are dealing with a dirty bomb that has exploded on America's shore. Let me walk through what would happen next.

First, there would be an immediate loss of life. Many of our ports are located in or near major cities. If there was a nuclear device exploded at a major port, up to a million people could be killed. If this was a chemical weapon exploding in Seattle, the chemical plume could contaminate our rail system, Interstate 5, Sea-Tac Airport, not to mention our entire downtown business and residential areas. At the port there would immediately be a lot of confusion. People would try to contain the fire. But it is unclear today who, if anyone, would be in charge.

Then, when word spreads that it is a dirty bomb, panic is likely to set in and there would be chaos as first responders try to react and people who live in the area try to flee.

Next, our Government would shut down every port in America to make sure there were not any other bombs or any other containers in any one of our cities. That shutdown would be the equivalent of driving our economy right into a brick wall and it could even spark a global recession. Day by day we would be feeling the painful economic impact of such an attack. American factories would not be able to get the supplies they needed. They would have to shut their doors and lay off workers. Stores across our country would not be able to get the products they need to stock their shelves.

In 2002, we saw what a closure of just a few ports on the west coast could do. It could cost our economy about \$1 billion a day. Now, imagine if we shut down all of our ports. One study con-

cluded that if U.S. ports were shut down for just 12 days, it would cost \$58 billion.

Next, we would soon realize we have no plan for resuming trade after an attack—no protocol for what would be searched, what would be allowed in, or even who would be in charge. There would be a mad scramble to create a new system in a crisis atmosphere.

Eventually, we would begin the slow process of manually inspecting all the cargo that is waiting to enter the U.S. ports. One report has found it could take as long as 4 months to get it all inspected and moving again.

Finally, we would have to set up a new regime for port security. I can bet you that any new rushed plan would not balance strong security with efficient trade.

The scenario I just outlined could happen tomorrow. We are not prepared. Nearly 5 years after September 11, we still have not closed a major loophole that threatens our lives and our economy. Time is not on our side. We must act.

I approach this as someone who understands the importance of both improving security and maintaining the flow of commerce. My home State of Washington is the most trade-dependent State in the Nation. We know what is at stake if there were an incident at one of our ports. That is why I wrote and funded Operation Safe Commerce, to help us find where we are vulnerable and to evaluate the best security practices. It is why I have worked to boost funding for the Coast Guard and have fought to keep the Port Security Grant Program from being eliminated year after year.

Right after 9/11, I started talking with security and trade experts to find out what we need to be doing to both improve security and to keep our commerce flowing. Ten months ago, I sought out Senator COLLINS as a partner in this effort. I approached Senator COLLINS because I knew she cared about this issue. I knew she had done a lot of work on it already, and I knew she was someone who would get things done. Since that day, we have worked hand in hand to develop a bill and move it forward. I am very grateful to Senator LIEBERMAN and Senator COLEMAN for their tremendous work on this issue as well.

The GreenLane Act, which we had a hearing on this morning, recognizes two facts: We must protect our country and we must keep our trade flowing.

We know we are vulnerable. Terrorists have many opportunities to introduce deadly cargo into a container. It could be tampered with any time from when it leaves a foreign factory overseas to when it arrives at a consolidation warehouse and moves to a foreign port. It could be tampered with while it is en route to the United States.

There are several dangers. I outlined what would happen if terrorists exploded a container in one of our ports.

But they could as easily use cargo containers to transport weapons or personnel into the United States to launch an attack anywhere on American soil.

The programs we have in place today are totally inadequate. Last May, thanks to the insistence of Senators COLLINS and COLEMAN, the Government Accountability Office found that C-TPAT was not checking to see if companies were doing what they promised in their security plans.

Even when U.S. Customs inspectors do find something suspicious at a foreign port, they cannot today force that container to be inspected. So we have a clear and deadly threat. We know current programs are inadequate. The question is, what are we going to do about it? We could manually inspect every container, but that would cripple our economy.

The real challenge here is to make trade more secure without slowing it to a crawl. That is why Senators COLLINS, COLEMAN, LIEBERMAN, and I have been working with the stakeholders and experts to strike the right balance. The result is the GreenLane Maritime Cargo Security Act. That bill provides a comprehensive blueprint for how we can improve security while we keep trade efficient.

At its very heart, this challenge is about keeping the good things about trade—speed and efficiency—without being vulnerable to the bad things about trade—the potential for terrorists to use our engines of commerce.

Our bill does five things.

First, it creates tough, new standards for all cargo. Today we do not have any standards for cargo security.

Secondly, it creates what we call the GreenLane option, which will provide an even higher level of security. Companies that join it have to follow the higher standards of the GreenLane cargo. Their cargo would be essentially tracked and monitored from the moment it leaves a factory floor overseas until it reaches the United States. We will know everywhere that cargo has been. We will know every person who has touched it. And we will know if it has been tampered with. The GreenLane essentially pushes our borders out by conducting inspections overseas before cargo is ever loaded onto a ship bound for the United States. We provide incentives for companies to use the highest standards of GreenLane.

Third, our bill sets up a plan to resume trade quickly and safely, to minimize the impact on our economy.

Fourth, our bill will secure our ports here at home by funding port security grants at \$400 million.

And, finally, our bill will hold DHS accountable for improving cargo security. DHS is long overdue in establishing cargo security standards and transportation worker credentials. We need to hold DHS accountable, and our bill provides that infrastructure to ensure accountability and coordination.

I thank all of our cosponsors and our partners. I especially thank Senator

COLLINS for her tremendous leadership. She chaired the hearing this morning, and her expertise and her commitment were clear to everyone in the hearing room.

I also thank Senator COLEMAN for his leadership and his work as chairman of the Permanent Subcommittee on Investigations. Senator COLEMAN has helped expose our vulnerabilities and has worked to develop solutions.

I also thank Senator LIEBERMAN for his leadership and support. I commend our cosponsors, including SENATORS FEINSTEIN, SNOWE, and DEWINE.

I would add, we are also beginning to see progress on the House side with the SAFE Port Act. I thank Representatives DAN LUNGREN and JANE HARMAN for their leadership on that side.

Today we have a choice in how we deal with cargo security challenges facing us. But if we wait for a disaster, our choices are going to be much starker. Let's make the changes now, on our terms, before there is a deadly incident. Let us not wait until a terrorist incident strikes again to protect our people and our economy.

Two months ago, the people of America woke up and spoke out when they heard that a foreign government-owned company could be running our ports. That sparked a critical debate. Now we need to set up a security regime that will actually make us safer. Until we do so, none of us should sleep well at night. A terrible image such as this one—a burning container ship with a dirty bomb in one of America's harbors—could be on our TV screens tomorrow. So this Congress must act today.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. Mr. President, I want to return to the issue before us and which has been before the Senate for the last week and a half, and to say it has been my pleasure to work on the issue of immigration reform and border security ever since I have been in this Senate—a little over 3 years now.

As a Senator from a border State, it will come as no surprise that I have actually spent a fair amount of time along the border talking to my constituents, as well as visiting Mexico and other countries that are a source of a large number of immigrants who come to our country seeking a better life.

I believe that experience has given me some insight into what the challenges we have are when it comes to border security. Of course, we have proposals before this body to deal with this issue of our porous borders and the need to find some way to deal with the workforce demands of this growing economy of ours.

We need comprehensive immigration reform. I have consistently called for comprehensive reform because I believe we will not fix the broken immigration system unless we address all aspects of the problem; that is, border security;

interior enforcement; worksite enforcement; and the 12 million who are in our country without authorization, finding some way to allow them to reenter our immigration system legally, and to give them a second chance living in the country, not in the shadows but out in the open, and enjoying the benefits and protection of our laws.

This is, as we have all discovered, an exceedingly complex issue. And no one—no one—has a monopoly on all wisdom or on suggestions for ways to improve the system. The Senator from Arizona, Mr. KYL, has one amendment pending that I believe will improve the proposal on the floor of the Senate, which is the bill produced by the Judiciary Committee. He has sought a vote, and I have joined him in seeking a vote, on that amendment to the bill that is on the floor. I have several other amendments that have been filed that will also, in my opinion, improve the work of the committee.

But we have been denied an opportunity to have those amendments considered and voted on by the Senate because the Democratic leader has simply refused to allow any amendment that he personally does not agree with to get a vote. We have had three votes in the last week and a half, relatively—I should say completely noncontroversial votes—but the Democratic leader has refused to let the Senate vote on Senator KYL's amendment.

This is particularly troubling to me because it is one that I believe the American people would wholeheartedly agree with, and that—whatever we decide to do with regard to the 12 million people who are currently living in our country in the shadows and outside the law—we ought to make sure whatever we do does not include a blanket amnesty for 500,000 or so felons, individuals who have committed at least three misdemeanors, and those who have had their day in court, who are under final orders of deportation or who have agreed to voluntarily leave the country once they have been caught in the country illegally.

Those individuals, either because they have had their day in court or because they are, in fact, felons or people with criminal records, ought not to get the benefits, whatever they may ultimately be, of the amnesty that is proposed in the underlying bill.

This is especially troubling to me because, as I have said earlier, if you look at what happened in 1986, with the Immigration Reform Act that was passed then, Congress, in effect, told America you should trust us to enforce the laws, but, of course, as we now know, that did not happen. Indeed, when the amnesty was granted in 1986, some 3 million people stood to benefit from that amnesty.

I have demonstrated here on the floor that that amnesty, which we all agree, in fact, meets that definition, was a complete and total failure. The reason why it was a complete and total failure is because the American people were,

in essence, told one thing and Congress did another.

I believe the American people will forgive an awful lot of mistakes, but they will not forgive being fooled twice. The proposal that is on the floor now, the committee bill that is being proposed, would, in fact, be a repeat of what happened in 1986, except to the extent that it is actually even worse because in 1986, in order to get the benefit of the amnesty, you could not be a felon, you could not be a person with at least three misdemeanors, but under this bill, as offered and as voted out of the Judiciary Committee, you can. Thus, you can see the importance of having a vote on this amendment, which we have been denied, even though it was offered last Friday.

Now here we come up on the mid-week, and we are going to have a recess of Congress for the next 2 weeks after this Friday, and I am afraid that because of the lack of movement and progress on this bill, there are going to be some who are going to be blamed for our inability to move forward. And I submit—I hate to say this, but I submit that the blame lies on those who simply denied the greatest deliberative body on the planet from the chance to actually consider and vote on amendments to this bill.

This is not democracy. This is not what we are trying to export to other countries that have known nothing other than the boot heel of a tyrant. This is not our finest hour because what we are seeing is the minority leader on the other side simply denying democracy in action. It is intolerable and inexcusable.

It is clear to me that if we are unsuccessful in getting this bill through the floor and passed and an opportunity for the process to reconcile the differences between the Senate and the House version, should we get a Senate version, the blame will lie at the feet of the Democratic leader.

One of the things Congress promised the American people in 1986 was there would actually be a fraud detection system as part of the amnesty that was then granted to make sure it would actually be successful and that we would not have to find ourselves in the condition we are in today where at the time we had 3 million who benefited from the amnesty and now today the potential number is 12 million. We know the potential for amnesty is a huge magnet for those who come to this country in violation of our immigration laws. I don't want to find the Senate, 5 or 10 or 20 years from now, saying: In 1986, it was 3 million who wanted to benefit from amnesty. In 2006, it was 12 million. And 20 years from now we find the number is 24 million.

We know this is a national security problem. We know that we have, as a sovereign nation, a right to protect our borders. We know there are on average 2,300 people coming into our country each day. Each day the Democratic leader denies us an opportunity to fix

that problem, to allow the process to go forward, we are seeing 2,300 more people come into the country illegally. I hope and pray it is not a criminal, a terrorist, someone who intends to do us harm but, indeed, it could well be.

The Democratic leader supports a bill that would grant an automatic path to citizenship for 12 million people who are in this country in violation of our immigration laws, yet he won't allow a vote on an amendment that would bar felons and repeated criminal offenders from participating in the program. He argues that he likes the bill voted out of the Judiciary Committee and doesn't believe that amendment will, in fact, improve it. He certainly is entitled to his opinion, but he is not entitled to obstruct the process. He is not entitled to dictate to the Senate or the American people what this particular legislation will look like.

I simply don't understand why this amendment, that would bar felons and repeat offenders and which actually clarifies that they can't be given whatever benefit will be conferred by this bill, would create any controversy whatsoever. If the American people were polled or asked, do you think we ought to bar convicted felons, do you think we ought to bar repeat criminal offenders from the grant of amnesty, I think they would say yes. If given an opportunity for a vote on the floor, this body will say yes, because we are representative of the American people. Yet we have been denied that chance for a vote.

There is simply a credibility gap with the American people on immigration and border security. Congress needs to openly debate and vote on amendments so there is transparency regarding who will receive green cards and whether there are sufficient protections against fraud that ran rampant during 1986, with the amnesty that was granted at that time. As someone who has worked on this issue and devoted time to it, I want nothing more than the opportunity to debate and vote on amendments. I am interested, and I believe most Senators are actually interested, in trying to find a solution to this problem. But we are met with obstruction and a refusal to let the process move forward. It is simply unacceptable.

We cannot debate and vote on amendments until there has been an agreement on who will participate in the program and the extent to which fraud can be detected and prevented. Yet the Democratic leader does not believe it is necessary to secure the confidence of the American people that Congress is not giving amnesty to felons or repeat criminal offenders. Without public debate and votes with regard to the foundation of this proposal, none of us will be able to return home and defend the broader policy implications of this complex legislation.

The Kyl amendment has been pending since last Thursday. Not a single Senator has voted to table that amend-

ment. Yesterday we went through a strange exercise where, in order to determine how we can obtain some progress on this bill, there was actually a motion to table the Kyl amendment that would bar felons and repeat criminal offenders. Every single Senator who voted voted not to table the amendment. Ordinarily that would indicate an agreement with the amendment. Yet we were not given an opportunity to vote on the amendment. The amendment ordinarily would be accepted by the manager of the bill or would be subject to a voice vote and become part of the larger bill, but that didn't happen because we, unfortunately, have some people in the process who are not interested in finding solutions. They are not interested in allowing the process to move forward but, rather, they are more interested in trying to jam their solution down the throat of the rest of the Senate and to deny the rest of us a chance to offer suggestions and to get votes.

I don't like to lose any more than anyone else, but I am willing to submit to this body amendments that I have and on which I wish to have a vote. I hope to persuade my fellow Senators that these amendments are actually an improvement over the bill that is before the Senate. But if this body decides, 51 or more Senators decide, to vote against those amendments, I am willing to accept that. That is democracy. That is majority rule. But to simply defy majorities and the process and say, if I don't like it, I am not going to allow anybody else to amend it, is unacceptable. In an institution known as the world's greatest deliberative body, it brings this body no honor to obstruct the process and to try to jam this unacceptable bill down our throats.

The current committee bill disqualifies from the legalization program any alien who is ineligible for a visa. The Kyl-Cornyn amendment would clarify that by saying any alien who is ineligible for a visa or who has been convicted of a felony or three misdemeanors would be ineligible from the legalization program.

There are certain crimes, including felonies, that do not disqualify an alien for a visa. This amendment, therefore, ensures that no felon or repeat criminal offender will obtain an automatic path to a green card and permanent residence in the United States.

This amendment is exactly the same text that was in the 1986 amnesty. In other words, the very amendment Senator KYL and I have offered to exclude felons and three-time misdemeanants was part of the 1986 amnesty. So the proposal on the floor is even weaker than the amnesty granted in 1986.

All we are trying to do is to bring it on a par with that amnesty of 1986. Crimes that do not automatically disqualify an alien for a visa and would not, therefore, be covered by the Judiciary Committee bill that is on the floor include assault and battery, manslaughter, kidnapping, weapons possession—for example, possession of a

sawed-off shotgun—contributing to the delinquency of a minor, burglary, including possession of tools to commit burglary, malicious destruction of property, possession of stolen property, alien smuggling, conspiracy to commit offenses against the United States, and money laundering. Unless we are able to get a vote on the amendment that is now pending that Senator KYL and I have offered to exclude felons and three-time misdemeanants, the proposal this body is asked to accept would give amnesty to people who have engaged in alien smuggling, manslaughter, kidnapping, or illegal possession of a sawed-off shotgun.

The American people will forgive a lot, but they won't be fooled again. And they won't forgive us if a minority of this body tries to jam down the throats of the rest of the Senate provisions which would allow the entry of these individuals into the United States and would confer a blanket amnesty and a path to a green card and legal permanent residency in the United States. It simply defies common sense.

I have a number of additional amendments I intend to offer and intend to ask for a vote on. I will not be satisfied—and I submit there are other Senators who will not vote to close off debate—until we get a chance to have these considered on the Senate floor. One amendment, No. 3310, addresses the confidentiality provisions. The Judiciary Committee amendment that is on the floor contains provisions that would prohibit the use of information furnished by an applicant to be used for any purpose other than a determination on the application. While the committee amendment would allow the information to be shared with law enforcement entities upon their request, the information could not be used by the Department of Homeland Security to investigate fraud in the program.

It is also worth noting that these provisions almost word for word were included in the 1986 amnesty but are missing from the proposal that is now on the floor. These confidentiality provisions have been cited by Government authorities as one reason why there is so much fraud in our immigration system, particularly the amnesty that was granted in 1986.

For example, the testimony of Paul Virtue, former Immigration and Naturalization Service general counsel, in 1999 before the House regarding fraud in the prior amnesty program:

There is no question that the provisions of [that 1986 amnesty] were subject to widespread abuse, especially the Special Agricultural Worker program that granted agricultural workers who had performed 90 days of qualifying agricultural employment within a specific period temporary lawful status that automatically converted to permanent lawful status after one year.

Nearly 1.3 million applications were filed under [this Special Agricultural Worker] status, about double the number of foreign farm workers usually employed in the United States in any given year.

Much of the fraud that occurred under the IRCA

—the 1986 amnesty bill—

is attributable to statutory limitations placed on [the Immigration and Naturalization Service].

The confidentiality restrictions of law . . . prevented INS from pursuing cases of possible fraud detected during the application process. The agency was further thwarted by the courts, which ruled that INS could not deny an application simply because the supporting documentation was from a claimed employer suspected or convicted of fraud.

Let me say that again. He said the confidentiality restrictions contained in the underlying bill here that I want to amend thwarted the INS from denying an application simply because the supporting documentation was from an employer "suspected or convicted of fraud."

In 1986, just a few million amnesty applications were filed, but under this bill, Congress is now considering an amnesty for 12 million immigrants who are in this country in an unauthorized status. We need to make sure we don't hamper the Immigration and Naturalization Service's ability to detect fraud. Yet this amendment would repeat the worst failures of that 1986 amnesty.

One other amendment I have filed and intend to call up, if we are ever given a chance to have amendments and votes on this bill, is amendment No. 3309.

The committee amendment pending on the floor, which I offer this amendment to improve, would create safe harbors for illegal aliens who have filed applications for conditional immigration status.

To be clear, these are not aliens who have yet established eligibility, or have even gone through background and security checks. They have simply filed an application with the Government, and their application might be in a stack of 10 million other applications.

Under this committee amendment, the one pending on the floor, to be clear, the Department of Homeland Security would be required to issue a travel document and an employment authorization document to an alien before the agency has even determined eligibility under the program. Travel documents are as important as weapons. Yet this section would require the Department of Homeland Security to issue a travel document to all illegal aliens simply because they have filed an application.

Under the underlying bill, an illegal alien may not be detained, ordered deported, or removed while the alien has an application pending. That means any illegal alien can simply file an application to avoid deportation, and many will, of course, because it could take several years, and probably will take several years, for the Department of Homeland Security to process all applications.

Another disturbing point is there are also no carve-outs for criminal aliens

or other dangerous illegal aliens who would normally be subject to mandatory detention. This underlying bill could be interpreted as not allowing the Department of Homeland Security to detain any alien, irrespective of how dangerous that alien is to society.

While the amendment does say an alien may be deported if the alien "becomes ineligible," that is prospective and it means any illegal alien could only be subject to deportation for criminal activity that occurs after they filed their application.

We should be unwilling to create a significant loophole for criminal illegal aliens who could avoid deportation or detention by simply filing an application with the Government.

The underlying bill would require the Department of Homeland Security to allow any alien apprehended before the program is operational, which could be several years down the road, to apply for amnesty after the program is up and running. If it does indeed take several years, that means our immigration enforcement system, which right now apprehends more than a million illegal aliens a year on the southern border, would grind to a halt because any alien who is apprehended could simply file an application or indicate an intent to file an application, and the Government would be required to stop the removal process to allow that to occur.

Mr. President, I know there are other Senators who wish to speak. I am going to stop in a moment to give them that opportunity.

My point is there are many commonsense amendments that I believe would garner the support of a majority of the Senate because they are commonsense amendments. But as long as we are blocked from having those amendments called up and considered and voted on, then there is no way that Members of this body should vote to close off debate, vote for cloture, because we will be producing a product that is simply unworthy of the trust that has been placed in us by the American people. I believe that no individual Senator and, indeed, no leader of either party should be allowed to refuse to allow this process to move forward. I think what is going to happen, because I think we are on a path toward failure—at least between now and Friday—and what we are going to see is the blame game.

There is going to be an attempt by those who have blocked this process from going forward to point the finger of blame at those who have voted against ending the debate because we cannot get a vote on our amendments. I want to make it clear where the fault lies. That blame should be squarely placed at the feet of the Democratic leader, who has denied us an opportunity to have a vote on these commonsense amendments—amendments that I believe the American people would agree with and, if given an opportunity, I believe the Senate would agree with.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. DORGAN. Mr. President, are we in morning business?

The PRESIDING OFFICER. No. We are on the bill.

Mr. DORGAN. Mr. President, I listened with some interest to my colleague. I have to observe, though, he said that now we are going to see the blame game, and he tells us where the fault lies. Well, that is the first chapter of the blame game. I have not been out here with respect to amendments. I have been chairing a hearing for a couple of hours. But I say this to those who are talking about these amendments: Those of us on this side of the aisle have certainly had a great deal of experience with having our amendments not considered by the Senate. Most recently, we had an amendment to a bill that would have dealt with this issue of the Dubai company taking over American ports. The United Arab Emirates' wholly-owned company, Dubai Ports World, was going to take over the management of American shipping ports. We attempted to offer an amendment, but it shut the Senate down because the majority party didn't want an amendment such as that offered.

I have been trying for a couple of years to offer an amendment on the reimportation of prescription drugs to drive down prescription drug prices in this country. We have been thwarted on that. I could go on at some great length. To the extent there is a complaint that some have not been able to offer amendments, we understand that pretty well. We have been in that position for a couple of years now, including my colleague from Arizona, Senator McCAIN, who offered an amendment that would have effectively prohibited our country from engaging in torture with respect to those whom we have apprehended during wartime. That amendment on the prohibition of torture shut down the consideration of the Defense authorization bill last year month after month because the majority didn't want to vote on the McCain amendment on torture. So there is plenty of practice that has existed in this Chamber for prohibiting amendments.

Again, I don't know what the approach has been this morning on the floor because I have not been here. When I listen to discussions about why can we not offer amendments, that is a cry that has been echoing in this Chamber for a couple of years, much to the regret of those of us who have had amendments to offer. It is a cry that has not been heard by the majority party, which now jumps to the front of the line to complain today.

I want to talk about this issue of the underlying bill, the immigration bill and guest workers. I should also start by saying I don't have any particular claim to understanding or expertise in this area. I don't serve on the Judici-

ary Committee. I was not someone who helped write the underlying bill. So I don't come to the floor to claim to be an expert on the legislation. But I have spent a great deal of time in the last year or so doing research in a range of areas for a writing project dealing with American jobs and American workers, so I claim to know something about that.

I claim to know, for example, that we have lost somewhere around 3 million-plus jobs in this country, most of them having moved to China or Indonesia or Bangladesh or Sri Lanka—but most perhaps to China. We have lost millions of jobs in this country in the last 3½ to 4 years. American workers, middle-income workers, and particularly workers at the bottom of the economic ladder, have been devastated by what has happened with this race toward globalization and the race by the largest American corporations to produce where it is cheap, and then sell their products in our marketplace. All of that is going on in a very accelerated way.

Now we see, with the bill brought to the floor of the Senate, not only do we have a strategy in this country of allowing the export of good American jobs, now we will have a strategy of importing additional low-wage jobs.

I will review some numbers, if I might. We have somewhere around 11 million to 12 million people who have come into this country illegally and have stayed here. Some have been here a long while, and some recently arrived.

Is it surprising that we have a lot of people who have come into this country and stayed in violation of the law? No, it is not surprising to me. We live in a big world, and a lot of people in this world don't have the opportunities we have in this country. We have built something very special in the United States. This is a country that provides basic rights for people. It took us some while to perfect all that, but having struggled through the issues of civil rights, workers' rights, and women's rights, we have created an extraordinary country in which workers can band together to collectively bargain and negotiate. We have made decisions about the workplace and the right of a worker to work in a safe workplace, child labor laws, minimum wages, environmental protection, so you cannot produce a product and emit poisonous chemicals into the air and water.

At the same time, we have created circumstances where businesses can earn a profit, and a good one. This is an economy in which we have a vast consumer base, with the most affluent consumers in the world. All of that coming together created a country that is unparalleled on the face of this planet. So if you go anywhere in the world, and particularly impoverished areas in less developed countries, you will find, in discussing this with those people, that many would say they want to come to the United States of Amer-

ica. If you ask the question "why," they will say it is because there is opportunity there, jobs there, better income, better pay. That is what you find. I have found that in many parts of the world, particularly in less developed countries.

Think for a moment what would be the case if tomorrow the United States said: Look, what we have built here is quite wonderful. We understand it is unique and we want to share it with everyone. We have no immigration quotas and anybody who wishes to come here can come. Tomorrow, you are all welcome. Come and stay as long as you want.

What would be the consequences of that? We all know the consequences of that. Those who are living in impoverished conditions from other parts of the world will find their way to this country. We will be importing poverty and we will have a massive number of people migrating to the United States of America, because they would see this as an opportunity. So we don't have a circumstance where we say that anybody who wants to come tomorrow, come on, this is wide open, and stay as long as you want. No. We have a series of quotas for immigrants. We have immigration quotas by country, by category, and then we allow people in based on these quotas.

I will describe exactly what we now face. We have 11 million to 12 million people who are here illegally. Last year, according to data I have seen, 1.1 million additional people tried to cross the border from Mexico into this country, but they were denied access. So 1.1 million were kept out who wanted to come in. And 400,000 to 700,000 who wanted in illegally got in illegally and are here. They came last year. Another roughly 150,000 people—according to estimates I have seen—are here on a temporary basis, H-2A or H-2B. Another 175,000 people came in last year legally, as family members and quotas, just from Mexico. That is what we face.

Now, at the same time we face these pressures of people wanting to come into our country, particularly in most cases low-skilled and low-wage workers, we face the largest trade deficits in the history of the world. We face the wholesale movement of American jobs overseas. So we see the two elements of the worst marriage of public policy; those are the export of good American jobs to China and elsewhere, and the import of low-wage workers to take the jobs of those in this country who are at the bottom of the economic ladder. That is about corporations, big companies, about their strategy, which has been embraced and given a bear hug by this President and the Congress, controlled by the President's party, standing for corporations and their interests. Export American jobs, do another trade deal, cause more American jobs to leave this country. Import cheap labor.

Why? They say: We want to import more cheap labor because we cannot

find Americans to do the work. So not only does the bill on the floor of the Senate describe that we will create a legal status for 11 million to 12 million people who are here because, practically speaking, nobody is going to round them up, or arrest them, or detain them, or export them—we will create a status for those folks—but in addition to that, it says let's also create a new guest worker program of 400,000 people per year each year, with an escalator of being able to increase that by 20 percent each year, which over 6 years could amount to 4.7 million more people coming into this country who now live outside of this country.

And so the bill provides a guest worker program saying we not only want to deal with the legalization of those who are here illegally—millions and millions and millions of them—we also want to add potentially another 4.7 million. And, by the way, there is more than that, but that is just the piece about which I am talking. On top of that would be the provisions dealing with the new agricultural workers, which was an amendment offered in the committee.

So where do these 4.7 million people go—the ones who are now living outside of our country who come into our country legally—under this legislation? They go to find jobs in competition with American workers.

Let's talk about low-skilled, low-wage American workers.

This Congress, as stingy as it has been for low-wage, low-skilled workers, has decided for 8 years it will not increase the minimum wage. Boy, it is Katy bar the door if it comes to helping somebody at the top—tax breaks, unbelievable tax breaks for people at the top.

One of the world's richest people told me the other day when I was talking with him that he pays a lower income tax rate than the receptionist in his office. Why? Because the priority in this Chamber, the priority in this Congress, the priority of the President, is to drive down income tax rates for people who have capital gains. Who has capital gains? The wealthy. They have most of the capital gains. The wealthiest Americans are now paying the lowest tax rates, and this Congress can't be quick enough to see if they can't offer another gift to those at the top of the income scale.

I have nothing at all against those at the top of the income ladder. God bless them, that is what America is about; it is about success. But that does not justify saying that those who are the most successful shall pay the lowest income tax rates in our country, and that is what is happening. At the same time, Congress can't move quickly enough to provide the lowest tax rates to those with the highest incomes. It says to the people with the lowest incomes: We don't have any interest in increasing the minimum wage. Sit there for 8 years, let inflation work against your purchasing power; doesn't matter to

us, we don't intend to increase it. I think that is a terrible mistake, but that is the way people at the bottom of the economic ladder have been treated in this country now for many years.

Now they will be treated again to the prospect of saying: Let's have some more people come in; let's not just deal with this 11 to 12 million, let's have more people come in on top of that because we can't find Americans to do that work.

Why can't we find Americans to do that work? Let me read something from Robert Samuelson, a Washington Post editorial. I fully agree with this. He talks about:

It's a myth that the U.S. economy "needs" more poor immigrants.

He is speaking especially of the guest worker provisions.

The illegal immigrants already here represent only about 4.9 percent of the current labor force, reports the Pew Hispanic Center. In no major occupation are they a majority. . . .

Hardly anyone thinks that most existing illegal immigrants will leave—

Or be rounded up, arrested, or deported. I understand that. I think all of us probably understand that. I think there should be some enforcement of employer sanctions which we created but have not enforced, which would make a big difference with respect to illegal immigration. Here is what Samuelson said:

In 2004, the median hourly wage in Mexico was \$1.86 compared to \$9 for Mexicans working in the United States, says Rakesh Kochhar of Pew. With high labor turnover in the jobs they take, most new illegal immigrants can get work by accepting wages slightly below prevailing levels. . . .

But what would happen if new illegal immigration stopped and wasn't replaced by these guest workers?

That is an assumption. First, I don't buy the assumption that even if this bill is passed with legalizing 11 to 12 million immigrants and then allowing up to 4.7 million new people to come in who are now living outside our country, I don't buy the notion that we have plugged the border. I don't think we in any way inhibit illegal immigrants from coming across the border. I know my colleagues are talking about tightening the border and employer sanctions, and I will talk about that in a minute. Employer sanctions was the 1986 Simpson-Mazzoli bill. That was a miserable failure, and I will explain why.

Again quoting Samuelson:

But what would happen if new illegal immigration stopped and wasn't replaced by guest workers?

At some point higher wages would be going to American workers.

President Bush says that his guest worker program would "match willing foreign workers with willing American employers, when no Americans can be found to fill the jobs." But at some higher wage, there would be willing Americans.

As long as you can bring illegal immigrants, which is what has been happening, into the country and they can

work in the shadows and employers can employ them for subminimum wage, I understand why employers would not be employing American workers because they have a steady stream of workers they can employ below the minimum wage.

Business organizations understandably support guest worker programs. They like cheap labor and ignore the social consequences.

That is what is at work here. What is at work here is the same corporate interests who are exporting good American jobs are supporting this bill because they cannot only export good American jobs on the production side, but for those jobs you can't export, you can import cheap labor. And that is what this is about: Export good jobs and import cheap labor.

Let me talk for a moment about the debate over the Simpson-Mazzoli bill two decades ago at a time when we were told we had a significant immigration problem. That was a bill about border enforcement, strengthening enforcement at the border, and also creating employer sanctions.

The purpose of that bill was to say to employers: Don't you dare hire illegal immigrants; if you are hiring workers who are illegal, you are going to be in trouble, you are going to be slapped with a fine and subject to enforcement actions. So I went back and read the 1985 and 1986 debate about Simpson-Mazzoli. I won't embarrass anybody by reading it on the floor of the Senate. It was fascinating debate in the House and the Senate. This was nirvana. This was the entire solution. It was going to work like a charm because if you say to employers you dare not hire people who are not here legally, you shut down the job, you shut down the magnet, you shut down illegal immigration, end of story.

The fact is it didn't work at all. We have people in my State, the State of North Dakota, today—in fact, I think there is a story in today's paper about illegal immigrants working on some energy plants in the middle of North Dakota, found to be illegal. The question is: Is anybody going to take action against the employer? That would be a Minnesota employer, by the way.

Most of our troubles come from Minnesota. We joke about that.

If a Minnesota employer hires illegal workers, and he is caught, are there any problems for the Minnesota employer? No, no, not even a slap on the wrist; just a pat on the back. Nobody is going to prosecute. Nobody is going to fine them. Nobody is going to take enforcement action. It is exactly why we are in the situation we are in today. There are no sanctions for employers who hire illegal aliens.

I want to say very clearly that I don't in any way, because I oppose this guest worker program that will bring 4.7 million people in to compete with American workers at the bottom of the economic ladder, I don't in any way want to diminish the dignity and self-

worth of immigrants. I don't mean that at all. I know in most cases these are hard-working people, good families. Most of us have come from immigrant families at some point in our lineage. Because someone would come out and say, as I do today, that I don't support this proposal offered by the President and offered on the floor of the Senate, saying not only are we going to legalize or give legal status to 11 or 12 million people who came here illegally, but in addition to that, we are going to allow 400,000 people a year with a 20-percent escalation clause for the 4.7 million additional people potentially in 6 years to come into this country, I am not going to support that. That is a strategy for corporations to provide a ladder of cheap labor coming into this country, displacing American workers.

We have a serious crisis in this country with respect to the plight of America's workers. A lot of people who worked hard all their lives, worked for companies and were proud of it are now discovering their jobs are not safe, their jobs are not secure. In many cases, their jobs are gone—gone to China, gone to Indonesia. Yes, they can find another job. The statistics show they find another job at 20 percent less income. In most cases, they have lost their pensions; they have lost their health care. These are middle-income American workers, and the low-income workers, the people at the bottom of the ladder, the people who are high school dropouts, they work hard, they struggle, and now what they have confronted in recent years is a corporate strategy of being able to hire illegal immigrants at subpar wages, so the jobs are not there for them.

We have a lot of people come to this floor and want to offer amendments. They say they speak for this immigration bill, and they say they speak for immigrants. Again, let me emphasize, I don't want to diminish their concern for immigrant families. I don't want to do that. That is not what I am about. But I want to come to this floor to say a word on behalf of American workers because nobody is coming to this floor to talk about American workers, American jobs, and what it means to our country's future to have good jobs that pay well with retirement benefits and health benefits.

The current strategy we are employing in this country today, a strategy embraced by this President and this Congress, a corporate strategy that says let us export good jobs and import cheap labor, that is a strategy that undermines our economy.

I am interested in the long-term economic health of this country. We have a lot of kids who will grow up in this country, American kids, who want opportunity. Every single set of parents wants to leave a country that is better for their children. They want to leave a country that provides more opportunities for their children, and that is simply not the case these days, regrettably. It is because we have an eco-

omic strategy that is off track, and we need to put it on track. I have ideas about how to do that. Others do as well. But one of those ideas would not include suggesting that we ought to displace American workers with 4.7 million additional immigrant workers who now live outside of our country but who will come into our country to assume low-wage jobs and displace jobs for low-wage American workers. That would not be included in my suggestion of how to fix what is wrong in our country.

There is so much to say about this subject. I know there is great passion. I have heard it from all of the groups. I have used a lot of statistics. This is not, after all, about statistics or data. It is about hopes and dreams and aspirations. It is about human misery. It is about living in the shadows. It is about all of those things. So I understand the passion that exists on the floor of this Senate about this matter. But I also, as one Member of this body, lament that there seems to be so little effort and so little activity on this floor about the passions and the hopes and the dreams and the inspiration American workers have about their future.

I have indicated previously, I know we have this global economy and I know part of that global economy plays a role in this immigration debate. People say you are a hopeless xenophobe who doesn't get it. We all see over the horizon, and you somehow are nearsighted. My sense is that we as a country will have our better days ahead of us if we adopt public policy which is thoughtful and, yes, which has as a self-interest the long-term economic well-being of our country.

But this global economy has marched and now galloped forward without adequate rules with respect to jobs and income and opportunity in this country, and too few people seem to care about the diminished circumstances facing most American families and most American workers. That, too, should play a central role in this discussion. That, too, should be a part of the consideration here in the Senate. Regrettably, it has not been. My hope is that perhaps in the next 48 hours it will be, finally.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. SUNUNU). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. CHAFEE. Mr. President, I ask unanimous consent that the majority leader be recognized at 3:15 p.m.

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

Mr. CHAFEE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. DAYTON. Mr. President, I take offense at the characterizations of the Democratic leader about obstructing this legislation, particularly from those from southern border States who, in addition to the culpability of the Federal Government, should take the blame for some of the failures of these last few years that have perpetrated these 11 million, 12 million illegal immigrants upon the United States. I respect the comments of the Senator from North Dakota, putting those responsibilities, some of them, on the businesses of Minnesota, but I must say that the businesses of Minnesota and perhaps other Northern States have, to their credit, resisted the imposition of workers from other countries upon themselves—again, to their credit. It is from the States of southern borders, those businesses which have allowed this illegal immigration to go unchecked and which have, I believe to their discredit, employed these individuals.

It surprises me—in fact, I would call it the rank hypocrisy of those who have stood here today representing these States whose businesses have allowed these illegal immigrants to be employed, who have benefited and profited from those employments, and who now are suddenly trying to take aggressive action to impose these sanctions upon all businesses. I believe strongly that Minnesota businesses and others in Northern States have been forced to accept illegal immigrants because of the failure of States on the southern border to stand up and to protect their borders, in addition to the Federal Government. I deeply object to those who are claiming that somehow that is the failure of Northern States such as Minnesota.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CHAMBLISS. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

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

Mr. CHAMBLISS. Mr. President, I ask unanimous consent that the pending amendment be set aside and that my amendment No. 3232 be called up.

Mr. DAYTON. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. CHAMBLISS. Mr. President, I am disappointed that my colleagues across the aisle will not let those of us who have good faith amendments to call them up, debate them, and have a vote on them. This is most troubling

because, while I disagree with many of the provisions in the bill, the border security provisions are absolutely critical. The majority of Americans consider border security to be one of the most important priorities considered by Congress. In holding up the amendment process, the Democrats are holding up the chance to move forward on these critical border security issues. This legislation is too important to fall victim to politics as usual.

As I said, I strongly disagree with this legislation in its current form. I think the provisions relative to agriculture are not in the best interests of farmers and agribusiness people. I can't tell you how many phone calls and letters and emails I have received from my constituents in Georgia as well as from farmers across the Nation voicing their objection to many pieces of the Judiciary Committee bill and encouraging me in my efforts to make some important changes.

So I was astounded to hear the minority leader yesterday suggest that the Judiciary Committee's bill is good enough for him and therefore should be accepted whole hog by the Senate. That is not the way the Senate works. This body is based on the concept of debate. To suggest that this legislation should reflect the will of the 18 members of Judiciary Committee and ignore the will of the full Senate is to belittle the enormous implications that will result from whatever legislation the Senate passes.

I recognize that a number of pending amendments are going to require the Senate to make some difficult votes. But we cannot try to avoid these votes for political expediency. The American people deserve to know where their Senators stand on these critical issues. And every Senator has the right to try to shape this legislation.

The folks on the other side of the aisle need to stop playing politics as usual—which is obstruct, obstruct, obstruct. This bill is too important and their antics are going to prevent us from having a bill that actually means something and isn't just a repeat of the past. Georgians and the American people deserve more than politics as usual—they deserve a thoughtful and thorough debate.

Even though I am not allowed to offer my amendment at this time, I would like to take a few moments to speak about it. And at this point I would like to ask unanimous consent that Senator BROWBACK be added as a cosponsor to amendment No. 3232.

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

Mr. CHAMBLISS. Mr. President, the Judiciary substitute bill mandates that the minimum wage that must be paid to workers admitted under the H-2A program shall be the greater of: the applicable state minimum wage, the prevailing wage, or the adverse effect wage rate, often referred to as the AEWR. In almost every case in every State, the AEWR is significantly high-

er than the local prevailing wage. Interestingly enough, the U.S. Department of Labor does not determine this AEWR. AEWR wages are based solely on a U.S. Department of Agriculture's National Agriculture Statistics Service quarterly survey—a survey that has been published by the Department of Agriculture for decades; a survey that was never intended for the purpose for which the Department of Labor utilizes the collected data.

The AEWR reflects the average wage for disparate field and livestock work over a multistate area. Packing house work—an occupation filled by a large number of H-2-A workers—is not surveyed. The NASS survey result is the average of all agricultural wages, including the wages that are paid to workers whose higher production levels entitle them to additional incentives or piecework pay. The U.S. Department of Labor then uses this average wage without regard for differences in occupations, skills and seasonality by turning that average into a minimum guaranteed wage for purposes of the AEWR.

To put this in terms my colleagues can understand, this would be like if you took a survey of all congressional salaries, from Senators and Congressmen to staff assistants, and then took the average of those salaries and mandated that the average wage must be the minimum amount paid to any congressional staffer.

Agricultural employers who use the H-2A program to avoid breaking the law by hiring legal workers are put at a distinct competitive disadvantage when compared to growers who use the available undocumented workforce. In fact, this competitive disadvantage caused by the additional expense of using H-2A is a major factor in the agricultural industry's increasing dependency on an illegal workforce.

Those employers who have been utilizing an illegal workforce have not been paying those illegal workers anywhere near the adverse effect wage rate. Most troubling to me is that in the Judiciary Committee's bill, once agricultural employers transition those illegal workers to blue card workers, there is still no mandated wage floor for them! Therefore, H-2A growers will continue to experience unfair competition if the AEWR is not replaced with local prevailing wages.

I would also like to point out that the wages required of employers of workers admitted under every other temporary, non-immigrant visa category is a local prevailing wage rate determined by the U.S. Department of Labor through specific occupational surveys by the various states.

I believe this should be the case for the H-2A program as well. Moving from an Adverse Effect Wage Rate requirement to a prevailing wage would allow the use of a more localized, occupation-specific, competitive wage when growers access legal workers through the H-2A program. This would naturally raise wages for some farm workers and bet-

ter reflect the economic realities of the area in which the work is performed and the type of work being performed. It would also encourage agricultural employers to participate in a program designed to protect and identify the workers on our Nation's farms.

I urge you to support the amendment.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. NELSON of Nebraska. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. NELSON of Nebraska. Mr. President, I will sound, unfortunately, like a broken record for the next 15 minutes or so.

Mr. CHAMBLISS. I will object to an amendment being called up at this time.

The PRESIDING OFFICER. The Senator from Nebraska has been recognized. The quorum call has been lifted. No other unanimous consent request has been made.

The Senator from Nebraska.

Mr. NELSON of Nebraska. It is important to stress again and again we must focus on border security first.

When I first announced and then introduced my border security bill last fall along with my colleagues, Senator SESSIONS and Senator COBURN, people across America were talking about securing our borders but there wasn't any action.

No bill in Congress was moving because most of the efforts tried to tackle everything and ended up doing nothing.

I proposed changing the way we address immigration reform and introduced a bipartisan bill that focuses on border security first.

Until we secure our borders, the U.S. will never be able to control the deeper problems of illegal immigration. I repeat: without securing our borders first, the U.S. will never be able to deal with its illegal immigration problems.

That is why, I, along with my colleagues Senator SESSIONS, Senator BYRD, and Senator VITTER are offering our bipartisan border security bill as a complete substitute to the bill that Senator SPECTER and the Judiciary Committee have offered.

We all have great respect for Senator SPECTER and the hard work by the Judiciary Committee to complete the bill they reported out last week under difficult time constraints. It is a good thing that we have so many people working together trying to find solutions to our illegal immigration problem. But it is important that those efforts are not lost because we tried to tackle everything and accomplished nothing. Those efforts are why we must focus on border security.

My colleagues and I are convinced that there is only one way we are going

to find consensus and see real action this year, and that is if we take the very important step of securing our borders first.

Our proposal would add 3,000 border patrol agents per year for 5 years and enhance border security technology.

It also adds:

1,000 new investigative personnel dedicated to stopping immigrant smuggling;

10,000 new Department of Homeland Security investigators dedicated to worksite enforcement; and

15,000 immigration enforcement agents dedicated to fraud detection.

At the same time, we give employers the tools they need to confirm the status of prospective employees to ensure that they are following the law.

If the companies have completed the verification process they will be protected in their hiring decisions. And the companies will not need to be concerned with verifying documents nor will they have to be in the business of making sure that documents handed to them are not fraudulent. However, if a company ignores this process and hires illegal immigrants anyway, our proposal enhances the penalties for breaking the law.

We believe that this is an important component for securing our borders and addressing the problem of illegal immigration. By removing the motivation behind most illegal immigration—securing employment through fraudulent documents or unscrupulous employers—we can take another important step towards resolving our illegal immigration problems.

In addition to aiding employers identifying illegal immigrants, this proposal also helps border security agents to stop immigrant smuggling, human trafficking, and other border offenses. This will ensure that gangs, organized crime, and individuals looking to exploit illegal immigrants for profit are prosecuted and prevented from putting immigrants in harms way.

Currently, these offenders are difficult to prosecute and are soon back committing new offenses of the same old crime.

I understand there has been some confusion about who this provision of the Border Security First proposal targets. I would like to set the record straight and make absolutely clear that this section is not aimed at prosecuting any religious or humanitarian groups that assist individuals in need. These people are not prosecuted now nor will they be in the future—nor should they be.

Instead, we need to stop the criminals who are smuggling people for financial gain and commercial profit. They are the ones hurting immigrants, not our religious and nonprofit groups.

I would also like to clarify for the record that this proposal does not make illegal immigrants in this country felons. It merely seeks to secure our borders as a first step towards resolving our illegal immigration problems.

I continue to push for border security first because I believe that it is our responsibility to work together to find a solution to this problem confronting our Nation. Our fellow Americans expect no less from us.

I continue to push for border security first because it makes common sense.

We all agree that the borders need to be secured.

And with a problem as pressing as illegal immigration, it is important that we work to build a consensus and that we concentrate our efforts on getting something accomplished that moves us along the path towards resolving this problem.

The disagreements we face all stem from the additional problem of what to do with the illegal immigrants already here. I am for securing the border first—and then developing a plan for the illegal immigrants already here. We cannot afford to miss this opportunity to begin solving this problem because we concentrated on the things we disagree about rather than working to make sure we accomplished what we all agree needs to be accomplished first.

Unless we secure our borders first, the problem will only continue to worsen and the number of illegal immigrants we need to address will be larger than it is now.

Unless we secure our borders first, the U.S. will never have a firm grasp on the interior problems we have as a result of illegal immigration.

Unless we secure our borders first, we will never be able to adequately address the remaining issues that illegal immigration present.

Unless we secure our borders first, we will miss this opportunity to begin solving a problem and we will have failed to properly do our jobs for the American people.

By implementing tough new changes to secure our borders we can take an important first step toward addressing illegal immigration.

Today as we continue this debate and we continue to think about the bill that is before the Senate, we need to redirect our attention and put border security first so we can then go on. The “do everything” bill that is before the Senate today will end up doing nothing. The reason is if it is passed by this Senate and goes to the conference committee, it cannot be squared with the House version that has already been passed. It will be easier to square the circle than it will be to bring these two disparate bills together, and that is why we need to do something to secure our borders first.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. MARTINEZ). Without objection, it is so ordered.

Mr. FRIST. Mr. President, I come to the floor, and I am broadly supported by our caucus, because we come to a moment in time where people are looking at the Senate, America is looking at the Senate, and asking: Why? Why are we at a point where we are addressed with a problem that is not insurmountable—seemingly insurmountable at times but a problem which can be addressed, which addresses the issues that are so fundamental to our country—issues of national security, issues of fairness, issues of compassion—challenges that if not addressed will continue to grow, thereby threatening the security of the American people, who are watching.

Republicans are here—we see it right here on the floor right now—and we have been here since last Wednesday on a bill doing what the American people expect; that is, identifying a problem, discussing a problem, putting together amendments in order to take a bill to the floor and, therefore, improve a bill. And yet we are being denied that basic opportunity.

Right this very moment, we are here to address a national problem, a problem that is pressing. It impacts every American listening. I mentioned the word “fairness” because it is basically a matter of fairness—of fairness to a group of people, the 12 million undocumented people here in this country today, who, yes, came here illegally, but who are listening and watching right now and asking that question, Will my plight be addressed and addressed appropriately?

It has to do with fairness to the Senate, where each of us came here probably for different reasons, but to participate in governing and moving America forward to a future that we know will be safer, that will be healthier, that will be more prosperous; and fairness for our constituents, who are scratching their heads right now, at first maybe saying, well, there it is, the Senate, once again, not able to address problems, but then, after a moment, saying that is wrong; those are the people who are sent to Washington to represent us, to address the toughest, most fundamental problems that are out there today, and that is our security, our security, to address issues that affect internal enforcement of the laws of the land, a nation of laws, and, yes, a nation that has captured the richness of our immigrants.

Twelve million people are living in the shadows. I would argue that today our Democratic colleagues are living in the shadows by not standing up and addressing the problems, the challenges, the opportunities that have been identified. The minority refuses to vote. They refuse to give us simple votes, up-or-down votes, on issues we can debate on the floor, that we are ready to debate.

The other side of the aisle is refusing to govern. That is why we came to the Senate. They refuse to come to the

table to even attempt to address the problem. They are willing to let these 12 million people continue to struggle. They are willing to let our national security, by not addressing the problem, be compromised. They are willing to let our health care, our education, and our immigration system be crippled.

I come to the floor to make the statement that the immigration system is broken, and yet the Democrats today do not have the courage to address the problem, to fix the problem. They show a lack of courage, I think, conviction, and leadership to fix the problem. You fix the problem by doing something, not coming with a solution and saying: This is it; take it or leave it. It is to allow us to have an amendment proposed, to debate that amendment, and then to vote on that amendment.

What happens, then, when we take an issue that is totally nonpartisan—it is not a red State, blue State, liberal, conservative, Democratic or Republican issue—and all of a sudden politics gets injected into it? Thus I ask the other side of the aisle to please put the politics aside and allow this body—100 individuals—to cast votes, take up amendments and vote on them.

There have been a lot of media reports saying that caucuses are fractured—our caucus is fractured and the Democratic caucus is fractured. I think that in many ways can be overplayed, but it does reflect the fact—not the fracturing but the diversity of ideas, good ideas, that need to come to the floor and be debated in order to solve these huge problems that are out there: on the border, first and foremost; interior enforcement at the workplace; the temporary workers, the 12 million people.

We have ideas right here. There are 50 different people with a bunch of ideas, yet not one is being allowed to come to the floor, lay down their amendment, have the manager take up the amendment, debate it, and then vote on that amendment. And we are not going to all agree. That is what the Senate is all about: to debate, to deliberate, to discuss, and then to act.

I think our side has shown our courage to come forth and address a problem. There are not clear-cut answers and not answers everybody is going to agree with. But by working together—not Republican and Democrat, but by working together, each of us operating with our own convictions, allowed to vote with our own convictions, we can move this process forward.

It comes back to fairness again. It is the fairness for each of us. It is the fairness for the 12 million. It is the fairness for the immigrants who want to come to this country, yes, legally so they will have a clearly defined system.

I want to thank the members of my caucus for coming to the table. It is a tough issue, the whole immigration issue. It is a broken system. It demands to be fixed. They are ready to

fix it, but right now the other side of the aisle is not allowing us. Without fail, all of our people have come forward with good ideas. We do not all agree with each other—but to work together in a constructive way, bringing out the very best of this body, when, I would argue, over the last 24 hours we have seen the absolute worst.

I do believe the American people deserve better. And again, as I opened, I said the American people have to be scratching their head. Now I used to say this is another insufferable attempt of the other side to block, to obstruct, to postpone, to delay, but now I think it is beyond that.

We know the American people care passionately about this issue. It is time for us to come together—not Republican versus Democrat—and allow these amendments, in an orderly way, determined by the managers, to be debated and voted upon so we can move this country forward, where we know if we act we will be safer, we will give hope where there is no hope today, we will respond with compassion, because I have confidence in the system itself.

Mr. SPECTER. Mr. President, will the distinguished majority leader yield for a question?

Mr. FRIST. I am happy to yield to the distinguished Senator from Pennsylvania.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, my questions to the majority leader are whether the conduct of the Democrats is consistent with the usual practice of the Senate, which allows Senators to offer, at a minimum, germane amendments to pending legislation, and whether the position taken by the distinguished Democratic leader is consistent with the practices and protocol of the Senate?

His approach was summarized in a news conference yesterday that I spoke about on the Senate floor—I had a minor confrontation with the Democratic leader yesterday—where a question was posed by a reporter. Quote:

Senator REID, the Republicans are saying that you are not allowing amendments to be voted on on the floor. Is there a reason for that?

And Senator REID responded, and I quote:

We are happy to take a look at amendments that don't damage the integrity of the bill, but if it is going to be, in the estimation of the unified Democrats, an effort to denigrate this bipartisan bill, then they won't have votes on those amendments.

My question is, is it up to a Senator or a caucus or a party or the Members on one side of the aisle to take a look at the amendments and decide whether they damage the integrity of the bill and to set a standard that if an amendment is going to be, in the estimation of the unified Democrats, an effort to denigrate this bipartisan bill, then they won't have a vote on that amendment? Or is it the practice and protocol of the Senate to allow Senators to vote

for amendments as individual Senators see the situation in their own right?

Mr. FRIST. Mr. President, in response to my colleague and the manager of this bill, it is clear that by protocol, precedent—and I would even take it back to something more basic than that—and simple fairness and respect for individual Members, Members be allowed to come forward and offer their amendments and then, yes, discuss it with the Democratic leader, the Republican leader, and especially the managers of the bill. But to think that the minority party can cherry-pick which amendments will be considered and no other amendments will be considered is totally outside of the realm of both practice, protocol and, again, fairness of the body itself.

Mr. SPECTER. I thank the distinguished majority leader for a very poignant, accurate, conclusive response.

The PRESIDING OFFICER. The minority leader is recognized.

Mr. REID. Mr. President, I just hope that my friends on the other side of the aisle—and there isn't a single Senator over there I don't consider a friend and have great respect for—I hope they remember this exchange between the chairman of the Judiciary Committee and the majority leader today, as we wind down this session of this Congress. I want them to remember this because you don't have to have a very long memory to understand what has happened in the Senate with our inability to offer amendments. The most recent that I can think of, of course, was the Dubai Ports situation on lobbying. The next thing I can go back and look at is the PATRIOT Act, where the distinguished majority leader filled the tree.

There is no need—we went through this yesterday. There is no need to do this. But the Senate, in the 200-plus years it has been in existence—even though the rules are somewhat difficult to accept, they are here. And they are here for a reason. Because over the generations of the Senate, there is always the ability to have an endgame. There is a way to proceed orderly on a piece of legislation. And what we should do on this, if everyone is so upset with what is taking place here, is in the morning we will have an opportunity to invoke cloture. All germane amendments will be allowed, if they were filed before 1 o'clock today. There would be an opportunity then to debate these amendments and vote on them. So there is no more orderly way to proceed to a matter than cloture.

I wish to switch a little bit here and talk about something that is extremely personal to me. I have been a legislator for a long time. The first job I had in public office was in 1964. I have been involved in government for 42 years. I was a city attorney, served on county boards, the State legislature, and other such opportunities that the people of the State of Nevada have given me. I don't want this to be true confessions,

but I want to relate to the Senate that the biggest mistake I ever made, the largest error I ever made was 15 or 18 years ago, as a Member of the U.S. Congress, when, with my chief of staff, my dear friend Reynaldo Martinez—he and I played baseball together. He was a star on that team. I wasn't. But we beat everybody. We were the California Scholastic Federation champions when I was a sophomore in high school.

He was my chief of staff. He is retired, a wonderful man. He has credentials in the Hispanic community. He has had a school named after him in Nevada. He has a youth center named after him. He is a very famous Nevadan and my dear friend.

A group of people came and talked to us and convinced us that the thing to do would be to close the borders between Mexico and the United States; in effect, stop people from coming across our borders to the United States. This period of time for which I am so apologetic—to my family, mostly—lasted about a week or two. I introduced legislation. My little wife is 5 feet tall. We have been together for soon to be 50 years. As I said here on the floor a few days ago, her father was born in Russia. He was run out of Russia. His name was Goldfarb, his family. They were Jewish. My wife heard that I had done this. She does not interfere with my legislation. Only when I ask her does she get involved in what I am doing. I didn't ask her about this. She, in effect, said: I can't believe that you have done it. But I had done it.

To compound this, I held a meeting a day or two after being confronted by my wife, a meeting in Las Vegas. It was a townhall meeting to explain this travesty that I called legislation. My friend, Judge John Mendoza, was there, somebody who, when I lost my Senate race in 1974 by 524 votes, spent all night with me consoling me, but he was in that audience. Larry Luna, Larry Mason, Isabelle Pfeiffer, people I had not talked to about this, in addition to my wife, pointed out the errors of my way. I have done everything since that meeting in Las Vegas, in conversation with my wife, to undo my embarrassment.

I have nothing against my friend, the junior Senator from Alabama, for bringing up what I had said those many years ago today on the Senate floor. I have no problem with that at all. But I do want to tell him and the rest of my friends in the Senate, that is a low point of my legislative career, the low point of my governmental career. That is why I believe we need comprehensive immigration reform today. People in America are counting on us to move forward with comprehensive immigration reform. They recognize that this country's national security depends on securing our borders and fixing our immigration system. They all want us to do this, Democrats and Republicans, to come together and do this.

I still believe that the bill before us is a compromise. I believe it is a good

bill. It is up to my Republican friends to decide what they want to do. They can work with us to move forward and vote cloture and have some amendments that are germane postcloture. My friends, the majority, can move forward with a bill that will fix our borders and reform the immigration system or continue to stonewall. It is in the eyes of the beholder who is stonewalling. I think what we have here is a compromise. We have a real bipartisan opportunity to fix our immigration system. Thanks to the hard work of the Democrats and Republicans on the Judiciary Committee, we have a bill that will do it.

So I hope that tomorrow morning, an hour after we come into session, that there will be a bipartisan vote to invoke cloture, move forward with this legislation, look at those germane amendments, vote them up or down, and move forward with the process.

I, first of all, want everyone in this Chamber to know that there is no animosity between the two leaders. We have jobs to do. We do the best we can to fulfill those responsibilities. But as far as the two of us are concerned, there is no ill will toward me from Senator FRIST. He has never shown that on a personal basis. I have attempted not to do that with him. I will say on one occasion I did, and he brought it to my attention. I acknowledged that, and I understood what he was critical of. It was constructive criticism, and I took it as that.

I hope we can move forward. There have been proposals made by both sides. My friend's proposal on this side of the aisle was not acceptable. My proposal to him was not acceptable. But it is only 4 o'clock. Maybe something will happen before tomorrow morning's cloture vote.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Mr. President, as I said in my remarks a few minutes ago, the disappointing thing to me is the situation we are in, in that in all likelihood, unless we have a radical departure in the next hour, the course we are on is to leave here in a few days having accomplished nothing for the American people. The American people expect more.

We all know that the institutions of government in today's world are watched by the American people because we were elected on their behalf to identify problems, to struggle and work through those problems through a process that has worked well for a couple hundred years, and that is debate and amendment. We have a bill on the floor that came out of the Judiciary Committee, a process I am actually proud of.

It has been confusing to people, I know, but I basically said: There is a problem out there that we know is there. It is getting worse. It affects the safety and security of the American people, plus the compassionate side, people dying crossing the borders, plus

12 million people who are having to wake up every day in the shadows out of fear that in some way somebody is going to come and touch them in a devastating way or not being able to report a domestic violence incident because it exposes them. That is wrong.

We have the opportunity—because of leadership, and working with the Democratic leadership, we got a bill to the floor, knowing 3 to 4 months in advance that we would be here now spending time on it—to fix the problem, to solve the problem. And maybe it is the surgical personality in me that says, if somebody in the room has cancer, you cut it out. You just don't sit there and talk to them and say: Come back in a few weeks or a few months or a few years, because they die from not acting and fixing it.

That may be too much my approach, but stepping back from that, I know this is a process here whereby if we start now and take the first amendment from last week, the Kyl amendment, which was introduced and has been discussed and debated, and last night we voted not to table it—why don't we take it and vote on it and go straight through, and then we would have the opportunity to effect a bill. I think we can improve the bill. I think it would get 60 votes for cloture, and then we could have a bill that would solve the problems that are out there.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. MCCAIN. Mr. President, it is well known that there are a number of Senators who have been engaged in active negotiations and are trying to come to an agreement so that we could get this very difficult and challenging issue behind us. There are Senators GRAHAM, MARTINEZ, DOMENICI, BROWNBACK, HAGEL, and SPECTER, who led the legislation through the Judiciary Committee, and Senators GREGG, OBAMA, SALAZAR, DURBIN, and especially Senator KENNEDY. We have all been involved in negotiations and discussions morning, noon, and night, as have our staffs, as well as various outside groups. We are always very close to agreement. I cannot say we are going to reach agreement, but it is not for lack of knowledge, expertise, or dedication in trying to solve this issue.

Senator FRIST has encouraged us. We have met with him constantly and he has offered his encouragement as a leader and we are grateful for that. We are close. If we can reach an agreement, I think it would have 60 votes in this body. I haven't seen an issue in recent years that has so much emotion associated with it. Nor do I know of one that probably defines the Republican Party and the Democratic Party and what kind of a nation we are.

The occupant of the chair, Senator MARTINEZ, and Senator SALAZAR brought a perspective to this issue which is very valuable. Both have added life experiences on this issue. So it is not for lack of knowledge or expertise or talent, and we are very close.

But there has been a shadow on our discussions. The fact is the Senate has not moved forward with debate and amendments and votes. The Senate is supposed to do that. That is what this body is supposed to be all about. Now for a week and a half we have not been able to have a vote on a single issue. We should not be afraid to debate these issues and to vote on them. That is what we are supposed to do. We don't have to wait for cloture every time before we debate and have votes. Senator KYL and Senator CORNYN have devoted thousands of hours to this issue. They deserve a vote on their proposal. That is the way the Senate is supposed to function.

There are those on the other side who have amendments that probably would be very tough votes for those of us on this side. We are here to take tough votes. That is what we come here for—to take tough votes. I could argue, as we do maybe too often, legitimately that this is one of the greatest challenges we face in our time—securing our borders, taking 11 million people out of the shadows who are exploited every day, fulfilling the job requirements that we all know are necessary to ensure our economic future.

I want to assure the Democratic leader that those of us on this side follow the leadership of our elected leader. We cannot vote for cloture when it is proposed by the other side. The majority rules. The majority sets the agenda in the Senate. For there to be an expectation that somehow we would vote for cloture as proposed by the Democratic leader—I imagine if my friend from Nevada were in the majority, he could take great exception to the Senator from Tennessee filing cloture and then expecting the other side to follow that.

We have a short period of time. I hope as these negotiations continue—and we are close, I must say. I think my friend from Massachusetts would agree, although I must say he is very interesting to negotiate with. But I also point out that his word is good.

I hope people will listen to the Senator from Florida, who is in the chair. I hope people will listen to the Senator from Colorado, Mr. SALAZAR, and others who can explain to us better than anyone how urgent it is that we resolve this issue. Americans are unhappy with us, in general. But this issue has aroused passion in a way that few of us have ever seen across this country. In Los Angeles, Phoenix, Arizona, and New York City, and around the Nation, it seems to me we owe every American a resolution on this issue.

Can we please move forward with amendments, start voting, and then come to a resolution of this issue. I thank both leaders for their indulgence and my colleagues for their active involvement in this issue.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. REID. Mr. President, I am sure it was an oversight by my friend from Arizona in just mentioning Senator SALA-

ZAR, but also Senator MENENDEZ has been involved in the things we have done over here, and he is a great addition to our caucus.

My friend from Arizona, who has established his credentials as being courageous as none of the rest of us have, except perhaps Senator INOUE, said we should not be afraid to take votes. So my suggestion—I made it yesterday and I make it today—is that there has been significant debate on the Specter-Leahy substitute. It is now before this body. We should not be afraid to vote on that. As I said, we are willing to vote. We don't need to have cloture. We can have an up-or-down vote on that right now. That is one alternative that could be considered.

Mr. FRIST. Mr. President, I think our point has been made. If we are going to address an issue that deserves to be addressed and that the American people expect us to address, we have to change course here from the last several days. It is going to require amendments and debate and allowing amendments to come to the floor. There is no comparable bill. The Medicare bill had 128 amendments; the highway bill had 47; the Energy bill had 70. But to think we can make progress on a bill flying through the Senate without the opportunity for debate and amendment is unrealistic. It is outside of the realm of what the American people expect and what our responsibilities are as Senators.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mrs. HUTCHISON. Mr. President, I so appreciate that the majority leader has called this to the Nation's attention because we have been working on this bill for almost 2 weeks now. The majority of the body has not had its say. The Judiciary Committee worked very hard on this bill. However, it is a bill that I could not possibly invoke cloture on before we have had a chance to have input and the opportunity to change it in the direction that the full majority of this body—hopefully, a resounding majority of the body—would support.

The House of Representatives passed a bill that probably not one Member of the Senate would support. That is not going to be the final position of Congress. The Senate is taking a different approach. The Senate, in general, agrees that there should be a guest worker program. It has been very difficult to come up with the right solution on how our country handles the 12 million people who are here illegally—a solution that is fair and equitable for the citizens of the United States and ensures law and order on our borders. It would be wrong for Congress to pass a bill which indicates border security is business as usual, or that the laws of our country can be broken with no penalty whatsoever. Most of us want to pass a guest worker program that allows people to come back and forth legally into our country, help our economy, earn their benefits and be able to keep them—not in the underground, but aboveboard. Most of us want that.

Unfortunately, the bill before us does not provide the right solution. Yet, we are sincere in our desire to amend it. That is what our leader is trying to say. I think it is wrong for the Democratic minority to hold up amendments and not allow those who have worked for hours, days, weeks, and months on this bill, to offer alternatives, hear debate, and start shaping a bill that would put our country in the right direction, secure our borders, keep our friendship with Mexico—our neighbor to the South, and treat people fairly.

Passing a bill that achieves these objectives is a goal I think we can all reach, but not if we cannot have amendments and are forced to vote on cloture. I could not possibly vote for cloture, nor could all but one or two on our side. That is not bipartisan. It is not the process we have followed in this Senate.

I urge my colleagues on the other side of the aisle to let us proceed with amendments. Don't waste the next 24 hours. Let Senator KYL have his chance to have his amendment voted on. Let others who have ideas have their amendments voted on.

I think one area we have not significantly addressed, one I would like to be able to talk about, is an alternative for people who do not seek citizenship in America. There are many wonderful Mexican workers in our country who want to remain citizens of Mexico, who intend to stay with their families in Mexico, but who desire the economic opportunities in America. Why would we not provide them an opportunity to come out of the shadows, to work and earn their pay in the open, and then go home? Why should they wait in a 10-year line for U.S. citizenship, which they do not seek?

Clearly, we have not fully vetted this issue. The Judiciary Committee worked hard to produce a bill, a bill which I do not support. Yet, they certainly worked hard, did their homework, and were very thorough. We need to have a chance to work on that bill with the rest of the Senate because most of us are not on the Judiciary Committee. Immigration is an issue that affects all of our States and our country as a whole. We need to address it in a sincere, productive way that will come to the right solution. The only way to do that is to allow the Senate to debate and vote on amendments. If we can come to a consensus, and have a 75-to-25 vote, or a 90-to-10 vote on a final bill, then we would have produced the right solution. We will not be able to do that if we invoke cloture before voting on amendments.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. DURBIN. Mr. President, I am seeking recognition, standing on the floor.

The PRESIDING OFFICER (Mr. COBURN). The Chair heard the Senator from Kansas first.

Mr. ROBERTS. Mr. President, I tell my friend from Illinois that I will be very brief.

I understand all of the discussion has been about cloture. It has been about the process of the Senate. It has been about denying Members—in this particular case, on our side—the ability to offer amendments. Let me say that we are about to go on a 2-week recess without doing anything about trying to secure our borders. We are doing some things, but we are not doing the things we need to do. There are 32,200 reasons why we should move and why we should reach accommodation, if we possibly can, to pass a good immigration reform bill. That is 32,200 people who will be coming across our borders during the 2 weeks we will be in recess. And 2,300 are coming across per day as of today. There have been about 150 come across our borders illegally while we have been speaking.

As a matter of fact, as chairman of the Senate Select Committee on Intelligence, I know how this affects our national security. I know all the talk has been about procedure and germaneness and allowing amendments. But let me talk a minute about national security.

Mr. President, 1.2 million illegal aliens were apprehended as they came across our borders last year. Two or three times that amount were not apprehended. If you lived in Tucson, the number was about 439,000 who were apprehended. Two or three times that amount were not apprehended. If you lived in Yuma, in California, that number was about 140,000 approximately, and in McAllen, TX, there were 135,000 in just 1 year.

Of the 1.2 million who were apprehended who came across illegally—I am not talking about the ones who came across and were not apprehended—165,000 were persons coming from countries other than Mexico. Where did they come from? We are talking about the Middle East. We are talking about Southeast Asia. We are talking about Eastern Europe. We know because we have apprehended people from Afghanistan, Pakistan, Iraq, and Iran. We have actually apprehended people from Iran, 10 of them, and Somalia and Venezuela.

I want to say something about these folks. Their goals may be to find a job and be part of the American dream, but they may not be as well. And truthfully, I think that is only a snapshot of the reality.

I think the intelligence community can tell you who we caught, but they can't tell you who we haven't caught. So at 2,300 people coming across the border who are illegal every day—every day that we argue or that we don't argue it, that basically we don't have an opportunity to consider the amendments and move this bill forward, national security is being threatened.

I want Members to consider that and see if we can't work toward some solution that will allow a series of amendments to be considered and move on with this bill. Otherwise, in the next 2 weeks, I have to tell my colleagues, the people of Kansas are going to look at

me or, for that matter, every Senator and say: What on Earth are you doing going on recess for 2 weeks when you have 32,200 more people coming in, most of whom are not vetted and some could be injurious to the national security of the United States?

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, I asked my staff how many amendments have been filed to this bill. The number is 228 amendments; 228 amendments have been filed to this bill. If you follow the proceedings of the Senate, you know there is no way on Earth we can consider 228 amendments and actually vote on this bill by the end of this week or even by the end of next week. It is physically impossible. Decisions will have to be made, as they are made on every single piece of legislation, on which amendments will be cut, which amendments will be considered.

I have had amendments that I thought were extremely important that didn't make the cut. That is the nature of this Chamber. Sometimes we have to step back and say at some point we will have to vote on a bill if we want a bill passed.

Our concern on this side of the aisle is that if we get mired down in the amendment process, we have a fundamental problem. What we are witnessing here you cannot analogize to a baseball game because in a baseball game, there is no clock. In the Senate, there is a clock, not just by day but by week. And at the end of this week, we are scheduled to go on recess.

For that reason, Senator HARRY REID, the Democratic leader of the Senate, filed a cloture motion yesterday. Under the Senate rules, that means that tomorrow morning at about 10 o'clock, we will vote as to whether we want to close off debate, close off the amendment number at 228, or let more amendments pile on.

What is the likelihood that we would consider and pass this bill this week if we allow all amendments to be filed that each Member wishes? There is no chance whatsoever.

What Senator REID believes and I share is that we have a historic opportunity. We may never get this chance again. The last time we had any serious debate about immigration reform was more than a decade ago. Honestly, the situation has gotten worse in this country ever since. Now we have a chance. We have a chance because on a bipartisan basis, the Senate Judiciary Committee produced a bill. It is not perfect, but it is a good bill, strongly supported by Senator KENNEDY on our side and Senator MCCAIN on the other side, supported by Republicans and Democrats who brought it out of the committee 12 to 6.

Our fear is that if we allow this process to mire down with hundreds of amendments, the clock will run out; we will have missed our chance.

It pains me to hear my colleagues on the other side of the aisle say there is

no way we can vote for cloture, there is no way we can vote to close down the amendments that are going to be filed here. We have to stand together as a party. I think there is more at stake. I think this bill, this bipartisan bill, is evidence that both parties can come together and must come together if we are going to solve an intractable problem, such as the problem of immigration reform.

America is not going to remember whether we considered 1 amendment, 5 amendments, 10 amendments or 20 amendments. America will not remember whether Senator KYL's amendment was called first or fifth in order. But America will remember with this vote tomorrow who was on the right side of history, who was on that side of history that said we have to move forward to reconcile a serious challenge in this Nation.

The Senator from Kansas talks about security. I am happy to report to him that every bill under consideration dealing with immigration has strong security provisions. There is a provision offered by Senator FRIST to make our borders stronger. Virtually the same provision is being offered on the Democratic side of the aisle in a bipartisan bill. There is no argument about enforcement, strengthening our borders, knowing who is here, where they work, where they live, and what they do. If we are going to be a secure nation, that is essential.

There is no argument about employer enforcement. It has to be part of an enforcement system.

Where we do have differences of opinion, of course, is what to do with 11 or 12 million people already here. We think we have struck the right balance, giving people an opportunity over an 11-year period of time to earn their way to citizenship. If they work hard, if they have a job, if they pay their taxes, if they have had a criminal background check, if they are learning English, if they know about our Nation's history and its civics, if the people who are asking for this clearly are good citizens, people of good moral virtue, those are the ones we want as part of our Nation.

I hear my colleagues on the other side of the aisle say unless we can call one amendment or five amendments before 10 o'clock tomorrow morning, we would as soon see this process stop. That would be unfortunate. Voting for cloture doesn't mean there is an end to amendments. It means there is a limited time for those amendments pending, some 30 hours. We still have time to debate and amend this bill, and we will. But Senator REID and I share in the belief that we need a process that brings this to a conclusion. There is no way we can deal with 228 amendments and have this bill completed this week. That is why we moved forward on this effort to try to file cloture on a bipartisan basis and move this bill to final passage.

I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. Mr. President, first, I thank our majority leader for coming to the floor and pointing out what is happening because I think this is a miscarriage of justice, very unfair, and is an indication of what is fundamentally wrong with the Senate these days. It is important that in the light of day, the American people be told why immigration reform, on which the American people feel very strongly we should act and I believe they feel we should put great focus on border security, is long overdue.

We made runs on it in the past. I was around when we passed immigration reform, by title at least, in 1986 and again in 1996. It didn't work. We have to do more for border security. We have to decide if we want a temporary worker program, how is it going to be assigned, what are the responsibilities for it to be implemented, and exactly how are we going to deal with, again, 11 and 12 million people who are in this country.

Frankly, I have very little to say on this subject because I am not a member of the Judiciary Committee. I do not consider myself an authority, an expert on the substance, as is my colleague from Arizona, Senator KYL. He worked on it. He is on the Judiciary Committee. They discussed it, considered it for weeks and months. I have a lot of respect for the work that was done in the committee.

I have been proud that our majority leader, Senator FRIST, has forced this issue to a head. Some people have said: Wait a minute, we are not ready, we haven't had time to cook this issue; there are too many problems. We should have done this last year, and our leader has been saying since January this issue must be addressed. It is overdue, and it is going to be addressed. And, frankly, he told us when it was coming up—last week. He forced an action in the Judiciary Committee. Maybe it was a forced action, but it was time we acted.

I have made the point in a variety of forums in the last couple of days that this is what the Senate ought to be doing. This is a big, important, difficult issue. The American people expect us to act instead of sweeping around the edges on salami issues and all kinds of other issues. This is a big issue. This is an important issue. This is about who we are and who we are going to be.

Thank goodness the Senate is living up to the expectations our forefathers had for us: to take up a tough issue, have a debate, have amendments, and have votes. And all of a sudden people say: Oh, we can't have votes; we can't vote on amendments on both sides of the aisles. Senators are saying: I don't want to have to cast a tough vote. Hal-lelujah, finally we are going to do something that matters around here.

Will we get it right? I don't know. I have been trying to listen to both sides

of the debate. I want action. I hope it is the right one. But we are never going to know until we go forward and consider this issue and get it done in a responsible way.

If forced to vote on the bill that came out of the committee right now, I would vote against it. I don't think we have found a third way. I don't think we have found the sweet spot. I think we have to have more responsibility.

Illegal aliens are illegal. This is a very difficult, sensitive problem. We have to think about it. But I don't think we can say: OK, gee, say you're sorry and pay a fine and everything will be OK. It has to be more serious than that.

I was looking forward to amendments. Some people will say: Oh, vote for cloture, let's get this over with; there are too many amendments. We haven't voted on one amendment. We have been dragging around here for over a week now. Senator KYL has tried every way in the world to get a vote, and the minority in the Senate is blocking even a vote on a critical amendment by a senior Senator in the leadership of the majority, I might add, because they don't want to vote.

Frankly, for floor people, I note there are some ways this issue can be stuffed down the opposition's throat. I don't want to do that. I thought we were going to rise to the occasion and have a bipartisan debate.

This is the Senate. This is not the House. And, by the way, I have been a party to stuffing the minority, and people didn't agree with me. I filled up the tree. I filed cloture instantly on bills and on amendments. But almost every way, almost every time it backfired on me. I admit it now. I remember filling up the tree and blocking Senator MCCAIN from offering his amendment on campaign finance reform. I did it more than once. I told him I was going to do it. In the end, he won.

This tactic that has been employed by the Democratic leadership blocking even a vote on amendments on an issue of this magnitude is outrageous and, quite frankly, I am offended cloture has been filed by the minority leader. It is not unprecedented. It has been done 18 times in the last 10 years. Yes, I did it, too, and again, it doesn't add to anything. It destroys the potential for good will.

I will vote against any cloture motion filed by the minority leader. He does not manage the Senate. The majority leader does. And even when I disagree with him—I admire Senator MCCAIN standing up and saying: I am not going to support that. Senator MCCAIN has the high hand, he has the winning hand probably, but he said: Wait a minute, you can't block Senators from even having a vote on their amendments, even though he is going to vote against them and speak against them.

What have we done here? This approach cannot stand, it will not stand, and what I am going to urge our lead-

ership to consider doing is if we don't get something worked out by sunrise, then the Senate Democrats are going to be cut out. There is a way we can get an agreement between the Republicans in the House and the Senate, the majority in the House and the Senate, and force it to the floor whole-hog and say: Vote for it, up or down. It can be done. I don't want to do that. I object to that. But when David Broder writes these articles about how he can't understand why the majority doesn't work with the minority, hey, Mr. Broder, take a look at the Senate today. This is the kind of conduct which makes it impossible for us to get our work done and makes the majority decide to just ignore the minority.

I am one of those people whose votes hang in the balance. I am not locked into a position. I probably am willing to go further toward what the Judiciary Committee did than some of my colleagues. But I am offended by this, and it may affect my overall vote on the final product.

This bill has the potential to be bipartisan. It has the potential to be a major achievement by the Senate and by the Congress and, more importantly, for the American people. I hope our leadership will say: Oh well, maybe we just didn't talk enough to each other, and let's work this out. Let's go forward. We are not going to be able to finish this legislation this week. So what. Take next week. Take next month. This issue is too big, too important. The illegal alien problem we have in this country—and the need for immigration reform—is doing serious damage to our country. There are good aspects to the bill, but there is damage being done and the relationship between people is not moving in a positive way. This is where we show whether we are statesmen or political hacks who are just trying to find a way to avoid a tough vote.

I plead with my colleagues: Let's find a way to go forward on this and get a solution we can all vote for and feel good about. Right now, we should be ashamed of what we are doing and the way we look.

I yield the floor.

Mr. KENNEDY. Mr. President, I would like to take a few moments of the Senate's time to try to put this legislation at least into some perspective, as someone who has worked on legislation dealing with immigration for some period of time, so the American people can have an understanding of what this debate is really all about.

I think all of us understand what has been well stated here, and that is our borders are broken and porous. Ten years ago, we estimated that about 40,000 were coming into this country illegally and we were catching maybe almost half of them. Now the estimates are from 400,000 to over 1 million, and we are catching 5 or 10 percent of them. We have increased expenditures by \$20 billion in terms of law enforcement and building fences and increasing border

guards 300 percent over the period of the last 10 years, and it doesn't work. It has not worked, and it is not working today. Although there are a number of our colleagues who believe it offers the best way to try to get a handle on our borders.

That was the position which was taken by the House of Representatives and passed by the House of Representatives, effectively criminalizing every individual who is undocumented here in the United States and criminalizing any individual who might have been indirectly helping that person, whether it was a minister, a member of the clergy, or a nonprofit organization such as a humane group that operates in a feeding program or looks after people who have been in shelters. That is why Bishop Mahony, the cardinal of Los Angeles, said that the House legislation was such a vicious piece of legislation. Those aren't my words; those are his. That was the position of the House of Representatives. Many of us who have worked on immigration issues believe that is not the answer.

The fact is, it was the majority leader who introduced similar legislation in the Senate of the United States which to many of us represented the position of the Republican Party. That was the position which was introduced by the majority leader. There wasn't a great deal of turmoil or opposition at the time he did that, so that was why many thought that was going to be the position of the Republican Party. That is at least one aspect of this debate and discussion.

Another aspect of it: Some 3½ years ago, the Senator from Arizona, Mr. MCCAIN, introduced legislation dealing with immigration in a more comprehensive way—rather than just law enforcement, looked at other factors in addition to law enforcement. Over 3 years ago, I introduced legislation that looked at a number of different aspects in terms of legalization and other kinds of approaches but different from those of Senator MCCAIN. At about that time, Senator HAGEL and Senator Daschle introduced different legislation. This was all before the 2004 election.

Then, after the election, when we saw that these different pieces of legislation which were introduced were not working, Senator MCCAIN and I worked together and in May of 2005 introduced common legislation. We were convinced of a number of things. We were convinced, first of all, about the importance of securing our borders from a national security point of view. You have all these individuals who are coming in here, and in the wake of 9/11, we don't know who they are, and this presents a national security issue. If you have millions of immigrants who are virtually underground because they are undocumented, this is a national security issue. When we find out that Homeland Security is worried about different cells in different parts of the country, and we know we have millions

of immigrants who are subject to exploitation because they are undocumented, this is a national security issue.

So we looked at it and said: What are the features that are going to be necessary to deal with national security, because that is very important, and to deal with the fact that there is this magnet, drawing people to the United States, the magnet of the American economy so that strong individuals who want to provide for their families, work hard, play by the rules, and provide for their families are offered jobs by American employers? So they come here and send money back to look after their children and families, to develop a community. Many hard-working individuals have come, and many of them have enlisted in the Armed Forces of our country. More than 70,000 are serving in the Armed Forces of our country. Permanent resident aliens are in the Armed Forces serving in Iraq and Afghanistan.

So we said: What is necessary is we have to bring these people out of the shadows. How are we going to do that? We have to entice them out so they feel they can be a part of our American system, and how is that going to happen? Since they cut in front of this line instead of waiting their turn, if they were to follow the immigration laws, we would say: You have to go to the back of the line. You have to go to the back of the line. You have to wait until that line is cleared up. You have to pay a fine, pay your taxes, abide by the laws of this country, work hard, and then, 11 years from now—11 years from now—you will be eligible to become an American citizen. The other side says: We can't do that because that is amnesty. That is amnesty.

It is very interesting that whenever we talk about the undocumented, in many instances men and women who work hard, who are trying to provide for their families, who are devoted to their religion—98 percent of the undocumented are working today. Working. These are qualities which we admire—people who work hard, provide for their families, have beliefs in their God, are attentive to their church, care for their children—all qualities we admire. But that is too bad; we are just going to send them back or criminalize them. We are going to send them back.

So we have a difference here in the Senate. We have an agreement that we have to get a border and it has to be secure. We have the undocumented, and the question is, How are we going to deal with them? And we have differences in this body. Many say we have to send them back. We heard speeches even earlier today saying that we can't permit, under any circumstances, that they remain here in this country. There has been no talk about how they are going to do it. Of the 240 amendments that are before us, I didn't see any asking for \$240 billion to get the buses out there to ship them back, while their children, who are

American citizens, are pleading that they remain here, and their children are going to school and want their parents to stay. No, no. Let's just get a bumper-sticker solution and call it amnesty. Bumper sticker: It Is Amnesty. Bumper sticker: Bad. It is just a bumper-sticker solution, rather than dealing with a complex issue.

So Senator MCCAIN and I worked on this issue. We worked out the program, the penalties, the requirements for people who are here to be able to earn their way toward the possibility of citizenship, bring them out of the shadows, treat them in a humane way, understanding that we have a problem and an issue. And as much as those on the other side of the aisle might bellyache about this solution, they don't have any answer, other than criminalizing it. That is the answer they have: criminalizing. So we have what I consider a just solution. It may not be the right one, it may not be, but at least it is—I believe and the majority of the American people believe that earning your way to be a citizen in this country is an acceptable way to treat these individuals.

So then the issue is, we have a magnet here in the United States. Now we are talking about the border. How are we going to lessen the pressure on the border? There are a number of things in our bill. One is that we want to try to cooperate with Mexico, the countries of Central America, in terms of trying to work out more effective ways and means of being able to do it. There are a variety of different ways. The Mexican Government has indicated that. I think there are a variety of different ways of trying to do that to lessen the pressure. We have basically the only proposal that gives any consideration to that whatsoever, and I think it can be extremely meaningful.

We find the remittances, as they go back to Mexico, to many of these communities. So many of the people who are here remit funds because they care about their families and their communities. We could work with Mexico to lessen the pressure.

Nonetheless, we understand that we are still going to be a magnet. So we say: OK, let's set a figure. We had a negotiation, and 400,000 was the figure for temporary workers. After 4 years, they have an opportunity to petition for a green card and after 5 more years—to become 9 years—to be able to become American citizens if they demonstrate they have worked hard, paid their taxes, haven't run into trouble with the law.

So we are saying we want to make the borders secure in terms of the security issues, and we want to make it safe for people to come here, and we want to have a process so that the magnet which is the American economy will draw people in an orderly way—not to replace American jobs but to advertise and see if there are Americans available. But if they are jobs Americans won't do, there will be a

legal way for people to come in. So the person who is down in the center part of Mexico will have an alternative: Do you want to risk going across the desert and dying in the desert, or do you want to go to your embassy and find out if there is a job for which you are qualified and go to the United States and have at least some job protection in the job you have? That is the alternative. Legality. Legality. Legality in gaining entrance, not illegal across the border, earning the legal position by earning your legalization.

Then we have the enforcement provisions. In the United States, if employers are going to hire undocumented aliens, then we have 5,000 individuals who are going to be trained and equipped to be able to go after employers who are going to attempt to violate the law. The temporary worker gets the biometric card, comes up and presents it to the employer, and then we know he or she is documented. If not, then we know he is undocumented, and then that person is going to be subject to penalties. It has never been tried before, but it is a local process and a legal system.

What many of us are saying here tonight is we have a total package that talks about the border, talks about the temporary worker, talks about law enforcement, and talks about earned legalization. That is the package. That is the package that came out of the Judiciary Committee 12 to 6. Not bits and pieces, not just border security like the Republican leader had or like the House of Representatives had. It garnered 12 members of the Judiciary Committee, Republicans and Democrats alike, in a bipartisan way, after 7 days of hearings, 6 days of markups, and scores of different amendments. What Senator REID is talking about is why not let us have a vote on that particular approach to the challenge that we are facing on immigration? There are those who just want law enforcement—fine. But why is it that those who worked, and worked hard, and looked at this and studied it, and studied hard, and after days of hearings and a lot of work—why should we be denied the opportunity to have a vote on the total package?

That is what we are being asked. We are being asked: Let's split that package up somewhat. Let's try to divert it.

I know there are those strongly opposed to it. I respect them. I have heard them. I listened to them. They are on our committee and strongly oppose it. I strongly respect that. But aren't we entitled to at least a chance to have a vote on a comprehensive approach? What is so difficult about it? I agree with the Senator from Mississippi, this is important. We ought to be continuing on this issue. It is of vital importance and consequence. It affects the lives of hundreds of thousands, millions of people. We have seen what is out there, across the country—500,000 people in southern California, 100,000 people in Chicago. You are going

to see next Monday in 10 different cities, more than a million individuals who are out there demonstrating.

Why are we not dealing with this? Why don't we deal with it? What many of us are asking, including myself, is give us at least the opportunity to vote on that. If that is not successful, if we cannot get the majority here, then so be it. We have to find a different approach.

We talk about trying to work through these accommodations. I am always interested in listening to individuals, people who are concerned about this. We have had, as I mentioned, early in this debate, the extraordinary stories from our friend and colleague, the Senator from New Mexico, Mr. DOMENICI, telling his life story—the absolutely extraordinary story of his parents. We listened to the good Senator from Florida, MEL MARTINEZ, talk about this. I listened to my colleagues. KEN SALAZAR's relatives were here 250 years before any of our ancestors were here, down in the Southwest and out in Colorado. We listened to BOB MENEZES as well. We listened to our other colleagues who have been engaged in this. They understand its difficulty and its complexity.

We do have a recommendation from our committee. It seems that in the life of this institution we ought to be able to have a vote on that particular proposal. If it does not carry, then we will have to deal with the other reality. But to deny us the opportunity to get that as well as consider other amendments, as the Senator from Illinois pointed out, that will be relevant and current tomorrow, after cloture—I think would be an enormous loss.

I certainly have worked and I am glad to work to reduce the differences among views and opinions. I think all of us are going through the learning experience. As much as we know about immigration, we always learn more from talking with people who are concerned and interested and knowledgeable about these issues. The legislative process is an evolving process. I have certainly observed that over an extensive period of time. So we are always interested.

If there are ways we can achieve the outlines that we talked about, at least from my point of view then it makes sense. What does not make sense is to try to separate different groups against each other. That I find difficult to accept. We cannot have one group that has been here for a lengthy period of time, another group that has been here almost as long, and have them treated in different ways. That doesn't really solve the problem. It might help some people in terms of how they are going to vote on a particular issue, but it really is not dealing with the substance. We are interested in dealing with the substance, not just getting safe political positions for our colleagues. We want to get this legislation done.

We certainly want to try to find common ground, right up until the very

end. I will certainly work in any way I can. I know others are thinking and working hard on it. As has been pointed out by every speaker, this is too important a piece of legislation to let it slip by. It is too important.

I am proud of the proposal that is before the Senate. I think it is the result of a great deal of thought and examination by a variety of our different colleagues from all parts of the country and with all different kinds of constituents. When you get an issue that is as volatile as this, and you have a 12 to 6 vote and you have that kind of bipartisanship in this, recognize those of us who support this proposal understand it is a total kind of approach to the challenge. The single-shot approaches have not worked. Let's just try, here in the United States Senate, to give an opportunity for this comprehensive approach, which is meaningful in terms of our national security, is enormously important in terms of economic progress, and most important is a reflection of our humanitarian values. Let's give that a chance. That is what we are hoping, and I hope the Senate will give us that opportunity to do so.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, before the Senator from Massachusetts leaves the floor, I wonder if I might ask him a question—if he would be kind enough just to respond to this, I hope.

The Senator from Massachusetts was one of the prime participants in our Judiciary Committee markup and meetings. He was on the prevailing side of the vote which passed out the bill which we are now debating.

I inform the Senator, by the way, it was my recommendation at the leadership meeting that rather than the leader's bill, the Senate judiciary bill be the underlying bill.

The question I wanted to ask the Senator is this: The Senator is aware of the Cornyn-Kyl bill, which to some extent is a competitor of the bill that passed. That was rejected in the Judiciary Committee; that is to say, we lost that vote.

The Senator was talking a moment ago about alternatives in the Senate, I believe. I don't think he would want to be misunderstood in this regard. He said there is no answer but to criminalize them. I know the Senator—I presume the Senator did not mean that in the Senate there has been nothing proposed except to criminalize the people who are here illegally because the Senator, of course, is aware of the alternative legislation Senator CORNYN and I introduced.

Would the Senator at all like to comment on that?

Mr. KENNEDY. The remarks that I had were directed toward the undocumented. The Senator from Arizona has an amendment that is portrayed as only preventing the adjustment status for criminals, but if you look and examine the various provisions which are included in the Senator's amendment,

they also include the status offenders which effectively would be denied any opportunity for the benefits of this legislation.

In the provisions included in the legislation—I haven't got the amendment right before me, but there are three or four different items that would do so. That, I think, goes to the heart of this whole process because effectively, if the Cornyn-Kyl amendment is adopted, it effectively takes out 60 percent, as I understand it, of those who are undocumented from any kind of adjustment of status.

I have listened to the Senator debate this. That is certainly my understanding and the understanding of others who studied it carefully, and that would leave the individuals in the kind of state they are today, where they would have an illegality in their current status and would continue to be subject to the kinds of exploitation which is happening now and continue to depress wages on other workers. I believe that would really strike at the heart of the legislation. I know the Senator does not agree with me on that.

Mr. KYL. Mr. President, if I could just ask the Senator from Massachusetts, I was not referring to the amendment which is pending on the floor of the Senate. I was referring to the Cornyn-Kyl bill, which is a comprehensive immigration reform bill that deals with enforcement at the border, enforcement at the worksite, a temporary worker program, a way to deal with the illegal immigrants different in ways from the bill that passed the Judiciary Committee but nonetheless is a comprehensive reform bill which was voted down. But it does represent an alternative on which we would like to have a vote on the Senate floor.

I wanted to give the Senator an opportunity to acknowledge that in the Senate there are alternatives to criminalizing the illegal immigrants—if he wanted to?

Mr. KENNEDY. I thought at the beginning of the Senator's comments he was referring to the amendment—

Mr. KYL. There was a misunderstanding.

Mr. KENNEDY. As the Senator notes, the House bill had the criminalization. The Frist bill had the criminalization issues. The Cornyn-Kyl does not have that particular provision. I do think when we voted on that issue, on the Durbin amendment, I think the Senator voted against the Durbin amendment, if I am correct, which was to decriminalize. So I don't quite know what the Senator's position is on the issue, but I stand corrected.

I was mentioning the House bill and the Senate majority leader's bill.

Mr. KYL. I thank the Senator from Massachusetts. In the debate and characterization of things, sometimes we make a characterization and it might be subject to misinterpretation. It may well not have been, but in any event, I appreciate the Senator's clarification.

I want to respond to several things that have been said here—first of all, to join the majority leader and the others who have spoken to the issue of the need for a debate and the ability to offer amendments and to vote on those amendments as a part of this very important legislative effort. I don't know that we will do anything more important this year than try to adopt comprehensive immigration reform. It is critical to my State. There are an awful lot of people in the State of Arizona illegally who do not enjoy the protection of the law, and should. Simply because they came here illegally, they should not be denied that protection. We need to find a way to ensure that in some way the status of everyone who works in and remains in the United States is in a legal status. It is also critical that we secure the border and provide an enforcement mechanism to ensure that people who work here work here legally.

Let me divide my remarks in two pieces, if I could, first of all, to respond to something the Senator from Illinois, the minority whip, had to say when he was here. He noted there are about 200 amendments that have been filed. His point was it is hard to figure out which ones to consider.

My point is this. If anything is certain, it is that if you do not start, you don't consider any of them. It is always the case that there are more amendments filed than are considered. But at least we start the process at the beginning of the debate. I laid down an amendment last Thursday afternoon. It is the pending amendment. This is Wednesday afternoon. Tomorrow it will be pending an entire week. It was the first amendment laid down. The other 199 followed it. We have not even gotten a vote on amendment No. 1 yet.

To complain that there are 200 amendments out there and we just don't know where to start and it has been a whole week and we can't figure out where to start and that is why we are stopping you from voting on any of them doesn't wash. Let's be very clear. The reason the Democratic side has prevented us from offering amendments and from voting on amendments is because they don't want to vote on them—period. It is not that there are so many they can't figure out which ones to allow a vote. They don't want to vote on them.

Why? There are two reasons. The first is they like the bill as it is. That is a perfectly legitimate point. But that is always the case with one side or the other. But whichever side doesn't like the bill gets a chance to try to amend it. If the majority is right, that they have the votes, they can vote these amendments down.

Senator KENNEDY just spoke to the amendment that is pending. He obviously does not think it is a good amendment. He is going to vote against it. I think it is a real good amendment and it goes right to a point of the bill that is pending before us:

should criminals be allowed to participate in the benefits of this legislation? I say no.

That is an amendment that people do not want to vote on. I guess that is the other thing. Not only do a lot of folks on the other side like the bill as it is, and therefore they don't want to see it changed—although that is not really a good reason for denying us a right to offer amendments—but I don't think they want to take a vote on some of these amendments perhaps because it is somewhat embarrassing.

I am willing to concede that there are lots of drafting errors. I have made some including on this bill. So it is not always the way you want it to be. But including crimes of moral turpitude and drug crimes—whoever drafted the bill on the other side—they felt they had cut out criminals from participating in the program. The problem is, there are a lot of crimes besides drug crimes and crimes of moral turpitude. I read that list. I think it would be better to simply say we agree that we didn't mean for criminals to participate, and either table the amendment or again vote for it or vote against it, whatever. But we could have had that done with a long time ago. Instead we have spent a day debating on whether to vote on the amendment.

As I said before, with all these 200 amendments you are never going to get any of them done if you do not start. The Democratic side has prevented us from starting. As the majority leader said, that is not acceptable. And for the minority leader to file cloture to cut off debate and cut off the filing of any other amendments, that adds insult to injury because then it says not only can't you debate this bill or amendments that are offered, but there can't be any other amendments offered.

There is talk about some kind of compromise. Clearly, if a new amendment is offered there should be an opportunity to respond to that in some way, including potentially offering an amendment to it. It is very difficult because of the complexity of this bill to ensure that any amendment is germane. That is a term of art which you will hear in this body, but that is all you can do after cloture is invoked, and it is hard to do that. It is no simple proposition to say let's close off debate and finish the bill, whatever is germane. That is very difficult to do. Choking off debate with a cloture motion is done to stop filibusters. There hasn't been a filibuster. We would like to get a bill. We would like to have debate and vote on amendments and vote on a bill.

Most of us in this body want comprehensive immigration reform.

The reason I engaged in the colloquy with the Senator from Massachusetts is because we have two competing versions. His version passed in the Judiciary Committee; mine did not. Both are comprehensive. They both deal with border security, with security in the entire area of the country, including at the workplace with a temporary

work program and with providing a new status for the people who are here illegally. They do that in different ways, but they both tackle the same comprehensive issue.

It is a straw man that anybody on this side doesn't want a bill.

It is also wrong to say that we can't start voting because we just do not know where to start. The reality is, we could have started and we should have started and this bill is not going to be completed until we start.

There were a couple of things that the Senator from Massachusetts said that I want to clarify. One is there is quite a bit of derogation with the House position. While there are some things in the House bill that I agree with and others that I disagree with, I must say this is a very different picture of what the House stands for and what Republicans stand for than what has been portrayed.

For example, I think there are probably many out there who believe the House bill stands for the proposition that we need to make it a felony for people to be in this country illegally. And since the House is controlled by Republicans, that must be the Republican position. Nothing could be further from the truth. I don't know of a Republican Senator, No. 1, who wants to have it a felony for a status violation of the immigration law or for crossing the border illegally.

What happened in the House of Representatives? Representative SENSENBRENNER, chairman of the Judiciary Committee, said we need to take that felony status and change it to a misdemeanor. So a vote was taken. On that vote there were 164 ayes and 257 nays. The vote lost. So it remained a felony.

Who voted against the amendment to make it a misdemeanor? Mr. President, 191 of the 202 Democrats voted against the amendment to turn the felony to a misdemeanor; 191 of the 202 Democrats voted to leave it a felony. The majority of Republicans voted to make it a misdemeanor.

Let us stop denigrating the House of Representatives, and in particular the Republicans, by somehow contending that either Republicans, or the majority of the House Members who are Republicans, wanted this to be a felony. It was the Democratic Members of the House of Representatives who voted to keep it a felony. The majority of Republicans voted to make it a misdemeanor.

We need to clear up some of the impressions that have been created around here because of very sloppy language. I will put it that way so I don't ascribe any bad motive to anyone.

Part of that impression could have been created. That is what I was trying to correct with the Senator from Massachusetts a moment ago when he said that the alternative was to round them up and send them back and that there was no answer but to criminalize them. I appreciated what the Senator said be-

cause the Senate does not have a bill to criminalize the status of aliens, certainly not to make them felons. And no one I know of has proposed an alternative to round them up and send them back. Everyone has agreed. I shouldn't say everyone because there are people who believe it is possible to somehow force all of the illegal immigrants to be returned to their country of origin. I think that is a very unrealistic option and that, therefore, it would not be appropriate to round up everybody and send them back. That is a false choice. There isn't a bill on the floor of the Senate today that does that.

Why are these false choices presented as the only alternative to the bill that is before us on the floor? As I pointed out, there are several other choices. One was introduced by Senator CORNYN and myself, a comprehensive bill that doesn't round up everybody and send them back but criminalizes everyone.

I think to engage in this debate we should engage with reason and without mischaracterizing things. There are good enough reasons to oppose each other's bill without mischaracterizing them. If I have ever mischaracterized anything—I hope I haven't—I apologize for it.

The Senator from Massachusetts said something else that is very important. He said it was a necessity to have an incentive for illegal aliens to come out of the shadows, and the bill that he and others had crafted provided this potential for citizenship to provide that incentive.

That is one approach. I disagree with it. But that is certainly an approach. But it is not the only approach.

I want to go back to what most people have said about the people who are here illegally to illustrate a point. Most folks say they just came here to do work that Americans won't do. Let me stipulate that many—in fact, the majority—of the people did come here to work. There is no question about that. Let us not forget that between 10 and 15 percent of the people who are apprehended when they come here by crossing the border illegally are criminals. These are bad people. They don't just come here to work. They come here for illicit purposes. They are criminals and they need to be dealt with as criminals. That is between 10 and 15 percent.

But there is another 85 to 90 percent who undoubtedly come here primarily to work, to earn money, mostly to send back to friends or relatives in their home country. So let us stipulate to that.

Most of them did not come here to become citizens of the United States. As a matter of fact, Senator HUTCHISON pointed out something which is very true. If you know one thing about Mexican citizens, it is that they are very proud. They have a beautiful country. It is actually a wealthy country. Their culture is a tremendous culture and they are very proud of it. They are very patriotic and nationalistic.

I think it is a bit odd that we—not me but many here—just assume that they all want to be citizens of the United States. Many want the ability to be here permanently, to reside here and to work here permanently, if that is their choice and they have green cards for that reason. Many other people from other parts of the world have green cards but don't choose to become citizens. That is fine. But we shouldn't presume that everyone wants to be a citizen simply because they came here to work.

The other fallacy is they came here to do work that Americans won't do. I think you have to amend that slightly to say that they came here to do work that Americans won't do at the price that people from other countries are willing to do it for.

In fact, there is a lot of work that Americans are willing to do, if the work is there, that people from foreign countries are doing today side by side. I mention the construction industry as a good example because in my State of Arizona it is hard to get enough good construction workers. There are many thousands, tens of thousands or more, working in construction that are illegal. I would quickly grant them temporary permits to work in the United States in construction. We need their help. But I also know that in the field of construction there have been many times when a very well-qualified American citizen construction worker can't find a job. It is very cyclical employment.

What we don't want to do is assume that all of the people who came here from another country came here to do jobs that Americans won't do and, therefore, there will always be a job for them because Americans will never do the work. Americans will do this kind of work. They will do it gladly. They don't want to do it for free. They do not want to do it too cheaply. But there aren't very many jobs that they will do for a pretty cheap price. If the jobs aren't there, obviously the reason we have a temporary program is to issue a temporary permit while the job is there, and when the work returns you can start issuing more temporary permits.

One of the problems with the underlying bill is you convert all the temporary permits into permanent legal residency and then you have no ability to ask anyone who is a guest here to leave because they have a right to stay here permanently even though there is no job for them some years in the future.

The point is, it is true that you need an incentive for illegal immigrants to participate in a legal program. All of the bills have different kinds of legal programs. The Cornyn-Kyl bill has one; the bill on the floor has one. We provide a lot of incentives and some disincentives. You can stay for up to 5 years under our bill. Nobody is rounded up and deported. You can stay for 5 years.

One reason that number was fixed was because the survey of over 35,000 Mexican citizens who are illegal immigrants said if they could stay for 5 years and participate in the guest worker program, 71 percent of them said they would then return home. I don't know that they all would. I think it is totally wrong to assume they all won't. There is an incentive to stay here for 5 years. You can also participate in a temporary work program when you go home. The sooner you go home the longer you can participate in that program. You can build a nest egg and take that back with you when you leave.

There are incentives in our bill as well. It may not be the incentive of citizenship. I don't think you have to have that incentive in order to, as the phrase goes, bring people out of the shadows.

Different people can argue about this. Reasonable people can differ about all of these things. I am willing to listen to the debate on the other side. But I would ask a favor in return. Just as we allowed the bill to be passed out of the Judiciary Committee, as the Presiding Officer is well aware—and we didn't filibuster the bill there, though it could have been filibustered—we allowed it to pass out knowing that it would pass over our votes. We had an alternative. It didn't have the votes to pass. We would like an opportunity to vote on that alternative on the floor of the Senate. Is that too much to ask?

We would like an opportunity to vote on about five amendments.

I am speaking now for Senator CORNYN and myself. That is all. We boiled it down to just five along with our underlying amendment. I would like the opportunity to do that.

When we debated the energy bill, I think the comment was there were over 70 amendments, and these were significant amendments. This isn't like the amendments to the budget bill. I think there have been two relatively insignificant—well, one good—I won't characterize them. There have been two amendments voted on. The authors, I am sure, thought they were all significant.

But the bottom line is nothing has gone to the heart of the bill one way or the other until that debate occurs and until those amendments are allowed to be offered and until they are allowed to be voted on. It is unfair to think that we could just shut off the debate, have one vote on final passage and be done with it.

I will say this because there is another Member of the minority here. I have another amendment that I have repeatedly tried to lay down. All it does is say with regard to the temporary worker program that before that program actually starts, the mechanisms be in place for it to work. The experts say that it takes about 18 months. You can start getting ready for it. You can put those mechanisms in place, and the minute they are ready, the program can start.

You might disagree with the amendment, but it is not an unreasonable amendment. There are a lot of folks who say: How can we trust you to have a workable program? And the answer is, watch us. We will create it. The sooner it is ready, you can start your program. That is the kind of thing we are talking about. I don't think they are unreasonable.

I appreciate the indulgence of my colleagues, but I wanted to clear up some things. You can't finish the voting until you start the voting. We need to start it. There are legitimate amendments. Nobody is filibustering.

Let us get on with the process so that we can conclude this important piece of legislation, get the bill to the House of Representatives, and hopefully be able to say at the end of this year that we were able to tackle and to successfully resolve the most difficult issue domestically facing this country today, the problem of illegal immigration.

I thank the Chair.

While the Senator from Maryland is present, allow me to congratulate her on her Lady Terps who in the first half didn't look like they were going to pull it out but came back like the champs they are.

Mr. ALLARD. Mr. President, I also have been working on a terrorist visa amendment. I call up that amendment, No. 3216, for consideration.

Ms. MIKULSKI. Mr. President, I object on behalf of the minority leader.

The PRESIDING OFFICER. The objection is heard.

Mr. ALLARD. I am very disappointed we cannot get that amendment up. I have been working now for some time to get that amendment to move forward. It is an amendment I filed last week. It is a simple, commonsense amendment that denies visas to advocates of terrorism. Yesterday morning, I came to the Senate to speak on that amendment and asked for a vote.

Now, more than 24 hours later, we have still not had a vote on my simple, 14-line amendment. It is just one example of the Democrats continued obstruction of well intentioned efforts to debate and make improvements to the immigration bill.

Put simply, the Democrats are denying me a vote on my proposal to deny visas to terrorists. Any Democrat who says this is anything other than partisan obstructionism are themselves in denial.

To demonstrate the height to which this obstructionism has risen, I am again going to explain what my amendment does and how simple it really is.

My amendment is so simple, in fact, that it adds only 6 words to the entire Immigration and Nationality Act. And half of those are the word "or." The other three are "advocate," "advocates," and "advocated."

These 6 words are narrowly targeted to address a loophole in our current visa system that is evidenced by the following statement:

Colleagues, believe it or not, this a heading from our very own Department

of State Foreign Affairs Manual. The same Foreign Affairs Manual issued to the Department's 25,000 employees located in more than 250 posts or missions worldwide.

Even more alarmingly, this is from the chapter that instructs our consular officers to whom visas should be issued. Visas are, of course, the ticket that foreigners, including terrorists, need to enter the U.S.

This instruction says to the consular officer deciding whether or not to issue a visa that they need not deny a visa to an individual who advocates terrorism. I, for one, cannot imagine a more pertinent ground for denial. If advocacy of terrorism is not grounds for exclusion, I don't know what is.

Not only am I concerned about the message this sends to our dedicated consular officers, I am just as concerned about the message this sends to terrorists. It says to them, feel free to lay the groundwork for an attack at home, apply for a visa, and come to America to finish the job. This is not the message that the U.S. should be conveying to terrorists.

This Congress has already passed important legislation denying visas to terrorists, including in the PATRIOT and REAL ID Acts. The REAL ID Act, signed into law on May 11, 2005, specifically states that one who endorses or espouses terrorist activity is inadmissible.

The real REAL ID Act became public law on May 11 of last year, 8 days after publication of this manual. Yet, today, more 10 months later, the State Department is still instructing its consular officers that advocacy of terrorism may not be a ground for exclusion.

Clearly, the State Department needs to be sent a message that we, in Congress, are serious about securing our borders. And particularly serious about preventing known advocates of terrorism—people who are most likely to wish harm to our country—from entering into the United States.

Admittance to the United States is a privilege, not a right. My amendment says, if you advocate terrorism, you lose the privilege of coming to the United States.

I would like the opportunity to debate this amendment. I, for one, am curious to hear from the Democrats their reason for opposing it.

It is a common sense amendment worthy of debate and a vote. I urge my colleagues to join me in calling for a vote on this legislation that slams the door shut in the face of advocates of terrorism who seek to enter our country.

I also submitted a second amendment last week which I believe is another commonsense amendment to improve the immigration bill.

My amendment No. 3213 calls upon the administration to develop a plan for securing the borders to curb the inflow of vast quantities of methamphetamine into this country.

Our Nation has been hard hit by the illegal trafficking of methamphetamine. My home State of Colorado is no exception. In just 10 years, methamphetamine has become America's worst drug problem—worse than marijuana, cocaine or heroin.

According to estimates from the DEA, an alarming 80 percent of the methamphetamine used in the United States comes from larger labs, increasingly abroad, while only 20 percent of the methamphetamine consumed in this country comes from the small laboratories.

Therefore, my simple amendment calls for a formal plan that outlines the diplomatic, law enforcement, and other procedures that the Federal Government will implement to reduce the amount of methamphetamine being trafficked into the United States.

My amendment aims to build upon the methamphetamine provisions of the PATRIOT Act. We must impress upon the Secretary of State, the Attorney General, and the Secretary of the Department of Homeland Security the immediate need for a firm plan of action. It is imperative that such a plan include, at a minimum, a specific timeline to reduce the inflow of methamphetamine into the United States.

There must be a tough standard for keeping excessive amounts of pseudophedrine products out of the hands of methamphetamine traffickers. We must outline a specific plan to engage the top five exporters of methamphetamine precursor chemicals. It is important that we protect our borders to ensure national security and the safety of our communities.

Now, here we are today, 1 week to the day after filing my methamphetamine amendment, and still there has been no opportunity for a debate, much less a vote. I urge my colleagues from across the aisle to allow us to proceed on this and other amendments worthy of debate.

Mr. President, I yield for a question from the Senator from Illinois.

Mr. DURBIN. Mr. President, I thank the Senator from Colorado for his leadership on this issue. I do not know if he saw the program "Frontline" recently, but it talked about the methamphetamine scourge that is affecting the United States and the fact that now more of this illicit drug is coming in from Mexico. It is a serious, serious problem. I congratulate him for addressing this problem.

I hope he understands that when we offered to call his amendment, asked for unanimous consent to call his amendment and adopt his amendment, there was objection on his side of the aisle. We stand ready at this moment to call your amendment for a vote and to adopt it immediately. I think it is a very important amendment, and it is one of those that was on the agreed list and, unfortunately, a Member on your side objected to it. So I hope we can get to it soon. I thank the Senator for his leadership on this amendment.

Mr. ALLARD. Mr. President, I understand negotiations are going on between the leadership in both parties, and my understanding is the methamphetamine amendment may very well be included in a managers' amendment and we will not have to be necessarily voting on that particular amendment.

There is a second amendment, though, that is very important we do bring up for a vote. I know this is also being discussed by the leadership. That is the one which states that advocates of terrorism be denied a visa.

I have two amendments. My hope is we can get that particular amendment up for a vote. It is the one I just recently asked for a vote on and was denied by your side. But I also understand the leadership on both sides are negotiating. I understand they are negotiating seriously. So I appreciate the fact it is being considered.

Mr. DURBIN. Mr. President, if the Senator will yield for a question or comment.

Mr. ALLARD. Yes.

Mr. DURBIN. I will just say that we believe the underlying bill, the Specter substitute bill, has very strong language to make it clear we do not want anyone in the United States associated with terrorism. We certainly do not want anyone in the United States associated with terrorism to reach legal status. That is reprehensible.

So I am prepared to offer to work with the Senator from Colorado on his amendment to make sure we have included that category with which he is most concerned. I thank him for his leadership.

Mr. ALLARD. Mr. President, I thank the Senator from Illinois for indicating support for that. I just think we need to go and get more specific language in the bill that we will be considering and, hopefully, will be reported off the floor of the Senate. I am just trying to address that.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

AMENDMENT NO. 3420

Mr. SESSIONS. Mr. President, I send to the desk an amendment to the underlying bill.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alabama [Mr. SESSIONS] proposes an amendment numbered 3420 to the language proposed to be stricken by amendment No. 3192.

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

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

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

Mr. SESSIONS. I yield the floor.

The PRESIDING OFFICER. The Senator from Nebraska.

AMENDMENT NO. 3421 TO AMENDMENT NO. 3420

Mr. NELSON of Nebraska. Mr. President, I send to the desk a second-degree amendment to the Sessions amendment.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nebraska [Mr. NELSON] proposes an amendment numbered 3421 to amendment No. 3420.

Mr. NELSON of Nebraska. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

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

Mr. NELSON of Nebraska. I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DURBIN. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

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

Mr. DURBIN. Mr. President, over the last hour or two on the floor of the Senate there has been a procedural move by some Senators on the other side of the aisle which reduces the likelihood of a compromise on the immigration bill. I sincerely hope it doesn't end this effort because I think there are people of good faith on both sides of the aisle still trying to find a way to pass this important piece of legislation.

I want to give special credit on the Republican side of the aisle to Senator MARTINEZ, who I believe is working as hard as any person can to find the right language that preserves the basic principles of the Specter substitute, the bipartisan bill which passed the Senate Judiciary Committee. I hope he is successful. But there is a deadline looming and that deadline is a vote tomorrow morning on a motion for cloture.

Cloture is a procedure in the Senate which closes down debate and says we will limit the number of amendments that may be considered in the 30 hours after cloture is voted favorably. I am hoping that before tomorrow morning people of good will, trying to find a way to break this deadlock, will be able to do so. But the procedural effort by Senator KYL a few minutes ago is going to make that a little more difficult. I still think we can achieve that goal.

I also want to address a couple of comments made by the junior Senator from Arizona on the floor concerning the history of this bill and the process that led to this day. This last Sunday I was on a talk show, "Face The Nation," with Chairman JAMES SENSENBRENNER of Wisconsin, the chairman of

the House Judiciary Committee. He is the author of the House immigration bill which passed in December. That bill includes very serious criminal penalties for those who are living in the United States undocumented, who may number as many as 11 or 12 million people. It also includes very serious criminal penalties for those who would help them reside in the United States if they are undocumented.

The charge under the Sensenbrenner bill is aggravated felony. It is the same charge leveled at someone accused of being a rapist. It is an extremely serious criminal charge, and the Sensenbrenner bill which passed the House includes this aggravated felony charge.

Most people across America believe the House bill has gone way too far in charging so many people who are in the United States with such a serious crime. On the floor it has been said by the Senator from Arizona that there was an effort to reduce that penalty to a misdemeanor on the floor of the House and that unfortunately the Democrats did not support that effort. It is true that 190 Democrats did not support that effort because they do not favor a criminal penalty for those who are here in an undocumented status. So ultimately the majority party in the House, the Republican Party, prevailed and the bill came to us with an aggravated felony as a charge against those who are here undocumented and those who help them.

What it means in the real world is that people of faith who are volunteers at soup kitchens or shelters for homeless people and those who are victims of domestic violence, volunteers who help children of the undocumented, tutoring them for classes, helping them in their lives, coaching their teams, nurses who provide volunteer assistance at clinics that treat the undocumented in the city of Chicago and around the United States, would be subject to a felony charge under the Sensenbrenner bill.

Senator SPECTER came to the Senate Judiciary Committee and offered an alternative. His alternative reduced the criminal charge to a misdemeanor. We brought that up for a vote in the Senate Judiciary Committee and I am glad that on a bipartisan basis we removed the criminal penalty that was in the original bill. I think that was a positive step forward.

The Senator from Arizona, who has raised this question, did not support our efforts to remove criminalization from the Specter bill, but the bill as it comes to the floor, thankfully, does not include criminalization. I hope that is the end of that issue as to whether we are going to charge Good Samaritans with a misdemeanor or a felony for helping needy people across America. I hope it is not revived as one of the concepts in this immigration reform.

The junior Senator from Arizona, Senator KYL, also raised questions about whether people who were guilty

of a crime should be allowed to become legal in America or citizens in America. We tried to be very express in our statement in the bill, the Specter substitute, which was drafted originally by Senators MCCAIN and KENNEDY on a bipartisan basis, that if you are guilty of a crime we don't want you as an American. We understand you have done something in your life which disqualifies you from what we are going to offer you, a long and serious opportunity to find a pathway to legalization and citizenship.

Under the Judiciary Committee bill, the Specter bill as reported, the following is a partial list of crimes that make an individual ineligible for legalization. I read this list because there have been suggestions on the floor by the Senator from Arizona that we are not serious about this. Let me tell you expressly the crimes that would disqualify you from ever becoming a legal resident of America or a citizen under this bill: Crimes of moral turpitude such as aggravated assault, assault with a deadly weapon, aggravated DUI, fraud, larceny, forgery; controlled substances offenses—sale, possession, distribution of drugs and drug trafficking; theft offenses, including shoplifting; public nuisances; multiple criminal convictions. Any alien convicted of two or more offenses, regardless of whether the offense arose from a single scheme of misconduct and regardless of whether the offenses involved moral turpitude, for which the aggregate sentences to confinement were 5 years or more, crimes of violence, counterfeiting, bribery, perjury, certain aliens involved in serious criminal activity who have asserted immunity from prosecution, foreign government officials who have committed particularly severe violations of religious freedom, significant traffickers of persons, money laundering, murder, rape, sexual abuse of a minor, possession of explosives, child pornography, attempts or conspiracies to commit most of these offenses—and there are some security-related crimes that make a person ineligible as well, espionage or sabotage—engaging in terrorist activity.

The reason I make special note of that is there have been references several times on the floor by the Senator from Arizona to Mohamed Atta, the fact he was a terrorist, a man who was responsible in large part for the tragedy of 9/11. Make no mistake, that bill would not give him an opportunity to become a citizen of the United States. Why in the world would we ever consider that? I am sure the Senators from both sides of the aisle who supported the bill would never, ever consider that possibility.

Those who were associated with terrorist activities, representatives of a terrorist organization, spouse or child of an individual who is inadmissible as a terrorist, activity that is deemed to have adverse foreign policy consequences, and those who are members in a totalitarian party.

We have cast the net far and wide to disqualify people from even being considered for legal status in this country if they have been guilty of this type of conduct.

So though the Senator from Arizona and I may disagree on some other aspects of the bill, when it comes to criminal activity I think we are in agreement. Criminal activity is going to disqualify you from being considered for legalization in the United States. That is a tough standard, but it is the right standard and I hope we can make it clear during the course of this debate that we believe it is important to maintain in the bill and that the amendment of Senator KYL does not add anything, really, remarkably, to this criminal disqualification.

The bill which passed out of committee, of course, sets up several things. First, it sets up an enforcement mechanism which is substantial, much like the amendment offered by Senator SESSIONS of Alabama in the committee. It adds 12,000 new agents to our Border Patrol, adds 1,000 investigators a year for the next 5 years—that was Senator SPECTER's amendment; new security perimeter, under Senator SPECTER, virtual fence, tightened controls, exit/entry security system at all land borders and airports, construction of barriers for vehicles and mandating new roads where needed, fences, checkpoints, ports of entry, increased resources for transporting aliens, new criminal penalties for tunnels—that was a recommendation of Senators FEINSTEIN and KYL—new criminal penalties for evading immigration officers, by Senator SESSIONS—all of these amendments accepted, included in the bill in the enforcement section—new criminal penalties for money laundering offered by Senator SESSIONS, accepted as part of this bipartisan bill.

There is an amendment on a comprehensive surveillance plan by Senator SPECTER; and also, I should say, expanded smuggling efforts, improved interagency cooperation on alien smuggling; increased document fraud detection; biometric identifiers; expanded detention authority; and increased detention facilities and beds.

We require the Department of Homeland Security to acquire 20 new detention facilities to accommodate at least 10,000 detainees, a suggestion by Senator SESSIONS which is part of this bill; expanded terrorist removal grounds; expanded aggravated felony definition; increased Federal penalties for gangs; removal of those who have failed to depart; increased criminal sentences for repeat illegal entrants; new removal grounds; passport fraud and fraud offenses as a ground for removal; removal of criminals prior to release; new authority for State and local police to investigate, apprehend, arrest, detain, or transfer aliens to Federal custody; immigration status in the NCIC database now becomes an element that we require; we prohibit time limits on background collection; impose criminal penalties for aid for the

undocumented; assistance to States to help prosecute and imprison undocumented criminal aliens; stronger employment verification procedures; penalties for employers who hire undocumented aliens are increased; additional worksite enforcement and fraud detection agents.

We add 10,000 new worksite enforcement agents, 2,000 every year for the next 5 years, and 5,000 new fraud detection agents, 1,000 each year for the next 5 years.

I read this lengthy list so the Record would be clear that we have made serious efforts on a bipartisan basis to accept amendments even from those Senators who oppose the underlying bill so there is no question that we will have strong enforcement standards to secure our Nation's borders, and to also say those employers who ignore the law will be penalized and will be investigated so that they understand we are serious.

The reason, of course, I bring this up is the suggestion earlier that this bill would not strengthen our borders. I think it does. I think it makes a genuine effort on a bipartisan basis to deal with our broken borders.

It also says, however, that once in the United States, for the undocumented status we will give you a chance, a chance to work your way to citizenship. It is a long journey. It has many serious requirements as you move toward that goal, and many people won't make it. Some will fail in the effort. But if you want to become legal in the United States of America, you need a clean criminal record. And I spelled out here the crimes that would clearly disqualify you.

You must show you have been employed here since January of 2004. You must remain continuously employed, pay approximately \$2,000 in fines and fees, pass a security background check, pass a medical exam, learn English, learn U.S. history, pay all your U.S. back taxes, and then if you have met all nine requirements, you go to the back of the line. It is your turn after all of those who have applied through the legal processes which are currently available.

So those who argue this bill is amnesty and it is automatic, that it is a free ticket to citizenship overlook the obvious. These are stringent requirements. Many people will never meet them. Some will give up. But those who are determined to become American citizens and a part of our country, determined to be legal in their residency, who work hard and achieve it, if they keep their eye on the goal—and the goal is after 11 years—will finally see that day when they can be sworn in as a citizen of the United States.

Tomorrow morning we are facing a very serious vote on cloture. There have been a lot of arguments made on the floor as to whether the right amendments have been called. We tried to bring additional amendments to the floor in the last couple of days, un-

successfully. There have been disagreements about which amendments should be called and in what order.

I don't think history is going to long note or remember what order the amendments were that were called before this bill is up for cloture. If the cloture vote fails tomorrow, if 60 Senators don't step forward to vote for it, sadly that could be the end of immigration reform for the entire year.

It is a very busy calendar we have in the Senate. It deals with things that are of great urgency. When we return after the Easter recess, we will have a supplemental appropriations bill for our troops in Iraq and Afghanistan. It is a very high priority. The Defense authorization bill will follow; then a string of appropriations bills that need to be enacted before we take our 4th of July break.

There is a lot to be done. I am hoping we can get it all done. But the thought that we can carve out another week or two to return to immigration at a later date may be fanciful. I am not sure we can achieve that. This is the moment.

Tomorrow many Senators will come to the floor and decide whether they will be part of history, whether they will cast a vote for cloture which brings to the floor a definite deadline and timetable for debating this comprehensive immigration reform.

It has been decades since we took this up seriously. We have spent a lot of time. We have a strong bipartisan bill. We have a bill that is supported by business and labor groups across America, including many religious groups that have come forward and encouraged us to do this in the name of humanity and of American values.

Tomorrow, with this cloture vote we will have a chance to be on the RECORD for time immemorial as to where we stand on this issue.

Some have already decided to oppose this bill. They are going to, postcloture. I understand that. But for those who think they can vote against cloture and argue they were for this bill, they may have a tough time describing that to the people back home.

I think about those I met this last week. I mentioned it earlier on the floor. The students in the Catholic high school in Chicago are following this debate every single day. They know their future is at stake. These are children who came to the United States at an early age because their parents decided to come here. They have lived here their entire lives. They have gone to school here, lived in the neighborhoods of America, and some have been extraordinary successes against great odds. Their life's dream is the same dream those children have, to be a part of America's future and do something good in their lives. They will be denied that opportunity if the DREAM Act, which is part of this bill, does not pass. They will be illegal and undocumented. If the legal system catches up with them, it will tell them to return to a country they cannot even remember. If

it doesn't catch up to them, they will continue to reside in the United States in undocumented and illegal status, unable to get a driver's license in many States, unable to be approved to be teachers and licensed to contribute to America, unable to secure the important jobs that can make a difference in our future. Their fate is tied to this bill.

Those who vote against cloture tomorrow have basically said we don't need them; that we don't need to pass the DREAM Act; that these children and their fate and their future is none of our business. I think it is.

I think these young people, some of whom I was with this last Saturday, are amazing. They have overcome the odds. They want to contribute, have the chance every kid in America wants, to prove themselves and have an opportunity to show they are worthy of American citizenship. Why do we turn them down? Wouldn't we want to make certain they have that chance? A vote for cloture tomorrow is going to give them that chance. A vote against cloture will not.

There are many who will argue that they are against this bill. I hope other amendments will be offered.

Senator KENNEDY came to the floor earlier and said if you don't like this bill, vote for cloture. Close down the amendments that can be offered, limit the amount of debate and then vote against the bill, if that is your wish. But give us a chance.

Tomorrow morning we will be asking for that chance from 60 Members of the Senate which is necessary for that cloture motion to prevail.

Senator KYL suggested that the only way to move forward to a vote on this comprehensive package and the amendments is if his amendment is voted on first. Senator KYL was in discussion with me this morning and acknowledged that we need to sit down and make some important changes to the amendment which is presently before us. There are some parts that are vague and uncertain. Lives hang in the balance.

I tried to make it clear to Senator KYL there are ways he can use his own language that he used in previous bills and tighten up the language in his bill so there is no uncertainty and less vagueness. I am prepared to sit down with him and the staff. I tried to reach him during the course of the day. I know he is very busy. If he wants to work to bring the language together on this amendment, I want to work with him and hope we can find a way to strike some good language that might be supported on both sides of the aisle.

I see the chairman of the Senate Judiciary Committee on the floor. I will not miss this opportunity to say while I have the floor that I respect him very much for what he has done in the committee, the hard work in committee which I am proud to be part of. I thank him for his hard work in bringing this bill to the floor. We have had a rocky

period of time during the amendment phase—not nearly as many amendments as I would have liked to have seen called. But I hope after the cloture vote tomorrow we can roll up our sleeves in the remaining period of time and do the right thing, pass the Specter substitute with some key amendments and show that this Senate is dedicated to true, comprehensive immigration reform.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I appreciate the contribution the distinguished Senator from Illinois has made to the Judiciary Committee. When he says we have had a rocky time, he is a master of understatement.

Again, he didn't hear my comment, like earlier today in responding to one of his questions. He was conversing. So I will repeat this one.

When the distinguished Senator from Illinois says we have had a rocky time on the amendments, he is a master of understatement.

I share his hope, although not much expectation, that we will be able to complete action on this bill before we adjourn for the recess. The Senate is a phenomenal institution, smarter than any of its Members or the composite of all of its Members—not that that would necessarily take a whole lot. But the Senate has functioned for a long time as an institution where there seems to be a way to work through these issues ultimately. If we cannot find that answer before we adjourn for the recess, it is my hope we will find it shortly thereafter. This is an issue and a problem which has to be addressed and has to be solved.

(The remarks of Mr. SPECTER pertaining to the submission of S. Res. 426 are printed in today's RECORD under "Submitted Resolutions.")

Mr. SPECTER. Mr. President, it appears conclusively at this point that we are not going to make any—I was about to say any more progress. I can't say that because that suggests there has been some progress. We can't make any progress on the immigration reform bill, so that my colleagues will be aware that nothing further will happen on that bill for the remainder of the evening. Hopefully, we can make some progress overnight and in the morning on the proposed compromises so we can have a fruitful day tomorrow.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from South Dakota.

Mr. THUNE. Mr. President, I thank the distinguished Senator from Pennsylvania, the chairman of the Judiciary Committee, for his good work in producing a bill that has become the subject of debate in the Senate dealing with a very important issue to our Nation, something that people are extremely engaged in, one that has generated a lot of debate and a lot of controversy around the country but clearly one that needs to be addressed.

I have listened and observed as the debate has gone forward and listened to the content of that debate over the past several days and come to somewhat of an objective point of view because I come from a State that is not a border State. We do not have to deal with the issues on a daily basis affecting many of our States on the northern or southern border.

Having said that, it is an issue which has captured the discussion being held across this country even in States such as mine, the State of South Dakota. The reason for that is very simple: People see day in and day out some of the images broadcast across the television screen and the people who come to the United States illegally. They deal with the burden and cost associated with some of the public services associated with illegal immigration in this country. So they view it very much as taxpayers. They view it as an issue that, frankly, needs to be addressed. They want to see the Senate act in an appropriate and a timely way.

I have to say, too, I have heard a lot of people in the Senate reference their ancestry. Various Members of the Senate have described in detail how their ancestors came to this country, the personal perspective they have on the issue, and the experiences that have helped shed light and inform their opinions about it. I, too, am not the exception to that. I have roots that go back, with a grandfather that came here from Norway, back in 1906, along with my great-uncle Matt, when they came through Ellis Island. The name that I now have, the Thune name, was not their name. Their name was Gjelsvik. They came through Ellis Island and the immigration officials asked them to change their name because they thought it would be difficult for people in these United States both to spell and pronounce. They did not speak a word of English. I should say, almost no English. My understanding is that when they boarded the train that took them to South Dakota, the only English they knew were the words "apple pie" and "coffee." So they had a lot of apple pie and coffee between Ellis Island and South Dakota.

They came to this country for the same reason that people all over the world come to this country. I am very sympathetic to those who want to come to the United States for everything that we stand for: for opportunity, for freedom, to live the American dream.

My grandfather and my great-uncle came here and worked on the railroads when they were building the Transcontinental Railroad into South Dakota. They put their money together to start a merchandising company that later became Thune Hardware. So they were small business people in this country, something that so many people aspire to all over the world. They want to come to the United States for the miracle and for the dream that is America.

I am sympathetic to the history and the culture and the tradition we have as a nation of being a welcoming country, a country that says to bring your poor, your huddled masses yearning to breathe free. I approach the debate on immigration from that perspective, that context of having a grandfather, one generation removed from me, who came to this country for all the various reasons that people today continue to want to flock to America.

As I have listened to the debate, I have tried to give consideration to all the different perspectives that are presented. It seems to me, at least as I try to make decisions about this, formed by my constituents in South Dakota and formed by my experience, background, and my history, to come to conclusions in the best interests of our Nation, in the best interests of continuing that tradition of treating those who come here fairly, but also the importance of American principles.

One of those American principles is the rule of law. We are a nation of laws, and that entails that we have to be able to enforce those laws. If we cannot enforce those laws, if we are not going to apply and adhere to those laws, those laws end up being pretty meaningless and irrelevant in the long run. I come to this debate with some principles in mind, not having drawn any hard conclusions on any specific piece of legislation but wanting to see the Senate do its work, wanting to see the Senate do what the people in this country expect us to do, and that is to confront the big issues, to deal with the challenging issues, to vote on the big issues, to bring resolution and clarity to the problems and the challenges that face this country.

What is perplexing about what is happening in the Senate right now is we have a base bill that has been reported out by the Judiciary Committee. Granted, it may not be the perfect bill. Frankly, there are many who would like to see that particular piece of legislation amended. Many of us would like to vote on some of those types of amendments that could be offered. Regrettably, the minority has decided they are not going to allow votes on amendments, allegedly because they are votes they do not want to put their Members in precarious political situations, having to make votes on amendments they would rather not vote on.

As a consequence, we are not having votes on amendments. We are just basically blocking the whole substance of this debate from going forward and the Senate from doing the work that the American people expect us to do and, frankly, what the tradition and history of the Senate would suggest that we ought to be doing; that is, amending this base bill, having this debate, this discussion, allowing people with different ideas and different perspectives and different points of view to come in and offer their amendments, to have those amendments debated, to have

people listen to that debate, and then come and vote on those amendments so that eventually we can produce a product that is the composite view of the Senate, reflective of a majority of the Senators.

What has happened in the Senate is the minority has decided, one, we are not going to vote on amendments. If we do have any votes on amendments, they will dictate what those amendments are that we will vote on. So far as tomorrow, insisting on a cloture vote on the underlying bill without having allowed any of the debate on any of the amendments so that we have an opportunity for people to be heard, people to offer their amendments, and people to improve, in their view, in their particular point of view, the legislation before it is ultimately passed out of the Senate and goes to conference with the House and enacted into law.

The fundamental problem with the way the Senate is functioning in this debate is that if we fail to allow individual Members to follow what is the protocol of the Senate, what is the tradition of the Senate, and that is the institution that allows for open debate, the institution that allows for amendments to be offered to legislation, for individual Senators to come over and to have their point of view heard in that debate and offer amendments that are more reflective of their particular idea about how this problem ought to be addressed or this challenge ought to be met, we are undermining the basic foundation of what this Senate and this institution is all about. But, more importantly, we are keeping the people's business from being done.

We are, if we have this cloture vote tomorrow—and I suspect the minority will insist on this cloture vote because they want to have a vote on this bill without having any debate on any of the amendments that our side wants to have votes on and report a bill out. You have the minority of the Senate dictating the terms and conditions under which we will have this debate, the amendments that will be voted on, and, ultimately, the shape of the bill that will come out of here.

This side of the aisle, the majority, 55 Members of the Senate, want to be heard on this issue, as well. What we need to understand is, yes, there are rules that allow the Senate to slow things down, to allow for extended debate on subjects, but ultimately we need to move the process forward. That means voting on legislation.

We had a big debate in the last couple of years about inaction in the Senate due to obstruction, due to blockage, due to dilatory tactics employed by the minority. People have rejected that. People in this country want action. They want action on this specific issue. This is an issue that generates strong emotions all across the country.

Frankly, I believe the American people expect and they deserve better than what they are getting from the minor-

ity in the Senate who have insisted, again, that we not vote on amendments that the majority wants to offer. Basically, we report the bill out, they dictate the bill that passes the Senate.

That is not right. We have heard people get up on both sides today, both Democrats and Republicans, and speak to this issue. We heard earlier today the Democrats get up and say: We are not really trying to block this. We are willing to vote on amendments—our amendments, just not your amendments, not amendments that are offered by the majority side in the Senate.

That is not to say they do not have some good ideas, but the truth is, there is not a monopoly on good ideas on either the Republican or Democrat side, and this Senate ought to be allowed to work in the way it was intended to work. Republicans and Democrats can both offer their amendments and they can both be voted on and we can shape the legislation in a way that is reflective of the majority view in the Senate.

Tomorrow we will have a cloture vote. It will fail because the minority is going to insist we have a cloture vote. But no one on this side is going to allow the minority to dictate the terms of this debate or the amendments that ought to be considered or to block having votes on amendments that the Republicans in the Senate would like to have votes on.

As I said before, I tried to approach this debate in a very objective way and, frankly, as I look at it, there are some very critical components that need to be in a bill. First and foremost, border security. As I said earlier, one of the reasons that America stands unique in all the world is we are a nation of laws. We respect the rule of law. It means something in America.

There are other places in the world where the rule of law does not mean much, and tyrants and dictators come up with their own version of what the laws are. Here in the United States, we have a Constitution. We are a constitutional Republic. We have laws. We abide by those laws. We need to enforce those laws.

We have not been doing the job we need to be doing of enforcing our laws with respect to the borders, controlling the borders in this country. That has all kinds of implications. This should not be lost on the American people. One of the reasons people in South Dakota care about this issue, even though we are not a border State is, they understand, as I do, that controlling and protecting and securing our borders is a matter of national security. Irrespective of where you come from in the world, if you come to the United States—as I said earlier, I have Norwegian ancestry, but if you have Hispanic ancestry, European ancestry, Asian ancestry, whatever—when the terrorists come across the border like they did on September 11 to destroy and kill Americans, they do not discriminate about where that individual

comes from in the world. They want to kill Americans, pure and simple. I don't care what your race or national origin, ethnicity is, flatly, very simply, this is a matter of national security. And securing our borders has to be the fundamental component around which we build this debate.

That is one of the principles I come to the debate with. Again, I have no previous position as we enter this debate about individual pieces of legislation. I am listening to it. I will have the opportunity, I hope, at some point, if the Democrats will allow us to, to vote on amendments. But the reality is right now we are not having that opportunity. Again, I simply say that as a matter of principle, ultimately we need to report a bill out of here that does secure the borders of the United States so that people in this country can know with confidence and can trust that we are serious about keeping our borders secure if for no other reason than as a matter of national security.

Secondly, I would say, as a fundamental principle, we have to enforce our laws. There has been a big debate about: What do you do about people who are already here illegally? I think that is a very important question in this debate. There are somewhere between 11 and 12 million people, we are told, who have come to this country who are now here illegally, and we have to figure out, from the standpoint of status, how we deal with those people in this country.

But, again, a fundamental underlying principle ought to be that we cannot reward illegal behavior. We want to reward legal behavior. We want to reward people who came here and who followed the rules. I heard lots of people get up and talk on the floor about their ancestry and how they came to this country, but I suspect most of them, like my grandfather and great-uncle, came here by the rules that were put in place. They followed the law.

We want to encourage and provide incentives for that kind of behavior. For people who want to come to America, we have a process by which they can come here, but it is consistent with a set of rules and laws we have in place. We have to make sure we are encouraging legal behavior, that we are discouraging illegal behavior, that we are not putting incentives in place for illegal behavior and, furthermore, condoning or conferring benefits on people who systematically decide to break the law.

So I happen to be of a view that I believe in a guest, temporary worker program, perhaps some form of permanent resident status. But I think, again, when you start talking about conferring the benefits of citizenship on people in this country who are here illegally without some sort of penalty for that—in other words, if we just wave our magic wand and say anybody who is here can stay, and so be it, we have done a disservice to our history and our traditions as a nation of laws.

I think it is important we understand there needs to be consequences to illegal behavior. We have talked about amnesty. It has been thrown around a lot here. Essentially, what that means is there is no consequence to behavior that is illegal. I think it is important we make it fundamentally clear to people who do want to come to this country that we are a nation, yes, of immigrants, we welcome people, but we want people to come here according to the laws.

I would say that at the end of day, when this is all said and done, again, we need to have votes because this is an issue that around the country is generating tremendous heat, tremendous emotion, and has been percolating for some time. As people look at the images on their television of people who come here illegally, they are worried about national security, they are worried about the economic consequences, the consequences to the taxpayer of providing services to people who are here illegally.

People want action. They want action by the U.S. Senate. I think we have a responsibility, in this body, after everything is said and done—and usually what happens in the Senate is more gets said than done—but when everything is said and done, to come together on legislation that would accomplish the goal; that is, to address the issue of immigration in a way that is fair and in a way that is consistent with our culture and our history and our tradition as a welcoming country but is also consistent with our tradition as a nation of laws. I believe we can come to that kind of a resolution here in the Senate if—if our colleagues on the other side will allow us to vote on amendments.

Now, the Senator from Georgia, who is currently the Presiding Officer in the Senate, has an amendment I would like to vote on. It is called the trigger amendment. Basically, it says that until it is certified that the borders are secure, then all these other issues we are talking about with respect to this debate are just conversation; that, first and foremost, we have to secure the borders, and it has to be certified we have made the efforts, that we are serious about doing that. I think it is a good approach. At least it ought to be an approach that is voted on.

Now, our colleagues on the other side, the Democrats, do not want a vote on the amendment of the Senator from Georgia because they do not think that would be a good political vote for them. What it suggests to me is we have colleagues on the other side of the aisle who are a lot more concerned about having an issue, a political issue, than they are about having a solution to this problem. What we need in the Senate are more people on both sides, Republicans and Democrats, who will confront this issue for what it is.

That is probably the most difficult, challenging issue that is facing the

country, on a domestic level at least, currently or for some time. We are fighting a war on terror in Iraq. It has demanded a lot of attention and a tremendous amount of resources. But when it comes to domestic issues—and there are many. I am very interested in this body working on issues. As we move forward throughout the year, we have votes scheduled on health care reform because health care costs are critical. We have to get that under control in this country.

We are going to have votes on extending some of the tax relief that will allow the economy to continue to grow and to create jobs and to make sure the economic engines are keeping this country moving forward. We are going to have votes on those types of issues as we go forward. And, of course, we are going to deal with the annual appropriations and budget process, and a whole range of other issues before the year is out.

They are important issues. They are all important to the American public. But I would submit to you that right now there is no more urgent issue, no issue that demands an answer, that demands a solution, that demands action by the Senate than the issue of immigration.

And what is the Senate going to do? Are we going to move forward? Are we going to, consistent with the tradition and the history of the Senate, allow for debate and allow for votes on amendments or are the Democrats, the minority in the Senate, going to continue to insist on blocking amendments, votes on amendments, simply because they do not want to vote on certain amendments because those amendments might be tough political votes for them?

Well, we all make tough political votes. There are amendments they are going to offer that I will not want to vote on. In fact, there may be some amendments offered by colleagues on my side of the aisle that I really do not want to vote on. But we are here to vote. That is what people send us here to do. It is to do the people's business.

It is important we have the opportunity to deal with what is the most important singular issue I think the American public is focused on today and that they want us to deal with. It is the responsibility of the Senate to debate—allow for extended debate—to consider amendments, but ultimately to vote. That means voting on amendments that are offered both by my colleagues on the Democratic side as well as my colleagues on the Republican side, even if they are amendments that I may not want to vote on.

I have to say again, there are amendments I probably would rather not vote on, if I was thinking purely about the political consequences of some of these votes. But the fact is, we are here to vote. We are here to do the people's business. It is high time we did it.

I encourage and I urge my colleagues on the Democratic side to join with my

colleagues on the Republican side in putting aside the politics, putting aside the delaying tactics, putting aside the obstruction and the blocking of the agenda, and allow us to move forward to vote on amendments and to report out of the Senate a bill—and it may not be everything we want but allow this institution to act in the manner in which the people of this country expect us to act, and, frankly, in a way the American people deserve.

So I hope tomorrow will be the day we will break the logjam, that we will be able to get a bill we can report that the Senate can take a final vote on but that is reflective of the majority views in the Senate, including an opportunity to vote on individual amendments and to move this debate and this process forward so we can get into conference with the House and shape a bill we can put on the President's desk that will send a loud, clear message to the American people we are serious about border security, we are serious about our Nation's history as a nation, a welcoming culture, a nation of immigrants, but we are serious about enforcing the rule of law in America.

Mr. President, I yield back the remainder of my time.

The ACTING PRESIDENT pro tempore. The Senator yields back.

Mr. THUNE. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. FRIST. Mr. President, as a prelude, we have a number of requests and items of business to take care of. I will explain here shortly.

MOTION TO COMMIT

Mr. President, I move to commit the bill to the Judiciary Committee to report back forthwith with an amendment in the nature of a substitute.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Tennessee [Mr. FRIST] moves to commit the bill to the Committee on the Judiciary with instructions to report back forthwith the following amendment No. 3424.

Mr. FRIST. I now ask for the yeas and nays on the motion.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 3425

Mr. FRIST. I send a first-degree amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Tennessee [Mr. FRIST] proposes an amendment numbered 3425 to the instructions to the motion to commit.

The amendment is as follows:

At the end of the instructions, add the following amendment:

This section shall become effective one (1) day after the date of enactment.

Mr. FRIST. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 3426 TO AMENDMENT NO. 3425

Mr. FRIST. I send a second-degree amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Tennessee [Mr. FRIST] proposes an amendment numbered 3426 to amendment No. 3425.

Mr. FRIST. I ask unanimous consent the reading of the amendment be dispensed with.

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

The amendment is as follows:

Strike "one (1) day" and insert "two days".

CLOTURE MOTION

Mr. FRIST. I send a cloture motion to the desk on the pending motion to commit.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the pending motion to commit S. 2454, the Securing America's Borders Act.

Bill Frist, Arlen Specter, Michael B. Enzi, Lindsey Graham, Trent Lott, Chuck Hagel, John McCain, Mitch McConnell, George V. Voinovich, Mel Martinez, Lamar Alexander, Norm Coleman, Pete Domenici, Orrin Hatch, David Vitter, Johnny Isakson, Jim DeMint.

Mr. REID. Parliamentary inquiry: Does this mean there are no other amendments in order? I couldn't file another amendment now, could I?

Mr. FRIST. Mr. President, that is correct. At this moment in time, you would not. If we were allowed to go ahead on the amendments, and once we start disposing of the amendments, this is something that would be in order.

Mr. REID. I was curious why we aren't able to offer any amendments at this time, but we can talk about that tomorrow.

Mr. FRIST. Mr. President, the point is well made.

CLOTURE MOTION

I send a cloture motion to the underlying bill to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on Calendar No. 376, S. 2454, a bill to amend the Immigration and Nationality Act to provide for comprehensive reform, and for other purposes.

Bill Frist, George Allen, Mitch McConnell, Pete Domenici, R.F. Bennett, Jim Talent, Craig Thomas, Elizabeth Dole, Conrad Burns, Jim DeMint, Saxby Chambliss, Johnny Isakson, Ted Stevens, Wayne Allard, Norm Coleman, Trent Lott, John Thune.

Mr. FRIST. All right. Mr. President, what we have just done, so our colleagues will understand, is as follows: Tomorrow morning, notwithstanding the fact we have yet to vote on even the very first amendment offered, we will have a cloture vote that—

Mr. DURBIN. We have adopted three.

Mr. FRIST. I will stand corrected. No, I will not stand corrected. On the very first amendment that was offered we still have not had a vote. And, yes, there have been several other amendments that have been addressed. We will have a cloture vote, which was filed by the minority leader, on the underlying Specter substitute amendment, and that will be the first vote tomorrow morning.

I suspect that cloture vote will fail. And we have been very clear about our desire on this side to consider amendments from Senators on both sides of the aisle and our willingness for votes. We discussed that over the course of the day. It appears that this will not be likely and, therefore, we will be prevented from making any real progress on the bill.

So moments ago I offered a motion to commit, which incorporates an amendment by Senators HAGEL and MARTINEZ and others who have been working on this amendment over the course of the day. The fact that those cloture motions were filed tonight means that we would have the cloture vote on that motion on Friday. And depending on the outcome of that cloture motion, we could have a second cloture vote on the underlying bill, the so-called Frist bill, as well.

So we will have the Specter cloture vote tomorrow morning, and then one or possibly two other cloture votes on Friday morning.

Mr. REID. Will the Senator yield?

Mr. FRIST. I am happy to yield.

Mr. REID. Mr. President, through the Chair to the distinguished majority leader, I would hope, the amendment—we have a general idea what it is about—I would hope this amendment is one, as it has been related to me, that is such that it improves the underlying Specter substitute, that it deals with only the legalization process.

I would hope, after Senators and staff pursue that amendment in detail tonight, that it is something we could all support and move on to completing the bill as soon as germane amendments were offered and debated and voted upon.

It would be great if we could end this very acrimonious week on a high note. And we will not know that until we study this amendment. We are hearing of a lot of things that are in it and not in it. So time will only tell.

I would say, through the Chair to the majority leader, because we have already had phone calls in the last half hour or so from Senators—they have asked me, as the distinguished majority leader did earlier today, if I would agree to earlier cloture votes. I do not know what the pleasure is of the Senator from Tennessee, if you want to wait until Friday, or you want to try to complete this tomorrow.

Mr. FRIST. Mr. President, through the Chair—and we had discussed the possibility of that a little earlier—I think it is best for us to make that decision tomorrow, only because the Hagel-Martinez amendment is a negotiated compromise amendment that none of our colleagues have had the opportunity to really see yet.

I have had numerous phone calls over the course of tonight as well. I think it is important people have the opportunity to look at that carefully tomorrow and see how much time it takes for people to have both the opportunity to look at it themselves, as well as their staff. We ought to keep that potential on the table.

Mr. REID. So unless there is some agreement, the two cloture votes would begin occurring an hour after we come in on Friday.

Mr. FRIST. Through the Chair, that is correct.

Mr. REID. Is that right, I say to the Chair?

The PRESIDING OFFICER. The Senator is correct.

Mr. FRIST. There may be some other cloture motions to consider on Friday, which I will come to here shortly.

UNANIMOUS CONSENT REQUEST— S. 1086

Mr. FRIST. But before doing that, Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 251, S. 1086. I ask unanimous consent that the committee-reported amendment be agreed to, the bill, as amended, be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Reserving the right to object, Mr. President, Senator KENNEDY and other Senators have been told prior to this piece of legislation passing there would be a vote on hate crimes legislation that has been in this body for a long time.

I would hope—and it is my understanding the chairman of the committee had worked this out with Senator KENNEDY—we could, at an early date, I mean in a matter of hours, work this out. This sex offender registry is

an important piece of legislation. But also, as we have learned here in the Senate, people keeping their word is also important. I am confident it was some kind of a misunderstanding. I am hopeful that is the case. But until Senator KENNEDY and others and Senator SPECTER work this out, I must object.

The PRESIDING OFFICER. Objection is heard.

Mr. FRIST. Mr. President, just a moment of explanation because I think this bill is, in substance, broadly supported. I am disappointed to hear the objections tonight.

Let me comment very briefly on the bill because it is an issue that I think this body does feel strongly about and that we need to move forward on because it can make a difference. This particular bill is child predator legislation, and we all need to be working together to keep our children safe from child predators. American families, as we all know, should not have to live in fear of sexual predators lurking in neighborhoods and enticing our children.

In the last 24 hours, we have all seen—actually here in the Senate and in this town—we have learned some shocking and tragic news about the growing problem of online child pornography. The abuse of the Internet has really, unfortunately, become the gateway to more serious violent sex offenses against both children and adults.

On Tuesday night, we learned of the arrest of another online child predator and the tragic plight of a child predator victim. The predator was an official from the Department of Homeland Security who was arrested for seducing a child over the Internet. Allegedly, this individual initiated a sexually explicit online chat with a detective posing as a 14-year-old girl. He allegedly described in graphic detail the sexual acts he wanted to perform with her and offered to exchange sexually explicit photos. Fortunately, law enforcement intercepted this individual before he could victimize an innocent child.

But for too many innocent children, the child predators are not caught until it is too late. Yesterday we also heard from one of the victims: 19-year-old Justin Berry from California who courageously testified before a House Energy and Commerce Committee hearing on sexual exploitation of children over the internet. For 5 five years, Justin was the victim of an online child pornography ring. At 13, this lonely teenager innocently hooked up a web camera to his computer, hoping to meet other teenagers online. Instead, he heard only from adult child predators who struck up friendly chats and offered him compliments and gifts. One day, one predator offered to pay him \$50 to take off his shirt in front of the webcam. Eventually, these predators lured him into performing pornographic acts in front of the webcam for an audience that grew to more than 1,500 people who paid him hundreds of thousands of dollars.

These shocking stories are not isolated incidents. They are symptomatic of a larger problem.

I believe we should seize this opportunity to transform these tragedies into positive action.

The bill I called up tonight—S. 1086, the Sex Offender Registration and Notification Act—would help protect our kids against child predators. It was introduced by Senator HATCH. It has 33 bipartisan cosponsors. It was reported unanimously by the Senate Judiciary Committee. It is supported by the Fraternal Order of Police, the National Center for Missing and Exploited Children, the Boys and Girls Club of America, the Federal Law Enforcement Officers Association, and the National District Attorneys Association. And it is supported by the families of child predator victims.

Among its many provisions, the bill will create a national sex offender registry accessible on the Internet and searchable by zip code;

Require convicted sex offenders to register, including child predators who use the Internet to commit a crime against a minor;

Make failure to register a felony; Encourage information sharing among local, State and Federal law enforcement; and

Toughen criminal penalties for violent crimes against children under 12.

Here in the Senate, we need to act to address this issue. In light of the events this week, we should not delay. We should act now before another innocent child becomes a victim of a child predator.

It is an issue we do need to address, and I believe it will pass in an overwhelmingly bipartisan way. In light of the events of this week, we should not be delaying it any longer. I look forward to working with my colleagues on the other side in getting this bill passed as soon as possible.

Mr. REID. Mr. President, very briefly, if the distinguished majority leader will yield, Democrats support the concept of a national registry. It is important. But we also support the concept that people who are injured, maimed, or murdered as a result of hate crimes also deserve protection. We hope we can do all this at one time. I am hopeful and confident that can happen.

EXECUTIVE SESSION

NOMINATION OF BENJAMIN A. POWELL TO BE GENERAL COUNSEL OF THE OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE

Mr. FRIST. Mr. President, I ask unanimous consent to proceed en bloc to the following nominations on the calendar: No. 239, Benjamin Powell; No. 310, Gordon England; No. 485, Dorrance Smith; No. 252, Peter Flory. I further ask unanimous consent that the clerk report them individually at this time in order to file cloture motions.

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

The clerk will report the first nomination.

The legislative clerk read the nomination of Benjamin A. Powell, of Florida, to be General Counsel of the Office of the Director of National Intelligence.

CLOTURE MOTION

Mr. FRIST. I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the nomination of Benjamin Powell to be General Counsel of the Office of the Director of National Intelligence.

Bill Frist, Lamar Alexander, Mike Crapo, Jim Bunning, Richard Burr, Wayne Allard, Johnny Isakson, Richard Shelby, Craig Thomas, Ted Stevens, David Vitter, James Inhofe, Chuck Hagel, Norm Coleman, Mike DeWine, R.F. Bennett, John Thune.

NOMINATION OF GORDON ENGLAND TO BE DEPUTY SECRETARY OF DEFENSE

The PRESIDING OFFICER. The clerk will report the next nomination.

The legislative clerk read the nomination of Gordon England, of Texas, to be Deputy Secretary of Defense.

CLOTURE MOTION

Mr. FRIST. I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the nomination of Gordon England to be Deputy Secretary of Defense.

Bill Frist, Lamar Alexander, Mike Crapo, Jim Bunning, Richard Burr, Wayne Allard, Johnny Isakson, Richard Shelby, Larry E. Craig, Ted Stevens, James Inhofe, Chuck Hagel, Norm Coleman, Mike DeWine, R.F. Bennett, John Thune, Craig Thomas.

NOMINATION OF DORRANCE SMITH TO BE AN ASSISTANT SECRETARY OF DEFENSE

The PRESIDING OFFICER. The clerk will report the next nomination.

The legislative clerk read the nomination of Dorrance Smith, of Virginia, to be an Assistant Secretary of Defense.

CLOTURE MOTION

Mr. FRIST. I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the nomination of Dorrance Smith to be Assistant Secretary of Defense.

Bill Frist, Lamar Alexander, Mike Crapo, Jim Bunning, Richard Burr, Wayne Allard, Johnny Isakson, Richard Shelby, Craig Thomas, Ted Stevens, David Vitter, James Inhofe, Chuck Hagel, Norm Coleman, Mike DeWine, R.F. Bennett, John Thune.

NOMINATION OF PETER CYRIL WYCHE FLORY, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF DEFENSE

The PRESIDING OFFICER. The clerk will report the next nomination.

The legislative clerk read the nomination of Peter Cyril Wyche Flory, of Virginia, to be an Assistant Secretary of Defense.

CLOTURE MOTION

Mr. FRIST. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the nomination of Peter Cyril Wyche Flory to be an Assistant Secretary of Defense.

Bill Frist, Lamar Alexander, Mike Crapo, Jim Bunning, Richard Burr, Wayne Allard, Johnny Isakson, Richard Shelby, Craig Thomas, Ted Stevens, David Vitter, James Inhofe, Chuck Hagel, Norm Coleman, Mike DeWine, Robert F. Bennett, John Thune.

Mr. FRIST. Mr. President, for clarification, I just filed cloture on four defense nominations that have been pending since last year.

LEGISLATIVE SESSION

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate now return to legislative session.

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

MORNING BUSINESS

Mr. FRIST. Mr. President, I ask unanimous consent that there now be a period for morning business, with Senators permitted to speak therein for up to 10 minutes each.

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

REMEMBERING MARGO CARLISLE

Mr. COCHRAN. Mr. President, yesterday was a sad day for me because it

was the day when friends and family of Margo Carlisle, my former chief of staff, gathered to bid her farewell.

Margo worked faithfully in a number of positions of responsibility here in the Senate. She was the first female staff director of the Senate Republican Conference, under the chairmanship of former Senator Jim McClure of Idaho. She was my chief of staff from 1991 to 1997. All who worked with her here know of her respect and appreciation for the Senate, and her conscientious devotion to our great country.

She served as Assistant Secretary of Defense for Legislative Affairs from 1986 to 1989, and at that time, she was one of the highest ranking women in the Department of Defense. She received the Distinguished Public Service Medal in recognition of her outstanding performance of duty in this important office.

She also served as vice president of the Heritage Foundation, president of the Philadelphia Society, and was a member of the board of the Marine Corps University in Quantico and the Washington Home Hospice.

She is survived by her husband of 45 years, Miles; and two children, Mary "Nisi" Hamilton of Bethesda and Tristram Coffin Carlisle of Alexandria. We extend to them our sincerest condolences.

THE OIL AND GAS INDUSTRY ANTITRUST ACT OF 2006

Mr. LEAHY. Mr. President, I am proud to join with Senators SPECTER, KOHL, DEWINE and others on a new bill, the Oil and Gas Industry Antitrust Act of 2006, which includes, as its centerpiece, our NOPEC legislation, which many of us have worked together on for years.

This measure—The No Oil Producing And Exporting Cartels Act, NOPEC—would make OPEC accountable for its anticompetitive behavior and allow the Justice Department to crack down on illegal price manipulation by oil cartels. It will allow the Federal Government to take legal action against any foreign state, including members of OPEC, for price fixing and other anticompetitive activities. The tools this bill would provide to law enforcement agencies are necessary to immediately counter OPEC's anticompetitive practices, and these tools would help reduce gasoline prices now.

The Congress should pass this measure immediately instead of waiting until the price of gasoline at the pump is \$4 a gallon. OPEC has America over a barrel, and we should fight back. If OPEC were simply a foreign business engaged in this type of behavior, it would already be subject to American antitrust law. It is wrong to let OPEC producers off the hook just because their anticompetitive practices come with the seal of approval of this cartel's member nations.

It is time for the President to join the bipartisan majority in the Senate

which already said "NO" to OPEC by passing NOPEC and by sending it to the other body, where it was killed.

The Senate has already passed this bill, which would make OPEC subject to our antitrust laws. In fact, the Judiciary Committee has approved the NOPEC bill three times. Regrettably, even though President Bush promised in 2000 that he would "jawbone OPEC," the Bush administration and its friends in the House have scuttled the NOPEC bill and the direct and daily relief it would bring to millions of Americans.

In addition, this bill makes it unlawful to divert petroleum or natural gas products from their local market to a distant market with the primary intention of increasing prices or creating a shortage in a market. This solves a real problem where products are being shipped for sale in that market but are later diverted and sold for less in another market.

We have an obligation to address these and other issues caused by oil cartels and by greedy companies who have money—that they have extracted from the American people—to burn. That is why I am also pleased that the bill includes provisions to conduct several studies that address serious competition, information sharing, and other antitrust problem areas related to the oil and natural gas industries. The American people deserve answers, and this bill also provides a path to getting those answers.

Authorizing tough legal action against illegal oil price fixing, and taking that action without delay, is one thing we can do without additional obstruction or delay.

The artificial pricing scheme enforced by OPEC affects all of us, not the least of whom are hardworking Vermont farmers. The overall increase in fuel costs for an average Vermont farmer last year was 43 percent, meaning that each farmer is estimated to pay an additional \$700 in fuel surcharges in 2006 alone. Vermonters know what the terrible consequences of these high prices can be: forcing many farmers to make unfair choices between running their farms or heating their homes. No one should be forced to make these choices, certainly not our hard-working farmers.

In summary, this bill will provide law enforcement with the tools necessary to fight OPEC's anticompetitive practices immediately, and help reduce gasoline prices now. I urge my colleagues to support this bill, and to say "NO" to OPEC as we have done in the past.

NOMINATION OF MICHAEL A. CHAGARES

Mr. MENENDEZ. Mr. President, I rise in strong support of the nomination of Michael A. Chagares to be a Circuit Judge on the U.S. Court of Appeals for the Third Circuit.

It is an honor that another person from my home State of New Jersey has

been called to serve this Nation by the administration. The confirmation of a judge to a lifetime appointment is a vital responsibility given to this body by the Constitution and one that I take very seriously.

Mr. Chagares has been nominated to replace the current Secretary of Homeland Security, Michael Chertoff, on the Third Circuit. No matter one's political persuasion, we all take pride in the honor that has been bestowed on a fellow New Jerseyan.

Mr. Chagares is a New Jersey native who graduated from Gettysburg College and Seton Hall School of Law, with honors. Upon graduation, he clerked for Judge Greenberg on the Third Circuit. Over the past 15 years, Mr. Chagares has served the public with distinction in the U.S. Attorney's Office for the District of New Jersey and has also worked in private practice.

In addition, he is a popular Professor of both appellate advocacy and civil trial practice at Seton Hall. I believe this popularity is a testament to his ability to both convey the essence of the subject matter and do it in a way that excites a new generation of lawyers.

The American Bar Association has rated Mr. Chagares as "well qualified" for the position that he has been nominated. It is a view that I share as well.

I am pleased that see that people of his quality are willing to serve our Nation in the administration of justice, and join Senator LAUTENBERG in commending him to the Senate.

Mr. President, I urge my colleagues to support the nomination of Mr. Chagares to be a judge on our Nation's Third Circuit Court of Appeals.

ADDITIONAL STATEMENTS

TRIBUTE TO LEE HUMPHREY AND COREY BREWER

• Mr. ALEXANDER. Mr. President, the University of Tennessee, Belmont University, and the University of Memphis men's basketball teams all deserve congratulations for qualifying for the men's NCAA tournament this year. The Lady Vols made it to the Sweet Sixteen in women's basketball for the 25th consecutive time. None of those teams made it all the way to the championship, but two Tennesseans who play for the University of Florida did. I want to congratulate them, especially since one is from my hometown, Maryville.

Lee Humphrey was Tennessee's Class AAA Mr. Basketball when he attended Maryville High School. He is the school's all-time leader in points and steals. His dad, Tony, a middle school teacher in Maryville, had the key to the gym. And on many nights, Lee and his dad would go to the gym and while Lee took shots his dad rebounded. Apparently, the practice paid off. Dick Vitale said that Lee was the "X factor" in the Final Four. In the championship

game he scored 15 points, making 4 of 8 shots from the field. Coincidentally, the game was played in the current home stadium of Lee's boyhood idol, Peyton Manning.

Lee's teammate Corey Brewer from Portland, TN, was 1 of 24 seniors named nationwide as a 2004 McDonald's All-American player. He scored 29.4 points a game and averaged 12.8 rebounds his senior season at Portland High. He received a lot of honors that year, including being named grand marshal of Portland's Strawberry Festival. Corey has credited his success to hard work in practice and a childhood spent playing sports with his older brother Jason and Jason's friends. He is a role model who returns to Portland and talks to elementary school kids, urging them to study and warning about the dangers of drugs. He follows the lessons he learned from his mother, Glenda, a teacher.

Recruited for his tenacious defense as well as his scoring ability, Corey has been a big game player for the University of Florida all year. In the championship game, he scored 11 points and grabbed 7 rebounds to go along with 4 assists and 3 steals.

Mr. President, we Tennesseans are proud of our State's basketball teams. We want them to win. But we are also proud of our young scholar-athletes who play for other teams. They are Tennesseans, too, and we want them to know we are proud of their accomplishments. •

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE

At 5:06 p.m., a message from the House of Representatives, delivered by Mr. Croatt, one of its reading clerks, announced that the House has passed the following joint resolutions, in which it requests the concurrence of the Senate:

H.J. Res. 81. Joint resolution providing for the appointment of Phillip Frost as a citizen regent of the Board of Regents of the Smithsonian Institution.

H.J. Res. 82. Joint resolution providing for the reappointment of Alan G. Spoon as a citizen regent of the Board of Regents of the Smithsonian Institution.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 355. Concurrent resolution recognizing the benefits and importance of

school-based music education, and for other purposes.

MEASURES REFERRED

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 355. Concurrent resolution recognizing the benefits and importance of school-based music education, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC-6264. A communication from the Chairman, Office of General Counsel, Federal Election Commission, transmitting, pursuant to law, the report of a rule entitled "Internet Communications" ((11 CFR Parts 100, 110, and 114)(Notice 2006-8)) received on April 4, 2006; to the Committee on Rules and Administration.

EC-6265. A communication from the Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Announcement and Report Concerning Advance Pricing Agreements" (Announcement 2006-22) received on April 4, 2006; to the Committee on Finance.

EC-6266. A communication from the Assistant Attorney General, Civil Rights Division, Department of Justice, transmitting, a report of the Department's activities during Calendar Year 2005 pursuant to the Equal Credit Opportunity Act; to the Committee on the Judiciary.

EC-6267. A communication from the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, Department of Justice, transmitting, pursuant to law, the report of a rule entitled "Schedules of Controlled Substances: Exempt Anabolic Steroid Products" (RIN1117-AA98) received on April 4, 2006; to the Committee on the Judiciary.

EC-6268. A communication from the Director, Office of Management Programs, Civil Division, Department of Justice, transmitting, pursuant to law, the report of a rule entitled "Minimum Qualifications for Annuity Brokers in Connection With Structured Settlements Entered Into by the United States" (RIN1105-AA82) received on April 4, 2006; to the Committee on the Judiciary.

EC-6269. A communication from the Administrator, Environmental Protection Agency, transmitting, pursuant to law, the Fiscal Year 2004 Superfund Five-Year Review Report to Congress; to the Committee on Environment and Public Works.

EC-6270. A communication from the Acting Director, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, a report that funding for the State of Oklahoma as a result of the emergency conditions resulting from the influx of evacuees from areas struck by Hurricane Katrina beginning on August 29, 2005, and continuing, has exceeded \$5,000,000; to the Committee on Banking, Housing, and Urban Affairs.

EC-6271. A communication from the Secretary of the Treasury, transmitting, pursuant to law, a report entitled "Audit of the Exchange Stabilization Fund's Fiscal Years 2005 and 2004 Financial Statements; to the Committee on Banking, Housing, and Urban Affairs.

EC-6272. A communication from the Executive Director, Pension Benefit Guaranty Corporation, transmitting, pursuant to law, a report relative to the amount of acquisitions made by the agency from entities that manufacture the articles, materials, or supplies outside of the United States for fiscal year 2004; to the Committee on Health, Education, Labor, and Pensions.

EC-6273. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the Department's Annual Surplus Property Report for Fiscal Year 2005; to the Committee on Health, Education, Labor, and Pensions.

EC-6274. A communication from the Administrator, General Service Administration, transmitting, a report relative to prospectuses that support the Administration's Fiscal Year 2007 Leasing Program; to the Committee on Homeland Security and Governmental Affairs.

EC-6275. A communication from the Deputy Director of Communications and Legislative Affairs, Equal Employment Opportunity Commission, transmitting, pursuant to law, the Commission's Annual Sunshine Act Report for 2005; to the Committee on Homeland Security and Governmental Affairs.

EC-6276. A communication from the Chief Executive Officer, NeighborWorks America, transmitting, pursuant to law, the Agency's Fiscal Year 2005 Annual Program Performance Report; to the Committee on Homeland Security and Governmental Affairs.

EC-6277. A communication from the Secretary of Energy, transmitting, a report of proposed legislation to extend for two years, until September 30, 2008, the Department of Energy's excepted service authority, which expires on September 30, 2006; to the Committee on Energy and Natural Resources.

EC-6278. A communication from the Secretary of Energy, transmitting, a report of proposed legislation to extend for two years the National Nuclear Security Administration's Facilities and Infrastructure Recapitalization Program; to the Committee on Energy and Natural Resources.

EC-6279. A communication from the Secretary of Energy, transmitting, a report of proposed legislation to increase the minor construction threshold for certain Department of Energy construction projects from \$5,000,000 to \$10,000,000; to the Committee on Energy and Natural Resources.

EC-6280. A communication from the Acting Assistant Secretary, Land and Minerals Management, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Oil and Gas Lease Acreage Limitation Exemptions and Reinstatement of Oil and Gas Leases" (RIN1004-AD83) received on April 4, 2006; to the Committee on Energy and Natural Resources.

EC-6281. A communication from the Assistant Secretary of the Army (Acquisition, Logistics and Technology), transmitting, pursuant to law, a report entitled "Annual Status Report on the Disposal of Chemical Weapons and Materiel for Fiscal Year 2005"; to the Committee on Armed Services.

EC-6282. A communication from the Director, Administration and Management, Office of the Secretary of Defense, transmitting, pursuant to law, a report relative to the total cost for the planning, design, construction and installation of equipment for the renovation of Wedges 2 through 5 of the Pentagon; to the Committee on Armed Services.

EC-6283. A communication from the Acting General Counsel, Office of General Counsel, Department of Defense, transmitting, a report of legislative proposals as part of the National Defense Authorization Bill for Fiscal Year 2007; to the Committee on Armed Services.

EC-6284. A communication from the Acting General Counsel, Office of General Counsel, Department of Defense, transmitting, the report of a proposed National Defense Bill for Fiscal Year 2007; to the Committee on Armed Services.

EC-6285. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Pyraclostrobin; Pesticide Tolerances" (FRL No. 7772-8) received on April 4, 2006; to the Committee on Agriculture, Nutrition, and Forestry.

EC-6286. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Novaluron; Pesticide Tolerance" (FRL No. 7756-8) received on April 4, 2006; to the Committee on Agriculture, Nutrition, and Forestry.

EC-6287. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Emamectin; Pesticide Tolerance" (FRL No. 7765-4) received on April 4, 2006; to the Committee on Agriculture, Nutrition, and Forestry.

EC-6288. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "FD&C Blue No. 1 PEG Derivatives; Exemptions from the Requirement of a Tolerance" (FRL No. 7765-1) received on April 4, 2006; to the Committee on Agriculture, Nutrition, and Forestry.

EC-6289. A communication from the Executive Secretary and Chief of Staff, U.S. Agency for International Development, transmitting, pursuant to law, the report of a nomination for the position of Administrator, received on April 4, 2006; to the Committee on Foreign Relations.

EC-6290. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, a report relative to the criteria the Department of State is using to determine appropriate adjustments in post differentials and danger pay allowances; to the Committee on Foreign Relations.

EC-6291. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, the Department's Competitive Sourcing Activities Report for Fiscal Year 2005; to the Committee on Foreign Relations.

EC-6292. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, the quarterly report of obligations and outlays of fiscal years 2004 and 2005 funds under the President's Emergency Plan for AIDS Relief through September 30, 2005; to the Committee on Foreign Relations.

EC-6293. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed manufacturing license agreement involving the manufacture of significant military equipment and the export of defense articles or defense services sold commercially under a contract in the amount of \$50,000,000 or more to Russia; to the Committee on Foreign Relations.

EC-6294. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed retransfer of defense articles or

defense services involving major defense equipment in the amount of \$14,000,000 or more (TOW missiles to Egypt from the Royal Netherlands Army); to the Committee on Foreign Relations.

EC-6295. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, reports prepared by the Department of State and the National Security Council on progress toward a negotiated solution of the Cyprus question covering the periods December 1, 2005 through January 31, 2006; to the Committee on Foreign Relations.

EC-6296. A communication from the Secretary of Transportation, transmitting, pursuant to law, the Twenty-First Annual Report of Accomplishments under the Airport Improvement Program for Fiscal Year 2004; to the Committee on Commerce, Science, and Transportation.

EC-6297. A communication from the Acting Chairman, National Transportation Safety Board, transmitting, the report of proposed legislation entitled "National Transportation Safety Board Amendments Act of 2006" received on April 4, 2006; to the Committee on Commerce, Science, and Transportation.

EC-6298. A communication from the Vice President, Government Affairs, National Railroad Passenger Corporation, Amtrak, transmitting, pursuant to law, Amtrak's Grant and Legislative Request for Fiscal Year 2007; to the Committee on Commerce, Science, and Transportation.

EC-6299. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Catcher Vessels Using Trawl Gear in the Bering Sea and Aleutian Islands Management Area" (I.D. No. 030706A) received on April 4, 2006; to the Committee on Commerce, Science, and Transportation.

EC-6300. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Vessels Catching Pacific Cod for Processing by the Offshore Component in the Western Regulatory Area of the Gulf of Alaska" (I.D. No. 030106A) received on April 4, 2006; to the Committee on Commerce, Science, and Transportation.

EC-6301. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Exclusive Economic Zone Off Alaska; Reallocation of Pollock from the Aleutian Islands Subarea to the Bering Sea Subarea" (I.D. No. 030306A) received on April 4, 2006; to the Committee on Commerce, Science, and Transportation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. COCHRAN, from the Committee on Appropriations, with an amendment in the nature of a substitute:

H.R. 4939. A bill making emergency supplemental appropriations for the fiscal year ending September 30, 2006, and for other purposes (Rept. No. 109-230).

INTRODUCTION OF BILLS AND
JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. MENENDEZ:

S. 2508. A bill to authorize grants to carry out projects to provide education on preventing teen pregnancies, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

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

S. 2509. A bill to authorize the issuance of charters and licenses for carrying on the sale, solicitation, negotiation, and underwriting of insurance or any other insurance operations, to provide a comprehensive system for the regulation and supervision of National Insurers and National Agencies, to provide for policyholder protections in the event of an insolvency or impairment of a National Insurer, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. DURBIN (for himself, Mrs. LINCOLN, Mr. REID, Mr. BAUCUS, Mr. KENNEDY, Mr. KERRY, Mr. BINGAMAN, Mr. CARPER, Mr. DAYTON, Mr. HARKIN, Mr. KOHL, Mr. NELSON of Florida, Ms. CANTWELL, Mrs. CLINTON, Mr. DODD, Mr. LEAHY, Ms. MIKULSKI, Mr. PRYOR, Mr. LIEBERMAN, Mr. LAUTENBERG, Mr. JOHNSON, Mr. MENENDEZ, Mr. ROCKEFELLER, and Mrs. BOXER):

S. 2510. A bill to establish a national health program administered by the Office of Personnel Management to offer health benefits plans to individuals who are not Federal employees, and for other purposes; to the Committee on Finance.

By Mr. MCCAIN:

S. 2511. A bill to amend the Federal Election Campaign Act of 1971 to clarify when organizations described in section 527 of the Internal Revenue Code of 1986 must register as political committees, and for other purposes; to the Committee on Rules and Administration.

By Mr. DEMINT:

S. 2512. A bill to empower States with authority for most taxing and spending for highway programs and mass transit programs, and for other purposes; to the Committee on Finance.

By Mr. TALENT:

S. 2513. A bill to suspend temporarily the duty on Spiroxamine; to the Committee on Finance.

By Mr. TALENT:

S. 2514. A bill to reduce temporarily the duty on Bronate Advanced; to the Committee on Finance.

By Mr. TALENT:

S. 2515. A bill to suspend temporarily the duty on Cyclanilide technical; to the Committee on Finance.

By Mr. TALENT:

S. 2516. A bill to suspend temporarily the duty on Beta-cyfluthrin; to the Committee on Finance.

By Mr. TALENT:

S. 2517. A bill to suspend temporarily the duty on 4-Chlorobenzaldehyde; to the Committee on Finance.

By Mr. TALENT:

S. 2518. A bill to modify the article description relating to 2-Chlorobenzyl chloride, and for other purposes; to the Committee on Finance.

By Mr. TALENT:

S. 2519. A bill to suspend temporarily the duty on Spiromesifen; to the Committee on Finance.

By Mr. TALENT:

S. 2520. A bill to suspend temporarily the duty on Thiocloprid; to the Committee on Finance.

By Mr. TALENT:

S. 2521. A bill to suspend temporarily the duty on Pyrimethanil; to the Committee on Finance.

By Mr. TALENT:

S. 2522. A bill to extend the temporary suspension of duty with respect to Iprodione, and for other purposes; to the Committee on Finance.

By Mr. TALENT:

S. 2523. A bill to reduce temporarily the duty on Trifloxystrobin; to the Committee on Finance.

By Mr. TALENT:

S. 2524. A bill to suspend temporarily the duty on NAHP; to the Committee on Finance.

By Mr. TALENT:

S. 2525. A bill to suspend temporarily the duty on Foramsulfuron; to the Committee on Finance.

By Mr. TALENT:

S. 2526. A bill to extend the temporary suspension of duty with respect to Ethoprop; to the Committee on Finance.

By Mr. TALENT:

S. 2527. A bill to suspend temporarily the duty on Fenamidone; to the Committee on Finance.

By Mr. TALENT:

S. 2528. A bill to suspend temporarily the duty on Alkylketone; to the Committee on Finance.

By Mr. TALENT:

S. 2529. A bill to suspend temporarily the duty on Oxadiazon; to the Committee on Finance.

By Mr. TALENT:

S. 2530. A bill to suspend temporarily the duty on 4-Methyl-5-n-propoxy-2,4-dihydro-1,2,4-triazol-3-one; to the Committee on Finance.

By Mr. TALENT:

S. 2531. A bill to extend the temporary suspension of duty with respect to Fosetyl-Al; to the Committee on Finance.

By Mr. TALENT:

S. 2532. A bill to reduce temporarily the duty on Cyclopropane-1,1-dicarboxylic acid, dimethyl ester; to the Committee on Finance.

By Mr. TALENT:

S. 2533. A bill to suspend temporarily the duty on Phosphorus Thiochloride; to the Committee on Finance.

By Mr. TALENT:

S. 2534. A bill to suspend temporarily the duty on 2,4-Dichloroaniline; to the Committee on Finance.

By Mr. TALENT:

S. 2535. A bill to suspend temporarily the duty on Mixtures of (+)-(cis and trans)-1-[[2-(2,4-Dichlorophenyl)-4-propyl-1,3-dioxolan-2-yl]-methyl]-1H-1,2,4-triazole; to the Committee on Finance.

By Mr. TALENT:

S. 2536. A bill to suspend temporarily the duty on 2-Acetylbutyrolactone; to the Committee on Finance.

By Mr. TALENT:

S. 2537. A bill to suspend temporarily the duty on Cyfluthrin (Baythroid); to the Committee on Finance.

By Mr. TALENT:

S. 2538. A bill to suspend temporarily the duty on Bromoxynil Octanoate Tech; to the Committee on Finance.

By Mr. TALENT:

S. 2539. A bill to suspend temporarily the duty on Bromoxynil Meo; to the Committee on Finance.

By Mr. TALENT:

S. 2540. A bill to suspend temporarily the duty on Deltamethrin; to the Committee on Finance.

By Mr. TALENT:

S. 2541. A bill to suspend temporarily the duty on Quinoline, 6 ethoxy 1,2 dihydro 2,2,4 trimethyl; to the Committee on Finance.

By Mr. TALENT:

S. 2542. A bill to suspend temporarily the duty on trichlorobenzene; to the Committee on Finance.

By Mr. TALENT:

S. 2543. A bill to suspend temporarily the duty on 1,3-Dibromo-5-dimethyl-hydantoin; to the Committee on Finance.

By Mr. TALENT:

S. 2544. A bill to suspend temporarily the duty on MCPA; to the Committee on Finance.

By Mr. DEWINE (for himself, Mr. LEVIN, Ms. STABENOW, Mr. VOINOVICH, Mrs. CLINTON, and Mr. SCHUMER):

S. 2545. A bill to establish a collaborative program to protect the Great Lakes, and for other purposes; to the Committee on Environment and Public Works.

By Mr. TALENT:

S. 2546. A bill to extend the temporary suspension of duty with respect to Flufenacet (FOE hydroxy); to the Committee on Finance.

By Mr. ALLARD:

S. 2547. A bill to authorize a major medical facility project for the Department of Veterans Affairs at Denver, Colorado; to the Committee on Veterans' Affairs.

By Mr. STEVENS (for himself and Mr. LAUTENBERG):

S. 2548. A bill to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to ensure that State and local emergency preparedness operational plans address the needs of individuals with household pets and service animals following a major disaster or emergency; to the Committee on Homeland Security and Governmental Affairs.

By Mr. DEMINT:

S. 2549. A bill to amend the Internal Revenue Code of 1986 to expand the use of health savings accounts for the payment of health insurance premiums for high deductible health plans purchased in the individual market; to the Committee on Finance.

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

S. 2550. A bill to provide for direct access to electronic tax return filing, and for other purposes; to the Committee on Finance.

By Mr. MENENDEZ (for himself and Mr. LAUTENBERG):

S. 2551. A bill to provide for prompt payment and interest on late payments of health care claims; to the Committee on Health, Education, Labor, and Pensions.

By Mr. MCCAIN (for himself, Mr. DORGAN, and Ms. CANTWELL):

S. 2552. A bill to amend the Omnibus Control and Safe Streets Act of 1968 to clarify that Indian tribes are eligible to receive grants for confronting the use of methamphetamine, and for other purposes; to the Committee on the Judiciary.

By Mr. KERRY (for himself, Mr. KENNEDY, Mr. LEAHY, and Mr. FEINGOLD):

S. 2553. A bill to require employees at a call center who either initiate or receive telephone calls to disclose the physical location of such employees, and for other purposes; to the Committee on Commerce, Science, and Transportation.

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

S. 2554. A bill to amend the Internal Revenue Code of 1986 to expand the permissible use of health savings accounts to include premiums for non-group high deductible health plan coverage; to the Committee on Finance.

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

S. 2555. A bill to designate the facility of the United States Postal Service located at 2633 11th Street in Rock Island, Illinois, as the "Lane Evans Post Office Building"; to the Committee on Homeland Security and Governmental Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. ALLARD:

S. Res. 424. A resolution congratulating and commending the members of the United States Olympic and Paralympic Teams, and the United States Olympic Committee, for their success and inspired leadership; to the Committee on Commerce, Science, and Transportation.

By Ms. MIKULSKI (for herself and Mr. SARBANES):

S. Res. 425. A resolution to commend the University of Maryland women's basketball team for winning the 2006 National Collegiate Athletic Association Division I National Basketball Championship; considered and agreed to.

By Mr. SPECTER (for himself and Mr. FEINGOLD):

S. Res. 426. A resolution supporting the goals and ideals of National Campus Safety Awareness Month; to the Committee on the Judiciary.

By Mr. INHOFE (for himself, Mr. WARNER, Mr. BOND, Mr. VOINOVICH, Mr. CHAFEE, Ms. MURKOWSKI, Mr. VITTER, Mr. THUNE, Mr. DEMINT, Mr. ISAKSON, Mr. JEFFORDS, Mr. BAUCUS, Mr. LIEBERMAN, Mrs. BOXER, Mr. CARPER, Mrs. CLINTON, Mr. LAUTENBERG, Mr. OBAMA, and Mr. REID):

S. Res. 427. A resolution commemorating the 50th Anniversary of the Interstate System; considered and agreed to.

By Mr. FEINGOLD (for himself and Mr. KOHL):

S. Res. 428. A resolution congratulating the University of Wisconsin men's cross country team for winning the 2005 National Collegiate Athletic Association Division I Cross Country Championship; considered and agreed to.

By Mr. FEINGOLD (for himself and Mr. KOHL):

S. Res. 429. A resolution congratulating the University of Wisconsin women's hockey team for winning the 2006 National Collegiate Athletic Association Division I Hockey Championship; considered and agreed to.

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

S. Res. 430. A resolution commending the University of Florida men's basketball team for winning the 2006 National Collegiate Athletic Association Division I Basketball Championship; considered and agreed to.

By Mrs. FEINSTEIN (for herself, Mr. CHAFEE, Mrs. CLINTON, Mr. CRAPO, Mr. BIDEN, Mr. BYRD, Mr. FEINGOLD, Mr. REED, Ms. CANTWELL, Mr. LEVIN, Mr. LIEBERMAN, Mr. DODD, and Ms. SNOWE):

S. Res. 431. A resolution designating May 11, 2006, as "Endangered Species Day", and encouraging the people of the United States to become educated about, and aware of, threats to species, success stories in species recovery, and the opportunity to promote species conservation worldwide; considered and agreed to.

By Mr. FRIST:

S. Res. 432. A resolution to authorize testimony of a Member of the Senate in *E.M. Gunderson v. Neil G. Galatz*; considered and agreed to.

By Mr. DURBIN (for himself, Mr. ENSIGN, and Mr. LAUTENBERG):

S. Res. 433. A resolution honoring The American Society for the Prevention of Cruelty to Animals for the 140 years of service that it has provided to the citizens of the United States and their animals; considered and agreed to.

By Mr. LAUTENBERG (for himself, Mrs. CLINTON, Mr. BINGAMAN, Mr. KERRY, Mr. KENNEDY, Mr. JOHNSON, Mrs. BOXER, Mr. MENENDEZ, Ms. LANDBRIEU, and Mrs. FEINSTEIN):

S. Con. Res. 86. A concurrent resolution directing the Architect of the Capitol to establish a temporary exhibit in the rotunda of the Capitol to honor the memory of the members of the United States Armed Forces who have lost their lives in Operation Iraqi Freedom and Operation Enduring Freedom; to the Committee on Rules and Administration.

By Mr. BIDEN (for himself and Mr. SMITH):

S. Con. Res. 87. A concurrent resolution expressing the sense of Congress that United States intellectual property rights must be protected globally; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

S. 440

At the request of Mr. BUNNING, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 440, a bill to amend title XIX of the Social Security Act to include podiatrists as physicians for purposes of covering physicians services under the medicaid program.

S. 633

At the request of Mr. JOHNSON, the names of the Senator from Maryland (Ms. MIKULSKI) and the Senator from North Dakota (Mr. DORGAN) were added as cosponsors of S. 633, a bill to require the Secretary of the Treasury to mint coins in commemoration of veterans who became disabled for life while serving in the Armed Forces of the United States.

S. 663

At the request of Mr. BINGAMAN, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 663, a bill to amend the Internal Revenue Code of 1986 to allow self-employed individuals to deduct health insurance costs in computing self-employment taxes.

S. 841

At the request of Mrs. CLINTON, the name of the Senator from Rhode Island (Mr. REED) was added as a cosponsor of S. 841, a bill to amend the Fair Labor Standards Act of 1938 to provide more effective remedies to victims of discrimination in the payment of wages on the basis of sex, and for other purposes.

S. 886

At the request of Mr. MCCAIN, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 886, a bill to eliminate the annual operating deficit and maintenance backlog in the national parks, and for other purposes.

S. 1370

At the request of Mr. DORGAN, the name of the Senator from Delaware

(Mr. CARPER) was added as a cosponsor of S. 1370, a bill to provide for the protection of the flag of the United States, and for other purposes.

S. 1691

At the request of Mr. CRAIG, the name of the Senator from Nevada (Mr. ENSIGN) was added as a cosponsor of S. 1691, a bill to amend selected statutes to clarify existing Federal law as to the treatment of students privately educated at home under State law.

S. 1912

At the request of Mr. LIEBERMAN, the name of the Senator from Kansas (Mr. BROWNBACK) was added as a cosponsor of S. 1912, a bill to establish a global network for avian influenza surveillance among wild birds nationally and internationally to combat the growing threat of bird flu, and for other purposes.

S. 1934

At the request of Mr. SPECTER, the name of the Senator from New Jersey (Mr. MENENDEZ) was added as a cosponsor of S. 1934, a bill to reauthorize the grant program of the Department of Justice for reentry of offenders into the community, to establish a task force on Federal programs and activities relating to the reentry of offenders into the community, and for other purposes.

S. 1948

At the request of Mrs. CLINTON, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 1948, a bill to direct the Secretary of Transportation to issue regulations to reduce the incidence of child injury and death occurring inside or outside of passenger motor vehicles, and for other purposes.

S. 1955

At the request of Mr. ENZI, the name of the Senator from Idaho (Mr. CRAIG) was added as a cosponsor of S. 1955, a bill to amend title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce costs through the creation of small business health plans and through modernization of the health insurance marketplace.

S. 2140

At the request of Mr. HATCH, the name of the Senator from Oklahoma (Mr. COBURN) was added as a cosponsor of S. 2140, a bill to enhance protection of children from sexual exploitation by strengthening section 2257 of title 18, United States Code, requiring producers of sexually explicit material to keep and permit inspection of records regarding the age of performers, and for other purposes.

S. 2185

At the request of Mr. HAGEL, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 2185, a bill to amend part B of the Individuals with Disabilities Education Act to provide full Federal funding of such part.

S. 2200

At the request of Mr. FRIST, his name was added as a cosponsor of S. 2200, a bill to establish a United States-Poland parliamentary youth exchange program, and for other purposes.

S. 2250

At the request of Mr. GRASSLEY, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 2250, a bill to award a congressional gold medal to Dr. Norman E. Borlaug.

S. 2322

At the request of Mr. THUNE, his name was added as a cosponsor of S. 2322, a bill to amend the Public Health Service Act to make the provision of technical services for medical imaging examinations and radiation therapy treatments safer, more accurate, and less costly.

S. 2361

At the request of Mr. DORGAN, the names of the Senator from North Dakota (Mr. CONRAD) and the Senator from Indiana (Mr. BAYH) were added as cosponsors of S. 2361, a bill to improve Federal contracting and procurement by eliminating fraud and abuse and improving competition in contracting and procurement and by enhancing administration of Federal contracting personnel, and for other purposes.

S. 2370

At the request of Mr. MCCONNELL, the names of the Senator from North Dakota (Mr. CONRAD), the Senator from Utah (Mr. HATCH) and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of S. 2370, a bill to promote the development of democratic institutions in areas under the administrative control of the Palestinian Authority, and for other purposes.

S. 2467

At the request of Mr. GRASSLEY, the name of the Senator from Mississippi (Mr. LOTT) was added as a cosponsor of S. 2467, a bill to enhance and improve the trade relations of the United States by strengthening United States trade enforcement efforts and encouraging United States trading partners to adhere to the rules and norms of international trade, and for other purposes.

S. 2493

At the request of Mr. LAUTENBERG, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 2493, a bill to provide for disclosure of fire safety standards and measures with respect to campus buildings, and for other purposes.

S. CON. RES. 71

At the request of Mr. AKAKA, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. Con. Res. 71, a concurrent resolution expressing the sense of Congress that States should require candidates for driver's licenses to demonstrate an ability to exercise greatly increased caution when driving in the proximity of a potentially visually impaired individual.

S. CON. RES. 84

At the request of Mr. KYL, the name of the Senator from Oklahoma (Mr.

COBURN) was added as a cosponsor of S. Con. Res. 84, a concurrent resolution expressing the sense of Congress regarding a free trade agreement between the United States and Taiwan.

S. RES. 313

At the request of Ms. CANTWELL, the names of the Senator from Nebraska (Mr. NELSON), the Senator from New Mexico (Mr. BINGAMAN) and the Senator from New York (Mr. SCHUMER) were added as cosponsors of S. Res. 313, a resolution expressing the sense of the Senate that a National Methamphetamine Prevention Week should be established to increase awareness of methamphetamine and to educate the public on ways to help prevent the use of that damaging narcotic.

AMENDMENT NO. 3214

At the request of Mr. FRIST, his name was added as a cosponsor of amendment No. 3214 proposed to S. 2454, a bill to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes.

AMENDMENT NO. 3225

At the request of Ms. LANDRIEU, the names of the Senator from Georgia (Mr. CHAMBLISS) and the Senator from South Dakota (Mr. JOHNSON) were added as cosponsors of amendment No. 3225 intended to be proposed to S. 2454, a bill to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes.

AMENDMENT NO. 3232

At the request of Mr. CHAMBLISS, the name of the Senator from Kansas (Mr. BROWNBACK) was added as a cosponsor of amendment No. 3232 intended to be proposed to S. 2454, a bill to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MENENDEZ:

S. 2508. A bill to authorize grants to carry out projects to provide education on preventing teen pregnancies, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. MENENDEZ. Mr. President, as we approach May, the National Month to Prevent Teen Pregnancy, I rise to introduce the Teen Pregnancy Prevention, Responsibility and Opportunity Act. This legislation will establish a comprehensive program for reducing adolescent pregnancy through education and information programs, as well as positive activities and role models both in and out of school.

As parents, there is nothing more important than protecting our children and giving them a future filled with hope and opportunity. As leaders, we also have a responsibility to our young people—to provide resources for communities, parents, and children to help them achieve those goals. There are many ways we can provide parents

with the tools they need to help kids make responsible decisions and avoid destructive behavior such as drug and alcohol abuse or sexual activity which can lead to unintended pregnancies.

The U.S. continues to have the highest teen pregnancy rate and teen birth rate in the Western industrialized world. In a fiscal context, it costs the U.S. at least \$7 billion annually, and in a human context, this impacts one third of all teenage girls. It is time to do something about it.

While we have done a good job of progressively decreasing teen pregnancy, we can do much better.

With the sons of teen mothers more likely to end up in prison, and the daughters of teen mothers more likely to end up teen mothers themselves, we must act now to break this problematic cycle.

Our schools, community and faith-based organizations need access to funds to teach age-appropriate, factually and medically accurate, and scientifically-based family life education.

We need programs that encourage teens to delay sexual activity.

We need to provide services and interventions for sexually active teens.

We need to educate both young men and women about the responsibilities and pressures that come along with parenting.

We need to help parents communicate with teens about sexuality.

We need to teach young people responsible decision making.

And, we need to fund after school programs that will enrich their education, replace destructive behavior time with constructive activities, and offer character and counseling services.

We know that after-school programs reduce risky adolescent behavior by involving teens in positive activities that also provide positive life skills. Teenage girls who play sports, for instance, are more likely to wait to become sexually active, and to have fewer partners. They are consequently less likely to become pregnant.

Let us join together to recommit ourselves to continuing to decrease the incidence of teen pregnancy, and recommit ourselves to offering family life education and positive after school programs that will foster responsible young adults.

The time is now to invest in our teens. As all parents know, we place overwhelming pressure on ourselves to make sure we raise our children well. Decisions we make—and they make—will affect them for the rest of their lives. We cannot afford to let the doors close on them. Instead we must continue to open the door of opportunity. I urge my colleagues to join me in supporting this important legislation.

I ask unanimous consent that the text of the bill be printed in the RECORD, as follows:

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

S. 2508

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 “Teen Pregnancy Prevention, Responsibility, and Opportunity Act of 2006”.

SEC. 2. FINDINGS.

Congress finds as follows:

(1) The United States has the highest teen-pregnancy rate and teen birth rate in the western industrialized world, costing the United States not less than \$7,000,000,000 annually.

(2) About 1 out of 3 of all young women in the United States becomes pregnant before she reaches the age of 20.

(3) Teen pregnancy has serious consequences for young women, their children, and communities as a whole. Too-early childbearing increases the likelihood that a young woman will drop out of high school and that she and her child will live in poverty.

(4) Statistically, the sons of teen mothers are more likely to end up in prison. The daughters of teen mothers are more likely to end up teen mothers too.

(5) Teens that grow up in disadvantaged economic, social, and familial circumstances are more likely to engage in risky behavior and have a child during adolescence.

(6) Teens with strong emotional attachments to their parents are more likely to become sexually active at a later age. 7 out of 10 teens say that they are prepared to listen to things parents thought they were not ready to hear.

(7) 78 percent of white and 70 percent of African American teenagers report that lack of communication between a teenage girl and her parents is frequently a reason a teenage girl has a baby.

(8) One study found that the likelihood of teens having sex for the first time increased with the number of unsupervised hours teens have during a week.

(9) After-school programs reduce teen risky behavior by involving teens in activities that provide alternatives to sex. Teenage girls who play sports, for instance, are more likely to delay sex and have fewer partners and less likely to become pregnant.

(10) After-school programs help prevent teen pregnancy by advancing good decision-making skills and providing teens health education and positive role models in a supervised setting.

(11) 8 in 10 girls and 6 in 10 boys report that they wish they had waited until they were older to have sex.

SEC. 3. EDUCATION PROGRAM FOR PREVENTING TEEN PREGNANCIES.

(a) **IN GENERAL.**—The Secretary of Health and Human Services (referred to in this Act as the “Secretary”) may make grants to local educational agencies, State and local public health agencies, and nonprofit private entities for the purpose of carrying out projects to provide education on preventing teen pregnancies.

(b) **PREFERENCE IN MAKING GRANTS.**—In making grants under subsection (a), the Secretary shall give preference to applicants that will carry out the projects under such subsection in communities for which the rate of teen pregnancy is significantly above the average rate [in the United States?] of such pregnancies.

(c) **CERTAIN REQUIREMENTS.**—A grant may be made under subsection (a) only if the applicant for the grant meets the following conditions with respect to the project involved:

(1) The applicant agrees that information provided by the project on pregnancy preven-

tion will be age-appropriate, factually and medically accurate and complete, and scientifically-based.

(2) The applicant agrees that the project will give priority to preventing teen pregnancies by—

(A) encouraging teens to delay sexual activity;

(B) providing educational services and interventions for sexually active teens or teens at risk of becoming sexually active;

(C) educating both young men and women about the responsibilities and pressures that come along with parenting;

(D) helping parents communicate with teens about sexuality; or

(E) teaching young people responsible decision-making.

(d) **MATCHING FUNDS.**—

(1) **IN GENERAL.**—With respect to the costs of the project to be carried out under subsection (a) by an applicant, a grant may be made under such subsection only if the applicant agrees to make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount that is not less than 25 percent of such costs (\$1 for each \$3 of Federal funds provided in the grant).

(2) **DETERMINATION OF AMOUNT CONTRIBUTED.**—Non-Federal contributions required in paragraph (1) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

(e) **MAINTENANCE OF EFFORT.**—With respect to the activities for which a grant under subsection (a) is authorized to be expended, such a grant may be made for a fiscal year only if the applicant involved agrees to maintain expenditures of non-Federal amounts for such activities at a level that is not less than the level of such expenditures maintained by the applicant for the fiscal year preceding the first fiscal year for which the applicant receives such a grant.

(f) **EVALUATION OF PROJECTS.**—The Secretary shall establish criteria for the evaluation of projects under subsection (a). A grant may be made under such subsection only if the applicant involved—

(1) agrees to conduct evaluations of the project in accordance with such criteria;

(2) agrees to submit to the Secretary such reports describing the results of the evaluations as the Secretary determines to be appropriate; and

(3) submits to the Secretary, in the application under subsection (g), a plan for conducting the evaluations.

(g) **APPLICATION FOR GRANT.**—A grant may be made under subsection (a) only if an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information, including the agreements under subsections (c) through (f) and the plan under subsection (f)(3), as the Secretary determines to be necessary to carry out this section.

(h) **REPORT TO CONGRESS.**—Not later than October 1, 2011, the Secretary shall submit to Congress a report describing the extent to which projects under subsection (a) have been successful in reducing the rate of teen pregnancies in the communities in which the projects have been carried out.

(i) **DEFINITIONS.**—In this section:

(1) **AGE-APPROPRIATE.**—The term “age-appropriate”, with respect to information on pregnancy prevention, means topics, messages, and teaching methods suitable to particular ages or age groups of children and adolescents, based on developing cognitive,

emotional, and behavioral capacity typical for the age or age group.

(2) **FACTUALLY AND MEDICALLY ACCURATE AND COMPLETE.**—The term “factually and medically accurate and complete” means verified or supported by the weight of research conducted in compliance with accepted scientific methods and—

(A) published in peer-reviewed journals, where applicable; or

(B) comprising information that leading professional organizations and agencies with relevant expertise in the field recognize as accurate, objective, and complete.

(3) **LOCAL EDUCATIONAL AGENCY.**—The term “local educational agency” has the meaning given such term in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(j) **AUTHORIZATION OF APPROPRIATIONS.**—For the purpose of carrying out this section, there is authorized to be appropriated \$20,000,000 for each of the fiscal years [2007 through 2011].

SEC. 4. REAUTHORIZATION OF CERTAIN AFTER-SCHOOL PROGRAMS.

(a) **21ST CENTURY COMMUNITY LEARNING CENTERS.**—Section 4206 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7176) is amended—

(1) in paragraph (5), by striking “\$2,250,000,000” and inserting “\$2,500,000,000”; and

(2) in paragraph (6), by striking “\$2,500,000,000” and inserting “\$2,750,000,000”.

(b) **CAROL M. WHITE PHYSICAL EDUCATION PROGRAM.**—Section 5401 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7241) is amended—

(1) by striking “There are” and inserting “(a) **IN GENERAL.**—There are”; and

(2) by adding at the end the following:

“(b) **PHYSICAL EDUCATION.**—In addition to the amounts authorized to be appropriated by subsection (a), there are authorized to be appropriated \$73,000,000 for each of fiscal years [2007 and 2008] to carry out subpart 10.”

(c) **FEDERAL TRIO PROGRAMS.**—Section 402A(f) of the Higher Education Act of 1965 (20 U.S.C. 1070a–11(f)) is amended by striking “\$700,000,000 for fiscal year 1999, and such sums as may be necessary for each of the 4 succeeding fiscal years” and inserting “\$883,000,000 for fiscal year [2007] and such sums as may be necessary for each of the 5 succeeding fiscal years”.

(d) **GEARUP.**—Section 404H of the Higher Education Act of 1965 (20 U.S.C. 1070a–28) is amended by striking “\$200,000,000 for fiscal year 1999 and such sums as may be necessary for each of the 4 succeeding fiscal years” and inserting “\$325,000,000 for fiscal year [2007] and such sums as may be necessary for each of the 5 succeeding fiscal years”.

SEC. 5. DEMONSTRATION GRANTS TO ENCOURAGE CREATIVE APPROACHES TO TEEN PREGNANCY PREVENTION AND AFTER-SCHOOL PROGRAMS.

(a) **IN GENERAL.**—The Secretary may make grants to public or nonprofit private entities for the purpose of assisting the entities in demonstrating innovative approaches to prevent teen pregnancies.

(b) **CERTAIN APPROACHES.**—Approaches under subsection (a) may include the following:

(1) Encouraging teen-driven approaches to pregnancy prevention.

(2) Exposing teens to realistic simulations of the physical, emotional, and financial toll of pregnancy and parenting.

(3) Facilitating communication between parents and children, especially programs that have been evaluated and proven effective.

(c) **MATCHING FUNDS.**—

S. 2510

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 “Small Employers Health Benefits Program Act of 2006”.

SEC. 2. DEFINITIONS.

(a) **IN GENERAL.**—In this Act, the terms “member of family”, “health benefits plan”, “carrier”, “employee organizations”, and “dependent” have the meanings given such terms in section 8901 of title 5, United States Code.

(b) **OTHER TERMS.**—In this Act:

(1) **EMPLOYEE.**—The term “employee” has the meaning given such term under section 3(6) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(6)). Such term shall not include an employee of the Federal Government.

(2) **EMPLOYER.**—The term “employer” has the meaning given such term under section 3(5) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(5)), except that such term shall include only employers who employed an average of at least 1 but not more than 100 employees on business days during the year preceding the date of application. Such term shall not include the Federal Government.

(3) **HEALTH STATUS-RELATED FACTOR.**—The term “health status-related factor” has the meaning given such term in section 2791(d)(9) of the Public Health Service Act (42 U.S.C. 300gg-91(d)(9)).

(4) **OFFICE.**—The term “Office” means the Office of Personnel Management.

(5) **PARTICIPATING EMPLOYER.**—The term “participating employer” means an employer that—

(A) elects to provide health insurance coverage under this Act to its employees; and

(B) is not offering other comprehensive health insurance coverage to such employees.

(c) **APPLICATION OF CERTAIN RULES IN DETERMINATION OF EMPLOYER SIZE.**—For purposes of subsection (b)(2):

(1) **APPLICATION OF AGGREGATION RULE FOR EMPLOYERS.**—All persons treated as a single employer under subsection (b), (c), (m), or (o) of section 414 of the Internal Revenue Code of 1986 shall be treated as 1 employer.

(2) **EMPLOYERS NOT IN EXISTENCE IN PRECEDING YEAR.**—In the case of an employer which was not in existence for the full year prior to the date on which the employer applies to participate, the determination of whether such employer meets the requirements of subsection (b)(2) shall be based on the average number of employees that it is reasonably expected such employer will employ on business days in the employer’s first full year.

(3) **PREDECESSORS.**—Any reference in this subsection to an employer shall include a reference to any predecessor of such employer.

(d) **WAIVER AND CONTINUATION OF PARTICIPATION.**—

(1) **WAIVER.**—The Office may waive the limitations relating to the size of an employer which may participate in the health insurance program established under this Act on a case by case basis if the Office determines that such employer makes a compelling case for such a waiver. In making determinations under this paragraph, the Office may consider the effects of the employment of temporary and seasonal workers and other factors.

(2) **CONTINUATION OF PARTICIPATION.**—An employer participating in the program under this Act that experiences an increase in the number of employees so that such employer

has in excess of 100 employees, may not be excluded from participation solely as a result of such increase in employees.

(e) **TREATMENT OF HEALTH BENEFITS PLAN AS GROUP HEALTH PLAN.**—A health benefits plan offered under this Act shall be treated as a group health plan for purposes of applying the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.) except to the extent that a provision of this Act expressly provides otherwise.

SEC. 3. HEALTH INSURANCE COVERAGE FOR NON-FEDERAL EMPLOYEES.

(a) **ADMINISTRATION.**—The Office shall administer a health insurance program for non-Federal employees and employers in accordance with this Act.

(b) **REGULATIONS.**—Except as provided under this Act, the Office shall prescribe regulations to apply the provisions of chapter 89 of title 5, United States Code, to the greatest extent practicable to participating carriers, employers, and employees covered under this Act.

(c) **LIMITATIONS.**—In no event shall the enactment of this Act result in—

(1) any increase in the level of individual or Federal Government contributions required under chapter 89 of title 5, United States Code, including copayments or deductibles;

(2) any decrease in the types of benefits offered under such chapter 89; or

(3) any other change that would adversely affect the coverage afforded under such chapter 89 to employees and annuitants and members of family under that chapter.

(d) **ENROLLMENT.**—The Office shall develop methods to facilitate enrollment under this Act, including the use of the Internet.

(e) **CONTRACTS FOR ADMINISTRATION.**—The Office may enter into contracts for the performance of appropriate administrative functions under this Act.

(f) **SEPARATE RISK POOL.**—In the administration of this Act, the Office shall ensure that covered employees under this Act are in a risk pool that is separate from the risk pool maintained for covered individuals under chapter 89 of title 5, United States Code.

(g) **RULE OF CONSTRUCTION.**—Nothing in this Act shall be construed to require a carrier that is participating in the program under chapter 89 of title 5, United States Code, to provide health benefits plan coverage under this Act.

SEC. 4. CONTRACT REQUIREMENT.

(a) **IN GENERAL.**—The Office may enter into contracts with qualified carriers offering health benefits plans of the type described in section 8903 or 8903a of title 5, United States Code, without regard to section 5 of title 41, United States Code, or other statutes requiring competitive bidding, to provide health insurance coverage to employees of participating employers under this Act. Each contract shall be for a uniform term of at least 1 year, but may be made automatically renewable from term to term in the absence of notice of termination by either party. In entering into such contracts, the Office shall ensure that health benefits coverage is provided for individuals only, individuals with one or more children, married individuals without children, and married individuals with one or more children.

(b) **ELIGIBILITY.**—A carrier shall be eligible to enter into a contract under subsection (a) if such carrier—

(1) is licensed to offer health benefits plan coverage in each State in which the plan is offered; and

(2) meets such other requirements as determined appropriate by the Office.

(c) **STATEMENT OF BENEFITS.**—

(1) **IN GENERAL.**—Each contract under this Act shall contain a detailed statement of

(1) **IN GENERAL.**—With respect to the costs of the project to be carried out under subsection (a) by an applicant, a grant may be made under such subsection only if the applicant agrees to make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount that is not less than 25 percent of such costs (\$1 for each \$3 of Federal funds provided in the grant).

(2) **DETERMINATION OF AMOUNT CONTRIBUTED.**—Non-Federal contributions required in paragraph (1) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

(d) **EVALUATION OF PROJECTS.**—The Secretary shall establish criteria for the evaluation of projects under subsection (a). A grant may be made under such subsection only if the applicant involved—

(1) agrees to conduct evaluations of the project in accordance with such criteria;

(2) agrees to submit to the Secretary such reports describing the results of the evaluations as the Secretary determines to be appropriate; and

(3) submits to the Secretary, in the application under subsection (e), a plan for conducting the evaluations.

(e) **APPLICATION FOR GRANT.**—A grant may be made under subsection (a) only if an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information, including the agreements under subsections (c) and (d) and the plan under subsection (d)(3), as the Secretary determines to be necessary to carry out this section.

(f) **REPORT TO CONGRESS.**—Not later than October 1, 2011, the Secretary shall submit to Congress a report describing the extent to which projects under subsection (a) have been successful in reducing the rate of teen pregnancies in the communities in which the projects have been carried out. Such reports shall describe the various approaches used under subsection (a) and the effectiveness of each of the approaches.

(g) **AUTHORIZATION OF APPROPRIATIONS.**—For the purpose of carrying out this section, there is authorized to be appropriated \$5,000,000 for each of the fiscal years [2007 through 2011].

By Mr. DURBIN (for himself, Mrs. LINCOLN, Mr. REID, Mr. BAUCUS, Mr. KENNEDY, Mr. KERRY, Mr. BINGAMAN, Mr. CARPER, Mr. DAYTON, Mr. HARKIN, Mr. KOHL, Mr. NELSON of Florida, Ms. CANTWELL, Mrs. CLINTON, Mr. DODD, Mr. LEAHY, Ms. MIKULSKI, Mr. PRYOR, Mr. LIEBERMAN, Mr. LAUTENBERG, Mr. JOHNSON, Mr. MENENDEZ, Mr. ROCKEFELLER, and Mrs. BOXER.

S. 2510. A bill to establish a national health program administered by the Office of Personnel Management to offer health benefits plans to individuals who are not Federal employees, and for other purposes; to the Committee on Finance.

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:

benefits offered and shall include information concerning such maximums, limitations, exclusions, and other definitions of benefits as the Office considers necessary or desirable.

(2) ENSURING A RANGE OF PLANS.—The Office shall ensure that a range of health benefits plans are available to participating employers under this Act.

(3) PARTICIPATING PLANS.—The Office shall not prohibit the offering of any health benefits plan to a participating employer if such plan is eligible to participate in the Federal Employees Health Benefits Program.

(4) NATIONWIDE PLAN.—With respect to all nationwide plans, the Office shall develop a benefit package that shall be offered in the case of a contract for a health benefit plan that is to be offered on a nationwide basis that meets all State benefit mandates.

(d) STANDARDS.—The minimum standards prescribed for health benefits plans under section 8902(e) of title 5, United States Code, and for carriers offering plans, shall apply to plans and carriers under this Act. Approval of a plan may be withdrawn by the Office only after notice and opportunity for hearing to the carrier concerned without regard to subchapter II of chapter 5 and chapter 7 of title 5, United States Code.

(e) CONVERSION.—

(1) IN GENERAL.—A contract may not be made or a plan approved under this section if the carrier under such contract or plan does not offer to each enrollee whose enrollment in the plan is ended, except by a cancellation of enrollment, a temporary extension of coverage during which the individual may exercise the option to convert, without evidence of good health, to a nongroup contract providing health benefits. An enrollee who exercises this option shall pay the full periodic charges of the nongroup contract.

(2) NONCANCELLABLE.—The benefits and coverage made available under paragraph (1) may not be canceled by the carrier except for fraud, over-insurance, or nonpayment of periodic charges.

(f) REQUIREMENT OF PAYMENT FOR OR PROVISION OF HEALTH SERVICE.—Each contract entered into under this Act shall require the carrier to agree to pay for or provide a health service or supply in an individual case if the Office finds that the employee, annuitant, family member, former spouse, or person having continued coverage under section 8905a of title 5, United States Code, is entitled thereto under the terms of the contract.

SEC. 5. ELIGIBILITY.

An individual shall be eligible to enroll in a plan under this Act if such individual—

(1) is an employee of an employer described in section 2(b)(2), or is a self employed individual as defined in section 401(c)(1)(B) of the Internal Revenue Code of 1986; and

(2) is not otherwise enrolled or eligible for enrollment in a plan under chapter 89 of title 5, United States Code.

SEC. 6. ALTERNATIVE CONDITIONS TO FEDERAL EMPLOYEE PLANS.

(a) TREATMENT OF EMPLOYEE.—For purposes of enrollment in a health benefits plan under this Act, an individual who had coverage under a health insurance plan and is not a qualified beneficiary as defined under section 4980B(g)(1) of the Internal Revenue Code of 1986 shall be treated in a similar manner as an individual who begins employment as an employee under chapter 89 of title 5, United States Code.

(b) PREEXISTING CONDITION EXCLUSIONS.—

(1) IN GENERAL.—Each contract under this Act may include a preexisting condition exclusion as defined under section 9801(b)(1) of the Internal Revenue Code of 1986.

(2) EXCLUSION PERIOD.—A preexisting condition exclusion under this subsection shall

provide for coverage of a preexisting condition to begin not later than 6 months after the date on which the coverage of the individual under a health benefits plan commences, reduced by the aggregate 1 day for each day that the individual was covered under a health insurance plan immediately preceding the date the individual submitted an application for coverage under this Act. This provision shall be applied notwithstanding the applicable provision for the reduction of the exclusion period provided for in section 701(a)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1181(a)(3)).

(c) RATES AND PREMIUMS.—

(1) IN GENERAL.—Rates charged and premiums paid for a health benefits plan under this Act—

(A) shall be determined in accordance with this subsection;

(B) may be annually adjusted subject to paragraph (3);

(C) shall be negotiated in the same manner as rates and premiums are negotiated under such chapter 89; and

(D) shall be adjusted to cover the administrative costs of the Office under this Act.

(2) DETERMINATIONS.—In determining rates and premiums under this Act, the following provisions shall apply:

(A) IN GENERAL.—A carrier that enters into a contract under this Act shall determine that amount of premiums to assess for coverage under a health benefits plan based on an community rate that may be annually adjusted—

(i) for the geographic area involved if the adjustment is based on geographical divisions that are not smaller than a metropolitan statistical area and the carrier provides evidence of geographic variation in cost of services;

(ii) based on whether such coverage is for an individual, two adults, one adult and one or more children, or a family; and

(iii) based on the age of covered individuals (subject to subparagraph (C)).

(B) LIMITATION.—Premium rates charged for coverage under this Act shall not vary based on health-status related factors, gender, class of business, or claims experience

(C) AGE ADJUSTMENTS.—

(i) IN GENERAL.—With respect to subparagraph (A)(iii), in making adjustments based on age, the Office shall establish no more than 5 age brackets to be used by the carrier in establishing rates. The rates for any age bracket may not vary by more than 50 percent above or below the community rate on the basis of attained age. Age-related premiums may not vary within age brackets.

(ii) AGE 65 AND OLDER.—With respect to subparagraph (A)(iii), a carrier may develop separate rates for covered individuals who are 65 years of age or older for whom medicare is the primary payor for health benefits coverage which is not covered under medicare.

(3) READJUSTMENTS.—Any readjustment in rates charged or premiums paid for a health benefits plan under this Act shall be made in advance of the contract term in which they will apply and on a basis which, in the judgment of the Office, is consistent with the practice of the Office for the Federal Employees Health Benefits Program.

(d) TERMINATION AND REENROLLMENT.—If an individual who is enrolled in a health benefits plan under this Act terminates the enrollment, the individual shall not be eligible for reenrollment until the first open enrollment period following the expiration of 6 months after the date of such termination.

(f) CONTINUED APPLICABILITY OF STATE LAW.—

(1) HEALTH INSURANCE OR PLANS.—

(A) PLANS.—With respect to a contract entered into under this Act under which a carrier will offer health benefits plan coverage, State mandated benefit laws in effect in the State in which the plan is offered shall continue to apply.

(B) RATING RULES.—The rating requirements under subparagraphs (A) and (B) of subsection (c)(2) shall supercede State rating rules for qualified plans under this Act, except with respect to States that provide a rating variance with respect to age that is less than the Federal limit or that provide for some form of community rating.

(2) LIMITATION.—Nothing in this subsection shall be construed to preempt—

(A) any State or local law or regulation except those laws and regulations described in subparagraph (B) of paragraph (1);

(B) any State grievance, claims, and appeals procedure law, except to the extent that such law is preempted under section 514 of the Employee Retirement Income Security Act of 1974; and

(C) State network adequacy laws.

(g) RULE OF CONSTRUCTION.—Nothing in this Act shall be construed to limit the application of the service-charge system used by the Office for determining profits for participating carriers under chapter 89 of title 5, United States Code.

SEC. 7. ENCOURAGING PARTICIPATION BY CARRIERS THROUGH ADJUSTMENTS FOR RISK.

(a) APPLICATION OF RISK CORRIDORS.—

(1) IN GENERAL.—This section shall only apply to carriers with respect to health benefits plans offered under this Act during any of calendar years 2007 through 2009.

(2) NOTIFICATION OF COSTS UNDER THE PLAN.—In the case of a carrier that offers a health benefits plan under this Act in any of calendar years 2007 through 2009, the carrier shall notify the Office, before such date in the succeeding year as the Office specifies, of the total amount of costs incurred in providing benefits under the health benefits plan for the year involved and the portion of such costs that is attributable to administrative expenses.

(3) ALLOWABLE COSTS DEFINED.—For purposes of this section, the term “allowable costs” means, with respect to a health benefits plan offered by a carrier under this Act, for a year, the total amount of costs described in paragraph (2) for the plan and year, reduced by the portion of such costs attributable to administrative expenses incurred in providing the benefits described in such paragraph.

(b) ADJUSTMENT OF PAYMENT.—

(1) NO ADJUSTMENT IF ALLOWABLE COSTS WITHIN 3 PERCENT OF TARGET AMOUNT.—If the allowable costs for the carrier with respect to the health benefits plan involved for a calendar year are at least 97 percent, but do not exceed 103 percent, of the target amount for the plan and year involved, there shall be no payment adjustment under this section for the plan and year.

(2) INCREASE IN PAYMENT IF ALLOWABLE COSTS ABOVE 103 PERCENT OF TARGET AMOUNT.—

(A) COSTS BETWEEN 103 AND 108 PERCENT OF TARGET AMOUNT.—If the allowable costs for the carrier with respect to the health benefits plan involved for the year are greater than 103 percent, but not greater than 108 percent, of the target amount for the plan and year, the Office shall reimburse the carrier for such excess costs through payment to the carrier of an amount equal to 75 percent of the difference between such allowable costs and 103 percent of such target amount.

(B) COSTS ABOVE 108 PERCENT OF TARGET AMOUNT.—If the allowable costs for the carrier with respect to the health benefits plan involved for the year are greater than 108

percent of the target amount for the plan and year, the Office shall reimburse the carrier for such excess costs through payment to the carrier in an amount equal to the sum of—

- (i) 3.75 percent of such target amount; and
- (ii) 90 percent of the difference between such allowable costs and 108 percent of such target amount.

(3) REDUCTION IN PAYMENT IF ALLOWABLE COSTS BELOW 97 PERCENT OF TARGET AMOUNT.—

(A) COSTS BETWEEN 92 AND 97 PERCENT OF TARGET AMOUNT.—If the allowable costs for the carrier with respect to the health benefits plan involved for the year are less than 97 percent, but greater than or equal to 92 percent, of the target amount for the plan and year, the carrier shall be required to pay into the contingency reserve fund maintained under section 8909(b)(2) of title 5, United States Code, an amount equal to 75 percent of the difference between 97 percent of the target amount and such allowable costs.

(B) COSTS BELOW 92 PERCENT OF TARGET AMOUNT.—If the allowable costs for the carrier with respect to the health benefits plan involved for the year are less than 92 percent of the target amount for the plan and year, the carrier shall be required to pay into the stabilization fund under section 8909(b)(2) of title 5, United States Code, an amount equal to the sum of—

- (i) 3.75 percent of such target amount; and
- (ii) 90 percent of the difference between 92 percent of such target amount and such allowable costs.

(4) TARGET AMOUNT DESCRIBED.—

(A) IN GENERAL.—For purposes of this subsection, the term “target amount” means, with respect to a health benefits plan offered by a carrier under this Act in any of calendar years 2007 through 2011, an amount equal to—

(i) the total of the monthly premiums estimated by the carrier and approved by the Office to be paid for enrollees in the plan under this Act for the calendar year involved; reduced by

(ii) the amount of administrative expenses that the carrier estimates, and the Office approves, will be incurred by the carrier with respect to the plan for such calendar year.

(B) SUBMISSION OF TARGET AMOUNT.—Not later than December 31, 2006, and each December 31 thereafter through calendar year 2010, a carrier shall submit to the Office a description of the target amount for such carrier with respect to health benefits plans provided by the carrier under this Act.

(C) DISCLOSURE OF INFORMATION.—

(1) IN GENERAL.—Each contract under this Act shall provide—

(A) that a carrier offering a health benefits plan under this Act shall provide the Office with such information as the Office determines is necessary to carry out this subsection including the notification of costs under subsection (a)(2) and the target amount under subsection (b)(4)(B); and

(B) that the Office has the right to inspect and audit any books and records of the organization that pertain to the information regarding costs provided to the Office under such subsections.

(2) RESTRICTION ON USE OF INFORMATION.—Information disclosed or obtained pursuant to the provisions of this subsection may be used by officers, employees, and contractors of the Office only for the purposes of, and to the extent necessary in, carrying out this section.

SEC. 8. ENCOURAGING PARTICIPATION BY CARRIERS THROUGH REINSURANCE.

(a) ESTABLISHMENT.—The Office shall establish a reinsurance fund to provide payments to carriers that experience one or more catastrophic claims during a year for

health benefits provided to individuals enrolled in a health benefits plan under this Act.

(b) ELIGIBILITY FOR PAYMENTS.—To be eligible for a payment from the reinsurance fund for a plan year, a carrier under this Act shall submit to the Office an application that contains—

(1) a certification by the carrier that the carrier paid for at least one episode of care during the year for covered health benefits for an individual in an amount that is in excess of \$50,000; and

(2) such other information determined appropriate by the Office.

(c) PAYMENT.—

(1) IN GENERAL.—The amount of a payment from the reinsurance fund to a carrier under this section for a catastrophic episode of care shall be determined by the Office but shall not exceed an amount equal to 80 percent of the applicable catastrophic claim amount.

(2) APPLICABLE CATASTROPHIC CLAIM AMOUNT.—For purposes of paragraph (1), the applicable catastrophic episode of care amount shall be equal to the difference between—

(A) the amount of the catastrophic claim; and

(B) \$50,000.

(3) LIMITATION.—In determining the amount of a payment under paragraph (1), if the amount of the catastrophic claim exceeds the amount that would be paid for the healthcare items or services involved under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.), the Office shall use the amount that would be paid under such title XVIII for purposes of paragraph (2)(A).

(d) DEFINITION.—In this section, the term “catastrophic claim” means a claim submitted to a carrier, by or on behalf of an enrollee in a health benefits plan under this Act, that is in excess of \$50,000.

(e) TERMINATION OF FUND.—The reinsurance fund established under subsection (a) shall terminate on the date that is 2 years after the date on which the first contract period becomes effective under this Act.

SEC. 9. CONTINGENCY RESERVE FUND.

Beginning on October 1, 2010, the Office may use amounts appropriated under section 14(a) that remain unobligated to establish a contingency reserve fund to provide assistance to carriers offering health benefits plans under this Act that experience unanticipated financial hardships (as determined by the Office).

SEC. 10. EMPLOYER PARTICIPATION.

(a) REGULATIONS.—The Office shall prescribe regulations providing for employer participation under this Act, including the offering of health benefits plans under this Act to employees.

(b) ENROLLMENT AND OFFERING OF OTHER COVERAGE.—

(1) ENROLLMENT.—A participating employer shall ensure that each eligible employee has an opportunity to enroll in a plan under this Act.

(2) PROHIBITION ON OFFERING OTHER COMPREHENSIVE HEALTH BENEFIT COVERAGE.—A participating employer may not offer a health insurance plan providing comprehensive health benefit coverage to employees other than a health benefits plan that—

(A) meets the requirements described in section 4(a); and

(B) is offered only through the enrollment process established by the Office under section 3.

(3) OFFER OF SUPPLEMENTAL COVERAGE OPTIONS.—

(A) IN GENERAL.—A participating employer may offer supplementary coverage options to employees.

(B) DEFINITION.—In subparagraph (A), the term “supplementary coverage” means benefits described as “excepted benefits” under section 2791(c) of the Public Health Service Act (42 U.S.C. 300gg–91(c)).

(c) RULE OF CONSTRUCTION.—Except as provided in section 15, nothing in this Act shall be construed to require that an employer make premium contributions on behalf of employees.

SEC. 11. ADMINISTRATION THROUGH REGIONAL ADMINISTRATIVE ENTITIES.

(a) IN GENERAL.—In order to provide for the administration of the benefits under this Act with maximum efficiency and convenience for participating employers and health care providers and other individuals and entities providing services to such employers, the Office is authorized to enter into contracts with eligible entities to perform, on a regional basis, one or more of the following:

(1) Collect and maintain all information relating to individuals, families, and employers participating in the program under this Act in the region served.

(2) Receive, disburse, and account for payments of premiums to participating employers by individuals in the region served, and for payments by participating employers to carriers.

(3) Serve as a channel of communication between carriers, participating employers, and individuals relating to the administration of this Act.

(4) Otherwise carry out such activities for the administration of this Act, in such manner, as may be provided for in the contract entered into under this section.

(5) The processing of grievances and appeals.

(b) APPLICATION.—To be eligible to receive a contract under subsection (a), an entity shall prepare and submit to the Office an application at such time, in such manner, and containing such information as the Office may require.

(c) PROCESS.—

(1) COMPETITIVE BIDDING.—All contracts under this section shall be awarded through a competitive bidding process on a bi-annual basis.

(2) REQUIREMENT.—No contract shall be entered into with any entity under this section unless the Office finds that such entity will perform its obligations under the contract efficiently and effectively and will meet such requirements as to financial responsibility, legal authority, and other matters as the Office finds pertinent.

(3) PUBLICATION OF STANDARDS AND CRITERIA.—The Office shall publish in the Federal Register standards and criteria for the efficient and effective performance of contract obligations under this section, and opportunity shall be provided for public comment prior to implementation. In establishing such standards and criteria, the Office shall provide for a system to measure an entity's performance of responsibilities.

(4) TERM.—Each contract under this section shall be for a term of at least 1 year, and may be made automatically renewable from term to term in the absence of notice by either party of intention to terminate at the end of the current term, except that the Office may terminate any such contract at any time (after such reasonable notice and opportunity for hearing to the entity involved as the Office may provide in regulations) if the Office finds that the entity has failed substantially to carry out the contract or is carrying out the contract in a manner inconsistent with the efficient and effective administration of the program established by this Act.

(d) TERMS OF CONTRACT.—A contract entered into under this section shall include—

(1) a description of the duties of the contracting entity;

(2) an assurance that the entity will furnish to the Office such timely information and reports as the Office determines appropriate;

(3) an assurance that the entity will maintain such records and afford such access thereto as the Office finds necessary to assure the correctness and verification of the information and reports under paragraph (2) and otherwise to carry out the purposes of this Act;

(4) an assurance that the entity shall comply with such confidentiality and privacy protection guidelines and procedures as the Office may require; and

(5) such other terms and conditions not inconsistent with this section as the Office may find necessary or appropriate.

SEC. 12. COORDINATION WITH SOCIAL SECURITY BENEFITS.

Benefits under this Act shall, with respect to an individual who is entitled to benefits under part A of title XVIII of the Social Security Act, be offered (for use in coordination with those medicare benefits) to the same extent and in the same manner as if coverage were under chapter 89 of title 5, United States Code.

SEC. 13. PUBLIC EDUCATION CAMPAIGN.

(a) IN GENERAL.—In carrying out this Act, the Office shall develop and implement an educational campaign to provide information to employers and the general public concerning the health insurance program developed under this Act.

(b) ANNUAL PROGRESS REPORTS.—Not later than 1 year and 2 years after the implementation of the campaign under subsection (a), the Office shall submit to the appropriate committees of Congress a report that describes the activities of the Office under subsection (a), including a determination by the office of the percentage of employers with knowledge of the health benefits programs provided for under this Act.

(c) PUBLIC EDUCATION CAMPAIGN.—There is authorized to be appropriated to carry out this section, such sums as may be necessary for each of fiscal years 2007 and 2008.

SEC. 14. APPROPRIATIONS.

There are authorized to be appropriated to the Office, such sums as may be necessary in each fiscal year for the development and administration of the program under this Act.

SEC. 15. REFUNDABLE CREDIT FOR SMALL BUSINESS EMPLOYEE HEALTH INSURANCE EXPENSES.

(a) IN GENERAL.—Subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to refundable credits) is amended by redesignating section 36 as section 37 and inserting after section 35 the following new section:

“SEC. 36. SMALL BUSINESS EMPLOYEE HEALTH INSURANCE EXPENSES.

“(a) DETERMINATION OF AMOUNT.—In the case of a qualified small employer, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to the sum of—

“(1) the expense amount described in subsection (b), and

“(2) the expense amount described in subsection (c), paid by the taxpayer during the taxable year.

“(b) SUBSECTION (b) EXPENSE AMOUNT.—For purposes of this section—

“(1) IN GENERAL.—The expense amount described in this subsection is the applicable percentage of the amount of qualified employee health insurance expenses of each qualified employee.

“(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1)—

“(A) IN GENERAL.—The applicable percentage is equal to—

“(i) 25 percent in the case of self-only coverage,

“(ii) 35 percent in the case of family coverage (as defined in section 220(c)(5)), and

“(iii) 30 percent in the case of coverage for two adults or one adult and one or more children.

“(B) BONUS FOR PAYMENT OF GREATER PERCENTAGE OF PREMIUMS.—The applicable percentage otherwise specified in subparagraph (A) shall be increased by 5 percentage points for each additional 10 percent of the qualified employee health insurance expenses of each qualified employee exceeding 60 percent which are paid by the qualified small employer.

“(c) SUBSECTION (c) EXPENSE AMOUNT.—For purposes of this section—

“(1) IN GENERAL.—The expense amount described in this subsection is, with respect to the first credit year of a qualified small employer which is an eligible employer, 10 percent of the qualified employee health insurance expenses of each qualified employee.

“(2) FIRST CREDIT YEAR.—For purposes of paragraph (1), the term ‘first credit year’ means the taxable year which includes the date that the health insurance coverage to which the qualified employee health insurance expenses relate becomes effective.

“(d) LIMITATION BASED ON WAGES.—With respect to a qualified employee whose wages at an annual rate during the taxable year exceed \$25,000, the percentage which would (but for this section) be taken into account as the percentage for purposes of subsection (b)(2) or (c)(1) for the taxable year shall be reduced by an amount equal to the product of such percentage and the percentage that such qualified employee’s wages in excess of \$25,000 bears to \$5,000.

“(e) DEFINITIONS.—For purposes of this section—

“(1) QUALIFIED SMALL EMPLOYER.—The term ‘qualified small employer’ means any employer (as defined in section 2(b)(2) of the Small Employers Health Benefits Program Act of 2006) which—

“(A) is a participating employer (as defined in section 2(b)(5) of such Act),

“(B) pays or incurs at least 60 percent of the qualified employee health insurance expenses of each qualified employee for self-only coverage, and

“(C) pays or incurs at least 50 percent of the qualified employee health insurance expenses of each qualified employee for all other categories of coverage.

“(2) QUALIFIED EMPLOYEE HEALTH INSURANCE EXPENSES.—

“(A) IN GENERAL.—The term ‘qualified employee health insurance expenses’ means any amount paid by an employer for health insurance coverage under such Act to the extent such amount is attributable to coverage provided to any employee while such employee is a qualified employee.

“(B) EXCEPTION FOR AMOUNTS PAID UNDER SALARY REDUCTION ARRANGEMENTS.—No amount paid or incurred for health insurance coverage pursuant to a salary reduction arrangement shall be taken into account under subparagraph (A).

“(3) QUALIFIED EMPLOYEE.—

“(A) DEFINITION.—

“(i) IN GENERAL.—The term ‘qualified employee’ means, with respect to any period, an employee (as defined in section 2(b)(1) of such Act) of an employer if the total amount of wages paid or incurred by such employer to such employee at an annual rate during the taxable year exceeds \$5,000 but does not exceed \$30,000.

“(ii) ANNUAL ADJUSTMENT.—For each taxable year after 2007, the dollar amounts specified for the preceding taxable year (after the application of this subparagraph) shall be increased by the same percentage as the aver-

age percentage increase in premiums under the Federal Employees Health Benefits Program under chapter 89 of title 5, United States Code for the calendar year in which such taxable year begins over the preceding calendar year.

“(B) WAGES.—The term ‘wages’ has the meaning given such term by section 3121(a) (determined without regard to any dollar limitation contained in such section).

“(f) CERTAIN RULES MADE APPLICABLE.—For purposes of this section, rules similar to the rules of section 52 shall apply.

“(g) CREDITS FOR NONPROFIT ORGANIZATIONS.—Any credit which would be allowable under subsection (a) with respect to a qualified small business if such qualified small business were not exempt from tax under this chapter shall be treated as a credit allowable under this subpart to such qualified small business.”

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 1324(b) of title 31, United States Code, is amended by inserting before the period “, or from section 36 of such Code”.

(2) The table of sections for subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by striking the last item and inserting the following new items:

“Sec. 36. Small business employee health insurance expenses

“Sec. 37. Overpayments of tax”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred in taxable years beginning after December 31, 2006.

SEC. 16. EFFECTIVE DATE.

Except as provided in section 10(e), this Act shall take effect on the date of enactment of this Act and shall apply to contracts that take effect with respect to calendar year 2007 and each calendar year thereafter.

By Mr. DEWINE (for himself, Mr. LEVIN, Ms. STABENOW, Mr. VOINOVICH, Mrs. CLINTON, and Mr. SCHUMER):

S. 2545. A bill to establish a collaborative program to protect the Great Lakes, and for other purposes; and the Committee on Environment and Public Works.

Mr. DEWINE. Mr. President, today I am proud to introduce the Great Lakes Collaboration Implementation Act with my colleague, Senator LEVIN. I would like to thank him for all of his hard work on this legislation and the Great Lakes.

The Great Lakes are a unique natural resource that need to be protected for future generations. The Great Lakes hold one-fifth of the world’s surface freshwater, cover more than 94,000 square miles, and drain more than twice as much land. Over thirty of the basin’s biological communities—and over 100 species—are globally rare or found only in the Great Lakes basin. The 637 State parks in the region accommodate more than 250 million visitors each year. The Great Lakes are significant to the eight States and two Canadian provinces that border them, as well as to the millions of other people around the country who fish, visit the surrounding parks, or use products that are affordably shipped to them via the lakes.

Unfortunately, the Great Lakes remain in a degraded state. A 2003 GAO

report said, "Despite early success in improving conditions in the Great Lakes Basin, significant environmental challenges remain, including increased threats from invasive species and cleanup of areas contaminated with toxic substances that pose human health threats." Many scientists affirm that the Great Lakes are exhibiting signs of stress due to a combination of sources, including toxic contaminants, invasive species, nutrient loading, shoreline and upland land use changes, and hydrologic modifications. A 2005 report from a group of Great Lakes scientific experts states that "historical sources of stress have combined with new ones to reach a tipping point, the point at which ecosystem-level changes occur rapidly and unexpectedly, confounding the traditional relationships between sources of stress and the expected ecosystem response."

One cannot see the many threats to the Lakes simply by looking at them. The zebra mussel, an aquatic invasive species, causes \$500 million per year in economic and environmental damage to the Great Lakes. One study found that since 1990—the year that zebra mussels really began to make an impact—Lake Michigan's yellow perch population has decreased by about 80 percent. In 2000, seven people died after pathogens entered the Walkerton, Ontario drinking water supply from the lakes. In May of 2004, more than ten billion gallons of raw sewage and storm water were dumped into the Great Lakes. In that same year, over 1,850 beaches in the Great Lakes were closed. Each summer, Lake Erie develops a 6,300 square mile dead zone. There is no appreciable natural reproduction of lake trout in the lower four lakes. More than half of the Great Lakes region's original wetlands have been lost, along with 60 percent of the forests. Wildlife habitat has been destroyed, thus diminishing opportunities necessary for fishing, hunting and other forms of outdoor recreation.

For several years, I have been calling for a plan to restore the Lakes and have been urging governors, mayors, environmental community and other regional interests to agree on a vision for the Great Lakes—not just immediately, but for the long-term future.

Last year, over 1,500 people worked to draft a plan through a process called Great Lakes Regional Collaboration. The Collaboration strategy includes dozens of recommendations for action at the federal, state, local, and tribal actions that will help restore the Great Lakes. Senator CARL LEVIN and I—as well as our colleagues in the House—have crafted a bill to implement these recommendations.

This bill would reduce the threat of non-native species invading the Great Lakes through ballast water and other pathways. The bill targets the Asian carp by authorizing the Corps of Engineers to improve the dispersal barrier project and prohibiting the importation or interstate commerce of live Asian carp.

The bill addresses threats to fish and wildlife habitat by reauthorizing the Great Lakes Fish & Wildlife Restoration Act, a current program that provides grants to states and tribes.

The bill reauthorizes the State Revolving Loan Fund and provides \$20 billion over five years to assist communities with the critical task of upgrading and improving their wastewater infrastructure.

The bill authorizes \$150 million per year for contaminated sediment cleanup at Areas of Concern under the Great Lakes Legacy program. It also provides the EPA with greater flexibility in implementing the program by allowing the Great Lakes National Program Office to disburse funds to the non-federal sponsor of a Legacy Act project.

The bill establishes a new grant program within EPA, called the Great Lakes Mercury Product Stewardship Strategy Grant Program, to phase out mercury in products.

The bill improves existing research programs and fills the gap where work is needed. We need baseline data to understand how the lakes are changing and where improvements are succeeding.

The bill authorizes NOAA to restore and remediate waterfront areas. Projects will require a non-federal partner who will provide at least a 35% cost-share. Individual projects may not cost more than \$5 million.

Lastly, the bill establishes the Great Lakes Interagency Task Force and the Great Lakes Regional Collaboration process in order to coordinate and improve Great Lakes programs.

Restoring the Great Lakes to a healthy ecosystem is not something that will happen overnight. This is a long-term process, but Congress needs to act now. Our bill is a major step in the right direction. We need to continue to refocus and improve our efforts in order to reverse the trend of degradation of the Great Lakes. They are a unique natural resource for Ohio, the entire region, and the country—a resource that must be protected for future generations. I ask my colleagues to join me in support of this bill and in our efforts to help preserve and protect the long-term viability of our Great Lakes.

Mr. LAUTENBERG. Mr. President, I rise to submit a concurrent resolution to honor the fallen soldiers we have lost in Operation Enduring Freedom (OEF) and Operation Iraqi Freedom (OIF). My resolution, which Congressman RAHM EMANUEL is introducing in the House of Representatives, directs the Architect of the Capitol to display an exhibit to honor the memory of these brave men and women in the Rotunda of the Capitol building during the period beginning on May 29, 2006, and ending on July 4, 2006. The exhibit will display the name, photograph, and biographical information of each individual member of the United States Armed Forces who has been killed in Afghanistan and Iraq. Visitors will also

have the opportunity to write messages of support and sympathy to the families of the fallen.

On March 20, 2006, we observed the third anniversary of the war of Iraq. Since the start of the war, more than 2,500 American soldiers have been killed serving their country. As we continue our efforts in Iraq and Afghanistan, we must recognize the ultimate sacrifice made by these troops. This temporary display will show the families of these heroes that they will always be remembered by a grateful nation.

I want to thank Senators CLINTON, BINGAMAN, KENNEDY, JOHNSON, BOXER, MENENDEZ, LANDRIEU, KERRY, and FEINSTEIN for co-sponsoring this important resolution. I hope that the rest of the Senate will support its passage, too.

Ms. STABENOW. Mr. President, I rise today to join my colleagues, Senator LEVIN and Senator DEWINE, in offering the Great Lakes Collaboration Implementation Act of 2006. I am a co-sponsor of this bipartisan bill, introduced on behalf of the Great Lakes Senators by the co-chairs of our Great Lakes Task Force. Our bill is also co-sponsored by Senator CLINTON, Senator VOINOVICH, and Senator SCHUMER.

The health and sustainability of the Great Lakes are something I feel passionately about. There is no more important issue to Michigan and our region of the country than the Great Lakes.

I want to take just a moment to recognize someone else who is equally passionate about Great Lakes protection and restoration. No single person has devoted more time, energy, and personal resources to the Great Lakes than Peter Wege of Grand Rapids, Michigan.

Peter Wege has been a leader and visionary for Great Lakes restoration for decades. Through the Wege Foundation, which he founded in 1967, he has made generous gifts to the people of Grand Rapids and communities all over Western Michigan for community development. I believe that part of the reason we are standing here today with a comprehensive bill to restore the Lakes is due to the work of Peter Wege. In 2005, a gift from the Wege Foundation created the Healing Our Waters Coalition, a coalition of grassroots groups dedicated to securing a sustainable restoration plan and Federal and State funding to carry it out. The Healing Our Waters Coalition and Peter Wege have been instrumental in bringing Great Lakes restoration to the forefront of national policy.

For the people of Michigan the Great Lakes are more than just one-fifth of the world's fresh water and a unique ecosystem—they are part of our identity. The Lakes are where we spend summers with our families, where we boat and swim, and where we fish and hunt. The Lakes also sustain our State and local economies by providing a

major route for intrastate and international commerce. The health and future of Michigan is directly linked to the health and future of the Great Lakes.

We in Michigan are blessed with a beautiful State full of lakes, rivers, forests, and streams. We have more public access to waterways than all of the other 49 States combined. We are surrounded by four of the five Great Lakes and more than 40,000 interior lakes, streams, and trails. This rich abundance of natural resources has made the outdoors a critical part of Michigan's economy and our way-of-life. The Great Lakes are key in this. Consider that the total revenue from Michigan's fishing, hunting and wildlife watching is nearly \$5 billion every year. Fishing brings \$2 billion annually to our State economy. Michigan has the most registered boaters of any State, nearly one million, and recreational boating brings \$2 billion annually to the state. It's easy to see what restoring the Great Lakes is so important to us.

There are currently between 140 and 200 separate Great Lakes environmental programs administered by 10 Federal agencies. Each of these is important and has helped us significantly improve the health of the Great Lakes over the past 35 years. That said true restoration will take local, regional, and national coordination on projects that address all of the critical challenges facing the health of the Great Lakes.

In May 2004, President Bush signed a Presidential Executive Order creating the Great Lakes Regional Collaboration, also called the GLRC. The group is composed of Federal agencies, Great Lakes governors and mayors, local communities, Native American Tribes, and other stakeholders from the Great Lakes Basin. In December of last year the GLRC released a report outlining comprehensive and collaborative restoration of the Great Lakes ecosystem—the Great Lakes Regional Collaboration Strategy. The report calls for \$20 billion in Federal, State, and local funding to clean up toxic hotspots, restore wetlands, prevent the introduction of new invasive species, and modernizing water treatment systems.

The GLRC Strategy has been endorsed through the Great Lakes Regional Collaboration Resolution by Great Lakes mayors, governors, tribes, the Congressional delegation, and the Interagency Task Force.

The bill that I am introducing today with my colleagues takes the next critical step and turns the strategy document into an on-the-ground reality.

Our commitment is strong. We have the will and the way, all we need now is the support of Congress to ensure the future of the Great Lakes—a magnificent natural resource that has been entrusted to our care.

Mr. LEVIN. Mr. President, I am pleased to introduce the "Great Lakes Restoration Implementation Act" with

Senator MIKE DEWINE and our co-sponsors, Senators DEBBIE STABENOW, GEORGE VOINOVICH, and HILLARY RODHAM CLINTON. I also want to thank Representatives VERN EHLERS and RAHM EMANUEL for introducing similar Great Lakes restoration legislation in the House today.

The Great Lakes are vital not only to Michigan but to the Nation. Roughly one-tenth of the U.S. population lives in the Great Lakes basin and depends daily on the lakes. The Great Lakes provide drinking water to 33 million people. They provide the largest recreational resource for their neighboring States. They form the largest body of freshwater in the world, containing roughly 18 percent of the world's total; only the polar ice caps contain more freshwater. They are critical for our economy by helping move natural resources to the factory and to move products to market.

While the environmental protections that were put in place in the early 1970s have helped the Great Lakes make strides toward recovery, a 2003 GAO report made clear that there is much work still to do. That report stated: "Despite early success in improving conditions in the Great Lakes Basin, significant environmental challenges remain, including increased threats from invasive species and cleanup of areas contaminated with toxic substances that pose human health threats."

The Great Lakes problems have been well-known for several years, and, for the past year, 1,500 people through the Great Lakes region have worked together to compile recommendations for restoring the lakes. These recommendations were released last December, and, today, I am introducing this legislation to implement those recommendations.

This bill would reduce the threat of new invasive species by enacting comprehensive invasive species legislation and put ballast technology on board ships; it specifically targets Asian carp by authorizing the operation and maintenance of the dispersal barrier. The bill would restore fish and wildlife habitat by reauthorizing the Great Lakes Fish and Wildlife Restoration Act. It would provide additional resources to States and cities for their water infrastructure. It would provide additional funding for contaminated sediment cleanup and would give the EPA additional tools under the Great Lakes Legacy Act to move projects along faster. The bill would create a new grant program to phase-out mercury in products. It would authorize additional research through existing Federal programs as well as our non-Federal research institutions. And it would authorize coordination of federal programs.

The Great Lakes are a unique American treasure. We must recognize that we are only their temporary stewards. If Congress does not act to keep pace with the needs of the lakes, and the

tens of millions of Americans dependent upon them and affected by their condition, the current problems will continue to build, and we may start to undo some of the good work that has already been done. We must be good stewards by ensuring that the federal government meets its ongoing obligation to protect and restore the Great Lakes. This legislation will help us meet that great responsibility to future generations.

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

S. 2550. A bill to provide for direct access to electronic tax return filing, and for other purposes; to the Committee on Finance.

Mr. AKAKA. Mr. President. As the tax filing deadline approaches, I am delighted to introduce the Free Internet Filing Act. The bill requires the Internal Revenue Service (IRS) to provide universal access to individual taxpayers filing their tax returns directly through the IRS Web site. I thank Senator BINGAMAN for cosponsoring this bill and working with me on so many issues that are important to taxpayers.

It is frustrating that individual taxpayers completing their own returns are not able to file directly with the IRS. Taxpayers are dependent on commercial preparers to electronically file their taxes. If a taxpayer takes the time necessary to prepare their returns by themselves, they must be provided with the option of electronically filing directly with the IRS. My legislation would make this direct filing possible.

The current system that provides a select group of taxpayers with the ability to file electronically for free using third party intermediaries, called the Free File Alliance, is a failure. In testimony before the Finance Committee yesterday, The National Taxpayer Advocate, Ms. Nina Olson, testified that "As currently structured, Free File amounts to a Wild, Wild West of differing eligibility requirements, differing capabilities, differing availability of and fees for add-on products, and many sites that are difficult to use." Ms. Olson also stated that the "IRS should place a basic, fill-in template on its website to allow any taxpayer who wants to self-prepare his or her return to do so and file directly with the IRS for free." I completely agree.

The current Free File Alliance agreement leaves out too many taxpayers. Taxpayers that make more than \$50,000 are not eligible. In addition, tax preparation companies try to sell additional products and services, such as refund anticipation loans, to consumers that utilize their free file services that are accessed via the IRS Web site. Taxpayers should not be forced to access online filing through companies that peddle services and products to them. Taxpayers are directed to these companies via the IRS Web site. This should not happen. While paying their taxes

and fulfilling their obligations, taxpayers should be allowed to file directly without being subjected to sales pitches or ads. Taxpayers should not have the additional worry associated with sharing their private financial information with a tax preparation company. In the current environment where there have been so many electronic breeches of financial information, taxpayers should not be forced to hand over their private information if they want to electronically file their return with the IRS. Taxpayers should not lose out on the benefits of electronic filing simply because they are worried about sending their data to third parties.

My legislation will help increase the number of electronically filed returns. As Ms. Olson pointed out, nearly 45 million returns prepared using software are mailed in rather than electronically filed. With universal access to free e-file, this number could be substantially reduced. Electronic returns help taxpayers receive their refunds faster than mailing them in. This would also save the IRS resources and reduce possible errors that can occur when the mailed in returns are transcribed.

I want to take a moment to express my appreciation for all of the tremendous work that Ms. Olson has done in an attempt to improve the lives of taxpayers. It is a pleasure to work with Ms. Olson and her staff both in Washington and Hawaii. I look forward to continuing to work with the National Taxpayer Advocate, other Treasury officials, and my colleagues to expand access to Internet filing.

I ask unanimous consent that the full text of the bill be printed in the RECORD. I also ask unanimous consent that a letter of support from the Hawaii Alliance for Community-Based Economic Development be printed in the RECORD.

There being no objection, the materials were ordered to be printed in the RECORD as follows:

S. 2550

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 "Free Internet Filing Act".

SEC. 2. DIRECT ACCESS TO E-FILE FEDERAL INCOME TAX RETURNS.

(a) IN GENERAL.—The Secretary of the Treasury shall provide individual taxpayers with the ability to electronically file their Federal income tax returns through the Internal Revenue Service website without the use of an intermediary or with the use of an intermediary which is contracted by the Internal Revenue Service to provide free universal access for such filing (hereafter in this section referred to as the "direct e-file program") for taxable years beginning after the date which is not later than 3 years after the date of the enactment of this Act.

(b) DEVELOPMENT AND OPERATION OF PROGRAM.—In providing for the development and operation of the direct e-file program, the Secretary of the Treasury shall—

(1) consult with nonprofit organizations representing the interests of taxpayers as

well as other private and nonprofit organizations and Federal, State, and local agencies as determined appropriate by the Secretary.

(2) promulgate such regulations as necessary to administer such program, and

(3) conduct a public information and consumer education campaign to encourage taxpayers to use the direct e-file program.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as are necessary to carry out the direct e-file program. Any sums so appropriated shall remain available until expended.

(d) REPORTS TO CONGRESS.—

(1) REPORT ON IMPLEMENTATION.—The Secretary of the Treasury shall report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives every 6 months regarding the status of the implementation of the direct e-file program.

(2) REPORT ON USAGE.—The Secretary of the Treasury, in consultation with the National Taxpayer Advocate, shall report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives annually on taxpayer usage of the direct e-file program.

HAWAII ALLIANCE FOR COMMUNITY-BASED ECONOMIC DEVELOPMENT,

Honolulu, HI, April 4, 2006.

Hon. DANIEL K. AKAKA,

U.S. Senate, 141 Hart Senate Office Building, Washington, DC.

DEAR SENATOR AKAKA: The Hawaii Alliance for Community Based Economic Development (HACBED) is writing in support of the "Free Internet Filing Act."

HACBED is a statewide 501(c)3 organization established in 1992 to help maximize the impact of community-based economic development organizations (CBEDOs). We pursue our mission by helping CBEDOs to increase community control of their assets and means of production. We accomplish this in many ways—by providing technical support to help CBEDOs deal with organizational issues; by networking on a local and national basis for funding and financing for community-based efforts; and, by advocating for communities to play a more active role in the political process in order to effect systemic change. To this end, HACBED has been facilitating statewide conversations to develop a comprehensive asset policy agenda. Core to this agenda is the recognition of the importance of creating policies that assist individuals, families and the broader community to build wealth.

Tax season is an essential time for low income families to take advantage of their tax related benefits, including the earned income tax credit. Electronic filing of taxes is a quicker, more efficient way to process a tax return. In many cases, working families must pay a professional tax preparer to prepare their return and file electronically. By providing free universal access to electronic filing these low income working families would be able to keep more of their hard earned dollars in their pocket.

HACBED fully supports this bill and we look forward to working with you in the future to insure free and low cost tax related services for low income families.

Sincerely,

BRENT DILLABAUGH,
Public Policy Director.

By Mr. MENENDEZ (for himself and Mr. LAUTENBERG):

S. 2551. A bill to provide for prompt payment and interest on late payments of health care claims; to the Committee on Health, Education, Labor, and Pensions.

Mr. MENENDEZ. Mr. President, I rise today to introduce legislation, along with my colleague, Senator LAUTENBERG, to preserve seniors' and all patients' access to local pharmacies, doctors and hospitals. Since these providers are on the front lines of our communities' health care systems and often find themselves squeezed by insurance companies on the one hand and their obligation to take care of patients on the other, this bill aims to relieve their burden by requiring prescription drug managers, managed care plans and other private health insurers to pay health care claims in a timely fashion.

The Prompt Payment of Health Benefits Claims Act bill seeks to address the financial strains being faced by hospitals and physicians in my State of New Jersey and across the country. In addition, this legislation would address the new financial crisis pharmacies are facing in light of the new Medicare Prescription Drug benefit. Specifically, the legislation requires prescription drug managers, private health plans and other private health insurers to pay manually filed claims within 30 days and electronically filed claims within 14 days. Insurers that fail to meet these timeframes would be required to pay interest for every day the claims goes unpaid. Insurers that knowingly violate these prompt payment requirements would be subject to monetary penalties.

A Federal prompt pay law is critical to ensuring that our pharmacies and health care providers maintain adequate cash flows and are able to continue functioning. Seniors and all patients depend on their local pharmacists and preferred physicians. They are the providers that know their patients best and ensure that they receive the important care they need and deserve. The threat of local pharmacies, physicians and hospitals going out of business has serious consequences with regards to the kind of care the community will receive.

The need for this legislation cannot be understated. In my State of New Jersey, local pharmacies have never had a more challenging financial situation. They are encountering lower reimbursement rates from the prescription drug managers and a 60–90 day lag time in reimbursements, which are putting many on the brink of going out of business. Almost half of all hospitals are operating in the red, and that number is growing. Physicians and hospitals are experiencing rising health care operating costs and tight Federal and State budgets. Untimely payment of claims has only compounded these problems.

The problem of late payments has reached such a crisis that the majority of States, including New Jersey, have enacted "prompt pay" laws to require insurers to pay their bills within a specific timeframe. Unfortunately, New Jersey's law, like most similar State laws, is largely ineffective because it

lacks strong enforcement provisions and offers no incentives for private insurers to comply. Furthermore, State prompt-pay laws apply only to State-regulated plans, which only cover approximately half of New Jerseyans that are insured.

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

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

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

S. 2551

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Prompt Payment of Health Benefits Claims Act of 2006".

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

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

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

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

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

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

"(b) PROCEDURES INVOLVING SUBMITTED CLAIMS.—

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

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

"(3) CLAIM DETERMINED TO NOT BE A CLEAN CLAIM.—

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

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

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

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

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

"(d) INTEREST SCHEDULE.—

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

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

"(B) 2 percent per month from the 16th day of such nonpayment through the 45th day of such nonpayment.

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

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

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

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

"(g) FINES AND PENALTIES.—

"(1) FINES.—

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

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

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

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

"(B) contact claimants regarding the delays in the processing of claims and inform

claimants of steps being taken to improve such delays.

"(h) DEFINITIONS.—In this section:

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

"(2) CLEAN CLAIM.—The term 'clean claim' means a claim—

"(A) with respect to health care expenses for an individual who is covered under a group health plan on the date such expenses are incurred;

"(B) for such expenses that are covered under such plan at such time; and

"(C) that is submitted with all of the information requested by a group health plan or health insurance issuer offering group health insurance coverage in connection with a group health plan on the claim form or other instructions provided to the health care provider prior to submission of the claim.

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

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

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

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

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

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

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

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

"(b) PROCEDURES INVOLVING SUBMITTED CLAIMS.—

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

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

"(3) CLAIM DETERMINED TO NOT BE A CLEAN CLAIM.—

"(A) IN GENERAL.—If a group health plan or health insurance issuer determines that a claim for health care expenses is not clean, the plan or issuer shall, not later than the end of the period described in paragraph (2), notify the claimant of such determination.

Such notification shall specify all deficiencies in the claim and shall list with specificity all additional information or documents necessary for the proper processing and payment of the claim.

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

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

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

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

“(d) INTEREST SCHEDULE.—

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

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

“(B) 2 percent per month from the 16th day of such nonpayment through the 45th day of such nonpayment.

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

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

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

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

“(g) FINES AND PENALTIES.—

“(1) FINES.—

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

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

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

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

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

“(h) DEFINITIONS.—In this section:

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

“(2) CLEAN CLAIM.—The term ‘clean claim’ means a claim—

“(A) with respect to health care expenses for an individual who is covered under a group health plan on the date such expenses are incurred;

“(B) for such expenses that are covered under such plan at such time; and

“(C) that is submitted with all of the information requested by a group health plan or health insurance issuer offering group health insurance coverage in connection with a group health plan on the claim form or other instructions provided to the health care provider prior to submission of the claim.

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

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

(b) INDIVIDUAL MARKET.—Part B of title XXVII of the Public Health Service Act (42 U.S.C. 300gg–41 et seq.) is amended—

(1) by redesignating the first subpart 3 (relating to other requirements) as subpart 2; and

(2) by adding at the end of subpart 2 the following:

“SEC. 2753. STANDARDS RELATING TO PROMPT PAYMENT OF HEALTH BENEFITS CLAIMS.

“The provisions of section 2707 shall apply to health insurance coverage offered by a health insurance issuer in the individual market in the same manner as they apply to health insurance coverage offered by a health insurance issuer in connection with a group health plan in the small or large group market.”

SEC. 4. AMENDMENTS TO THE SOCIAL SECURITY ACT.

(a) PROMPT PAYMENT BY PRESCRIPTION DRUG PLANS.—Section 1860D–12(b) of the Social Security Act (42 U.S.C. 1395w–112(b)) is amended by adding at the end the following new paragraph:

“(4) PROMPT PAYMENT OF CLEAN CLAIMS.—

“(A) PROMPT PAYMENT.—

“(i) IN GENERAL.—Each contract entered into with a PDP sponsor under this section with respect to a prescription drug plan offered by such sponsor shall provide that payment shall be issued, mailed, or otherwise transmitted with respect to all clean claims submitted under this part within the applicable number of calendar days after the date on which the claim is received.

“(ii) CLEAN CLAIM DEFINED.—In this paragraph, the term ‘clean claim’ means a claim—

“(I) with respect to health care expenses for an individual who is covered under a group health plan on the date such expenses are incurred;

“(II) for such expenses that are covered under such plan at such time; and

“(III) that is submitted with all of the information requested by a group health plan or health insurance issuer offering group health insurance coverage in connection with a group health plan on the claim form or other instructions provided to the health care provider prior to submission of the claim.

“(B) APPLICABLE NUMBER OF CALENDAR DAYS DEFINED.—In this paragraph, the term ‘applicable number of calendar days’ means—

“(i) with respect to claims submitted electronically, 14 days; and

“(ii) with respect to claims submitted otherwise, 30 days.

“(C) INTEREST SCHEDULE.—

“(i) IN GENERAL.—With respect to a clean claim, a PDP sponsor that fails to comply with subparagraph (A) shall pay the claimant interest on the amount of such claim, from the date on which such payment was due as provided in this paragraph, at the following rates:

“(I) 1½ percent per month from the 1st day of nonpayment after payment is due through the 15th day of such nonpayment.

“(II) 2 percent per month from the 16th day of such nonpayment through the 45th day of such nonpayment.

“(III) 2½ percent per month after the 46th day of such nonpayment.

“(D) PROCEDURES INVOLVING CLAIMS.—

“(i) IN GENERAL.—A contract entered into with a PDP sponsor under this section with respect to a prescription drug plan offered by such sponsor shall provide that, not later than 10 days after the date on which a clean claim is submitted, the PDP sponsor shall provide the claimant with a notice that acknowledges receipt of the claim by such sponsor. Such notice shall be considered to have been provided on the date on which the notice is mailed or electronically transferred.

“(ii) CLAIM DEEMED TO BE A CLEAN CLAIM.—A claim is deemed to be a clean claim if the PDP sponsor involved does not provide notice to the claimant of any deficiency in the claim within 10 days of the date on which the claim is submitted.

“(iii) CLAIM DETERMINED TO NOT BE A CLEAN CLAIM.—

“(I) IN GENERAL.—If a PDP sponsor determines that a submitted claim is not a clean claim, the PDP sponsor shall, not later than the end of the period described in clause (ii), notify the claimant of such determination. Such notification shall specify all defects or improprieties in the claim and shall list with specificity all additional information or documents necessary for the proper processing and payment of the claim.

“(II) DETERMINATION AFTER SUBMISSION OF ADDITIONAL INFORMATION.—A claim is deemed to be a clean claim under this paragraph if the PDP sponsor involved does not provide notice to the claimant of any defect or impropriety in the claim within 10 days of the date on which additional information is received under subclause (I).

“(III) PAYMENT OF CLEAN PORTION OF A CLAIM.—A PDP sponsor shall, as appropriate, pay any portion of a claim that would be a clean claim but for a defect or impropriety in a separate portion of the claim in accordance with subparagraph (A).

“(iv) OBLIGATION TO PAY.—A claim submitted to a PDP sponsor that is not paid or contested by the provider within the applicable number of days (as defined in subparagraph (B)) shall be deemed to be a clean claim and shall be paid by the PDP sponsor in accordance with subparagraph (A).

“(v) DATE OF PAYMENT OF CLAIM.—Payment of a clean claim under such subparagraph is

considered to have been made on the date on which full payment is received by the provider.

“(E) PRIVATE RIGHT OF ACTION.—

“(i) IN GENERAL.—Nothing in this paragraph shall be construed to prohibit or limit a claim or action not covered by the subject matter of this section that any individual or organization has against a provider or a PDP sponsor.

“(ii) ANTI-RETALIATION.—Consistent with applicable Federal or State law, a PDP sponsor shall not retaliate against an individual or provider for exercising a right of action under this subparagraph.

“(F) FINES AND PENALTIES.—

“(i) FINES.—

“(I) IN GENERAL.—If a PDP sponsor willfully and knowingly violates this section or has a pattern of repeated violations of this section, the Secretary shall impose a fine not to exceed \$1,000 per claim for each day a response is delinquent beyond the date on which such response is required under this paragraph.

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

“(ii) REMEDIAL ACTION PLAN.—Where it is established that the PDP sponsor willfully and knowingly violated this section or has a pattern of repeated violations, the Secretary shall require the PDP sponsor to—

“(I) submit a remedial action plan to the Secretary; and

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

(b) PROMPT PAYMENT BY MA-PD PLANS.—Section 1857(f) of the Social Security Act (42 U.S.C. 1395w-27) is amended by adding at the end the following new paragraph:

“(3) INCORPORATION OF CERTAIN PRESCRIPTION DRUG PLAN CONTRACT REQUIREMENTS.—The provisions of section 1860D-12(b)(4) shall apply to contracts with a Medicare Advantage organization in the same manner as they apply to contracts with a PDP sponsor offering a prescription drug plan under part D.”

(c) MEDICAID.—Section 1932(f) of the Social Security Act (42 U.S.C. 1396u-2(f)) is amended by striking “the claims payment procedures described in section 1902(a)(37)(A), unless the health care provider and the organization agree to an alternate payment schedule” and inserting “section 1860D-12(b)(4), in the same manner as the provisions of such section apply to a PDP sponsor offering a prescription drug plan under part D”.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to contracts entered into or renewed on or after December 31, 2006.

SEC. 5. PREEMPTION.

The provisions of this Act shall not supersede any contrary provision of State law if the provision of State law imposes requirements, standards, or implementation specifications that are equal to or more stringent than the requirements, standards, or implementation specifications imposed under this Act, and any such requirements, standards, or implementation specifications under State law that are equal to or more stringent than the requirements, standards, or implementation specifications under this Act shall apply to group health plans and health insurance issuers as provided for under State law.

SEC. 6. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in section 4 and subsection (b), the amendments made by this Act shall apply with respect to

group health plans and health insurance issuers for plan years beginning after December 31, 2006.

(b) SPECIAL RULE FOR COLLECTIVE BARGAINING AGREEMENTS.—In the case of a group health plan maintained pursuant to one or more collective bargaining agreements between employee representatives and one or more employers ratified before the date of the enactment of this Act, the amendments made by this Act shall not apply to plan years beginning before the later of—

(1) the date on which the last of the collective bargaining agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of the enactment of this Act), or

(2) January 1, 2007.

For purposes of paragraph (1), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement of the amendments made by this section shall not be treated as a termination of such collective bargaining agreement.

SEC. 7. SEVERABILITY.

If any provision of this Act, or an amendment made by this Act, is held by a court to be invalid, such invalidity shall not affect the remaining provisions of this Act, or amendments made by this Act.

By Mr. MCCAIN (for himself, Mr. DORGAN, and Ms. CANTWELL):

S. 2552. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to clarify that Indian tribes are eligible to receive grants for confronting the use of methamphetamine, and for other purposes; to the Committee on the Judiciary.

Mr. MCCAIN. Mr. President, I am joined today by Senators DORGAN and CANTWELL in introducing a bill to amend the recently passed PATRIOT Act reauthorization to ensure that Indian tribes are eligible for Federal methamphetamine-related grants. The legislation would allow tribes, like States, to receive grants to reduce the availability of meth in hot spot areas; grants for programs for drug-endangered children; and grants to address methamphetamine use by pregnant and parenting women offenders.

The scourge of methamphetamine has afflicted much of our Nation, and it has had particularly devastating effects on Indian reservations. The problem of meth in Indian country, which the National Congress of American Indians identified this year as its top priority, is ubiquitous, and has strained already overburdened law enforcement, health, social welfare, housing, and child protective and placement services on Indian reservations. Last week a former tribal judge on the Wind River Reservation in Wyoming pled guilty to conspiracy to distribute methamphetamine and other drugs. The day before, the Navajo Nation police arrested an 81 year old grandmother, her daughter, and her granddaughter, for selling meth. One tribe in Arizona had over 60 babies born last year with meth in their systems. At a hearing in the Senate Indian Affairs Committee last month on child abuse, witnesses testified that methamphetamine is a significant cause of abuse and neglect of

Indian children. Last year, the National Indian Housing Council expanded its training for dealing with meth in tribal housing: the average cost of decontaminating a single residence that has been used a meth lab is \$10,000. Meth is affecting every aspect of tribal life and something must be done.

The measure I am introducing today takes but a small step on the long journey toward ridding Indian country of the blight of methamphetamine. I encourage my colleagues to support it. 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. 2552

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 “Indian Tribes Methamphetamine Reduction Grants Act of 2006”.

SEC. 2. INDIAN TRIBES PARTICIPATION IN METHAMPHETAMINE GRANTS.

(a) IN GENERAL.—Section 2996(a) of the Omnibus Crime Control and Safe Streets Act of 1968 is amended—

(1) in paragraph (1)—

(A) in the matter preceding subparagraph (A), by inserting “and Indian tribes (as defined in section 2704)” after “to assist States”; and

(B) in subparagraph (B), by inserting “, Tribal,” before “and local”;

(2) in paragraph (2), by inserting “and Indian tribes” after “make grants to States”; and

(3) in paragraph (3)(C), by inserting “, Tribal,” after “support State”.

(b) GRANT PROGRAMS FOR DRUG ENDANGERED CHILDREN.—Section 755(a) of the USA PATRIOT Improvement and Reauthorization Act of 2005 (Public Law 109-177) is amended by inserting “and Indian tribes (as defined in section 2704 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797d))” after “make grants to States”.

(c) GRANT PROGRAMS TO ADDRESS METHAMPHETAMINE USE BY PREGNANT AND PARENTING WOMEN OFFENDERS.—Section 756 of the USA PATRIOT Improvement and Reauthorization Act of 2005 (Public Law 109-177) is amended—

(1) in subsection (a)(2), by inserting “, territorial, or Tribal” after “State”;

(2) in subsection (b)—

(A) in paragraph (1)—

(i) by inserting “, territorial, or Tribal” after “State”; and

(ii) by striking “and/or” and inserting “or”;

(B) in paragraph (2)—

(i) by inserting “, territory, or Indian tribe” after “agency of the State”; and

(ii) by inserting “, territory, or Indian tribe” after “criminal laws of that State”; and

(C) by adding at the end the following:

“(3) INDIAN TRIBE.—The term ‘Indian tribe’ has the same meaning as in section 2704 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797d).”;

(3) in subsection (c)—

(A) in paragraph (3), by striking “Indian Tribe” and inserting “Indian tribe”; and

(B) in paragraph (4)—

(i) in the matter preceding subparagraph (A)—

(I) by striking “State’s services” and inserting “services of the State, territory, or Tribe”; and

(II) by striking “and/or” and inserting “or”;

(ii) in subparagraph (A), by striking “State”;

(iii) in subparagraph (C), by inserting “, Indian tribes,” after “involved counties”; and

(iv) in subparagraph (D), by inserting “, Tribal” after “Federal, State”.

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

S. 2555. A bill to designate the facility of the United States Postal Service located at 2633 11th Street in Rock Island, Illinois, as the “Lane Evans Post Office Building”; to the Committee on Homeland Security and Governmental Affairs.

Mr. DURBIN. Mr. President, today I am pleased to introduce legislation to designate the U.S. Post Office at 2633 11th Street in Rock Island, Illinois, as the “Lane Evans Post Office Building.”

This legislation honors my friend and fellow Illinoisan LANE EVANS who has decided to retire instead of seeking reelection to the House of Representatives in November. Congressman LANE EVANS, born and raised in Rock Island, represents Illinois’ 17th Congressional District. He was first elected in 1982 and is serving his eleventh term in the U.S. House of Representatives. From the Quad Cities to Quincy, from Springfield to Decatur and Carlinville, in cities and towns throughout his district, LANE EVANS is deeply respected. His service will be greatly missed.

Congressman EVANS was a Vietnam-era veteran of the U.S. Marine Corps and rose to the position of Ranking Democratic Member of the House Veterans’ Affairs Committee. He is recognized as a leading advocate of veterans in Congress. He successfully led legislative efforts to pass Agent Orange compensation and health and compensation benefits for children of veterans exposed to Agent Orange who were born with spina bifida, a crippling birth defect. Congressman EVANS also led the effort to secure benefits for Persian Gulf veterans and to provide full disclosure about their possible exposure to toxins during their service. He has also worked to expand services to women veterans, pushed for increased help for veterans suffering from post-traumatic stress disorder, and established important new programs to assist in the rehabilitation and health care treatment of thousands of homeless veterans.

Congressman EVANS is also a member of the House Armed Services Committee and is Chairman of the Vietnam Veterans in Congress Caucus. He is also Co-Chairman of the Alcohol Fuels Caucus, the Congressional Working Group on Parkinson’s Disease, and the International Workers Rights Caucus. Congressman EVANS has been named an “Environmental Hero” for his pro-envi-

ronment voting record by the League of Conservation Voters and awarded the Conservationist of the Year Award for 1995 by the Heart of Illinois Sierra Club, the first time the organization gave the honor to a non-volunteer.

Congressman EVANS was born in Rock Island on August 4, 1951. He attended grade school and high school in Rock Island. Following graduation from high school, he joined the Marine Corps and was stationed in Okinawa. He received an honorable discharge in 1971. Congressman EVANS received a B.A. (magna cum laude) in 1974 from Augustana College in Rock Island, Illinois. He also attended Black Hawk College in Moline, Illinois. He is a 1978 graduate of Georgetown University Law Center in Washington, D.C. Following his graduation from law school, he practiced law in Rock Island where he served children, the poor and working families.

For over 20 years, LANE EVANS has been my closest friend in the Illinois Congressional Delegation. We came to the House of Representatives together and he proved to be an indomitable force. Time and again, LANE EVANS has shown extraordinary political courage fighting for the values that brought him to public service. But his greatest show of courage has been over the last 10 years as he battled Parkinson’s disease and those who tried to exploit his physical weakness. His determination to serve the 17th Congressional District he loves pushed him to work harder as Parkinson’s became a heavier burden each day. His dignity and perseverance in the face of this relentless and cruel disease is an inspiration to everyone who knows LANE EVANS.

I am pleased to offer this legislation to permanently and publicly recognize LANE EVANS and his service to his Congressional District, our State of Illinois, and the entire United States by naming the Rock Island Post Office in his honor. It would be a most appropriate way for us to express our appreciation to Congressman EVANS and to commemorate his public life and work.

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. 2555

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

SECTION 1. LANE EVANS POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 2633 11th Street in Rock Island, Illinois, shall be known and designated as the “Lane Evans Post Office Building”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility re-

ferred to in subsection (a) shall be deemed to be a reference to the “Lane Evans Post Office Building”.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 424—CONGRATULATING AND COMMENDING THE MEMBERS OF THE UNITED STATES OLYMPIC AND PARALYMPIC TEAMS, AND THE UNITED STATES OLYMPIC COMMITTEE, FOR THEIR SUCCESS AND INSPIRED LEADERSHIP

Mr. ALLARD submitted the following resolution; which was referred to the Committee on Commerce, Science, and Transportation:

S. RES. 424

Whereas athletes of the United States Winter Olympic Team captured 9 gold medals, 9 silver medals, and 7 bronze medals at the Olympic Winter Games in Torino, Italy;

Whereas the total number of medals won by the competitors of the United States placed the United States ahead of all but 1 country, Germany, in total medals awarded to teams from any 1 country;

Whereas the paralympic athletes of the United States captured 7 gold medals, 2 silver medals, and 3 bronze medals at the Paralympic Winter Games, which were held immediately after the Olympic Winter Games in Torino, Italy;

Whereas the total medal count for the United States Winter Paralympic Team ranked the team 7th among all participating teams;

Whereas members of the United States Winter Olympic Team, such as skater Joey Cheek, who donated his considerable monetary earnings to relief efforts in Darfur, Sudan, and skier Lindsey Kildow, who exhibited considerable courage by returning to the field of competition only days after a painful and horrendous accident, demonstrated the true spirit of generosity and tenacity of the United States and the Olympic Winter Games; and

Whereas the leadership displayed by United States Olympic Committee Board Chairman Peter Ueberroth and Chief Executive Officer Jim Scherr has helped transform the committee into an organization that—

(1) upholds the highest ideals of the Olympic movement; and

(2) discharges the responsibilities of the committee to the athletes and the citizens of the United States in the manner that Congress intended when it chartered the committee in 1978: Now, therefore, be it

Resolved, That the Senate—

(1) commends and congratulates the members of the 2006 United States Winter Olympic and Paralympic Teams for their performance on and off the field of competition in Torino, Italy;

(2) expresses its appreciation for the firm, inspired, and ethical leadership displayed by the United States Olympic Committee; and

(3) extends its best wishes and encouragement to those athletes of the United States and their numerous supporters who are preparing to represent the United States at the 2008 Olympic Games, which are to be held in Beijing, China.

SENATE RESOLUTION 425—TO COM-
MEND THE UNIVERSITY OF
MARYLAND WOMEN'S BASKET-
BALL TEAM FOR WINNING THE
2006 NATIONAL COLLEGIATE ATH-
LETIC ASSOCIATION DIVISION I
NATIONAL BASKETBALL CHAM-
PIONSHIP

Ms. MIKULSKI (for herself and Mr. SARBANES) submitted the following resolution; which was considered and agreed to:

S. RES. 425

Whereas the University of Maryland women's basketball team has worked vigorously, dynamically, and very enthusiastically to reach a championship level of play;

Whereas the students, alumni, faculty, and fans of the Terrapins should be congratulated for their commitment to the University of Maryland Terrapins national champion women's basketball team;

Whereas the student athletes, led by Crystal Langhorne and her teammates, Kristi Toliver, Freshman of the Year Marissa Coleman, Shay Doron, Laura Harper, Kalika France, Christie Marrone, Ashleigh Newman, Aurelie Noirez, Jade Perry, Angel Ross, Charmaine Carr, and Sa'de Wiley-Gatewood participated in this national championship season;

Whereas Head Coach Brenda Frese has recruited and taught the top talent in the United States to be student athletes at the University of Maryland and has been assisted by coaches Jeff Walz, Erica Floyd, Joanna Bernabei, and Director of Basketball Operations Mark Pearson, to imbue in these young women the values of teamwork, perseverance, and competitiveness;

Whereas the University of Maryland women's basketball team, also known as the "Terps", was able to defeat their 2 greatest foes en route to a first national championship in women's basketball;

Whereas the championship game was won in overtime after overcoming a deficit of 13 points with only 15 minutes remaining in regulation play; and

Whereas the grit, heart, and maturity of the 2006 University of Maryland Terrapins women's basketball team will be the standard-bearer for years to come in the game of Women's College Basketball: Now, therefore, be it

Resolved, That the Senate—

(1) congratulates the University of Maryland Terrapins women's college basketball team for winning the 2006 National Collegiate Athletic Association Division I National Championship;

(2) recognizes the breathtaking achievements of Head Coach Brenda Frese, her assistant coaches, and all of the outstanding players; and

(3) directs the Secretary of the Senate to transmit a copy of this resolution to Brenda Frese, Head Coach of the national champions University of Maryland Terrapins and to the University of Maryland College Park President, Dr. Dan Mote for appropriate display.

SENATE RESOLUTION 426—SUP-
PORTING THE GOALS AND
IDEALS OF NATIONAL CAMPUS
SAFETY AWARENESS MONTH

Mr. SPECTER (for himself and Mr. FEINGOLD) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 426

Whereas students and faculty on college and university campuses are subject to criminal threats from—

(1) within the borders of their respective institutions; and

(2) the communities in which their respective institutions are located;

Whereas, between 2001 and 2003, 84 homicides, 7,941 sex offenses, 9,296 aggravated assaults, and 3,367 arsons on the campuses of colleges and universities in the United States were reported under the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (20 U.S.C. 1092(f));

Whereas between $\frac{1}{2}$ and $\frac{1}{4}$ of all female students become the victim of a completed or attempted rape, usually by someone they know, during their college careers;

Whereas more than 97,000 students between the ages of 18 and 24 are victims of alcohol-related sexual assaults each year;

Whereas, each year, more than 696,000 students between the ages of 18 and 24 are assaulted by another student who has been drinking;

Whereas 1,700 college students between the ages of 18 and 24 die each year from alcohol-related unintentional injuries, including motor vehicle crashes;

Whereas, according to the Center for Campus Fire Safety, there were 82 fire fatalities in student housing buildings between January 2000 and January 2006;

Whereas Security On Campus, Inc., a national group dedicated to promoting safety and security on college and university campuses, has designated September 2006 as "National Campus Safety Awareness Month"; and

Whereas the designation of National Campus Safety Awareness Month provides an opportunity to colleges and universities to inform students about—

(1) existing campus crime trends;

(2) campus security policies;

(3) crime prevention techniques;

(4) fire safety issues; and

(5) alcohol and other drug education, prevention, and treatment programs: Now, therefore, be it

Resolved, That the Senate—

(1) supports the goals and ideals of National Campus Safety Awareness Month; and
(2) encourages students who are enrolled in colleges and universities to participate in events and awareness initiatives held during the month of September.

Mr. SPECTER. Mr. President, today is the 20th anniversary of the murder of a 19-year-old on a Pennsylvania college campus, Lehigh University in Bethlehem, PA. Twenty years ago, a student who was on drugs and alcohol entered her room through three doors which should have been locked and committed a brutal rape and murder.

When I was district attorney of Philadelphia, I dealt with numerous incidents of campus crime and knew firsthand of the severity. However, I believe that many people would be surprised by the extent of the problem.

According to U.S. Department of Education statistics, from 2001 to 2003, there were a total of 84 homicides, 7,941 sex offenses, 9,296 aggravated assaults, and 3,367 arsons on college campuses during that period of time.

The parents of Jeanne Clery, Connie and Howard Clery, have undertaken a crusade to try to prevent the recurrence of the brutal crime against their

daughter and have had a national campaign. Part of that was their efforts, which I joined them on, to introduce the Crime Awareness and Campus Security Act of 1989, which became law in 1990.

Regrettably, there is only about one-third compliance with the schools on that act. The beginning of the school year is the time they call the Red Zone, when there are more offenses likely to be committed. For this reason, Security on Campus has designated September 2006 as National Campus Safety Awareness Month to provide an opportunity for colleges and universities to inform students about existing campus crime trends. At a very minimum, the colleges and universities ought to comply with the law on disclosure so that students may know what the risks are.

I ask unanimous consent that the full text of my prepared statement be printed in the RECORD at the conclusion of my remarks.

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

STATEMENT OF SENATOR ARLEN SPECTER
NATIONAL CAMPUS SAFETY AWARENESS MONTH
RESOLUTION

Mr. SPECTER. Mr. President, I have sought recognition today to introduce a resolution supporting the goals and ideals of National Campus Safety Awareness Month. Today is a somber yet, important day for this resolution to be introduced as it marks the 20th Anniversary of Jeanne Clery's murder. In the early morning hours of April 5, 1986, Jeanne Clery, a 19 year old student at Lehigh University in Bethlehem, Pennsylvania, was brutally raped and murdered in her dormitory room. Her killer was a drug and alcohol abuser and a Lehigh University student whom Jeanne had never met. He gained access to her room by proceeding, unopposed, through three propped-open doors, each of which should have been locked. This heinous crime opened the eyes of our nation to the extent of crime on college and university campuses.

When I was district attorney of Philadelphia, I dealt with numerous incidents of campus crime and know firsthand of its severity. However, I believe that many would be surprised by the extent of the problem. According to recent U.S. Department of Education statistics, a total of 84 homicides; 7,941 sex offenses; 9,296 aggravated assaults; and 3,367 arsons were reported on our nation's college and university campuses from 2001 to 2003. In addition, 1,700 college students between the ages of 18 and 24 die each year from alcohol related unintentional injuries, including motor vehicle crashes. Additionally, more than 696,000 students are assaulted by another student who has been drinking and more than 97,000 students are victims of alcohol related sexual assault or date rape according to the latest research from the National Institute on Alcohol Abuse and Alcoholism.

Since their daughter's death, Connie and Howard Clery, have worked tirelessly in their daughter's memory to protect the lives of college students by warning them of these dangers through the work of Security On Campus, Inc., a national nonprofit that they founded, which is based in King of Prussia, Pennsylvania. The Clerys first brought these issues to my attention shortly after their daughter's murder and I worked with them

to develop the Crime Awareness and Campus Security Act of 1989, which became law in 1990. This Act was modified and included in the Higher Education Act of 1998, as the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act. Although the U.S. Department of Justice has concluded that only a third of all schools are reporting their campus crime statistics in a manner fully compliant with the law, the Clery Act has significantly changed the landscape of campus security for the better, but as the statistics reveal, more work remains to be done.

Security on Campus has found that the beginning of each new school year can be an especially dangerous time for students. This is particularly true for first year students who are on their own for the first time in a new environment and are experiencing new freedoms. Due to the increased risk of sexual assault that female college students face during this time, the period from the start of the Fall semester through the end of November is often referred to as the "Red Zone". For this reason, Security on Campus has designated September 2006 as National Campus Safety Awareness Month to provide opportunity for colleges and universities to inform students about existing campus crime trends, campus security policies, crime prevention techniques, fire safety, and alcohol and other drug education, prevention and treatment programs.

Throughout the past several years, I have worked together with the Clerys, Security on Campus, and crime prevention professionals on campuses across the country to help raise much needed awareness about these dangers. Thus, I urge my colleagues, in honor of Jeanne Clery's memory, to join me in this effort by supporting the goals and ideals of National Campus Safety Awareness Month.

Thank you, Mr. President. I yield the floor.

SENATE RESOLUTION 427—COMMEMORATING THE 50TH ANNIVERSARY OF THE INTERSTATE SYSTEM

Mr. INHOFE (for himself, Mr. WARNER, Mr. BOND, Mr. VOINOVICH, Mr. CHAFEE, Ms. MURKOWSKI, Mr. VITTER, Mr. THUNE, Mr. DEMINT, Mr. ISAKSON, Mr. JEFFORDS, Mr. BAUCUS, Mr. LIEBERMAN, Mrs. BOXER, Mr. CARPER, Mrs. CLINTON, Mr. LAUTENBERG, Mr. OBAMA, and Mr. REID) submitted the following resolution; which was considered and agreed to:

S. RES. 427

Whereas, on June 29, 1956, President Dwight D. Eisenhower signed into law—

(1) the Federal-Aid Highway Act of 1956 (Public Law 84-627; 70 Stat. 374) to establish the 41,000-mile National System of Interstate and Defense Highways, later designated as the "Dwight D. Eisenhower National System of Interstate and Defense Highways"; and

(2) the Highway Revenue Act of 1956 (Public Law 84-627; 70 Stat. 387) to create the Highway Trust Fund;

Whereas, in 1990, the National System of Interstate and Defense Highways was renamed the Dwight D. Eisenhower System of Interstate and Defense Highways to recognize the role of President Eisenhower in the creation of the Interstate Highway System;

Whereas that web of superhighways, now spanning a total of 46,876 miles throughout the United States, has had a powerful and positive impact on the lives of United States citizens;

Whereas the Interstate System has proven to be a vital tool for transporting people and

goods from 1 region to another speedily and safely;

Whereas the use of the Interstate System has helped the Nation facilitate domestic and global trade, and has allowed the Nation to create unprecedented economic expansion and opportunities for millions of United States citizens;

Whereas the Interstate System has enabled diverse communities throughout the United States to come closer together, and has allowed United States citizens to remain connected to each other as well as to the larger world;

Whereas the Interstate System has made it easier and more enjoyable for United States citizens to travel to long-distance destinations and spend time with family members and friends who live far away;

Whereas the Interstate System is a pivotal link in the national chain of defense and emergency preparedness efforts;

Whereas the Interstate System remains 1 of the paramount assets of the United States, as well as a symbol of human ingenuity and freedom;

Whereas the anniversary of the Interstate System provides United States citizens with an occasion to honor 1 of the largest public works achievements of all time, and reflect on how the Nation can maintain the effectiveness of the System in the years ahead: Now, therefore, be it

Resolved, That the Senate—

(1) proclaims 2006 as the Golden Anniversary Year of the Dwight D. Eisenhower National System of Interstate and Defense Highways;

(2) recognizes and celebrates the achievements of the Federal Highway Administration, State departments of transportation, and the highway construction industry of the United States, including contractors, designers, engineers, labor, materials producers, and equipment companies, for their contributions to the quality of life of the citizens of the United States; and

(3) encourages citizens, communities, governmental agencies, and other organizations to promote and participate in celebratory and educational activities that mark this uniquely important and historic milestone.

SENATE RESOLUTION 428—CONGRATULATING THE UNIVERSITY OF WISCONSIN MEN'S CROSS COUNTRY TEAM FOR WINNING THE 2005 NATIONAL COLLEGIATE ATHLETIC ASSOCIATION DIVISION I CROSS COUNTRY CHAMPIONSHIP

Mr. FEINGOLD (for himself and Mr. KOHL) submitted the following resolution; which was considered and agreed to:

S. RES. 428

Whereas, on November 21, 2005, after finishing second for 3 consecutive years, the University of Wisconsin men's cross country team (referred to in this preamble as the "Badgers cross country team") won the National Collegiate Athletic Association Division I Cross Country Championship in Terre Haute, Indiana, by placing first ahead of—

- (1) the University of Arkansas; and
- (2) Notre Dame University;

Whereas the Badgers cross country team secured its victory through the strong performances of its members, including—

- (1) Simon Bairu, who won his second consecutive individual national championship with a time of 29:15.9;
- (2) Chris Solinsky, who finished third in the championship race with a time of 29:27.8;

(3) Matt Withrow, who finished ninth in the race with a time of 29:50.7;

(4) Antony Ford, who finished 14th with a time of 29:55.2;

(5) Stuart Eagon, who finished 17th with a time of 30:05.3;

(6) Tim Nelson, who finished 18th with a time of 30:06.4; and

(7) Christian Wagner, who finished 58th with a time of 30:35.7;

Whereas the success of the season depended on the hard work, dedication, and performance of every player on the Badgers cross country team, including—

- (1) Simon Bairu;
- (2) Brandon Bethke;
- (3) Bryan Culer;
- (4) Stuart Eagon;
- (5) Antony Ford;
- (6) Ryan Gasper;
- (7) Ben Gregory;
- (8) Bobby Lockhart;
- (9) Tim Nelson;
- (10) Teddy O'Reilly;
- (11) Tim Pierie;
- (12) Joe Pierre;
- (13) Ben Porter;
- (14) Codie See;
- (15) Chris Solinsky;
- (16) Christian Wagner; and
- (17) Matt Withrop;

Whereas, on October 30, 2005, the Badgers cross country team won its seventh straight Big Ten championship with a record-setting score and margin of victory by sweeping the top four positions and eight of the top ten positions;

Whereas numerous members of the Badgers cross country team were recognized for their performance in the Big Ten Conference, including—

(1) Simon Bairu, who was named the Big Ten Men's Cross Country Athlete of the Year and won the Big Ten Conference individual title;

(2) Matt Withrop, who was named the Big Ten Men's Cross Country Freshman of the Year after finishing third in the conference meet; and

(3) Head Coach Jerry Schumacher, who was named the Big Ten Men's Cross Country Coach of the Year for the fifth consecutive year; and

Whereas Simon Bairu, Chris Solinsky, Matt Withrow, Antony Ford, Stuart Eagon, and Tim Nelson earned All-American honors: Now, therefore, be it

Resolved, That the Senate—

(1) congratulates the University of Wisconsin men's cross country team, Head Coach Jerry Schumacher and his coaching staff, Athletic Director Barry Alvarez, and Chancellor John D. Wiley for an outstanding championship season; and

(2) respectfully requests the Clerk of the Senate to transmit an enrolled copy of this resolution to the Chancellor of the University of Wisconsin-Madison.

SENATE RESOLUTION 429—CONGRATULATING THE UNIVERSITY OF WISCONSIN WOMEN'S HOCKEY TEAM FOR WINNING THE 2006 NATIONAL COLLEGIATE ATHLETIC ASSOCIATION DIVISION I HOCKEY CHAMPIONSHIP

Mr. FEINGOLD (for himself and Mr. KOHL) submitted the following resolution, which was considered and agreed to:

S. RES. 429

Whereas on March 26, 2006, the University of Wisconsin Badgers won the women's Frozen Four in Minneapolis, Minnesota, with a

victory over the 2-time defending champion University of Minnesota Golden Gophers by 3 to 0 in the championship game after having defeated St. Lawrence University by 1 to 0 in the semifinals;

Whereas Jinelle Zaugg of Eagle River, Wisconsin, scored 2 goals, Grace Hutchison of Winnetka, Illinois, scored a goal, and Jessie Vetter of Cottage Grove, Wisconsin, had 31 saves in the championship game, and recorded the first shut-out in the history of the women's Frozen Four championship games;

Whereas every player on the University of Wisconsin women's hockey team (Sara Bauer, Rachel Bible, Nikki Burish, Sharon Cole, Vicki Davis, Christine Dufour, Kayla Hagen, Tia Hanson, Meghan Horras, Grace Hutchins, Cyndy Kenyon, Angie Keseley, Heidi Kletzien, Erika Lawler, Alycia Matthews, Meaghan Mikkelson, Phoebe Monteleone, Emily Morris, Mikka Nordby, Bobbi-Jo Slusar, Jessie Vetter, Kristen Witting, and Jinelle Zaugg) contributed to the success of this team;

Whereas Sara Bauer and Bobbi-Jo Slusar were named to the All-Western Collegiate Hockey Association (known as "WCHA") First Team, Sharon Cole, Meaghan Mikkelson, and Meghan Horras were named to the All-WCHA Second Team, Bobbi-Jo Slusar was named the WCHA Defensive Player of the Year, and Sara Bauer was named the WCHA Player of the Year;

Whereas Coach Mark Johnson, who won a National Collegiate Athletic Association National (known as "NCAA") championship as a member of the University of Wisconsin men's 1977 championship team, was a star on the 1980 United States Olympic hockey team, which produced what is known as the "Miracle on Ice", and is one of the few people who have won a national championship as both a player and coach, and was named the WCHA Coach of the Year;

Whereas Sara Bauer and Bobbi-Jo Slusar were named first team All-Americans, and Sara Bauer won the Patty Kazmaier Award, as the Nation's top player;

Whereas Jessie Vetter won the 2006 NCAA Tournament's Most Outstanding Player award and was joined on the All-Tournament Team by Jinelle Zaugg and Bobbi-Jo Slusar;

Whereas the victory in the women's Frozen Four is the University of Wisconsin's first varsity women's hockey national championship, and the university's first women's team national championship since 1984; and

Whereas this victory ended a terrific season in which the University of Wisconsin women's hockey team outscored their opponents 155-51 and had a record of 34-4-1: Now, therefore, be it

Resolved, That the Senate—

(1) congratulates the University of Wisconsin women's hockey team, the coaching staff, including Head Coach Mark Johnson, Athletic Director Barry Alvarez, and Chancellor John D. Wiley on an outstanding championship season; and

(2) respectfully requests the Clerk of the Senate to transmit an enrolled copy of this resolution to the Chancellor of the University of Wisconsin-Madison.

SENATE RESOLUTION 430—COMMENDING THE UNIVERSITY OF FLORIDA MEN'S BASKETBALL TEAM FOR WINNING THE 2006 NATIONAL COLLEGIATE ATHLETIC ASSOCIATION DIVISION I BASKETBALL CHAMPIONSHIP

Mr. NELSON of Florida (for himself and Mr. MARTINEZ) submitted the following resolution; which was considered and agreed to:

S. RES. 430

Whereas on Monday, April 3, 2006, the University of Florida men's basketball team (referred to in this preamble as the "Florida Gators") defeated the men's basketball team of the University of California, Los Angeles, by a score of 73-57, to win the 2006 National Collegiate Athletic Association Division I Basketball Championship;

Whereas that historic victory by the Florida Gators was a product of—

(1) an almost flawless and unselfish team performance; and

(2) individual player excellence and versatility from members of the Florida Gators;

Whereas that victory marked the first national basketball championship victory for the University of Florida, and occurred 10 years after the school won the National Collegiate Athletic Association Division I Football Championship;

Whereas the head coach of the Florida Gators, Billy Donovan, became the second youngest coach to win the national championship, after leading the Florida Gators to a school-best, 33-6 record;

Whereas University of Florida sophomore Joakim Noah was chosen as the most outstanding player of the Final Four;

Whereas each player, coach, trainer, and manager dedicated his or her time and effort to ensuring that the Florida Gators reached the pinnacle of team achievement; and

Whereas the families of the players, students, alumni, and faculty of the University of Florida, and all of the supporters of the University of Florida, are to be congratulated for their commitment to, and pride in, the basketball program at the University of Florida; Now, therefore, be it

Resolved, That the Senate—

(1) commends the University of Florida men's basketball team for winning the 2006 National Collegiate Athletic Association Division I Basketball Championship;

(2) recognizes the achievements of all of the players, coaches, and support staff who were instrumental in helping the University of Florida men's basketball team win the 2006 National Collegiate Athletic Association Division I Basketball Championship, and invites those individuals to the United States Capitol Building to be honored; and

(3) respectfully requests the Enrolling Clerk of the Senate to transmit an enrolled copy of this resolution to—

(A) the University of Florida for appropriate display; and

(B) the coach of the University of Florida men's basketball team, Billy Donovan.

SENATE RESOLUTION 431—DESIGNATING MAY 11, 2006, AS "ENDANGERED SPECIES DAY", AND ENCOURAGING THE PEOPLE OF THE UNITED STATES TO BECOME EDUCATED ABOUT, AND AWARE OF, THREATS TO SPECIES, SUCCESS STORIES IN SPECIES RECOVERY, AND THE OPPORTUNITY TO PROMOTE SPECIES CONSERVATION WORLDWIDE

Mrs. FEINSTEIN (for herself, Mr. CHAFEE, Mrs. CLINTON, Mr. CRAPO, Mr. BIDEN, Mr. BYRD, Mr. FEINGOLD, Mr. REED, Ms. CANTWELL, Mr. LEVIN, Mr. LIEBERMAN, Mr. DODD, and Ms. SNOWE) submitted the following resolution; which was considered and agreed to:

S. RES. 431

Whereas in the United States and around the world, more than 1,000 species are offi-

cially designated as at risk of extinction and thousands more also face a heightened risk of extinction;

Whereas the actual and potential benefits derived from many species have not yet been fully discovered and would be permanently lost if not for conservation efforts;

Whereas recovery efforts for species such as the whooping crane, Kirtland's warbler, the peregrine falcon, the gray wolf, the gray whale, the grizzly bear, and others have resulted in great improvements in the viability of such species;

Whereas saving a species requires a combination of sound research, careful coordination, and intensive management of conservation efforts, along with increased public awareness and education;

Whereas two-thirds of endangered or threatened species reside on private lands;

Whereas voluntary cooperative conservation programs have proven to be critical for habitat restoration and species recovery; and

Whereas education and increasing public awareness are the first steps in effectively informing the public about endangered species and species restoration efforts: Now, therefore, be it

Resolved, That the Senate—

(1) designates May 11, 2006, as "Endangered Species Day"; and

(2) encourages—

(A) educational entities to spend at least 30 minutes on Endangered Species Day teaching and informing students about threats to, and the restoration of, endangered species around the world, including the essential role of private landowners and private stewardship to the protection and recovery of species;

(B) organizations, businesses, private landowners, and agencies with a shared interest in conserving endangered species to collaborate on educational information for use in schools; and

(C) the people of the United States to observe the day with appropriate ceremonies and activities.

SENATE RESOLUTION 432—TO AUTHORIZE TESTIMONY OF A MEMBER OF THE SENATE IN E.M. GUNDERSON V. NEIL G. GALATZ

Mr. FRIST submitted the following resolution; which was considered and agreed to:

S. RES. 432

Whereas, in *E.M. Gunderson v. Neil G. Galatz*, File No. 04-106, pending before the Fee Dispute Arbitration Committee of the State Bar of Nevada, the petitioner has requested an affidavit from Senator Harry Reid;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(2), the Senate may direct its counsel to represent Members of the Senate with respect to any subpoena, order, or request for testimony relating to their official responsibilities;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial or administrative process, be taken from such control or possession but by permission of the Senate;

Whereas, by Rule VI of the Standing Rules of the Senate, no Senator shall absent himself from the service of the Senate without leave;

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as

will promote the ends of justice consistent with the privileges of the Senate: Now, therefore, be it *Resolved* that Senator Harry Reid is authorized to testify in the case of *E.M. Gunderson v. Neil G. Galatz*, except when his attendance at the Senate is necessary for the performance of his legislative duties and except concerning matters for which a privilege should be asserted.

Sec. 2. The Senate Legal Counsel is authorized to represent Senator Harry Reid in connection with the testimony authorized in section one of this resolution.

SENATE RESOLUTION 433—HONORING THE AMERICAN SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS FOR THE 140 YEARS OF SERVICE THAT IT HAS PROVIDED TO THE CITIZENS OF THE UNITED STATES AND THEIR ANIMALS

Mr. DURBIN (for himself, Mr. ENSIGN, and Mr. LAUTENBERG) submitted the following resolution; which was considered and agreed to:

S. RES. 433

Whereas April 10, 2006, marks the 140th anniversary of the founding of The American Society for the Prevention of Cruelty to Animals (referred to in this preamble as "ASPCA");

Whereas ASPCA has provided services to millions of citizens of the United States and their animals since Henry Bergh established the society in New York City in 1866;

Whereas ASPCA was the first humane society established in the western hemisphere;

Whereas ASPCA teaches children the character-building virtues of compassion, kindness, and respect for all of God's creatures;

Whereas the dedicated directors, staff, and volunteers of ASPCA have provided shelter, medical care, behavioral counseling, and placement for abandoned, abused, or homeless animals in the United States for more than a century; and

Whereas ASPCA, through its observance of April as "Prevention of Cruelty to Animals Month", its Animal Poison Control Center, and its promotion of humane animal treatment through programs dedicated to law enforcement, education, shelter outreach, legislative affairs, counseling, veterinary services, and behavioral training, has provided invaluable services to the citizens of the United States and their animals: Now, therefore, be it

Resolved, That the Senate—

(1) honors The American Society for the Prevention of Cruelty to Animals for its 140 years of service to the citizens of the United States and their animals; and

(2) respectfully requests the Secretary of the Senate to transmit a copy of this resolution to the president of The American Society for the Prevention of Cruelty to Animals.

SENATE CONCURRENT RESOLUTION 86—DIRECTING THE ARCHITECT OF THE CAPITOL TO ESTABLISH A TEMPORARY EXHIBIT IN THE ROTUNDA OF THE CAPITOL TO HONOR THE MEMORY OF THE MEMBERS OF THE UNITED STATES ARMED FORCES WHO HAVE LOST THEIR LIVES IN OPERATION AND IRAQI FREEDOM AND OPERATION ENDURING FREEDOM

Mr. LAUTENBERG (for himself, Mrs. CLINTON, Mr. BINGAMAN, Mr. KERRY, Mr. KENNEDY, Mr. JOHNSON, Mrs. BOXER, Mr. MENENDEZ, Ms. LANDRIEU, and Mrs. FEINSTEIN) submitted the following concurrent resolution; which was referred to the Committee on Rules and Administration:

S. CON. RES. 86

Resolved by the Senate (the House of Representatives concurring),

SECTION 1. EXHIBIT IN ROTUNDA OF THE CAPITOL IN HONOR OF MEMBERS OF ARMED FORCES KILLED IN IRAQ AND AFGHANISTAN.

(a) ESTABLISHMENT OF TEMPORARY EXHIBIT.—During the period beginning on May 29, 2006, and ending on July 4, 2006, the Architect of the Capitol shall display in the rotunda of the Capitol an exhibit to honor the memory of the members of the United States Armed Forces who have lost their lives in—

- (1) Operation Iraqi Freedom; and
- (2) Operation Enduring Freedom.

(b) FORM OF EXHIBIT.—The exhibit displayed under this section shall be in such form and contain such material as the Architect may select, so long as—

- (1) the exhibit displays the name, photograph, and biographical information with respect to each individual member of the United States Armed Forces who has lost his or her life in the Operations referred to in subsection (a); and
- (2) the exhibit provides—

(A) an opportunity for visitors to write messages of support and sympathy to the families of the individuals represented in the exhibit; and

(B) a means to ensure that those messages are transmitted to the families.

SENATE CONCURRENT RESOLUTION 87—EXPRESSING THE SENSE OF CONGRESS THAT UNITED STATES INTELLECTUAL PROPERTY RIGHTS MUST BE PROTECTED GLOBALLY

Mr. BIDEN (for himself and Mr. SMITH) submitted the following concurrent resolution; which was referred to the Committee on the Judiciary:

S. CON. RES. 87

Whereas the United States is the world's largest creator, producer, and exporter of copyrighted materials;

Whereas this important sector of the United States economy continues to be at great risk due to the widespread unauthorized reproduction, distribution, and sale of copyrighted United States works, including motion pictures, home video and television programming, music and sound recordings, books, video games, and software;

Whereas estimates point to a rate of intellectual property piracy of between 70 to 90 percent in some countries, with annual losses to the United States economy in the billions of dollars;

Whereas the major copyright industries are responsible for an estimated 6 percent of the Nation's total gross domestic product and an annual employment rate of more than 3 percent;

Whereas strong overseas sales and exports by the major copyright industries are even more important as the United States trade deficit continues to increase, and as the United States economy grows more reliant on the generation of intellectual property and in services related thereto;

Whereas the Congress is greatly concerned about the failure of some of the trading partners of the United States to meet their international obligations with respect to intellectual property protection;

Whereas in the Russian Federation, perpetrators of piracy, including one of the largest commercial Internet pirates in the world, are permitted to operate without meaningful hindrance from the Russian Government, and a number of factories located on government property produce pirated products;

Whereas the Russian Federation is now considering the adoption of a civil code that would annul the country's existing intellectual property law, and incorporate principles that do not conform to its international obligations;

Whereas the Senate and the House of Representatives have both overwhelmingly passed legislation expressing the sense of the Congress that the Russian Federation must significantly improve the protection of intellectual property as part of its effort to accede to the World Trade Organization and to maintain eligibility in the generalized system of preferences (GSP) program;

Whereas markets in the People's Republic of China are replete with pirated versions of United States movies, sound recordings, business software, and video games, resulting in over \$2,000,000,000 in losses each year to the United States economy;

Whereas the People's Republic of China has made a number of commitments to the United States which it has yet to meet, including pledges to significantly reduce piracy rates, increase criminal prosecutions of intellectual property rights infringements, reduce exports of infringing goods, improve national police coordination, and join global Internet treaties;

Whereas the People's Republic of China and the Russian Federation export thousands of pirated versions of products of the United States to other countries;

Whereas Mexico has a strong market for pirated goods, with thousands of street vendors offering pirated products throughout the country;

Whereas Canada has become a source of camcorder piracy, has failed to bring its copyright law into conformity with international standards, and has failed to adequately prevent pirated products from other parts of the world from entering the country;

Whereas India can further improve copyright protections, particularly with regard to enforcement, deterrent sentencing, and coordination of national efforts;

Whereas Malaysia continues to be a leading source of pirated entertainment software and other copyrighted materials produced for export; and

Whereas steps must be taken to ensure that the rights of creators and distributors are protected abroad and that creative industries in the United States continue to flourish: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that—

(1) the United States should not complete any agreement relating to the accession of the Russian Federation to the World Trade Organization until the Russian Federation takes concrete steps to address widespread intellectual property violations, including—

(A) the closure and seizure of factories and machinery used for piracy;

(B) imposition of meaningful penal sanctions;

(C) investigation and prosecution of organized criminal piracy syndicates; and

(D) rejection of proposals that would undermine its existing intellectual property rights regime and retreat further from global standards;

(2) the People's Republic of China should fundamentally change its intellectual property rights enforcement model by significantly increasing the application of criminal sanctions against major copyright pirates and imposing effective deterrent penalties;

(3) Mexico, Canada, India, and Malaysia should work in cooperation with the United States Government and industries in the United States to address growing piracy problems within their borders;

(4) the failure of the countries listed in paragraph (3) to act and protect against the theft of United States intellectual property will have political and economic consequences with regard to relations between these countries and the United States; and

(5) the President should use all effective remedies and solutions to protect the intellectual property rights of United States persons and entities, and maintain policies that vigorously respond to the failure by other countries to abide by international standards of protection or to otherwise provide adequate and effective protection of intellectual property as provided under United States law.

AMENDMENTS SUBMITTED AND PROPOSED

SA 3312. Mr. THUNE submitted an amendment intended to be proposed to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table.

SA 3313. Mr. FRIST submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3314. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3315. Mr. COLEMAN submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3316. Mr. COLEMAN submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3317. Mr. FRIST submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3318. Mr. LEVIN (for himself and Ms. STABENOW) submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3319. Mr. LEVIN (for himself, Mr. KENNEDY, and Ms. STABENOW) submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3320. Mr. OBAMA submitted an amendment intended to be proposed by him to the

bill S. 2454, supra; which was ordered to lie on the table.

SA 3321. Mr. OBAMA (for himself and Mrs. FEINSTEIN) submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3322. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3323. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3324. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3325. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3326. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3327. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3328. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3329. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3330. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3331. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3332. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3333. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3334. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3335. Mr. KERRY submitted an amendment intended to be proposed to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3336. Mr. KERRY submitted an amendment intended to be proposed to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3337. Mr. KERRY submitted an amendment intended to be proposed to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3338. Mr. BAUCUS submitted an amendment intended to be proposed to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3339. Mr. BAUCUS submitted an amendment intended to be proposed to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3340. Mrs. CLINTON submitted an amendment intended to be proposed to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3341. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3342. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3343. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3344. Mr. REID submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3345. Mr. REID (for himself and Mr. LEAHY) submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3346. Mr. REID (for himself and Mr. LEAHY) submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3347. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3348. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3349. Mr. BOND (for himself, Mr. ALEXANDER, and Mr. GREGG) submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3350. Mr. COBURN submitted an amendment intended to be proposed to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3351. Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3352. Mr. VITTER submitted an amendment intended to be proposed to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3353. Mr. VITTER submitted an amendment intended to be proposed to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3354. Mr. ALEXANDER (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3355. Mr. ALEXANDER (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3356. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3357. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3358. Mr. SESSIONS submitted an amendment intended to be proposed by him

bill S. 2454, supra; which was ordered to lie on the table.

SA 3419. Mr. ENSIGN submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3420. Mr. SESSIONS proposed an amendment to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, supra.

SA 3421. Mr. NELSON, of Nebraska proposed an amendment to amendment SA 3420 proposed by Mr. SESSIONS to the amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, supra.

SA 3422. Mr. KYL submitted an amendment intended to be proposed to amendment SA 3311 submitted by Mr. KYL (for himself and Mr. CORNYN) and intended to be proposed to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3423. Mr. KYL submitted an amendment intended to be proposed to amendment SA 3386 submitted by Mr. KYL and intended to be proposed to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3424. Mr. FRIST proposed an amendment to the bill S. 2454, supra.

SA 3425. Mr. FRIST proposed an amendment to amendment SA 3424 proposed by Mr. FRIST to the bill S. 2454, supra.

SA 3426. Mr. FRIST proposed an amendment to amendment SA 3425 proposed by Mr. FRIST to the amendment SA 3424 proposed by Mr. FRIST to the bill S. 2454, supra.

TEXT OF AMENDMENTS

SA 3312. Mr. THUNE submitted an amendment intended to be proposed to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 252 of the amendment, between lines 2 and 3, insert the following:

(13) AGREEMENT TO COLLECT PERCENTAGE OF WAGES TO OFFSET COST OF EMERGENCY HEALTH SERVICES FURNISHED TO UNINSURED H-2C NON-IMMIGRANTS.—The employer shall collect an amount equal to 1.45 percent of the wages paid by the employer to any H-2C non-immigrant and shall transmit such amount to the Secretary of the Treasury for deposit into the H-2C Nonimmigrant Health Services Trust Fund established under section 404(c) of the Comprehensive Immigration Reform Act of 2006 at such time and in such manner as the Secretary of the Treasury shall determine.

On page 266, after line 22, add the following:

(c) H-2C NONIMMIGRANT HEALTH SERVICES TRUST FUND.—

(1) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the “H-2C Nonimmigrant Health Services Trust Fund”, consisting of such amounts as may be appropriated or credited to such Trust Fund as provided in this subsection or under rules similar to the rules of section 9602 of the Internal Revenue Code of 1986.

(2) TRANSFERS TO TRUST FUND.—There are hereby appropriated to the H-2C Nonimmigrant Health Services Trust Fund amounts equivalent to the amounts received by the Secretary of the Treasury as a result of the provisions of section 218B(b)(13) of the Immigration and Nationality Act.

(3) EXPENDITURES FROM TRUST FUND.—Amounts in the H-2C Nonimmigrant Health

Services Trust Fund shall be available only for making payments by the Secretary of Health and Human Services out of the State allotments established in accordance with paragraph (4) directly to eligible providers for the provision of eligible services to H-2C nonimmigrants to the extent that the eligible provider was not otherwise reimbursed (through insurance or otherwise) for such services, as determined by such Secretary. Such payments shall be made under rules similar to the rules for making payments to eligible providers under section 1011 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (42 U.S.C. 1395dd).

(4) STATE ALLOTMENTS.—Not later than January 1 of each year, the Secretary of Health and Human Services shall establish an allotment for each State equal to the product of—

(A) the total amount the Secretary of the Treasury notifies the Secretary of Health and Human Services was appropriated or credited to the H-2C Nonimmigrant Health Services Trust Fund during the preceding year; and

(B) the number of H-2C nonimmigrants employed in the State during such preceding year (as determined by the Secretary of Labor).

(5) DEFINITIONS.—In this subsection:

(A) ELIGIBLE PROVIDER; ELIGIBLE SERVICES.—The terms “eligible provider” and “eligible services” have the meanings given those terms in section 1011(e) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (42 U.S.C. 1395dd).

(B) H-2C NONIMMIGRANT.—The term “H-2C nonimmigrant” has the meaning given that term in section 218A(n)(7) of the Immigration and Nationality Act.

SA 3313. Mr. FRIST submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____ NONCITIZEN MEMBERSHIP IN THE ARMED FORCES.

Section 329 of the Immigration and Nationality Act (8 U.S.C. 1440) is amended—

(1) in subsection (b), by striking “subsection (a)” and inserting “subsection (a) and (d)”;

(2) by adding at the end the following:

“(d) Notwithstanding any other provision of law, except for provisions relating to revocation of citizenship under subsection (c), individuals who are not United States citizens shall not be denied the opportunity to apply for membership in the United States Armed Forces. Such individuals who become active duty members of the United States Armed Forces shall, consistent with subsections (a) through (e) and with the approval of their chain of command, be granted United States citizenship after performing at least 2 years of honorable and satisfactory service on active duty. Not later than 90 days after such requirements are met with respect to an individual, such individual shall be granted United States citizenship.

“(e) An alien described in subsection (d) shall be naturalized without regard to the requirements of title III of the Immigration and Nationality Act (8 U.S.C. 1401 et seq.) and any other requirements, processes, or procedures of the Immigration and Naturalization Service, if the alien—

“(1) filed an application for naturalization in accordance with such procedures to carry out this section as may be established by

regulation by the Secretary of Homeland Security or the Secretary of Defense;

“(2) demonstrates to his or her military chain of command, proficiency in the English language, good moral character, and knowledge of the Federal Government and United States history, consistent with the requirements contained in the Immigration and Nationality Act; and

“(3) takes the oath required under section 337 of such Act (8 U.S.C. 1448 et seq.) and participates in an oath administration ceremony in accordance with such Act.”.

SA 3314. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 477, after line 23, add the following:

Subtitle E—Farm Worker Transportation Safety

SEC. 651. SHORT TITLE.

This subtitle may be cited as the “Farm Worker Transportation Safety Act”.

SEC. 652. SEATS AND SEAT BELTS FOR MIGRANT AND SEASONAL AGRICULTURAL WORKERS.

(a) SEATS.—Except as provided in subsection (d), in promulgating vehicle safety standards under the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1801 et seq.) for the transportation of migrant and seasonal agricultural workers by farm labor contractors, agricultural employers or agricultural associations, the Secretary of Labor shall ensure that each occupant or rider in, or on, any vehicle subject to such standards is provided with a seat that is a designated seating position (as such term is defined for purposes of the Federal motor vehicle safety standards issued under chapter 301 of title 49, United States Code).

(b) SEAT BELTS.—Each seating position required under subsection (a) shall be equipped with an operational seat belt, except that this subsection shall not apply with respect to seating positions in buses that would otherwise not be required to have seat belts under the Federal motor vehicle safety standards.

(c) PERFORMANCE REQUIREMENTS.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary of Transportation, in consultation with the Secretary of Labor, shall issue minimum performance requirements for the strength of seats and the attachment of seats and seat belts in vehicles that are converted, after being sold for purposes other than resale, for the purpose of transporting migrant or seasonal agricultural workers. The requirements shall provide a level of safety that is as close as practicable to the level of safety provided for in a vehicle that is manufactured or altered for the purpose of transporting such workers before being sold for purposes other than resale.

(2) EXPIRATION.—Effective on the date that is 7 years after the date of enactment of this Act, any vehicle that is or has been converted for the purpose of transporting migrant or seasonal agricultural workers shall provide the same level of safety as a vehicle that is manufactured or altered for such purpose prior to being sold for purposes other than resale.

(d) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to alter or modify the regulations contained in section 500.103, or the provision pertaining to transportation that is primarily on private roads in section 500.104(1), of title 29, Code of Federal Regulations, as in effect on the date of enactment of this Act.

(e) DEFINITIONS.—The definitions contained in section 3 of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1802) shall apply to this section.

(f) COMPLIANCE DATE.—Not later than 1 year after such date of enactment, all vehicles subject to this Act shall be in compliance with the requirements of this section.

SA 3315. Mr. COLEMAN submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 34, between lines 8 and 9, insert the following:

(c) NORTHERN BORDER TRAINING FACILITY.—

(1) IN GENERAL.—The Secretary shall establish a northern border training facility at Rainy River Community College in International Falls, Minnesota, to carry out the training programs described in this subsection.

(2) USE OF TRAINING FACILITY.—The training facility established under paragraph (1) shall be used to conduct various supplemental and periodic training programs for border security personnel stationed along the northern international border between the United States and Canada.

(3) TRAINING CURRICULUM.—The Secretary shall design training curriculum to be offered at the training facility through multi-day training programs involving classroom and real-world applications, which shall include training in—

(A) a variety of disciplines relating to offensive and defensive skills for personnel and vehicle safety, including—

(i) firearms and weapons;

(ii) self defense;

(iii) search and seizure;

(iv) defensive and high speed driving;

(v) mobility training;

(vi) the use of all-terrain vehicles, watercraft, aircraft and snowmobiles; and

(vii) safety issues related to biological and chemical hazards;

(B) technology upgrades and integration; and

(C) matters relating directly to terrorist threats and issues, including—

(i) profiling;

(ii) changing tactics;

(iii) language;

(iv) culture; and

(v) communications.

(4) 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 subsection.

SA 3316. Mr. COLEMAN submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 9, strike lines 2 through 9, and insert the following:

(a) ACQUISITION.—Subject to the availability of appropriations, the Secretary shall—

(1) 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; and

(2) acquire and utilize real time, high-resolution, multi-spectral, precisely-rectified

digital aerial imagery to detect physical changes and patterns in the landscape along the northern or southern international border of the United States to identify uncommon passage ways used by aliens to illegally enter the United States.

SA 3317. Mr. FRIST submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____ STUDIES AND REPORTS ON ILLEGAL IMMIGRATION FROM MEXICO.

(a) STUDIES.—Not later than 1 year after the date of the enactment of this Act, and once every 5 years thereafter, the Secretary of State, in cooperation with the Secretary, shall conduct a study—

(1) to identify the geographic areas in Mexico from which—

(A) large numbers of residents are leaving to enter the United States in violation of Federal immigration law; and

(B) large percentages of the population of such areas are leaving to enter the United States in violation of Federal immigration law; and

(2) to analyze the social, political, and economic conditions in the geographic areas identified under paragraph (1) that contribute to illegal immigration into the United States.

(b) REPORTS.—Not later than 16 months after the date of the enactment of this Act, and every 5 years thereafter, the Secretary of State shall submit to Congress a report that—

(1) describes the results of the study conducted under subsection (a); and

(2) provides recommendations on how the Government of the United States can improve the conditions described in subsection (a)(2).

(c) IMMIGRATION IMPACT FOCUS AREAS.—

(1) DESIGNATION.—Based on the results of each study conducted under subsection (a) and subject to paragraph (2), the Administrator of the United States Agency for International Development, in consultation with the Secretary of State, the Secretary, and appropriate officials of the Government of Mexico, shall designate not more than 4 geographic areas within Mexico as Immigration Impact Focus Areas.

(2) POPULATION LIMITS.—An area may not be designated as an Immigration Impact Focus Area under paragraph (1) unless the population of such area is—

(A) not less than 0.5 percent of the total population of Mexico; and

(B) not more than 5.0 percent of the total population of Mexico.

(d) DEVELOPMENT ASSISTANCE PLAN.—The Administrator of the United States Agency for International Development, in consultation with the Secretary of State, shall develop a plan to concentrate, to the extent practicable, economic development and humanitarian assistance provided to Mexico in the Immigration Impact Focus Areas designated under subsection (c)(1).

SA 3318. Mr. LEVIN (for himself and Ms. STABENOW) submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 51, between lines 18 and 19, insert the following:

SEC. 13. SCREENING OF MUNICIPAL SOLID WASTE.

(a) DEFINITIONS.—In this section:

(1) BUREAU.—The term “Bureau” means the Bureau of Customs and Border Protection.

(2) COMMERCIAL MOTOR VEHICLE.—The term “commercial motor vehicle” has the meaning given the term in section 31101 of title 49, United States Code.

(3) COMMISSIONER.—The term “Commissioner” means the Commissioner of the Bureau.

(4) MUNICIPAL SOLID WASTE.—The term “municipal solid waste” includes sludge (as defined in section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903)).

(b) REPORTS TO CONGRESS.—Not later than 90 days after the date of enactment of this Act, the Commissioner shall submit to Congress a report that—

(1) indicates whether the methodologies and technologies used by the Bureau to screen for and detect the presence of chemical, nuclear, biological, and radiological weapons in municipal solid waste are as effective as the methodologies and technologies used by the Bureau to screen for those materials in other items of commerce entering the United States through commercial motor vehicle transport; and

(2) if the report indicates that the methodologies and technologies used to screen municipal solid waste are less effective than those used to screen other items of commerce, identifies the actions that the Bureau will take to achieve the same level of effectiveness in the screening of municipal solid waste, including actions necessary to meet the need for additional screening technologies.

(c) IMPACT ON COMMERCIAL MOTOR VEHICLES.—If the Commissioner fails to fully implement an action identified under subsection (b)(2) before the earlier of the date that is 180 days after the date on which the report under subsection (b) is required to be submitted or the date that is 180 days after the date on which the report is submitted, the Secretary shall deny entry into the United States of any commercial motor vehicle carrying municipal solid waste until the Secretary certifies to Congress that the methodologies and technologies used by the Bureau to screen for and detect the presence of chemical, nuclear, biological, and radiological weapons in municipal solid waste are as effective as the methodologies and technologies used by the Bureau to screen for those materials in other items of commerce entering into the United States through commercial motor vehicle transport.

SA 3319. Mr. LEVIN (for himself, Mr. KENNEDY, and Ms. STABENOW) submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 55, strike lines 5 through 7 and insert the following:

(a) DENIAL OR TERMINATION OF ASYLUM.—Section 208 (8 U.S.C. 1158) is amended—

(1) in subsection (b)—

(A) in paragraph (2)(A)(v), by striking “or (VI)” and inserting “(V), (VI), (VII), or (VIII)”;

(B) by adding at the end the following:

“(4) CHANGED COUNTRY CONDITIONS.—An alien seeking asylum based on persecution or a well-founded fear of persecution shall not be denied asylum based on changed country conditions unless fundamental and lasting changes have stabilized the country of the alien’s nationality.”; and

(2) in subsection (c)(2)(A), by striking “a fundamental change in circumstances” and inserting “fundamental and lasting changes that have stabilized the country of the alien’s nationality”.

SA 3320. Mr. OBAMA submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

Strike title III and insert the following:

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 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 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 Comprehensive Immigration Reform Act of 2006, to obtain the labor of an alien in the United States knowing 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.—A rebuttable presumption is created for the purpose of a civil enforcement proceeding that an employer knowingly violated paragraph (1)(A) if the Secretary determines that—

“(A) the employer hired 50 or more new employees during a calendar year and that at least 10 percent of new employees hired in the calendar year by the employer were unauthorized aliens; or

“(B) the employer hired less than 50 new employees during a calendar year and that 5 new employees hired by the employer in the calendar year were unauthorized aliens.

“(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 recordkeeping 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 a document if the document examined reasonably appears on its face to be genuine. If an individual provides a document (or combination of documents) that reasonably appears on its face to be genuine and that is sufficient to meet the requirement of clause (i), nothing in this paragraph may be construed as requiring the employer to solicit the production of any other document or as requiring the individual to produce such another document.

“(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 provided that such a 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 such license or card resistant to tampering, counterfeiting, or fraudulent use;

“(ii) 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

“(iii) in the case of an individual who is under 16 years of age who is unable to present a document described in clause (i) or (ii), 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 recruiting or referral for a fee of an individual, 3 years after the date of the recruiting or referral; or

“(B) in the case of the hiring of an individual the later of—

“(i) 3 years after the date of such hiring;

“(ii) 1 year after the date of 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 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.

“(C) 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.—

“(i) IN GENERAL.—The Secretary shall, through the System, tentatively confirm or nonconfirm an individual's identity and eligibility for employment in the United States not later than 1 working day after an employer submits an inquiry regarding the individual.

“(ii) MANUAL VERIFICATION.—If a tentative nonconfirmation is provided for an individual under clause (i), the Secretary, through the System, shall conduct a secondary manual verification not later than 9 working days after such tentative nonconfirmation is made.

“(iii) NOTICES.—Not later than 10 working days after an employer submits an inquiry to the System regarding an individual, the Secretary shall provide, through the System, to the employer—

“(I) if the System is able to confirm, through a verification described in clause (i) or (ii), the individual's identity and eligibility for employment in the United States, an appropriate code indicating such confirmation; or

“(II) if the System is unable to confirm, through a verification described in clause (i) or (ii), the individual's identity or eligibility for employment in the United States, an appropriate code indicating such tentative nonconfirmation.

“(iv) DEFAULT CONFIRMATION IN CASE OF SYSTEM FAILURE.—If the Secretary, through the System, fails to provide a notice described in clause (iii) for an individual within the period described in such clause, an appropriate code indicating confirmation shall be provided to the employer. Such confirmation shall remain in effect for the individual until the Secretary, through the System, provides a notice that—

“(I) the System is unable to confirm the individual's identity; or

“(II) the individual is ineligible for employment in the United States.

“(C) VERIFICATION PROCESS IN CASE OF A TENTATIVE NONCONFIRMATION NOTICE.—

“(i) IN GENERAL.—If a tentative nonconfirmation notice is issued under subparagraph (B)(iii)(II), not later than 10 working 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 to the employer an appropriate code indicating final confirmation or final nonconfirmation.

“(ii) DEFAULT CONFIRMATION IN CASE OF SYSTEM FAILURE.—If the Secretary, through the System, fails to confirm or tentatively nonconfirm the individual's identity and eligibility for employment in the United States within the period described in clause (i), an

appropriate code indicating confirmation shall be provided to the employer. Such confirmation shall remain in effect for the individual until the Secretary, through the System, provides a notice that—

“(I) the System is unable to confirm the individual's identity; or

“(II) the individual is ineligible for employment in the United States.

“(iii) 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) RIGHT TO APPEAL FINAL NONCONFIRMATION.—The individual shall have the right to an administrative or judicial appeal of a notice of final nonconfirmation. The Secretary shall consult with the Commissioner of Social Security to develop a process for such appeals.

“(E) 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 during use, transmission, storage, or disposal of that information, including the use of encryption, carrying out periodic stress testing of the System to detect, prevent, and respond to vulnerabilities or other failures, and utilizing periodic security updates;

“(v) to allow for monitoring of the use of the System and provide an audit capability;

“(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; and

“(vii) to permit individuals—

“(I) to view their own records in order to ensure the accuracy of such records; and

“(II) to contact the appropriate agency to correct any errors through an expedited process established by the Secretary, in consultation and coordination with the Commissioner of Social Security.

“(F) LIMITATION ON DATA ELEMENTS STORED.—The System and any databases created by the Commissioner of Social Security or the Secretary to achieve confirmation, tentative nonconfirmation, or final nonconfirmation under the System shall store only the minimum data about each individual for whom an inquiry was made to facilitate the successful operation of the System, and in no case shall the data stored be other than—

“(i) the individual's full legal name;

“(ii) the individual's date of birth;

“(iii) the individual's social security account number, or employment authorization status identification number;

“(iv) the address of the employer making the inquiry and the dates of any prior inquiries concerning the identity and authorization of the employee by the employer or any other employer and the address of such employer;

“(v) a record of each prior confirmation, tentative nonconfirmation, or final nonconfirmation made by the System for such individual; and

“(vi) in the case of the individual successfully contesting a prior tentative nonconfirmation, explanatory information concerning the successful resolution of any erroneous data or confusion regarding the identity or eligibility for employment of the individual, including the source of that error.

“(G) 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) determination of the citizenship status associated with such name and social security account number, according to the records maintained by the Commissioner; and

“(iii) 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.

“(H) 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.

“(I) OFFICE OF ELECTRONIC VERIFICATION.—

“(i) IN GENERAL.—The Secretary shall establish the Office of Electronic Verification in the Bureau of Citizenship and Immigration Services.

“(ii) RESPONSIBILITIES.—Subject to available appropriations, the Office of Electronic Verification shall work with the Commissioner of Social Security—

“(I) to update the information maintained in the System in a manner that promotes maximum accuracy;

“(II) to provide a process for correcting erroneous information by registering not less than 97 percent of the new information and information changes submitted by employees within all relevant databases within 24 hours after submission and registering not less than 99 percent of such information within 10 working days after submission;

“(III) to ensure that at least 99 percent of the data received from field offices of the Bureau of Customs and Border Protection and from other points of contact between immigrants and the Department of Homeland Security is registered within all relevant databases within 24 hours after receipt;

“(IV) to ensure that at least 99 percent of the data received from field offices of the Social Security Administration and other points of contact between citizens and the Social Security Administration is registered within all relevant databases within 24 hours after receipt;

“(V) to employ a sufficient number of manual status verifiers to resolve 99 percent of the tentative nonconfirmations within 3 days;

“(VI) to establish and promote call-in help lines accessible to employers and employees

on a 24-hour basis with questions about the functioning of the System or about the specific issues underlying a tentative nonconfirmation;

“(VII) to establish an outreach and education program to ensure that all new employers are fully informed of their responsibilities under the System; and

“(VIII) to conduct a random audit of a substantial percentage of workers' files in a database maintained by an agency or department of the United States each year to determine accuracy rates and require corrections of errors in a timely manner.

“(J) RIGHT TO REVIEW SYSTEM INFORMATION AND APPEAL ERRONEOUS NONCONFIRMATIONS.—Any individual who contests a tentative nonconfirmation or final nonconfirmation may review and challenge the accuracy of the data elements and information within the System upon, which such a nonconfirmation was based. Such a challenge may include the ability to submit additional information or appeal any final nonconfirmation to the Office of Electronic Verification. The Office of Electronic Verification shall review any such information submitted pursuant to such a challenge and issue a response and decision concerning the appeal within 7 days of the filing of such a challenge. The Office of Electronic Verification shall at least annually study and issue findings concerning the most common causes for erroneous nonconfirmations and issue recommendations concerning the resolution of such causes.

“(K) PRIVACY IMPACT ASSESSMENT.—The Commissioner of Social Security and the Secretary shall each complete a privacy impact assessment as described in section 208 of the E-Government Act of 2002 (Public Law 107-347; 44 U.S.C. 3501 note) with regard to the System.

“(L) TRAINING.—The Commissioner of Social Security and the Secretary shall provide appropriate training materials to participating employers to ensure such employers are able to utilize the System in compliance with the requirements of this section.

“(M) HOTLINE.—The Secretary shall establish a fully staffed 24-hour hotline to receive inquiries by employees concerning tentative nonconfirmations and final nonconfirmations and shall identify for employees, at the time of inquiry, the particular data that resulted on the issuance of a nonconfirmation notice under the System.

“(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.—

“(1) REQUIRED PARTICIPATION.—

“(I) DESIGNATION.—As of the date that is 180 days after the date of the enactment of the Comprehensive Immigration Reform Act of 2006, the Secretary shall designate, in the Secretary's sole and unreviewable discretion, an employer or class of employers under this subclause if the Secretary determines such employer or class of employers is part of the critical infrastructure of the United States or directly related to the national security or homeland security of the United States.

“(II) PARTICIPATION.—Not later than 180 days after the date an employer or class of employers is designated under subclause (I), the Secretary shall require such employer or class of employers to participate in the System, with respect to employees hired by the employer on or after the date of the enactment of the Comprehensive Immigration Reform Act of 2006.

“(ii) DISCRETIONARY PARTICIPATION.—

“(I) DESIGNATION.—As of the date that is 180 days after the date of the enactment of the Comprehensive Immigration Reform Act of 2006, the Secretary may designate, in the

Secretary's sole and unreviewable discretion, an employer or class of employers under this subclause if the Secretary determines such employer or class of employers as a critical employer based on immigration enforcement or homeland security needs.

“(II) PARTICIPATION.—Not later than 180 days after the date an employer or class of employers is designated under subclause (I), the Secretary may require such employer or class of employers to participate in the System, with respect to employees hired on or after the date of the enactment of the Comprehensive Immigration Reform Act of 2006.

“(B) LARGE EMPLOYERS.—Not later than 2 years after the date of the enactment of the Comprehensive Immigration Reform Act of 2006, the Secretary shall require an employer with 5,000 or more 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) MIDSIZED EMPLOYERS.—Not later than 3 years after the date of enactment of the Comprehensive Immigration Reform Act of 2006, the Secretary shall require an employer with 1,000 or more 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 Comprehensive Immigration Reform Act of 2006, the Secretary shall require all employers with 250 or more 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 Comprehensive Immigration Reform Act of 2006, 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 (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 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.

“(5) WAIVER.—

“(A) AUTHORITY TO PROVIDE A WAIVER.—The Secretary is authorized to waive or delay the participation requirements of paragraph (3) with 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.

“(B) REQUIREMENT TO PROVIDE A WAIVER.—The Secretary shall waive or delay the participation requirements of paragraph (3) with respect to any employer or class of employers until the date that the Comptroller General of the United States submits the initial certification described in paragraph (13)(E) and shall waive or delay such participation during a year if the Comptroller General fails to submit a certification of paragraph (13)(E) for such year.

“(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, with respect to the hiring, or recruiting or referring for a fee, of any individual for employment in the United States, shall—

“(i) notify employees of the employer and prospective employees to whom the employer has extended a job offer that the employer participates in the System and that the System may be used for immigration enforcement purposes;

“(ii) 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;

“(iii) retain such form in electronic format, paper, microfilm, or microfiche and make such a form available for inspection for the periods and in the manner described in subsection (c)(3); and

“(iv) safeguard any information collected for purposes of the System and protect any means of access to such information to ensure that such information is not used for any other purpose and to protect the confidentiality of such information, including ensuring that such information is not provided to any person other than a person that carries out the employer’s responsibilities under this subsection.

“(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 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).

“(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 shall provide the individual with information about the right to contest the tentative nonconfirmation and contact information for the appropriate agency to file such contest.

“(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. An individual’s failure to contest a tentative nonconfirmation may not be the basis for determining that the individual acted in a knowing (as defined in section 274a.1 of title 8, Code of Federal Regulations, or any corresponding similar regulation) manner.

“(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 working 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 subclause (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. 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).

“(ii) ASSISTANCE IN IMMIGRATION ENFORCEMENT.—If an employer has received a final nonconfirmation which is not the result of the individual’s failure to contest a tentative nonconfirmation in subparagraph (C)(ii)(I), the 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.

“(E) UNLAWFUL USE OF SYSTEM.—It shall be an unlawful immigration-related employment practice for an employer—

“(i) to use the System prior to an offer of employment;

“(ii) to use the System selectively to exclude certain individuals from consideration for employment as a result of a perceived likelihood that additional verification will be required, beyond what is required for most applicants;

“(iii) to terminate or undertake any adverse employment action based on a tentative nonconfirmation described in paragraph (2)(B)(iii)(II); or

“(iv) to reverify the employment authorization of hire employees after the 3 days of the employee’s hire and after the employee has satisfied the eligibility verification provisions of subsection (b)(1) or to reverify employees hired before the date that the person or entity is required to participate in the System.

“(F) PROHIBITION OF UNLAWFUL ACCESSING AND OBTAINING OF INFORMATION.—

“(i) IMPROPER ACCESS.—It shall be unlawful for any individual, other than the government employees authorized in this subsection, to intentionally and knowingly access the System or the databases utilized to verify identity or employment authorization for the System for any purpose other than verifying identity or employment authorization or modifying the System pursuant to

law or regulation. Any individual who unlawfully accesses the System or the databases or shall be fined no less than \$1,000 for each individual whose file was compromised or sentenced to less than 6 months imprisonment for each individual whose file was compromised.

“(ii) IDENTITY THEFT.—It shall be unlawful for any individual, other than the government employees authorized in this subsection, to intentionally and knowingly obtain the information concerning an individual stored in the System or the databases utilized to verify identity or employment authorization for the System for any purpose other than verifying identity or employment authorization or modifying the System pursuant to law or regulation. Any individual who unlawfully obtains such information and uses it to commit identity theft for financial gain or to evade security or to assist another in gaining financially or evading security, shall be fined no less than \$10,000 for each individual whose information was obtained and misappropriated sentenced to not less than 1 year of imprisonment for each individual whose information was obtained and misappropriated.

“(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) ACCESS TO DATABASE.—No officer or employee of any agency or department of the United States, other than such an officer or employee who is responsible for the verification of employment eligibility or for the evaluation of an employment eligibility verification program at the Social Security Administration, the Department of Homeland Security, and the Department of Labor, may have access to any information, database, or other records utilized by the System.

“(11) 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.

“(12) REPORT.—Not later than 1 year after the date of the enactment of the Comprehensive Immigration Reform Act of 2006, the Secretary shall submit to Congress a report on the capacity, systems integrity, and accuracy of the System.

“(13) ANNUAL STUDY AND REPORT.—

“(A) REQUIREMENT FOR STUDY.—The Comptroller General of the United States shall conduct an annual study of the System as described in this paragraph.

“(B) PURPOSE OF THE STUDY.—The Comptroller General shall, for each year, undertake a study to determine whether the System meets the following requirements:

“(i) DEMONSTRATED ACCURACY OF THE DATABASES.—New information and information changes submitted by employees to the System is updated in all of the relevant databases within 3 working days of submission in at least 99 percent of all cases.

“(ii) LOW ERROR RATES AND DELAYS IN VERIFICATION.—

“(I) That, during a year, the System provides incorrect tentative nonconfirmation notices under paragraph (2)(B)(i) for no more than 1 percent of all such notices sent during such year.

“(II) That, during a year, the System provides incorrect final nonconfirmation notices under paragraph (2)(C)(i) for no more than 3 percent of all such notices sent during such year.

“(III) That the number of incorrect tentative nonconfirmation notices under paragraph (2)(B)(i) provided by the System during a year for individuals who are not citizens of the United States is not more than 300 percent more than the number of such incorrect notices sent to citizens of the United States during such year.

“(IV) That the number of final nonconfirmation notices under paragraph (2)(C)(i) provided by the System during a year for individuals who are not citizens of the United States is not more than 300 percent more than the number of such incorrect notices sent to citizens of the United States during such year.

“(iii) LIMITED IMPLEMENTATION COSTS TO EMPLOYERS.—No employer is required to spend more than \$10 to verify the identity and employment eligibility of an individual through the system in any year, including the costs of all staff, training, materials, or other related costs of participation in the System.

“(iv) MEASURABLE EMPLOYER COMPLIANCE WITH SYSTEM REQUIREMENTS.—

“(I) The System has not and will not result in increased discrimination or cause reasonable employers to conclude that employees of certain races or ethnicities are more likely to have difficulties when offered employment caused by the operation of the System.

“(II) The determination described in subclause (I) is based on an independent study commissioned by the Comptroller General in each phase of expansion of the System that includes the use of testers.

“(v) PROTECTION OF WORKERS’ PRIVATE INFORMATION.—At least 97 percent of employers who participate in the System are in full compliance with the privacy requirements described in this subsection.

“(vi) ADEQUATE AGENCY STAFFING AND FUNDING.—The Secretary and Commissioner of Social Security have sufficient funding to meet all of the deadlines and requirements of this subsection.

“(C) CONSULTATION.—In conducting a study under this paragraph, the Comptroller General shall consult with representatives from business, labor, immigrant communities, State governments, privacy advocates, and appropriate executive branch agencies.

“(D) REQUIREMENT FOR REPORTS.—Not later than 180 days after the date of the enactment of the Comprehensive Immigration Reform Act of 2006, and annually thereafter, the Comptroller General shall submit to the Secretary and to Congress a report containing the findings of the study carried out under this paragraph. Each report shall include any certification made under subparagraph (E) and, at a minimum, the following:

“(i) An assessment of the impact of the System on the employment of unauthorized workers, including whether it has indirectly caused an increase in exploitation of unauthorized workers.

“(ii) An assessment of the accuracy of databases employed by the System and of the timeliness and accuracy of the System’s responses to employers.

“(iii) An assessment of the privacy and confidentiality of the System and of its overall security with respect to cyber theft and theft or misuse of private data.

“(iv) An assessment of whether the System is being implemented in a nondiscriminatory and non-retaliatory manner.

“(v) Recommendations regarding whether or not the System should be modified prior to further expansion.

“(E) CERTIFICATION.—If the Comptroller General determines that the System meets the requirements described in subparagraph (B) for a year, the Comptroller shall certify such determination and submit such certification to Congress with the report required by subparagraph (D).

“(14) SUNSET PROVISION.—Mandatory participation in the System shall be discontinued 6 years after the date of the enactment of the Comprehensive Immigration Reform Act of 2006 unless Congress reauthorizes such participation.

“(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) PREPENALTY 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 during the 2-year period preceding the violation 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 during the 2-year period preceding the violation 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) RECORDKEEPING OR VERIFICATION PRACTICES.—Any employer that violates or fails to comply with the requirements of subsection (b), (c), or (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 during the 2-year period preceding the violation 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 during the 2-year period preceding the violation 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 any appropriate district court of the United States for review of the order. The filing of a petition as provided in this paragraph shall stay the Secretary’s determination until the appeal process is completed. The burden shall be on the employer to show that the final determination was not supported by a preponderance of the 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, no earlier than 46 days, but no later than 90 days, after the date the final determination is issued, in any appropriate district court of the United States. The burden shall remain on the employer to show that the final determination was not supported by a preponderance of the evidence.

“(7) RECOVERY OF COSTS AND ATTORNEYS’ FEES.—In any appeal brought under paragraph (5) by an employer or suit brought under paragraph (6) against an employer, the employer shall be entitled to recover from the Department of Homeland Security reasonable costs and attorneys’ fees if such employer substantially prevails on the merits of the case. An award of such attorneys’ fees may not exceed \$25,000. Any costs and attorneys’ fees assessed against the Department of Homeland Security under this paragraph shall be charged against the operating expenses of the Department for the fiscal year in which the assessment is made, and shall not be reimbursed from any other source.

“(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 tem-

porary 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 \$2,000 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, the deposit of such amounts as miscellaneous receipts in the general fund.

“(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 may 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 Security to be a repeat violator of this section or is convicted of a crime under this section, may 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 imposing civil or criminal sanctions upon those who employ, or recruit or refer for a fee for employment, unauthorized aliens.

“(j) 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) SECRETARY.—Except as otherwise provided, the term ‘Secretary’ means the Secretary of Homeland Security.

“(3) 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 AMENDMENTS.—

(1) AMENDMENTS.—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)”.

(d) AUTHORIZATION OF APPROPRIATIONS.—

(1) COMMISSIONER OF SOCIAL SECURITY.—There are authorized to be appropriated to the Commissioner of Social Security for each of the fiscal years 2007 through 2011 such sums as may be necessary to carry out the responsibilities of the Commission under section 274A of the Immigration and Nationality Act, as amended by subsection (a).

(2) SECRETARY OF HOMELAND SECURITY.—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 section 274A of the Immigration and Nationality Act, as amended by section 301(a).

(e) 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. 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 on the 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 on the 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. 303. 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”.

SEC. 304. ANTIDISCRIMINATION PROTECTIONS.

(a) APPLICATION OF PROHIBITION OF DISCRIMINATION TO VERIFICATION SYSTEM.—Section 274B(a)(1) (8 U.S.C. 1324b(a)(1)) is amended by inserting “, the verification of the individual’s work authorization through the Electronic Employment Verification System described in section 274A(d),” after “the individual for employment”.

(b) CLASSES OF ALIENS AS PROTECTED INDIVIDUALS.—Section 274B(a)(3)(B) (8 U.S.C. 1324b(a)(3)(B)) is amended to read as follows:

“(B) is an alien who is—
“(i) lawfully admitted for permanent residence;

“(ii) granted the status of an alien lawfully admitted for temporary residence under section 210(a) or 245(a)(1);

“(iii) admitted as a refugee under section 207;

“(iv) granted asylum under section 208;

“(v) granted the status of a nonimmigrant under section 101(a)(15)(H)(ii)(c);

“(vi) granted temporary protected status under section 244; or

“(vii) granted parole under section 212(d)(5).”

(c) REQUIREMENTS FOR ELECTRONIC EMPLOYMENT VERIFICATION.—Section 274B(a) (8 U.S.C. 1324b(a)) is amended by adding at the end the following:

“(7) ANTIDISCRIMINATION REQUIREMENTS OF THE ELECTRONIC EMPLOYMENT VERIFICATION SYSTEM.—It is an unfair immigration-related employment practice for a person or other entity, in the course of the electronic verification process described in section 274A(d)—

“(A) to terminate or undertake any adverse employment action due to a tentative nonconfirmation;

“(B) to use the verification system for screening of an applicant prior to an offer of employment;

“(C) except as described in section 274A(d)(4)(B), to use the verification system for a current employee after the first 3 days

of employment, or for the reverification of an employee after the employee has satisfied the process described in section 274A(b).”

(d) INCREASE IN CIVIL MONEY PENALTIES.—Section 274B(g)(2) (8 U.S.C. 1324b(g)(2)) is amended—

(1) in subparagraph (B)(iv)—

(A) in subclause (I), by striking “\$250 and not more than \$2,000” and inserting “\$1,000 and not more than \$4,000”;

(B) in subclause (II), by striking “\$2,000 and not more than \$5,000” and inserting “\$4,000 and not more than \$10,000”;

(C) in subclause (III), by striking “\$3,000 and not more than \$10,000” and inserting “\$6,000 and not more than \$20,000”; and

(D) in subclause (IV), by striking “\$100 and not more than \$1,000” and inserting “\$500 and not more than \$5,000”.

(e) INCREASED FUNDING OF INFORMATION CAMPAIGN.—Section 274B(1)(3) (8 U.S.C. 1324b(1)(3)) is amended by inserting “and an additional \$40,000,000 for each of fiscal years 2007 through 2009” before the period at the end.

(f) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to violations occurring on or after such date.

SA 3321. Mr. OBAMA (for himself and Mrs. FEINSTEIN) submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

Strike title IV and insert the following:

TITLE IV—NONIMMIGRANT AND IMMIGRANT VISA REFORM

Subtitle A—Temporary Guest Workers

SEC. 401. IMMIGRATION IMPACT STUDY.

(a) EFFECTIVE DATE.—Any regulation that would increase the number of aliens who are eligible for legal status may not take effect before 90 days after the date on which the Director of the Bureau of the Census submits a report to Congress under subsection (c).

(b) STUDY.—The Director of the Bureau of the Census, jointly with the Secretary, the Secretary of Agriculture, the Secretary of Education, the Secretary of Energy, the Secretary of Health and Human Services, the Secretary of Housing and Urban Development, the Secretary of the Interior, the Secretary of Labor, the Secretary of Transportation, the Secretary of the Treasury, the Attorney General, and the Administrator of the Environmental Protection Agency, shall undertake a study examining the impacts of the current and proposed annual grants of legal status, including immigrant and non-immigrant status, along with the current level of illegal immigration, on the infrastructure of and quality of life in the United States.

(c) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Director of the Bureau of the Census shall submit to Congress a report on the findings of the study required by subsection (b), including the following information:

(1) An estimate of the total legal and illegal immigrant populations of the United States, as they relate to the total population.

(2) The projected impact of legal and illegal immigration on the size of the population of the United States over the next 50 years, which regions of the country are likely to experience the largest increases, which small towns and rural counties are likely to lose their character as a result of such growth, and how the proposed regulations would affect these projections.

(3) The impact of the current and projected foreign-born populations on the natural environment, including the consumption of non-renewable resources, waste production and disposal, the emission of pollutants, and the loss of habitat and productive farmland, an estimate of the public expenditures required to maintain current standards in each of these areas, the degree to which current standards will deteriorate if such expenditures are not forthcoming, and the additional effects the proposed regulations would have.

(4) The impact of the current and projected foreign-born populations on employment and wage rates, particularly in industries such as agriculture and services in which the foreign born are concentrated, an estimate of the associated public costs, and the additional effects the proposed regulations would have.

(5) The impact of the current and projected foreign-born populations on the need for additions and improvements to the transportation infrastructure of the United States, an estimate of the public expenditures required to meet this need, the impact on Americans’ mobility if such expenditures are not forthcoming, and the additional effect the proposed regulations would have.

(6) The impact of the current and projected foreign-born populations on enrollment, class size, teacher-student ratios, and the quality of education in public schools, an estimate of the public expenditures required to maintain current median standards, the degree to which those standards will deteriorate if such expenditures are not forthcoming, and the additional effect the proposed regulations would have.

(7) The impact of the current and projected foreign-born populations on home ownership rates, housing prices, and the demand for low-income and subsidized housing, the public expenditures required to maintain current median standards in these areas, the degree to which those standards will deteriorate if such expenditures are not forthcoming, and the additional effect the proposed regulations would have.

(8) The impact of the current and projected foreign-born populations on access to quality health care and on the cost of health care and health insurance, an estimate of the public expenditures required to maintain current median standards, the degree to which those standards will deteriorate if such expenditures are not forthcoming, and the additional effect the proposed regulations would have.

(9) The impact of the current and projected foreign-born populations on the criminal justice system in the United States, an estimate of the associated public costs, and the additional effect the proposed regulations would have.

SEC. 402. NONIMMIGRANT TEMPORARY WORKER.

(a) TEMPORARY WORKER CATEGORY.—Section 101(a)(15)(H) (8 U.S.C. 1101(a)(15)(H)) is amended to read as follows:

“(H) an alien—

“(i)(b) subject to section 212(j)(2)—

“(aa) who is coming temporarily to the United States to perform services (other than services described in clause (ii)(a) or subparagraph (O) or (P)) in a specialty occupation described in section 214(i)(1) or as a fashion model;

“(bb) who meets the requirements for the occupation specified in section 214(i)(2) or, in the case of a fashion model, is of distinguished merit and ability; and

“(cc) with respect to whom the Secretary of Labor determines and certifies to the Secretary of Homeland Security that the intending employer has filed an application with the Secretary in accordance with section 212(n)(1);

“(b)(aa) who is entitled to enter the United States under the provisions of an agreement listed in section 214(g)(8)(A);

“(bb) who is engaged in a specialty occupation described in section 214(i)(3); and

“(cc) with respect to whom the Secretary of Labor determines and certifies to the Secretary of Homeland Security and the Secretary of State that the intending employer has filed an attestation with the Secretary of Labor in accordance with section 212(t)(1); or

“(c)(aa) who is coming temporarily to the United States to perform services as a registered nurse;

“(bb) who meets the qualifications described in section 212(m)(1); and

“(cc) with respect to whom the Secretary of Labor determines and certifies to the Secretary of Homeland Security that an unexpired attestation is on file and in effect under section 212(m)(2) for the facility (as defined in section 212(m)(6)) for which the alien will perform the services; or

“(ii)(a) who—

“(aa) has a residence in a foreign country which the alien has no intention of abandoning; and

“(bb) is coming temporarily to the United States to perform agricultural labor or services (as defined by the Secretary of Labor), including agricultural labor (as defined in section 3121(g) of the Internal Revenue Code of 1986), agriculture (as defined in section 3(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f))), and the pressing of apples for cider on a farm, of a temporary or seasonal nature;

“(b) who—

“(aa) has a residence in a foreign country which the alien has no intention of abandoning;

“(bb) is coming temporarily to the United States to perform nonagricultural work or services of a temporary or seasonal nature (if unemployed persons capable of performing such work or services cannot be found in the United States), excluding medical school graduates coming to the United States to perform services as members of the medical profession; or

“(c) who—

“(aa) has a residence in a foreign country which the alien has no intention of abandoning;

“(bb) is coming temporarily to the United States to perform temporary labor or services other than the labor or services described in clause (i)(b), (i)(c), (ii)(a), or (iii), or subparagraph (L), (O), (P), or (R) (if unemployed persons capable of performing such labor or services cannot be found in the United States); and

“(cc) meets the requirements of section 218A, including the filing of a petition under such section on behalf of the alien;

“(iii) who—

“(a) has a residence in a foreign country which the alien has no intention of abandoning; and

“(b) is coming temporarily to the United States as a trainee (other than to receive graduate medical education or training) in a training program that is not designed primarily to provide productive employment; or

“(iv) who—

“(a) is the spouse or a minor child of an alien described in clause (iii); and

“(b) is accompanying or following to join such alien.”

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall take effect on the date which is 1 year after the date of the enactment of this Act and shall apply to aliens, who, on such effective date, are outside of the United States.

SEC. 403. ADMISSION OF NONIMMIGRANT TEMPORARY GUEST WORKERS.

(a) **TEMPORARY GUEST WORKERS.**—

(1) **IN GENERAL.**—Chapter 2 of title II (8 U.S.C. 1181 et seq.) is amended by inserting after section 218 the following:

“SEC. 218A. ADMISSION OF H-2C NON-IMMIGRANTS.

“(a) **AUTHORIZATION.**—The Secretary of State may grant a temporary visa to an H-2C nonimmigrant who demonstrates an intent to perform labor or services in the United States (other than the labor or services described in clause (i)(b) or (ii)(a) of section 101(a)(15)(H) or subparagraph (L), (O), (P), or (R) of section 101(a)(15).

“(b) **REQUIREMENTS FOR ADMISSION.**—An alien shall be eligible for H-2C nonimmigrant status if the alien meets the following requirements:

“(1) **ELIGIBILITY TO WORK.**—The alien shall establish that the alien is capable of performing the labor or services required for an occupation under section 101(a)(15)(H)(ii)(c).

“(2) **EVIDENCE OF EMPLOYMENT.**—The alien shall establish that the alien has received a job offer from an employer who has complied with the requirements of 218B.

“(3) **FEE.**—The alien shall pay a \$500 visa issuance fee in addition to the cost of processing and adjudicating such application. Nothing in this paragraph shall be construed to affect consular procedures for charging reciprocal fees.

“(4) **MEDICAL EXAMINATION.**—The alien shall undergo a medical examination (including a determination of immunization status), at the alien's expense, that conforms to generally accepted standards of medical practice.

“(5) **APPLICATION CONTENT AND WAIVER.**—

“(A) **APPLICATION FORM.**—The alien shall submit to the Secretary a completed application, on a form designed by the Secretary of Homeland Security, including proof of evidence of the requirements under paragraphs (1) and (2).

“(B) **CONTENT.**—In addition to any other information that the Secretary requires to determine an alien's eligibility for H-2C nonimmigrant status, the Secretary shall require an alien to provide information concerning the alien's—

“(i) physical and mental health;

“(ii) criminal history and gang membership;

“(iii) immigration history; and

“(iv) involvement with groups or individuals that have engaged in terrorism, genocide, persecution, or who seek the overthrow of the United States Government.

“(C) **KNOWLEDGE.**—The alien shall include with the application submitted under this paragraph a signed certification in which the alien certifies that—

“(i) the alien has read and understands all of the questions and statements on the application form;

“(ii) the alien certifies under penalty of perjury under the laws of the United States that the application, and any evidence submitted with it, are all true and correct; and

“(iii) the applicant authorizes the release of any information contained in the application and any attached evidence for law enforcement purposes.

“(c) **GROUND OF INADMISSIBILITY.**—

(1) **IN GENERAL.**—In determining an alien's admissibility as an H-2C nonimmigrant—

“(A) paragraphs (5), (6)(A), (7), (9)(B), and (9)(C) of section 212(a) may be waived for conduct that occurred before the effective date of the Comprehensive Immigration Reform Act of 2006;

“(B) the Secretary of Homeland Security may not waive the application of—

“(i) subparagraph (A), (B), (C), (E), (G), (H), or (I) of section 212(a)(2) (relating to criminals);

“(ii) section 212(a)(3) (relating to security and related grounds); or

“(iii) subparagraph (A), (C) or (D) of section 212(a)(10) (relating to polygamists and child abductors); and

“(C) for conduct that occurred before the date of the enactment of the Comprehensive Immigration Reform Act of 2006, the Secretary of Homeland Security may waive the application of any provision of section 212(a) not listed in subparagraph (B) on behalf of an individual alien—

“(i) for humanitarian purposes;

“(ii) to ensure family unity; or

“(iii) if such a waiver is otherwise in the public interest.

“(2) **RENEWAL OF AUTHORIZED ADMISSION AND SUBSEQUENT ADMISSIONS.**—An alien seeking renewal of authorized admission or subsequent admission as an H-2C nonimmigrant shall establish that the alien is not inadmissible under section 212(a).

“(d) **BACKGROUND CHECKS.**—The Secretary of Homeland Security shall not admit, and the Secretary of State shall not issue a visa to, an alien seeking H-2C nonimmigrant status unless all appropriate background checks have been completed.

“(e) **INELIGIBLE TO CHANGE NONIMMIGRANT CLASSIFICATION.**—An H-2C nonimmigrant may not change nonimmigrant classification under section 248.

“(f) **PERIOD OF AUTHORIZED ADMISSION.**—

(1) **AUTHORIZED PERIOD AND RENEWAL.**—The initial period of authorized admission as an H-2C nonimmigrant shall be 3 years, and the alien may seek 1 extension for an additional 3-year period.

(2) **INTERNATIONAL COMMUTERS.**—An alien who resides outside the United States and commutes into the United States to work as an H-2C nonimmigrant, is not subject to the time limitations under paragraph (1).

(3) **LOSS OF EMPLOYMENT.**—

(A) **IN GENERAL.**—Subject to subsection (c), the period of authorized admission of an H-2C nonimmigrant shall terminate if the alien is unemployed for 60 or more consecutive days.

(B) **RETURN TO FOREIGN RESIDENCE.**—Any alien whose period of authorized admission terminates under subparagraph (A) shall be required to leave the United States.

(C) **PERIOD OF VISA VALIDITY.**—Any alien, whose period of authorized admission terminates under subparagraph (A), who leaves the United States under subparagraph (B), may reenter the United States as an H-2C nonimmigrant to work for an employer, if the alien has complied with the requirements of subsections (b) and (f)(2). The Secretary may, in the Secretary's sole and unreviewable discretion, reauthorize such alien for admission as an H-2C nonimmigrant without requiring the alien's departure from the United States.

(4) **VISITS OUTSIDE UNITED STATES.**—

(A) **IN GENERAL.**—Under regulations established by the Secretary of Homeland Security, an H-2C nonimmigrant—

(i) may travel outside of the United States; and

(ii) may be readmitted without having to obtain a new visa if the period of authorized admission has not expired.

(B) **EFFECT ON PERIOD OF AUTHORIZED ADMISSION.**—Time spent outside the United States under subparagraph (A) shall not extend the period of authorized admission in the United States.

(5) **BARS TO EXTENSION OR ADMISSION.**—An alien may not be granted H-2C nonimmigrant status, or an extension of such status, if—

“(A) the alien has violated any material term or condition of such status granted previously, including failure to comply with the change of address reporting requirements under section 265;

“(B) the alien is inadmissible as a nonimmigrant; or

“(C) the granting of such status or extension of such status would allow the alien to exceed 6 years as an H-2C nonimmigrant, unless the alien has resided and been physically present outside the United States for at least 1 year after the expiration of such H-2C nonimmigrant status.

“(g) EVIDENCE OF NONIMMIGRANT STATUS.—Each H-2C nonimmigrant shall be issued documentary evidence of nonimmigrant status, which—

“(1) shall be machine-readable, tamper-resistant, and allow for biometric authentication;

“(2) shall be designed in consultation with the Forensic Document Laboratory of the Bureau of Immigration and Customs Enforcement;

“(3) shall, during the alien’s authorized period of admission under subsection (f), serve as a valid entry document for the purpose of applying for admission to the United States—

“(A) instead of a passport and visa if the alien—

“(i) is a national of a foreign territory contiguous to the United States; and

“(ii) is applying for admission at a land border port of entry; and

“(B) in conjunction with a valid passport, if the alien is applying for admission at an air or sea port of entry;

“(4) may be accepted during the period of its validity by an employer as evidence of employment authorization and identity under section 274A(b)(1)(B); and

“(5) shall be issued to the H-2C nonimmigrant by the Secretary of Homeland Security promptly after the final adjudication of such alien’s application for H-2C nonimmigrant status.

“(h) PENALTY FOR FAILURE TO DEPART.—If an H-2C nonimmigrant fails to depart the United States before the date which is 10 days after the date that the alien’s authorized period of admission as an H-2C nonimmigrant terminates, the H-2C nonimmigrant may not apply for or receive any immigration relief or benefit under this Act or any other law, except for relief under sections 208 and 241(b)(3) and relief under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, for an alien who indicates either an intention to apply for asylum under section 208 or a fear of persecution or torture.

“(i) PENALTY FOR ILLEGAL ENTRY OR OVERSTAY.—Any alien who enters, attempts to enter, or crosses the border after the date of the enactment of this section, and is physically present in the United States after such date in violation of this Act or of any other Federal law, may not receive, for a period of 10 years—

“(1) any relief under sections 240A and 240B; or

“(2) nonimmigrant status under section 101(a)(15).

“(j) PORTABILITY.—A nonimmigrant alien described in this section, who was previously issued a visa or otherwise provided H-2C nonimmigrant status, may accept a new offer of employment with a subsequent employer, if—

“(1) the employer complies with section 218B; and

“(2) the alien, after lawful admission to the United States, did not work without authorization.

“(k) CHANGE OF ADDRESS.—An H-2C nonimmigrant shall comply with the change of

address reporting requirements under section 265 through either electronic or paper notification.

“(1) COLLECTION OF FEES.—All fees collected under this section shall be deposited in the Treasury in accordance with section 286(c).

“(m) ISSUANCE OF H-4 NONIMMIGRANT VISAS FOR SPOUSE AND CHILDREN.—

“(1) IN GENERAL.—The alien spouse and children of an H-2C nonimmigrant (referred to in this section as ‘dependent aliens’) who are accompanying or following to join the H-2C nonimmigrant may be issued nonimmigrant visas under section 101(a)(15)(H)(iv).

“(2) REQUIREMENTS FOR ADMISSION.—A dependent alien is eligible for nonimmigrant status under 101(a)(15)(H)(iv) if the dependant alien meets the following requirements:

“(A) ELIGIBILITY.—The dependent alien is admissible as a nonimmigrant and does not fall within a class of aliens ineligible for H-4A nonimmigrant status listed under subsection (c).

“(B) MEDICAL EXAMINATION.—Before a nonimmigrant visa is issued to a dependent alien under this subsection, the dependent alien may be required to submit to a medical examination (including a determination of immunization status) at the alien’s expense, that conforms to generally accepted standards of medical practice.

“(C) BACKGROUND CHECKS.—Before a nonimmigrant visa is issued to a dependent alien under this section, the consular officer shall conduct such background checks as the Secretary of State, in consultation with the Secretary of Homeland Security, considers appropriate.

“(n) DEFINITIONS.—In this section and sections 218B, 218C, and 218D:

“(1) AGGRIEVED PERSON.—The term ‘aggrieved person’ means a person adversely affected by an alleged violation of this section, including—

“(A) a worker whose job, wages, or working conditions are adversely affected by the violation; and

“(B) a representative for workers whose jobs, wages, or working conditions are adversely affected by the violation who brings a complaint on behalf of such worker.

“(2) AREA OF EMPLOYMENT.—The terms ‘area of employment’ and ‘area of intended employment’ mean the area within normal commuting distance of the worksite or physical location at which the work of the temporary worker is or will be performed. If such worksite or location is within a Metropolitan Statistical Area, any place within such area is deemed to be within the area of employment.

“(3) ELIGIBLE INDIVIDUAL.—The term ‘eligible individual’ means, with respect to employment, an individual who is not an unauthorized alien (as defined in section 274A) with respect to that employment.

“(4) EMPLOY; EMPLOYEE; EMPLOYER.—The terms ‘employ’, ‘employee’, and ‘employer’ have the meanings given such terms in section 3 of the Fair Labor Standards Act of 1938 (29 U.S.C. 203).

“(5) FOREIGN LABOR CONTRACTOR.—The term ‘foreign labor contractor’ means any person who for any compensation or other valuable consideration paid or promised to be paid, performs any foreign labor contracting activity.

“(6) FOREIGN LABOR CONTRACTING ACTIVITY.—The term ‘foreign labor contracting activity’ means recruiting, soliciting, hiring, employing, or furnishing, an individual who resides outside of the United States for employment in the United States as a nonimmigrant alien described in section 101(a)(15)(H)(ii)(c).

“(7) H-2C NONIMMIGRANT.—The term ‘H-2C nonimmigrant’ means a nonimmigrant described in section 101(a)(15)(H)(ii)(c).

“(8) SEPARATION FROM EMPLOYMENT.—The term ‘separation from employment’ means the worker’s loss of employment, other than through a discharge for inadequate performance, violation of workplace rules, cause, voluntary departure, voluntary retirement, or the expiration of a grant or contract. The term does not include any situation in which the worker is offered, as an alternative to such loss of employment, a similar employment opportunity with the same employer at equivalent or higher compensation and benefits than the position from which the employee was discharged, regardless of whether the employee accepts the offer. Nothing in this paragraph shall limit an employee’s rights under a collective bargaining agreement or other employment contract.

“(9) UNITED STATES WORKER.—The term ‘United States worker’ means an employee who is—

“(A) a citizen or national of the United States; or

“(B) an alien who is—

“(i) lawfully admitted for permanent residence;

“(ii) admitted as a refugee under section 207;

“(iii) granted asylum under section 208; or

“(iv) otherwise authorized, under this Act or by the Secretary of Homeland Security, to be employed in the United States.”

(2) CLERICAL AMENDMENT.—The table of contents for the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended by inserting after the item relating to section 218 the following:

“Sec. 218A. Admission of temporary H-2C workers.”

(b) CREATION OF STATE IMPACT ASSISTANCE ACCOUNT.—Section 286 (8 U.S.C. 1356) is amended by adding at the end the following:

“(x) STATE IMPACT ASSISTANCE ACCOUNT.—There is established in the general fund of the Treasury a separate account, which shall be known as the ‘State Impact Aid Account’. Notwithstanding any other provision under this Act, there shall be deposited as offsetting receipts into the account all family supplemental visa and family supplemental extension of status fees collected under sections 218A and 218B.”

SEC. 404. EMPLOYER OBLIGATIONS.

(a) IN GENERAL.—Title II (8 U.S.C. 1201 et seq.) is amended by inserting after section 218A, as added by section 403, the following:

“SEC. 218B. EMPLOYER OBLIGATIONS.

“(a) GENERAL REQUIREMENTS.—Each employer who employs an H-2C nonimmigrant shall—

“(1) file a petition in accordance with subsection (b); and

“(2) pay the appropriate fee, as determined by the Secretary of Labor.

“(b) PETITION.—A petition to hire an H-2C nonimmigrant under this section shall include an attestation by the employer of the following:

“(1) PROTECTION OF UNITED STATES WORKERS.—The employment of an H-2C nonimmigrant—

“(A) will not adversely affect the wages and working conditions of workers in the United States similarly employed; and

“(B) did not and will not cause the separation from employment of a United States worker employed by the employer within the 180-day period beginning 90 days before the date on which the petition is filed.

“(2) WAGES.—

“(A) IN GENERAL.—The H-2C nonimmigrant will be paid not less than the greater of—

“(i) the actual wage level paid by the employer to all other individuals with similar

experience and qualifications for the specific employment in question; or

“(ii) the prevailing wage level for the occupational classification in the area of employment, taking into account experience and skill levels of employees.

“(B) CALCULATION.—The wage levels under subparagraph (A) shall be calculated based on the best information available at the time of the filing of the application.

“(C) PREVAILING WAGE LEVEL.—For purposes of subparagraph (A)(ii), the prevailing wage level shall be determined in accordance as follows:

“(i) If the job opportunity is covered by a collective bargaining agreement between a union and the employer, the prevailing wage shall be the wage rate set forth in the collective bargaining agreement.

“(ii) If the job opportunity is not covered by such an agreement and it is in an occupation that is covered by a wage determination under a provision of subchapter IV of chapter 31 of title 40, United States Code, or the Service Contract Act of 1965 (41 U.S.C. 351 et seq.), the prevailing wage level shall be the appropriate statutory wage.

“(iii)(I) If the job opportunity is not covered by such an agreement and it is in an occupation that is not covered by a wage determination under a provision of subchapter IV of chapter 31 of title 40, United States Code, or the Service Contract Act of 1965 (41 U.S.C. 351 et seq.), the prevailing wage level shall be based on published wage data for the occupation from the Bureau of Labor Statistics, including the Occupational Employment Statistics survey, Current Employment Statistics data, National Compensation Survey, and Occupational Employment Projections program. If the Bureau of Labor Statistics does not have wage data applicable to such occupation, the employer may base the prevailing wage level on another wage survey approved by the Secretary of Labor.

“(II) The Secretary shall promulgate regulations applicable to approval of such other wage surveys that require, among other things, that the Bureau of Labor Statistics determine such surveys are statistically viable.

“(3) WORKING CONDITIONS.—All workers in the occupation at the place of employment at which the H-2C nonimmigrant will be employed will be provided the working conditions and benefits that are normal to workers similarly employed in the area of intended employment.

“(4) LABOR DISPUTE.—There is not a strike, lockout, or work stoppage in the course of a labor dispute in the occupation at the place of employment at which the H-2C nonimmigrant will be employed. If such strike, lockout, or work stoppage occurs following submission of the petition, the employer will provide notification in accordance with regulations promulgated by the Secretary of Labor.

“(5) PROVISION OF INSURANCE.—If the position for which the H-2C nonimmigrant is sought is not covered by the State workers' compensation law, the employer will provide, at no cost to the H-2C nonimmigrant, insurance covering injury and disease arising out of, and in the course of, the worker's employment, which will provide benefits at least equal to those provided under the State workers' compensation law for comparable employment.

“(6) NOTICE TO EMPLOYEES.—

“(A) IN GENERAL.—The employer has provided notice of the filing of the petition to the bargaining representative of the employer's employees in the occupational classification and area of employment for which the H-2C nonimmigrant is sought.

“(B) NO BARGAINING REPRESENTATIVE.—If there is no such bargaining representative, the employer has—

“(i) posted a notice of the filing of the petition in a conspicuous location at the place or places of employment for which the H-2C nonimmigrant is sought; or

“(ii) electronically disseminated such a notice to the employer's employees in the occupational classification for which the H-2C nonimmigrant is sought.

“(7) RECRUITMENT.—Except where the Secretary of Labor has determined that there is a shortage of United States workers in the occupation and area of intended employment for which the H-2C nonimmigrant is sought—

“(A) there are not sufficient workers who are able, willing, and qualified, and who will be available at the time and place needed, to perform the labor or services involved in the petition; and

“(B) good faith efforts have been taken to recruit United States workers, in accordance with regulations promulgated by the Secretary of Labor, which efforts included—

“(i) the completion of recruitment during the period beginning on the date that is 90 days before the date on which the petition was filed with the Department of Homeland Security and ending on the date that is 14 days before such filing date; and

“(ii) the actual wage paid by the employer for the occupation in the areas of intended employment was used in conducting recruitment.

“(8) INELIGIBILITY.—The employer is not currently ineligible from using the H-2C nonimmigrant program described in this section.

“(9) BONA FIDE OFFER OF EMPLOYMENT.—The job for which the H-2C nonimmigrant is sought is a bona fide job—

“(A) for which the employer needs labor or services;

“(B) which has been and is clearly open to any United States worker; and

“(C) for which the employer will be able to place the H-2C nonimmigrant on the payroll.

“(10) PUBLIC AVAILABILITY AND RECORDS RETENTION.—A copy of each petition filed under this section and documentation supporting each attestation, in accordance with regulations promulgated by the Secretary of Labor, will—

“(A) be provided to every H-2C nonimmigrant employed under the petition;

“(B) be made available for public examination at the employer's place of business or work site;

“(C) be made available to the Secretary of Labor during any audit; and

“(D) remain available for examination for 5 years after the date on which the petition is filed.

“(11) NOTIFICATION UPON SEPARATION FROM OR TRANSFER OF EMPLOYMENT.—The employer will notify the Secretary of Labor and the Secretary of Homeland Security of an H-2C nonimmigrant's separation from employment or transfer to another employer not more than 3 business days after the date of such separation or transfer, in accordance with regulations promulgated by the Secretary of Homeland Security.

“(12) ACTUAL NEED FOR LABOR OR SERVICES.—The petition was filed not more than 60 days before the date on which the employer needed labor or services for which the H-2C nonimmigrant is sought.

“(C) AUDIT OF ATTESTATIONS.—

“(1) REFERRALS BY SECRETARY OF HOMELAND SECURITY.—The Secretary of Homeland Security shall refer all approved petitions for H-2C nonimmigrants to the Secretary of Labor for potential audit.

“(2) AUDITS AUTHORIZED.—The Secretary of Labor may audit any approved petition re-

ferred pursuant to paragraph (1), in accordance with regulations promulgated by the Secretary of Labor.

“(d) INELIGIBLE EMPLOYERS.—

“(1) IN GENERAL.—The Secretary of Homeland Security shall not approve an employer's petitions, applications, certifications, or attestations under any immigrant or nonimmigrant program if the Secretary of Labor determines, after notice and an opportunity for a hearing, that the employer submitting such documents—

“(A) has, with respect to the attestations required under subsection (b)—

“(i) misrepresented a material fact;

“(ii) made a fraudulent statement; or

“(iii) failed to comply with the terms of such attestations; or

“(B) failed to cooperate in the audit process in accordance with regulations promulgated by the Secretary of Labor.

“(2) LENGTH OF INELIGIBILITY.—An employer described in paragraph (1) shall be ineligible to participate in the labor certification programs of the Secretary of Labor for not less than the time period determined by the Secretary, not to exceed 3 years.

“(3) EMPLOYERS IN HIGH UNEMPLOYMENT AREAS.—Beginning on the date that is 1 year after the date of the enactment of the Comprehensive Immigration Reform Act of 2006, the Secretary of Homeland Security may not approve any employer's petition under subsection (b) if the work to be performed by the H-2C nonimmigrant is located in a metropolitan or micropolitan statistical area (as defined by the Office of Management and Budget) in which the unemployment rate for unskilled and low-skilled workers during the most recently completed 6-month period averaged more than 9.0 percent.

“(e) REGULATION OF FOREIGN LABOR CONTRACTORS.—

“(1) COVERAGE.—Notwithstanding any other provision of law, an H-2C nonimmigrant may not be treated as an independent contractor.

“(2) APPLICABILITY OF LAWS.—An H-2C nonimmigrant shall not be denied any right or any remedy under Federal, State, or local labor or employment law that would be applicable to a United States worker employed in a similar position with the employer because of the alien's status as a nonimmigrant worker.

“(3) TAX RESPONSIBILITIES.—With respect to each employed H-2C nonimmigrant, an employer shall comply with all applicable Federal, State, and local tax and revenue laws.

“(f) WHISTLEBLOWER PROTECTION.—It shall be unlawful for an employer or a labor contractor of an H-2C nonimmigrant to intimidate, threaten, restrain, coerce, retaliate, discharge, or in any other manner, discriminate against an employee or former employee because the employee or former employee—

“(1) discloses information to the employer or any other person that the employee or former employee reasonably believes demonstrates a violation of this Act; or

“(2) cooperates or seeks to cooperate in an investigation or other proceeding concerning compliance with the requirements of this Act.

“(g) LABOR RECRUITERS.—

“(1) IN GENERAL.—Each employer that engages in foreign labor contracting activity and each foreign labor contractor shall ascertain and disclose, to each such worker who is recruited for employment at the time of the worker's recruitment—

“(A) the place of employment;

“(B) the compensation for the employment;

“(C) a description of employment activities;

“(D) the period of employment;

“(E) any other employee benefit to be provided and any costs to be charged for each benefit;

“(F) any travel or transportation expenses to be assessed;

“(G) the existence of any labor organizing effort, strike, lockout, or other labor dispute at the place of employment;

“(H) the existence of any arrangement with any owner, employer, foreign contractor, or its agent where such person receives a commission from the provision of items or services to workers;

“(I) the extent to which workers will be compensated through workers’ compensation, private insurance, or otherwise for injuries or death, including—

“(i) work related injuries and death during the period of employment;

“(ii) the name of the State workers’ compensation insurance carrier or the name of the policyholder of the private insurance;

“(iii) the name and the telephone number of each person who must be notified of an injury or death; and

“(iv) the time period within which such notice must be given;

“(J) any education or training to be provided or required, including—

“(i) the nature and cost of such training;

“(ii) the entity that will pay such costs; and

“(iii) whether the training is a condition of employment, continued employment, or future employment; and

“(K) a statement, in a form specified by the Secretary of Labor, describing the protections of this Act for workers recruited abroad.

“(2) FALSE OR MISLEADING INFORMATION.—No foreign labor contractor or employer who engages in foreign labor contracting activity shall knowingly provide material false or misleading information to any worker concerning any matter required to be disclosed in paragraph (1).

“(3) LANGUAGES.—The information required to be disclosed under paragraph (1) shall be provided in writing in English or, as necessary and reasonable, in the language of the worker being recruited. The Secretary of Labor shall make forms available in English, Spanish, and other languages, as necessary, which may be used in providing workers with information required under this section.

“(4) FEES.—A person conducting a foreign labor contracting activity shall not assess any fee to a worker for such foreign labor contracting activity.

“(5) TERMS.—No employer or foreign labor contractor shall, without justification, violate the terms of any agreement made by that contractor or employer regarding employment under this program.

“(6) TRAVEL COSTS.—If the foreign labor contractor or employer charges the employee for transportation such transportation costs shall be reasonable.

“(7) OTHER WORKER PROTECTIONS.—

“(A) NOTIFICATION.—Not less frequently than once every 2 years, each employer shall notify the Secretary of Labor of the identity of any foreign labor contractor engaged by the employer in any foreign labor contractor activity for, or on behalf of, the employer.

“(B) REGISTRATION OF FOREIGN LABOR CONTRACTORS.—

“(i) IN GENERAL.—No person shall engage in foreign labor recruiting activity unless such person has a certificate of registration from the Secretary of Labor specifying the activities that such person is authorized to perform. An employer who retains the services of a foreign labor contractor shall only use those foreign labor contractors who are registered under this subparagraph.

“(ii) ISSUANCE.—The Secretary shall promulgate regulations to establish an efficient electronic process for the investigation and approval of an application for a certificate of registration of foreign labor contractors not later than 14 days after such application is filed, including—

“(I) requirements under paragraphs (1), (4), and (5) of section 102 of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1812);

“(II) an expeditious means to update registrations and renew certificates; and

“(III) any other requirements that the Secretary may prescribe.

“(iii) TERM.—Unless suspended or revoked, a certificate under this subparagraph shall be valid for 2 years.

“(iv) REFUSAL TO ISSUE; REVOCATION; SUSPENSION.—In accordance with regulations promulgated by the Secretary of Labor, the Secretary may refuse to issue or renew, or may suspend or revoke, a certificate of registration under this subparagraph if—

“(I) the application or holder of the certification has knowingly made a material misrepresentation in the application for such certificate;

“(II) the applicant for, or holder of, the certification is not the real party in interest in the application or certificate of registration and the real party in interest—

“(aa) is a person who has been refused issuance or renewal of a certificate;

“(bb) has had a certificate suspended or revoked; or

“(cc) does not qualify for a certificate under this paragraph; or

“(III) the applicant for or holder of the certification has failed to comply with this Act.

“(C) REMEDY FOR VIOLATIONS.—An employer engaging in foreign labor contracting activity and a foreign labor contractor that violates the provisions of this subsection shall be subject to remedies for foreign labor contractor violations under subsections (h) and (i). If a foreign labor contractor acting as an agent of an employer violates any provision of this subsection, the employer shall also be subject to remedies under subsections (h) and (i). An employer that violates a provision of this subsection relating to employer obligations shall be subject to remedies under subsections (h) and (i).

“(D) EMPLOYER NOTIFICATION.—An employer shall notify the Secretary of Labor if the employer becomes aware of a violation of this subsection by a foreign labor recruiter.

“(E) WRITTEN AGREEMENTS.—A foreign labor contractor may not violate the terms of any written agreements made with an employer relating to any contracting activity or worker protection under this subsection.

“(F) BONDING REQUIREMENT.—The Secretary of Labor may require a foreign labor contractor to post a bond in an amount sufficient to ensure the protection of individuals recruited by the foreign labor contractor. The Secretary may consider the extent to which the foreign labor contractor has sufficient ties to the United States to adequately enforce this subsection.

“(h) ENFORCEMENT.—

“(1) IN GENERAL.—The Secretary of Labor shall promulgate regulations for the receipt, investigation, and disposition of complaints by an aggrieved person respecting a violation of this section.

“(2) FILING DEADLINE.—No investigation or hearing shall be conducted on a complaint concerning a violation under this section unless the complaint was filed not later than 12 months after the date of such violation.

“(3) REASONABLE CAUSE.—The Secretary of Labor shall conduct an investigation under this subsection if there is reasonable cause to believe that a violation of this section has occurred. The process established under this

subsection shall provide that, not later than 30 days after a complaint is filed, the Secretary shall determine if there is reasonable cause to find such a violation.

“(4) NOTICE AND HEARING.—

“(A) IN GENERAL.—Not later than 60 days after the Secretary of Labor makes a determination of reasonable cause under paragraph (4), the Secretary shall issue a notice to the interested parties and offer an opportunity for a hearing on the complaint, in accordance with section 556 of title 5, United States Code.

“(B) COMPLAINT.—If the Secretary of Labor, after receiving a complaint under this subsection, does not offer the aggrieved party or organization an opportunity for a hearing under subparagraph (A), the Secretary shall notify the aggrieved party or organization of such determination and the aggrieved party or organization may seek a hearing on the complaint in accordance with such section 556.

“(C) HEARING DEADLINE.—Not later than 60 days after the date of a hearing under this paragraph, the Secretary of Labor shall make a finding on the matter in accordance with paragraph (5).

“(5) ATTORNEYS’ FEES.—A complainant who prevails with respect to a claim under this subsection shall be entitled to an award of reasonable attorneys’ fees and costs.

“(6) POWER OF THE SECRETARY.—The Secretary may bring an action in any court of competent jurisdiction—

“(A) to seek remedial action, including injunctive relief;

“(B) to recover the damages described in subsection (i); or

“(C) to ensure compliance with terms and conditions described in subsection (g).

“(7) SOLICITOR OF LABOR.—Except as provided in section 518(a) of title 28, United States Code, the Solicitor of Labor may appear for and represent the Secretary of Labor in any civil litigation brought under this subsection. All such litigation shall be subject to the direction and control of the Attorney General.

“(8) PROCEDURES IN ADDITION TO OTHER RIGHTS OF EMPLOYEES.—The rights and remedies provided to workers under this section are in addition to any other contractual or statutory rights and remedies of the workers, and are not intended to alter or affect such rights and remedies.

“(i) PENALTIES.—

“(1) IN GENERAL.—If, after notice and an opportunity for a hearing, the Secretary of Labor finds a violation of subsection (b), (e), (f), or (g), the Secretary may impose administrative remedies and penalties, including—

“(A) back wages;

“(B) benefits; and

“(C) civil monetary penalties.

“(2) CIVIL PENALTIES.—The Secretary of Labor may impose, as a civil penalty—

“(A) for a violation of subsection (e) or (f)—

“(i) a fine in an amount not to exceed \$2,000 per violation per affected worker;

“(ii) if the violation was willful violation, a fine in an amount not to exceed \$5,000 per violation per affected worker;

“(iii) if the violation was willful and if in the course of such violation a United States worker was harmed, a fine in an amount not to exceed \$25,000 per violation per affected worker; and

“(B) for a violation of subsection (g)—

“(i) a fine in an amount not less than \$500 and not more than \$4,000 per violation per affected worker;

“(ii) if the violation was willful, a fine in an amount not less than \$2,000 and not more than \$5,000 per violation per affected worker; and

“(iii) if the violation was willful and if in the course of such violation a United States worker was harmed, a fine in an amount not less than \$6,000 and not more than \$35,000 per violation per affected worker.

“(3) USE OF CIVIL PENALTIES.—All penalties collected under this subsection shall be deposited in the Treasury in accordance with section 286(w).

“(4) CRIMINAL PENALTIES.—If a willful and knowing violation of subsection (g) causes extreme physical or financial harm to an individual, the person in violation of such subsection may be imprisoned for not more than 6 months, fined in an amount not more than \$35,000, or both.”.

(b) CLERICAL AMENDMENT.—The table of contents is amended by inserting after the item relating to section 218A, as added by section 403, the following:

“Sec. 218B. Employer obligations.”.

SEC. 405. ALIEN EMPLOYMENT MANAGEMENT SYSTEM.

(a) IN GENERAL.—Title II (8 U.S.C. 1151 et seq.) is amended by inserting after section 218B, as added by section 404, the following: “**SEC. 218C. ALIEN EMPLOYMENT MANAGEMENT SYSTEM.**

“(a) ESTABLISHMENT.—The Secretary of Homeland Security, in consultation with the Secretary of Labor, the Secretary of State, and the Commission of Social Security, shall develop and implement a program (referred to in this section as the ‘alien employment management system’) to manage and track the employment of aliens described in sections 218A and 218D.

“(b) REQUIREMENTS.—The alien employment management system shall—

“(1) provide employers who seek employees with an opportunity to recruit and advertise employment opportunities available to United States workers before hiring an H-2C nonimmigrant;

“(2) collect sufficient information from employers to enable the Secretary of Homeland Security to determine—

“(A) if the nonimmigrant is employed;

“(B) which employers have hired an H-2C nonimmigrant;

“(C) the number of H-2C nonimmigrants that an employer is authorized to hire and is currently employing;

“(D) the occupation, industry, and length of time that an H-2C nonimmigrant has been employed in the United States;

“(3) allow employers to request approval of multiple H-2C nonimmigrant workers; and

“(4) permit employers to submit applications under this section in an electronic form.”.

(b) CLERICAL AMENDMENT.—The table of contents for the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended by inserting after the item relating to section 218B, as added by section 404, the following:

“Sec. 218C. Alien employment management system.”.

SEC. 406. RULEMAKING; EFFECTIVE DATE.

(a) RULEMAKING.—Not later than 6 months after the date of enactment of this Act, the Secretary of Labor shall promulgate regulations, in accordance with the notice and comment provisions of section 553 of title 5, United States Code, to carry out the provisions of sections 218A, 218B, and 218C, as added by this Act.

(b) EFFECTIVE DATE.—The amendments made by sections 403, 404, and 405 shall take effect on the date that is 1 year after the date of the enactment of this Act with regard to aliens, who, on such effective date, are in the foreign country where they maintain residence.

SEC. 407. RECRUITMENT OF UNITED STATES WORKERS.

(a) ELECTRONIC JOB REGISTRY.—The Secretary of Labor shall establish a publicly ac-

cessible Web page on the Internet website of the Department of Labor that provides a single Internet link to each State workforce agency’s statewide electronic registry of jobs available throughout the United States to United States workers.

(b) RECRUITMENT OF UNITED STATES WORKERS.—

(1) POSTING.—An employer shall attest that the employer has posted an employment opportunity at a prevailing wage level, as described in section 218B(b)(2)(C) of the Immigration and Nationality Act, as added by section 404 of this Act.

(2) RECORDS.—An employer shall maintain records for not less than 1 year after the date on which an H-2C nonimmigrant is hired that describe the reasons for not hiring any of the United States workers who may have applied for such position.

(c) OVERSIGHT AND MAINTENANCE OF RECORDS.—The Secretary of Labor shall promulgate regulations regarding the maintenance of electronic job registry records for the purpose of audit or investigation.

(d) ACCESS TO ELECTRONIC JOB REGISTRY.—The Secretary of Labor shall ensure that job opportunities advertised on an electronic job registry established under this section are accessible—

(1) by the State workforce agencies, which may further disseminate job opportunity information to other interested parties; and

(2) through the Internet, for access by workers, employers, labor organizations, and other interested parties.

SEC. 408. TEMPORARY GUEST WORKER VISA PROGRAM TASK FORCE.

(a) ESTABLISHMENT.—There is established a task force to be known as the “Temporary Worker Task Force” (referred to in this section as the “Task Force”).

(b) PURPOSES.—The purposes of the Task Force are—

(1) to study the impact of the admission of aliens under section 101(a)(15)(ii)(c) on the wages, working conditions, and employment of United States workers; and

(2) to make recommendations to the Secretary of Labor regarding the need for an annual numerical limitation on the number of aliens that may be admitted in any fiscal year under section 101(a)(15)(ii)(c).

(c) MEMBERSHIP.—

(1) IN GENERAL.—The Task Force shall be composed of 10 members, of whom—

(A) 1 shall be appointed by the President and shall serve as chairman of the Task Force;

(B) 1 shall be appointed by the leader of the minority party in the Senate, in consultation with the leader of the minority party in the House of Representatives, and shall serve as vice chairman of the Task Force;

(C) 2 shall be appointed by the majority leader of the Senate;

(D) 2 shall be appointed by the minority leader of the Senate;

(E) 2 shall be appointed by the Speaker of the House of Representatives; and

(F) 2 shall be appointed by the minority leader of the House of Representatives.

(2) DEADLINE FOR APPOINTMENT.—All members of the Task Force shall be appointed not later than 6 months after the date of the enactment of this Act.

(3) VACANCIES.—Any vacancy in the Task Force shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

(4) QUORUM.—Six members of the Task Force shall constitute a quorum.

(d) QUALIFICATIONS.—

(1) IN GENERAL.—Members of the Task Force shall be—

(A) individuals with expertise in economics, demography, labor, business, or immigration or other pertinent qualifications or experience; and

(B) representative of a broad cross-section of perspectives within the United States, including the public and private sectors and academia.

(2) POLITICAL AFFILIATION.—Not more than 5 members of the Task Force may be members of the same political party.

(3) NONGOVERNMENTAL APPOINTEES.—An individual appointed to the Task Force may not be an officer or employee of the Federal Government or of any State or local government.

(e) MEETINGS.—

(1) INITIAL MEETING.—The Task Force shall meet and begin the operations of the Task Force as soon as practicable.

(2) SUBSEQUENT MEETINGS.—After its initial meeting, the Task Force shall meet upon the call of the chairman or a majority of its members.

(f) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Task Force shall submit, to Congress, the Secretary of Labor, and the Secretary, a report that contains—

(1) findings with respect to the duties of the Task Force; and

(2) recommendations for imposing a numerical limit.

(g) NUMERICAL LIMITATIONS.—Section 214(g)(1) (8 U.S.C. 1184(g)(1)) is amended—

(1) in subparagraph (B), by striking the period at the end and inserting “; and”; and

(2) by adding at the end the following:

“(C) under section 101(a)(15)(H)(ii)(c) may not exceed—

“(i) 300,000 for the first fiscal year in which the program is implemented;

“(ii) in any subsequent fiscal year—

“(I) if the total number of visas allocated for that fiscal year are allotted within the first quarter of that fiscal year, then an additional 20 percent of the allocated number shall be made available immediately and the allocated amount for the following fiscal year shall increase by 20 percent of the original allocated amount in the prior fiscal year;

“(II) if the total number of visas allocated for that fiscal year are allotted within the second quarter of that fiscal year, then an additional 15 percent of the allocated number shall be made available immediately and the allocated amount for the following fiscal year shall increase by 15 percent of the original allocated amount in the prior fiscal year;

“(III) if the total number of visas allocated for that fiscal year are allotted within the third quarter of that fiscal year, then an additional 10 percent of the allocated number shall be made available immediately and the allocated amount for the following fiscal year shall increase by 10 percent of the original allocated amount in the prior fiscal year;

“(IV) if the total number of visas allocated for that fiscal year are allotted within the last quarter of that fiscal year, then the allocated amount for the following fiscal year shall increase by 10 percent of the original allocated amount in the prior fiscal year; and

“(V) with the exception of the first subsequent fiscal year to the fiscal year in which the program is implemented, if fewer visas were allotted the previous fiscal year than the number of visas allocated for that year and the reason was not due to processing delays or delays in promulgating regulations, then the allocated amount for the following fiscal year shall decrease by 10 percent of the allocated amount in the prior fiscal year.”.

(h) ADJUSTMENT TO LAWFUL PERMANENT RESIDENT STATUS.—Section 245 (8 U.S.C. 1255) is amended by adding at the end the following:

“(n)(1) For purposes of adjustment of status under subsection (a), employment-based immigrant visas shall be made available to

an alien having nonimmigrant status described in section 101(a)(15)(H)(ii)(c) upon the filing of a petition for such a visa—

“(A) by the alien’s employer; or

“(B) by the alien, if the alien has maintained such nonimmigrant status in the United States for a cumulative total of 4 years.

“(2) An alien having nonimmigrant status described in section 101(a)(15)(H)(ii)(c) may not apply for adjustment of status under this section unless the alien—

“(A) is physically present in the United States; and

“(B) the alien establishes that the alien—

“(i) meets the requirements of section 312; or

“(ii) is satisfactorily pursuing a course of study to achieve such an understanding of English and knowledge and understanding of the history and government of the United States.

“(3) An alien who demonstrates that the alien meets the requirements of section 312 may be considered to have satisfied the requirements of that section for purposes of becoming naturalized as a citizen of the United States under title III.

“(4) Filing a petition under paragraph (1) on behalf of an alien or otherwise seeking permanent residence in the United States for such alien shall not constitute evidence of the alien’s ineligibility for nonimmigrant status under section 101(a)(15)(H)(ii)(c).

“(5) The Secretary of Homeland Security shall extend, in 1-year increments, the stay of an alien for whom a labor certification petition filed under section 203(b) or an immigrant visa petition filed under section 204(b) is pending until a final decision is made on the alien’s lawful permanent residence.

“(6) Nothing in this subsection shall be construed to prevent an alien having nonimmigrant status described in section 101(a)(15)(H)(ii)(c) from filing an application for adjustment of status under this section in accordance with any other provision of law.”

SEC. 409. REQUIREMENTS FOR PARTICIPATING COUNTRIES.

(a) IN GENERAL.—The Secretary of State, in cooperation with the Secretary and the Attorney General, shall negotiate with each home country of aliens described in section 101(a)(15)(H)(ii)(c) of the Immigration and Nationality Act, as added by section 402, to enter into a bilateral agreement with the United States that conforms to the requirements under subsection (b).

(b) REQUIREMENTS OF BILATERAL AGREEMENTS.—Each agreement negotiated under subsection (a) shall require the participating home country to—

(1) accept the return of nationals who are ordered removed from the United States within 3 days of such removal;

(2) cooperate with the United States Government to—

(A) identify, track, and reduce gang membership, violence, and human trafficking and smuggling; and

(B) control illegal immigration;

(3) provide the United States Government with—

(A) passport information and criminal records of aliens who are seeking admission to, or are present in, the United States; and

(B) admission and entry data to facilitate United States entry-exit data systems; and

(4) educate nationals of the home country regarding United States temporary worker programs to ensure that such nationals are not exploited; and

(5) evaluate means to provide housing incentives in the alien’s home country for returning workers.

SEC. 410. S VISAS.

(a) EXPANSION OF S VISA CLASSIFICATION.—Section 101(a)(15)(S) (8 U.S.C. 1101(a)(15)(S)) is amended—

(1) in clause (i)—

(A) by striking “Attorney General” each place that term appears and inserting “Secretary of Homeland Security”;

(B) in subclause (I), by inserting before the semicolon, ‘, including a criminal enterprise undertaken by a foreign government, its agents, representatives, or officials’;

(C) in subclause (III), by inserting “where the information concerns a criminal enterprise undertaken by an individual or organization that is not a foreign government, its agents, representatives, or officials,” before “whose”; and

(D) by striking “or” at the end; and

(2) in clause (ii)—

(A) by striking “Attorney General” and inserting “Secretary of Homeland Security”; and

(B) by striking “1956,” and all that follows through “the alien;” and inserting the following: “1956; or

“(iii) who the Secretary of Homeland Security and the Secretary of State, in consultation with the Director of Central Intelligence, jointly determine—

“(I) is in possession of critical reliable information concerning the activities of governments or organizations, or their agents, representatives, or officials, with respect to weapons of mass destruction and related delivery systems, if such governments or organizations are at risk of developing, selling, or transferring such weapons or related delivery systems; and

“(II) is willing to supply or has supplied, fully and in good faith, information described in subclause (I) to appropriate persons within the United States Government;

“and, if the Secretary of Homeland Security (or with respect to clause (ii), the Secretary of State and the Secretary of Homeland Security jointly) considers it to be appropriate, the spouse, married and unmarried sons and daughters, and parents of an alien described in clause (i), (ii), or (iii) if accompanying, or following to join, the alien;”.

(b) NUMERICAL LIMITATION.—Section 214(k)(1) (8 U.S.C. 1184(k)(1)) is amended by striking “The number of aliens” and all that follows through the period and inserting the following: “The number of aliens who may be provided a visa as nonimmigrants under section 101(a)(15)(S) in any fiscal year may not exceed 1,000.”

(c) REPORTS.—

(1) CONTENT.—Paragraph (4) of section 214(k) (8 U.S.C. 1184(k)) is amended—

(A) in the matter preceding subparagraph (A)—

(i) by striking “The Attorney General” and inserting “The Secretary of Homeland Security”; and

(ii) by striking “concerning—” and inserting “that includes—”;

(B) in subparagraph (D), by striking “and”;

(C) in subparagraph (E), by striking the period at the end and inserting “; and”; and

(D) by inserting at the end the following:

“(F) in the event that the total number of such nonimmigrants admitted is fewer than 25 percent of the total number provided for under paragraph (1) of this subsection—

“(i) the reasons why the number of such nonimmigrants admitted is fewer than 25 percent of that provided for by law;

“(ii) the efforts made by the Secretary of Homeland Security to admit such nonimmigrants; and

“(iii) any extenuating circumstances that contributed to the admission of a number of such nonimmigrants that is fewer than 25 percent of that provided for by law.”

(2) FORM OF REPORT.—Section 214(k) (8 U.S.C. 1184(k)) is amended by adding at the end the following new paragraph:

“(5) To the extent required by law and if it is in the interests of national security or the security of such nonimmigrants that are admitted, as determined by the Secretary of Homeland Security, the information contained in a report described in paragraph (4) may be classified, and the Secretary of Homeland Security shall, to the extent feasible, submit a non-classified version of the report to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate.”

SEC. 411. L VISA LIMITATIONS.

Section 214(c)(2) (8 U.S.C. 1184(c)(2)) is amended—

(1) by striking “Attorney General” each place it appears and inserting “Secretary of Homeland Security”;

(2) in subparagraph (E), by striking “In the case” and inserting “Except as provided in subparagraph (H), in the case”; and

(3) by adding at the end the following:

“(G)(i) If the beneficiary of a petition under this subsection is coming to the United States to open, or be employed in, a new facility, the petition may be approved for a period not to exceed 12 months only if the employer operating the new facility has—

“(I) a business plan;

“(II) sufficient physical premises to carry out the proposed business activities; and

“(III) the financial ability to commence doing business immediately upon the approval of the petition.

“(ii) An extension of the approval period under clause (i) may not be granted until the importing employer submits to the Secretary of Homeland Security—

“(I) evidence that the importing employer meets the requirements of this subsection;

“(II) evidence that the beneficiary meets the requirements of section 101(a)(15)(L);

“(III) a statement summarizing the original petition;

“(IV) evidence that the importing employer has fully complied with the business plan submitted under clause (i);

“(V) evidence of the truthfulness of any representations made in connection with the filing of the original petition;

“(VI) evidence that the importing employer, during the previous 12 months, has been doing business at the new facility through regular, systematic, and continuous provision of goods or services, or has otherwise been taking commercially reasonable steps to establish the new facility as a commercial enterprise;

“(VII) a statement of the duties the beneficiary has performed at the new facility during the previous 12 months and the duties the beneficiary will perform at the new facility during the extension period approved under this clause;

“(VIII) a statement describing the staffing at the new facility, including the number of employees and the types of positions held by such employees;

“(IX) evidence of wages paid to employees if the beneficiary will be employed in a managerial or executive capacity;

“(X) evidence of the financial status of the new facility; and

“(XI) any other evidence or data prescribed by the Secretary.

“(iii) Notwithstanding subclauses (I) through (VI) of clause (ii) and subject to the maximum period of authorized admission set forth in subparagraph (D), the Secretary of Homeland Security may approve a subsequently filed petition on behalf of the beneficiary to continue employment at the facility described in this subsection for a period

beyond the initially granted 12-month period if the importing employer demonstrates that the failure to satisfy any of the requirements described in those subclauses was directly caused by extraordinary circumstances beyond the control of the importing employer.

“(H)(i) The Secretary of Homeland Security may not authorize the spouse of an alien described under section 101(a)(15)(L), who is a dependent of a beneficiary under subparagraph (G), to engage in employment in the United States during the initial 9-month period described in subparagraph (G)(i).

“(ii) A spouse described in clause (i) may be provided employment authorization upon the approval of an extension under subparagraph (G)(ii).

“(I) For purposes of determining the eligibility of an alien for classification under Section 101(a)(15)(L) of this Act, the Secretary of Homeland Security shall establish a program to work cooperatively with the Department of State to verify a company or facility’s existence in the United States and abroad.”

SEC. 412. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary such sums as may be necessary to carry out this subtitle and the amendments made by this subtitle for the first fiscal year beginning before the date of enactment of this Act and each of the subsequent fiscal years beginning not more than 7 years after the effective date of the regulations promulgated by the Secretary to implement this subtitle.

Subtitle B—Immigration Injunction Reform

SEC. 421. SHORT TITLE.

This subtitle may be cited as the “Fairness in Immigration Litigation Act of 2006”.

SEC. 422. APPROPRIATE REMEDIES FOR IMMIGRATION LEGISLATION.

(a) REQUIREMENTS FOR AN ORDER GRANTING PROSPECTIVE RELIEF AGAINST THE GOVERNMENT.—

(1) IN GENERAL.—If a court determines that prospective relief should be ordered against the Government in any civil action pertaining to the administration or enforcement of the immigration laws of the United States, the court shall—

(A) limit the relief to the minimum necessary to correct the violation of law;

(B) adopt the least intrusive means to correct the violation of law;

(C) minimize, to the greatest extent practicable, the adverse impact on national security, border security, immigration administration and enforcement, and public safety, and

(D) provide for the expiration of the relief on a specific date, which is not later than the earliest date necessary for the Government to remedy the violation.

(2) WRITTEN EXPLANATION.—The requirements described in subsection (1) shall be discussed and explained in writing in the order granting prospective relief and must be sufficiently detailed to allow review by another court.

(3) EXPIRATION OF PRELIMINARY INJUNCTIVE RELIEF.—Preliminary injunctive relief shall automatically expire on the date that is 90 days after the date on which such relief is entered, unless the court—

(A) makes the findings required under paragraph (1) for the entry of permanent prospective relief; and

(B) makes the order final before expiration of such 90-day period.

(4) REQUIREMENTS FOR ORDER DENYING MOTION.—This subsection shall apply to any order denying the Government’s motion to vacate, modify, dissolve or otherwise terminate an order granting prospective relief in any civil action pertaining to the administration or enforcement of the immigration laws of the United States.

(b) PROCEDURE FOR MOTION AFFECTING ORDER GRANTING PROSPECTIVE RELIEF AGAINST THE GOVERNMENT.—

(1) IN GENERAL.—A court shall promptly rule on the Government’s motion to vacate, modify, dissolve or otherwise terminate an order granting prospective relief in any civil action pertaining to the administration or enforcement of the immigration laws of the United States.

(2) AUTOMATIC STAYS.—

(A) IN GENERAL.—The Government’s motion to vacate, modify, dissolve, or otherwise terminate an order granting prospective relief made in any civil action pertaining to the administration or enforcement of the immigration laws of the United States shall automatically, and without further order of the court, stay the order granting prospective relief on the date that is 15 days after the date on which such motion is filed unless the court previously has granted or denied the Government’s motion.

(B) DURATION OF AUTOMATIC STAY.—An automatic stay under subparagraph (A) shall continue until the court enters an order granting or denying the Government’s motion.

(C) POSTPONEMENT.—The court, for good cause, may postpone an automatic stay under subparagraph (A) for not longer than 15 days.

(D) ORDERS BLOCKING AUTOMATIC STAYS.—Any order staying, suspending, delaying, or otherwise barring the effective date of the automatic stay described in subparagraph (A), other than an order to postpone the effective date of the automatic stay for not longer than 15 days under subparagraph (C), shall be—

(i) treated as an order refusing to vacate, modify, dissolve or otherwise terminate an injunction; and

(ii) immediately appealable under section 1292(a)(1) of title 28, United States Code.

(c) SETTLEMENTS.—

(1) CONSENT DECREES.—In any civil action pertaining to the administration or enforcement of the immigration laws of the United States, the court may not enter, approve, or continue a consent decree that does not comply with subsection (a).

(2) PRIVATE SETTLEMENT AGREEMENTS.—Nothing in this section shall preclude parties from entering into a private settlement agreement that does not comply with subsection (a) if the terms of that agreement are not subject to court enforcement other than reinstatement of the civil proceedings that the agreement settled.

(d) DEFINITIONS.—In this section:

(1) CONSENT DECREE.—The term “consent decree”—

(A) means any relief entered by the court that is based in whole or in part on the consent or acquiescence of the parties; and

(B) does not include private settlements.

(2) GOOD CAUSE.—The term “good cause” does not include discovery or congestion of the court’s calendar.

(3) GOVERNMENT.—The term “Government” means the United States, any Federal department or agency, or any Federal agent or official acting within the scope of official duties.

(4) PERMANENT RELIEF.—The term “permanent relief” means relief issued in connection with a final decision of a court.

(5) PRIVATE SETTLEMENT AGREEMENT.—The term “private settlement agreement” means an agreement entered into among the parties that is not subject to judicial enforcement other than the reinstatement of the civil action that the agreement settled.

(6) PROSPECTIVE RELIEF.—The term “prospective relief” means temporary, preliminary, or permanent relief other than compensatory monetary damages.

(e) EXPEDITED PROCEEDINGS.—It shall be the duty of every court to advance on the docket and to expedite the disposition of any civil action or motion considered under this section.

SEC. 423. EFFECTIVE DATE.

(a) IN GENERAL.—This subtitle shall apply with respect to all orders granting prospective relief in any civil action pertaining to the administration or enforcement of the immigration laws of the United States, whether such relief was ordered before, on, or after the date of the enactment of this Act.

(b) PENDING MOTIONS.—Every motion to vacate, modify, dissolve or otherwise terminate an order granting prospective relief in any such action, which motion is pending on the date of the enactment of this Act, shall be treated as if it had been filed on such date of enactment.

(c) AUTOMATIC STAY FOR PENDING MOTIONS.—

(1) IN GENERAL.—An automatic stay with respect to the prospective relief that is the subject of a motion described in subsection (b) shall take effect without further order of the court on the date which is 10 days after the date of the enactment of this Act if the motion—

(A) was pending for 45 days as of the date of the enactment of this Act; and

(B) is still pending on the date which is 10 days after such date of enactment.

(2) DURATION OF AUTOMATIC STAY.—An automatic stay that takes effect under paragraph (1) shall continue until the court enters an order granting or denying the Government’s motion under section 422(b). There shall be no further postponement of the automatic stay with respect to any such pending motion under section 422(b)(2). Any order, staying, suspending, delaying or otherwise barring the effective date of this automatic stay with respect to pending motions described in subsection (b) shall be an order blocking an automatic stay subject to immediate appeal under section 422(b)(2)(D).

SA 3322. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 276, strike line 4 and all that follows through page 277, line 21, and insert the following:

“(m) An alien having nonimmigrant status described in section 101(a)(15)(H)(ii)(c) shall not be eligible for any adjustment of the status of the alien.”.

SA 3323. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 235, strike lines 12 through 16. On page 235, line 17, strike “(3)” and insert “(2)”.

On page 236, line 8, strike “subsections (b) and (f)(2)” and insert “subsection (b)”.

On page 236, line 13, strike “(4)” and insert “(3)”.

On page 237, line 3, strike “(5)” and insert “(4)”.

SA 3324. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and

for other purposes; which was ordered to lie on the table; as follows:

On page 343, strike lines 1 through 7 and insert the following:

“(i) has completed or will complete not less than 500 hours of community service; and

“(ii)(I) meets the requirements of section 312; or

“(II) is satisfactorily pursuing a course of study to achieve such an understanding of English and knowledge and understanding of the history and government of the United States.

SA 3325. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 325, strike line 1 and all that follows through page 382, line 7.

SA 3326. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 276, strike line 4 and all that follows through page 277, line 21, and insert the following:

“(n) An alien having nonimmigrant status described in section 101(a)(15)(H)(ii)(c) shall not be eligible for any adjustment of the status of the alien.”

Beginning on page 325, strike line 1 and all that follows through page 382, line 7.

SA 3327. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 268, strike line 22 and all that follows through page 269, line 2, and insert the following:

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Subject to paragraph (2), the amendments made by sections 403, 404, and 405 shall take effect on the date that is 1 year after the date of the enactment of this Act with regard to aliens, who, on such effective date, are in the foreign country where they maintain residence.

(2) LIMITATION.—Notwithstanding any other provision of this Act, or the amendments made by this Act, a visa may not be issued to a nonimmigrant alien described in clause (ii)(C) or (iv) of section 101(a)(15)(H) of the Immigration and Nationality Act, as added by section 402, until Congress appropriates sufficient funds to fully implement the border security and interior enforcement provisions of titles I and II of this Act.

SA 3328. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 348, line 7, strike “There” and insert “Subject to subsection (c), there”

On page 348, strike lines 14 through 20 and insert the following:

(c) EFFECTIVE DATE.—Funds may not be appropriated pursuant to the authorization

under subsection (a) until Congress has appropriated sufficient funds to fully implement the border security and interior enforcement provisions of titles I and II of this Act.

SA 3329. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 477, after line 23, add the following:

SEC. 644. SUNSET PROVISION.

This title, titles IV and V, and the amendments made by such titles, are repealed on the date that is 6 years after the date of the enactment of this Act.

SA 3330. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . VISA ISSUANCE REPORT.

Not later than March 31 of each year, the Secretary of State, in consultation with the Secretary and the Attorney General, shall submit to Congress a report that identifies, for the most recent calendar year, the number of visas issued in each visa category.

SA 3331. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . PROMISE ACT.

(a) SHORT TITLE.—This section may be cited as the “Parental Responsibility Obligations Met through Immigration System Enforcement Act” or the “PROMISE Act”.

(b) ALIENS INELIGIBLE TO RECEIVE VISAS AND EXCLUDED FROM ADMISSION FOR NONPAYMENT OF CHILD SUPPORT.—Section 212(a)(10) (8 U.S.C. 1182(a)(10)) is amended by adding at the end the following:

“(F) NONPAYMENT OF CHILD SUPPORT.—

“(i) IN GENERAL.—Except as provided in clause (ii), an alien who is legally obligated under a judgment, decree, or order to pay child support and whose failure to pay such child support has resulted in arrearages that exceed the amount specified in section 454(31) of the Social Security Act (42 U.S.C. 654(31)) is inadmissible.

“(ii) EXCEPTION.—An alien described in clause (i) may become admissible when—

“(I) child support payments under the judgment, decree, or order are satisfied; or

“(II) the alien is in compliance with a payment agreement approved by the appropriate State enforcement agency or court.

“(iii) FEDERAL PARENT LOCATOR SERVICE.—The Federal Parent Locator Service, established under section 453 of the Social Security Act (42 U.S.C. 653), shall be used to determine if an alien is inadmissible under clause (i).

“(iv) REQUEST BY FOREIGN COUNTRY.—For purposes of clause (i), any request for services by a foreign reciprocating country or a foreign country with which a State has an arrangement described in section 459A(d) of

the Social Security Act (42 U.S.C. 659a(d)) shall be treated as a State request.”

(c) AUTHORITY TO PAROLE ALIENS EXCLUDED FROM ADMISSION FOR NONPAYMENT OF CHILD SUPPORT.—Section 212(d)(5) (8 U.S.C. 1182(d)(5)) is amended by adding at the end the following:

“(C)(i) The Secretary of Homeland Security may, in the Secretary’s discretion, parole into the United States, any alien who is inadmissible under subsection (a)(10)(F) if—

“(I) the Secretary places such alien into removal proceedings;

“(II) the alien demonstrates to the satisfaction of the Secretary that such parole is essential to the compliance and fulfillment of child support obligations;

“(III) the alien demonstrates that the alien has employment in the United States and is authorized by law for employment in the United States; and

“(IV) the alien is not inadmissible under any other provision of law.

“(ii) The Secretary of State may permit an alien described in clause (i) to present himself or herself at a port of entry for the limited purpose of seeking parole pursuant to clause (i).

“(iii) The Secretary of Homeland Security and the Secretary of State shall exercise the discretionary authority described in this subparagraph in a manner consistent with the objective of facilitating collection of payment of child support arrearages.

“(iv) For purposes of this subparagraph, unless waived by the alien, the Attorney General shall not enter a final order of removal—

“(I) during the 180-day period beginning on the date on which the Secretary of Homeland Security initially charges the alien as removable under subsection (a)(10)(F); or

“(II) during the pendency of State court proceedings involving the child support obligations of the alien.”

(d) EFFECT OF NONPAYMENT OF CHILD SUPPORT ON ESTABLISHMENT OF GOOD MORAL CHARACTER.—Section 101(f) (8 U.S.C. 1101(f)) is amended—

(1) in paragraph (8), by striking “or” at the end;

(2) in paragraph (9), by striking the period at the end and inserting “; or”; and

(3) by inserting after paragraph (9) the following:

“(10) one who is legally obligated under a judgment, decree, or order to pay child support (as defined in section 459(i) of the Social Security Act (42 U.S.C. 659(i))) and whose failure to pay such child support has resulted in arrearages that exceed the amount specified in section 454(31) of that Act (42 U.S.C. 654(31)), unless support payments under the judgment, decree, or order are satisfied or the alien is in compliance with an approved payment agreement.”

(e) AUTHORIZATION TO SERVE LEGAL PROCESS IN CHILD SUPPORT CASES ON CERTAIN VISA APPLICANTS AND ARRIVING ALIENS.—Section 235(d) (8 U.S.C. 1225(d)), as amended by section 128, is further amended by adding at the end the following:

“(6) AUTHORITY TO SERVE PROCESS IN CHILD SUPPORT CASES.—

“(A) IN GENERAL.—To the extent consistent with State law, immigration officers are authorized to serve, on any alien who is an applicant for admission to the United States, legal process with respect to—

“(i) any action to enforce a legal obligation of an individual to pay child support (as defined in section 459(i) of the Social Security Act (42 U.S.C. 659(i))); or

“(ii) any action to establish paternity.

“(B) LEGAL PROCESS DEFINED.—In this paragraph, the term ‘legal process’ means any writ, order, summons, or other similar process that is issued by—

“(i) a court or an administrative agency of competent jurisdiction in any State, territory, or possession of the United States; or

“(ii) an authorized official pursuant to an order of such a court or agency or pursuant to State or local law.”

(f) AUTHORIZATION TO OBTAIN INFORMATION ON CHILD SUPPORT PAYMENTS BY ALIENS.—Section 453(h) of the Social Security Act (42 U.S.C. 653(h)) is amended by adding at the end the following:

“(4) PROVISION OF INFORMATION ON PERSONS DELINQUENT IN CHILD SUPPORT PAYMENTS.—

“(A) IN GENERAL.—Notwithstanding any other provision of law and in accordance with the requirements of subsection (b), upon the request of the Attorney General, Secretary of Homeland Security, or Secretary of State, the Secretary of Health and Human Services shall provide and transmit to authorized persons through the Federal Parent Locator Service, such information as the Secretary of Health and Human Services determines may aid the authorized person in establishing whether an alien is delinquent in the payment of child support.

“(B) PROHIBITION ON DISCLOSURE OF INFORMATION.—In no case may an authorized person permit use by, or disclosure to, any person (other than a sworn officer or employee of the United States Government for legitimate law enforcement purposes) of any information obtained under this paragraph through the Federal Parent Locator Service.

“(C) PENALTY.—Any person who willfully uses, publishes, or permits information to be disclosed in violation of this paragraph shall be subject to appropriate disciplinary action and subject to a civil monetary penalty of not more than \$5,000 for each such violation.

“(D) AUTHORIZED PERSON DEFINED.—As used in this paragraph, the term ‘authorized person’ means any administrative agency, immigration officer, or consular officer (as defined in section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)) having the authority to investigate or enforce the immigration and naturalization laws of the United States with respect to the legal entry and status of aliens.”

(g) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect on the date that is 90 days after the date of the enactment of this Act and shall apply to aliens who apply for benefits under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) on or after such effective date.

SA 3332. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 231, strike lines 14 through 18 and insert the following:

“(3) FEES.—

“(A) VISA ISSUANCE FEE.—The alien shall pay a \$500 visa issuance fee in addition to the cost of processing and adjudicating such application.

“(B) COMMUNITY RESPONSIBILITY AND ASSISTANCE FEE.—In addition to the fee required under subparagraph (A), the alien shall pay a \$100 community responsibility and assistance fee, which shall be made available, in its entirety, to the State Criminal Alien Assistance Program established under section 241(i).

“(C) SAVINGS PROVISION.—Nothing in this paragraph shall be construed to affect consular procedures for charging reciprocal fees.

SA 3333. Mr. HATCH submitted an amendment intended to be proposed by

him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 8, strike lines 16 through 22.

SA 3334. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

Strike titles III, IV, V, and VI, and insert the following:

TITLE III—NONPARTISAN COMMISSION ON IMMIGRATION REFORM

SEC. 301. NONPARTISAN COMMISSION ON IMMIGRATION REFORM.

(a) ESTABLISHMENT AND COMPOSITION OF COMMISSION.—

(1) ESTABLISHMENT.—Not later than May 1, 2006, the President shall establish a commission to be known as the Nonpartisan Commission on Immigration Reform (in this section referred to as the “Commission”).

(2) COMPOSITION.—The Commission shall be composed of 9 members to be appointed as follows:

(A) 1 member who shall serve as Chairman, to be appointed by the President.

(B) 2 members to be appointed by the Speaker of the House of Representatives who shall select such members from a list of nominees provided by the chairman of the Committee on the Judiciary of the House of Representatives.

(C) 2 members to be appointed by the minority leader of the House of Representatives who shall select such members from a list of nominees provided by the ranking minority member of the Committee on the Judiciary of the House of Representatives.

(D) 2 members to be appointed by the majority leader of the Senate who shall select such members from a list of nominees provided by the chairman of the Committee on the Judiciary of the Senate.

(E) 2 members to be appointed by the minority leader of the Senate who shall select such members from a list of nominees provided by the ranking minority member of the Committee on the Judiciary of the Senate.

(3) INITIAL APPOINTMENTS.—Initial appointments to the Commission shall be made during the 45-day period beginning on May 1, 2006.

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

(5) TERM OF APPOINTMENT.—Members shall be appointed to serve for the life of the Commission, except that the term of the member described in paragraph (2)(A) shall expire at noon on January 20, 2008, and the President shall appoint an individual to serve for the remaining life, if any, of the Commission.

(b) FUNCTIONS OF COMMISSION.—The Commission shall—

(1) review and evaluate the impact of this Act and the amendments made by this Act, in accordance with subsection (c);

(2) conduct a systematic and comprehensive review of this Nation’s immigration laws, in accordance with subsection (c); and

(3) transmit to the Congress—

(A) not later than April 15, 2008, a first report describing the progress made in carrying out paragraphs (1) and (2); and

(B) not later than April 15, 2010, a final report setting forth the Commission’s findings and recommendations, including such recommendations for additional comprehensive

changes that should be made with respect to immigration laws in the United States as the Commission deems appropriate, including, when applicable, such model legislative language for the consideration of Congress.

(c) CONSIDERATIONS.—

(1) GENERAL CONSIDERATIONS.—The Commission may investigate and make recommendations upon any subject that it determines would substantially contribute to the development of an equitable, efficient, and sustainable immigration system that will facilitate border security specifically and national security generally.

(2) GUEST WORKER PROGRAM.—The Commission shall analyze and make recommendations on the advisability of modifying the requirements for admission of nonimmigrants described in section 101(a)(15)(H) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)), including increasing the number of such nonimmigrants admitted to the United States and adopting a national guest worker program, and if, in the opinion of this Commission, such a modification or program should be adopted, then the Commission shall—

(A) set forth minimum requirements for such modification or program, including—

(i) the numerical limitations, if any, on such a program; and

(ii) the temporal limitations (in terms of participant duration), if any, on such a program;

(B) assess the impact and advisability of allowing aliens admitted under such section or participating in such a program to adjust their status from nonimmigrant to immigrant classifications; and

(C) determine whether and, if appropriate, to what degree, low-skilled enterprises should be included in a national guest worker program.

(3) PROJECT SUNSHINE.—The Commission shall analyze and make recommendations on the disposition of the unlawful alien population present in the United States, and such report shall—

(A) examine the impact of earned adjustment, amnesty, or similar programs on future illegal immigration;

(B) examine the ability, and advisability, of the United States Government to locate and deport individuals unlawfully present in the United States;

(C) assess the impact, advisability, and ability of earned adjustment, amnesty, or similar programs to locate and register individuals unlawfully present in the United States; and

(D) provide alternate solutions, if any, to the realm of options otherwise mentioned in this section.

(4) JUDICIAL REVIEW.—The Commission shall examine the operation of the relevant adjudicatory structures and mechanisms and make such recommendations as are necessary to ensure expediency of process consistent with applicable constitutional protections.

(5) INTERIOR ENFORCEMENT.—The Commission shall analyze current interior enforcement efforts and make such recommendations as are necessary to ensure viable interior enforcement, including issues surrounding worksite enforcement and the impact of inadequate interior enforcement on rural communities.

(d) COMPENSATION OF MEMBERS.—

(1) IN GENERAL.—Each member of the Commission who is not an officer or employee of the Federal Government is entitled to receive, subject to such amounts as are provided in advance in appropriations Acts, pay at the daily equivalent of the minimum annual rate of basic pay in effect for grade GS-18 of the General Schedule. Each member of

the Commission who is such an officer or employee shall serve without additional pay.

(2) TRAVEL EXPENSE.—While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence.

(e) MEETINGS, STAFF, AND AUTHORITY OF COMMISSION.—The provisions of subsections (e) through (g) of section 304 of the Immigration Reform and Control Act of 1986 (Public Law 99-603; 8 U.S.C. 1160 note) shall apply to the Commission in the same manner as they apply to the Commission established under such section, except that paragraph (2) of such subsection (e) shall not apply.

(f) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the Commission such sums as may be necessary to carry out this section.

(2) LIMITATION ON AUTHORITY.—Notwithstanding any other provision of this section, the authority to make payments, or to enter into contracts, under this section shall be effective only to such extent, or in such amounts, as are provided in advance in appropriations Acts.

(g) TERMINATION DATE.—The Commission shall terminate on the date on which a final report is required to be transmitted under subsection (b)(3)(B), except that the Commission may continue to function until January 1, 2012, for the purpose of concluding its activities, including providing testimony to standing committees of Congress concerning its final report under this section and disseminating that report.

SA 3335. Mr. KERRY submitted an amendment intended to be proposed to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 63, strike line 12 and all that follows through “(L)” on page 70, line 9, and insert the following:

(E) 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).

(F) 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.

(G)

On page 75, lines 14 and 15, strike “, including classified, sensitive, or national security information”.

On page 76, line 3, strike “; and” and all that follows through line 14, and insert a period.

On page 78, lines 7 and 8, strike “, including classified, sensitive, or national security information”.

On page 80, strike line 5 and all that follows through “(3)” on page 81, line 20, and insert “(1)”.

On page 129, strike line 14 and all that follows through “(2)” on line 22, and insert “(1)”.

On page 130, line 3, strike “(3)” and insert “(2)”.

On page 130, strike lines 11 through 13 and insert the following:

“(3) FAILURE TO COMPLY WITH AGREEMENT.—If an alien agrees to

On page 130, line 20, strike “(i) ineligible” and insert the following:

“(A) ineligible

On page 130, line 22, strike “(ii) subject” and insert the following:

“(B) subject

On page 131, line 1, strike “(iii) subject” and insert the following:

“(C) subject

On page 131, line 3, strike the period at the end and all that follows through “Secretary” on line 23.

On page 133, line 2, strike the period at the end and all that follows through “protection” on line 18.

SA 3336. Mr. KERRY submitted an amendment intended to be proposed to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE —RECRUITMENT AND RETENTION OF ADDITIONAL IMMIGRATION LAW ENFORCEMENT PERSONNEL

SEC. 01. MAXIMUM STUDENT LOAN REPAYMENTS FOR UNITED STATES BORDER PATROL AGENTS.

Section 5379(b) of title 5, United States Code, is amended by adding at the end the following:

“(4) In the case of an employee (otherwise eligible for benefits under this section) who is serving as a full-time active-duty United States Border Patrol agent within the Department of Homeland Security—

“(A) paragraph (2)(A) shall be applied by substituting ‘\$20,000’ for ‘\$10,000’; and

“(B) paragraph (2)(B) shall be applied by substituting ‘\$80,000’ for ‘\$60,000’.”

SEC. 02. RECRUITMENT AND RELOCATION BONUSES AND RETENTION ALLOWANCES FOR PERSONNEL OF THE DEPARTMENT OF HOMELAND SECURITY.

The Secretary of Homeland Security shall ensure that the authority to pay recruitment and relocation bonuses under section 5753 of title 5, United States Code, the authority to pay retention bonuses under section 5754 of such title, and any other similar authorities available under any other provision of law, rule, or regulation, are exercised to the fullest extent allowable in order to encourage service in the Department of Homeland Security.

SEC. 03. LAW ENFORCEMENT RETIREMENT COVERAGE FOR INSPECTION OFFICERS AND OTHER EMPLOYEES.

(a) AMENDMENTS.—

(1) LAW ENFORCEMENT OFFICERS.—Section 8401(17) of title 5, United States Code, is amended—

(A) in subparagraph (C)—

(i) by striking “and” at the end; and

(ii) by striking “subparagraph (A) and (B)” and inserting “subparagraph (A), (B), (E), or (F)”;

(B) by inserting after subparagraph (D) the following:

“(E) an employee (not otherwise covered by this paragraph)—

“(i) the duties of whose position include the investigation or apprehension of individuals suspected or convicted of offenses against the criminal laws of the United States; and

“(ii) who is authorized to carry a firearm; and

“(F) an employee of the Internal Revenue Service, the duties of whose position are primarily the collection of delinquent taxes and the securing of delinquent returns.”

(2) CIVIL SERVICE RETIREMENT SYSTEM.—Section 8331(20) of title 5, United States

Code, is amended in the matter preceding subparagraph (A) by inserting after “position.” the following: “For the purpose of this paragraph, an employee described in the preceding sentence shall be considered to include an employee, not otherwise covered by this paragraph, who satisfies clauses (i) and (ii) of section 8401(17)(E) and an employee of the Internal Revenue Service the duties of whose position are as described in section 8401(17)(F).”

(3) EFFECTIVE DATE.—Except as provided in subsection (b), the amendments made by this subsection shall—

(A) take effect on the date of enactment of this Act; and

(B) apply only in the case of any individual first appointed (or seeking to be first appointed) as a law enforcement officer (as defined in the amendments) on or after that date.

(b) TREATMENT OF SERVICE PERFORMED BY INCUMBENTS.—

(1) DEFINITIONS.—In this subsection:

(A) INCUMBENT.—The term “incumbent” means an individual who—

(i) is first appointed as a law enforcement officer before the date of enactment of this Act; and

(ii) is serving as a law enforcement officer on that date.

(B) LAW ENFORCEMENT OFFICER.—The term “law enforcement officer” means an individual who satisfies the requirements of section 8331(20) or 8401(17) of title 5, United States Code, as a result of the amendments made by subsection (a).

(C) PRIOR SERVICE.—The term “prior service”, with respect to an incumbent who retires from Government service, means any service performed before the date on which a written notice is to be submitted under paragraph (2)(B).

(D) SERVICE.—The term “service” means service performed as a law enforcement officer.

(2) TREATMENT OF SERVICE PERFORMED BY INCUMBENTS.—

(A) IN GENERAL.—For purposes other than purposes described in subparagraph (B), service that is performed by an incumbent on or after the date of enactment of this Act shall be treated as service performed as a law enforcement officer, irrespective of the manner in which the service is treated under subparagraph (B).

(B) RETIREMENT.—For purposes of subchapter III of chapter 83 and chapter 84 of title 5, United States Code, service that is performed by an incumbent before, on, or after the date of enactment of this Act shall be treated as service performed as a law enforcement officer if an appropriate written notice of the election of the incumbent to retire from Government service is submitted to the Office of Personnel Management by the earlier of—

(i) the date that is 5 years after the date of enactment of this Act; or

(ii) the date of retirement of the incumbent.

(3) INDIVIDUAL CONTRIBUTIONS FOR PRIOR SERVICE.—

(A) AMOUNT OF CONTRIBUTIONS.—An incumbent who makes an election described in paragraph (2)(B) may, with respect to prior service performed by the incumbent, contribute to the Civil Service Retirement and Disability Fund an amount equal to the difference between—

(i) the individual contributions that were actually made for that service; and

(ii) the individual contributions that would have been made for that service under the amendments made by subsection (a).

(B) EFFECT OF NOT CONTRIBUTING.—If no part of or less than the full amount required under subparagraph (A) is paid—

(i) all prior service of the incumbent shall remain fully creditable as law enforcement officer service; but

(ii) the resulting annuity shall be reduced in a manner similar to the manner described in section 8334(d)(2) of title 5, United States Code, to the extent necessary to make up the amount unpaid.

(4) GOVERNMENT CONTRIBUTIONS FOR PRIOR SERVICE.—

(A) **IN GENERAL.**—If an incumbent makes an election under paragraph (2)(B), the agency in or under which the incumbent was serving at the time of any prior service shall remit to the Office of Personnel Management, for deposit in the Treasury of the United States to the credit of the Civil Service Retirement and Disability Fund, the amount required under subparagraph (B) with respect to that service.

(B) **AMOUNT REQUIRED.**—The amount an agency is required to remit is, with respect to any prior service, the total amount of additional Government contributions to the Civil Service Retirement and Disability Fund (above those actually paid) that would have been required if the amendments made by subsection (a) had been in effect.

(C) **CONTRIBUTIONS TO BE MADE RATABLY.**—Government contributions under this paragraph on behalf of an incumbent shall be made by the agency ratably (on at least an annual basis) over the 10-year period beginning on the date on which a written notice is to be submitted under paragraph (2)(B).

(5) **EXEMPTION FROM MANDATORY SEPARATION.**—Nothing in section 8335(b) or 8425(b) of title 5, United States Code, shall cause the involuntary separation of a law enforcement officer before the end of the 3-year period beginning on the date of enactment of this Act.

(6) **REGULATIONS.**—The Office shall promulgate regulations to carry out this section, including—

(A) provisions in accordance with which interest on any amount under paragraph (3) or (4) shall be computed, based on section 8334(e) of title 5, United States Code; and

(B) provisions for the application of this subsection in the case of—

(i) any individual who—

(I) is first appointed as a law enforcement officer before the date of enactment of this Act; and

(II) serves as a law enforcement officer after the date of enactment of this Act; and

(ii) any individual entitled to a survivor annuity (based on the service of an incumbent, or of an individual described in clause (i), who dies before making an election under paragraph (2)(B)), to the extent of any rights that would then be available to the decedent (if still living).

(7) **RULE OF CONSTRUCTION.**—Nothing in this subsection applies in the case of a reemployed annuitant.

SA 3337. Mr. KERRY submitted an amendment intended to be proposed to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE —RAPID RESPONSE MEASURES
SEC. 01. EMERGENCY DEPLOYMENT OF UNITED STATES BORDER PATROL AGENTS.

(a) **IN GENERAL.**—If the Governor of a State on an international border of the United States declares an international border security emergency and requests additional United States Border Patrol agents from the Secretary of Homeland Security, the Sec-

retary is authorized, subject to subsections (b) and (c), to provide the State with up to 1,000 additional United States Border Patrol agents for the purpose of patrolling and defending the international border, in order to prevent individuals from crossing the international border and entering the United States at any location other than an authorized port of entry.

(b) **CONSULTATION.**—The Secretary of Homeland Security shall consult with the President upon receipt of a request under subsection (a), and shall grant it to the extent that providing the requested assistance will not significantly impair the Department of Homeland Security's ability to provide border security for any other State.

(c) **COLLECTIVE BARGAINING.**—Emergency deployments under this section shall be made in conformance with all collective bargaining agreements and obligations.

SEC. 02. ELIMINATION OF FIXED DEPLOYMENT OF UNITED STATES BORDER PATROL AGENTS.

The Secretary of Homeland Security shall ensure that no United States Border Patrol agent is precluded from performing patrol duties and apprehending violators of law, except in unusual circumstances where the temporary use of fixed deployment positions is necessary.

SEC. 03. HELICOPTERS AND POWER BOATS.

(a) **IN GENERAL.**—The Secretary of Homeland Security shall increase by not less than 100 the number of United States Border Patrol helicopters, and shall increase by not less than 250 the number of United States Border Patrol power boats. The Secretary of Homeland Security shall ensure that appropriate types of helicopters are procured for the various missions being performed. The Secretary of Homeland Security also shall ensure that the types of power boats that are procured are appropriate for both the waterways in which they are used and the mission requirements.

(b) **USE AND TRAINING.**—The Secretary of Homeland Security shall establish an overall policy on how the helicopters and power boats described in subsection (a) will be used and implement training programs for the agents who use them, including safe operating procedures and rescue operations.

SEC. 04. CONTROL OF UNITED STATES UNITED STATES BORDER PATROL ASSETS.

The United States Border Patrol shall have complete and exclusive administrative and operational control over all the assets utilized in carrying out its mission, including, aircraft, watercraft, vehicles, detention space, transportation, and all of the personnel associated with such assets.

SEC. 05. MOTOR VEHICLES.

The Secretary of Homeland Security shall establish a fleet of motor vehicles appropriate for use by the United States Border Patrol that will permit a ratio of at least one police-type vehicle per every 3 United States Border Patrol agents. Additionally, the Secretary of Homeland Security shall ensure that there are sufficient numbers and types of other motor vehicles to support the mission of the United States Border Patrol. All vehicles will be chosen on the basis of appropriateness for use by the United States Border Patrol, and each vehicle shall have a "panic button" and a global positioning system device that is activated solely in emergency situations for the purpose of tracking the location of an agent in distress. The police-type vehicles shall be replaced at least every 3 years.

SEC. 06. PORTABLE COMPUTERS.

The Secretary of Homeland Security shall ensure that each police-type motor vehicle in the fleet of the United States Border Patrol is equipped with a portable computer

with access to all necessary law enforcement databases and otherwise suited to the unique operational requirements of the United States Border Patrol.

SEC. 07. RADIO COMMUNICATIONS.

The Secretary of Homeland Security shall augment the existing radio communications system so all law enforcement personnel working in every area where United States Border Patrol operations are conducted have clear and encrypted two-way radio communication capabilities at all times. Each portable communications device shall be equipped with a "panic button" and a global positioning system device that is activated solely in emergency situations for the purpose of tracking the location of the agent in distress.

SEC. 08. HAND-HELD GLOBAL POSITIONING SYSTEM DEVICES.

The Secretary of Homeland Security shall ensure that each United States Border Patrol agent is issued a state-of-the-art hand-held global positioning system device for navigational purposes.

SEC. 09. NIGHT VISION EQUIPMENT.

The Secretary of Homeland Security shall ensure that sufficient quantities of state-of-the-art night vision equipment are procured and maintained to enable each United States Border Patrol agent working during the hours of darkness to be equipped with a portable night vision device.

SEC. 10. BORDER ARMOR.

The Secretary of Homeland Security shall ensure that every United States Border Patrol agent is issued high-quality body armor that is appropriate for the climate and risks faced by the individual officer. Each officer shall be allowed to select from among a variety of approved brands and styles. Officers shall be strongly encouraged, but not mandated, to wear such body armor whenever practicable. All body armor shall be replaced at least every 5 years.

SEC. 11. WEAPONS.

The Secretary of Homeland Security shall ensure that United States Border Patrol agents are equipped with weapons that are reliable and effective to protect themselves, their fellow officers, and innocent third parties from the threats posed by armed criminals. In addition, the Secretary shall ensure that the Department's policies allow all such officers to carry weapons that are suited to the potential threats that they face.

SEC. 12. UNIFORMS.

The Secretary of Homeland Security shall ensure that all United States Border Patrol agents are provided with all necessary uniform items, including outerwear suited to the climate, footwear, belts, holsters, and personal protective equipment, at no cost to such agents. Such items shall be replaced at no cost to such agents as they become worn, unserviceable, or no longer fit properly.

SA 3338. Mr. BAUCUS submitted an amendment intended to be proposed to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 204, line 8, insert "with 50 or more employees that is" after "employer".

SA 3339. Mr. BAUCUS submitted an amendment intended to be proposed to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, to amend

the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 10, line 17, strike “(e)” and insert the following:

(e) UNMANNED AERIAL VEHICLE PILOT PROGRAM.—During the 1-year period beginning on the date on which the report is submitted under subsection (c), the Secretary shall conduct a pilot program, based at the Northern Border airbase in Great Falls, Montana, to test unmanned aerial vehicles for border surveillance along the international border between Canada and the United States.

(f)

SA 3340. Mrs. CLINTON submitted an amendment intended to be proposed to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____ . NONIMMIGRANT STATUS FOR SPOUSES AND CHILDREN OF PERMANENT RESIDENTS AWAITING THE AVAILABILITY OF AN IMMIGRANT VISA.

Section 101(a)(15)(V) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(V)) is amended—

(1) by striking “the date of the enactment of the Legal Immigration Family Equity Act” and inserting “January 1, 2011”; and

(2) by striking “3 years” each place it appears and inserting “180 days”.

SA 3341. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 295, strike line 12 and all that follows through page 296, line 8, and insert the following:

“(A) 290,000; and

“(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.

“(2) RECAPTURE OF UNUSED EMPLOYMENT-BASED IMMIGRANT VISAS FOR FISCAL YEARS 2001 THROUGH 2005.—

“(A) IN GENERAL.—Beginning in fiscal year 2006, the number of employment-based visas made available for immigrants described in paragraph (1), (2), or (3) of section 203(b) during any fiscal year, as calculated under paragraph (1), shall be increased by the number described in subparagraph (B).

“(B) ADDITIONAL NUMBER.—

“(i) IN GENERAL.—Subject to clause (ii), the number referred to in subparagraph (A) shall be equal to the sum of—

“(I) the difference between—

“(aa) the number of employment-based visas made available during the period of fiscal years 2001 through 2005; and

“(bb) the number of employment-based visas actually used during that period; and

“(II) the number of immigrant visas issued after September 30, 2004, to spouses and children of employment-based immigrants that were counted for purposes of paragraph (1)(B).

“(ii) REDUCTION.—For fiscal year 2007 and each fiscal year thereafter, the number described in clause (i) shall be reduced by the

number of employment-based visas actually used under subparagraph (A) during the preceding fiscal year.”.

On page 296, strike lines 9 through 18 and insert the following:

SEC. 502. COUNTRY LIMITS.

Section 202(a) (8 U.S.C. 1152(a)) is amended 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”.

On page 320, strike lines 17 through 20 and insert the following:

“(3) LIMITATION.—An application for adjustment of status filed under this section may not be approved until an immigrant visa number becomes available.

“(4) FILING IN CASES OF UNAVAILABLE VISA NUMBERS.—Subject to the limitation described in paragraph (3), if a supplemental petition fee is paid for a petition under subparagraph (E) or (F) of section 204(a)(1), an application under paragraph (1) on behalf of an alien that is a beneficiary of the petition (including a spouse or child who is accompanying or following to join the beneficiary) may be filed without regard to the requirement under paragraph (1)(D).

“(5) PENDING APPLICATIONS.—Subject to the limitation described in paragraph (3), if a petition under subparagraph (E) or (F) of section 204(a)(1) is pending or approved as of the date of enactment of this paragraph, on payment of the supplemental petition fee under that section, the alien that is the beneficiary of the petition may submit an application for adjustment of status under this subsection without regard to the requirement under paragraph (1)(D).

“(6) EMPLOYMENT AUTHORIZATIONS AND ADVANCED PAROLE TRAVEL DOCUMENTATION.—The Attorney General shall—

“(A) provide to any immigrant who has submitted an application for adjustment of status under this subsection not less than 3 increments, the duration of each of which shall be not less than 3 years, for any applicable employment authorization or advanced parole travel document of the immigrant; and

“(B) adjust each applicable fee payment schedule in accordance with the increments provided under subparagraph (A) so that 1 fee for each authorization or document is required for each 3-year increment.”.

On page 321, strike lines 14 through 20 and insert the following:

“(G) Aliens who have earned an advanced degree in science, technology, engineering, or math and are employed in a related field.

On page 324, after line 22, insert the following:

(e) TEMPORARY WORKER VISA DURATION.—Section 106 of the American Competitiveness in the Twenty-First Century Act of 2000 (Public Law 106-313; 114 Stat. 1254) is amended by striking subsection (b) and inserting the following:

“(b) EXTENSION OF H-1B WORKER STATUS.—The Attorney General shall—

“(1) extend the stay of an alien who qualifies for an exemption under subsection (a) in not less than 3 increments, the duration of each of which shall be not less than 3 years, until such time as a final decision is made with respect to the lawful permanent residence of the alien; and

“(2) adjust each applicable fee payment schedule in accordance with the increments provided under paragraph (1) so that 1 fee is required for each 3-year increment.”.

SA 3342. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and

other purposes; which was ordered to lie on the table; as follows:

On page 9, strike lines 2 through 20 and insert the following:

(a) ACQUISITION.—Subject to the availability of appropriations, the Secretary shall procure additional unmanned aerial vehicles, autonomous unmanned ground 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, autonomous unmanned ground 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.

SA 3343. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 9, line 4, insert “autonomous unmanned ground vehicles,” after “vehicles.”.

On page 9, line 16, insert “autonomous unmanned ground vehicles,” after “vehicles.”.

SA 3344. Mr. REID submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____ . BORDER SECURITY CERTIFICATION.

(a) IN GENERAL.—Notwithstanding any other provision of law, subject to subsection (b), beginning on the date of enactment of this Act, the Secretary may not implement a new conditional nonimmigrant work authorization program that grants legal status to any individual who illegally enters or entered the United States, or any similar or subsequent employment program that grants legal status to any individual who illegally enters or entered the United States, until the Secretary provides written certification to the President and Congress that the borders of the United States are reasonably sealed and secured.

(b) WAIVER AND IMPLEMENTATION.—The President may waive the certification requirement under subsection (a) and direct the Secretary to implement a new conditional nonimmigrant work authorization program or any similar or subsequent program described in that subsection, if the President determines that implementation of the program would strengthen the national security of the United States.

SA 3345. Mr. REID (for himself and Mr. LEAHY) submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for

comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 331, between lines 6 and 7, insert the following:

“(6) CRIMINAL AND RELATED GROUNDS.—An alien is ineligible for conditional non-immigrant work authorization and status under this section under any of the following circumstances:

“(A) CONVICTION OF CERTAIN CRIMES.—

“(i) IN GENERAL.—Except as provided in clause (ii), the alien was convicted of, admits having committed, or admits having committed acts which constitute the essential elements of—

“(I) a crime involving moral turpitude (other than a purely political offense) or an attempt or conspiracy to commit such a crime, or

“(II) a violation of (or a conspiracy or attempt to violate) any law or regulation of a State, the United States, or a foreign country relating to a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)).

“(ii) EXCEPTION.—Clause (i)(I) shall not apply to an alien who committed only 1 crime if—

“(I) the crime was committed before the alien reached 18 years of age and the alien was released from any confinement to a prison or correctional institution imposed for the crime more than 5 years before the date of application for a visa or other documentation and the date of application for admission to the United States; or

“(II) the maximum allowable penalty for the crime for which the alien was convicted, admits having committed, or admits having committed the acts constituting the essential elements of, is not longer than imprisonment for 1 year and, if the alien was convicted of such crime, the alien was not sentenced to a term of imprisonment longer than 6 months (regardless of the extent to which the sentence was ultimately executed).

“(B) MULTIPLE CRIMINAL CONVICTIONS.—The alien has been convicted of 2 or more offenses (other than purely political offenses) for which the aggregate sentences to confinement were 5 years or more, regardless of whether—

“(i) the conviction was in a single trial;

“(ii) the offenses arose from a single scheme of misconduct; or

“(iii) the offenses involved moral turpitude, .

“(C) CONTROLLED SUBSTANCE TRAFFICKERS.—The consular officer or the Attorney General knows, or has reason to believe, that the alien—

“(i) is or has been—

“(I) an illicit trafficker in any controlled substance or in any listed chemical (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)); or

“(II) a knowing aider, abettor, assister, conspirator, or colluder with others in the illicit trafficking in any such controlled or listed substance or chemical, or endeavored to do so; or

“(ii) is the spouse, son, or daughter of an alien ineligible under clause (i), and has—

“(I) during the previous 5 years, obtained any financial or other benefit from the illicit activity of that alien; and

“(II) knew or reasonably should have known that the financial or other benefit was the product of such illicit activity.

“(D) CERTAIN ALIENS INVOLVED IN SERIOUS CRIMINAL ACTIVITY WHO HAVE ASSERTED IMMUNITY FROM PROSECUTION.—The alien—

“(i) has committed a serious criminal offense (as defined in section 101(h)) in the United States;

“(ii) exercised immunity from criminal jurisdiction with respect to that offense;

“(iii) as a consequence of the offense and exercise of immunity, has departed from the United States; and

“(iv) has not subsequently submitted fully to the jurisdiction of the court in the United States having jurisdiction with respect to that offense.

“(E) FOREIGN GOVERNMENT OFFICIALS WHO HAVE COMMITTED PARTICULARLY SEVERE VIOLATIONS OF RELIGIOUS FREEDOM.—The alien, while serving as a foreign government official, was responsible for, or directly carried out, at any time, particularly severe violations of religious freedom (as defined in section 3 of the International Religious Freedom Act of 1998 (22 U.S.C. 6402)).

“(F) SIGNIFICANT TRAFFICKERS IN PERSONS.—

“(i) IN GENERAL.—The alien is listed in a report submitted under section 111(b) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7108(b)) or the consular officer or the Attorney General knows or has reason to believe that the alien is, or has been, a knowing aider, abettor, assister, conspirator, or colluder with such a trafficker in severe forms of trafficking in persons (as defined in the section 103 of such Act (22 U.S.C. 7102)).

“(ii) BENEFICIARIES OF TRAFFICKING.—Except as provided in clause (iii), the consular officer or the Attorney General knows or has reason to believe that the alien is the spouse, son, or daughter of an alien ineligible under clause (i), and the alien—

“(I) within the previous 5 years, has obtained any financial or other benefit from the illicit activity of that alien; and

“(II) knew or reasonably should have known that the financial or other benefit was the product of such illicit activity.

“(iii) EXCEPTION FOR CERTAIN SONS AND DAUGHTERS.—Clause (ii) shall not apply to a son or daughter who was a child at the time he or she received the benefit described in such clause.

“(G) MONEY LAUNDERING.—A consular officer or the Attorney General knows, or has reason to believe, that the alien—

“(i) has engaged, is engaging, or seeks to enter the United States to engage, in an offense described in section 1956 or 1957 of title 18, United States Code (relating to laundering of monetary instruments); or

“(ii) is, or has been, a knowing aider, abettor, assister, conspirator, or colluder with others in an offense referred to in clause (i).

“(H) CRIMINAL CONVICTIONS.—The alien has been convicted of any felony or at least 3 misdemeanors.

SA 3346. Mr. REID (for himself and Mr. LEAHY) submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 331, between lines 6 and 7, insert the following:

“(6) CRIMINAL AND RELATED GROUNDS.—An alien is ineligible for conditional non-immigrant work authorization and status under this section under any of the following circumstances:

“(A) CONVICTION OF CERTAIN CRIMES.—

“(i) IN GENERAL.—Except as provided in clause (ii), the alien was convicted of, admits having committed, or admits having committed acts which constitute the essential elements of—

“(I) a crime involving moral turpitude (other than a purely political offense) or an attempt or conspiracy to commit such a crime, or

“(II) a violation of (or a conspiracy or attempt to violate) any law or regulation of a State, the United States, or a foreign country relating to a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)).

“(ii) EXCEPTION.—Clause (i)(I) shall not apply to an alien who committed only 1 crime if—

“(I) the crime was committed before the alien reached 18 years of age and the alien was released from any confinement to a prison or correctional institution imposed for the crime more than 5 years before the date of application for a visa or other documentation and the date of application for admission to the United States; or

“(II) the maximum allowable penalty for the crime for which the alien was convicted, admits having committed, or admits having committed the acts constituting the essential elements of, is not longer than imprisonment for 1 year and, if the alien was convicted of such crime, the alien was not sentenced to a term of imprisonment longer than 6 months (regardless of the extent to which the sentence was ultimately executed).

“(B) MULTIPLE CRIMINAL CONVICTIONS.—The alien has been convicted of 2 or more offenses (other than purely political offenses) for which the aggregate sentences to confinement were 5 years or more, regardless of whether—

“(i) the conviction was in a single trial;

“(ii) the offenses arose from a single scheme of misconduct; or

“(iii) the offenses involved moral turpitude, .

“(C) CONTROLLED SUBSTANCE TRAFFICKERS.—The consular officer or the Attorney General knows, or has reason to believe, that the alien—

“(i) is or has been—

“(I) an illicit trafficker in any controlled substance or in any listed chemical (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)); or

“(II) a knowing aider, abettor, assister, conspirator, or colluder with others in the illicit trafficking in any such controlled or listed substance or chemical, or endeavored to do so; or

“(ii) is the spouse, son, or daughter of an alien ineligible under clause (i), and has—

“(I) during the previous 5 years, obtained any financial or other benefit from the illicit activity of that alien; and

“(II) knew or reasonably should have known that the financial or other benefit was the product of such illicit activity.

“(D) CERTAIN ALIENS INVOLVED IN SERIOUS CRIMINAL ACTIVITY WHO HAVE ASSERTED IMMUNITY FROM PROSECUTION.—The alien—

“(i) has committed a serious criminal offense (as defined in section 101(h)) in the United States;

“(ii) exercised immunity from criminal jurisdiction with respect to that offense;

“(iii) as a consequence of the offense and exercise of immunity, has departed from the United States; and

“(iv) has not subsequently submitted fully to the jurisdiction of the court in the United States having jurisdiction with respect to that offense.

“(E) FOREIGN GOVERNMENT OFFICIALS WHO HAVE COMMITTED PARTICULARLY SEVERE VIOLATIONS OF RELIGIOUS FREEDOM.—The alien, while serving as a foreign government official, was responsible for, or directly carried out, at any time, particularly severe violations of religious freedom (as defined in section 3 of the International Religious Freedom Act of 1998 (22 U.S.C. 6402)).

“(F) SIGNIFICANT TRAFFICKERS IN PERSONS.—

“(i) IN GENERAL.—The alien is listed in a report submitted under section 111(b) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7108(b)) or the consular officer or the Attorney General knows or has reason to believe that the alien is, or has been, a knowing aider, abettor, assister, conspirator, or colluder with such a trafficker in severe forms of trafficking in persons (as defined in the section 103 of such Act (22 U.S.C. 7102)).

“(ii) BENEFICIARIES OF TRAFFICKING.—Except as provided in clause (iii), the consular officer or the Attorney General knows or has reason to believe that the alien is the spouse, son, or daughter of an alien ineligible under clause (i), and the alien—

“(I) within the previous 5 years, has obtained any financial or other benefit from the illicit activity of that alien; and

“(II) knew or reasonably should have known that the financial or other benefit was the product of such illicit activity.

“(iii) EXCEPTION FOR CERTAIN SONS AND DAUGHTERS.—Clause (ii) shall not apply to a son or daughter who was a child at the time he or she received the benefit described in such clause.

“(G) MONEY LAUNDERING.—A consular officer or the Attorney General knows, or has reason to believe, that the alien—

“(i) has engaged, is engaging, or seeks to enter the United States to engage, in an offense described in section 1956 or 1957 of title 18, United States Code (relating to laundering of monetary instruments); or

“(ii) is, or has been, a knowing aider, abettor, assister, conspirator, or colluder with others in an offense referred to in clause (i).

SA 3347. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 374, strike lines 13 through 19 and insert the following:

(8) ELIGIBILITY FOR LEGAL SERVICES.—Section 504(a)(11) of Public Law 104-134 (110 Stat. 1321-53 et seq.) shall not be construed to prevent a recipient of funds under the Legal Services Corporation Act (42 U.S.C. 2996 et seq.) from providing legal assistance—

(A) directly related to an application for adjustment of status under this section; or

(B) to nonimmigrant workers admitted to, or permitted to remain in, the United States under section 101(a)(15)(H)(ii)(b) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(b)) for forestry labor or services, if the legal assistance is related to wages, housing, transportation, and other employment rights provided in the specific contract of the worker under which the worker was admitted.

SA 3348. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____ . ELIGIBILITY OF AGRICULTURAL AND FORESTRY WORKERS FOR CERTAIN LEGAL ASSISTANCE.

Section 305 of the Immigration Reform and Control Act of 1986 (8 U.S.C. 1101 note; Public Law 99-603) is amended—

(1) by striking “section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a))” and inserting “item (a) or (b) of section 101(a)(15)(H)(ii) of

the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii))”; and

(2) by inserting “or forestry” after “agricultural”.

SA 3349. Mr. BOND (for himself, Mr. ALEXANDER, and Mr. GREGG) submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 316, strike line 2 and all that follows through page 323, line 24, and insert 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 a master’s or doctorate degree or pursuing post-doctoral studies.”.

(b) CREATION OF J-STEM VISA CATEGORY.—Section 101(a)(15)(J) (8 U.S.C. 1101(a)(15)(J)) is amended to read as follows:

“(J) an alien with a residence in a foreign country that the alien has no intention of abandoning who is a bona fide student, scholar, trainee, teacher, professor, research assistant, specialist, or leader in a field of specialized knowledge or skill, or other person of similar description, and who—

“(i) is coming temporarily to the United States as a participant in a program (other than a graduate program described in clause (i)) designated by the Director of the United States Information Agency, for the purpose of teaching, instructing or lecturing, studying, observing, conducting research, consulting, demonstrating special skills, or receiving training and who, if coming to the United States to participate in a program under which the alien will receive graduate medical education or training, also meets the requirements of section 212(j), and the alien spouse and minor children of any such alien if accompanying the alien or following to join the alien; or

“(ii) has been accepted and plans to attend an accredited graduate program in mathematics, engineering, technology, or the physical or life sciences in the United States for the purpose of obtaining a master’s or doctorate degree or pursuing post-doctoral studies.”.

(c) 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), (J)(ii), (L), or (V)”.

(d) REQUIREMENTS FOR F-4 OR J-STEM 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 subparagraph (F)(iv) or (J)(ii) of section 101(a)(15) 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.”.

(e) WAIVER OF FOREIGN RESIDENCE REQUIREMENT.—Section 212(e) (8 U.S.C. 1182(e)) is amended—

(1) by inserting “(1)” before “No person”;

(2) by striking “admission (i) whose” and inserting the following: “admission—
“(A) whose”;

(3) by striking “residence, (ii) who” and inserting the following: “residence;
“(B) who”;

(4) by striking “engaged, or (iii) who” and inserting the following: “engaged; or
“(C) who”;

(5) by striking “training, shall” and inserting the following: “training,
“shall”;

(6) by striking “United States: *Provided*, That upon” and inserting the following: “United States.
“(2) Upon”;

(7) by striking “section 214(l): And provided further, That, except” and inserting the following: “section 214(l).
“(3) Except”; and

(8) by adding at the end the following:

“(4) An alien who qualifies for adjustment of status under section 214(m)(3)(C) shall not be subject to the 2-year foreign residency requirement under this subsection.”.

(f) 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).

(g) 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)(D), 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 subparagraph (J)(ii) or (F)(iv) of section 101(a)(15), or would have qualified for such nonimmigrant status if subparagraph (J)(ii) or (F)(iv) of section 101(a)(15) had been enacted before such alien’s graduation;

“(B) the alien has earned a master’s or doctorate degree or completed post-doctoral studies 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 \$2,000 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.”

(h) 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. 508. 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)), as amended by section 505, is amended by adding at the end the following:

“(G) Aliens who have earned a master’s or doctorate degree, or completed post-doctoral studies, in science, technology, engineering, or math and have been working in a related field in the United States under a non-immigrant visa during the 3-year period preceding their application for an immigrant visa under section 203(b).

“(H) 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).

“(I) 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 a master’s or doctorate degree, or completed post-doctoral studies, 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 a master’s or doctorate degree, or completed post-doctoral studies, in science, technology, engineering, or math.”;

SA 3350. Mr. COBURN submitted an amendment intended to be proposed to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____ . COMMUNICATION BETWEEN GOVERNMENT AGENCIES AND THE DEPARTMENT OF HOMELAND SECURITY.

(a) IN GENERAL.—Section 642 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1373) is amended—

(1) by striking “Immigration and Naturalization Service” and inserting “Department of Homeland Security” each place it appears; and

(2) by adding at the end the following:

“(d) ENFORCEMENT.—

“(1) INELIGIBILITY FOR FEDERAL LAW ENFORCEMENT AID.—Upon a determination that any person, or any Federal, State, or local government agency or entity, is in violation of subsection (a) or (b), the Attorney General shall not provide to that person, agency, or entity any grant amount pursuant to any law enforcement grant program carried out by any element of the Department of Justice, including the program under section 241(i) of the Immigration and Nationality Act (8 U.S.C. 241(i)), and shall ensure that no such grant amounts are provided, directly or indirectly, to such person, agency, or entity. In the case of grant amounts that otherwise would be provided to such person, agency, or entity pursuant to a formula, such amounts shall be reallocated among eligible recipients.

“(2) VIOLATIONS BY GOVERNMENT OFFICIALS.—In any case in which a Federal, State, or local government official is in violation of subsection (a) or (b), the government agency or entity that employs (or, at the time of the violation, employed) the official shall be subject to the sanction under paragraph (1).

“(3) DURATION.—The sanction under paragraph (1) shall remain in effect until the Attorney General determines that the person, agency, or entity has ceased violating subsections (a) and (b).”

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to grant requests pending on or after the date of the enactment of this Act.

SA 3351. Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____ . COOPERATION WITH THE GOVERNMENT OF MEXICO.

(a) COOPERATION REGARDING BORDER SECURITY.—The Secretary of State, in cooperation with the Secretary and representatives of Federal, State, and local law enforcement agencies that are involved in border security and immigration enforcement efforts, shall work with the appropriate officials from the Government of Mexico to improve coordination between the United States and Mexico regarding—

(1) improved border security along the international border between the United States and Mexico;

(2) the reduction of human trafficking and smuggling between the United States and Mexico;

(3) the reduction of drug trafficking and smuggling between the United States and Mexico;

(4) the reduction of gang membership in the United States and Mexico;

(5) the reduction of violence against women in the United States and Mexico; and

(6) the reduction of other violence and criminal activity.

(b) COOPERATION REGARDING EDUCATION ON IMMIGRATION LAWS.—The Secretary of State, in cooperation with other appropriate Federal officials, shall work with the appropriate officials from the Government of Mexico to carry out activities to educate citizens and nationals of Mexico regarding eligibility for status as a nonimmigrant under Federal law to ensure that the citizens and nationals are not exploited while working in the United States.

(c) COOPERATION REGARDING CIRCULAR MIGRATION.—The Secretary of State, in cooperation with the Secretary of Labor and other appropriate Federal officials, shall work with the appropriate officials from the Government of Mexico to improve coordination between the United States and Mexico to encourage circular migration, including assisting in the development of economic opportunities and providing job training for citizens and nationals in Mexico.

(d) ANNUAL REPORT.—Not later than 180 days after the date of enactment of this Act, and annually thereafter, the Secretary of State shall submit to Congress a report on the actions taken by the United States and Mexico under this section.

SA 3352. Mr. VITTER submitted an amendment intended to be proposed to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 225, beginning on line 17, strike all that follows and insert the following:

TITLE V—BACKLOG REDUCTION

SEC. 501. 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. 502. 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)”;

(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”;

(2) by striking paragraph (5).

SEC. 503. 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”;

(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.”;

(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. 504. 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. 505. SHORTAGE OCCUPATIONS.

(a) EXCEPTION TO DIRECT NUMERICAL LIMITATIONS.—Section 201(b)(1) (8 U.S.C. 1151(b)(1)) is amended by adding at the end the following new subparagraph:

“(F)(i) During the period beginning on the date of the enactment of the Comprehensive Immigration Reform Act of 2006 and ending on September 30, 2017, an alien—

“(I) who is otherwise described in section 203(b); and

“(II) who is seeking admission to the United States to perform labor in shortage occupations designated by the Secretary of Labor for blanket certification under section 212(a)(5)(A) due to the lack of sufficient United States workers able, willing, qualified, and available for such occupations and for which the employment of aliens will not adversely affect the terms and conditions of similarly employed United States workers.

“(ii) During the period described in clause (i), the spouse or dependents of an alien described in clause (i), if accompanying or following to join such alien.”

(b) EXCEPTION TO NONDISCRIMINATION REQUIREMENTS.—Section 202(a)(1)(A) (8 U.S.C. 1152(a)(1)(A)) is amended by striking “201(b)(2)(A)(i)” and inserting “201(b)”.

(c) EXCEPTION TO PER COUNTRY LEVELS FOR FAMILY-SPONSORED AND EMPLOYMENT-BASED IMMIGRANTS.—Section 202(a)(2) (8 U.S.C. 1152(a)(2)), as amended by section 502(1), is further amended by inserting “, except for aliens described in section 201(b),” after “any fiscal year”.

(d) INCREASING THE DOMESTIC SUPPLY OF NURSES AND PHYSICAL THERAPISTS.—Not later than January 1, 2007, the Secretary of Health and Human Services shall—

(1) submit to Congress a report on the source of newly licensed nurses and physical therapists in each State, which report shall—

(A) include the past 3 years for which data are available;

(B) provide separate data for each occupation and for each State;

(C) separately identify those receiving their initial license and those licensed by endorsement from another State;

(D) within those receiving their initial license in each year, identify the number who received their professional education in the United States and those who received such education outside the United States; and

(E) to the extent possible, identify, by State of residence and country of education, the number of nurses and physical therapists who were educated in any of the 5 countries (other than the United States) from which the most nurses and physical therapists arrived;

(F) identify the barriers to increasing the supply of nursing faculty, domestically trained nurses, and domestically trained physical therapists;

(G) recommend strategies to be followed by Federal and State governments that would be effective in removing such barriers, including strategies that address barriers to advancement to become registered nurses for other health care workers, such as home health aides and nurses assistants;

(H) recommend amendments to Federal legislation that would increase the supply of nursing faculty, domestically trained nurses, and domestically trained physical therapists;

(I) recommend Federal grants, loans, and other incentives that would provide increases in nurse educators, nurse training facilities, and other steps to increase the domestic education of new nurses and physical therapists;

(J) identify the effects of nurse emigration on the health care systems in their countries of origin; and

(K) recommend amendments to Federal law that would minimize the effects of health care shortages in the countries of origin from which immigrant nurses arrived;

(2) enter into a contract with the National Academy of Sciences Institute of Medicine to determine the level of Federal investment under titles VII and VIII of the Public Health Service Act necessary to eliminate the domestic nursing and physical therapist shortage not later than 7 years from the date on which the report is published; and

(3) collaborate with other agencies, as appropriate, in working with ministers of health or other appropriate officials of the 5 countries from which the most nurses and physical therapists arrived, to—

(A) address health worker shortages caused by emigration;

(B) ensure that there is sufficient human resource planning or other technical assistance needed to reduce further health worker shortages in such countries.

SEC. 506. RELIEF FOR WIDOWS AND ORPHANS.

(a) **SHORT TITLE.**—This section may be cited as the “Widows and Orphans Act of 2006”.

(b) **NEW SPECIAL IMMIGRANT CATEGORY.**—

(1) **CERTAIN CHILDREN AND WOMEN AT RISK OF HARM.**—Section 101(a)(27) (8 U.S.C. 1101(a)(27)) is amended—

(A) in subparagraph (L), by inserting a semicolon at the end;

(B) in subparagraph (M), by striking the period at the end and inserting “; or”; and

(C) by adding at the end the following:

“(N) subject to subsection (j), an immigrant who is not present in the United States—

“(i) who is—

“(I) referred to a consular, immigration, or other designated official by a United States Government agency, an international organization, or recognized nongovernmental entity designated by the Secretary of State for purposes of such referrals; and

“(II) determined by such official to be a minor under 18 years of age (as determined under subsection (j)(5))—

“(aa) for whom no parent or legal guardian is able to provide adequate care;

“(bb) who faces a credible fear of harm related to his or her age;

“(cc) who lacks adequate protection from such harm; and

“(dd) for whom it has been determined to be in his or her best interests to be admitted to the United States; or

“(ii) who is—

“(I) referred to a consular or immigration official by a United States Government agency, an international organization or recognized nongovernmental entity designated by the Secretary of State for purposes of such referrals; and

“(II) determined by such official to be a female who has—

“(aa) a credible fear of harm related to her sex; and

“(bb) a lack of adequate protection from such harm.”.

(2) **STATUTORY CONSTRUCTION.**—Section 101 (8 U.S.C. 1101) is amended by adding at the end the following:

“(j)(1) No natural parent or prior adoptive parent of any alien provided special immigrant status under subsection (a)(27)(N)(i) shall thereafter, by virtue of such parentage, be accorded any right, privilege, or status under this Act.

“(2)(A) No alien who qualifies for a special immigrant visa under subsection (a)(27)(N)(ii) may apply for derivative status or petition for any spouse who is represented by the alien as missing, deceased, or the source of harm at the time of the alien’s application and admission. The Secretary of Homeland Security may waive this requirement for an alien who demonstrates that the alien’s representations regarding the spouse were bona fide.

“(B) An alien who qualifies for a special immigrant visa under subsection (a)(27)(N) may apply for derivative status or petition for any sibling under the age of 18 years or children under the age of 18 years of any such alien, if accompanying or following to join the alien. For purposes of this subparagraph, a determination of age shall be made using the age of the alien on the date the petition is filed with the Department of Homeland Security.

“(3) An alien who qualifies for a special immigrant visa under subsection (a)(27)(N) shall be treated in the same manner as a refugee solely for purposes of section 412.

“(4) The provisions of paragraphs (4), (5), and (7)(A) of section 212(a) shall not be applicable to any alien seeking admission to the United States under subsection (a)(27)(N), and the Secretary of Homeland Security may waive any other provision of such section (other than paragraph 2(C) or subparagraph (A), (B), (C), or (E) of paragraph (3) with respect to such an alien for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest. Any such waiver by the Secretary of Homeland Security shall be in writing and shall be granted only on an individual basis following an investigation. The Secretary of Homeland Security shall provide for the annual reporting to Congress of the number of waivers granted under this paragraph in the previous fiscal year and a summary of the reasons for granting such waivers.

“(5) For purposes of subsection (a)(27)(N)(i)(II), a determination of age shall be made using the age of the alien on the date on which the alien was referred to the consular, immigration, or other designated official.

“(6) The Secretary of Homeland Security shall waive any application fee for a special immigrant visa for an alien described in section 101(a)(27)(N).”.

(3) **EXPEDITED PROCESS.**—Not later than 45 days after the date of referral to a consular, immigration, or other designated official (as described in section 101(a)(27)(N) of the Immigration and Nationality Act, as added by paragraph (1))—

(A) special immigrant status shall be adjudicated; and

(B) if special immigrant status is granted, the alien shall be paroled to the United States pursuant to section 212(d)(5) of that Act (8 U.S.C. 1182(d)(5)) and allowed to apply for adjustment of status to permanent residence under section 245 of that Act (8 U.S.C. 1255) within 1 year after the alien’s arrival in the United States.

(4) **REPORT TO CONGRESS.**—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 on the progress of the implementation of this section and the amendments made by this section, including—

(A) data related to the implementation of this section and the amendments made by this section;

(B) data regarding the number of placements of females and children who faces a credible fear of harm as referred to in section 101(a)(27)(N) of the Immigration and Nationality Act, as added by paragraph (1); and

(C) any other information that the Secretary considers appropriate.

(5) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated such sums as may be necessary to carry out this subsection and the amendments made by this subsection.

(c) **REQUIREMENTS FOR ALIENS.**—

(1) **REQUIREMENT PRIOR TO ENTRY INTO THE UNITED STATES.**—

(A) **DATABASE SEARCH.**—An alien may not be admitted to the United States unless the Secretary has ensured that a search of each database maintained by an agency or department of the United States has been conducted to determine whether such alien is ineligible to be admitted to the United States on criminal, security, or related grounds.

(B) **COOPERATION AND SCHEDULE.**—The Secretary and the head of each appropriate agency or department of the United States shall work cooperatively to ensure that each database search required by subparagraph (A) is completed not later than 45 days after the date on which an alien files a petition seeking a special immigration visa under section 101(a)(27)(N) of the Immigration and Nationality Act, as added by subsection (b)(1).

(2) **REQUIREMENT AFTER ENTRY INTO THE UNITED STATES.**—

(A) **REQUIREMENT TO SUBMIT FINGERPRINTS.**—

(i) **IN GENERAL.**—Not later than 30 days after the date that an alien enters the United States, the alien shall be fingerprinted and submit to the Secretary such fingerprints and any other personal biometric data required by the Secretary.

(ii) **OTHER REQUIREMENTS.**—The Secretary may prescribe regulations that permit fingerprints submitted by an alien under section 262 of the Immigration and Nationality Act (8 U.S.C. 1302) or any other provision of law to satisfy the requirement to submit fingerprints of clause (i).

(B) **DATABASE SEARCH.**—The Secretary shall ensure that a search of each database that contains fingerprints that is maintained by an agency or department of the United States be conducted to determine whether such alien is ineligible for an adjustment of status under any provision of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) on criminal, security, or related grounds.

(C) **COOPERATION AND SCHEDULE.**—The Secretary and the head of each appropriate agency or department of the United States shall work cooperatively to ensure that each database search required by subparagraph (B) is completed not later than 180 days after the date on which the alien enters the United States.

(D) **ADMINISTRATIVE AND JUDICIAL REVIEW.**—

(i) **IN GENERAL.**—There may be no review of a determination by the Secretary, after a search required by subparagraph (B), that an alien is ineligible for an adjustment of status, under any provision of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) on criminal, security, or related grounds except as provided in this subparagraph.

(ii) ADMINISTRATIVE REVIEW.—An alien may appeal a determination described in clause (i) through the Administrative Appeals Office of the Bureau of Citizenship and Immigration Services. The Secretary shall ensure that a determination on such appeal is made not later than 60 days after the date that the appeal is filed.

(iii) JUDICIAL REVIEW.—There may be no judicial review of a determination described in clause (i).

SEC. 507. 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(i)” 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 non-immigrant 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)(D), 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 \$2,000 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. 508. 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)), as amended by section 505, is amended by adding at the end the following:

“(G) 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 non-immigrant visa during the 3-year period preceding their application for an immigrant visa under section 203(b).

“(H) 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).

“(I) 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;”;

(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.

SA 3353. Mr. VITTER submitted an amendment intended to be proposed to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 225, beginning on line 17, strike all that follows, and insert the following:

(d) OTHER STUDIES AND REPORTS.—

(1) STUDY BY LABOR.—The Secretary of Labor shall conduct a study on a sector-by-sector basis on the need for guest workers and the impact that any proposed temporary worker or guest worker program would have on wages and employment opportunities of American workers.

(2) STUDY BY GAO.—The Comptroller General of the United States shall conduct a study regarding establishing minimum criteria for effectively implementing any proposed temporary worker program and determining whether the Department has the capability to effectively enforce the program. If the Comptroller General determines that the Department does not have the capability to effectively enforce any proposed temporary worker program, the Comptroller General shall determine what additional manpower and resources would be required to ensure effective implementation.

(3) STUDY BY THE DEPARTMENT.—The Secretary shall conduct a study to determine if the border security and interior enforcement measures contained in this Act are being properly implemented and whether they are effective in securing United States borders and curbing illegal immigration.

(4) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall, in cooperation with the Secretary of Labor and the Comptroller General of the United States, submit a report to Congress regarding the studies conducted pursuant to paragraphs (1), (2), and (3).

TITLE V—BACKLOG REDUCTION

SEC. 501. 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. 502. 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)”;

(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”;

(2) by striking paragraph (5).

SEC. 503. 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”;

(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. 504. 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. 505. SHORTAGE OCCUPATIONS.

(a) EXCEPTION TO DIRECT NUMERICAL LIMITATIONS.—Section 201(b)(1) (8 U.S.C. 1151(b)(1)) is amended by adding at the end the following new subparagraph:

“(F)(i) During the period beginning on the date of the enactment of the Comprehensive Immigration Reform Act of 2006 and ending on September 30, 2017, an alien—

“(I) who is otherwise described in section 203(b); and

“(II) who is seeking admission to the United States to perform labor in shortage occupations designated by the Secretary of Labor for blanket certification under section 212(a)(5)(A) due to the lack of sufficient United States workers able, willing, qualified, and available for such occupations and for which the employment of aliens will not adversely affect the terms and conditions of similarly employed United States workers.

“(ii) During the period described in clause (i), the spouse or dependents of an alien described in clause (i), if accompanying or following to join such alien.”

(b) EXCEPTION TO NONDISCRIMINATION REQUIREMENTS.—Section 202(a)(1)(A) (8 U.S.C. 1152(a)(1)(A)) is amended by striking “201(b)(2)(A)(i)” and inserting “201(b)”.

(c) EXCEPTION TO PER COUNTRY LEVELS FOR FAMILY-SPONSORED AND EMPLOYMENT-BASED IMMIGRANTS.—Section 202(a)(2) (8 U.S.C. 1152(a)(2)), as amended by section 502(1), is further amended by inserting “, except for aliens described in section 201(b),” after “any fiscal year”.

(d) INCREASING THE DOMESTIC SUPPLY OF NURSES AND PHYSICAL THERAPISTS.—Not later than January 1, 2007, the Secretary of Health and Human Services shall—

(1) submit to Congress a report on the source of newly licensed nurses and physical therapists in each State, which report shall—

(A) include the past 3 years for which data are available;

(B) provide separate data for each occupation and for each State;

(C) separately identify those receiving their initial license and those licensed by endorsement from another State;

(D) within those receiving their initial license in each year, identify the number who received their professional education in the United States and those who received such education outside the United States; and

(E) to the extent possible, identify, by State of residence and country of education, the number of nurses and physical therapists who were educated in any of the 5 countries (other than the United States) from which the most nurses and physical therapists arrived;

(F) identify the barriers to increasing the supply of nursing faculty, domestically trained nurses, and domestically trained physical therapists;

(G) recommend strategies to be followed by Federal and State governments that would be effective in removing such barriers, including strategies that address barriers to advancement to become registered nurses for other health care workers, such as home health aides and nurses assistants;

(H) recommend amendments to Federal legislation that would increase the supply of nursing faculty, domestically trained nurses, and domestically trained physical therapists;

(I) recommend Federal grants, loans, and other incentives that would provide increases in nurse educators, nurse training facilities, and other steps to increase the domestic education of new nurses and physical therapists;

(J) identify the effects of nurse emigration on the health care systems in their countries of origin; and

(K) recommend amendments to Federal law that would minimize the effects of health care shortages in the countries of origin from which immigrant nurses arrived;

(2) enter into a contract with the National Academy of Sciences Institute of Medicine to determine the level of Federal investment under titles VII and VIII of the Public Health Service Act necessary to eliminate the domestic nursing and physical therapist shortage not later than 7 years from the date on which the report is published; and

(3) collaborate with other agencies, as appropriate, in working with ministers of health or other appropriate officials of the 5 countries from which the most nurses and physical therapists arrived, to—

(A) address health worker shortages caused by emigration;

(B) ensure that there is sufficient human resource planning or other technical assistance needed to reduce further health worker shortages in such countries.

SEC. 506. RELIEF FOR WIDOWS AND ORPHANS.

(a) SHORT TITLE.—This section may be cited as the “Widows and Orphans Act of 2006”.

(b) NEW SPECIAL IMMIGRANT CATEGORY.—

(1) CERTAIN CHILDREN AND WOMEN AT RISK OF HARM.—Section 101(a)(27) (8 U.S.C. 1101(a)(27)) is amended—

(A) in subparagraph (L), by inserting a semicolon at the end;

(B) in subparagraph (M), by striking the period at the end and inserting “; or”; and

(C) by adding at the end the following:

“(N) subject to subsection (j), an immigrant who is not present in the United States—

“(i) who is—

“(I) referred to a consular, immigration, or other designated official by a United States Government agency, an international organization, or recognized nongovernmental entity designated by the Secretary of State for purposes of such referrals; and

“(II) determined by such official to be a minor under 18 years of age (as determined under subsection (j)(5))—

“(aa) for whom no parent or legal guardian is able to provide adequate care;

“(bb) who faces a credible fear of harm related to his or her age;

“(cc) who lacks adequate protection from such harm; and

“(dd) for whom it has been determined to be in his or her best interests to be admitted to the United States; or

“(ii) who is—

“(I) referred to a consular or immigration official by a United States Government agency, an international organization or recognized nongovernmental entity designated by the Secretary of State for purposes of such referrals; and

“(II) determined by such official to be a female who has—

“(aa) a credible fear of harm related to her sex; and

“(bb) a lack of adequate protection from such harm.”

(2) STATUTORY CONSTRUCTION.—Section 101 (8 U.S.C. 1101) is amended by adding at the end the following:

“(j)(1) No natural parent or prior adoptive parent of any alien provided special immigrant status under subsection (a)(27)(N)(i) shall thereafter, by virtue of such parentage, be accorded any right, privilege, or status under this Act.

“(2)(A) No alien who qualifies for a special immigrant visa under subsection (a)(27)(N)(ii) may apply for derivative status or petition for any spouse who is represented by the alien as missing, deceased, or the source of harm at the time of the alien’s application and admission. The Secretary of Homeland Security may waive this requirement for an alien who demonstrates that the alien’s representations regarding the spouse were bona fide.

“(B) An alien who qualifies for a special immigrant visa under subsection (a)(27)(N) may apply for derivative status or petition for any sibling under the age of 18 years or children under the age of 18 years of any such alien, if accompanying or following to join the alien. For purposes of this subparagraph, a determination of age shall be made using the age of the alien on the date the petition is filed with the Department of Homeland Security.

“(3) An alien who qualifies for a special immigrant visa under subsection (a)(27)(N) shall be treated in the same manner as a refugee solely for purposes of section 412.

“(4) The provisions of paragraphs (4), (5), and (7)(A) of section 212(a) shall not be applicable to any alien seeking admission to the United States under subsection (a)(27)(N), and the Secretary of Homeland Security may waive any other provision of such section (other than paragraph 2(C) or subparagraph (A), (B), (C), or (E) of paragraph (3) with respect to such an alien for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest. Any such waiver by the Secretary of Homeland Security shall be in writing and shall be granted only on an individual basis following an investigation. The Secretary of Homeland Security shall provide for the annual reporting to Congress of the number of waivers granted under this paragraph in the previous fiscal year and a summary of the reasons for granting such waivers.

“(5) For purposes of subsection (a)(27)(N)(i)(II), a determination of age shall be made using the age of the alien on the date on which the alien was referred to the consular, immigration, or other designated official.

“(6) The Secretary of Homeland Security shall waive any application fee for a special immigrant visa for an alien described in section 101(a)(27)(N).”

(3) EXPEDITED PROCESS.—Not later than 45 days after the date of referral to a consular, immigration, or other designated official (as described in section 101(a)(27)(N) of the Immigration and Nationality Act, as added by paragraph (1))—

(A) special immigrant status shall be adjudicated; and

(B) if special immigrant status is granted, the alien shall be paroled to the United States pursuant to section 212(d)(5) of that Act (8 U.S.C. 1182(d)(5)) and allowed to apply for adjustment of status to permanent residence under section 245 of that Act (8 U.S.C. 1255) within 1 year after the alien’s arrival in the United States.

(4) REPORT TO CONGRESS.—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 on the progress of the implementation of this section and the amendments made by this section, including—

(A) data related to the implementation of this section and the amendments made by this section;

(B) data regarding the number of placements of females and children who faces a credible fear of harm as referred to in section 101(a)(27)(N) of the Immigration and Nationality Act, as added by paragraph (1); and

(C) any other information that the Secretary considers appropriate.

(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this subsection and the amendments made by this subsection.

(c) REQUIREMENTS FOR ALIENS.—

(1) REQUIREMENT PRIOR TO ENTRY INTO THE UNITED STATES.—

(A) DATABASE SEARCH.—An alien may not be admitted to the United States unless the Secretary has ensured that a search of each database maintained by an agency or department of the United States has been conducted to determine whether such alien is ineligible to be admitted to the United States on criminal, security, or related grounds.

(B) COOPERATION AND SCHEDULE.—The Secretary and the head of each appropriate agency or department of the United States shall work cooperatively to ensure that each database search required by subparagraph (A) is completed not later than 45 days after the date on which an alien files a petition seeking a special immigration visa under section 101(a)(27)(N) of the Immigration and Nationality Act, as added by subsection (b)(1).

(2) REQUIREMENT AFTER ENTRY INTO THE UNITED STATES.—

(A) REQUIREMENT TO SUBMIT FINGERPRINTS.—

(i) IN GENERAL.—Not later than 30 days after the date that an alien enters the United States, the alien shall be fingerprinted and submit to the Secretary such fingerprints and any other personal biometric data required by the Secretary.

(ii) OTHER REQUIREMENTS.—The Secretary may prescribe regulations that permit fingerprints submitted by an alien under section 262 of the Immigration and Nationality Act (8 U.S.C. 1302) or any other provision of law to satisfy the requirement to submit fingerprints of clause (i).

(B) DATABASE SEARCH.—The Secretary shall ensure that a search of each database that contains fingerprints that is maintained by an agency or department of the United States be conducted to determine whether such alien is ineligible for an adjustment of status under any provision of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) on criminal, security, or related grounds.

(C) COOPERATION AND SCHEDULE.—The Secretary and the head of each appropriate agency or department of the United States shall work cooperatively to ensure that each database search required by subparagraph (B) is completed not later than 180 days after the date on which the alien enters the United States.

(D) ADMINISTRATIVE AND JUDICIAL REVIEW.—

(i) IN GENERAL.—There may be no review of a determination by the Secretary, after a search required by subparagraph (B), that an alien is ineligible for an adjustment of status, under any provision of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) on criminal, security, or related grounds except as provided in this subparagraph.

(ii) ADMINISTRATIVE REVIEW.—An alien may appeal a determination described in clause (i) through the Administrative Appeals Office of the Bureau of Citizenship and Immigration Services. The Secretary shall ensure that a determination on such appeal is made not later than 60 days after the date that the appeal is filed.

(iii) JUDICIAL REVIEW.—There may be no judicial review of a determination described in clause (i).

SEC. 507. 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 non-immigrant 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)(D), 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 \$2,000 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. 508. 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)), as amended by section 505, is amended by adding at the end the following:

“(G) 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 non-immigrant visa during the 3-year period preceding their application for an immigrant visa under section 203(b).

“(H) 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).

“(I) 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.

SA 3354. Mr. ALEXANDER (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 321, strike lines 14 through 20 and insert the following:

“(G) Aliens who have earned an advanced degree in science, technology, engineering, or math and are employed in a field relating to science, technology, engineering, or math in the United States under a nonimmigrant visa during the 3-year period preceding the application of the alien for an immigrant visa under section 203(b).

SA 3355. Mr. ALEXANDER (for himself and Mr. BINGAMAN) submitted an

amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 320, strike lines 17 through 20 and insert the following:

“(3) LIMITATION.—An application for adjustment of status filed under this section may not be approved until an immigrant visa number becomes available.

“(4) FILING IN CASES OF UNAVAILABLE VISA NUMBERS.—Subject to the limitation described in paragraph (3), if a supplemental petition fee is paid for a petition under subparagraph (E) or (F) of section 204(a)(1), an application under paragraph (1) on behalf of an alien that is a beneficiary of the petition (including a spouse or child who is accompanying or following to join the beneficiary) may be filed without regard to the requirement under paragraph (1)(D).

“(5) PENDING APPLICATIONS.—Subject to the limitation described in paragraph (3), if a petition under subparagraph (E) or (F) of section 204(a)(1) is pending or approved as of the date of enactment of this paragraph, on payment of the supplemental petition fee under that section, the alien that is the beneficiary of the petition may submit an application for adjustment of status under this subsection without regard to the requirement under paragraph (1)(D).

“(6) EMPLOYMENT AUTHORIZATIONS AND ADVANCED PAROLE TRAVEL DOCUMENTATION.—The Attorney General shall—

“(A) provide to any immigrant who has submitted an application for adjustment of status under this subsection not less than 3 increments, the duration of each of which shall be not less than 3 years, for any applicable employment authorization or advanced parole travel document of the immigrant; and

“(B) adjust each applicable fee payment schedule in accordance with the increments provided under subparagraph (A) so that 1 fee for each authorization or document is required for each 3-year increment.”

On page 324, after line 22, insert the following:

(e) TEMPORARY WORKER VISA DURATION.—Section 106 of the American Competitiveness in the Twenty-First Century Act of 2000 (Public Law 106-313; 114 Stat. 1254) is amended by striking subsection (b) and inserting the following:

“(b) EXTENSION OF H-1B WORKER STATUS.—The Attorney General shall—

“(1) extend the stay of an alien who qualifies for an exemption under subsection (a) in not less than 3 increments, the duration of each of which shall be not less than 3 years, until such time as a final decision is made with respect to the lawful permanent residence of the alien; and

“(2) adjust each applicable fee payment schedule in accordance with the increments provided under paragraph (1) so that 1 fee is required for each 3-year increment.”

SA 3356. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 11, strike line 13 through page 13, line 21, and insert the following:

SEC. 105. PORTS OF ENTRY.

To facilitate the flow of trade, commerce, tourism, and legal immigration, the Secretary shall—

(1) at locations to be determined by the Secretary, increase by at least 25 percent, the number of ports of entry along the southwestern international border of the United States;

(2) increase the ports of entry along the northern international land border as needed; and

(3) 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-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 10 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-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) OTHER SECTORS.—

(1) REINFORCED FENCING.—The Secretary shall construct a double- or triple-layered fence

(A) extending from 10 miles west of the Tecate, California, port of entry to 10 miles east of the Tecate, California, port of entry;

(B) extending from 10 miles west of the Calexico, California, port of entry to 5 miles east of the Douglas, Arizona, port of entry;

(C) extending from 5 miles west of the Columbus, New Mexico, port of entry to 10 miles east of El Paso, Texas;

(D) extending from 5 miles northwest of the Del Rio, Texas, port of entry to 5 miles southeast of the Eagle Pass, Texas, port of entry; and

(E) extending 15 miles northwest of the Laredo, Texas, port of entry to the Brownsville, Texas, port of entry.

(d) CONSTRUCTION DEADLINE.—The Secretary shall immediately commence construction of the fencing, barriers, and roads described in subsections (a), (b) and (c), and shall complete such construction not later than 2 years after the date of the enactment of this Act.

(e) 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), (b) and (c).

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

SA 3357. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 11, strike line 13 through page 13, line 21, and insert the following:

“SEC. 105. PORTS OF ENTRY.

To facilitate the flow of trade, commerce, tourism, and legal immigration, the Secretary shall—

(1) at locations to be determined by the Secretary, increase by at least 25 percent, the number of ports of entry along the southwestern international border of the United States;

(2) increase the ports of entry along the northern international land border as needed; and

(3) 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-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 10 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-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) OTHER SECTORS.—

(1) REINFORCED FENCING.—The Secretary shall construct not less than 700 additional miles of double- or triple-layered fencing at strategic locations along the southwest international border to be determined by the Secretary.

(2) PRIORITY AREAS.—In determining strategic locations under paragraph (c)(1), the Secretary shall prioritize, to the maximum extent practicable—

(A) areas with the highest illegal alien apprehension rates; and

(B) areas with the highest human and drug trafficking rates, in the determination of the Secretary.

(d) CONSTRUCTION DEADLINE.—The Secretary shall immediately commence construction of the fencing, barriers, and roads described in subsections (a) (b) and (c), and shall complete such construction not later than 2 years after the date of the enactment of this Act.

(e) 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) (b) and (c).

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.”

SA 3358. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE VII—IMMIGRATION LITIGATION REDUCTION

SEC. 701. 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 States 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. 702. 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.”.

SA 3359. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 11, strike lines 13 through 20 and insert the following:

SEC. 105. PORTS OF ENTRY.

To facilitate the flow of trade, commerce, tourism, and legal immigration, the Secretary shall—

(1) at locations to be determined by the Secretary, increase by at least 25 percent the number of ports of entry along the southwestern border of the United States;

(2) increase the ports of entry along the northern international land border as needed; and

(3) make necessary improvements to the ports of entry in existence on the date of the enactment of this Act.

On page 13, between lines 5 and 6 insert the following:

(c) OTHER SECTORS.—

(1) REINFORCED FENCING.—The Secretary shall construct not less than 700 additional miles of double- or triple-layered fencing at strategic locations along the southwest border to be determined by the Secretary.

(2) PRIORITY AREAS.—In determining strategic locations under paragraph (1), the Secretary shall prioritize, to the maximum extent practicable—

(A) areas with the highest illegal alien apprehension rates; and

(B) areas with the highest human and drug trafficking rates, in the determination of the Secretary.

On page 13, line 6, strike “(c)” and insert “(d)”.

On page 13, line 11, strike “(d)” and insert “(e)”.

On page 13, line 18, strike “(e)” and insert “(f)”.

SA 3360. Mr. SMITH (for himself and Mr. WYDEN) submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for

comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 248, line 11, insert “AND WIDOWS” after “CHILDREN”.

On page 249, line 3, insert “or, if married for less than 2 years at the time of the citizen’s death, proves by a preponderance of the evidence that the marriage was entered into in good faith and not solely for the purpose of obtaining an immigration benefit,” after “death”.

On page 249, after line 25, add the following:

(c) TRANSITION PERIOD.—

(1) IN GENERAL.—In applying clause (iii) of section 201(b)(2)(A) of the Immigration and Nationality Act, as added by subsection (a), to an alien whose citizen relative died before the date of the enactment of this Act, the alien relative may (notwithstanding the deadlines specified in such clause) file the classification petition under section 204(a)(1)(A)(ii) of such Act not later than 2 years after the date of the enactment of this Act.

(2) ELIGIBILITY FOR PAROLE.—If an alien was excluded, deported, removed or departed voluntarily before the date of the enactment of this Act based solely upon the alien’s lack of classification as an immediate relative (as defined by 201(b)(2)(A)(ii) of the Immigration and Nationality Act) due to the citizen’s death—

(A) such alien shall be eligible for parole into the United States pursuant to the Attorney General’s discretionary authority under section 212(d)(5) of such Act; and

(B) such alien’s application for adjustment of status shall be considered notwithstanding section 212(a)(9) of such Act.

(d) ADJUSTMENT OF STATUS.—Section 245 (8 U.S.C. 1255) is amended by adding at the end the following:

“(n) APPLICATION FOR ADJUSTMENT OF STATUS BY SURVIVING SPOUSES, PARENTS, AND CHILDREN.—

“(1) IN GENERAL.—Any alien described in paragraph (2) who applies for adjustment of status before the death of the qualifying relative, may have such application adjudicated as if such death had not occurred.

“(2) ALIEN DESCRIBED.—An alien is described in this paragraph is an alien who—

“(A) is an immediate relative (as described in section 201(b)(2)(A));

“(B) is a family-sponsored immigrant (as described in subsection (a) or (d) of section 203);

“(C) is a derivative beneficiary of an employment-based immigrant under section 203(b) (as described in section 203(d)); or

“(D) is a derivative beneficiary of a diversity immigrant (as described in section 203(c)).”.

(e) TRANSITION PERIOD.—

(1) IN GENERAL.—Notwithstanding a denial of an application for adjustment of status for an alien whose qualifying relative died before the date of the enactment of this Act, such application may be renewed by the alien through a motion to reopen, without fee, if such motion is filed not later than 2 years after such date of enactment.

(2) ELIGIBILITY FOR PAROLE.—If an alien was excluded, deported, removed or departed voluntarily before the date of the enactment of this Act—

(A) such alien shall be eligible for parole into the United States pursuant to the Attorney General’s discretionary authority under section 212(d)(5) of the Immigration and Nationality Act; and

(B) such alien’s application for adjustment of status shall be considered notwithstanding section 212(a)(9) of such Act.

(f) PROCESSING OF IMMIGRANT VISAS.—Section 204(b) (8 U.S.C. 1154) is amended—

(1) by striking “After an investigation” and inserting the following:

“(1) IN GENERAL.—After an investigation”; and

(2) by adding at the end the following:

“(2) DEATH OF QUALIFYING RELATIVE.—

“(A) IN GENERAL.—Any alien described in paragraph (2) whose qualifying relative died before the completion of immigrant visa processing may have an immigrant visa application adjudicated as if such death had not occurred. An immigrant visa issued before the death of the qualifying relative shall remain valid after such death.

“(B) ALIEN DESCRIBED.—An alien is described in this paragraph is an alien who—

“(i) is an immediate relative (as described in section 201(b)(2)(A));

“(ii) is a family-sponsored immigrant (as described in subsection (a) or (d) of section 203);

“(iii) is a derivative beneficiary of an employment-based immigrant under section 203(b) (as described in section 203(d)); or

“(iv) is a derivative beneficiary of a diversity immigrant (as described in section 203(c)).”.

(g) NATURALIZATION.—Section 319(a) (8 U.S.C. 1429(a)) is amended by inserting “(or, if the spouse is deceased, the spouse was a citizen of the United States)” after “citizen of the United States”.

SA 3361. Mr. GRASSLEY (for himself and Mr. KYL) submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

Strike title III and insert the following:

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 reckless disregard, 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 that the alien is (or has become) an unauthorized alien with respect to such employment.

“(3) USE OF LABOR THROUGH CONTRACT.—Any employer who uses a contract, subcontract, or exchange to obtain the labor of an alien in the United States knowing 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). Any employer who uses a contract, subcontract, or exchange to obtain the labor of a person in the United States shall be in violation of paragraph (1)(B) unless—

“(A) the employer includes in the contract or subcontract or other binding agreement a requirement that the person hiring the alien shall comply with this section and keep records necessary to demonstrate compliance with this section; and

“(B) the employer exercises reasonable diligence to ensure that person complies with this section.

“(4) 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) by complying with the requirements of subsection (c).

“(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 verify that the individual is eligible for such employment by 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) REGISTRATION OF EMPLOYERS.—An employer shall register the employer's participation in the System in the manner prescribed by the Secretary prior to the date the employer is required or permitted to submit information with respect to an employee under paragraph (3) or (4) of subsection (d).

“(v) 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 social security account number card issued by the Commissioner of Social Security (other than a card which bears the legend ‘not valid for employment’ or ‘valid for work only with DHS authorization’).

“(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 satisfies the requirements of the REAL ID Act of 2005 (division B of Public Law 109-13; 119 Stat. 302);

“(ii) employee identification card issued by a Federal agency or department, including a branch of the Armed Forces, or an agency or department 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

“(iii) in the case of an individual who is unable to obtain a document described in clause (i) or (ii), a document of personal identity of such other type that—

“(I) the Secretary determines is a reliable means of identification;

“(II) contains the individual's photograph or information including the individual's name, date of birth, gender, and address; and

“(III) 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, or to be 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 referring for a fee (without hiring) of an individual, 7 years after the date of the recruiting or referring; 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 be designated as copied documents and 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 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.

“(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 inquiry 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 business 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) EXTENSION OF TIME.—The Secretary, in consultation with the Commissioner of Social Security, may extend the 10-day period described in clause (i) for no more than 180 days if the information needed to resolve an initial negative response cannot be obtained by or submitted to the Secretary or the Commissioner and verified or entered into the System within such 10-day period.

“(iii) AUTOMATIC EXTENSION.—If the most recent previous report submitted by the Comptroller General of the United States under paragraph (12) includes an assessment that the System is not able to issue, during a period that averages 10 days or less, a final notice in at least 99 percent of the cases in which the notice relates to an individual who is eligible for employment in the United States, the Secretary shall automatically extend the 10-day period referred to in clause (i) to a period of not less than 180 days.

“(iv) 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;

“(iii) to track and record any occurrence when the System is inoperable;

“(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;

“(vi) to have reasonable safeguards, developed in consultation with the Attorney General, to prevent employers from using the System to engage in unlawful discriminatory practices, based on national origin or citizenship status; and

“(vii) to establish a process to allow an individual to verify the individual’s employment eligibility prior to obtaining or changing employment to facilitate the updating and correction of information used by the System.

“(E) RESPONSIBILITIES OF THE COMMISSIONER OF SOCIAL SECURITY.—The responsibilities of the Commissioner of Social Security with respect to the System are set out in section 205(c)(2) of the Social Security Act.

“(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 is consistent with 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 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 paragraph (4), the Secretary shall require employers to participate in the System as follows:

“(A) CRITICAL EMPLOYERS.—As of the date that is 180 days after the date of the enactment of the Comprehensive Immigration Reform Act of 2006, the Secretary may require any employer or class of employers to participate in the System with respect to employees hired prior to, on, or after such date of enactment if the Secretary designates such employer or class of employers, in the Secretary’s sole and unreviewable discretion, as a critical employer based on critical infrastructure, national security, or homeland security needs.

“(B) REMAINING EMPLOYERS.—The Secretary shall require all employers in the United States to participate in the System, with respect to all employees hired by the employer on or after the date that is 18 months after the date that funds are appropriated and made available to the Secretary to implement this subsection.

“(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 Comprehensive Immigration Reform Act of 2006, if the Secretary has reasonable causes to believe that the employer has engaged in violations of the immigration laws.

“(5) REQUIREMENT TO PUBLISH.—The Secretary shall publish in the Federal Register the requirements for participation in the System as described in paragraphs (3) and (4) prior to the effective date of such requirements.

“(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 name and date of birth;

“(II) the individual’s social security account number; and

“(III) 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 alien identification or authorization number that the Secretary shall require;

“(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) INITIAL INQUIRY.—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 Comprehensive Immigration Reform Act of 2006, 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 shall provide the individual with detailed information about the right to contest the tentative nonconfirmation and the procedures

established by the Secretary and the Commissioner of Social Security for contesting such nonconfirmation.

“(II) NO CONTEST.—If the individual does not contest the tentative nonconfirmation notice under subclause (I) within 10 business 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 under procedures prescribed by the Secretary, in consultation with the Commissioners of Social Security, not later than 10 business days after receiving the notice from the individual’s employer and shall utilize the verification process developed under paragraph (2)(C)(iii).

“(IV) EFFECTIVE PERIOD OF TENTATIVE NONCONFIRMATION.—A tentative nonconfirmation notice shall remain in effect until 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 such tentative nonconfirmation.

“(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.—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 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) CONSTRUCTION.—Nothing in this section shall be construed to limit the right of an individual who claims to be a national of the United States to pursue that claim as provided for in section 360(a).

“(9) 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.

“(10) 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 any provision of law.

“(11) 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 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.

“(12) ANNUAL GAO STUDY AND REPORT.—

“(A) REQUIREMENT.—The Comptroller General of the United States shall conduct an annual study of the System.

“(B) PURPOSE.—The study shall evaluate the accuracy, integrity, and impact of the System.

“(C) REPORT.—Not later than 12 months after the date of the enactment of the Comprehensive Immigration Reform Act of 2006, and annually thereafter, the Comptroller General shall submit to Congress a report containing the findings of the study carried out under this paragraph. Such report shall include, at a minimum, the following:

“(i) An assessment of System performance with respect to the rate at which individuals who are eligible for employment in the United States are correctly approved within 10 days, including the assessment described in paragraph (2)(C)(iii).

“(ii) An assessment of the privacy and security of the System and its impact on identity fraud or the misuse of personal data.

“(iii) An assessment of the impact of the System on the employment of unauthorized aliens and employment discrimination based on national origin or citizenship.

“(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 such complaints that the Secretary determines are appropriate to investigate; and

“(C) for the investigation of other violations of subsection (a) that 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, 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 section.

“(3) COMPLIANCE PROCEDURES.—

“(A) PREPENALTY 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) RECORDKEEPING OR VERIFICATION PRACTICES.—Any employer that violates or fails to comply with the requirements of subsections (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 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 alternate action under this subparagraph 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 pre-

scribed 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) SECRETARY.—Except as otherwise provided, the term ‘Secretary’ means the Secretary of Homeland Security.

“(3) 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 AMENDMENTS.—

(1) AMENDMENTS.—

(A) REPEAL OF BASIC PILOT.—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 note) are repealed.

(B) REPEAL OF REPORTING REQUIREMENTS.—

(i) REPORT ON EARNINGS OF ALIENS NOT AUTHORIZED TO WORK.—Subsection (c) of section 290 (8 U.S.C. 1360) is repealed.

(ii) REPORT ON FRAUDULENT USE OF SOCIAL SECURITY ACCOUNT NUMBERS.—Subsection (b) of section 414 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104-208; 8 U.S.C. 1360 note) is 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 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 note) 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)”.

(d) AMENDMENTS TO THE SOCIAL SECURITY ACT.—Section 205(c)(2) of the Social Security Act (42 U.S.C. 405(c)(2)) is amended by adding at the end the following new subparagraphs:

“(I)(i) The Commissioner of Social Security shall establish a reliable, secure method to provide through the Electronic Employment Verification System established pursuant to subsection (d) of section 274A of the Immigration and Nationality Act (referred to in this subparagraph as the ‘System’), within the time periods required by paragraphs (2)(B) and (2)(C) of such subsection—

“(I) a determination of whether the name and social security account number of an individual provided in an inquiry made to the System by an employer is consistent with 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 such individual;

“(III) determination of the citizenship status associated with such name and social security account number, according to the records maintained by the Commissioner;

“(IV) a determination of whether the name and number belongs to an individual who is deceased, according to the records maintained by the Commissioner;

“(V) a determination of whether the name and number is blocked in accordance with clause (ii); and

“(VI) a confirmation notice or a nonconfirmation notice described in such paragraph (2)(B) or (2)(C), in a manner that ensures that other information maintained by the Commissioner is not disclosed or released to employers through the System.

“(ii) The Commissioner of Social Security shall prevent the fraudulent or other misuse of a social security account number by establishing procedures under which an individual who has been assigned a social security account number may block the use of such number under the System and remove such block.

“(J) In assigning social security account numbers to aliens who are authorized to work in the United States under section 218A of the Immigration and Nationality Act, the Commissioner of Social Security shall, to the maximum extent practicable, assign such numbers by employing the enumeration procedure administered jointly by the Commissioner, the Secretary of State, and the Secretary.”

(e) DISCLOSURE OF CERTAIN TAXPAYER IDENTITY INFORMATION.—

(1) IN GENERAL.—Section 6103(l) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

“(21) DISCLOSURE OF CERTAIN TAXPAYER IDENTITY INFORMATION BY SOCIAL SECURITY ADMINISTRATION TO DEPARTMENT OF HOMELAND SECURITY.—

“(A) IN GENERAL.—From taxpayer identity information which has been disclosed to the Social Security Administration and upon written request by the Secretary of Homeland Security, the Commissioner of Social Security shall disclose directly to officers, employees, and contractors of the Department of Homeland Security the following information:

“(i) DISCLOSURE OF EMPLOYER NO MATCH NOTICES.—Taxpayer identity information of

each person who has filed an information return required by reason of section 6051 who has received written notice from the Commissioner of Social Security during calendar year 2005, 2006, or 2007 that such person reported remuneration on such a return—

“(I) with more than 100 names and taxpayer identifying numbers of employees (within the meaning of such section) that did not match the records maintained by the Commissioner of Social Security, or

“(II) with more than 10 names of employees (within the meaning of such section) with the same taxpayer identifying number.

“(ii) DISCLOSURE OF INFORMATION REGARDING USE OF DUPLICATE EMPLOYEE TAXPAYER IDENTIFYING INFORMATION.—Taxpayer identity information of each person who has filed an information return required by reason of section 6051 which the Commissioner of Social Security has reason to believe is the result of identity fraud due to the use by multiple persons filing such returns of the same taxpayer identifying number (assigned under section 6109) of an employee (within the meaning of section 6051).

“(iii) DISCLOSURE OF INFORMATION REGARDING NONPARTICIPATING EMPLOYERS.—Taxpayer identity information of each person who has filed an information return required by reason of section 6051 and for which the Commissioner of Social Security has reason to believe is not recorded as participating in the Electronic Employment Verification System authorized under section 274A(d) of the Immigration and Nationality Act (hereafter in this paragraph referred to as the ‘System’).

“(iv) DISCLOSURE OF INFORMATION REGARDING NEW EMPLOYEES OF NONPARTICIPATING EMPLOYERS.—Upon certification by the Secretary of Homeland Security that each person identified by such request based on the records of the Department of Homeland Security is not recorded as participating in the System, taxpayer identity information of all employees (within the meaning of section 6051) of such person hired after the date which such person is required to participate in the System under section 274A(d)(3)(B) of the Immigration and Nationality Act.

“(v) DISCLOSURE OF INFORMATION REGARDING EMPLOYEES OF CERTAIN DESIGNATED EMPLOYERS.—Upon certification by the Secretary of Homeland Security that each person identified by such request based on the records of the Department of Homeland Security is designated by the Secretary of Homeland Security under section 274A(d)(3)(A) of the Immigration and Nationality Act or is required by the Secretary of Homeland Security to participate in the System under section 274A(d)(4)(B) of such Act, taxpayer identity information of all employees (within the meaning of section 6051) of such person.

“(vi) DISCLOSURE OF NEW HIRE TAXPAYER IDENTITY INFORMATION.—Taxpayer identity information of each person participating in the System and taxpayer identity information of all employees (within the meaning of section 6051) of such person hired during the period beginning with the later of—

“(I) the earlier of the date such person volunteers to participate in the System or the date such person is required to participate in the System, or

“(II) the date of the request immediately preceding the most recent request under this clause.

“(B) RESTRICTION ON DISCLOSURE.—The Commissioner of Social Security shall disclose taxpayer identity information under subparagraph (A) only for purposes of, and to the extent necessary in—

“(i) establishing and enforcing employer participation in the System,

“(ii) carrying out, including through civil administrative and civil judicial proceedings, of sections 212, 217, 235, 237, 238, 274A, and 274C of the Immigration and Nationality Act, and

“(iii) the civil operation of the Alien Terrorist Removal Court.

“(C) REIMBURSEMENT.—The Commissioner of Social Security shall prescribe a reasonable fee schedule for furnishing taxpayer identity information under this paragraph and collect such fees in advance from the Secretary of Homeland Security.

“(D) TERMINATION.—This paragraph shall not apply to any request made after the date which is 3 years after the date of the enactment of this paragraph.”

(2) COMPLIANCE BY DHS CONTRACTORS WITH CONFIDENTIALITY SAFEGUARDS.—

(A) IN GENERAL.—Section 6103(p) of such Code is amended by adding at the end the following new paragraph:

“(9) DISCLOSURE TO DHS CONTRACTORS.—Notwithstanding any other provision of this section, no return or return information shall be disclosed to any contractor of the Department of Homeland Security unless such Department, to the satisfaction of the Secretary—

“(A) has requirements in effect which require each such contractor which would have access to returns or return information to provide safeguards (within the meaning of paragraph (4)) to protect the confidentiality of such returns or return information,

“(B) agrees to conduct an on-site review every 3 years (mid-point review in the case of contracts or agreements of less than 1 year in duration) of each contractor to determine compliance with such requirements,

“(C) submits the findings of the most recent review conducted under subparagraph (B) to the Secretary as part of the report required by paragraph (4)(E), and

“(D) certifies to the Secretary for the most recent annual period that such contractor is in compliance with all such requirements.

The certification required by subparagraph (D) shall include the name and address of each contractor, a description of the contract or agreement with such contractor, and the duration of such contract or agreement.”

(3) CONFORMING AMENDMENTS.—

(A) Section 6103(a)(3) of such Code is amended by striking “or (20)” and inserting “(20), or (21)”.

(B) Section 6103(p)(3) of such Code is amended by striking “or (18)” and inserting “(18), or (21)”.

(C) Section 6103(p)(4) of such Code is amended—

(i) by striking “or (17)” both places it appears and inserting “(17), or (21)”, and

(ii) by striking “or (20)” each place it appears and inserting “(20), or (21)”.

(D) Section 6103(p)(8)(B) of such Code is amended by inserting “or paragraph (9)” after “subparagraph (A)”.

(E) Section 7213(a)(2) of such Code is amended by striking “or (20)” and inserting “(20), or (21)”.

(f) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the Secretary such sums as are necessary to carry out the amendments made by this section.

(2) LIMITATION ON VERIFICATION RESPONSIBILITIES OF COMMISSIONER OF SOCIAL SECURITY.—The Commissioner of Social Security is authorized to perform activities with respect to carrying out the Commissioner’s responsibilities in this title or the amendments made by this title, but only to the extent the Secretary of Homeland Security has provided, in advance, funds to cover the Commissioner’s full costs in carrying out such responsibilities. In no case shall funds

from the Federal Old-Age and Survivors Insurance Trust Fund or the Federal Disability Insurance Trust Fund be used to carry out such responsibilities.

(g) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsections (a), (b), (c), and (d) shall take effect on the date that is 180 days after the date of the enactment of this Act.

(4) SUBSECTION (e).—

(A) IN GENERAL.—The amendments made by subsection (e) shall apply to disclosures made after the date of the enactment of this Act.

(B) CERTIFICATIONS.—The first certification under section 6103(p)(9)(D) of the Internal Revenue Code of 1986, as added by subsection (e)(2), shall be made with respect to calendar year 2007.

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.—

(1) INCREASE IN NUMBER OF INVESTIGATORS.—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 on the date of the enactment of this Act.

(2) USE OF ENFORCEMENT PERSONNEL.—The Secretary shall ensure that not less than 20 percent of all the hours expended by personnel of the Bureau of Immigration and Customs Enforcement of the Department to enforce the immigration and customs laws shall be used to enforce compliance with section 274A of the Immigration and Nationality Act (8 U.S.C. 1324a), as amended by section 301(a).

(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 on the 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”.

SA 3362. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE VII—IMMIGRATION LITIGATION REDUCTION

Subtitle A—Appeals and Review

SEC. 701. 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.

Subtitle B—Immigration Review Reform

SEC. 711. DIRECTOR OF THE EXECUTIVE OFFICE FOR IMMIGRATION REVIEW.

Notwithstanding any other provision of law or regulation, the Director of the Executive Office for Immigration Review of the Department of Justice described in section 1003.0 of title 8, Code of Federal Regulations (or any corresponding similar regulation) shall be appointed by the President with the advice and consent of the Senate.

SEC. 712. BOARD OF IMMIGRATION APPEALS.

(a) COMPOSITION AND APPOINTMENT.—Notwithstanding any other provision of law or regulation, the Board of Immigration Appeals of the Department of Justice described in section 1003.1 of title 8, Code of Federal Regulations (or any corresponding similar regulation) (referred to in this section as the “Board”), shall be composed of a Chair and 22 other immigration appeals judges, appointed by the Director of the Executive Office for Immigration Review, in consultation with the Attorney General.

(b) TERM OF APPOINTMENT.—The term of appointment of each member of the Board shall be 6 years from the date upon which such person was appointed and qualified. Upon the expiration of a term of office, a Board member may continue to act until a successor has been appointed and qualified.

(c) CURRENT MEMBERS.—Each individual who is serving as a member of the Board on the date of the enactment of this Act shall be appointed to the Board utilizing a system of staggered terms of appointment based on seniority.

(d) QUALIFICATIONS.—Each member of the Board, including the Chair, shall—

(1) be an attorney in good standing of a bar of a State or the District of Columbia;

(2) have at least—

(A) 7 years of professional, legal expertise; or

(B) 5 years of professional, legal expertise in immigration and nationality law; and

(3) meet the minimum qualification requirements of an administrative law judge under title 5, United States Code.

(e) DUTIES OF THE CHAIR.—The Chair of the Board, subject to the supervision of the Director, shall—

(1) be responsible, on behalf of the Board, for the administrative operations of the Board and shall have the power to appoint such administrative assistants, attorneys, clerks, and other personnel as may be needed for that purpose;

(2) direct, supervise, and establish internal operating procedures and policies of the Board;

(3) designate a member of the Board to act as Chair if the Chair is absent or unavailable;

(4) adjudicate cases as a member of the Board;

(5) form 3-member panels as provided by subsection (i);

(6) direct that a case be heard en banc as provided by subsection (j); and

(7) exercise such other authorities as the Director may provide.

(f) BOARD MEMBERS DUTIES.—In deciding a case before the Board, the Board—

(1) shall exercise independent judgment and discretion; and

(2) may take any action that is appropriate and necessary for the disposition of such case that is consistent with the authority provided in this section and any regulations established in accordance with this section.

(g) JURISDICTION.—

(1) IN GENERAL.—The Board shall have jurisdiction to hear appeals described in section 1003.1(b) of title 8, Code of Federal Regulations (or any corresponding similar regulation).

(2) LIMITATION.—The Board shall not have jurisdiction to hear an appeal of a decision of an immigration judge for an order of removal entered in absentia.

(h) SCOPE OF REVIEW.—

(1) FINDINGS OR FACT.—The Board shall—

(A) accept findings of fact determined by an immigration judge, including findings as to the credibility of testimony, unless the findings are clearly erroneous; and

(B) give due deference to an immigration judge's application of the law to the facts.

(2) QUESTIONS OF LAW.—The Board shall review de novo questions of law, discretion, and judgment, and all other issues in appeals from decisions of immigration judges.

(3) APPEALS FROM OFFICERS' DECISIONS.—The Board shall review de novo all questions arising in appeals from decisions issued by officers of the Department.

(4)(A) PROHIBITION ON FACT FINDING.—Except for taking administrative notice of commonly known facts such as current events or the contents of official documents, the Board may not engage in fact-finding in the course of deciding appeals.

(B) REMAND.—A party asserting that the Board cannot properly resolve an appeal without further fact-finding shall file a motion for remand. If further fact-finding is needed in a case, the Board shall remand the proceeding to the immigration judge or, as appropriate, to the Secretary.

(i) PANELS.—

(1) IN GENERAL.—Except as provided in paragraph (5) all cases shall be subject to review by a 3-member panel. The Chair shall divide the Board into 3-member panels and designate a presiding member.

(2) AUTHORITY.—Each panel may exercise the appropriate authority of the Board that is necessary for the adjudication of cases before it.

(3) QUORUM.—Two members appointed to a panel shall constitute a quorum for such panel.

(4) CHANGES IN COMPOSITION.—The Chair may from time to time make changes in the composition of a panel and of the presiding member of a panel.

(5) PRESIDING MEMBER DECISIONS.—The presiding member of a panel may act alone on any motion as provided in paragraphs (3) and (4) of subsection (k) and may not otherwise dismiss or determine an appeal as a single Board member.

(j) EN BANC PROCESS.—

(1) IN GENERAL.—The Board may on its own motion, by a majority vote of the Board members, or by direction of the Chair—

(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 or by a limited en banc panel.

(2) QUORUM.—A majority of the Board members shall constitute a quorum of the Board sitting en banc.

(k) DECISIONS OF THE BOARD.—

(1) BINDING DECISIONS.—

(A) IN GENERAL.—A precedent decision of the Board shall be binding on the Secretary and the immigration judges unless such decision is modified or reversed by the Court of Appeals for the Federal Circuit or by the United States Supreme Court.

(B) APPEAL BY THE SECRETARY.—The Secretary, with the concurrence of the Attorney General, may appeal a decision of the Board under this section to the Court of Appeals for the Federal Circuit.

(2) AFFIRMANCE WITHOUT OPINION.—Upon individualized review of a case, the Board may affirm the decision of an immigration judge without opinion only if—

(A) the decision of the immigration judge resolved all issues in the case;

(B) 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;

(C) 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

(D) the Board approves both the result reached in the decision below and all of the reasoning of that decision.

(3) SUMMARY DISMISSAL OF APPEALS.—The 3-member panel or the presiding member acting alone may summarily dismiss any appeal or portion of any appeal in any case which—

(A) the party seeking the appeal fails to specify the reasons for the appeal;

(B) 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;

(C) the appeal is from an order that granted such party the relief that had been requested;

(D) the appeal is determined to be filed for an improper purpose, such as to cause unnecessary delay; or

(E) 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.

(4) UNOPOSED DISPOSITIONS.—The 3-member panel or the presiding member acting alone may—

(A) grant an unopposed motion or a motion to withdraw an appeal pending before the Board; or

(B) 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.

(5) NOTICE OF RIGHT TO APPEAL.—The decision by the Board shall include notice to the alien of the alien's right to file a petition for review in the United States Court of Appeals for the Federal Circuit within 30 days of the date of the decision.

SEC. 713. IMMIGRATION JUDGES.

(a) APPOINTMENT OF CHIEF IMMIGRATION JUDGE.—Notwithstanding any other provision of law or regulation, the Chief Immigration Judge described in section 1003.9 of title 8, Code of Federal Regulations (or any corresponding similar regulation) shall be appointed by the Director of the Executive Office for Immigration Review, in consultation with the Attorney General.

(b) APPOINTMENT OF IMMIGRATION JUDGES.—

(1) IN GENERAL.—Immigration judges shall be appointed by the Director of the Executive Office for Immigration Review, in consultation with the Chief Immigration Judge and the Chair of the Board of Immigration Appeals.

(2) TERM OF APPOINTMENT.—The term of appointment of each immigration judge shall be 7 years from the date upon which such person was appointed and qualified. Upon the expiration of a term of office, the immigration judge may continue to act until a successor has been appointed and qualified.

(3) CURRENT MEMBERS.—Each individual who is serving as an immigration judge on the date of the enactment of this Act shall

be appointed as an immigration judge utilizing a system of staggered terms of appointment based on seniority.

(4) QUALIFICATIONS.—Each immigration judge, including the Chief Immigration Judge, shall be an attorney in good standing of a bar of a State or the District of Columbia and shall have at least 5 years of professional, legal expertise or at least 3 years professional or legal expertise in immigration and nationality law.

(c) JURISDICTION.—An Immigration judge shall have the authority to hear matters related to any removal proceeding pursuant to section 240 of the Immigration and Nationality Act (8 U.S.C. 1229a) described in section 1240.1(a) of title 8, Code of Federal Regulations (or any corresponding similar regulation).

(d) DUTIES OF IMMIGRATION JUDGES.—In deciding a case, an immigration judge—

(1) shall exercise independent judgment and discretion; and

(2) may take any action that is appropriate and necessary for the disposition of such case that is consistent with their authorities under this section and regulations established in accordance with this section.

(e) REVIEW.—Decisions of immigration judges are subject to review by the Board of Immigration Appeals in any case in which the Board has jurisdiction.

SEC. 714. REMOVAL AND REVIEW OF JUDGES.

(a) IN GENERAL.—Immigration judges and members of the Board of Immigration Appeals may be removed from office, subject to review by the Merit Systems Protection Board, only for good cause—

(1) by the Director of the Executive Office for Immigration Review, in consultation with the Chair of the Board, in the case of the removal of a member of the Board; or

(2) by the Director, in consultation with the Chief Immigration Judge, in the case of the removal of an immigration judge.

(b) INDEPENDENT JUDGMENT.—No immigration judge or member of the Board may be removed or otherwise subject to disciplinary or adverse action for their exercise of independent judgment and discretion as prescribed by this subtitle.

SEC. 715. LEGAL ORIENTATION PROGRAM.

(a) CONTINUED OPERATION.—The Director of the Executive Office for Immigration Review shall continue to operate a legal orientation program to provide basic information about immigration court procedures for immigration detainees and shall expand the legal orientation program to provide such information on a nationwide basis.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out such legal orientation program.

SEC. 716. REGULATIONS.

Not later than 180 days after the date of the enactment of this Act, the Attorney General shall issue regulations to implement this subtitle.

SA 3363. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____ . NUMERICAL LIMITATIONS ON H-2A VISAS.

Section 214(g)(1) (8 U.S.C. 1184(g)(1)), as amended by sections 408(g) and 508(c)(1), is further amended—

(1) in subparagraph (A)(ix), by striking "or" at the end;

(2) in subparagraph (B), by striking “and” at the end;

(3) in subparagraph (C), by striking the period at the end and inserting “; and”; and

(4) by adding at the end the following:

“(D) under section 101(a)(15)(H)(ii)(a) may not exceed 90,000.”.

SA 3364. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____ . GRANTS FOR LOCAL PROGRAMS RELATING TO UNDOCUMENTED IMMIGRANTS.

(a) **GRANTS AUTHORIZED.**—The Secretary is authorized to award competitive grants to units of local government for innovative programs that address the increased expenses incurred in responding to the needs of undocumented immigrants.

(b) **MAXIMUM AMOUNT.**—The Secretary may not award a grant under this section to a unit of local government in an amount which exceeds \$5,000,000.

(c) **USE OF GRANT FUNDS.**—Grants awarded under this section may be used for activities relating to the undocumented immigrant population residing in the locality, including—

- (1) law enforcement activities;
- (2) uncompensated health care;
- (3) public housing;
- (4) inmate transportation; and
- (5) reduction in jail overcrowding.

(d) **APPLICATION.**—Each unit of local government desiring a grant under this section shall submit an application to the Secretary, at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

(e) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated \$50,000,000 for each of the fiscal years 2007 through 2011 to carry out this section.

SA 3365. Mrs. BOXER submitted an amendment intended to be proposed to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____ . SENSE OF THE SENATE REGARDING REIMBURSING STATES FOR THE COSTS OF UNDOCUMENTED IMMIGRANTS.

(a) **FINDINGS.**—The Senate finds the following:

(1) It is the obligation of the Federal Government to adequately secure the borders of the United States and prevent the flow of undocumented immigrants into the United States.

(2) Despite the fact that, according to the Congressional Research Service, Border Patrol agents apprehend more than 1,000,000 individuals each year trying to illegally enter the United States, the net growth in the number of unauthorized immigrants entering the United States has increased by approximately 500,000 each year.

(3) The costs associated with incarcerating undocumented criminal immigrants and providing education and healthcare to undocumented immigrants place a tremendous financial burden on States and local governments.

(4) In 2003, States received compensation from the Federal Government, through the State criminal alien assistance program under section 241(i) of the Immigration and Nationality Act (8 U.S.C. 1231(i)), for incarcerating approximately 74,000 undocumented criminal immigrants.

(5) In 2003, 700 local governments received compensation from the Federal Government, through the State criminal alien assistance program, for incarcerating approximately 138,000 undocumented criminal immigrants.

(6) It is estimated that Federal Government payments through the State criminal alien assistance program reimburse States and local governments for 25 percent or less of the actual costs of incarcerating the undocumented criminal immigrants.

(7) It is estimated that providing kindergarten through grade 12 education to undocumented immigrants costs States more than \$8,000,000,000 annually.

(8) It is further estimated that more than \$1,000,000,000 is spent on healthcare for undocumented immigrants each year.

(b) **SENSE OF THE SENATE.**—It is the sense of the Senate that—

(1) States should be fully reimbursed by the Federal Government for the costs associated with providing education and healthcare to undocumented immigrants; and

(2) the program authorized under section 241(i) of the Immigration and Nationality Act (8 U.S.C. 1231(i)) should be fully funded, for each of the fiscal years 2007 through 2012, at the levels authorized for such program under section 241(i)(5) of such Act (as amended by section 218(b)(2) of this Act).

SA 3366. Mr. REED submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 327, beginning on line 21, strike all through page 328, line 16, and insert the following:

“(c) **SPOUSES AND CHILDREN AND CERTAIN OTHER INDIVIDUALS.**—Notwithstanding any other provision of law, the Secretary of Homeland Security shall—

“(1) adjust the status to that of a conditional nonimmigrant under this section for, or provide a nonimmigrant visa to, the spouse or child of an alien who is provided nonimmigrant status under this section;

“(2) adjust the status to that of a conditional nonimmigrant under this section for an alien who, before January 7, 2004, was the spouse or child of an alien who is provided conditional nonimmigrant status under this section, or is eligible for such status, if—

“(A) the termination of the qualifying relationship was connected to domestic violence; and

“(B) the spouse or child has been battered or subjected to extreme cruelty by the spouse or parent alien who is provided conditional nonimmigrant status under this section; or

“(3) adjust the status to that of a conditional immigrant under this section for an individual who was present in the United States on January 7, 2004, and is the national of a country designated at that time for protective status pursuant to section 244.

SA 3367. Mr. LEVIN (for himself and Ms. COLLINS) submitted an amendment intended to be proposed to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, to amend the Immigra-

tion and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 32, line 7, before “The Secretary” insert the following: “(a) IN GENERAL.—”.

On page 32, between lines 20 and 21, insert the following:

(b) **COMMUNICATION SYSTEM GRANTS.**—

(1) **DEFINITIONS.**—In this subsection—

(A) the term “demonstration project” means the demonstration project established under paragraph (2)(A); and

(B) the term “emergency response provider” has the meaning given that term in section 2(6) the Homeland Security Act of 2002 (6 U.S.C. 101(6)).

(2) **IN GENERAL.**—

(A) **ESTABLISHMENT.**—There is established in the Department an “International Border Community Interoperable Communications Demonstration Project”.

(B) **MINIMUM NUMBER OF COMMUNITIES.**—The Secretary shall select not fewer than 6 communities to participate in a demonstration project.

(C) **LOCATION OF COMMUNITIES.**—Not fewer than 3 of the communities selected under subparagraph (B) shall be located on the northern border of the United States and not fewer than 3 of the communities selected under subparagraph (B) shall be located on the southern border of the United States.

(3) **PROJECT REQUIREMENTS.**—The demonstration projects shall—

(A) address the interoperable communications needs of border patrol agents and other Federal officials involved in border security activities, police officers, National Guard personnel, and emergency response providers;

(B) foster interoperable communications—

- (i) among Federal, State, local, and tribal government agencies in the United States involved in security and response activities along the international land borders of the United States; and
- (ii) with similar agencies in Canada and Mexico;

(C) identify common international cross-border frequencies for communications equipment, including radio or computer messaging equipment;

(D) foster the standardization of interoperable communications equipment;

(E) identify solutions that will facilitate communications interoperability across national borders expeditiously;

(F) ensure that border patrol agents and other Federal officials involved in border security activities, police officers, National Guard personnel, and emergency response providers can communicate with each other and the public at disaster sites or in the event of a terrorist attack or other catastrophic event;

(G) provide training and equipment to enable border patrol agents and other Federal officials involved in border security activities, police officers, National Guard personnel, and emergency response providers to deal with threats and contingencies in a variety of environments; and

(H) identify and secure appropriate joint-use equipment to ensure communications access.

(4) **DISTRIBUTION OF FUNDS.**—

(A) **IN GENERAL.**—The Secretary shall distribute funds under this subsection to each community participating in a demonstration project through the State, or States, in which each community is located.

(B) **OTHER PARTICIPANTS.**—Not later than 60 days after receiving funds under subparagraph (A), a State receiving funds under this subsection shall make the funds available to

the local governments and emergency response providers participating in a demonstration project selected by the Secretary.

(5) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated such sums as are necessary in each of fiscal years 2006, 2007, and 2008, to carry out this subsection.

(6) **REPORTING.**—Not later than December 31, 2006, and each year thereafter in which funds are appropriated for a demonstration project, the Secretary shall provide to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives a report on the demonstration projects under this subsection.

SA 3368. Mr. COLEMAN submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____ . EXPANSION OF THE JUSTICE PRISONER AND ALIEN TRANSFER SYSTEM.

Not later than 60 days after the date of enactment of this Act, the Attorney General, in consultation with the Secretary of the Department of Homeland Security, shall issue a directive to expand the Justice Prisoner and Alien Transfer System (JPATS) so that such System provides regular daily services with respect to aliens who are illegally present in the United States. Such expansion should include—

- (1) increasing and standardizing the daily operations of such System with buses and air hubs in 3 geographic regions;
- (2) allocating a set number of seats each day for such aliens for each metropolitan area;
- (3) allowing metropolitan areas to trade or give some of seats allocated to them under the System for such aliens to other areas in their region based on the transportation needs of each area; and
- (4) requiring an annual report that analyzes the number of seats that each metropolitan area is allocated under this System for such aliens and modifies such allocation if necessary.

SA 3369. Mr. COLEMAN submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 332, strike lines 6 through 18, and insert the following:

“(1) **PERIOD OF AUTHORIZED STAY.**—The period of authorized stay for a conditional non-immigrant described in this section shall be 2 years. The Secretary may extend such period for an unlimited number of 2-year periods if the alien remains eligible for conditional nonimmigrant classification and status under this section.

On page 335, between lines 11 and 12, insert the following:

“(h) **PROHIBITION ON ADJUSTMENT OF STATUS.**—An alien granted conditional non-immigrant work authorization and status under this section and the spouse of such alien are ineligible for any additional adjustment of status. The child of such an alien may be granted a change of status under subtitle C of title VI of the Comprehensive Immigration Reform Act of 2006.

Strike section 602.

SA 3370. Mr. COLEMAN submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____ . SENSE OF THE SENATE REGARDING THE SECURITY OF THE LAND AND SEA BORDERS OF THE UNITED STATES.

It is the sense of the Senate that—

(1) the net growth of 500,000 unauthorized aliens entering the United States each year, and the potential for terrorists to take advantage of the porous borders of the United States, represent a clear and present danger to the national security of the United States;

(2) the inability to secure the international borders of the United States has given rise to an immigration crisis that has profound social, legal, and political ramifications;

(3) while assessing the identity and location of the estimated 11,000,000 unauthorized aliens currently in the United States, the Federal Government must simultaneously act to secure the borders and prevent further illegal entry;

(4) the President of the United States should demonstrate the highest level of commitment to securing the land and sea borders of the United States by using all the resources at the disposal of the President, including—

(A) declaring that a state of emergency exists in States that share an international border with Mexico and Canada until such time as the President determines that—

- (i) the additional resources and manpower provided under this Act are deployed; and
- (ii) there is a significant reduction in the number of illegal aliens entering the United States;

(B) immediately deploying the Armed Forces, including the National Guard, to secure those international borders;

(C) requiring each Cabinet Secretary to detail the resources and capabilities that their respective Federal agencies have available for use in securing the land and sea borders of the United States; and

(D) facilitating the development of a program to enable all willing citizens of the United States to contribute to securing the land and sea borders of the United States; and

(5) the President of Mexico should be encouraged to use all authority within the power of the President of Mexico to secure the international border between the United States and Mexico from illegal crossings.

SA 3371. Mr. COLEMAN (for himself and Ms. COLLINS) submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the end of title II, add the following:

SEC. ____ . NORTH AMERICAN TRAVEL CARDS.

(a) **FINDINGS.**—Congress makes the following findings:

(1) United States citizens make approximately 130,000,000 land border crossings each year between the United States and Canada and the United States and Mexico, with approximately 23,000,000 individual United States citizens crossing the border annually.

(2) Approximately 27 percent of United States citizens possess United States passports.

(3) In fiscal year 2005, the Secretary of State issued an estimated 10,100,000 passports, representing an increase of 15 percent from fiscal year 2004.

(4) The Secretary of State estimates that 13,000,000 passports will be issued in fiscal year 2006, 16,000,000 passports will be issued in fiscal year 2007, and 17,000,000 passports will be issued in fiscal year 2008.

(b) **NORTH AMERICAN TRAVEL CARDS.**—

(1) **ISSUANCE.**—In accordance with the Western Hemisphere Travel Initiative carried out pursuant to section 7209 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108-458; 8 U.S.C. 1185 note), the Secretary of State, in consultation with the Secretary, shall, not later than December 31, 2007, issue to a citizen of the United States who submits an application in accordance with paragraph (4) a travel document that will serve as a North American travel card.

(2) **APPLICABILITY.**—A North American travel card shall be deemed to be a United States passport for the purpose of United States laws and regulations relating to United States passports.

(3) **LIMITATION ON USE.**—A North American travel card may only be used for the purpose of international travel by United States citizens through land border ports of entry, including ferries, between the United States and Canada and the United States and Mexico.

(4) **APPLICATION FOR ISSUANCE.**—To be issued a North American travel card, a United States citizen shall submit an application to the Secretary of State. The Secretary of State shall require that such application shall contain the same information as is required to determine citizenship, identity, and eligibility for issuance of a United States passport.

(5) **TECHNOLOGY.**—

(A) **EXPEDITED TRAVELER PROGRAMS.**—To the maximum extent practicable, a North American travel card shall be designed and produced to provide a platform on which the expedited traveler programs carried out by the Secretary, such as NEXUS, NEXUS AIR, SENTRI, FAST, and Register Traveler may be added. The Secretary of State and the Secretary shall notify Congress not later than July 1, 2007, if the technology to add expedited travel features to the North American travel card is not developed by that date.

(B) **TECHNOLOGY.**—The Secretary of Homeland Security and the Secretary of State shall establish a technology implementation plan that accommodates desired technology requirements of the Department of State and the Department of Homeland Security, allows for future technological innovations, and ensures maximum facilitation at the northern and southern border.

(6) **SPECIFICATIONS FOR CARD.**—A North American travel card shall be easily portable and durable. The Secretary of State and the Secretary of Homeland Security shall consult regarding the other technical specifications of the card, including whether the security features of the card could be combined with other existing identity documentation.

(7) **FEE.**—Except as is provided in paragraph (8), an applicant for a North American travel card shall submit an application under paragraph (4) together with a nonrefundable fee in an amount to be determined by the Secretary of State. Fees for a North American travel card shall be deposited as an offsetting collection to the appropriate Department of State appropriation, to remain available until expended. The fee for the North American travel card shall not exceed

\$20, of which not more than \$2 shall be allocated to the United States Postal Service for postage and other application processing functions. Such fee shall be waived for children under 16 years of age.

(c) FOREIGN COOPERATION.—In order to maintain and encourage cross-border travel and trade, the Secretary of State and the Secretary of Homeland Security shall use all possible means to coordinate with the appropriate representatives of foreign governments to encourage their citizens and nationals to possess, not later than the date at which the certification required by subsection (j) is made, appropriate documentation to allow such citizens and nationals to cross into the United States.

(d) PUBLIC PROMOTION.—The Secretary of State, in consultation with the Secretary of Homeland Security, shall develop and implement an outreach plan to inform United States citizens about the Western Hemisphere Travel Initiative and the North American travel card and to facilitate the acquisition of a passport or North American travel card. Such outreach plan should include—

(1) written notifications posted at or near public facilities, including border crossings, schools, libraries, and United States Post Offices located within 50 miles of the international border between the United States and Canada or the international border between the United States and Mexico;

(2) provisions to seek consent to post such notifications on commercial property, such as offices of State departments of motor vehicles, gas stations, supermarkets, convenience stores, hotels, and travel agencies;

(3) the establishment of at least 200 new passport acceptance facilities, with emphasis on facilities located near international borders;

(4) the collection and analysis of data to measure the success of the public promotion plan; and

(5) additional measures as appropriate.

(e) ACCESSIBILITY.—In order to make the North American travel card easily obtainable, an application for a North American travel card shall be accepted in the same manner and at the same locations as an application for a passport.

(f) EXPEDITED TRAVEL PROGRAMS.—To the maximum extent practicable, the Secretary of Homeland Security shall expand expedited traveler programs carried out by the Secretary to all ports of entry and should encourage citizens of the United States to participate in the preenrollment programs, as such programs assist border control officers of the United States in the fight against terrorism by increasing the number of known travelers crossing the border. The identities of such expedited travelers should be entered into a database of known travelers who have been subjected to in-depth background and watch-list checks to permit border control officers to focus more attention on unknown travelers, potential criminals, and terrorists.

(g) ALTERNATIVE OPTIONS.—

(1) IN GENERAL.—In order to give United States citizens as many secure, low-cost options as possible for travel within the Western Hemisphere, the Secretary of Homeland Security shall continue to pursue additional alternative options, such as NEXUS, to a passport that meet the requirements of section 7209 of the Intelligence Reform and Terrorism Prevention Act (Public Law 108-458; 8 U.S.C. 1185 note).

(2) FEASIBILITY STUDY.—Not later than 120 days after the date of enactment of this Act, the Congressional Budget Office shall submit to the Committee on Homeland Security and Government Affairs and the Committee on Foreign Relations of the Senate and the Committee on Homeland Security and the Committee on International Relations of the

House of Representatives, a study on the feasibility of incorporating into a driver's license, on a voluntary basis, information about citizenship, in a manner that enables a driver's license which meets the requirements of the REAL ID Act of 2005 (division B of Public Law 109-13) to serve as an acceptable alternative document to meet the requirements of section 7209 of the Intelligence Reform and Terrorism Prevention Act. Such study shall include a description of how such a program could be implemented, and shall consider any cost advantage of such an approach.

(h) IDENTIFICATION PROCESS.—The Secretary of Homeland Security shall have appropriate authority to develop a process to ascertain the identity of and make admissibility determinations for individuals who arrive at the border without proper documentation.

(i) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as limiting, altering, modifying, or otherwise affecting the validity of a United States passport. A United States citizen may possess a United States passport and a North American travel card.

(j) CERTIFICATION.—Notwithstanding any other provision of law, the Secretary may not implement the plan described in section 7209(b) of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108-458; 8 U.S.C. 1185 note) until the date that is 3 months after the Secretary of State and the Secretary of Homeland Security certify to Congress that—

(1) North American travel cards have been distributed to at least 90 percent of the eligible United States citizens who applied for such cards during the 6-month period beginning not earlier than the date the Secretary of State began accepting applications for such cards and ending not earlier than 10 days prior to the date of certification;

(2) North American travel cards are provided to applicants, on average, within 4 weeks of application;

(3) officers of the Bureau of Customs and Border Protection have received training and been provided the infrastructure necessary to accept North American travel cards at all United States border crossings;

(4) the outreach plan described in subsection (d) has been implemented and deemed to have been successful according to collected data; and

(5) a successful pilot has demonstrated the effectiveness of the North American travel card program.

(k) REPORTS.—

(1) REPORTS ON THE ISSUANCE OF NORTH AMERICAN TRAVEL CARDS.—The Secretary of State shall, on a quarterly basis during the first year of issuance of North American travel cards, submit to Congress a report containing information relating to the number of North American travel cards issued during the immediately preceding quarter or year, as appropriate, and the number of United States citizens in each State applying for such cards.

(2) REPORT ON PRIVATE COLLABORATION.—Not later than 6 months after the date of the enactment of this Act, the Secretary of State and the Secretary shall report to Congress on their efforts to solicit policy suggestions and the incorporation of such suggestions into the implementation strategy from the private sector on the implementation of section 7209 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108-458; 8 U.S.C. 1185 note). The report should include the private sector's recommendations concerning how air, sea, and land travel between countries in the Western Hemisphere can be improved in a manner that establishes the proper balance between

national security, economic well being, and the particular needs of border communities.

(l) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of State such sums as may be necessary to carry out this section.

SA 3372. Mrs. CLINTON (for herself, Mr. OBAMA, and Mrs. BOXER) submitted an amendment intended to be proposed by her to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 245, strike line 4 and insert the following:

“(x) STATE IMPACT ASSISTANCE ACCOUNT.—“(1) ESTABLISHMENT.—There

On page 245, strike line 11 and insert the following:

“218A and 218B.

“(2) USE OF FEES FOR GRANT PROGRAM.—Amounts deposited in the State Impact Assistance Account under paragraph (1) shall remain available to the Secretary until expended for use for the State Impact Assistance Grant Program established under paragraph (3)(A).

“(3) STATE IMPACT ASSISTANCE GRANT PROGRAM.—

“(A) ESTABLISHMENT.—Not later than January 1 of each year beginning after the date of enactment of this subsection, the Secretary, in cooperation with the Secretary of Health and Human Services (referred to in this paragraph as the ‘Secretary’), shall establish a State Impact Assistance Grant Program, under which the Secretary shall make grants to States for use in accordance with subparagraph (D).

“(B) AVAILABLE FUNDS.—For each fiscal year beginning after the date of enactment of this subsection, the Secretary shall use ½ of the amounts deposited into the State Impact Assistance Account under paragraph (1) during the preceding fiscal year to provide grants under this paragraph.

“(C) ALLOCATION.—The Secretary shall allocate grants under this paragraph as follows:

“(i) NONCITIZEN POPULATION.—

“(I) IN GENERAL.—Subject to subclause (II), 80 percent shall be allocated to States on a pro-rata basis according to the ratio that, based on the most recent year for which data of the Bureau of the Census exists—

“(aa) the noncitizen population of the State; bears to

“(bb) the noncitizen population of all States.

“(II) MINIMUM AMOUNT.—Notwithstanding the formula under subclause (I), no State shall receive less than \$5,000,000 under this clause.

“(ii) HIGH GROWTH RATES.—20 percent shall be allocated on a pro-rata basis among the 20 States with the largest growth rate in noncitizen population, as determined by the Secretary, according to the ratio that, based on the most recent year for which data of the Bureau of the Census exists—

“(I) the growth rate in the noncitizen population of the State during the most recent 3-year period for which data is available; bears to

“(II) the combined growth rate in noncitizen population of the 20 States during the 3-year period described in subclause (I).

“(D) USE OF FUNDS.—A State shall use a grant received under this paragraph to return to local governments, organizations, and entities moneys for the costs of providing health services, educational services, and public safety services to noncitizen communities.

“(E) ADMINISTRATION.—A local government, organization, or entity may provide services described in subparagraph (D) directly or pursuant to contracts with the State or another entity, including—

- “(i) a unit of local government;
- “(ii) a public health provider, such as a hospital, community health center, or other appropriate entity;
- “(iii) a local education agency; and
- “(iv) a charitable organization.

“(F) REFUSAL.—

“(i) IN GENERAL.—A State may elect to refuse any grant under this paragraph.

“(ii) ACTION BY SECRETARY.—On receipt of notice of a State of an election under clause (i), the Secretary shall deposit the amount of the grant that would have been provided to the State into the State Impact Assistance Account.

“(G) REPORTS.—

“(i) IN GENERAL.—Not later than March 1 of each year, each State that received a grant under this paragraph during the preceding fiscal year shall submit to the Secretary a report in such manner and containing such information as the Secretary may require, in accordance with clause (ii).

“(ii) INCLUSIONS.—A report under clause (i) shall include a description of—

- “(I) the services provided in the State using the grant;
- “(II) the amount of grant funds used to provide each service and the total amount available during the applicable fiscal year from all sources to provide each service; and
- “(III) the method by which the services provided using the grant addressed the needs of communities with significant and growing noncitizen populations in the State.

“(H) COLLABORATION.—In promulgating regulations and issuing guidelines to carry out this paragraph, the Secretary shall collaborate with representatives of State and local governments.

“(I) EFFECT OF PARAGRAPH.—

“(i) ENFORCEMENT OF FEDERAL IMMIGRATION LAW.—Nothing in this paragraph authorizes any State or local law enforcement agency or officer to exercise Federal immigration law enforcement authority.

“(ii) STATE APPROPRIATIONS.—Funds received by a State under this paragraph shall be subject to appropriation by the legislature of the State, in accordance with the terms and conditions described in this paragraph.”.

On page 245, line 22, insert “, to be deposited in the Treasury in accordance with section 286(w)” after “Labor”.

On page 333, strike lines 9 through 12 and insert the following:

“(4) COLLECTION OF FINES AND FEES.—Of the fines and fees collected under this section—

“(A) 50 percent shall be deposited in the Treasury in accordance with section 286(w); and

“(B) 50 percent shall be deposited in the Treasury in accordance with section 286(x).

On page 341, line 17, insert “, to be deposited in the Treasury in accordance with section 286(w)” before the period.

SA 3373. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 231, strike lines 14 through 18 and insert the following:

“(3) FEE.—

“(A) IN GENERAL.—The alien shall pay a \$500 visa issuance fee in addition to the cost of processing and adjudicating such application.

“(B) HEALTH AND EDUCATION FEE.—Each alien seeking H-2C nonimmigrant status under this section shall submit, in addition to any fees otherwise authorized for processing an application under this section, a health and education fee in the amount of \$500, for the alien, and \$100 for the spouse and each child accompanying such alien. Notwithstanding subsection (1), the fee collected under this subparagraph shall be deposited in the State Impact Assistance Account established under section 286(x).

“(C) SAVINGS PROVISION.—Nothing in this paragraph shall be construed to affect consular procedures for charging reciprocal fees.

On page 245, strike lines 4 through 11 and insert the following:

“(x) STATE IMPACT ASSISTANCE ACCOUNT.—

“(1) ESTABLISHMENT.—There is established in the general fund of the Treasury a separate account, which shall be known as the ‘State Impact Assistance Account’.

“(2) SOURCE OF FUNDS.—Notwithstanding any other provision under this Act, there shall be deposited as offsetting receipts into the account—

“(A) all family supplemental visa and family supplemental extension of status fees collected under sections 218A and 218B; and

“(B) all supplemental application fees collected under subsections (c)(1)(F)(i) and (g)(2) of section 218D.

“(3) USE OF FUNDS.—Amounts deposited into the State Impact Assistance Account under paragraph (2)(B) shall remain available to the Secretary of Health and Human Services, in consultation with the Secretary of Education, to provide financial assistance to health care providers for health and educational services to aliens granted conditional nonimmigrant status under section 218A.

“(4) STATE ALLOCATIONS.—The Secretary of Health and Human Services, in consultation with the Secretary of Education and the Secretary of Homeland Security, shall allocate funds among States in proportion to the number of aliens granted conditional nonimmigrant status residing in each State.”.

On page 279, line 3, strike “and” and all that follows through “(5)” and insert the following:

(5) provide a minimum level of health care, as determined by the Secretary of Health and Human Services, to nationals of the home country who are participating in a temporary worker program in the United States; and

(6)

On page 332, strike lines 19 through 24 and insert the following:

“(2) APPLICATION FEE.—

“(A) IN GENERAL.—The Secretary of Homeland Security shall impose a fee for filing an application for a grant of status under this section. Such fee shall be sufficient to cover the administrative and other expenses incurred in connection with the review of such applications.

“(B) HEALTH AND EDUCATION FEE.—Each alien seeking conditional nonimmigrant worker authorization and status under this section shall submit, in addition to the fee imposed under subparagraph (A), a health and education fee in the amount of \$500, for the alien, and \$100, for the spouse and each child accompanying such alien. Notwithstanding paragraph (4), the fee collected under this subparagraph shall be deposited in the State Impact Assistance Account established under section 286(x).

SA 3374. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and

for other purposes; which was ordered to lie on the table; as follows:

On page 231, strike lines 14 through 18 and insert the following:

“(3) FEE.—

“(A) IN GENERAL.—The alien shall pay a \$500 visa issuance fee in addition to the cost of processing and adjudicating such application.

“(B) HEALTH AND EDUCATION FEE.—Each alien seeking H-2C nonimmigrant status under this section shall submit, in addition to any fees otherwise authorized for processing an application under this section, a health and education fee in the amount of \$500, for the alien, and \$100 for the spouse and each child accompanying such alien. Notwithstanding subsection (1), the fee collected under this subparagraph shall be deposited in the State Impact Assistance Account established under section 286(x).

“(C) SAVINGS PROVISION.—Nothing in this paragraph shall be construed to affect consular procedures for charging reciprocal fees.

On page 245, strike lines 4 through 11 and insert the following:

“(x) STATE IMPACT ASSISTANCE ACCOUNT.—

“(1) ESTABLISHMENT.—There is established in the general fund of the Treasury a separate account, which shall be known as the ‘State Impact Assistance Account’.

“(2) SOURCE OF FUNDS.—Notwithstanding any other provision under this Act, there shall be deposited as offsetting receipts into the account—

“(A) all family supplemental visa and family supplemental extension of status fees collected under sections 218A and 218B; and

“(B) all supplemental application fees collected under subsections (c)(1)(F)(i) and (g)(2) of section 218D.

“(3) USE OF FUNDS.—Amounts deposited into the State Impact Assistance Account under paragraph (2)(B) shall remain available to the Secretary of Health and Human Services, in consultation with the Secretary of Education, to provide financial assistance to health care providers for health and educational services to aliens granted conditional nonimmigrant status under section 218A.

“(4) STATE ALLOCATIONS.—The Secretary of Health and Human Services, in consultation with the Secretary of Education and the Secretary of Homeland Security, shall allocate funds among States in proportion to the number of aliens granted conditional nonimmigrant status residing in each State.”.

(6)

On page 332, strike lines 19 through 24 and insert the following:

“(2) APPLICATION FEE.—

“(A) IN GENERAL.—The Secretary of Homeland Security shall impose a fee for filing an application for a grant of status under this section. Such fee shall be sufficient to cover the administrative and other expenses incurred in connection with the review of such applications.

“(B) HEALTH AND EDUCATION FEE.—Each alien seeking conditional nonimmigrant worker authorization and status under this section shall submit, in addition to the fee imposed under subparagraph (A), a health and education fee in the amount of \$500, for the alien, and \$100, for the spouse and each child accompanying such alien. Notwithstanding paragraph (4), the fee collected under this subparagraph shall be deposited in the State Impact Assistance Account established under section 286(x).

SA 3375. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and

for other purposes; which was ordered to lie on the table; as follows:

On page 332, strike lines 19 through 24 and insert the following:

“(2) APPLICATION FEE.—

“(A) IN GENERAL.—The Secretary of Homeland Security shall impose a fee for filing an application for a grant of status under this section. Such fee shall be sufficient to cover the administrative and other expenses incurred in connection with the review of such applications.

“(B) HEALTH AND EDUCATION FEE.—Each alien seeking conditional nonimmigrant worker authorization and status under this section shall submit, in addition to the fee imposed under subparagraph (A), a health and education fee in the amount of \$500, for the alien, and \$100, for the spouse and each child accompanying such alien. Notwithstanding paragraph (4), the fee collected under this subparagraph shall be deposited in the State Impact Assistance Account established under section 286(x).

SA 3376. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 231, strike lines 14 through 18 and insert the following:

“(3) FEE.—

“(A) IN GENERAL.—The alien shall pay a \$500 visa issuance fee in addition to the cost of processing and adjudicating such application.

“(B) HEALTH AND EDUCATION FEE.—Each alien seeking H-2C nonimmigrant status under this section shall submit, in addition to any fees otherwise authorized for processing an application under this section, a health and education fee in the amount of \$500, for the alien, and \$100 for the spouse and each child accompanying such alien. Notwithstanding subsection (1), the fee collected under this subparagraph shall be deposited in the State Impact Assistance Account established under section 286(x).

“(C) SAVINGS PROVISION.—Nothing in this paragraph shall be construed to affect consular procedures for charging reciprocal fees.

SA 3377. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 245, strike lines 4 through 11 and insert the following:

“(x) STATE IMPACT ASSISTANCE ACCOUNT.—

“(1) ESTABLISHMENT.—There is established in the general fund of the Treasury a separate account, which shall be known as the ‘State Impact Assistance Account’.

“(2) SOURCE OF FUNDS.—Notwithstanding any other provision under this Act, there shall be deposited as offsetting receipts into the account—

“(A) all family supplemental visa and family supplemental extension of status fees collected under sections 218A and 218B; and

“(B) all supplemental application fees collected under subsections (c)(1)(F)(ii) and (g)(2) of section 218D.

“(3) USE OF FUNDS.—Amounts deposited into the State Impact Assistance Account under paragraph (2)(B) shall remain available to the Secretary of Health and Human Services, in consultation with the Secretary of Education, to provide financial assistance

to health care providers for health and educational services to aliens granted conditional nonimmigrant status under section 218A.

“(4) STATE ALLOCATIONS.—The Secretary of Health and Human Services, in consultation with the Secretary of Education and the Secretary of Homeland Security, shall allocate funds among States in proportion to the number of aliens granted conditional nonimmigrant status residing in each State.”.

SA 3378. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the end of title V, insert the following:

SEC. 509. ENGLISH FLUENCY REQUIREMENTS FOR CERTAIN EMPLOYEES OF INSTITUTIONS OF HIGHER EDUCATION.

Section 214(g)(5)(A) (8 U.S.C. 1184(g)(5)(A)) is amended by striking “entity;” and inserting “entity, and has demonstrated a high proficiency in the spoken English language;”.

SA 3379. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 279, line 3, strike “and” and all that follows through “(5)” and insert the following:

(5) provide a minimum level of health care, as determined by the Secretary of Health and Human Services, to nationals of the home country who are participating in a temporary worker program in the United States; and

(6)

SA 3380. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 276, between lines 15 and 16, insert the following:

“(A)(i) has been physically present in the United States for a continuous period of not less than 10 years immediately preceding the date of such application; and

“(ii)(I) is 65 years of age or older;

“(II) establishes that the alien’s departure from the United States upon the expiration of conditional nonimmigrant status would result in significant hardship to the alien’s spouse, parent, or child, who is a citizen of the United States or an alien lawfully admitted for permanent residence; or

“(III) establishes that the alien’s employer has designated the alien as a vital worker because the alien is vital to the operation of an existing and functioning business on the date of such application and—

“(aa) possesses the ability to operate a highly customized machine used in an inextricable part of the business operation; or

“(bb) possesses a very high degree of skill in manufacturing or agriculture, or creating products for a specific industry, and is recognized as such by well-established trade associations.

On page 276, line 5, insert after the word “visas,” (when allocations provided for under 203(b)(4))”

SA 3381. Mr. KYL (for himself and Mr. CORNYN) submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 276, strike line and all that follows through page 277, line 21.

SA 3382. Mr. STEVENS (for himself, Mr. SHELBY, Mr. INOUE, and Mrs. HUTCHISON) submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

TITLE —IMPROVED PUBLIC TRANSPORTATION, RAIL, AND MARITIME SECURITY

Subtitle A—Public Transportation Security

SEC. 101. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This subtitle may be cited as the “Public Transportation Terrorism Prevention Act of 2006”.

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

Sec.—101. Short title; table of contents.

Sec.—102. Findings and purpose.

Sec.—103. Security assessments.

Sec.—104. Security assistance grants.

Sec.—105. Intelligence sharing.

Sec.—106. Research, development, and demonstration grants.

Sec.—107. Reporting requirements.

Sec.—108. Authorization of appropriations.

Sec.—109. Sunset provision.

SEC. 102. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) public transportation systems throughout the world have been a primary target of terrorist attacks, causing countless death and injuries;

(2) 5,800 public transportation agencies operate in the United States;

(3) 14,000,000 people in the United States ride public transportation each work day;

(4) safe and secure public transportation systems are essential for the Nation’s economy and for significant national and international public events;

(5) the Federal Transit Administration has invested \$74,900,000,000 since 1992 for construction and improvements to the Nation’s public transportation systems;

(6) the Federal Government appropriately invested \$18,100,000,000 in fiscal years 2002 through 2005 to protect our Nation’s aviation system and its 1,800,000 daily passengers;

(7) the Federal Government has allocated \$250,000,000 in fiscal years 2003 through 2005 to protect public transportation systems in the United States;

(8) the Federal Government has invested \$7.38 in aviation security improvements per passenger, but only \$0.007 in public transportation security improvements per passenger;

(9) the Government Accountability Office, the Mineta Institute for Surface Transportation Policy Studies, the American Public Transportation Association, and many transportation experts have reported an urgent need for significant investment in public transportation security improvements; and

(10) the Federal Government has a duty to deter and mitigate, to the greatest extent practicable, threats against the Nation’s public transportation systems.

SEC. 103. SECURITY ASSESSMENTS.

(a) PUBLIC TRANSPORTATION SECURITY ASSESSMENTS.—

(1) SUBMISSION.—Not later than 30 days after the date of enactment of this Act, the

Federal Transit Administration of the Department of Transportation shall submit all public transportation security assessments and all other relevant information to the Secretary of Homeland Security.

(2) REVIEW.—Not later than July 31, 2006, the Secretary of Homeland Security shall review and augment the security assessments received under paragraph (1).

(3) ALLOCATIONS.—The Secretary of Homeland Security shall use the security assessments received under paragraph (1) as the basis for allocating grant funds under section 104, unless the Secretary notifies the Committee on Banking, Housing, and Urban Affairs of the Senate that the Secretary has determined that an adjustment is necessary to respond to an urgent threat or other significant factors.

(4) SECURITY IMPROVEMENT PRIORITIES.—Not later than September 30, 2006, the Secretary of Homeland Security, after consultation with the management and employee representatives of each public transportation system for which a security assessment has been received under paragraph (1), shall establish security improvement priorities that will be used by public transportation agencies for any funding provided under section 104.

(5) UPDATES.—Not later than July 31, 2007, and annually thereafter, the Secretary of Homeland Security shall—

(A) update the security assessments referred to in this subsection; and

(B) conduct security assessments of all public transportation agencies considered to be at greatest risk of a terrorist attack.

(b) USE OF SECURITY ASSESSMENT INFORMATION.—The Secretary of Homeland Security shall use the information collected under subsection (a)—

(1) to establish the process for developing security guidelines for public transportation security; and

(2) to design a security improvement strategy that—

(A) minimizes terrorist threats to public transportation systems; and

(B) maximizes the efforts of public transportation systems to mitigate damage from terrorist attacks.

(c) BUS AND RURAL PUBLIC TRANSPORTATION SYSTEMS.—Not later than July 31, 2006, the Secretary of Homeland Security shall conduct security assessments, appropriate to the size and nature of each system, to determine the specific needs of—

(1) local bus-only public transportation systems; and

(2) selected public transportation systems that receive funds under section 5311 of title 49, United States Code.

SEC. 104. SECURITY ASSISTANCE GRANTS.

(a) CAPITAL SECURITY ASSISTANCE PROGRAM.—

(1) IN GENERAL.—The Secretary of Homeland Security shall award grants directly to public transportation agencies for allowable capital security improvements based on the priorities established under section 103(a)(4).

(2) ALLOWABLE USE OF FUNDS.—Grants awarded under paragraph (1) may be used for—

(A) tunnel protection systems;

(B) perimeter protection systems;

(C) redundant critical operations control systems;

(D) chemical, biological, radiological, or explosive detection systems;

(E) surveillance equipment;

(F) communications equipment;

(G) emergency response equipment;

(H) fire suppression and decontamination equipment;

(I) global positioning or automated vehicle locator type system equipment;

(J) evacuation improvements; and

(K) other capital security improvements.

(b) OPERATIONAL SECURITY ASSISTANCE PROGRAM.—

(1) IN GENERAL.—The Secretary of Homeland Security shall award grants directly to public transportation agencies for allowable operational security improvements based on the priorities established under section 103(a)(4).

(2) ALLOWABLE USE OF FUNDS.—Grants awarded under paragraph (1) may be used for—

(A) security training for public transportation employees, including bus and rail operators, mechanics, customer service, maintenance employees, transit police, and security personnel;

(B) live or simulated drills;

(C) public awareness campaigns for enhanced public transportation security;

(D) canine patrols for chemical, biological, or explosives detection;

(E) overtime reimbursement for enhanced security personnel during significant national and international public events, consistent with the priorities established under section 103(a)(4); and

(F) other appropriate security improvements identified under section 103(a)(4), excluding routine, ongoing personnel costs.

(c) CONGRESSIONAL NOTIFICATION.—Not later than 3 days before the award of any grant under this section, the Secretary of Homeland Security shall notify the Committee on Banking, Housing, and Urban Affairs of the Senate of the intent to award such grant.

(d) PUBLIC TRANSPORTATION AGENCY RESPONSIBILITIES.—Each public transportation agency that receives a grant under this section shall—

(1) identify a security coordinator to coordinate security improvements;

(2) develop a comprehensive plan that demonstrates the agency's capacity for operating and maintaining the equipment purchased under this section; and

(3) report annually to the Department of Homeland Security on the use of grant funds received under this section.

(e) RETURN OF MISSPENT GRANT FUNDS.—If the Secretary of Homeland Security determines that a grantee used any portion of the grant funds received under this section for a purpose other than the allowable uses specified for that grant under this section, the grantee shall return any amount so used to the Treasury of the United States.

SEC. 105. INTELLIGENCE SHARING.

(a) INTELLIGENCE SHARING.—The Secretary of Homeland Security shall ensure that the Department of Transportation receives appropriate and timely notification of all credible terrorist threats against public transportation assets in the United States.

(b) INFORMATION SHARING ANALYSIS CENTER.—

(1) ESTABLISHMENT.—The Secretary of Homeland Security shall provide sufficient financial assistance for the reasonable costs of the Information Sharing and Analysis Center for Public Transportation (referred to in this subsection as the "ISAC") established pursuant to Presidential Directive 63, to protect critical infrastructure.

(2) PUBLIC TRANSPORTATION AGENCY PARTICIPATION.—The Secretary of Homeland Security—

(A) shall require those public transportation agencies that the Secretary determines to be at significant risk of terrorist attack to participate in the ISAC;

(B) shall encourage all other public transportation agencies to participate in the ISAC; and

(C) shall not charge a fee to any public transportation agency for participating in the ISAC.

SEC. 106. RESEARCH, DEVELOPMENT, AND DEMONSTRATION GRANTS.

(a) GRANTS AUTHORIZED.—The Secretary of Homeland Security, in consultation with the Federal Transit Administration, shall award grants to public or private entities to conduct research into, and demonstrate, technologies and methods to reduce and deter terrorist threats or mitigate damages resulting from terrorist attacks against public transportation systems.

(b) USE OF FUNDS.—Grants awarded under subsection (a) may be used to—

(1) research chemical, biological, radiological, or explosive detection systems that do not significantly impede passenger access;

(2) research imaging technologies;

(3) conduct product evaluations and testing; and

(4) research other technologies or methods for reducing or deterring terrorist attacks against public transportation systems, or mitigating damage from such attacks.

(c) REPORTING REQUIREMENT.—Each entity that receives a grant under this section shall report annually to the Department of Homeland Security on the use of grant funds received under this section.

(d) RETURN OF MISSPENT GRANT FUNDS.—If the Secretary of Homeland Security determines that a grantee used any portion of the grant funds received under this section for a purpose other than the allowable uses specified under subsection (b), the grantee shall return any amount so used to the Treasury of the United States.

SEC. 107. REPORTING REQUIREMENTS.

(a) SEMI-ANNUAL REPORT TO CONGRESS.—

(1) IN GENERAL.—Not later than March 31 and September 30 of each year, the Secretary of Homeland Security shall submit a report, containing the information described in paragraph (2), to—

(A) the Committee on Banking, Housing, and Urban Affairs of the Senate;

(B) the Committee on Homeland Security and Governmental Affairs of the Senate; and

(C) the Committee on Appropriations of the Senate.

(2) CONTENTS.—The report submitted under paragraph (1) shall include—

(A) a description of the implementation of the provisions of sections 103 through 106;

(B) the amount of funds appropriated to carry out the provisions of each of sections 103 through 106 that have not been expended or obligated; and

(C) the state of public transportation security in the United States.

(b) ANNUAL REPORT TO GOVERNORS.—

(1) IN GENERAL.—Not later than March 31 of each year, the Secretary of Homeland Security shall submit a report to the Governor of each State with a public transportation agency that has received a grant under this subtitle.

(2) CONTENTS.—The report submitted under paragraph (1) shall specify—

(A) the amount of grant funds distributed to each such public transportation agency; and

(B) the use of such grant funds.

SEC. 108. AUTHORIZATION OF APPROPRIATIONS.

(a) CAPITAL SECURITY ASSISTANCE PROGRAM.—There are authorized to be appropriated \$2,370,000,000 for fiscal year 2007 to carry out the provisions of section 104(a), which shall remain available until expended.

(b) OPERATIONAL SECURITY ASSISTANCE PROGRAM.—There are authorized to be appropriated to carry out the provisions of section 104(b)—

(1) \$534,000,000 for fiscal year 2007;

(2) \$333,000,000 for fiscal year 2008; and

(3) \$133,000,000 for fiscal year 2009.

(c) INTELLIGENCE.—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of section —105.

(d) RESEARCH.—There are authorized to be appropriated \$130,000,000 for fiscal year 2007 to carry out the provisions of section —106, which shall remain available until expended.

SEC. 109. SUNSET PROVISION.

The authority to make grants under this subtitle shall expire on October 1, 2009.

Subtitle B—Improved Rail Security

SEC. 201. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This subtitle may be cited as the “Rail Security Act of 2006”.

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

Sec.—201. Short title; table of contents.

Sec.—202. Rail transportation security risk assessment.

Sec.—203. Systemwide AMTRAK security upgrades.

Sec.—204. Fire and life-safety improvements.

Sec.—205. Freight and passenger rail security upgrades.

Sec.—206. Rail security research and development.

Sec.—207. Oversight and grant procedures.

Sec.—208. AMTRAK plan to assist families of passengers involved in rail passenger accidents.

Sec.—209. Northern border rail passenger report.

Sec.—210. Rail worker security training program.

Sec.—211. Whistleblower protection program.

Sec.—212. High hazard material security threat mitigation plans.

Sec.—213. Memorandum of agreement.

Sec.—214. Rail security enhancements.

Sec.—215. Public awareness.

Sec.—216. Railroad high hazard material tracking.

Sec.—217. Authorization of appropriations.

SEC. 202. RAIL TRANSPORTATION SECURITY RISK ASSESSMENT.

(a) IN GENERAL.—

(1) VULNERABILITY AND RISK ASSESSMENT.—The Secretary of Homeland Security shall establish a task force, including the Transportation Security Administration, the Department of Transportation, and other appropriate agencies, to complete a vulnerability and risk assessment of freight and passenger rail transportation (encompassing railroads, as that term is defined in section 20102(1) of title 49, United States Code). The assessment shall include—

(A) a methodology for conducting the risk assessment, including timelines, that addresses how the Department of Homeland Security will work with the entities describe in subsection (b) and make use of existing Federal expertise within the Department of Homeland Security, the Department of Transportation, and other appropriate agencies;

(B) identification and evaluation of critical assets and infrastructures;

(C) identification of vulnerabilities and risks to those assets and infrastructures;

(D) identification of vulnerabilities and risks that are specific to the transportation of hazardous materials via railroad;

(E) identification of security weaknesses in passenger and cargo security, transportation infrastructure, protection systems, procedural policies, communications systems, employee training, emergency response planning, and any other area identified by the assessment; and

(F) an account of actions taken or planned by both public and private entities to address identified rail security issues and assess the effective integration of such actions.

(2) RECOMMENDATIONS.—Based on the assessment conducted under paragraph (1), the Secretary, in consultation with the Secretary of Transportation, shall develop prioritized recommendations for improving rail security, including any recommendations the Secretary has for—

(A) improving the security of rail tunnels, rail bridges, rail switching and car storage areas, other rail infrastructure and facilities, information systems, and other areas identified by the Secretary as posing significant rail-related risks to public safety and the movement of interstate commerce, taking into account the impact that any proposed security measure might have on the provision of rail service;

(B) deploying equipment to detect explosives and hazardous chemical, biological, and radioactive substances, and any appropriate countermeasures;

(C) training appropriate railroad or railroad shipper employees in terrorism prevention, passenger evacuation, and response activities;

(D) conducting public outreach campaigns on passenger railroads;

(E) deploying surveillance equipment; and

(F) identifying the immediate and long-term costs of measures that may be required to address those risks.

(3) PLANS.—The report required by subsection (c) shall include—

(A) a plan, developed in consultation with the freight and intercity passenger railroads, and State and local governments, for the Federal government to provide increased security support at high or severe threat levels of alert;

(B) a plan for coordinating existing and planned rail security initiatives undertaken by the public and private sectors; and

(C) a contingency plan, developed in conjunction with freight and intercity and commuter passenger railroads, to ensure the continued movement of freight and passengers in the event of an attack affecting the railroad system, which shall contemplate—

(i) the possibility of rerouting traffic due to the loss of critical infrastructure, such as a bridge, tunnel, yard, or station; and

(ii) methods of continuing railroad service in the Northeast Corridor in the event of a commercial power loss, or catastrophe affecting a critical bridge, tunnel, yard, or station.

(b) CONSULTATION; USE OF EXISTING RESOURCES.—In carrying out the assessment and developing the recommendations and plans required by subsection (a), the Secretary of Homeland Security shall consult with rail management, rail labor, owners or lessors of rail cars used to transport hazardous materials, first responders, shippers of hazardous materials, public safety officials, and other relevant parties.

(c) REPORT.—

(1) CONTENTS.—Within 180 days after the date of enactment of this Act, the Secretary shall transmit to the Senate Committee on Commerce, Science, and Transportation, the House of Representatives Committee on Transportation and Infrastructure, and the House of Representatives Committee on Homeland Security a report containing the assessment, prioritized recommendations, and plans required by subsection (a) and an estimate of the cost to implement such recommendations.

(2) FORMAT.—The Secretary may submit the report in both classified and redacted formats if the Secretary determines that such action is appropriate or necessary.

(d) ANNUAL UPDATES.—The Secretary, in consultation with the Secretary of Transportation, shall update the assessment and recommendations each year and transmit a report, which may be submitted in both classi-

fied and redacted formats, to the Committees named in subsection (c)(1), containing the updated assessment and recommendations.

(e) FUNDING.—Out of funds appropriated pursuant to section 114(u) of title 49, United States Code, there shall be made available to the Secretary of Homeland Security to carry out this section \$5,000,000 for fiscal year 2007.

SEC. 203. SYSTEMWIDE AMTRAK SECURITY UPGRADES.

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

(1) to secure major tunnel access points and ensure tunnel integrity in New York, Baltimore, and Washington, DC;

(2) to secure Amtrak trains;

(3) to secure Amtrak stations;

(4) to obtain a watch list identification system approved by the Secretary;

(5) to obtain train tracking and interoperable communications systems that are coordinated to the maximum extent possible;

(6) to hire additional police and security officers, including canine units;

(7) to expand emergency preparedness efforts; and

(8) for employee security training.

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

(c) EQUITABLE GEOGRAPHIC ALLOCATION.—The Secretary shall ensure that, subject to meeting the highest security needs on Amtrak’s entire system and consistent with the risk assessment required under section —202, stations and facilities located outside of the Northeast Corridor receive an equitable share of the security funds authorized by this section.

(d) AVAILABILITY OF FUNDS.—Out of funds appropriated pursuant to section 114(u) of title 49, United States Code, there shall be made available to the Secretary of Homeland Security and the Assistant Secretary of Homeland Security (Transportation Security Administration) to carry out this section—

(1) \$63,500,000 for fiscal year 2007;

(2) \$30,000,000 for fiscal year 2008; and

(3) \$30,000,000 for fiscal year 2009.

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

SEC. 204. FIRE AND LIFE-SAFETY IMPROVEMENTS.

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

(b) AUTHORIZATION OF APPROPRIATIONS.—Out of funds appropriated pursuant to section —217(b) of this subtitle, there shall be made available to the Secretary of Transportation for the purposes of carrying out subsection (a) the following amounts:

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

(A) \$190,000,000 for fiscal year 2007;

(B) \$190,000,000 for fiscal year 2008; and

(C) \$190,000,000 for fiscal year 2009.

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

- (A) \$19,000,000 for fiscal year 2007;
- (B) \$19,000,000 for fiscal year 2008; and
- (C) \$19,000,000 for fiscal year 2009.

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

- (A) \$13,333,000 for fiscal year 2007;
- (B) \$13,333,000 for fiscal year 2008; and
- (C) \$13,333,000 for fiscal year 2009.

(c) INFRASTRUCTURE UPGRADES.—Out of funds appropriated pursuant to section —217(b) of this subtitle, there shall be made available to the Secretary of Transportation for fiscal year 2007 \$3,000,000 for the preliminary design of options for a new tunnel on a different alignment to augment the capacity of the existing Baltimore tunnels.

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

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

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

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

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

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

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

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

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

SEC. 205. FREIGHT AND PASSENGER RAIL SECURITY UPGRADES.

(a) SECURITY IMPROVEMENT GRANTS.—The Secretary of Homeland Security, through the Assistant Secretary of Homeland Security (Transportation Security Administration) and other appropriate agencies, is authorized to make grants to freight railroads, the Alaska Railroad, hazardous materials shippers, owners of rail cars used in the transportation of hazardous materials, universities, colleges and research centers, State and local governments (for rail passenger facilities and infrastructure not owned by Amtrak), and, through the Secretary of Transportation, to Amtrak, for full or partial reimbursement of costs incurred in the conduct of activities to prevent or respond to acts of terrorism, sabotage, or other intercity passenger rail and freight rail security vulnerabilities and risks identified under section—202, including—

(1) security and redundancy for critical communications, computer, and train control systems essential for secure rail operations;

(2) accommodation of rail cargo or passenger screening equipment at the United States-Mexico border, the United States-Canada border, or other ports of entry;

(3) the security of hazardous material transportation by rail;

(4) secure intercity passenger rail stations, trains, and infrastructure;

(5) structural modification or replacement of rail cars transporting high hazard materials to improve their resistance to acts of terrorism;

(6) employee security awareness, preparedness, passenger evacuation, and emergency response training;

(7) public security awareness campaigns for passenger train operations;

(8) the sharing of intelligence and information about security threats;

(9) to obtain train tracking and interoperable communications systems that are coordinated to the maximum extent possible;

(10) to hire additional police and security officers, including canine units; and

(11) other improvements recommended by the report required by section—202, including infrastructure, facilities, and equipment upgrades.

(b) ACCOUNTABILITY.—The Secretary shall adopt necessary procedures, including audits, to ensure that grants made under this section are expended in accordance with the purposes of this subtitle and the priorities and other criteria developed by the Secretary.

(c) ALLOCATION.—The Secretary shall distribute the funds authorized by this section based on risk and vulnerability as determined under section—202, and shall encourage non-Federal financial participation in awarding grants. With respect to grants for intercity passenger rail security, the Secretary shall also take into account passenger volume and whether a station is used by commuter rail passengers as well as intercity rail passengers.

(d) CONDITIONS.—The Secretary of Transportation may not disburse funds to Amtrak under subsection (a) unless Amtrak meets the conditions set forth in section—203(b) of this subtitle.

(e) ALLOCATION BETWEEN RAILROADS AND OTHERS.—Unless as a result of the assessment required by section—202 the Secretary of Homeland Security determines that critical rail transportation security needs require reimbursement in greater amounts to any eligible entity, no grants under this section may be made—

(1) in excess of \$45,000,000 to Amtrak; or

(2) in excess of \$80,000,000 for the purposes described in paragraphs (3) and (5) of subsection (a).

(f) AUTHORIZATION OF APPROPRIATIONS.—Out of funds appropriated pursuant to section 114(u) of title 49, United States Code, there shall be made available to the Secretary of Homeland Security to carry out this section—

- (1) \$100,000,000 for fiscal year 2007;
- (2) \$100,000,000 for fiscal year 2008; and
- (3) \$100,000,000 for fiscal year 2009.

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

(g) HIGH HAZARD MATERIALS DEFINED.—In this section, the term "high hazard materials" means quantities of poison inhalation hazard materials, Class 2.3 gases, Class 6.1 materials, and anhydrous ammonia that the Secretary, in consultation with the Secretary of Transportation, determines pose a security risk.

SEC. 206. RAIL SECURITY RESEARCH AND DEVELOPMENT.

(a) ESTABLISHMENT OF RESEARCH AND DEVELOPMENT PROGRAM.—The Secretary of Homeland Security, through the Under Secretary for Science and Technology and the Assistant Secretary of Homeland Security (Transportation Security Administration), in consultation with the Secretary of Transportation shall carry out a research and development program for the purpose of improving freight and intercity passenger rail security that may include research and development projects to—

(1) reduce the vulnerability of passenger trains, stations, and equipment to explosives and hazardous chemical, biological, and radioactive substances;

(2) test new emergency response techniques and technologies;

(3) develop improved freight technologies, including—

- (A) technologies for sealing rail cars;
- (B) automatic inspection of rail cars;
- (C) communication-based train controls; and

(D) emergency response training;

(4) test wayside detectors that can detect tampering with railroad equipment;

(5) support enhanced security for the transportation of hazardous materials by rail, including—

(A) technologies to detect a breach in a tank car or other rail car used to transport hazardous materials and transmit information about the integrity of cars to the train crew or dispatcher;

(B) research to improve tank car integrity, with a focus on tank cars that carry high hazard materials (as defined in section —205(g) of this subtitle; and

(C) techniques to transfer hazardous materials from rail cars that are damaged or otherwise represent an unreasonable risk to human life or public safety; and

(6) other projects that address vulnerabilities and risks identified under section—202.

(b) COORDINATION WITH OTHER RESEARCH INITIATIVES.—The Secretary of Homeland Security shall ensure that the research and development program authorized by this section is coordinated with other research and development initiatives at the Department of Homeland Security and the Department of Transportation. The Secretary shall carry out any research and development project authorized by this section through a reimbursable agreement with the Secretary of Transportation, if the Secretary of Transportation—

(1) is already sponsoring a research and development project in a similar area; or

(2) has a unique facility or capability that would be useful in carrying out the project.

(c) GRANTS AND ACCOUNTABILITY.—To carry out the research and development program, the Secretary may award grants to the entities described in section—205(a) and shall adopt necessary procedures, including audits, to ensure that grants made under this section are expended in accordance with the purposes of this subtitle and the priorities and other criteria developed by the Secretary.

(d) AUTHORIZATION OF APPROPRIATIONS.—Out of funds appropriated pursuant to section 114(u) of title 49, United States Code, there shall be made available to the Secretary of Homeland Security to carry out this section—

- (1) \$35,000,000 for fiscal year 2007;
- (2) \$35,000,000 for fiscal year 2008; and
- (3) \$35,000,000 for fiscal year 2009.

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

SEC. 207. OVERSIGHT AND GRANT PROCEDURES.

(a) SECRETARIAL OVERSIGHT.—The Secretary of Homeland Security may use up to 0.5 percent of amounts made available for capital projects under the Rail Security Act of 2006 to enter into contracts for the review of proposed capital projects and related program management plans and to oversee construction of such projects.

(b) USE OF FUNDS.—The Secretary may use amounts available under subsection (a) of this subsection to make contracts to audit and review the safety, procurement, management, and financial compliance of a recipient of amounts under this subtitle.

(c) PROCEDURES FOR GRANT AWARD.—The Secretary shall, within 90 days after the date of enactment of this Act, prescribe procedures and schedules for the awarding of grants under this subtitle, including application and qualification procedures (including a requirement that the applicant have a security plan), and a record of decision on applicant eligibility. The procedures shall include the execution of a grant agreement between the grant recipient and the Secretary and shall be consistent, to the extent practicable, with the grant procedures established under section 70107 of title 46, United States Code.

SEC. 208. AMTRAK PLAN TO ASSIST FAMILIES OF PASSENGERS INVOLVED IN RAIL PASSENGER ACCIDENTS.

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

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

“(a) SUBMISSION OF PLAN.—Not later than 6 months after the date of the enactment of the Rail Security Act of 2006, Amtrak shall submit to the Chairman of the National Transportation Safety Board, the Secretary of Transportation, and the Secretary of Homeland Security a plan for addressing the needs of the families of passengers involved in any rail passenger accident involving an Amtrak intercity train and resulting in a loss of life.

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

“(1) A process by which Amtrak will maintain and provide to the National Transportation Safety Board and the Secretary of Transportation, immediately upon request, a list (which is based on the best available information at the time of the request) of the names of the passengers aboard the train (whether or not such names have been verified), and will periodically update the list. The plan shall include a procedure, with respect to unreserved trains and passengers

not holding reservations on other trains, for Amtrak to use reasonable efforts to ascertain the number and names of passengers aboard a train involved in an accident.

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

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

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

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

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

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

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

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

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

“(f) FUNDING.—Out of funds appropriated pursuant to section —217(b) of the Rail Security Act of 2006, there shall be made available to the Secretary of Transportation for the use of Amtrak \$500,000 for fiscal year 2007 to carry out this section. Amounts made available pursuant to this subsection shall remain available until expended.”

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

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

SEC. 209. NORTHERN BORDER RAIL PASSENGER REPORT.

Within 180 days after the date of enactment of this Act, the Secretary of Homeland Security, in consultation with the Assistant Secretary of Homeland Security (Transportation Security Administration), the Secretary of Transportation, heads of other ap-

propriate Federal departments, and agencies and the National Railroad Passenger Corporation, shall transmit a report to the Senate Committee on Commerce, Science, and Transportation, the House of Representatives Committee on Transportation and Infrastructure, and the House of Representatives Committee on Homeland Security that contains—

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

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

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

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

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

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

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

(8) an analysis of the feasibility of reinstating in-transit inspections onboard international Amtrak trains.

SEC. 210. RAIL WORKER SECURITY TRAINING PROGRAM.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary of Homeland Security and the Secretary of Transportation, in consultation with appropriate law enforcement, security, and terrorism experts, representatives of railroad carriers, and nonprofit employee organizations that represent rail workers, shall develop and issue detailed guidance for a rail worker security training program to prepare front-line workers for potential threat conditions. The guidance shall take into consideration any current security training requirements or best practices.

(b) PROGRAM ELEMENTS.—The guidance developed under subsection (a) shall include elements, as appropriate to passenger and freight rail service, that address the following:

(1) Determination of the seriousness of any occurrence.

(2) Crew communication and coordination.

(3) Appropriate responses to defend or protect oneself.

(4) Use of protective devices.

(5) Evacuation procedures.

(6) Psychology of terrorists to cope with hijacker behavior and passenger responses.

(7) Situational training exercises regarding various threat conditions.

(8) Any other subject the Secretary considers appropriate.

(c) RAILROAD CARRIER PROGRAMS.—Not later than 90 days after the Secretary of Homeland Security issues guidance under subsection (a) in final form, each railroad carrier shall develop a rail worker security training program in accordance with that guidance and submit it to the Secretary for review. Not later than 30 days after receiving a railroad carrier's program under this subsection, the Secretary shall review the program and transmit comments to the railroad carrier concerning any revisions the Secretary considers necessary for the program to meet the guidance requirements. A railroad carrier shall respond to the Secretary's comments within 30 days after receiving them.

(d) TRAINING.—Not later than 1 year after the Secretary reviews the training program developed by a railroad carrier under this section, the railroad carrier shall complete the training of all front-line workers in accordance with that program. The Secretary shall review implementation of the training program of a representative sample of railroad carriers and report to the Senate Committee on Commerce, Science, and Transportation, the House of Representatives Committee on Transportation and Infrastructure, and the House of Representatives Committee on Homeland Security on the number of reviews conducted and the results. The Secretary may submit the report in both classified and redacted formats as necessary.

(e) UPDATES.—The Secretary shall update the training guidance issued under subsection (a) as appropriate to reflect new or different security threats. Railroad carriers shall revise their programs accordingly and provide additional training to their front-line workers within a reasonable time after the guidance is updated.

(f) FRONT-LINE WORKERS DEFINED.—In this section, the term "front-line workers" means security personnel, dispatchers, train operators, other onboard employees, maintenance and maintenance support personnel, bridge tenders, as well as other appropriate employees of railroad carriers, as defined by the Secretary.

(g) OTHER EMPLOYEES.—The Secretary of Homeland Security shall issue guidance and best practices for a rail shipper employee security program containing the elements listed under subsection (b) as appropriate.

SEC. 211. WHISTLEBLOWER PROTECTION PROGRAM.

(a) IN GENERAL.—Subchapter A of chapter 201 of title 49, United States Code, is amended by inserting after section 20117 the following:

"§ 20118. Whistleblower protection for rail security matters

"(a) DISCRIMINATION AGAINST EMPLOYEE.—No rail carrier engaged in interstate or foreign commerce may discharge a railroad employee or otherwise discriminate against a railroad employee because the employee (or any person acting pursuant to a request of the employee)—

"(1) provided, caused to be provided, or is about to provide or cause to be provided, to the employer or the Federal Government information relating to a reasonably perceived threat, in good faith, to security; or

"(2) provided, caused to be provided, or is about to provide or cause to be provided, testimony before Congress or at any Federal or State proceeding regarding a reasonably perceived threat, in good faith, to security; or

"(3) refused to violate or assist in the violation of any law, rule or regulation related to rail security.

"(b) DISPUTE RESOLUTION.—A dispute, grievance, or claim arising under this section is subject to resolution under section 3 of the Railway Labor Act (45 U.S.C. 153). In

a proceeding by the National Railroad Adjustment Board, a division or delegate of the Board, or another board of adjustment established under section 3 to resolve the dispute, grievance, or claim the proceeding shall be expedited and the dispute, grievance, or claim shall be resolved not later than 180 days after it is filed. If the violation is a form of discrimination that does not involve discharge, suspension, or another action affecting pay, and no other remedy is available under this subsection, the Board, division, delegate, or other board of adjustment may award the employee reasonable damages, including punitive damages, of not more than \$20,000.

"(c) PROCEDURAL REQUIREMENTS.—Except as provided in subsection (b), the procedure set forth in section 42121(b)(2)(B) of this title, including the burdens of proof, applies to any complaint brought under this section.

"(d) ELECTION OF REMEDIES.—An employee of a railroad carrier may not seek protection under both this section and another provision of law for the same allegedly unlawful act of the carrier.

"(e) DISCLOSURE OF IDENTITY.—

"(1) Except as provided in paragraph (2) of this subsection, or with the written consent of the employee, the Secretary of Transportation may not disclose the name of an employee of a railroad carrier who has provided information about an alleged violation of this section.

"(2) The Secretary shall disclose to the Attorney General the name of an employee described in paragraph (1) of this subsection if the matter is referred to the Attorney General for enforcement."

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 201 of title 49, United States Code, is amended by inserting after the item relating to section 20117 the following:

"20118. Whistleblower protection for rail security matters."

SEC. 212. HIGH HAZARD MATERIAL SECURITY THREAT MITIGATION PLANS.

(a) IN GENERAL.—The Secretary of Homeland Security, in consultation with the Assistant Secretary of Homeland Security (Transportation Security Administration) and the Secretary of Transportation, shall require rail carriers transporting a high hazard material, as defined in section 205(g) of this subtitle and of a quantity equal or exceeding the quantities of such material listed in subpart 172.800, title 49, Federal Code of Regulations, to develop a high hazard material security threat mitigation plan containing appropriate measures, including alternative routing and temporary shipment suspension options, to address assessed risks to high consequence targets. The plan, and any information submitted to the Secretary under this section shall be protected as sensitive security information under the regulations prescribed under section 114(s) of title 49, United States Code.

(b) IMPLEMENTATION.—A high hazard material security threat mitigation plan shall be put into effect by a rail carrier for the shipment of high hazardous materials by rail on the rail carrier's right-of-way when the threat levels of the Homeland Security Advisory System are high or severe and specific intelligence of probable or imminent threat exists towards—

(1) a high-consequence target that is within the catastrophic impact zone of a railroad right-of-way used to transport high hazardous material; or

(2) rail infrastructure or operations within the immediate vicinity of a high-consequence target.

(c) COMPLETION AND REVIEW OF PLANS.—

(1) PLANS REQUIRED.—Each rail carrier shall—

(A) submit a list of routes used to transport high hazard materials to the Secretary of Homeland Security within 60 days after the date of enactment of this Act;

(B) develop and submit a high hazard material security threat mitigation plan to the Secretary within 180 days after it receives the notice of high consequence targets on such routes by the Secretary; and

(C) submit any subsequent revisions to the plan to the Secretary within 30 days after making the revisions.

(2) REVIEW AND UPDATES.—The Secretary, with assistance of the Secretary of Transportation, shall review the plans and transmit comments to the railroad carrier concerning any revisions the Secretary considers necessary. A railroad carrier shall respond to the Secretary's comments within 30 days after receiving them. Each rail carrier shall update and resubmit its plan for review not less than every 2 years.

(d) DEFINITIONS.—In this section:

(1) The term "high-consequence target" means a building, buildings, infrastructure, public space, or natural resource designated by the Secretary of Homeland Security that is viable terrorist target of national significance, the attack of which could result in—

(A) catastrophic loss of life; and

(B) significantly damaged national security and defense capabilities; or

(C) national economic harm.

(2) The term "catastrophic impact zone" means the area immediately adjacent to, under, or above an active railroad right-of-way used to ship high hazard materials in which the potential release or explosion of the high hazard material being transported would likely cause—

(A) loss of life; or

(B) significant damage to property or structures.

(3) The term "rail carrier" has the meaning given that term by section 10102(5) of title 49, United States Code.

SEC. 213. MEMORANDUM OF AGREEMENT.

(a) MEMORANDUM OF AGREEMENT.—Similar to the public transportation security annex between the two departments signed on September 8, 2005, within 1 year after the date of enactment of this Act, the Secretary of Transportation and the Secretary of Homeland Security shall execute and develop an annex to the memorandum of agreement between the two departments signed on September 28, 2004, governing the specific roles, delineations of responsibilities, resources and commitments of the Department of Transportation and the Department of Homeland Security, respectively, in addressing railroad transportation security matters, including the processes the departments will follow to promote communications, efficiency, and nonduplication of effort.

(b) RAIL SAFETY REGULATIONS.—Section 20103(a) of title 49, United States Code, is amended by striking "safety" the first place it appears, and inserting "safety, including security,"

SEC. 214. RAIL SECURITY ENHANCEMENTS.

(a) RAIL POLICE OFFICERS.—Section 28101 of title 49, United States Code, is amended—

(1) by inserting "(a) IN GENERAL.—" before "Under"; and

(2) by striking "the rail carrier" each place it appears and inserting "any rail carrier".

(b) REVIEW OF RAIL REGULATIONS.—Within 1 year after the date of enactment of this Act, the Secretary of Transportation, in consultation with the Secretary of Homeland Security and the Assistant Secretary of Homeland Security (Transportation Security Administration), shall review existing rail regulations of the Department of Transportation for the purpose of identifying areas in which those regulations need to be revised to improve rail security.

SEC. 215. PUBLIC AWARENESS.

Not later than 90 days after the date of enactment of this Act, the Secretary of Homeland Security, in consultation with the Secretary of Transportation, shall develop a national plan for public outreach and awareness. Such plan shall be designed to increase awareness of measures that the general public, railroad passengers, and railroad employees can take to increase railroad system security. Such plan shall also provide outreach to railroad carriers and their employees to improve their awareness of available technologies, ongoing research and development efforts, and available Federal funding sources to improve railroad security. Not later than 9 months after the date of enactment of this Act, the Secretary of Homeland Security shall implement the plan developed under this section.

SEC. 216. RAILROAD HIGH HAZARD MATERIAL TRACKING.**(a) WIRELESS COMMUNICATIONS.—**

(1) IN GENERAL.—In conjunction with the research and development program established under section 206 and consistent with the results of research relating to wireless tracking technologies, the Secretary of Homeland Security, in consultation with the Assistant Secretary of Homeland Security (Transportation Security Administration), shall develop a program that will encourage the equipping of rail cars transporting high hazard materials (as defined in section 205(g) of this subtitle) in quantities equal to or greater than the quantities specified in subpart 171.800 of title 49, Code of Federal Regulations, with wireless terrestrial or satellite communications technology that provides—

(A) car position location and tracking capabilities;

(B) notification of rail car depressurization, breach, or unsafe temperature; and

(C) notification of hazardous material release.

(2) COORDINATION.—In developing the program required by paragraph (1), the Secretary shall—

(A) consult with the Secretary of Transportation to coordinate the program with any ongoing or planned efforts for rail car tracking at the Department of Transportation; and

(B) ensure that the program is consistent with recommendations and findings of the Department of Homeland Security's hazardous material tank rail car tracking pilot programs.

(b) FUNDING.—Out of funds appropriated pursuant to section 114(u) of title 49, United States Code, there shall be made available to the Secretary of Homeland Security to carry out this section \$3,000,000 for each of fiscal years 2007, 2008, and 2009.

SEC. 217. AUTHORIZATION OF APPROPRIATIONS.

(a) TRANSPORTATION SECURITY ADMINISTRATION AUTHORIZATION.—Section 114 of title 49, United States Code, is amended by adding at the end thereof the following:

“(u) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Homeland Security, (Transportation Security Administration) for rail security—

“(1) \$206,500,000 for fiscal year 2007;

“(2) \$168,000,000 for fiscal year 2008; and

“(3) \$168,000,000 for fiscal year 2009.”

(b) DEPARTMENT OF TRANSPORTATION.—There are authorized to be appropriated to the Secretary of Transportation to carry out this subtitle and sections 20118 and 24316 of title 49, United States Code, as added by this subtitle—

(1) \$225,000,000 for fiscal year 2007;

(2) \$223,000,000 for fiscal year 2008; and

(3) \$223,000,000 for fiscal year 2009.

Subtitle C—Improved Maritime Security**SEC. 301. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This subtitle may be cited as the “Maritime Security Act of 2006”.

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

Sec.—301. Short title; table of contents.

Sec.—302. Establishment of additional interagency operational centers for port security.

Sec.—303. Area maritime transportation security plan to include salvage response plan.

Sec.—304. Post-incident resumption of trade.

Sec.—305. Assistance for foreign ports.

Sec.—306. Improved data for targeted cargo searches.

Sec.—307. Technical requirements for non-intrusive inspection equipment.

Sec.—308. Random inspection of containers.

Sec.—309. Cargo security.

Sec.—310. Secure systems of international intermodal transportation.

Sec.—311. Port security user fee study.

Sec.—312. Deadline for transportation security cards.

Sec.—313. Port security grants.

Sec.—314. Customs-trade partnership against terrorism security validation program.

Sec.—315. Work stoppages and employee-employer disputes.

Sec.—316. Appeal of denial of waiver for transportation security card.

Sec.—317. Inspection of car ferries entering from Canada.

SEC. 302. ESTABLISHMENT OF ADDITIONAL INTERAGENCY OPERATIONAL CENTERS FOR PORT SECURITY.

(a) IN GENERAL.—In order to improve interagency cooperation, unity of command, and the sharing of intelligence information in a common mission to provide greater protection for port and intermodal transportation systems against acts of terrorism, the Secretary of Homeland Security, acting through the Commandant of the Coast Guard, shall establish interagency operational centers for port security at all high priority ports.

(b) CHARACTERISTICS.—The interagency operational centers shall—

(1) be based on the most appropriate compositional and operational characteristics of the pilot project interagency operational centers for port security in Miami, Florida, Norfolk/Hampton Roads, Virginia, Charleston, South Carolina, and San Diego, California;

(2) be adapted to meet the security needs, requirements, and resources of the individual port area at which each is operating;

(3) provide for participation by representatives of the United States Customs and Border Protection, the Transportation Security Administration, the Department of Defense, and other Federal agencies, as determined to be appropriate by the Secretary of Homeland Security, and State and local law enforcement or port security agencies and personnel; and

(4) be incorporated in the implementation of—

(A) maritime transportation security plans developed under section 70103 of title 46, United States Code;

(B) maritime intelligence activities under section 70113 of that title;

(C) short and long range vessel tracking under sections 70114 and 70115 of that title;

(D) secure transportation systems under section 70116 of that title;

(E) the United States Customs and Border Protection's screening and high-risk cargo inspection programs; and

(F) the transportation security incident response plans required by section 70104 of that title.

(c) 2005 ACT REPORT REQUIREMENT.—Nothing in this section relieves the Commandant of the Coast Guard from compliance with the requirements of section 807 of the Coast Guard and Maritime Transportation Act of 2004. The Commandant shall utilize the information developed in making the report required by that section in carrying out the requirements of this section.

(d) BUDGET AND COST-SHARING ANALYSIS.—Within 180 days after the date of enactment of this Act, the Secretary shall transmit to the Senate Committee on Commerce, Science, and Transportation, the House of Representatives Committee on Transportation and Infrastructure, and the House of Representatives Committee on Homeland Security a proposed budget analysis for implementing subsection (a), including cost-sharing arrangements with other Federal departments and agencies involved in the interagency operation of the centers.

SEC. 303. AREA MARITIME TRANSPORTATION SECURITY PLAN TO INCLUDE SALVAGE RESPONSE PLAN.

Section 70103(b)(2) of title 46, United States Code, is amended—

(1) by striking “and” after the semicolon in subparagraph (E);

(2) by redesignating subparagraph (F) as subparagraph (G); and

(3) by inserting after subparagraph (E) the following:

“(F) include a salvage response plan—

“(i) to identify salvage equipment capable of restoring operational trade capacity; and

“(ii) to ensure that the flow of cargo through United States ports is re-established as efficiently and quickly as possible after a transportation security incident.”

SEC. 304. POST-INCIDENT RESUMPTION OF TRADE.

Section 70103(a)(2)(J) of title 46, United States Code, is amended by inserting after “incident.” the following: “The plan shall provide, to the extent practicable, preference in the reestablishment of the flow of cargo through United States ports after a transportation security incident to—

“(i) vessels that have a vessel security plan approved under subsection (c);

“(ii) vessels manned by individuals who are described in section 70105(b)(2)(B) and who have undergone a background records check under section 70105(d) or who hold transportation security cards issued under section 70105; and

“(iii) vessels on which all the cargo has undergone screening and inspection under standards and procedures established under section 70116(b)(2) of this title.”

SEC. 305. ASSISTANCE FOR FOREIGN PORTS.

(a) IN GENERAL.—Section 70109 of title 46, United States Code, is amended—

(1) by striking the section heading and inserting the following:

“**§ 70109. International cooperation and coordination**”; and

(2) by adding at the end the following:

“(c) FOREIGN ASSISTANCE PROGRAMS.—

“(1) IN GENERAL.—The Secretary, in consultation with the Secretary of Transportation, the Secretary of State, the Secretary of Energy, and the Commandant of the United States Coast Guard, shall identify foreign assistance programs that could facilitate implementation of port security antiterrorism measures in foreign countries. The Secretary shall establish a program to utilize those programs that are capable of implementing port security antiterrorism measures at ports in foreign countries that the Secretary finds, under section 70108, to lack effective antiterrorism measures.

“(2) CARIBBEAN BASIN.—The Secretary, in coordination with the Secretary of State and in consultation with the Organization of

American States and the Commandant of the United States Coast Guard, shall place particular emphasis on utilizing programs to facilitate the implementation of port security antiterrorism measures at the ports located in the Caribbean Basin, as such ports pose unique security and safety threats to the United States due to—

“(A) the strategic location of such ports between South America and United States;

“(B) the relative openness of such ports; and

“(C) the significant number of shipments of narcotics to the United States that are moved through such ports.

“(d) INTERNATIONAL CARGO SECURITY STANDARDS.—The Secretary of State, in consultation with the Secretary acting through the Commissioner of Customs and Border Protection, shall enter into negotiations with foreign governments and international organizations, including the International Maritime Organization, the World Customs Organization, the International Labor Organization, and the International Standards Organization, as appropriate—

“(1) to promote standards for the security of containers and other cargo moving within the international supply chain;

“(2) to encourage compliance with minimum technical requirements for the capabilities of nonintrusive inspection equipment, including imaging and radiation detection devices, established under section 306 of the Maritime Security Act of 2006;

“(3) to implement the requirements of the container security initiative under section 70121; and

“(4) to implement standards and procedures established under section 70116.”

(b) REPORT ON SECURITY AT PORTS IN THE CARIBBEAN BASIN.—Not later than 180 days after the date of enactment of this Act, the Comptroller General shall submit to the Senate Committee on Commerce, Science, and Transportation, the House of Representatives Committee on Transportation and Infrastructure, and the House of Representatives Committee on Homeland Security a report on the security of ports in the Caribbean Basin. The report—

(1) shall include—

(A) an assessment of the effectiveness of the measures employed to improve security at ports in the Caribbean Basin and recommendations for any additional measures to improve such security;

(B) an estimate of the number of ports in the Caribbean Basin that will not be secured by January 1, 2007, and an estimate of the financial impact in the United States of any action taken pursuant to section 70110 of title 46, United States Code, that affects trade between such ports and the United States; and

(C) an assessment of the additional resources and program changes that are necessary to maximize security at ports in the Caribbean Basin; and

(2) may be submitted in both classified and redacted formats.

(c) CONFORMING AMENDMENT.—The chapter analysis for chapter 701 of title 46, United States Code, is amended by striking the item relating to section 70901 and inserting the following:

“70901. *International cooperation and coordination*”.

SEC. 306. IMPROVED DATA FOR TARGETED CARGO SEARCHES.

(a) IN GENERAL.—In order to provide the best possible data for the automated targeting system developed and operated by United States Customs and Border Protection under section 70116(b)(1) of title 46, United States Code, that identifies high-risk cargo for inspection before it is loaded in a

foreign port for shipment to the United States, the Secretary of Homeland Security, acting through the Commissioner of Customs and Border Protection, shall require importers shipping goods to the United States via cargo container to supply entry data not later than 24 hours before loading a container under the advance notification requirements under section 484(a)(2) of the Tariff Act of 1930 (19 U.S.C. 1484(a)(2)).

(b) DEADLINE.—The requirement imposed under subsection (a) shall apply to goods entered after July 1, 2006.

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) There are authorized to be appropriated to the Secretary of Homeland Security to carry out the automated targeting system program to identify high-risk oceanborne container cargo for inspection—

(A) \$30,700,000 for fiscal year 2007;

(B) \$33,200,000 for fiscal year 2008; and

(C) \$35,700,000 for fiscal year 2009.

(2) The amounts authorized by this subsection shall be in addition to any other amounts authorized to be appropriated to carry out that program.

SEC. 307. TECHNICAL REQUIREMENTS FOR NON-INTRUSIVE INSPECTION EQUIPMENT.

Within 2 years after the date of enactment of this Act, the Commissioner of Customs and Border Protection, in consultation with the National Institute of Science and Technology, shall initiate a rulemaking to establish minimum technical requirements for the capabilities of nonintrusive inspection equipment, including imaging and radiation detection devices, that help ensure that all equipment used can detect risks and threats as determined appropriate by the Secretary, while considering the need not to endorse specific companies or to create sovereignty conflicts with participating countries.

SEC. 308. RANDOM INSPECTION OF CONTAINERS.

Within 1 year after the date of enactment of this Act, the Commissioner of Customs and Border Protection shall develop and implement a plan, utilizing best practices for empirical scientific research design and random sampling standards for random physical inspection of shipping containers in addition to any targeted or pre-shipment inspection of such containers required by law or regulation or conducted under any other program conducted by the Commissioner. Nothing in this section shall be construed to mean that implementation of the random sampling plan would preclude the additional physical inspection of shipping containers not inspected pursuant to the plan.

SEC. 309. CARGO SECURITY.

(a) IN GENERAL.—Chapter 701 of title 46, United States Code, is amended—

(1) by redesignating the second section 70118 (relating to withholding of clearance), as added by section 802(a)(2) of the Coast Guard and Maritime Transportation Act of 2004, as section 70119;

(2) by redesignating the first section 70119 (relating to enforcement by State and local officers), as added by section 801(a) of the Coast Guard and Maritime Transportation Act of 2004, as section 70120;

(3) by redesignating the second section 70119 (relating to civil penalty), as redesignated by section 802(a)(1) of the Coast Guard and Maritime Transportation Act of 2004, as section 70122; and

(4) by inserting after section 70120, as redesignated by paragraph (2), the following:

“§ 70121. Container security initiative

“(a) IN GENERAL.—Pursuant to the standards established under subsection (b)(1) of section 70116—

“(1) the Secretary, through the Commissioner of Customs and Border Protection, shall issue regulations to—

“(A) evaluate and screen cargo documents prior to loading in a foreign port for shipment to the United States, either directly or via a foreign port; and

“(B) inspect high-risk cargo in a foreign port intended for shipment to the United States by physical examination or nonintrusive examination by technological means; and

“(2) the Commissioner of Customs and Border Protection shall execute inspection and screening protocols with authorities in foreign ports to ensure that the standards and procedures promulgated under paragraph (1) are implemented in an effective manner.

“(b) EXTENSION OF CONTAINER SECURITY INITIATIVE TO OTHER PORTS.—The Secretary, through the Commissioner of Customs and Border Protection, may designate foreign seaports under this section if, with respect to any such seaport, the Secretary determines that—

“(1) the seaport—

“(A) presents a significant level of risk;

“(B) is a significant port or origin or transshipment, in terms of volume or value, for cargo being imported to the United States; and

“(C) is potentially capable of validating a secure system of transportation pursuant to section 70116; and

“(2) the Department of State and representatives of the country with jurisdiction over the port have completed negotiations to ensure compliance with the requirements of the container security initiative.

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

“(1) \$142,000,000 for fiscal year 2007;

“(2) \$144,000,000 for fiscal year 2008; and

“(3) \$146,000,000 for fiscal year 2009.”

(b) CONFORMING AMENDMENTS.—

(1) The chapter analysis for chapter 701 of title 46, United States Code, is amended by striking the items following the item relating to section 70116 and inserting the following:

“70117. *In rem liability for civil penalties and certain costs*

“70118. *Firearms, arrests, and seizure of property*

“70119. *Withholding of clearance*

“70120. *Enforcement by State and local officers*

“70121. *Container security initiative*

“70122. *Civil penalty*”.

(2) Section 70117(a) of title 46, United States Code, is amended by striking “section 70120” and inserting “section 70122”.

(3) Section 70119(a) of such title, as redesignated by subsection (a)(1) of this section, is amended—

(A) by striking “under section 70119,” and inserting “under section 70122.”; and

(B) by striking “under section 70120,” and inserting “under that section.”

(4) Section 111 of the Maritime Transportation Security Act of 2002 is repealed.

SEC. 310. SECURE SYSTEMS OF INTERNATIONAL INTERMODAL TRANSPORTATION.

Section 70116 of title 46, United States Code, is amended—

(1) by striking “transportation.” in subsection (a) and inserting “transportation—

“(1) to ensure the security and integrity of shipments of goods to the United States from the point at which such goods are initially packed or loaded into a cargo container for international shipment until they reach their ultimate destination; and

“(2) to facilitate the movement of such goods through the entire supply chain through an expedited security and clearance program.”; and

(2) by striking subsection (b) and inserting the following:

“(b) PROGRAM ELEMENTS.—In establishing and conducting the program under subsection (a) the Secretary, acting through the Commissioner of Customs and Border Protection, shall—

“(1) establish standards and procedures for verifying, at the point at which goods are placed in a cargo container for shipping, that the container is free of unauthorized hazardous chemical, biological, or nuclear material and for securely sealing such containers after the contents are so verified;

“(2) establish standards and procedures for screening and evaluating cargo prior to loading in a foreign port for shipment to the United States either directly or via a foreign port;

“(3) establish standards and procedures for securing cargo and monitoring that security while in transit;

“(4) develop performance standards to enhance the physical security of shipping containers, including performance standards for seals and locks;

“(5) establish standards and procedures for allowing the United States Government to ensure and validate compliance with this program; and

“(6) incorporate any other measures the Secretary considers necessary to ensure the security and integrity of international intermodal transport movements.

“(c) BENEFITS FROM PARTICIPATION.—The Commissioner of Customs and Border Protection may provide expedited clearance of cargo to an entity that—

“(1) meets or exceeds the standards established under subsection (b); and

“(2) certifies the security of its supply chain not less often than once every 2 years to the Secretary.”.

SEC. 311. PORT SECURITY USER FEE STUDY.

The Secretary of Homeland Security shall conduct a study of the need for, and feasibility of, establishing a system of oceanborne and port-related intermodal transportation user fees that could be imposed and collected as a dedicated revenue source, on a temporary or continuing basis, to provide necessary funding for the improvement and maintenance of enhanced port security. Within 1 year after date of enactment of this Act, the Secretary shall submit a report to the Senate Committee on Commerce, Science, and Transportation, the House of Representatives Committee on Transportation and Infrastructure, and the House of Representatives Committee on Homeland Security that—

(1) contains the Secretary’s findings, conclusions, and recommendations (including legislative recommendations if appropriate); and

(2) includes an assessment of the annual amount of customs fees and duties collected through oceanborne and port-related transportation and the amount and percentage of such fees and duties that are dedicated to improve and maintain security.

SEC. 312. DEADLINE FOR TRANSPORTATION SECURITY CARDS.

The Secretary shall issue a final rule under section 70105 of title 46, United States Code, no later than January 1, 2007.

SEC. 313. PORT SECURITY GRANTS.

(a) BASIS FOR GRANTS.—Section 70107(a) of title 46, United States Code, is amended by striking “for making a fair and equitable allocation of funds” and inserting “based on risk and vulnerability”.

(b) ELIGIBLE COSTS.—Section 70107(b) of title 46, United States Code, is amended by striking paragraph (1) and redesignating paragraphs (2) through (4) as paragraphs (1) through (3), respectively.

(c) LETTERS OF INTENT.—Section 70107(e) of title 46, United States Code, is amended by adding at the end the following:

“(5) LETTERS OF INTENT.—The Secretary may execute letters of intent to commit funding to port sponsors from the Fund.”.

SEC. 314. CUSTOMS-TRADE PARTNERSHIP AGAINST TERRORISM SECURITY VALIDATION PROGRAM.

(a) IN GENERAL.—Chapter 701 of title 46, United States Code, as amended by section —309 of this subtitle, is further amended—

(1) by redesignating section 70122 (as redesignated by section —309(a)(3) of this subtitle) as section 70123; and

(2) by inserting after section 70121 the following:

“§ 70122. Customs-Trade Partnership Against Terrorism validation program.

“(a) VALIDATION; RECORDS MANAGEMENT.—The Secretary of Homeland Security, through the Commissioner of Customs and Border Protection, shall issue regulations—

“(1) to strengthen the validation process to verify that security programs of members of the Customs-Trade Partnership Against Terrorism have been implemented and that the program benefits should continue by providing appropriate guidance to specialists conducting such validations, including establishing what level of review is adequate to determine whether member security practices are reliable, accurate, and effective; and

“(2) to implement a records management system that documents key decisions and significant operational events accurately and in a timely manner, including a reliable system for—

“(A) documenting and maintaining records of all decisions in the application through validation processes, including documentation of the objectives, scope, methodologies, and limitations of validations; and

“(B) tracking member status.

“(b) HUMAN CAPITAL PLAN.—Within 6 months after the date of enactment of the Maritime Security Act of 2006, the Secretary shall complete a human capital plan, that clearly describes how the Customs-Trade Partnership Against Terrorism program will recruit, train, and retain sufficient staff to conduct the work of the program successfully, including reviewing security profiles, vetting, and conducting validations to mitigate program risk.”.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Homeland Security to carry out section 70122 of title 49, United States Code, not to exceed—

- (1) \$60,000,000 for fiscal year 2007;
- (2) \$65,000,000 for fiscal year 2008; and
- (3) \$72,000,000 for fiscal year 2009.

(c) CONFORMING AMENDMENTS.—

(1) The chapter analysis for chapter 701 of title 46, United States Code, as amended by section—309(b) of this subtitle, is further amended by striking the item relating to section 70122 and inserting the following:

“70122. *Customs-Trade Partnership Against Terrorism validation program*
“70123. *Civil penalty*”.

(2) Section 70117(a) and 70119(a) of title 46, United States Code, as amended by section —309(b)(2) and (3), respectively, of this Act, are each amended by striking “section 70122,” and inserting “section 70123.”.

SEC. 315. WORK STOPPAGES AND EMPLOYEE-EMPLOYER DISPUTES.

Section 70101(6) is amended by inserting after “area.” the following: “In this paragraph, the term ‘economic disruption’ does not include a work stoppage or other non-violent employee-related action resulting from an employee-employer dispute.”.

SEC. 316. APPEAL OF DENIAL OF WAIVER FOR TRANSPORTATION SECURITY CARD.

Section 70105(c)(3) of title 46, United States Code, is amended by inserting “or a waiver under paragraph (2)” after “card”.

SEC. 317. INSPECTION OF CAR FERRIES ENTERING FROM CANADA.

Within 120 days after the date of enactment of this Act, the Secretary of Homeland Security, acting through the Commissioner of Customs and Border Protection, in coordination with the Secretary of State, and their Canadian counterparts, shall develop a plan for the inspection of passengers and vehicles before such passengers board, or such vehicles are loaded onto, a ferry bound for a United States port.

SA 3383. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . JUDICIAL REVIEW OF VISA REVOCATION.

(a) IN GENERAL.—Section 221(i) of the Immigration and Nationality Act (8 U.S.C. 1201(i)) is amended by amending the last sentence to read as follows: “Notwithstanding any other provision of law (statutory or non-statutory), 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.”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply to visa revocations effected before, on, or after such date.

SA 3384. Mr. GRASSLEY (for himself, Mr. CHAMBLISS, Mr. HARKIN, and Mr. REID) submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . ADDRESSING POVERTY IN MEXICO.

(a) FINDINGS.—

Whereas there is a strong correlation between economic freedom and economic prosperity;

Whereas trade policy, fiscal burden of government, government intervention in the economy, monetary policy, capital flows and foreign investment, banking and finance, wages and prices, property rights, regulation, and informal market activity are key factors in economic freedom;

Whereas poverty in Mexico, including rural poverty, can be mitigated through strengthened economic freedom within Mexico;

Whereas strengthened economic freedom in Mexico can be a major influence in mitigating illegal immigration;

Whereas advancing economic freedom within Mexico is an important part of any comprehensive plan to understanding the sources of poverty and the path to economic prosperity;

(b) IN GENERAL.—The Secretary of State may award a grant to a land grant university in the United States to establish one national program for a broad-based university Mexican rural poverty program.

(c) FUNCTIONS.—The national program shall:

(1) Pair a U.S. land grant university with the lead Mexican public university in each of

Mexico's 31 states to provide state-level coordination of rural poverty programs.

(2) Establish and coordinate relationships and programmatic ties between U.S. universities and Mexican universities to address the issue of Mexican rural poverty.

(3) Establish and coordinate ties with key leaders in Mexico and the United States to explore how rural poverty drives illegal immigration of Mexicans into the United States; and

(4) Address immigration and border security concerns through a university-based, binational approach for long-term institutional change.

(d) USE OF FUNDS.—

1. IN GENERAL.—Grants awarded under this section shall be used—

(A) for education, training, technical assistance, and all related costs (including personnel and equipment) incurred by the grantee in implementing a program under this Act;

(B) to establish a program administrative structure in the United States.

(C) No funds can be used for the activities, responsibilities, or related costs incurred by entities in Mexico.

(e) AUTHORIZATION OF FUNDS.—

1. Such funds as deemed necessary by the Secretary shall be used for the execution of this program.

SA 3385. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____ . RESIDENCY REQUIREMENTS FOR CERTAIN ALIEN SPOUSES.

Notwithstanding any other provision of law, for purposes of determining eligibility for naturalization under section 319 of the Immigration and Nationality Act with respect to an alien spouse who is married to a citizen spouse who was stationed abroad on orders from the United States Government for a period of not less than 1 year and reassigned to the United States thereafter, the following rules shall apply:

(1) The citizen spouse shall be treated as regularly scheduled abroad without regard to whether the citizen spouse is reassigned to duty in the United States.

(2) Any period of time during which the alien spouse is living abroad with his or her citizen spouse shall be treated as residency within the United States for purposes of meeting the residency requirements under section 319 of the Immigration and Nationality Act, even if the citizen spouse is reassigned to duty in the United States at the time the alien spouse files an application for naturalization.

SA 3386. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 6, beginning on line 9, strike all through page 294, line 4, and insert the following:

TITLE I—BORDER ENFORCEMENT
Subtitle A—Assets for Controlling United States Borders

SEC. 101. ENFORCEMENT PERSONNEL.

(a) ADDITIONAL PERSONNEL.—

(1) PORT OF ENTRY INSPECTORS.—In each of the fiscal years 2007 through 2011, the Sec-

retary shall, subject to the availability of appropriations, increase by not less than 500 the number of positions for full-time active duty port of entry inspectors and provide appropriate training, equipment, and support to such additional inspectors.

(2) INVESTIGATIVE PERSONNEL.—

(A) IMMIGRATION AND CUSTOMS ENFORCEMENT INVESTIGATORS.—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) 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 (1) of subsection (a).

(2) BORDER PATROL AGENTS.—Section 5202 of the Intelligence Reform and Terrorism Prevention Act of 2004 (118 Stat. 3734) is amended to read as follows:

‘‘SEC. 5202. INCREASE IN FULL-TIME BORDER PATROL AGENTS.

‘‘(a) ANNUAL INCREASES.—The Secretary of Homeland Security shall, subject to the availability of appropriations for such purpose, increase the number of positions for full-time active-duty border patrol agents within the Department of Homeland Security (above the number of such positions for which funds were appropriated for the preceding fiscal year), by—

- ‘‘(1) 2,000 in fiscal year 2006;
- ‘‘(2) 2,400 in fiscal year 2007;
- ‘‘(3) 2,400 in fiscal year 2008;
- ‘‘(4) 2,400 in fiscal year 2009;
- ‘‘(5) 2,400 in fiscal year 2010; and
- ‘‘(6) 2,400 in fiscal year 2011;

‘‘(b) NORTHERN BORDER.—In each of the fiscal years 2006 through 2011, in addition to the border patrol agents assigned along the northern border of the United States during the previous fiscal year, the Secretary shall assign a number of border patrol agents equal to not less than 20 percent of the net increase in border patrol agents during each such fiscal year.

‘‘(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for each of fiscal years 2007 through 2011 to carry out this section.’’.

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 bor-

ders 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 10 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, privacy 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 inter-

national land and maritime borders of the United States; and

(2) appropriate private sector entities, non-governmental 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.

(d) **LIMITATIONS ON ASSISTANCE.**—Any funds made available to carry out this section shall be subject to the limitations contained in section 551 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act of 2006 (Public Law 109-102; 119 Stat. 2218).

SEC. 115. COMBATING HUMAN SMUGGLING.

(a) **REQUIREMENT FOR PLAN.**—The Secretary shall develop and implement a plan to improve coordination between the Bureau of Immigration and Customs Enforcement and the Bureau of Customs and Border Protection of the Department and any other Federal, State, local, or tribal authorities, as determined appropriate by the Secretary, to improve coordination efforts to combat human smuggling.

(b) **CONTENT.**—In developing the plan required by subsection (a), the Secretary shall consider—

(1) the interoperability of databases utilized to prevent human smuggling;

(2) adequate and effective personnel training;

(3) methods and programs to effectively target networks that engage in such smuggling;

(4) effective utilization of—

(A) visas for victims of trafficking and other crimes; and

(B) investigatory techniques, equipment, and procedures that prevent, detect, and prosecute international money laundering and other operations that are utilized in smuggling;

(5) joint measures, with the Secretary of State, to enhance intelligence sharing and cooperation with foreign governments whose citizens are preyed on by human smugglers; and

(6) other measures that the Secretary considers appropriate to combating human smuggling.

(c) **REPORT.**—Not later than 1 year after implementing the plan described in subsection (a), the Secretary shall submit to Congress a report on such plan, including any recommendations for legislative action to improve efforts to combating human smuggling.

(d) **SAVINGS PROVISION.**—Nothing in this section may be construed to provide additional authority to any State or local entity to enforce Federal immigration laws.

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 non-immigrant 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 (1)—

(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;

(8) an assessment of the effect of such a system on Indian reservations and units of the National Park System; and

(9) an assessment of the necessity of constructing such a system after the implementation of provisions of this Act relating to guest workers, visa reform, and interior and worksite enforcement, and the likely effect of such provisions on undocumented immigration and the flow of illegal immigrants across the international border of the United States;

(10) an assessment of the impact of such a system on diplomatic relations between the United States and Mexico, Central America, and South America, including the likely impact of such a system on existing and potential areas of bilateral and multilateral cooperative enforcement efforts;

(11) an assessment of the impact of such a system on the quality of life within border communities in the United States and Mexico, including its impact on noise and light pollution, housing, transportation, security, and environmental health;

(12) an assessment of the likelihood that such a system would lead to increased violations of the human rights, health, safety, or civil rights of individuals in the region near the southern international border of the United States, regardless of the immigration status of such individuals;

(13) an assessment of the effect such a system would have on violence near the southern international border of the United States; and

(14) an assessment of the effect of such a system on the vulnerability of the United States to infiltration by terrorists or other agents intending to inflict direct harm on the United States.

(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 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 than 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.

SEC. 131. MANDATORY DETENTION FOR ALIENS APPREHENDED AT OR BETWEEN PORTS OF ENTRY.

(a) IN GENERAL.—Beginning on October 1, 2007, an alien (other than a national of Mex-

ico) 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 and 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, 2007, 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) does 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. 132. EVASION OF INSPECTION OR VIOLATION OF ARRIVAL, REPORTING, ENTRY, OR CLEARANCE REQUIREMENTS.

(a) IN GENERAL.—Chapter 27 of title 18, United States Code, is amended by adding at the end the following:

“§ 554. Evasion of inspection or during violation of arrival, reporting, entry, or clearance requirements

“(a) PROHIBITION.—A person shall be punished as described in subsection (b) if such person attempts to elude or eludes customs, immigration, or agriculture inspection or fails to stop at the command of an officer or employee of the United States charged with enforcing the immigration, customs, or other laws of the United States at a port of entry or customs or immigration checkpoint;

“(b) PENALTIES.—A person who commits an offense described in subsection (a) shall be—

- “(1) fined under this title;
- “(2)(A) imprisoned for not more than 3 years, or both;
- “(B) imprisoned for not more than 10 years, or both, if in commission of this violation, attempts to inflict or inflicts bodily injury (as defined in section 1365(g) of this title); or
- “(C) imprisoned for any term of years or for life, or both, if death results, and may be sentenced to death; or
- “(3) both fined and imprisoned under this subsection.

“(c) CONSPIRACY.—If 2 or more persons conspire to commit an offense described in subsection (a), and 1 or more of such persons do any act to effect the object of the conspiracy, each shall be punishable as a principal, except that the sentence of death may not be imposed.

“(d) PRIMA FACIE EVIDENCE.—For the purposes of seizure and forfeiture under applicable law, in the case of use of a vehicle or other conveyance in the commission of this offense, or in the case of disregarding or disobeying the lawful authority or command of any officer or employee of the United States under section 111(b) of this title, such conduct shall constitute prima facie evidence of smuggling aliens or merchandise.”

(b) CONFORMING AMENDMENT.—The table of sections for chapter 27 of title 18, United States Code, is amended by inserting at the end:

“554. Evasion of inspection or during violation of arrival, reporting, entry, or clearance requirements.”

(c) FAILURE TO OBEY BORDER ENFORCEMENT OFFICERS.—Section 111 of title 18, United States Code, is amended by inserting after subsection (b) the following:

“(c) FAILURE TO OBEY LAWFUL ORDERS OF BORDER ENFORCEMENT OFFICERS.—Whoever willfully disregards or disobeys the lawful authority or command of any officer or employee of the United States charged with enforcing the immigration, customs, or other laws of the United States while engaged in, or on account of, the performance of official duties shall be fined under this title or imprisoned for not more than 5 years, or both.”

Subtitle D—Border Tunnel Prevention Act
SEC. 141. SHORT TITLE.

This subtitle may be cited as the “Border Tunnel Prevention Act”.

SEC. 142. CONSTRUCTION OF BORDER TUNNEL OR PASSAGE.

(a) IN GENERAL.—Chapter 27 of title 18, United States Code, is amended by adding at the end the following:

“§ 554. Border tunnels and passages

“(a) Any person who knowingly constructs or finances the construction of a tunnel or subterranean passage that crosses the international border between the United States and another country, other than a lawfully authorized tunnel or passage known to the Secretary of Homeland Security and subject to inspection by the Bureau of Immigration and Customs Enforcement, shall be fined under this title and imprisoned for not more than 20 years.

“(b) Any person who knows or recklessly disregards the construction or use of a tunnel or passage described in subsection (a) on land that the person owns or controls shall be fined under this title and imprisoned for not more than 10 years.

“(c) Any person who uses a tunnel or passage described in subsection (a) to unlawfully smuggle an alien, goods (in violation of section 545), controlled substances, weapons of mass destruction (including biological weapons), or a member of a terrorist organization (as defined in section 212(a)(3)(B)(vi) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(vi))) shall be subject to a maximum term of imprisonment that is twice the maximum term of imprisonment that would have otherwise been applicable had the unlawful activity not made use of such a tunnel or passage.”

(b) CLERICAL AMENDMENT.—The table of sections for chapter 27 of title 18, United States Code, is amended by adding at the end the following:

“Sec. 554. Border tunnels and passages.”

(c) CRIMINAL FORFEITURE.—Section 982(a)(6) of title 18, United States Code, is amended by inserting “554,” before “1425.”

SEC. 143. DIRECTIVE TO THE UNITED STATES SENTENCING COMMISSION.

(a) IN GENERAL.—Pursuant to its authority under section 994 of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission shall promulgate or amend sentencing guidelines to provide for increased penalties for persons convicted of offenses described in section 554 of title 18, United States Code, as added by section 132.

(b) REQUIREMENTS.—In carrying out this section, the United States Sentencing Commission shall—

(1) ensure that the sentencing guidelines, policy statements, and official commentary reflect the serious nature of the offenses described in section 554 of title 18, United States Code, and the need for aggressive and appropriate law enforcement action to prevent such offenses;

(2) provide adequate base offense levels for offenses under such section;

(3) account for any aggravating or mitigating circumstances that might justify exceptions, including—

(A) the use of a tunnel or passage described in subsection (a) of such section to facilitate other felonies; and

(B) the circumstances for which the sentencing guidelines currently provide applicable sentencing enhancements;

(4) ensure reasonable consistency with other relevant directives, other sentencing guidelines, and statutes;

(5) make any necessary and conforming changes to the sentencing guidelines and policy statements; and

(6) ensure that the sentencing guidelines adequately meet the purposes of sentencing set forth in section 3553(a)(2) of title 18, United States Code.

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 any act or condition constituting a ground for inadmissibility, excludability, or removal occurring or existing 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”; and

(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 this paragraph.

“(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 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)”;

(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).”;

(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.

(a) DEFINITION OF 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 (except for the provision providing an effective date for section 203 of the Comprehensive Reform Act of 2006), 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 (A), by striking “murder, rape, or sexual abuse of a minor;” and inserting “murder, rape, or sexual abuse of a minor, whether or not the minority of the victim is established by evidence contained in the record of conviction or by evidence extrinsic to the record of conviction;”;

(3) in subparagraph (N), by striking “paragraph (1)(A) or (2) of”;

(4) 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”;

(5) 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”;

(6) by striking the undesignated matter following subparagraph (U).

(b) EFFECTIVE DATE AND APPLICATION.—

(1) IN GENERAL.—The amendments made by subsection (a) shall—

(A) take effect on the date of the enactment of this Act; and

(B) apply to any act that occurred on or after the date of the enactment of this Act.

(2) APPLICATION OF IRRAIRA AMENDMENTS.—The amendments to section 101(a)(43) of the Immigration and Nationality Act made by section 321 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104-208; 110 Stat. 3009-627) shall continue to apply, whether the conviction was entered before, on, or after September 30, 1996.

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”;

(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”;

(2) by adding at the end the following: “Except that in any proceeding, other than a proceeding under section 340, the court shall review for substantial evidence the administrative record and findings of the Secretary of Homeland Security regarding whether an alien is a person of good moral character, understands and is attached to the principles of the Constitution of the United States, or is

well disposed to the good order and happiness of the United States. The petitioner shall have the burden of showing that the Secretary’s denial of the application was contrary to law.”.

(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. The Secretary shall notify the applicant when such examinations and interviews have been completed. Such district court shall only have jurisdiction to review the basis for delay and remand the matter, with appropriate instructions, to the Secretary 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; and

(2) shall apply to any act that occurred on or 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”;

(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).”;

(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)).”;

(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 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 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 or organization, not previously convicted of a violation of this section, to provide an alien who is present in the United States with humanitarian assistance, including medical care, housing, counseling, victim services, and food, or to transport the alien to a location where such assistance can be rendered.

“(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 as 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”;

(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.

(a) IN GENERAL.—Section 275 (8 U.S.C. 1325) is amended to read as follows:

“SEC. 275. ILLEGAL ENTRY.

“(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 (including failing to stop at the command of such officer), or a customs or agriculture inspection at a port of entry; or

“(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 (including such representation or concealment in the context of arrival, reporting, entry, or clearance requirements of the customs law, immigration laws, agriculture laws, or shipping laws).

“(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.

“(5) ATTEMPT.—Whoever attempts to commit any offense under this section shall be punished in the same manner as for a completion of such offense.

“(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.”

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 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) PASSPORT, VISA, AND IMMIGRATION FRAUD.—

(1) IN GENERAL.—Chapter 75 of title 18, United States Code, is amended to read as follows:

“CHAPTER 75—PASSPORT, VISA, AND IMMIGRATION FRAUD

“Sec.

“1541. Trafficking in passports.

“1542. False statement in an application for a passport.

“1543. Forgery and unlawful production of a passport.

“1544. Misuse of a passport.

“1545. Schemes to defraud aliens.

“1546. Immigration and visa fraud.

“1547. Marriage fraud.

“1548. Attempts and conspiracies.

“1549. Alternative penalties for certain offenses.

“1550. Seizure and forfeiture.

“1551. Additional jurisdiction.

“1552. Additional venue.

“1553. Definitions.

“1554. Authorized law enforcement activities.

“1555. Exception for refugees and asylees.

“§ 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).

“§ 1555. Exception for refugees, asylees, and other vulnerable persons

“(a) IN GENERAL.—If a person believed to have violated section 1542, 1544, 1546, or 1548 while attempting to enter the United States, without delay, indicates an intention to apply for asylum under section 208 or 241(b)(3) of the Immigration and Nationality Act (8 U.S.C. 1158 and 1231), or for relief under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (in accordance with section 208.17 of title 8, Code of Federal Regula-

tions), or under section 101(a)(15)(T), 101(a)(15)(U), 101(a)(27)(J), 101(a)(51), 216(c)(4)(C), 240A(b)(2), or 244(a)(3) (as in effect prior to March 31, 1997) of such Act, or a credible fear of persecution or torture—

“(1) the person shall be referred to an appropriate Federal immigration official to review such claim and make a determination if such claim is warranted;

“(2) if the Federal immigration official determines that the person qualifies for the claimed relief, the person shall not be considered to have violated any such section; and

“(3) if the Federal immigration official determines that the person does not qualify for the claimed relief, the person shall be referred to an appropriate Federal official for prosecution under this chapter.

“(b) SAVINGS PROVISION.—Nothing in this section shall be construed to diminish, increase, or alter the obligations of refugees or the United States under article 31(1) of the Convention Relating to the Status of Refugees, done at Geneva July 28, 1951 (as made applicable by the Protocol Relating to the Status of Refugees, done at New York January 31, 1967 (19 UST 6223)).”

(2) 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”.

(b) PROTECTION FOR LEGITIMATE REFUGEES AND ASYLUM SEEKERS.—Section 208 (8 U.S.C. 1158) is amended by adding at the end the following:

“(e) PROTECTION FOR LEGITIMATE REFUGEES AND ASYLUM SEEKERS.—The Attorney General, in consultation with the Secretary of Homeland Security, shall develop binding prosecution guidelines for federal prosecutors to ensure that any prosecution of an alien seeking entry into the United States by fraud is consistent with the written terms and limitations of Article 31(1) of the Convention Relating to the Status of Refugees, done at Geneva July 28, 1951 (as made applicable by the Protocol Relating to the Status of Refugees, done at New York January 31, 1967 (19 UST 6223)).”

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, with respect to conduct occurring on or after that date.

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)”;

(vi) in subparagraph (E), as redesignated, by striking “subparagraph (B)” each place that term appears and inserting “subparagraph (C)”;

(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 immigra-

tion 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.”;

(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 vol-

untary 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”;

(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”;

(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 entered on or after such date.

SEC. 213. PROHIBITION OF THE SALE OF FIRE-ARMS 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. CONSTRUCTION.

(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)(ii), 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 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 shall provide sufficient transportation and officers to take illegal aliens apprehended by State and local law enforcement officers into custody for processing at a detention facility operated by the Department.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for each of fiscal years 2007 through 2011 to carry out this section.

SEC. 220. 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. 221. 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. 222. 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. 223. 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 adding 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 residen-

tial 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. 224. 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. 225. REMOVAL OF DRUNK DRIVERS.

(a) IN GENERAL.—Section 101(a)(43)(F) (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 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. 226. MEDICAL SERVICES IN UNDERSERVED AREAS.

Section 220(c) of the Immigration and Nationality Technical Corrections Act of 1994 (8 U.S.C. 1182 note) is amended by striking “and before June 1, 2006.”

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—

“(A) has not been lawfully admitted to the United States for permanent residence; and

“(B) 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”;

(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 (vii), any”;

(2) in subparagraph (A), by inserting after clause (vi) the following:

“(vii) Clause (i) shall not apply to a citizen of the United States who has been convicted of an offense described in subparagraph (A), (I), or (K) of section 101(a)(43), 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 subparagraph (A), (I), or (K) of section 101(a)(43), 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)(vii))” 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 section 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—

“(i) take the illegal alien into the custody of the Federal Government not later than 72 hours after—

“(I) the conclusion of the State charging process or dismissal process; or

“(II) the illegal alien is apprehended, if no State charging or dismissal process is required; 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, 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—

“(1) aliens incarcerated in a Federal facility pursuant to this section are held in facilities which provide an appropriate level of security; and

“(2) if 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 if 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. 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. 231. 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; and

(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-day 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. 232. COOPERATIVE ENFORCEMENT PROGRAMS.

Not later than 2 years after the date of the enactment of this Act, the Secretary shall negotiate and execute, where practicable, a cooperative enforcement agreement described in section 287(g) of the Immigration and Nationality Act (8 U.S.C. 1357(g)) with at least 1 law enforcement agency in each State, to train law enforcement officers in the detection and apprehension of individuals engaged in transporting, harboring, sheltering, or encouraging aliens in violation of section 274 of such Act (8 U.S.C. 1324).

SEC. 233. INCREASE OF FEDERAL DETENTION SPACE AND THE UTILIZATION OF FACILITIES IDENTIFIED FOR CLOSURES AS A RESULT OF THE DEFENSE BASE CLOSURE REALIGNMENT ACT OF 1990.

(a) CONSTRUCTION OR ACQUISITION OF DETENTION FACILITIES.—

(1) IN GENERAL.—The Secretary shall construct or acquire, in addition to existing facilities for the detention of aliens, 20 detention facilities in the United States that have the capacity to detain a combined total of not less than 10,000 individuals at any time for aliens detained pending removal or a decision on removal of such aliens from the United States.

(2) DETERMINATION OF LOCATION.—The location of any detention facility built or acquired in accordance with this subsection shall be determined with the concurrence of the Secretary by the senior officer responsible for Detention and Removal Operations in the Department. The detention facilities shall be located so as to enable the officers and employees of the Department to increase to the maximum extent practicable the annual rate and level of removals of illegal aliens from the United States.

(3) USE OF INSTALLATIONS UNDER BASE CLOSURE LAWS.—In acquiring detention facilities under this subsection, the Secretary shall consider the transfer of appropriate portions of military installations approved for closure or realignment under the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note) for use in accordance with paragraph (1).

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 241(g)(1) (8 U.S.C. 1231(g)(1)) is amended by striking “may expend” and inserting “shall expend”.

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

SEC. 234. DETERMINATION OF IMMIGRATION STATUS OF INDIVIDUALS CHARGED WITH FEDERAL OFFENSES.

(a) RESPONSIBILITY OF UNITED STATES ATTORNEYS.—Beginning not later than 2 years after the date of the enactment of this Act, the office of the United States Attorney that is prosecuting a criminal case in a Federal court—

(1) shall determine, not later than 30 days after filing the initial pleadings in the case, whether each defendant in the case is lawfully present in the United States (subject to subsequent legal proceedings to determine otherwise);

(2)(A) if the defendant is determined to be an alien lawfully present in the United States, shall notify the court in writing of the determination and the current status of the alien under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.); and

(B) if the defendant is determined not to be lawfully present in the United States, shall notify the court in writing of the determination, the defendant’s alien status, and, to the extent possible, the country of origin or legal residence of the defendant; and

(3) ensure that the information described in paragraph (2) is included in the case file and the criminal records system of the office of the United States attorney.

(b) GUIDELINES.—A determination made under subsection (a)(1) shall be made in accordance with guidelines of the Executive Office for Immigration Review of the Department of Justice.

(c) RESPONSIBILITIES OF FEDERAL COURTS.—

(1) MODIFICATIONS OF RECORDS AND CASE MANAGEMENT SYSTEMS.—Not later than 2 years after the date of the enactment of this Act, all Federal courts that hear criminal cases, or appeals of criminal cases, shall modify their criminal records and case management systems, in accordance with guidelines which the Director of the Administrative Office of the United States Courts shall establish, so as to enable accurate reporting of information described in subsection (a)(2).

(2) DATA ENTRIES.—Beginning not later than 2 years after the date of the enactment of this Act, each Federal court described in paragraph (1) shall enter into its electronic records the information contained in each notification to the court under subsection (a)(2).

(d) CONSTRUCTION.—Nothing in this section may be construed to provide a basis for admitting evidence to a jury or releasing information to the public regarding an alien’s immigration status.

(e) ANNUAL REPORT TO CONGRESS.—The Director of the Administrative Office of the United States Courts shall include, in the annual report filed with Congress under section 604 of title 28, United States Code—

(1) statistical information on criminal trials of aliens in the courts and criminal convictions of aliens in the lower courts and upheld on appeal, including the type of crime in each case and including information on the legal status of the aliens; and

(2) recommendations on whether additional court resources are needed to accommodate the volume of criminal cases brought against aliens in the Federal courts.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of fiscal years 2007 through 2011, such sums as may be necessary to carry out this Act. Funds appropriated pursuant to this

subsection in any fiscal year shall remain available until expended.

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 Comprehensive Immigration Reform Act of 2006, 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 inquiry 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) a 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 Comprehensive Immigration Reform Act of 2006, 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 Comprehensive Immigration Reform Act of 2006, the Secretary may require an additional 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 Comprehensive Immigration Reform Act of 2006, the Secretary shall require an employer with 5,000 or more 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) MIDSIZED EMPLOYERS.—Not later than 3 years after the date of enactment of the Comprehensive Immigration Reform Act of 2006, the Secretary shall require an employer with less than 5,000 employees and with 1,000 or more 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 Comprehensive Immigration Reform Act of 2006, the Secretary shall require all employers with less than 1,000 employees and with 250 or more 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 Comprehensive Immigration Reform Act of 2006, 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 Comprehensive Immigration Reform Act of 2006, if the Secretary has reasonable cause 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) with 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, 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 iden-

tity 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 Comprehensive Immigration Reform Act of 2006, 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 Comprehensive Immigration Reform Act of 2006, 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) PREPENALTY 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 subsection (b), (c), or (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 Security 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) **EFFECTIVE DATE.**—The amendments made by subsections (a) and (b) 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 on the 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 on the 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—REQUIREMENTS FOR PARTICIPATING COUNTRIES

SEC. 401. REQUIREMENTS FOR PARTICIPATING COUNTRIES.

(a) **IN GENERAL.**—An alien is not eligible for status as a nonimmigrant under section 101(a)(15)(W) of the Immigration and Nationality Act, as added by section 501 of this Act, or deferred mandatory departure status under section 218B of the Immigration and Nationality Act, as added by section 601 of this Act, unless the home country of the alien has entered into a bilateral agreement with the United States that conforms to the requirements under subsection (b).

(b) **REQUIREMENTS OF BILATERAL AGREEMENTS.**—Each agreement under subsection (a) shall require the home country to—

(1) accept, within 3 days, the return of nationals who are ordered removed from the United States;

(2) cooperate with the United States Government in—

(A) identifying, tracking, and reducing gang membership, violence, and human trafficking and smuggling; and

(B) controlling illegal immigration;

(3) provide the United States Government with—

(A) passport information and criminal records of aliens who are seeking admission to or are present in the United States; and

(B) admission and entry data to facilitate United States entry-exit data systems;

(4) take steps to educate nationals of the home country regarding the program under title V or VI to ensure that such nationals are not exploited; and

(5) provide a minimum level of health coverage to its participants.

(c) **RULEMAKING.**—

(1) **IN GENERAL.**—Not later than 3 months after the date of enactment of this Act, the Secretary of Health and Human Services shall, by regulation, define the minimum level of health coverage to be provided by participating countries.

(2) **RESPONSIBILITY TO OBTAIN COVERAGE.**—If the health coverage provided by the home country falls below the minimum level defined pursuant to paragraph (1), the employer of the alien shall provide or the alien shall obtain coverage that meets such minimum level.

(d) **HOUSING.**—Participating countries shall agree to evaluate means to provide housing incentives in the alien’s home country for returning workers.

TITLE V—NONIMMIGRANT TEMPORARY WORKER PROGRAM

SEC. 501. NONIMMIGRANT TEMPORARY WORKER CATEGORY.

(a) **NEW TEMPORARY WORKER CATEGORY.**—Section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)) is amended by adding at the end the following:

“(W) an alien having a residence in a foreign country which the alien has no intention of abandoning who is coming temporarily to the United States to perform temporary labor or service, other than that which would qualify an alien for status under sections 101(a)(15)(H)(i), 101(a)(15)(H)(ii)(a), 101(a)(15)(L), 101(a)(15)(O), 101(a)(15)(P), and who meets the requirements of section 218A; or”

(b) **REPEAL OF H-2B CATEGORY.**—Section 101(a)(15)(H)(ii) is amended by striking “, or (b) having a residence in a foreign country which he has no intention of abandoning who is coming temporarily to the United States to perform other temporary service or labor if unemployed persons capable of performing such service or labor cannot be found in this country, but this clause shall not apply to graduates of medical schools coming to the United States to perform services as members of the medical profession”.

(c) **TECHNICAL AMENDMENTS.**—Section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)) is amended—

(1) in subparagraph (U)(iii), by striking “or” at the end; and

(2) in subparagraph (V)(ii)(II), by striking the period at the end and inserting a semicolon and “or”.

SEC. 502. TEMPORARY WORKER PROGRAM.

(a) **IN GENERAL.**—The Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended by inserting after section 218 the following new section:

“SEC. 218A. TEMPORARY WORKER PROGRAM.

“(a) **IN GENERAL.**—The Secretary of State may grant a temporary visa to a nonimmigrant described in section 101(a)(15)(W) who demonstrates an intent to perform labor or services in the United States (other than those occupational classifications covered under the provisions of clause (i)(b) or (ii)(a) of section 101(a)(15)(H) or subparagraph (L), (O), (P), or (R)) of section 101(a)(15)).

“(b) **REQUIREMENTS FOR ADMISSION.**—In order to be eligible for nonimmigrant status under section 101(a)(15)(H)(W), an alien shall meet the following requirements:

“(1) **ELIGIBILITY TO WORK.**—The alien shall establish that the alien is capable of performing the labor or services required for an occupation under section 101(a)(15)(W).

“(2) EVIDENCE OF EMPLOYMENT.—The alien must establish that he has a job offer from an employer authorized to hire aliens under the Alien Employment Management Program.

“(3) FEE.—The alien shall pay a \$500 visa issuance fee in addition to the cost of processing and adjudicating such application. Nothing in this paragraph shall be construed to affect consular procedures for charging reciprocal fees.

“(4) MEDICAL EXAMINATION.—The alien shall undergo a medical examination (including a determination of immunization status) at the alien’s expense, that conforms to generally accepted standards of medical practice.

“(5) APPLICATION CONTENT AND WAIVER.—

“(A) APPLICATION FORM.—The Secretary of Homeland Security shall create an application form that an alien shall be required to complete as a condition of being admitted as a nonimmigrant under section 101(a)(15)(W).

“(B) CONTENT.—In addition to any other information that the Secretary determines is required to determine an alien’s eligibility for admission as a nonimmigrant under section 101(a)(15)(W), the Secretary shall require an alien to provide information concerning the alien’s physical and mental health, criminal history and gang membership, immigration history, involvement with groups or individuals that have engaged in terrorism, genocide, persecution, or who seek the overthrow of the United States Government, voter registration history, claims to United States citizenship, and tax history.

“(C) WAIVER.—The Secretary of Homeland Security may require an alien to include with the application a waiver of rights that explains to the alien that, in exchange for the discretionary benefit of admission as a nonimmigrant under section 101(a)(15)(W), the alien agrees to waive any right—

“(i) to administrative or judicial review or appeal of an immigration officer’s determination as to the alien’s admissibility; or

“(ii) to contest any removal action, other than on the basis of an application for asylum pursuant to the provisions contained in section 208 or 241(b)(3), or under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York December 10, 1984, if such removal action is initiated after the termination of the alien’s period of authorized admission as a nonimmigrant under section 101(a)(15)(W).

“(D) KNOWLEDGE.—The Secretary of Homeland Security shall require an alien to include with the application a signed certification in which the alien certifies that the alien has read and understood all of the questions and statements on the application form, and that the alien certifies under penalty of perjury under the laws of the United States that the application, and any evidence submitted with it, are all true and correct, and that the applicant authorizes the release of any information contained in the application and any attached evidence for law enforcement purposes.

“(c) GROUNDS OF INADMISSIBILITY.—

“(1) IN GENERAL.—In determining an alien’s admissibility as a nonimmigrant under section 101(a)(15)(W)—

“(A) paragraphs (5), (6)(A), (7), and (9)(B) or (C) of section 212(a) may be waived for conduct that occurred on a date prior to the effective date of this Act; and

“(B) the Secretary of Homeland Security may not waive—

“(i) subparagraph (A), (B), (C), (E), (G), (H), or (I) of section 212(a)(2) (relating to criminals);

“(ii) section 212(a)(3) (relating to security and related grounds); or

“(iii) subparagraphs (A), (C) or (D) of section 212(a)(10) (relating to polygamists, child abductors and illegal voters);

“(C) for conduct that occurred prior to the date this Act was introduced in Congress, the Secretary of Homeland Security may waive the application of any provision of section 212(a) not listed in subparagraph (B) on behalf of an individual alien for humanitarian purposes, to ensure family unity, or when such waiver is otherwise in the public interest; and

“(D) nothing in this paragraph shall be construed as affecting the authority of the Secretary of Homeland Security to waive the provisions of section 212(a).

“(2) WAIVER FEE.—An alien who is granted a waiver under subparagraph (1) shall pay a \$500 fee upon approval of the alien’s visa application.

“(3) RENEWAL OF AUTHORIZED ADMISSION AND SUBSEQUENT ADMISSIONS.—An alien seeking renewal of authorized admission or subsequent admission as a nonimmigrant under section 101(a)(15)(W) shall establish that the alien is not inadmissible under section 212(a).

“(d) BACKGROUND CHECKS AND INTERVIEW.—The Secretary of Homeland Security shall not admit, and the Secretary of State shall not issue a visa to, an alien seeking admission under section 101(a)(15)(W) until all appropriate background checks have been completed. The Secretary of State shall ensure that an employee of the Department of State conducts a personal interview of an applicant for a visa under section 101(a)(15)(W).

“(e) INELIGIBLE TO CHANGE NONIMMIGRANT CLASSIFICATION.—An alien admitted under section 101(a)(15)(W) is ineligible to change status under section 248.

“(f) DURATION.—

“(1) GENERAL.—The period of authorized admission as a nonimmigrant under 101(a)(15)(W) shall be 2 years, and may not be extended. An alien is ineligible to reenter as an alien under 101(a)(15)(W) until the alien has resided continuously in the alien’s home country for a period of 1 year. The total period of admission as a nonimmigrant under section 101(a)(15)(W) may not exceed 6 years.

“(2) SEASONAL WORKERS.—An alien who spends less than 6 months a year as a nonimmigrant described in section 101(a)(15)(W) is not subject to the time limitations under subparagraph (1).

“(3) COMMUTERS.—An alien who resides outside the United States, but who commutes to the United States to work as a nonimmigrant described in section 101(a)(15)(W), is not subject to the time limitations under paragraph (1).

“(4) DEFERRED MANDATORY DEPARTURE.—An alien granted Deferred Mandatory Departure status, who remains in the United States under such status for—

“(A) a period of 2 years, may not be granted status as a nonimmigrant under section 101(a)(15)(W) for more than a total of 5 years;

“(B) a period of 3 years, may not be granted status as a nonimmigrant under section 101(a)(15)(W) for more than a total of 4 years;

“(C) a period of 4 years, may not be granted status as a nonimmigrant under section 101(a)(15)(W) for more than a total of 3 years; or

“(D) a period of 5 years, may not be granted status as a nonimmigrant under section 101(a)(15)(W) for more than a total of 2 years.

“(g) INTENT TO RETURN HOME.—In addition to other requirements in this section, an alien is not eligible for nonimmigrant status under section 101(a)(15)(W) unless the alien—

“(1) maintains a residence in a foreign country which the alien has no intention of abandoning; and

“(2) is present in such foreign country for at least 7 consecutive days during each year that the alien is a temporary worker.

“(h) BIOMETRIC DOCUMENTATION.—Evidence of status under section 101(a)(15)(W) shall be machine-readable, tamper-resistant, and allow for biometric authentication. The Secretary of Homeland Security is authorized to incorporate integrated-circuit technology into the document. The Secretary of Homeland Security shall consult with the Forensic Document Laboratory in designing the document. The document may serve as a travel, entry, and work authorization document during the period of its validity.

“(i) PENALTY FOR FAILURE TO DEPART.—An alien who fails to depart the United States prior to 10 days after the date that the alien’s authorized period of admission as a temporary worker ends is not eligible and may not apply for or receive any immigration relief or benefit under this Act or any other law, with the exception of section 208 or 241(b)(3) or the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York December 10, 1984, in the case of an alien who indicates either an intention to apply for asylum under section 208 or a fear of persecution or torture.

“(j) PENALTY FOR ILLEGAL ENTRY OR OVERSTAY.—An alien who, after the effective date of enactment of the Comprehensive Enforcement and Immigration Reform Act of 2005, enters the United States without inspection, or violates a term or condition of admission into the United States as a nonimmigrant, including overstaying the period of authorized admission, shall be ineligible for nonimmigrant status under section 101(a)(15)(W) or Deferred Mandatory Departure status under section 218B for a period of 10 years.

“(k) ESTABLISHMENT OF TEMPORARY WORKER TASK FORCE.—

“(1) IN GENERAL.—There is established a task force to be known as the Temporary Worker Task Force (referred to in this section as the ‘Task Force’).

“(2) PURPOSES.—The purposes of the Task Force are—

“(A) to study the impact of the admission of aliens under section 101(a)(15)(W) on the wages, working conditions, and employment of United States workers; and

“(B) to make recommendations to the Secretary of Labor regarding the need for an annual numerical limitation on the number of aliens that may be admitted in any fiscal year under section 101(a)(15)(W).

“(3) MEMBERSHIP.—The Task Force shall be composed of 10 members, of whom—

“(A) 1 shall be appointed by the President and shall serve as chairman of the Task Force;

“(B) 1 shall be appointed by the leader of the minority party in the Senate, in consultation with the leader of the minority party in the House of Representatives, and shall serve as vice chairman of the Task Force;

“(C) 2 shall be appointed by the majority leader of the Senate;

“(D) 2 shall be appointed by the minority leader of the Senate;

“(E) 2 shall be appointed by the Speaker of the House of Representatives; and

“(F) 2 shall be appointed by the minority leader of the House of Representatives.

“(4) QUALIFICATIONS.—

“(A) IN GENERAL.—Members of the Task Force shall be—

“(i) individuals with expertise in economics, demography, labor, business, or immigration or other pertinent qualifications or experience; and

“(ii) representative of a broad cross-section of perspectives within the United States, including the public and private sectors and academia.

“(B) POLITICAL AFFILIATION.—Not more than 5 members of the Task Force may be members of the same political party.

“(C) NONGOVERNMENTAL APPOINTEES.—An individual appointed to the Task Force may not be an officer or employee of the Federal Government or of any State or local government.

“(5) DEADLINE FOR APPOINTMENT.—All members of the Task Force shall be appointed not later than 6 months after the date of enactment of the Comprehensive Enforcement and Immigration Reform Act of 2005.

“(6) VACANCIES.—Any vacancy in the Task Force shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

“(7) MEETINGS.—

“(A) INITIAL MEETING.—The Task Force shall meet and begin the operations of the Task Force as soon as practicable.

“(B) SUBSEQUENT MEETINGS.—After its initial meeting, the Task Force shall meet upon the call of the chairman or a majority of its members.

“(8) QUORUM.—Six members of the Task Force shall constitute a quorum.

“(9) REPORT.—Not later than 18 months after the date of enactment of the Comprehensive Enforcement and Immigration Reform Act of 2005, the Task Force shall submit to Congress, the Secretary of Labor, and the Secretary of Homeland Security a report that contains—

“(A) findings with respect to the duties of the Task Force;

“(B) recommendations for imposing a numerical limit.

“(10) DETERMINATION.—Not later than 6 months after the submission of the report, the Secretary of Labor may impose a numerical limitation on the number of aliens that may be admitted under section 101(a)(15)(W). Any numerical limit shall not become effective until 6 months after the Secretary of Labor submits a report to Congress regarding the imposition of a numerical limit.

“(1) FAMILY MEMBERS.—

“(1) FAMILY MEMBERS OF W NON-IMMIGRANTS.—

“(A) IN GENERAL.—The spouse or child of an alien admitted as a nonimmigrant under section 101(a)(15)(W) may be admitted to the United States—

“(i) as a nonimmigrant under section 101(a)(15)(B) for a period of not more than 30 days, which may not be extended unless the Secretary of Homeland Security, in his sole and unreviewable discretion, determines that exceptional circumstances exist; or

“(ii) under any other provision of this Act, if such family member is otherwise eligible for such admission.

“(B) APPLICATION FEE.—

“(i) IN GENERAL.—The spouse or child of an alien admitted as a nonimmigrant under section 101(a)(15)(W) who is seeking to be admitted as a nonimmigrant under section 101(a)(15)(B) shall submit, in addition to any other fee authorized by law, an additional fee of \$100.

“(ii) USE OF FEE.—The fees collected under clause (i) shall be available for use by the Secretary of Homeland Security for activities to identify, locate, or remove illegal aliens.

“(m) TRAVEL OUTSIDE THE UNITED STATES.—

“(1) IN GENERAL.—Under regulations established by the Secretary of Homeland Security, a nonimmigrant alien under section 101(a)(15)(W)—

“(A) may travel outside of the United States; and

“(B) may be readmitted without having to obtain a new visa if the period of authorized admission has not expired.

“(2) EFFECT ON PERIOD OF AUTHORIZED ADMISSION.—Time spent outside the United States under paragraph (1) shall not extend the period of authorized admission in the United States.

“(n) EMPLOYMENT.—

“(1) PORTABILITY.—An alien may be employed by any United States employer authorized by the Secretary of Homeland Security to hire aliens admitted under section 218C.

“(2) CONTINUOUS EMPLOYMENT.—An alien must be employed while in the United States. An alien who fails to be employed for 30 days is ineligible for hire until the alien departs the United States and reenters as a nonimmigrant under section 101(a)(15)(W). The Secretary of Homeland Security may, in its sole and unreviewable discretion, reauthorize an alien for employment, without requiring the alien's departure from the United States.

“(o) ENUMERATION OF SOCIAL SECURITY NUMBER.—The Secretary of Homeland Security, in coordination with the Commissioner of Social Security, shall implement a system to allow for the enumeration of a Social Security number and production of a Social Security card at time of admission of an alien under section 101(a)(15)(W).

“(p) DENIAL OF DISCRETIONARY RELIEF.—The determination of whether an alien is eligible for a grant of nonimmigrant status under section 101(a)(15)(W) is solely within the discretion of the Secretary of Homeland Security. Notwithstanding any other provision of law, no court shall have jurisdiction to review—

“(1) any judgment regarding the granting of relief under this section; or

“(2) any other decision or action of the Secretary of Homeland Security the authority for which is specified under this section to be in the discretion of the Secretary, other than the granting of relief under section 1158(a).

“(q) JUDICIAL REVIEW.—

“(1) LIMITATIONS ON RELIEF.—Without regard to the nature of the action or claim and without regard to the identity of the party or parties bringing the action, no court may—

“(A) enter declaratory, injunctive, or other equitable relief in any action pertaining to—

“(i) an order or notice denying an alien a grant of nonimmigrant status under section 101(a)(15)(W) or any other benefit arising from such status; or

“(ii) an order of removal, exclusion, or deportation entered against an alien if such order is entered after the termination of the alien's period of authorized admission as a nonimmigrant under section 101(a)(15)(W); or

“(B) certify a class under Rule 23 of the Federal Rules of Civil Procedure in any action for which judicial review is authorized under a subsequent paragraph of this subsection.

“(2) CHALLENGES TO VALIDITY.—

“(A) IN GENERAL.—Any right or benefit not otherwise waived or limited pursuant this section is available in an action instituted in the United States District Court for the District of Columbia, but shall be limited to determinations of—

“(i) whether such section, or any regulation issued to implement such section, violates the Constitution of the United States; or

“(ii) whether such a regulation, or a written policy directive, written policy guideline, or written procedure issued by or under the authority the Secretary of Homeland Security to implement such section, is not consistent with applicable provisions of this section or is otherwise in violation of law.”

(b) PROHIBITION ON CHANGE IN NON-IMMIGRANT CLASSIFICATION.—Section 248(1) of

the Immigration and Nationality Act (8 U.S.C. 1258(1)) is amended by striking “or (S)” and inserting “(S), or (W)”.

SEC. 503. STATUTORY CONSTRUCTION.

Nothing in this title, or any amendment made by this title, shall be construed to create any substantive or procedural right or benefit that is legally enforceable by any party against the United States or its agencies or officers or any other person.

SEC. 504. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated \$500,000,000 for facilities, personnel (including consular officers), training, technology and processing necessary to carry out the amendments made by this title.

TITLE IX—CIRCULAR MIGRATION

SEC. 901. INVESTMENT ACCOUNTS.

(a) IN GENERAL.—Section 201 of the Social Security Act (42 U.S.C. 401) is amended by adding at the end the following:

“(o)(1) Notwithstanding any other provision of this section, the Secretary of the Treasury shall transfer at least quarterly from the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund 100 percent of the temporary worker taxes to the Temporary Worker Investment Fund for deposit in a temporary worker investment account for each temporary worker as specified in section 253.

“(2) For purposes of this subsection—

“(A) the term ‘temporary worker taxes’ means that portion of the amounts appropriated to the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund under this section and properly attributable to the wages (as defined in section 3121 of the Internal Revenue Code of 1986) and self-employment income (as defined in section 1402 of such Code) of temporary workers as determined by the Commissioner of Social Security; and

“(B) the term ‘temporary worker’ means an alien who is admitted to the United States as a nonimmigrant under section 101(a)(15)(W) of the Immigration and Nationality Act.”

(b) TEMPORARY WORKER INVESTMENT ACCOUNTS.—Title II of the Social Security Act (42 U.S.C. 401 et seq.) is amended—

(1) by inserting before section 201 the “PART A—SOCIAL SECURITY”; and

(2) by adding at the end the following:

“PART II—TEMPORARY WORKER INVESTMENT ACCOUNTS

“DEFINITIONS

“SEC. 251. For purposes of this part:

“(1) COVERED EMPLOYER.—The term ‘covered employer’ means, for any calendar year, any person on whom an excise tax is imposed under section 3111 of the Internal Revenue Code of 1986 with respect to having an individual in the person's employ to whom wages are paid by such person during such calendar year.

“(2) SECRETARY.—The term ‘Secretary’ means the Secretary of the Treasury.

“(3) TEMPORARY WORKER.—The term ‘temporary worker’ an alien who is admitted to the United States as a nonimmigrant under section 101(a)(15)(W) of the Immigration and Nationality Act.

“(4) TEMPORARY WORKER INVESTMENT ACCOUNT.—The term ‘temporary worker investment account’ means an account for a temporary worker which is administered by the Secretary through the Temporary Worker Investment Fund.

“(5) TEMPORARY WORKER INVESTMENT FUND.—The term ‘Temporary Worker Investment Fund’ means the fund established under section 253.

TEMPORARY WORKER INVESTMENT ACCOUNTS

“SEC. 252. (a) IN GENERAL.—A temporary worker investment account shall be established by the Secretary in the Temporary Worker Investment Fund for each individual not later than 10 business days after the covered employer of such individual submits a W-4 form (or any successor form) identifying such individual as a temporary worker.

“(b) TIME ACCOUNT TAKES EFFECT.—A temporary worker investment account established under subsection (a) shall take effect with respect to the first pay period beginning more than 14 days after the date of such establishment.

“(c) TEMPORARY WORKER'S PROPERTY RIGHT IN TEMPORARY WORKER INVESTMENT ACCOUNT.—The temporary worker investment account established for a temporary worker is the sole property of the worker.

TEMPORARY WORKER INVESTMENT FUND

“SEC. 253. (a) IN GENERAL.—There is created on the books of the Treasury of the United States a trust fund to be known as the ‘Temporary Worker Investment Fund’ to be administered by the Secretary. Such Fund shall consist of the assets transferred under section 201(o) to each temporary worker investment account established under section 252 and the income earned under subsection (e) and credited to such account.

“(b) NOTICE OF CONTRIBUTIONS.—The full amount of a temporary worker's investment account transfers shall be shown on such worker's W-2 tax statement, as provided in section 6051(a)(14) of the Internal Revenue Code of 1986.

INVESTMENT EARNINGS REPORT.—

“(1) IN GENERAL.—At least annually, the Temporary Worker Investment Fund shall provide to each temporary worker with a temporary worker investment account managed by the Fund a temporary worker investment status report. Such report may be transmitted electronically upon the agreement of the temporary worker under the terms and conditions established by the Secretary.

“(2) CONTENTS OF REPORT.—The temporary worker investment status report, with respect to a temporary worker investment account, shall provide the following information:

“(A) The total amounts transferred under section 201(o) in the last quarter, the last year, and since the account was established.

“(B) The amount and rate of income earned under subsection (e) for each period described in subparagraph (A).

“(d) MAXIMUM ADMINISTRATIVE FEE.—The Temporary Worker Investment Fund shall charge each temporary worker in the Fund a single, uniform annual administrative fee not to exceed 0.3 percent of the value of the assets invested in the worker's account.

“(e) INVESTMENT DUTIES OF SECRETARY.—The Secretary shall establish policies for the investment and management of temporary worker investment accounts, including policies that shall provide for prudent Federal Government investment instruments suitable for accumulating funds.

TEMPORARY WORKER INVESTMENT ACCOUNT DISTRIBUTIONS

“SEC. 254. (a) DATE OF DISTRIBUTION.—Except as provided in subsections (b) and (c), a distribution of the balance in a temporary worker investment account may only be made on or after the date such worker departs the United States and abandons such worker's nonimmigrant status under section 101(a)(15)(W) of the Immigration and Nationality Act and returns to the worker's home country.

“(b) DISTRIBUTION IN THE EVENT OF DEATH.—If the temporary worker dies before

the date determined under subsection (a), the balance in the worker's account shall be distributed to the worker's estate under rules established by the Secretary.”

TEMPORARY WORKER INVESTMENT ACCOUNT TRANSFERS SHOWN ON W-2S.—

(1) IN GENERAL.—Section 6051(a) of the Internal Revenue Code of 1986 (relating to receipts for employees) is amended—

(A) by striking “and” at the end of paragraph (12);

(B) by striking the period at the end of paragraph (13) and inserting “; and”; and

(C) by inserting after paragraph (13) the following:

“(14) in the case of a temporary worker (as defined in section 251(1) of the Social Security Act), of the amount shown pursuant to paragraph (6), the total amount transferred to such worker's temporary worker investment account under section 201(o) of such Act.”

(2) CONFORMING AMENDMENTS.—Section 6051 of the Internal Revenue Code of 1986 is amended—

(A) in subsection (a)(6), by inserting “and paid as tax under section 3111” after “section 3101”; and

(B) in subsection (c), by inserting “and paid as tax under section 3111” after “section 3101”.

TITLE X—BACKLOG REDUCTION**SEC. 1001. EMPLOYMENT BASED IMMIGRANTS.**

(a) EMPLOYMENT-BASED IMMIGRANT LIMIT.—Section 201(d) of the Immigration and Nationality Act (8 U.S.C. 1151(d)) is amended to read as follows:

“(d) WORLDWIDE LEVEL OF EMPLOYMENT-BASED IMMIGRANTS.—The worldwide level of employment-based immigrants under this subsection for a fiscal year is equal to the sum of—

“(1) 140,000;

“(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 and the number of visa numbers issued under this subsection during those years; and

“(B) the number of visas described in subparagraph (A) that were issued after fiscal year 2005; and

“(4) the number of visas previously made available under section 203(e).”

(b) DIVERSITY VISA TERMINATION.—The allocation of immigrant visas to aliens under section 203(c) of the Immigration and Nationality Act (8 U.S.C. 1153(c)), and the admission of such aliens to the United States as immigrants, is terminated. This provision shall become effective on October 1st of the fiscal year following enactment of this Act.

(c) IMMIGRATION TASK FORCE.—

(1) IN GENERAL.—There is established a task force to be known as the Immigration Task Force (referred to in this section as the “Task Force”).

(2) PURPOSES.—The purposes of the Task Force are—

(A) to study the impact of the delay between the date on which an application for immigration is submitted and the date on which a determination on such application is made;

(B) to study the impact of immigration of workers to the United States on family unity; and

(C) to provide to Congress any recommendations of the Task Force regarding increasing the number immigrant visas issued by the United States for family members and on the basis of employment.

(3) MEMBERSHIP.—The Task Force shall be composed of 10 members, of whom—

(A) 1 shall be appointed by the President and shall serve as chairman of the Task Force;

(B) 1 shall be appointed by the leader of the minority party in the Senate, in consultation with the leader of the minority party in the House of Representatives, and shall serve as vice chairman of the Task Force;

(C) 2 shall be appointed by the majority leader of the Senate;

(D) 2 shall be appointed by the minority leader of the Senate;

(E) 2 shall be appointed by the Speaker of the House of Representatives; and

(F) 2 shall be appointed by the minority leader of the House of Representatives.

(4) QUALIFICATIONS.—

(A) IN GENERAL.—Members of the Task Force shall be—

(i) individuals with expertise in economics, demography, labor, business, or immigration or other pertinent qualifications or experience; and

(ii) representative of a broad cross-section of perspectives within the United States, including the public and private sectors and academia.

(B) POLITICAL AFFILIATION.—Not more than 5 members of the Task Force may be members of the same political party.

(C) NONGOVERNMENTAL APPOINTMENTS.—An individual appointed to the Task Force may not be an officer or employee of the Federal Government or of any State or local government.

(5) DEADLINE FOR APPOINTMENT.—All members of the Task Force shall be appointed not later than 6 months after the date of enactment of this Act.

(6) VACANCIES.—Any vacancy in the Task Force shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

(7) MEETINGS.—

(A) INITIAL MEETING.—The Task Force shall meet and begin the operations of the Task Force as soon as practicable.

(B) SUBSEQUENT MEETINGS.—After its initial meeting, the Task Force shall meet upon the call of the chairman or a majority of its members.

(8) QUORUM.—Six members of the Task Force shall constitute a quorum.

(9) REPORT.—Not later than 18 months after the date of enactment of this Act, the Task Force shall submit to Congress, the Secretary of Labor, and the Secretary of Homeland Security a report that contains—

(A) findings with respect to the duties of the Task Force; and

(B) recommendations for modifying the numerical limits on the number immigrant visas issued by the United States for family members of individuals in the United States and on the basis of employment.

SEC. 1002. COUNTRY LIMITS.

Section 202(a) of the Immigration and Nationality Act (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. 1003. ALLOCATION OF IMMIGRANT VISAS.

(a) PREFERENCE ALLOCATION FOR EMPLOYMENT-BASED IMMIGRANTS.—Section 203(b) of the Immigration and Nationality Act (8 U.S.C. 1153(b)) is amended—

(1) in paragraph (1), by striking “28.6 percent” and inserting “10 percent”; and

(2) in paragraph (2)(A), by striking “28.6 percent” and inserting “10 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 “4 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 36 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).

(b) CONFORMING AMENDMENTS.—

(1) DEFINITION OF SPECIAL IMMIGRANT.—Section 101(a)(27)(M) of the Immigration and Nationality Act (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 (8 U.S.C. 1153 note) is repealed.

SA 3387. Mr. LEVIN (for himself, Mr. KENNEDY, and Ms. STABENOW) submitted an amendment intended to be proposed to amendment SA 3192, submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 55, strike lines 5 through 7 and insert the following:

(a) DENIAL OR TERMINATION OF ASYLUM.—Section 208 (8 U.S.C. 1158) is amended—

(1) in subsection (b)—

(A) in paragraph (2)(A)(v), by striking “or (VI)” and inserting “(V), (VI), (VII), or (VIII)”; and

(B) by adding at the end the following:

“(4) CHANGED COUNTRY CONDITIONS.—An alien seeking asylum based on persecution or a well-founded fear of persecution shall not be denied asylum based on changed country conditions unless fundamental and lasting changes have stabilized the country of the alien’s nationality.”; and

(2) in subsection (c)(2)(A), by striking “a fundamental change in circumstances” and inserting “fundamental and lasting changes that have stabilized the country of the alien’s nationality”.

SA 3388. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 350, strike lines 21 through 25 and insert the following:

(7) WORK DAY.—The term “work day” means any day in which the individual is employed 5.75 or more hours in agricultural employment.

SA 3389. Mrs. FEINSTEIN submitted an amendment intended to be proposed

by her to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 351, strike lines 10 through 13 and insert the following:

(A) has performed agricultural employment in the United States for at least 863 hours or 150 work days during the 24-month period ending on December 31, 2005;

SA 3390. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 351, line 17, strike “and”.

On page 351, line 21, strike the period at the end and insert “; and”.

On page 351, between lines 21 and 22, insert the following:

(D) has been convicted of any felony or a misdemeanor, an element of which involves bodily injury, threat of serious bodily injury, or harm to property in excess of \$500.

On page 363, strike lines 18 through 20 and insert the following:

(III) is convicted of an offense, an element of which involves bodily injury, threat of serious bodily injury, or harm to property in excess of \$500.

On page 366, strike lines 22 through 24 and insert the following:

(iii) is convicted of an offense, an element of which involves bodily injury, threat of serious bodily injury, or harm to property in excess of \$500.

SA 3391. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 353, line 2, strike “or”.

On page 353, strike line 14 and insert the following:

or harm to property in excess of \$500; or

(iii) the alien fails to perform the agricultural employment required under subsection (c)(1)(A)(i) unless the alien was unable to work in agricultural employment due to the extraordinary circumstances described in subsection (c)(1)(A)(iii).

SA 3392. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 360, strike line 18 and all that follows through page 361, line 9, and insert the following:

(i) QUALIFYING EMPLOYMENT.—

(I) IN GENERAL.—Subject to subclause (II), the alien has performed at least—

(aa) 5 years of agricultural employment in the United States, for at least 100 work days per year, during the 5-year period beginning on the date of enactment of this Act; or

(bb) 3 years of agricultural employment in the United States, for at least 150 work days per year, during the 3-year period beginning on the date of enactment of this Act.

(II) 4-YEAR PERIOD OF EMPLOYMENT.—An alien shall be considered to qualify under subclause (I) if the alien has performed 4

years of agricultural employment in the United States, for at least 150 work days during 3 of the 4 years and at least 100 work days during the remaining year, during the 4-year period beginning on the date of enactment of this Act.

SA 3393. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 381, strike lines 8 through 11 and insert the following:

(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as are necessary for the startup costs of the program authorized under this section for each of fiscal years 2007 and 2008.

SA 3394. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 350, strike lines 21 through 25 and insert the following:

(7) WORK DAY.—The term “work day” means any day in which the individual is employed 5.75 or more hours in agricultural employment.

On page 351, strike lines 10 through 13 and insert the following:

(A) has performed agricultural employment in the United States for at least 863 hours or 150 work days during the 24-month period ending on December 31, 2005;

On page 351, line 17, strike “and”.

On page 351, line 21, strike the period at the end and insert “; and”.

On page 351, between lines 21 and 22, insert the following:

(D) has been convicted of any felony or a misdemeanor, an element of which involves bodily injury, threat of serious bodily injury, or harm to property in excess of \$500.

On page 353, line 2, strike “or”.

On page 353, strike line 14 and insert the following:

or harm to property in excess of \$500; or

(iii) the alien fails to perform the agricultural employment required under subsection (c)(1)(A)(i) unless the alien was unable to work in agricultural employment due to the extraordinary circumstances described in subsection (c)(1)(A)(iii).

Beginning on page 360, strike line 18 and all that follows through page 361, line 9, and insert the following:

(i) QUALIFYING EMPLOYMENT.—

(I) IN GENERAL.—Subject to subclause (II), the alien has performed at least—

(aa) 5 years of agricultural employment in the United States, for at least 100 work days per year, during the 5-year period beginning on the date of enactment of this Act; or

(bb) 3 years of agricultural employment in the United States, for at least 150 work days per year, during the 3-year period beginning on the date of enactment of this Act.

(II) 4-YEAR PERIOD OF EMPLOYMENT.—An alien shall be considered to qualify under subclause (I) if the alien has performed 4 years of agricultural employment in the United States, for at least 150 work days during 3 of the 4 years and at least 100 work days during the remaining year, during the 4-year period beginning on the date of enactment of this Act.

On page 363, strike lines 18 through 20 and insert the following:

(III) is convicted of an offense, an element of which involves bodily injury, threat of serious bodily injury, or harm to property in excess of \$500.

On page 366, strike lines 22 through 24 and insert the following:

(iii) is convicted of an offense, an element of which involves bodily injury, threat of serious bodily injury, or harm to property in excess of \$500.

On page 381, strike lines 8 through 11 and insert the following:

(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as are necessary for the startup costs of the program authorized under this section for each of fiscal years 2007 and 2008.

SA 3395. Ms. CANTWELL submitted an amendment intended to be proposed by her to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____ . RADIATION SOURCE PROTECTION.

(a) TRACKING SYSTEM.—Section 170H of the Atomic Energy Act of 1954 (42 U.S.C. 2210h) is amended—

(1) in subsection c.—

(A) in paragraph (1)(B)—

(i) by inserting “and the Secretary of Homeland Security” after “Secretary of Transportation” the first place it appears; and

(ii) by inserting “or the Secretary of Homeland Security” after “Secretary of Transportation” the second place it appears; and

(B) in paragraph (2)(A), by inserting “and each license holder” after “unique identifier”; and

(2) by adding at the end the following:

“h. LICENSE VERIFICATION FOR EXPORTS AND IMPORTS.—The Commission shall—

“(1) assist the Commissioner of the Bureau of Customs and Border Protection of the Department of Homeland Security in verifying the authenticity of any documentation or authorization issued by the Commission associated with the export or import of a radiation source regulated under this section, including allowing the Department of Homeland Security access to the tracking system established under subsection c.;

“(2) require any individual transporting radiation sources that are exported from or imported into the United States to possess the applicable and required documentation issued by the Commission; and

“(3) issue regulations to ensure that the licenses, permits, certificates, and other documents of the Commission needed to export or import a radiation source includes tamperproof and other security features that prevent counterfeiting.”.

(b) CUSTOMS REVENUE FUNCTION.—Section 415 of the Homeland Security Act of 2002 (6 U.S.C. 215) is amended by adding at the end the following:

“(9) Verifying the authorizations issued by the Nuclear Regulatory Commission to possess and transport radiation sources when individuals pass through United States ports of entry.”.

SA 3396. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform

and for other purposes; which was ordered to lie on the table; as follows:

At the end of title V, insert the following:

SEC. 509. REQUIREMENTS FOR NATURALIZATION.

(a) ENGLISH LANGUAGE REQUIREMENTS.—Section 312(a)(1) (8 U.S.C. 1423(a)(1)) is amended to read as follows:

“(1) an understanding of the English language on a 6th grade level, in accordance with regulations prescribed by the Secretary of Homeland Security, in consultation with the Secretary of State; and”.

(b) REQUIREMENT FOR HISTORY AND GOVERNMENT TESTING.—Section 312(a)(2) (8 U.S.C. 1423(a)(2)) is amended by striking the period at the end and inserting “, as demonstrated by receiving a passing score on a standardized test administered by the Secretary of Homeland Security of not less than 50 randomly selected questions from a database of not less than 1000 questions developed by the Secretary.”.

SA 3397. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

Strike subsection 644(b)(3) and insert:

(3) ENGLISH AND HISTORY AND GOVERNMENT REQUIREMENTS.—Section 312(a) is amended to read as follows:

“(a) No person except as otherwise provided in this title shall hereafter be naturalized as a citizen of the United States upon his own application who cannot demonstrate—

“(1) an understanding of the English language on an eighth grade level, in accordance with regulations prescribed by the Secretary of Homeland Security, in consultation with the Secretary of State; and

“(2) a knowledge and understanding of the fundamentals of the history, and of the principles and form of government of the United States, as demonstrated by receiving a passing score on a standardized test administered by the Secretary of the Department of Homeland Security of not less than 50 randomly selected questions from a database of not less than 1000 questions developed by the Secretary.”.

SA 3398. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 161, line 16 and 17 strike “of the criminal provisions”.

SA 3399. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 20, line 18, insert “(including, at a minimum, 10 fingerprints from each individual)” after “standards”.

On page 20, line 21, insert “(including, at a minimum, 10 fingerprints from each individual)” after “standards”.

On page 21, lines 20 and 21, insert “(including, at a minimum, 10 fingerprints from each individual)” after “documents”.

On page 23, line 12, insert “(including, at a minimum, 10 fingerprints from each individual)” after “biometrics”.

On page 31, line 25, insert “10” after “all”.

On page 37, line 2, insert “(including, at a minimum, all 10 fingerprints from the individual)” after “biometric identifier”.

On page 38, lines 7 and 8, strike “is authorized to” and insert “shall”.

On page 38, line 9, insert “(including, at a minimum, 10 fingerprints from each individual)” after “data”.

On page 38, line 16, strike “are authorized to” and insert “shall”.

On page 38, line 17, insert “(including, at a minimum, 10 fingerprints from each individual)” after “data”.

On page 39, line 4, strike “is authorized to” and insert “shall”.

On page 39, line 5, insert “(including, at a minimum, 10 fingerprints from each individual)” after “data”.

On page 237, line 24, strike “allow for biometric authentication” and insert “provide for biometric authentication through the matching of the fingerprints of an individual, all 10 of which shall be incorporated into the machine-readable documentary evidence”.

On page 312, strike lines 19 and 20 and insert the following:

(i) IN GENERAL.—Upon entry to the

On page 312, line 23, strike “such” and insert “all 10”.

On page 313, line 8, insert “, provided that all 10 of the fingerprints of the alien are submitted” before the period at the end.

On page 331, line 13, insert “all 10” after “submits”.

On page 354, line 11, insert “all 10” after “including”.

SA 3400. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 5, after line 16, add new Sections 3 (3); 3(4); and 3(5) that reads:

(3) BIOMETRIC.—The term “Biometric” includes the collection of, at a minimum, all 10 fingerprints from an individual, unless the individual is missing one or more of their digits, in which case the term “biometric” shall include the collection of, at a minimum, all fingerprints available.

(4) BIOMETRIC IDENTIFIER.—The term “biometric identifier” includes identifying an individual through the use of, at a minimum, fingerprint biometrics. The term does not include identification through a facial recognition biometric alone.

(5) BIOMETRIC AUTHENTICATION.—The term “biometric authentication” includes, at a minimum, authentication through the use of a fingerprint biometric.

SA 3401. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____ . ELIGIBILITY FOR CERTAIN FEDERAL PUBLIC BENEFITS.

No alien granted conditional non-immigrant status or status as an H2C non-immigrant status under this Act or an

amendment made by this Act shall be granted any public benefit as a result of the changed status of the alien, including any cash or non-cash assistance, postsecondary educational assistance, housing assistance, daycare assistance, food stamps, Medicaid, or other individual public assistance, whether or not receipt of the public assistance would be sufficient for the person to be considered a public charge under section 212(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(4)).

SA 3402. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 355, strike lines 7 through 14, and insert the following:

“(2) DELAYED ELIGIBILITY FOR CERTAIN FEDERAL PUBLIC BENEFITS.—An alien in status under this Title shall not be eligible, by reason of such status, for any form of assistance or benefit described in section 403(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1613(a)).”

SA 3403. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 233, strike lines 16 and 17 and insert the following:

(A) paragraphs (5) and (7) of section 212(a) may be waived for _____

SA 3404. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 337, strike line 20 and all that follows through 338, line 8, and insert the following:

(1) IN GENERAL.—Except as otherwise provided in this subsection, no Federal agency or bureau, nor any officer, employee, or agent of such agency or bureau, may use the information filed by the applicant under this section for any purpose other than the enforcement and administration of the immigration laws.

SA 3405. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 338, strike lines 19 through 22, and insert the following:

(3) CRIMINAL PENALTY.—Any person who knowingly uses, discloses, or allows to be disclosed information in violation of this subsection shall be fined not more than \$1,000.

SA 3406. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to

provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 337, strike line 19 and all that follows through 338, line 22, and insert the following:

(1) CONFIDENTIALITY OF INFORMATION.—
(1) IN GENERAL.—Except as otherwise provided in this subsection, no Federal agency or bureau, nor any officer, employee, or agent of such agency or bureau, may use the information filed by the applicant under this section for any purpose other than the enforcement and administration of the immigration laws.

(2) REQUIRED DISCLOSURES.—The Secretary of Homeland Security shall provide the information furnished pursuant to an application filed under this section, and any other information derived from such furnished information, to a duly recognized law enforcement entity in connection with a criminal investigation or prosecution or a national security investigation or prosecution, in each instance about an individual suspect or group of suspects, when such information is requested in writing by such entity.

(3) CRIMINAL PENALTY.—Any person who knowingly uses, discloses, or allows to be disclosed information in violation of this subsection shall be fined not more than \$1,000.

SA 3407. Mr. KENNEDY (for himself and Mr. DEWINE) submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in title V of the amendment, insert the following:

SEC. 2. DETERMINATIONS WITH RESPECT TO CHILDREN UNDER THE HAITIAN AND IMMIGRANT FAIRNESS ACT OF 1998.

(a) IN GENERAL.—Section 902(d) of the Haitian Refugee Immigration Fairness Act of 1998 (8 U.S.C. 1255 note) is amended by adding at the end the following:

“(3) DETERMINATIONS WITH RESPECT TO CHILDREN.—

“(A) USE OF APPLICATION FILING DATE.—Determinations made under this subsection as to whether an individual is a child of a parent shall be made using the age and status of the individual on October 21, 1998.

“(B) APPLICATION SUBMISSION BY PARENT.—Notwithstanding paragraph (1)(C), an application under this subsection filed based on status as a child may be filed or the benefit of such child by a parent or guardian of the child, if the child is physically present in the United States on such filing date.”

(b) NEW APPLICATIONS AND MOTIONS TO REOPEN.—

(1) NEW APPLICATIONS.—Notwithstanding section 902(a)(1)(A) of the Haitian and Immigrant Fairness Act of 1998, an alien who is eligible for adjustment of status under such Act, as amended by subsection (a), may submit an application for adjustment of status under such Act not later than the later of—

(A) 2 years after the date of the enactment of this Act; and

(B) 1 year after the date on which final regulations implementing this section are promulgated.

(2) MOTIONS TO REOPEN.—The Secretary of Homeland Security shall establish procedures for the reopening and reconsideration of applications for adjustment of status under the Haitian Refugee Immigration Fairness Act of 1998 that are affected by the amendments under subsection (a).

(3) RELATIONSHIP OF APPLICATION TO CERTAIN ORDERS.—Section 902(a)(3) of the Haitian and Immigrant Fairness Act of 1998 shall apply to an alien present in the United States who has been ordered excluded, deported, removed, or ordered to depart voluntarily, and who files an application under paragraph (1), or a motion under paragraph (2), in the same manner as such section 902(a)(3) applied to aliens filing applications for adjustment of status under such Act before April 1, 2000.

SEC 3. INADMISSIBILITY DETERMINATION.

Section 902 of the Haitian Refugee Immigration Fairness Act of 1998 (8 U.S.C. 1255 note) is amended in subsections (a)(1)(B) and (d)(1)(D) by inserting “(6)(C)(i),” after “(6)(A).”

SA 3408. Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 10, between lines 21 and 22, insert the following:

SEC. 103. SURVEILLANCE TECHNOLOGIES PROGRAMS.

(a) AERIAL SURVEILLANCE PROGRAM.—

(1) IN GENERAL.—In conjunction with the border surveillance plan developed under section 5201 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108-458; 8 U.S.C. 1701 note), the Secretary, not later than 90 days after the date of enactment of this Act, shall develop and implement a program to fully integrate and utilize aerial surveillance technologies, including unmanned aerial vehicles, to enhance the security of the international border between the United States and Canada and the international border between the United States and Mexico. The goal of the program shall be to ensure continuous monitoring of each mile of each such border.

(2) ASSESSMENT AND CONSULTATION REQUIREMENTS.—In developing the program under this subsection, the Secretary shall—

(A) consider current and proposed aerial surveillance technologies;

(B) assess the feasibility and advisability of utilizing such technologies to address border threats, including an assessment of the technologies considered best suited to address respective threats;

(C) consult with the Secretary of Defense regarding any technologies or equipment, which the Secretary may deploy along an international border of the United States; and

(D) consult with the Administrator of the Federal Aviation Administration regarding safety, airspace coordination and regulation, and any other issues necessary for implementation of the program.

(3) ADDITIONAL REQUIREMENTS.—

(A) IN GENERAL.—The program developed under this subsection shall include the use of a variety of aerial surveillance technologies in a variety of topographies and areas, including populated and unpopulated areas located on or near an international border of the United States, in order to evaluate, for a range of circumstances—

(i) the significance of previous experiences with such technologies in border security or critical infrastructure protection;

(ii) the cost and effectiveness of various technologies for border security, including varying levels of technical complexity; and

(iii) liability, safety, and privacy concerns relating to the utilization of such technologies for border security.

(4) CONTINUED USE OF AERIAL SURVEILLANCE TECHNOLOGIES.—The Secretary may continue the operation of aerial surveillance technologies while assessing the effectiveness of the utilization of such technologies.

(5) REPORT TO CONGRESS.—Not later than 180 days after implementing the program under this subsection, the Secretary shall submit a report to Congress regarding the program developed under this subsection. The Secretary shall include in the report a description of the program together with such recommendations as the Secretary finds appropriate for enhancing the program.

(6) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this subsection.

(b) INTEGRATED AND AUTOMATED SURVEILLANCE PROGRAM.—

(1) REQUIREMENT FOR PROGRAM.—Subject to the availability of appropriations, the Secretary shall establish a program to procure additional unmanned aerial vehicles, cameras, poles, sensors, satellites, radar coverage, 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. Such program shall be known as the Integrated and Automated Surveillance Program.

(2) PROGRAM COMPONENTS.—The Secretary shall ensure, to the maximum extent feasible, the Integrated and Automated Surveillance Program is carried out in a manner that—

(A) the technologies utilized in the Program are integrated and function cohesively in an automated fashion, including the integration of motion sensor alerts and cameras, whereby a sensor alert automatically activates a corresponding camera to pan and tilt in the direction of the triggered sensor;

(B) cameras utilized in the Program do not have to be manually operated;

(C) such camera views and positions are not fixed;

(D) surveillance video taken by such cameras can be viewed at multiple designated communications centers;

(E) a standard process is used to collect, catalog, and report intrusion and response data collected under the Program;

(F) future remote surveillance technology investments and upgrades for the Program can be integrated with existing systems;

(G) performance measures are developed and applied that can evaluate whether the Program is providing desired results and increasing response effectiveness in monitoring and detecting illegal intrusions along the international borders of the United States;

(H) plans are developed under the Program to streamline site selection, site validation, and environmental assessment processes to minimize delays of installing surveillance technology infrastructure;

(I) standards are developed under the Program to expand the shared use of existing private and governmental structures to install remote surveillance technology infrastructure where possible; and

(J) standards are developed under the Program to identify and deploy the use of non-permanent or mobile surveillance platforms that will increase the Secretary’s mobility and ability to identify illegal border intrusions.

(3) REPORT TO CONGRESS.—Not later than 1 year after the initial implementation of the Integrated and Automated Surveillance Program, the Secretary shall submit to Congress a report regarding the Program. The Secretary shall include in the report a de-

scription of the Program together with any recommendation that the Secretary finds appropriate for enhancing the program.

(4) EVALUATION OF CONTRACTORS.—

(A) REQUIREMENT FOR STANDARDS.—The Secretary shall develop appropriate standards to evaluate the performance of any contractor providing goods or services to carry out the Integrated and Automated Surveillance Program.

(B) REVIEW BY THE INSPECTOR GENERAL.—The Inspector General of the Department shall timely review each new contract related to the Program that has a value of more than \$5,000,000, to determine whether such contract fully complies with applicable cost requirements, performance objectives, program milestones, and schedules. The Inspector General shall report the findings of such review to the Secretary in a timely manner. Not later than 30 days after the date the Secretary receives a report of findings from the Inspector General, the Secretary shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives a report of such findings and a description of any the steps that the Secretary has taken or plans to take in response to such findings.

(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this subsection.

SA 3409. Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 9, strike lines 2 through 9.

SA 3410. Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 170, strike line 3 and all that follows through page 171, line 17, and insert the following:

SEC. 233. DETENTION OF ILLEGAL ALIENS.

(a) INCREASING DETENTION BED SPACE.—Section 5204(a) of the Intelligence Reform and Terrorism Protection Act of 2004 (Public Law 108-458; 118 Stat. 3734) is amended by striking “8,000” and inserting “20,000”.

(b) CONSTRUCTION OF OR ACQUISITION OF DETENTION FACILITIES.—

(1) REQUIREMENT TO CONSTRUCT OR ACQUIRE.—The Secretary shall construct or acquire additional detention facilities in the United States to accommodate the detention beds required by section 5204(c) of the Intelligence Reform and Terrorism Protection Act of 2004, as amended by subsection (a).

(2) USE OF ALTERNATE DETENTION FACILITIES.—Subject to the availability of appropriations, the Secretary shall fully utilize all possible options to cost effectively increase available detention capacities, and shall utilize detention facilities that are owned and operated by the Federal Government if the use of such facilities is cost effective.

(3) USE OF INSTALLATIONS UNDER BASE CLOSURE LAWS.—In acquiring additional detention facilities under this subsection, the Secretary shall consider the transfer of appropriate portions of military installations approved for closure or realignment under the

Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note) for use in accordance with subsection (a).

(4) DETERMINATION OF LOCATION.—The location of any detention facility constructed or acquired in accordance with this subsection shall be determined, with the concurrence of the Secretary, by the senior officer responsible for Detention and Removal Operations in the Department. The detention facilities shall be located so as to enable the officers and employees of the Department to increase to the maximum extent practicable the annual rate and level of removals of illegal aliens from the United States.

(c) ALTERNATIVES TO DETENTION TO ENSURE COMPLIANCE WITH THE LAW.—The Secretary shall implement demonstration programs in each State located along the international border between the United States and Canada or along the international border between the United States and Mexico, and at select sites in the interior with significant numbers of alien detainees, to study the effectiveness of alternatives to the detention of aliens, including electronic monitoring devices, to ensure that such aliens appear in immigration court proceedings and comply with immigration appointments and removal orders.

(d) LEGAL REPRESENTATION.—No alien shall be detained by the Secretary in a location that limits the alien’s reasonable access to visits and telephone calls by local legal counsel and necessary legal materials. Upon active or constructive notice that a detained alien is represented by an attorney, the Secretary shall ensure that the alien is not moved from the alien’s detention facility without providing that alien and the alien’s attorney reasonable notice in advance of such move.

(e) FUNDING TO CONSTRUCT OR ACQUIRE DETENTION FACILITIES.—Section 241(g)(1) (8 U.S.C. 1231(g)(1)) is amended by striking “may expend” and inserting “shall expend”.

(f) ANNUAL REPORT TO CONGRESS.—Not later than 1 year after the date of the enactment of this Act, and annually thereafter, in consultation with the heads of other appropriate Federal agencies, the Secretary shall submit to Congress an assessment of the additional detention facilities and bed space needed to detain unlawful aliens apprehended at the United States ports of entry or along the international land borders of the United States.

SA 3411. Mr. DORGAN (for himself and Ms. STABENOW) submitted an amendment intended to be proposed to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

In title IV of the amendment, strike subtitle A.

SA 3412. Mr. BINGAMAN (for himself and Mr. DOMENICI) submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____ . ANNUAL REPORT ON THE NORTH AMERICAN DEVELOPMENT BANK.

Section 2 of Public Law 108-215 (22 U.S.C. 290m-6) is amended—

(1) in paragraph (1), by inserting after “The number” the following: “of applications received by, pending with, and awaiting final approval from the Board of the North American Development Bank and the number”; and

(2) by adding at the end the following:

“(8) Recommendations on how to improve the operations of the North American Development Bank.

“(9) An update on the implementation of this Act, including the business process review undertaken by the North American Development Bank.

“(10) A description of the activities and accomplishments of the North American Development Bank during the previous year, including a brief summary of meetings and actions taken by the Board of the North American Development Bank.”.

SA 3413. Mr. CORNYN (for himself and Mr. KYL) submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 6, strike line 9 and all that follows through page 221, line 18 and insert the following:

TITLE I—BORDER ENFORCEMENT
Subtitle A—Assets for Controlling United States Borders

SEC. 101. ENFORCEMENT PERSONNEL.

(a) **ADDITIONAL PERSONNEL.**—

(1) **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 500 the number of positions for full-time active duty port of entry inspectors and provide appropriate training, equipment, and support to such additional inspectors.

(2) **INVESTIGATIVE PERSONNEL.**—

(A) **IMMIGRATION AND CUSTOMS ENFORCEMENT INVESTIGATORS.**—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) **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 (1) of subsection (a).

(2) **BORDER PATROL AGENTS.**—Section 5202 of the Intelligence Reform and Terrorism Prevention Act of 2004 (118 Stat. 3734) is amended to read as follows:

“**SEC. 5202. INCREASE IN FULL-TIME BORDER PATROL AGENTS.**

“(a) **ANNUAL INCREASES.**—The Secretary of Homeland Security shall, subject to the availability of appropriations for such purpose, increase the number of positions for full-time active-duty border patrol agents within the Department of Homeland Security (above the number of such positions for which funds were appropriated for the preceding fiscal year), by—

“(1) 2,000 in fiscal year 2006;

“(2) 2,400 in fiscal year 2007;

“(3) 2,400 in fiscal year 2008;

“(4) 2,400 in fiscal year 2009;

“(5) 2,400 in fiscal year 2010; and

“(6) 2,400 in fiscal year 2011;

“(b) **NORTHERN BORDER.**—In each of the fiscal years 2006 through 2011, in addition to the border patrol agents assigned along the northern border of the United States during the previous fiscal year, the Secretary shall assign a number of border patrol agents equal to not less than 20 percent of the net increase in border patrol agents during each such fiscal year.

“(c) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated such sums as may be necessary for each of fiscal years 2007 through 2011 to carry out this section.”.

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 10 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, privacy 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, non-governmental 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 de-

velopment 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.

(d) **LIMITATIONS ON ASSISTANCE.**—Any funds made available to carry out this section shall be subject to the limitations contained in section 551 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act of 2006 (Public Law 109-102; 119 Stat. 2218).

SEC. 115. COMBATING HUMAN SMUGGLING.

(a) **REQUIREMENT FOR PLAN.**—The Secretary shall develop and implement a plan to improve coordination between the Bureau of Immigration and Customs Enforcement and the Bureau of Customs and Border Protection of the Department and any other Federal, State, local, or tribal authorities, as determined appropriate by the Secretary, to improve coordination efforts to combat human smuggling.

(b) **CONTENT.**—In developing the plan required by subsection (a), the Secretary shall consider—

(1) the interoperability of databases utilized to prevent human smuggling;

(2) adequate and effective personnel training;

(3) methods and programs to effectively target networks that engage in such smuggling;

(4) effective utilization of—

(A) visas for victims of trafficking and other crimes; and

(B) investigatory techniques, equipment, and procedures that prevent, detect, and prosecute international money laundering and other operations that are utilized in smuggling;

(5) joint measures, with the Secretary of State, to enhance intelligence sharing and cooperation with foreign governments whose citizens are preyed on by human smugglers; and

(6) other measures that the Secretary considers appropriate to combating human smuggling.

(c) **REPORT.**—Not later than 1 year after implementing the plan described in subsection (a), the Secretary shall submit to Congress a report on such plan, including any recommendations for legislative action to improve efforts to combating human smuggling.

(d) **SAVINGS PROVISION.**—Nothing in this section may be construed to provide additional authority to any State or local entity to enforce Federal immigration laws.

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”;

(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 non-immigrant 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 (1)—

(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;

(8) an assessment of the effect of such a system on Indian reservations and units of the National Park System; and

(9) an assessment of the necessity of constructing such a system after the implementation of provisions of this Act relating to guest workers, visa reform, and interior and worksite enforcement, and the likely effect of such provisions on undocumented immigration and the flow of illegal immigrants

across the international border of the United States;

(10) an assessment of the impact of such a system on diplomatic relations between the United States and Mexico, Central America, and South America, including the likely impact of such a system on existing and potential areas of bilateral and multilateral cooperative enforcement efforts;

(11) an assessment of the impact of such a system on the quality of life within border communities in the United States and Mexico, including its impact on noise and light pollution, housing, transportation, security, and environmental health;

(12) an assessment of the likelihood that such a system would lead to increased violations of the human rights, health, safety, or civil rights of individuals in the region near the southern international border of the United States, regardless of the immigration status of such individuals;

(13) an assessment of the effect such a system would have on violence near the southern international border of the United States; and

(14) an assessment of the effect of such a system on the vulnerability of the United States to infiltration by terrorists or other agents intending to inflict direct harm on the United States.

(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 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 than 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.

SEC. 131. MANDATORY DETENTION FOR ALIENS APPREHENDED AT OR BETWEEN PORTS OF ENTRY.

(a) IN GENERAL.—Beginning on October 1, 2007, an alien (other than a national of Mexico) 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 and 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, 2007, 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) does 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. 132. EVASION OF INSPECTION OR VIOLATION OF ARRIVAL, REPORTING, ENTRY, OR CLEARANCE REQUIREMENTS.

(a) IN GENERAL.—Chapter 27 of title 18, United States Code, is amended by adding at the end the following:

“§ 554. Evasion of inspection or during violation of arrival, reporting, entry, or clearance requirements

“(a) PROHIBITION.—A person shall be punished as described in subsection (b) if such person attempts to elude or eludes customs, immigration, or agriculture inspection or fails to stop at the command of an officer or employee of the United States charged with enforcing the immigration, customs, or other laws of the United States at a port of entry or customs or immigration checkpoint;

“(b) PENALTIES.—A person who commits an offense described in subsection (a) shall be—

“(1) fined under this title;

“(2)(A) imprisoned for not more than 3 years, or both;

“(B) imprisoned for not more than 10 years, or both, if in commission of this violation, attempts to inflict or inflicts bodily injury (as defined in section 1365(g) of this title); or

“(C) imprisoned for any term of years or for life, or both, if death results, and may be sentenced to death; or

“(3) both fined and imprisoned under this subsection.

“(c) CONSPIRACY.—If 2 or more persons conspire to commit an offense described in subsection (a), and 1 or more of such persons do any act to effect the object of the conspiracy, each shall be punishable as a principal, except that the sentence of death may not be imposed.

“(d) PRIMA FACIE EVIDENCE.—For the purposes of seizure and forfeiture under applicable law, in the case of use of a vehicle or other conveyance in the commission of this offense, or in the case of disregarding or disobeying the lawful authority or command of any officer or employee of the United States under section 111(b) of this title, such conduct shall constitute prima facie evidence of smuggling aliens or merchandise.”

(b) CONFORMING AMENDMENT.—The table of sections for chapter 27 of title 18, United States Code, is amended by inserting at the end:

“554. Evasion of inspection or during violation of arrival, reporting, entry, or clearance requirements.”

(c) FAILURE TO OBEY BORDER ENFORCEMENT OFFICERS.—Section 111 of title 18, United States Code, is amended by inserting after subsection (b) the following:

“(c) FAILURE TO OBEY LAWFUL ORDERS OF BORDER ENFORCEMENT OFFICERS.—Whoever willfully disregards or disobeys the lawful authority or command of any officer or employee of the United States charged with enforcing the immigration, customs, or other laws of the United States while engaged in, or on account of, the performance of official duties shall be fined under this title or imprisoned for not more than 5 years, or both.”

Subtitle D—Border Tunnel Prevention Act**SEC. 141. SHORT TITLE.**

This subtitle may be cited as the “Border Tunnel Prevention Act”.

SEC. 142. CONSTRUCTION OF BORDER TUNNEL OR PASSAGE.

(a) IN GENERAL.—Chapter 27 of title 18, United States Code, is amended by adding at the end the following:

“§ 554. Border tunnels and passages

“(a) Any person who knowingly constructs or finances the construction of a tunnel or subterranean passage that crosses the international border between the United States and another country, other than a lawfully authorized tunnel or passage known to the Secretary of Homeland Security and subject to inspection by the Bureau of Immigration and Customs Enforcement, shall be fined under this title and imprisoned for not more than 20 years.

“(b) Any person who knows or recklessly disregards the construction or use of a tunnel or passage described in subsection (a) on land that the person owns or controls shall be fined under this title and imprisoned for not more than 10 years.

“(c) Any person who uses a tunnel or passage described in subsection (a) to unlawfully smuggle an alien, goods (in violation of section 545), controlled substances, weapons of mass destruction (including biological weapons), or a member of a terrorist organization (as defined in section 212(a)(3)(B)(vi) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(vi))) shall be subject to a maximum term of imprisonment that is twice the maximum term of imprisonment that would have otherwise been applicable had the unlawful activity not made use of such a tunnel or passage.”

(b) CLERICAL AMENDMENT.—The table of sections for chapter 27 of title 18, United States Code, is amended by adding at the end the following:

“Sec. 554. Border tunnels and passages.”.

(c) CRIMINAL FORFEITURE.—Section 982(a)(6) of title 18, United States Code, is amended by inserting “554,” before “1425.”

SEC. 143. DIRECTIVE TO THE UNITED STATES SENTENCING COMMISSION.

(a) IN GENERAL.—Pursuant to its authority under section 994 of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission shall promulgate or amend sentencing guidelines to provide for increased penalties for persons convicted of offenses described in section 554 of title 18, United States Code, as added by section 132.

(b) REQUIREMENTS.—In carrying out this section, the United States Sentencing Commission shall—

(1) ensure that the sentencing guidelines, policy statements, and official commentary reflect the serious nature of the offenses described in section 554 of title 18, United States Code, and the need for aggressive and appropriate law enforcement action to prevent such offenses;

(2) provide adequate base offense levels for offenses under such section;

(3) account for any aggravating or mitigating circumstances that might justify exceptions, including—

(A) the use of a tunnel or passage described in subsection (a) of such section to facilitate other felonies; and

(B) the circumstances for which the sentencing guidelines currently provide applicable sentencing enhancements;

(4) ensure reasonable consistency with other relevant directives, other sentencing guidelines, and statutes;

(5) make any necessary and conforming changes to the sentencing guidelines and policy statements; and

(6) ensure that the sentencing guidelines adequately meet the purposes of sentencing set forth in section 553(a)(2) of title 18, United States Code.

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 any act or condition constituting a ground for inadmissibility, excludability, or removal occurring or existing 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 this paragraph.

“(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 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.

(a) DEFINITION OF 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 (except for the provision providing an effective date for section 203 of the Comprehensive Reform Act of 2006), 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 (A), by striking “murder, rape, or sexual abuse of a minor;” and inserting “murder, rape, or sexual abuse of a minor, whether or not the minority of the victim is established by evidence contained in the record of conviction or by evidence extrinsic to the record of conviction;”;

(3) in subparagraph (N), by striking “paragraph (1)(A) or (2) of”;

(4) 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”;

(5) 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”;

(6) by striking the undesignated matter following subparagraph (U).

(b) EFFECTIVE DATE AND APPLICATION.—

(1) IN GENERAL.—The amendments made by subsection (a) shall—

(A) take effect on the date of the enactment of this Act; and

(B) apply to any act that occurred on or after the date of the enactment of this Act.

(2) APPLICATION OF HIRAIRA AMENDMENTS.—The amendments to section 101(a)(43) of the Immigration and Nationality Act made by section 321 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104-208; 110 Stat. 3009-627) shall continue to apply, whether the conviction was entered before, on, or after September 30, 1996.

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”;

(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: “Except that in any proceeding, other than a proceeding under section 340, the court shall review for substantial evidence the administrative record and findings of the Secretary of Homeland Security regarding whether an alien is a person of good moral character, understands and is attached to the principles of the Constitution of the United States, or is well disposed to the good order and happiness of the United States. The petitioner shall have the burden of showing that the Secretary’s denial of the application was contrary to law.”.

(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. The Secretary shall notify the applicant when such examinations and interviews have been completed. Such district court shall only have jurisdiction to review the basis for delay and remand the matter, with appropriate instructions, to the Secretary 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; and

(2) shall apply to any act that occurred on or 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 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 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 or organization, not previously convicted of a violation of this section, to provide an alien who is present in the United States with humanitarian assistance, including medical care, housing, counseling, victim services, and food, or to transport the alien to a location where such assistance can be rendered.

“(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 as 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”; and

(B) in subparagraph (A), by inserting “alien smuggling crime,” after “such crime of violence”; and

(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.

(a) **IN GENERAL.**—Section 275 (8 U.S.C. 1325) is amended to read as follows:

“**SEC. 275. ILLEGAL ENTRY.**

“(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 (including failing to stop at the command of such officer), or a customs or agriculture inspection at a port of entry; or

“(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 (including such representation or concealment in the context of arrival, reporting, entry, or clearance requirements of the customs law, immigration laws, agriculture laws, or shipping laws).

“(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.

“(5) **ATTEMPT.**—Whoever attempts to commit any offense under this section shall be punished in the same manner as for a completion of such offense.

“(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.”.

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 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) PASSPORT, VISA, AND IMMIGRATION FRAUD.—

(1) IN GENERAL.—Chapter 75 of title 18, United States Code, is amended to read as follows:

“CHAPTER 75—PASSPORT, VISA, AND IMMIGRATION FRAUD

“Sec.

“1541. Trafficking in passports.

“1542. False statement in an application for a passport.

“1543. Forgery and unlawful production of a passport.

“1544. Misuse of a passport.

“1545. Schemes to defraud aliens.

“1546. Immigration and visa fraud.

“1547. Marriage fraud.

“1548. Attempts and conspiracies.

“1549. Alternative penalties for certain offenses.

“1550. Seizure and forfeiture.

“1551. Additional jurisdiction.

“1552. Additional venue.

“1553. Definitions.

“1554. Authorized law enforcement activities.

“1555. Exception for refugees and asylees.

“§ 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).

“§ 1555. Exception for refugees, asylees, and other vulnerable persons

“(a) IN GENERAL.—If a person believed to have violated section 1542, 1544, 1546, or 1548 while attempting to enter the United States, without delay, indicates an intention to apply for asylum under section 208 or 241(b)(3) of the Immigration and Nationality Act (8 U.S.C. 1158 and 1231), or for relief under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (in accordance with section 208.17 of title 8, Code of Federal Regulations), or under section 101(a)(15)(T), 101(a)(15)(U), 101(a)(27)(J), 101(a)(51), 216(c)(4)(C), 240A(b)(2), or 244(a)(3) (as in effect prior to March 31, 1997) of such Act, or a credible fear of persecution or torture—

“(1) the person shall be referred to an appropriate Federal immigration official to review such claim and make a determination if such claim is warranted;

“(2) if the Federal immigration official determines that the person qualifies for the claimed relief, the person shall not be considered to have violated any such section; and

“(3) if the Federal immigration official determines that the person does not qualify for the claimed relief, the person shall be referred to an appropriate Federal official for prosecution under this chapter.

“(b) SAVINGS PROVISION.—Nothing in this section shall be construed to diminish, increase, or alter the obligations of refugees or the United States under article 31(1) of the Convention Relating to the Status of Refugees, done at Geneva July 28, 1951 (as made applicable by the Protocol Relating to the Status of Refugees, done at New York January 31, 1967 (19 UST 6223)).”

(2) 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”.

(b) PROTECTION FOR LEGITIMATE REFUGEES AND ASYLUM SEEKERS.—Section 208 (8 U.S.C.

1158) is amended by adding at the end the following:

“(e) PROTECTION FOR LEGITIMATE REFUGEES AND ASYLUM SEEKERS.—The Attorney General, in consultation with the Secretary of Homeland Security, shall develop binding prosecution guidelines for federal prosecutors to ensure that any prosecution of an alien seeking entry into the United States by fraud is consistent with the written terms and limitations of Article 31(1) of the Convention Relating to the Status of Refugees, done at Geneva July 28, 1951 (as made applicable by the Protocol Relating to the Status of Refugees, done at New York January 31, 1967 (19 UST 6223)).”

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, with respect to conduct occurring on or after that date.

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)”;

(vi) in subparagraph (E), as redesignated, by striking “subparagraph (B)” each place that term appears and inserting “subparagraph (C)”;

(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”;

(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 entered 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”;

(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));”;

(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”;

(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. CONSTRUCTION.

(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 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 shall provide sufficient transportation and officers to take illegal aliens apprehended by State and local law enforcement officers into custody for processing at a detention facility operated by the Department.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for each of fiscal years 2007 through 2011 to carry out this section.

SEC. 220. 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. 221. 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. 222. 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. 223. 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 adding 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 Sec-

retary 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. 224. 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. 225. REMOVAL OF DRUNK DRIVERS.

(a) IN GENERAL.—Section 101(a)(43)(F) (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 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. 226. MEDICAL SERVICES IN UNDERSERVED AREAS.

Section 220(c) of the Immigration and Nationality Technical Corrections Act of 1994 (8 U.S.C. 1182 note) is amended by striking “and before June 1, 2006.”.

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—

“(A) has not been lawfully admitted to the United States for permanent residence; and

“(B) 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—”;

(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 (vii), any”;

(2) in subparagraph (A), by inserting after clause (vi) the following:

“(vii) Clause (i) shall not apply to a citizen of the United States who has been convicted of an offense described in subparagraph (A), (I), or (K) of section 101(a)(43), 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 resi-

dence who has been convicted of an offense described in subparagraph (A), (I), or (K) of section 101(a)(43), 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)(vii))” 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 section 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—

“(i) take the illegal alien into the custody of the Federal Government not later than 72 hours after—

“(I) the conclusion of the State charging process or dismissal process; or

“(II) the illegal alien is apprehended, if no State charging or dismissal process is required; 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, 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—

“(1) aliens incarcerated in a Federal facility pursuant to this section are held in facilities which provide an appropriate level of security; and

“(2) if 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 if 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. 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. 231. 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; and

(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-day 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. 232. COOPERATIVE ENFORCEMENT PROGRAMS.

Not later than 2 years after the date of the enactment of this Act, the Secretary shall negotiate and execute, where practicable, a cooperative enforcement agreement described in section 287(g) of the Immigration and Nationality Act (8 U.S.C. 1357(g)) with at least 1 law enforcement agency in each

State, to train law enforcement officers in the detection and apprehension of individuals engaged in transporting, harboring, sheltering, or encouraging aliens in violation of section 274 of such Act (8 U.S.C. 1324).

SEC. 233. INCREASE OF FEDERAL DETENTION SPACE AND THE UTILIZATION OF FACILITIES IDENTIFIED FOR CLOSURES AS A RESULT OF THE DEFENSE BASE CLOSURE REALIGNMENT ACT OF 1990.

(a) CONSTRUCTION OR ACQUISITION OF DETENTION FACILITIES.—

(1) IN GENERAL.—The Secretary shall construct or acquire, in addition to existing facilities for the detention of aliens, 20 detention facilities in the United States that have the capacity to detain a combined total of not less than 10,000 individuals at any time for aliens detained pending removal or a decision on removal of such aliens from the United States.

(2) DETERMINATION OF LOCATION.—The location of any detention facility built or acquired in accordance with this subsection shall be determined with the concurrence of the Secretary by the senior officer responsible for Detention and Removal Operations in the Department. The detention facilities shall be located so as to enable the officers and employees of the Department to increase to the maximum extent practicable the annual rate and level of removals of illegal aliens from the United States.

(3) USE OF INSTALLATIONS UNDER BASE CLOSURE LAWS.—In acquiring detention facilities under this subsection, the Secretary shall consider the transfer of appropriate portions of military installations approved for closure or realignment under the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note) for use in accordance with paragraph (1).

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 241(g)(1) (8 U.S.C. 1231(g)(1)) is amended by striking “may expend” and inserting “shall expend”.

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

SEC. 234. DETERMINATION OF IMMIGRATION STATUS OF INDIVIDUALS CHARGED WITH FEDERAL OFFENSES.

(a) RESPONSIBILITY OF UNITED STATES ATTORNEYS.—Beginning not later than 2 years after the date of the enactment of this Act, the office of the United States Attorney that is prosecuting a criminal case in a Federal court—

(1) shall determine, not later than 30 days after filing the initial pleadings in the case, whether each defendant in the case is lawfully present in the United States (subject to subsequent legal proceedings to determine otherwise);

(2)(A) if the defendant is determined to be an alien lawfully present in the United States, shall notify the court in writing of the determination and the current status of the alien under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.); and

(B) if the defendant is determined not to be lawfully present in the United States, shall notify the court in writing of the determination, the defendant’s alien status, and, to the extent possible, the country of origin or legal residence of the defendant; and

(3) ensure that the information described in paragraph (2) is included in the case file and the criminal records system of the office of the United States attorney.

(b) GUIDELINES.—A determination made under subsection (a)(1) shall be made in accordance with guidelines of the Executive Office for Immigration Review of the Department of Justice.

(c) RESPONSIBILITIES OF FEDERAL COURTS.—

(1) MODIFICATIONS OF RECORDS AND CASE MANAGEMENT SYSTEMS.—Not later than 2 years after the date of the enactment of this Act, all Federal courts that hear criminal cases, or appeals of criminal cases, shall modify their criminal records and case management systems, in accordance with guidelines which the Director of the Administrative Office of the United States Courts shall establish, so as to enable accurate reporting of information described in subsection (a)(2).

(2) DATA ENTRIES.—Beginning not later than 2 years after the date of the enactment of this Act, each Federal court described in paragraph (1) shall enter into its electronic records the information contained in each notification to the court under subsection (a)(2).

(d) CONSTRUCTION.—Nothing in this section may be construed to provide a basis for admitting evidence to a jury or releasing information to the public regarding an alien’s immigration status.

(e) ANNUAL REPORT TO CONGRESS.—The Director of the Administrative Office of the United States Courts shall include, in the annual report filed with Congress under section 604 of title 28, United States Code—

(1) statistical information on criminal trials of aliens in the courts and criminal convictions of aliens in the lower courts and upheld on appeal, including the type of crime in each case and including information on the legal status of the aliens; and

(2) recommendations on whether additional court resources are needed to accommodate the volume of criminal cases brought against aliens in the Federal courts.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of fiscal years 2007 through 2011, such sums as may be necessary to carry out this Act. Funds appropriated pursuant to this subsection in any fiscal year shall remain available until expended.

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 Comprehensive Immigration Reform Act of 2006, 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.

“(i) 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 inquiry 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) a 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 Comprehensive Immigration

Reform Act of 2006, 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 Comprehensive Immigration Reform Act of 2006, the Secretary may require an additional 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 Comprehensive Immigration Reform Act of 2006, the Secretary shall require an employer with 5,000 or more 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) MIDSIZED EMPLOYERS.—Not later than 3 years after the date of enactment of the Comprehensive Immigration Reform Act of 2006, the Secretary shall require an employer with less than 5,000 employees and with 1,000 or more 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 Comprehensive Immigration Reform Act of 2006, the Secretary shall require all employers with less than 1,000 employees and with 250 or more 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 Comprehensive Immigration Reform Act of 2006, 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 Comprehensive Immigration Reform Act of 2006, if the Secretary has reasonable cause 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) with 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, 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 Comprehensive Immigration Reform Act of 2006, 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 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 Comprehensive Immigration Reform Act of 2006, 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) PREPENALTY 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 subsection (b), (c), or (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 Security 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) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) 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 on the 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 immigra-

tion fraud detection during the 5-year period beginning on the 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”.

On page 332, line 9, strike “6 years” and insert “5 years”.

On page 332, line 15, strike “The” and all that follows through line 18, and insert the following:

“(C) ADMISSION OF NONIMMIGRANTS.—An alien granted conditional nonimmigrant work authorization and status under this section who departs the United States during the 6-year period described in subparagraph (A) may seek admission as a nonimmigrant under section 101(a)(15) without regard to the numerical limitations under section 214.

On page 340, strike line 10 and all that follows through the undesignated matter before line 19 on page 345, and insert the following:

SEC. 602. CANCELLATION OF DEPARTURE AND ADJUSTMENT FOR HUMANITARIAN CASES.

(a) IN GENERAL.—Section 240A (8 U.S.C. 1229b) is amended by adding at the end the following:

“(f) CANCELLATION OF DEPARTURE FOR HUMANITARIAN REASONS.—

“(1) IN GENERAL.—The Secretary of Homeland Security, in the Secretary’s sole and unreviewable discretion, may adjust the status of an alien to that of an alien lawfully admitted for permanent residence if the alien—

“(A) is a conditional nonimmigrant who has not violated any material term or condition of such status;

“(B) makes an application for such adjustment of status;

“(C) has been physically present in the United States for a continuous period of not less than 10 years immediately preceding the date of such application;

“(D) establishes that the alien’s departure from the United States upon the expiration of conditional nonimmigrant status would result in significant hardship to the alien’s spouse, parent, or child, who is a citizen of the United States or an alien lawfully admitted for permanent residence;

“(E) establishes that the alien meets the English language, history, and principles and form of government requirements under section 312; and

“(F) establishes that the alien has paid all Federal income taxes owed for employment during the required period of continuous residence.

“(2) APPLICATION FEE.—An alien seeking humanitarian relief shall submit to the Secretary of Homeland Security, in addition to any other fees authorized by law, a supplemental application fee of \$1000, which shall be deposited in the Temporary Worker Program Account established under section 286(y).”

(b) CREATION OF BORDER SECURITY AND TEMPORARY WORKER ACCOUNT.—Section 286 (8 U.S.C. 1356), as amended by sections 302 and 403(b), is further amended by adding at the end the following:

“(y) BORDER SECURITY AND TEMPORARY WORKER ACCOUNT.—

“(1) ESTABLISHMENT.—There is established in the general fund of the Treasury a separate account, which shall be known as the ‘Border Security and Temporary Worker Account’.

“(2) DEPOSITS.—Notwithstanding any other provision under this Act, there shall be de-

posited as offsetting receipts into the Border Security and Temporary Worker Account the supplemental application fee collected under section 240A(f).

“(3) USE OF FUNDS.—Of the amounts deposited into the Border Security and Temporary Worker Account—

“(A) 75 percent shall be used to carry out titles I, II, and III of this Act, and the amendments made by such titles; and

“(B) 25 percent shall be used to carry out title VI of this Act, and the amendments made by such title.”

SA 3414. Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 171, between lines 17 and 18, insert the following:

SEC. 234. DETENTION STANDARDS.

(a) CODIFICATION OF DETENTION OPERATIONS.—In order to ensure uniformity in the safety and security of all facilities used or contracted by the Secretary to hold alien detainees and to ensure the fair treatment and access to counsel of all alien detainees, not later than 180 days after the date of the enactment of this Act, the Secretary shall issue the provisions of the Detention Operations Manual of the Department, including all amendments made to such Manual since it was issued in 2000, as regulations for the Department. Such regulations shall be subject to the notice and comment requirements of subchapter II of chapter 5 of title 5, United States Code (commonly referred to as the Administrative Procedure Act) and shall apply to all facilities used by the Secretary to hold detainees for more than 72 hours.

(b) DETENTION STANDARDS FOR NUCLEAR FAMILY UNITS AND CERTAIN NON-CRIMINAL ALIENS.—For all facilities used or contracted by the Secretary to hold aliens, the regulations described in subsection (a) shall—

(1) provide for sight and sound separation of alien detainees without any criminal convictions from criminal inmates and pretrial detainees facing criminal prosecution; and

(2) establish specific standards for detaining nuclear family units together and for detaining non-criminal applicants for asylum, withholding of removal, or protection under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York December 10, 1984, in civilian facilities cognizant of their special needs.

(c) LEGAL ORIENTATION TO ENSURE EFFECTIVE REMOVAL PROCESS.—All alien detainees shall receive legal orientation presentations from an independent non-profit agency as implemented by the Executive Office for Immigration Review of the Department of Justice in order to both maximize the efficiency and effectiveness of removal proceedings and to reduce detention costs.

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

SA 3415. Mr. CHAFEE submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____ . DIASPORA RESEARCH NETWORK.

(a) IN GENERAL.—There is established a grant program to be known as “Diaspora Research Network”.

(b) PURPOSE.—The purpose of the Diaspora Research Network is to—

(1) provide policy makers with systematic, comparative, and reliable data and expertise on diasporas;

(2) support efforts within diaspora communities to address self-identified concerns; and

(3) provide guidelines on how best to incorporate and account for diasporas in development, humanitarian assistance, and political strategies.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for the Diaspora Research Network, \$30,000,000 for each of the fiscal years 2006, 2007, 2008, 2009, and 2010.

SA 3416. Mr. CONRAD submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 156, strike lines 10 through 12 and insert the following:

(a) IN GENERAL.—Any alien with non-immigrant status under subparagraph (H)(i)(b) or (J) of section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)), who seeks to practice medicine in the United States other than during participation in an accredited medical residency program, shall, during the 3-year period from the date of commencement of such status (or, in the case of an alien who initially practices medicine as part of such medical residency program, from the date of completion of such program), practice medicine in a facility that treats patients who reside in a Health Professional Shortage Area (as designated under section 5 of title 42, Code of Federal Regulations) or a Medically Underserved Area (as designated by the Secretary of Health and Human Services).

(b) EXEMPTION FROM NUMERICAL LIMITATION.—Section 214(g)(5) (8 U.S.C. 1184(g)(5)) is amended—

(1) in subparagraph (B), by striking “or” at the end;

(2) in subparagraph (C), by striking the period at the end and inserting “; or”; and

(3) by adding at the end the following:

“(D) practices medicine in a facility that treats patients who reside in a Health Professional Shortage Area or a Medically Underserved Area, in accordance with section 226(a) of the Comprehensive Immigration Reform Act of 2006.”.

(c) EXTENSION OF WAIVER PROGRAM.—Section 220(c) of the Immigration and Nationality Technical Corrections Act of 1994 (8 U.S.C. 1182 note) is amended by striking “and before June 1, 2006.”.

SA 3417. Mr. CONRAD submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____ . PEACE GARDEN PASS.

(a) AUTHORIZATION.—Notwithstanding section 7209(b) of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108-458), the Secretary, in consultation with the Director of the Bureau of Citizenship and Immigration Services, shall develop

a travel document (referred to in this section as the “Peace Garden Pass”) to allow citizens and nationals of the United States to travel to the International Peace Garden.

(b) ADMITTANCE.—The Peace Garden Pass shall be issued to, and shall authorize the admittance of, any person who enters the International Peace Garden from the United States and exits the International Peace Garden into the United States without having been granted entry into Canada.

(c) IDENTIFICATION.—The Secretary of State, in consultation with the Secretary, shall—

(1) determine what form of identification (other than a passport, passport card, or similar alternative to a passport) will be required to be presented by individuals applying for the Peace Garden Pass; and

(2) ensure that cards are only issued to—

(A) individuals providing the identification required under paragraph (1); or

(B) individuals under 18 years of age who are accompanied by an individual described in subparagraph (A).

(d) LIMITATION.—The Peace Garden Pass shall not grant entry into Canada.

(e) DURATION.—Each Peace Garden Pass shall be valid for a period not to exceed 14 days. The actual period of validity shall be determined by the issuer depending on the individual circumstances of the applicant and shall be clearly indicated on the pass.

(f) COST.—The Secretary may not charge a fee for the issuance of a Peace Garden Pass.

SA 3418. Mr. HARKIN submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____ . GRANT PROGRAM TO ASSIST ELIGIBLE APPLICANTS.

(a) SHORT TITLE.—This section may be cited as the “Initial Entry, Adjustment, and Citizenship Assistance Grant Act of 2006”.

(b) PURPOSE.—The purpose of this section is to establish a grant program within the Bureau of Citizenship and Immigration Services that provides funding to community-based organizations, including community-based legal service organizations, as appropriate, to develop and implement programs to assist eligible applicants for the conditional nonimmigrant worker program established under this Act by providing them with the services described in subsection (d)(2).

(c) DEFINITIONS.—In this section:

(1) COMMUNITY-BASED ORGANIZATION.—The term “community-based organization” means a nonprofit, tax-exempt organization, including a faith-based organization, whose staff has experience and expertise in meeting the legal, social, educational, cultural educational, or cultural needs of immigrants, refugees, persons granted asylum, or persons applying for such statuses.

(2) IEACA GRANT.—The term “IEACA grant” means an Initial Entry, Adjustment, and Citizenship Assistance Grant authorized under subsection (d).

(d) ESTABLISHMENT OF INITIAL ENTRY, ADJUSTMENT, AND CITIZENSHIP ASSISTANCE GRANT PROGRAM.—

(1) GRANTS AUTHORIZED.—The Secretary, working through the Director of the Bureau of Citizenship and Immigration Services, may award IEACA grants to community-based organizations.

(2) USE OF FUNDS.—Grants awarded under this section may be used for the design and implementation of programs to provide the following services:

(A) INITIAL APPLICATION.—Assistance and instruction, including legal assistance, to aliens making initial application for treatment under the program established by section 218D of the Immigration and Nationality Act, as added by section 601. Such assistance may include assisting applicants in—

(i) screening to assess prospective applicants’ potential eligibility or lack of eligibility;

(ii) filling out applications;

(iii) gathering proof of identification, employment, residence, and tax payment;

(iv) gathering proof of relationships of eligible family members;

(v) applying for any waivers for which applicants and qualifying family members may be eligible; and

(vi) any other assistance that the Secretary or grantee considers useful to aliens who are interested in filing applications for treatment under such section 218D.

(B) ADJUSTMENT OF STATUS.—Assistance and instruction, including legal assistance, to aliens seeking to adjust their status in accordance with section 245 or 245B of the Immigration and Nationality Act.

(C) CITIZENSHIP.—Assistance and instruction to applicants on—

(i) the rights and responsibilities of United States Citizenship;

(ii) English as a second language;

(iii) civics; or

(iv) applying for United States citizenship.

(3) DURATION AND RENEWAL.—

(A) DURATION.—Each grant awarded under this section shall be awarded for a period of not more than 3 years.

(B) RENEWAL.—The Secretary may renew any grant awarded under this section in 1-year increments.

(4) APPLICATION FOR GRANTS.—Each entity desiring an IEACA grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require.

(5) ELIGIBLE ORGANIZATIONS.—A community-based organization applying for a grant under this section to provide services described in subparagraph (A), (B), or (C)(iv) of paragraph (2) may not receive such a grant unless the organization is—

(A) recognized by the Board of Immigration Appeals under section 292.2 of title 8, Code of Federal Regulations; or

(B) otherwise directed by an attorney.

(6) SELECTION OF GRANTEES.—Grants awarded under this section shall be awarded on a competitive basis.

(7) GEOGRAPHIC DISTRIBUTION OF GRANTS.—The Secretary shall approve applications under this section in a manner that ensures, to greatest extent practicable, that—

(A) not less than 50 percent of the funding for grants under this section are awarded to programs located in the 10 States with the highest percentage of foreign-born residents; and

(B) not less than 20 percent of the funding for grants under this section are awarded to programs located in States that are not described in subparagraph (A).

(8) ETHNIC DIVERSITY.—The Secretary shall ensure that community-based organizations receiving grants under this section provide services to an ethnically diverse population, to the greatest extent possible.

(e) LIAISON BETWEEN USCIS AND GRANTEES.—The Secretary shall establish a liaison between the Bureau of Citizenship and Immigration Services and the community of providers of services under this section to assure quality control, efficiency, and greater client willingness to come forward.

(f) REPORTS TO CONGRESS.—Not later than 180 days after the date of the enactment of

this Act, and each subsequent July 1, the Secretary shall submit a report to Congress that includes information regarding—

- (1) the status of the implementation of this section;
- (2) the grants issued pursuant to this section; and

- (3) the results of those grants.
- (g) SOURCE OF GRANT FUNDS.—

(1) APPLICATION FEES.—The Secretary may use funds made available under sections 218A(1)(2) and 218D(f)(4)(B) of the Immigration and Nationality Act, as added by this Act, to carry out this section.

(2) AUTHORIZATION OF APPROPRIATIONS.—

(A) AMOUNTS AUTHORIZED.—In addition to the amounts made available under paragraph (1), there are authorized to be appropriated such additional sums as may be necessary for each of the fiscal years 2007 through 2011 to carry out this section.

(B) AVAILABILITY.—Any amounts appropriated pursuant to subparagraph (A) shall remain available until expended.

(h) DISTRIBUTION OF FEES AND FINES.—

(1) H-2C VISA FEES.—Notwithstanding section 218A(1) of the Immigration and Nationality Act, as added by section 403, 2 percent of the fees collected under section 218A of such Act shall be made available for grants under the Initial Entry, Adjustment, and Citizenship Assistance Grant Program established under this section.

(2) CONDITIONAL NONIMMIGRANT VISA FEES AND FINES.—Notwithstanding section 218D(f)(4) of the Immigration and Nationality Act, as added by section 601, 2 percent of the fees and fines collected under section 218D of such Act shall be made available for grants under the Initial Entry, Adjustment, and Citizenship Assistance Grant Program established under this section.

SA 3419. Mr. ENSIGN submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

Sec. . SUFFICIENCY FOR REVENUE FOR ENFORCEMENT.

Notwithstanding any other provision of law, any fee or penalty required to be paid pursuant to this Act or an amendment made by this Act, shall be deposited in a special account in the Treasury to be available to the Secretary to implement the provisions of this Act without further appropriations and shall remain available until expended.

SA 3420. Mr. SESSIONS proposed an amendment to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; as follows:

In the bill, strike all after the word "SECTION" and insert the following:

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. 1. Short title; table of contents.
- Sec. 2. Reference to the Immigration and Nationality Act.
- Sec. 3. Definitions.

TITLE I—BORDER ENFORCEMENT

Subtitle A—Assets for Controlling United States Borders

Sec. 101. Enforcement personnel.

- Sec. 102. Technological assets.
- Sec. 103. Infrastructure.
- Sec. 104. Border patrol checkpoints.
- Sec. 105. Ports of entry.
- Sec. 106. Construction of strategic border fencing and vehicle barriers.
- Subtitle B—Border Security Plans, Strategies, and Reports
- Sec. 111. Surveillance plan.
- Sec. 112. National Strategy for Border Security.
- Sec. 113. Reports on improving the exchange of information on North American security.
- Sec. 114. Improving the security of Mexico's southern border.

Subtitle C—Other Border Security Initiatives

- Sec. 121. Biometric data enhancements.
- Sec. 122. Secure communication.
- Sec. 123. Border patrol training capacity review.
- Sec. 124. US-VISIT System.
- Sec. 125. Document fraud detection.
- Sec. 126. Improved document integrity.
- Sec. 127. Cancellation of visas.
- Sec. 128. Biometric entry-exit system.
- Sec. 129. Border study.
- Sec. 130. Secure Border Initiative financial accountability.

TITLE II—INTERIOR ENFORCEMENT

- Sec. 201. Removal and denial of benefits to terrorist aliens.
- Sec. 202. Detention and removal of aliens ordered removed.
- Sec. 203. Aggravated felony.
- Sec. 204. Terrorist bars.
- Sec. 205. Increased criminal penalties related to gang violence, removal, and alien smuggling.
- Sec. 206. Illegal entry or unlawful presence of an alien.
- Sec. 207. Illegal reentry.
- Sec. 208. Reform of passport, visa, and immigration fraud offenses.
- Sec. 209. Inadmissibility and removal for passport and immigration fraud offenses.
- Sec. 210. Incarceration of criminal aliens.
- Sec. 211. Encouraging aliens to depart voluntarily.
- Sec. 212. Deterring aliens ordered removed from remaining in the United States unlawfully.
- Sec. 213. Prohibition of the sale of firearms to, or the possession of firearms by certain aliens.
- Sec. 214. Uniform statute of limitations for certain immigration, naturalization, and peonage offenses.
- Sec. 215. Diplomatic security service.
- Sec. 216. Field agent allocation and background checks.
- Sec. 217. Denial of benefits to terrorists and criminals.
- Sec. 218. State criminal alien assistance program.
- Sec. 219. Transportation and processing of illegal aliens apprehended by State and local law enforcement officers.
- Sec. 220. State and local law enforcement of Federal immigration laws.
- Sec. 221. Reducing illegal immigration and alien smuggling on tribal lands.
- Sec. 222. Alternatives to detention.
- Sec. 223. Conforming amendment.
- Sec. 224. Reporting requirements.
- Sec. 225. Mandatory detention for aliens apprehended at or between ports of entry.
- Sec. 226. Removal of drunk drivers.
- Sec. 227. Expedited removal.
- Sec. 228. Protecting immigrants from convicted sex offenders

- Sec. 229. Law enforcement authority of States and political subdivisions and transfer to Federal custody.
- Sec. 230. Listing of immigration violators in the National Crime Information Center database.
- Sec. 231. Laundering of monetary instruments.
- Sec. 232. Severability.
- TITLE III—UNLAWFUL EMPLOYMENT OF ALIENS**
- Sec. 301. Unlawful employment of aliens.
- Sec. 302. Employer Compliance Fund.
- Sec. 303. Additional worksite enforcement and fraud detection agents.
- Sec. 304. Clarification of ineligibility for misrepresentation.

TITLE IV—BACKLOG REDUCTION AND VISAS FOR STUDENTS AND ALIENS WITH ADVANCED DEGREES

- Sec. 401. Elimination of existing backlogs.
- Sec. 402. Country limits.
- Sec. 403. Allocation of immigrant visas.
- Sec. 404. Relief for minor children.
- Sec. 405. Student visas.
- Sec. 406. Visas for individuals with advanced degrees.
- Sec. 407. Medical services in underserved areas.

TITLE V—IMMIGRATION LITIGATION REDUCTION

- Sec. 501. Consolidation of immigration appeals.
- Sec. 502. Additional immigration personnel.
- Sec. 503. Board of immigration appeals removal order authority.
- Sec. 504. Judicial review of visa revocation.
- Sec. 505. Reinstatement of removal orders.
- Sec. 506. Withholding of removal.
- Sec. 507. Certificate of reviewability.
- Sec. 508. Discretionary decisions on motions to reopen or reconsider.
- Sec. 509. Prohibition of attorney fee awards for review of final orders of removal.
- Sec. 510. Board of Immigration Appeals.

TITLE VI—MISCELLANEOUS

- Sec. 601. Technical and conforming amendments.

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 con-

struction 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, non-governmental 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 September 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 non-immigrant 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 (1)—

(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 than 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, 1974, 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) 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)”;

(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).”;

(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”;

(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”;

(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 as 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”;

(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 re-apply 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

“Sec.

“1541. Trafficking in passports.

“1542. False statement in an application for a passport.

“1543. Forgery and unlawful production of a passport.

“1544. Misuse of a passport.

“1545. Schemes to defraud aliens.

“1546. Immigration and visa fraud.

"1547. Marriage fraud.

"1548. Attempts and conspiracies.

"1549. Alternative penalties for certain offenses.

"1550. Seizure and forfeiture.

"1551. Additional jurisdiction.

"1552. Additional venue.

"1553. Definitions.

"1554. Authorized law enforcement activities.

"§ 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)”;

(vi) in subparagraph (E), as redesignated, by striking “subparagraph (B)” each place that term appears and inserting “subparagraph (C)”;

(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 re-

lating 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 voluntarily depart 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));”;

(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**”; and

(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 de-

VICES 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 pro-

vided 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 (i) 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 para-

graph (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 Security 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.—”;

(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 non-immigrant 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 non-immigrant 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”;

(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)”;

(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;”;

(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 States 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 Gen-

eral 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.

SA 3421. Mr. NELSON of Nebraska proposed an amendment to amendment

SA 3420 proposed by Mr. SESSIONS to the amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; as follows:

At the appropriate place in the Sessions amendment add the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Border Security and Interior Enforcement Improvement Act of 2006”.

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

Sec. 1. Short title; table of contents.

Sec. 2. Severability.

TITLE I—SOUTHWEST BORDER SECURITY

Sec. 101. Construction of fencing and security improvements in border area from Pacific Ocean to Gulf of Mexico.

Sec. 102. Border patrol agents.

Sec. 103. Increased availability of Department of Defense equipment to assist with surveillance of southern international land border of the United States.

Sec. 104. Ports of entry.

Sec. 105. Authorization of appropriations.

TITLE II—FEDERAL, STATE, AND LOCAL LAW ENFORCEMENT

Subtitle A—Additional Federal Resources

Sec. 201. Necessary assets for controlling United States borders.

Sec. 202. Additional immigration personnel.

Sec. 203. Additional worksite enforcement and fraud detection agents.

Sec. 204. Document fraud detection.

Sec. 205. Powers of immigration officers and employees.

Subtitle B—Maintaining Accurate Enforcement Data on Aliens

Sec. 211. Entry-exit system.

Sec. 212. State and local law enforcement provision of information regarding aliens.

Sec. 213. Listing of immigration violators in the National Crime Information Center database.

Sec. 214. Determination of immigration status of individuals charged with Federal offenses.

Subtitle C—Detention of Aliens and Reimbursement of Costs

Sec. 221. Increase of Federal detention space and the utilization of facilities identified for closures as a result of the Defense Base Closure Realignment Act of 1990.

Sec. 222. Federal custody of illegal aliens apprehended by State or local law enforcement.

Sec. 223. Institutional Removal Program.

Subtitle D—State, Local, and Tribal Enforcement of Immigration Laws

Sec. 231. Congressional affirmation of immigration law enforcement authority by States and political subdivisions of States.

Sec. 232. Immigration law enforcement training of State and local law enforcement personnel.

Sec. 233. Immunity.

TITLE III—VISA REFORM AND ALIEN STATUS

Subtitle A—Limitations on Visa Issuance and Validity

Sec. 301. Curtailment of visas for aliens from countries denying or delaying repatriation of nationals.

Sec. 302. Judicial review of visa revocation.

Sec. 303. Elimination of diversity immigrant program.

Sec. 304. Completion of background and security checks.

Sec. 305. Naturalization and good moral character.

Sec. 306. Denial of benefits to terrorists and criminals.

Sec. 307. Repeal of adjustment of status of certain aliens physically present in United States under section 245(i).

Sec. 308. Grounds of Inadmissibility and Removability for Persecutors.

Sec. 309. Technical Corrections to SEVIS Reporting Requirements.

TITLE IV—WORKPLACE ENFORCEMENT AND IDENTIFICATION INTEGRITY

Subtitle A—In General

Sec. 401. Short title.

Sec. 402. Findings.

Subtitle B—Employment Eligibility Verification System

Sec. 411. Employment Eligibility Verification System.

Sec. 412. Employment eligibility verification process.

Sec. 413. Expansion of employment eligibility verification system to previously hired individuals and recruiting and referring.

Sec. 414. Extension of preemption to required construction of day laborer shelters.

Sec. 415. Basic pilot program.

Sec. 416. Protection for United States workers and individuals reporting immigration law violations.

Sec. 417. Penalties.

Subtitle C—Work Eligibility Verification Reform in the Social Security Administration

Sec. 421. Verification responsibilities of the Commissioner of Social Security.

Sec. 422. Notification by commissioner of failure to correct social security information.

Sec. 423. Restriction on access and use.

Sec. 424. Sharing of information with the commissioner of Internal Revenue Service.

Sec. 425. Sharing of information with the Secretary of Homeland Security.

Subtitle D—Sharing of Information

Sec. 431. Sharing of information with the Secretary of Homeland Security and the Commissioner of Social Security.

Subtitle E—Identification Document Integrity

Sec. 441. Consular identification documents.

Sec. 442. Machine-readable tamper-resistant immigration documents.

Subtitle F—Effective Date; Authorization of Appropriations

Sec. 451. Effective date.

Sec. 452. Authorization of appropriations.

TITLE V—PENALTIES AND ENFORCEMENT

Subtitle A—Criminal and Civil Penalties

Sec. 501. Alien smuggling and related offenses.

Sec. 502. Evasion of inspection or violation of arrival, reporting, entry, or clearance requirements.

Sec. 503. Improper entry by, or presence of, aliens.

Sec. 504. Fees and Employer Compliance Fund.

Sec. 505. Reentry of removed alien.

Sec. 506. Civil and criminal penalties for document fraud, benefit fraud, and false claims of citizenship.

- Sec. 507. Rendering inadmissible and deportable aliens participating in criminal street gangs.
- Sec. 508. Mandatory detention of suspected criminal street gang members.
- Sec. 509. Ineligibility for asylum and protection from removal.
- Sec. 510. Penalties for misusing social security numbers or filing false information with Social Security Administration.
- Sec. 511. Technical and clarifying amendments.

Subtitle B—Detention, Removal, and Departure

- Sec. 521. Voluntary departure reform.
- Sec. 522. Release of aliens in removal proceedings.
- Sec. 523. Expedited removal.
- Sec. 524. Reinstatement of previous removal orders.
- Sec. 525. Cancellation of removal.
- Sec. 526. Detention of dangerous alien.
- Sec. 527. Alternatives to detention.
- Sec. 528. Authorization of appropriations.

SEC. 2. SEVERABILITY.

If any provision of this Act, any amendment made by this Act, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this Act, and the application of such provision to other persons not similarly situated or to other circumstances, shall not be affected by such holding.

TITLE I—SOUTHWEST BORDER SECURITY

SEC. 101. CONSTRUCTION OF FENCING AND SECURITY IMPROVEMENTS IN BORDER AREA FROM PACIFIC OCEAN TO GULF OF MEXICO.

(a) IN GENERAL.—Section 102(b)(1) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104-208; 8 U.S.C. 1103 note) is amended to read as follows—

“(1) BORDER SECURITY IMPROVEMENTS.—

“(A) BORDER ZONE CREATION.—

“(i) IN GENERAL.—In carrying out subsection (a), the Secretary of Homeland Security shall create and control a border zone, along the international land border between the United States and Mexico, subject to the following conditions:

“(I) SIZE.—The border zone shall consist of the United States land area within 100 yards of such international land border, except that with respect to areas of the border zone that are contained within an organized subdivision of a State or local government, the Secretary may adjust the area included in the border zone to accommodate existing public and private structures.

“(II) FEDERAL LAND.—Not later than 30 days after the date of the enactment of the Border Security and Interior Enforcement Improvement Act of 2006, the head of each Federal agency having jurisdiction over Federal land included in the border zone shall transfer such land, without reimbursement, to the administrative jurisdiction of the Secretary of Homeland Security.

“(III) CONSULTATION.—Before installing any fencing or other physical barriers, roads, lighting, or sensors under subparagraph (B) on land transferred by the Secretary of Defense under subclause (II), the Secretary of Homeland Security shall consult with the Secretary of Defense for purposes of mitigating or limiting the impact of the fencing, barriers, roads, lighting, and sensors on military training and operations.

“(ii) OTHER USES.—The Secretary may authorize the use of land included in the border zone for other purposes so long as such use does not impede the operation or effectiveness of the security features installed under subparagraph (B) or the ability of the Secretary to carry out subsection (a).

“(B) REINFORCED FENCING.—In carrying out subsection (a), the Secretary of Homeland Security shall provide for—

“(i) the construction along the southern international land border between the United States and Mexico, starting at the Pacific Ocean and extending eastward to the Gulf of Mexico, of at least 2 layers of reinforced fencing; and

“(ii) the installation of such additional physical barriers, roads, lighting, ditches, and sensors along such border as may be necessary to eliminate illegal crossings and facilitate legal crossings along such border.

“(C) PRIORITY AREAS.—With respect to the border described in subparagraph (B), the Secretary shall ensure that initial fence construction occurs in high traffic and smuggling areas along such border.”

(b) CONFORMING AMENDMENTS.—Section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104-208; 8 U.S.C. 1103 note) as amended by subsection (a) is further amended—

(1) in subsection (a), by striking “Attorney General, in consultation with the Commissioner of Immigration and Naturalization,” and inserting “Secretary of Homeland Security”;

(2) in subsection (b), by striking the heading and inserting “BORDER ZONE CREATION AND REINFORCED FENCING—”;

(3) by striking “Attorney General” each place it appears and inserting “Secretary of Homeland Security”.

SEC. 102. BORDER PATROL AGENTS.

Section 5202 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108-458; 118 Stat. 3734) is amended—

(1) by striking “2010” both places it appears and inserting “2011”; and

(2) by striking “2,000” and inserting “3,000”.

SEC. 103. INCREASED AVAILABILITY OF DEPARTMENT OF DEFENSE EQUIPMENT TO ASSIST WITH SURVEILLANCE OF SOUTHERN INTERNATIONAL LAND BORDER OF THE UNITED STATES.

(a) INCREASED AVAILABILITY OF EQUIPMENT.—The Secretary of Defense and the Secretary of Homeland Security shall develop and implement a plan to use the 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 with Department of Homeland Security surveillance activities conducted at or near the southern international land border of the United States.

(b) REPORT.—Not later than 6 months after the date of the enactment of this Act, the Secretary of Defense and the Secretary of Homeland Security shall submit a report to Congress that contains—

(1) a description of the current use of Department of Defense equipment to assist with Department of Homeland Security surveillance of the southern international land border of the United States;

(2) the plan developed under subsection (a) to increase the use of Department of Defense equipment to assist with such surveillance activities; and

(3) a description of the types of equipment and other support to be provided by Department of Defense under such plan during the 1-year period beginning after submission of the report.

SEC. 104. PORTS OF ENTRY.

To facilitate legal trade, commerce, tourism, and legal immigration, the Secretary of Homeland Security is authorized to—

(1) construct additional ports of entry along the international land border 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. 105. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated \$5,000,000,000 to carry out section 102(b)(1) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104-208; 8 U.S.C. 1103), as amended by section 101. Such sums shall be available until expended.

(b) BORDER PATROL AGENTS.—There are authorized to be appropriated \$3,000,000,000 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 section 102.

(c) PORTS OF ENTRY.—There are authorized to be appropriated \$125,000,000 to carry out section 104.

(d) CONFORMING AMENDMENT.—Section 102(b)(4) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1103 note) is repealed.

TITLE II—FEDERAL, STATE, AND LOCAL LAW ENFORCEMENT

Subtitle A—Additional Federal Resources

SEC. 201. NECESSARY ASSETS FOR CONTROLLING UNITED STATES BORDERS.

(a) PERSONNEL.—

(1) CUSTOMS AND BORDER PROTECTION OFFICERS.—In each of the fiscal years 2007 through 2011, the Secretary of Homeland Security shall increase by not less than 250 the number of positions for full-time active duty Customs and Border Protection officers.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for each of fiscal years 2007 through 2011 to carry out paragraph (1).

(b) TECHNOLOGICAL ASSETS.—

(1) ACQUISITION.—The Secretary of Homeland Security shall procure unmanned aerial vehicles, cameras, poles, sensors, and other technologies necessary to achieve operational control of the borders of the United States.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated \$500,000,000 for each of fiscal years 2007 through 2011 to carry out paragraph (1).

(c) BORDER PATROL CHECKPOINTS.—Notwithstanding any other provision of law or regulation, temporary or permanent checkpoints may be maintained on roadways in border patrol sectors close to the international land borders of the United States in such locations and for such time period durations as the Secretary of Homeland Security, in the Secretary’s sole discretion, determines necessary.

SEC. 202. ADDITIONAL IMMIGRATION PERSONNEL.

(a) DEPARTMENT OF HOMELAND SECURITY.—

(1) INVESTIGATIVE PERSONNEL.—In addition to the positions authorized under section 5203 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108-458; 118 Stat. 3734), for each of fiscal years 2007 through 2011, the Secretary of Homeland Security shall, subject to the availability of appropriations for such purpose, increase by not less than 200 the number of positions for investigative personnel within the Department of Homeland Security investigating alien smuggling and immigration status violations above the number of such positions for which funds were made available during the preceding fiscal year.

(2) TRIAL ATTORNEYS.—In each of fiscal years 2007 through 2011, the Secretary of Homeland Security 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 of Homeland Security 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.

(3) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Department of Homeland Security for each of fiscal years 2007 through 2011 such sums as may be necessary to carry out this subsection.

(b) **DEPARTMENT OF JUSTICE.**—

(1) **ASSISTANT ATTORNEY GENERAL FOR IMMIGRATION ENFORCEMENT.**—

(A) **ESTABLISHMENT.**—There is established within the Department of Justice the position of Assistant Attorney General for Immigration Enforcement. The Assistant Attorney General for Immigration Enforcement shall coordinate and prioritize immigration litigation and enforcement in the Federal courts, including—

(i) removal and deportation; (ii) employer sanctions; and (iii) alien smuggling and human trafficking.

(B) **CONFORMING AMENDMENT.**—Section 506 of title 28, United States Code, is amended by striking “ten” and inserting “11”.

(2) **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 above the number of such positions for which funds were made available during the preceding fiscal year.

(3) **ASSISTANT 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 Assistant United States Attorneys to litigate immigration cases in the Federal courts above the number of such positions for which funds were made available during the preceding fiscal year.

(4) **IMMIGRATION JUDGES.**—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 immigration judges above 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 Department of Justice for each of fiscal years 2007 through 2011 such sums as may be necessary to carry out this subsection, including the hiring of necessary support staff.

SEC. 203. ADDITIONAL WORKSITE ENFORCEMENT AND FRAUD DETECTION AGENTS.

(a) **WORKSITE ENFORCEMENT.**—In each of fiscal years 2007 through 2011, the Secretary of Homeland Security shall, subject to the availability of appropriations for such purpose, 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, 1324a) above the number of such positions in which funds were made available during the preceding fiscal year.

(b) **FRAUD DETECTION.**—In each of fiscal years 2007 through 2011, the Secretary of Homeland Security shall, subject to the availability of appropriations for such purpose, increase by not less than 1,000 the number of positions for Immigration Enforcement Agents dedicated to immigration fraud detection above the number of such positions in which funds were made available during the preceding fiscal year.

(c) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated during each of fiscal years 2007 through 2011 such sums as may be necessary to carry out this section.

SEC. 204. DOCUMENT FRAUD DETECTION.

(a) **TRAINING.**—The Secretary of Homeland Security 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 Forensic Document Laboratory of the Bureau of Immigration and Customs Enforcement of the Department of Homeland Security.

(b) **FORENSIC DOCUMENT LABORATORY.**—The Secretary of Homeland Security shall provide all officers of the Bureau of Customs and Border Protection with access to the Forensic Document Laboratory.

(c) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated \$5,000,000 for each of fiscal years 2007 through 2011 to carry out this section.

SEC. 205. POWERS OF IMMIGRATION OFFICERS AND EMPLOYEES.

Section 287(a) of the Immigration and Nationality Act (8 U.S.C. 1357(a)) is amended—

(1) by striking paragraph (5) and the 2 undesignated paragraphs following paragraph (5);

(2) in the material preceding paragraph (1)—

(A) by striking “(a) Any” and inserting “(a)(1) Any”; and

(B) by striking “Service” and inserting “Department of Homeland Security”;

(3) by redesignating paragraphs (1), (2), (3), and (4) as subparagraphs (A), (B), (C), and (D), respectively; and

(4) by inserting after subparagraph (D), as redesignated by paragraph (3), the following: “(E) to make arrests—

“(i) for any offense against the United States, if the offense is committed in the officer’s or employee’s presence; or

“(ii) for any felony cognizable under the laws of the United States, if the officer or employee has reasonable grounds to believe that the person to be arrested has committed or is committing such a felony.

“(2) Under regulations prescribed by the Attorney General or the Secretary of Homeland Security, an officer or employee of the Service may carry a firearm and may execute and serve any order, warrant, subpoena, summons, or other process issued under the authority of the United States.”.

Subtitle B—Maintaining Accurate Enforcement Data on Aliens

SEC. 211. ENTRY-EXIT SYSTEM.

(a) **INTEGRATED ENTRY AND EXIT DATA SYSTEM.**—Section 110(b)(1) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1365a(b)(1)) is amended to read as follows:

“(1) provides access to, and integrates, arrival and departure data of all aliens who arrive and depart at ports of entry, in an electronic format and in a database of the Department of Homeland Security or the Department of State (including those created or used at ports of entry and at consular offices);”.

(b) **CONSTRUCTION.**—Section 110(c) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1365a(c)) is amended to read as follows:

“(c) **CONSTRUCTION.**—Nothing in this section shall be construed to reduce or curtail any authority of the Secretary of Homeland Security or the Secretary of State under any other provision of law.”.

(c) **DEADLINES.**—Section 110(d) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1365a(d)) is amended—

(1) in paragraph (1), by striking “December 31, 2003” and inserting “October 1, 2006”; and

(2) by amending paragraph (2) to read as follows:

“(2) **LAND BORDER PORTS OF ENTRY.**—Not later than October 1, 2006, the Secretary of Homeland Security shall implement the integrated entry and exit data system using the data described in paragraph (1) and available alien arrival and departure data described in subsection (b)(1) pertaining to aliens arriving in, or departing from, the United States at all land border ports of entry. Such implementation shall include ensuring that such data, when collected or created by an immigration officer at a port of entry, are entered into the system and can be accessed by immigration officers at airports, seaports, and other land border ports of entry.”.

(d) **AUTHORITY TO PROVIDE ACCESS TO SYSTEM.**—Section 110(f)(1) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1365a(f)(1)) is amended by adding at the end: “The Secretary of Homeland Security shall ensure that any officer or employee of the Department of Homeland Security or the Department of State having need to access the data contained in the integrated entry and exit data system for any lawful purpose under the Immigration and Nationality Act has such access, including access for purposes of representation of the Department of Homeland Security in removal proceedings under section 240 of such Act and adjudication of applications for benefits under such Act.”.

(e) **BIOMETRIC DATA ENHANCEMENTS.**—Not later than October 1, 2006, the Secretary of Homeland Security shall—

(1) in consultation with the Attorney General, enhance connectivity between the automated biometric fingerprint identification system (IDENT) of the Department of Homeland Security and the integrated automated fingerprint identification system (IAFIS) of the Federal Bureau of Investigation fingerprint databases to ensure more expeditious data searches; and

(2) in consultation with the Secretary of State, collect all 10 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), as amended by this section.

SEC. 212. STATE AND LOCAL LAW ENFORCEMENT PROVISION OF INFORMATION REGARDING ALIENS.

(a) **VIOLATIONS OF FEDERAL LAW.**—A statute, policy, or practice that prohibits, or restricts in any manner, a law enforcement or administrative enforcement officer of a State or of a political subdivision therein, from enforcing Federal immigration laws or from assisting or cooperating with Federal immigration law enforcement in the course of carrying out the investigative or enforcement duties of the officer or from providing information to an official of the United States Government regarding the immigration status of an individual who is believed to be illegally present in the United States, is in violation of section 642(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1373(a)) and section 434 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1644).

(b) **STATE AND LOCAL LAW ENFORCEMENT PROVISION OF INFORMATION ABOUT APPREHENDED ILLEGAL ALIENS.**—

(1) **PROVISION OF INFORMATION.**—

(A) **IN GENERAL.**—In compliance with section 642(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1373(a)) and section 434 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1644), each

law enforcement agency of a State or of a political subdivision therein shall provide to the Department of Homeland Security the information listed in paragraph (2) for each alien who is apprehended in the jurisdiction of such agency and who cannot produce the valid certificate of alien registration or alien registration receipt card described in section 264(d) of the Immigration and Nationality Act (8 U.S.C. 1304(d)).

(B) TIME LIMITATION.—Not later than 15 days after an alien described in subparagraph (A) is apprehended, information required to be provided under subparagraph (A) shall be provided in such form and in such manner as the Secretary of Homeland Security may, by regulation or guideline, require.

(C) EXCEPTION.—The reporting requirement in paragraph (A) shall not apply in the case of any alien determined to be lawfully present in the United States.

(2) INFORMATION REQUIRED.—The information listed in this subsection is as follows:

(A) The alien's name.

(B) The alien's address or place of residence.

(C) A physical description of the alien.

(D) The date, time, and location of the encounter with the alien and reason for stopping, detaining, apprehending, or arresting the alien.

(E) If applicable—

(i) the alien's driver's license number and the State of issuance of such license;

(ii) the type of any other identification document issued to the alien, any designation number contained on the identification document, and the issuing entity for the identification document;

(iii) the license number and description of any vehicle registered to, or operated by, the alien; and

(iv) a photo of the alien and a full set of the alien's 10 rolled fingerprints, if available or readily obtainable.

(3) REIMBURSEMENT.—The Secretary of Homeland Security shall reimburse such law enforcement agencies for the costs, per a schedule determined by the Secretary, incurred by such agencies in collecting and transmitting the information described in paragraph (2).

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) ILLEGAL IMMIGRATION REFORM AND IMMIGRANT RESPONSIBILITY ACT OF 1996.—

(A) TECHNICAL AMENDMENT.—Section 642 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1373) is amended—

(i) in subsections (a), (b)(1), and (c), by striking “Immigration and Naturalization Service” each place it appears and inserting “Department of Homeland Security”; and

(ii) in the heading by striking “**IMMIGRATION AND NATURALIZATION SERVICE**” and inserting “**DEPARTMENT OF HOMELAND SECURITY**”.

(B) CONFORMING AMENDMENT.—Section 1(d) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104-208; 110 Stat. 3009-546) is amended by striking the item related to section 642 and inserting the following:

“Sec. 642. Communication between government agencies and the Department of Homeland Security.”.

(2) PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996.—

(A) IN GENERAL.—Section 434 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1644) is amended—

(i) by striking “**IMMIGRATION AND NATURALIZATION SERVICE**” and inserting “**DEPARTMENT OF HOMELAND SECURITY**”; and

(ii) in the heading by striking “immigration and naturalization service” and inserting “department of homeland security”.

(B) CONFORMING AMENDMENT.—Section 2 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1642) is amended by striking the item related to section 434 and inserting the following:

“Sec. 434. Communication between State and local government agencies and the Department of Homeland Security.”.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as may be necessary to carry out the requirements of this section.

SEC. 213. LISTING OF IMMIGRATION VIOLATORS IN THE NATIONAL CRIME INFORMATION CENTER DATABASE.

(a) PROVISION OF INFORMATION TO THE NATIONAL CRIME INFORMATION CENTER.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Homeland Security shall provide to the head of the National Crime Information Center of the Department of Justice the information that the Secretary of Homeland Security 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)(2) or (b)(2) of section 240B of the Immigration and Nationality Act (8 U.S.C. 1229c) or who has violated a condition of a voluntary departure agreement under such section 240B;

(C) detained by a Federal, State, or local law enforcement agency whom a Federal immigration officer has confirmed to be unlawfully present in the United States but, in the exercise of discretion, has been released from detention without transfer into the custody of a Federal immigration officer;

(D) who has remained in the United States beyond the alien's authorized period of stay; and

(E) 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 of Homeland Security under paragraph (1) related to an alien who is granted lawful authority to enter or remain legally in the United States.

(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, regardless of whether the alien has received notice of the violation or the alien has already been removed; and”.

SEC. 214. DETERMINATION OF IMMIGRATION STATUS OF INDIVIDUALS CHARGED WITH FEDERAL OFFENSES.

(a) RESPONSIBILITY OF UNITED STATES ATTORNEYS.—Beginning 2 years after the date of the enactment of this Act, the office of the United States attorney that is prosecuting a criminal case in a Federal court—

(1) shall determine, not later than 30 days after filing the initial pleadings in the case, whether each defendant in the case is lawfully present in the United States (subject to subsequent legal proceedings to determine otherwise);

(2)(A) if the defendant is determined to be an alien lawfully present in the United States, shall notify the court in writing of the determination and the current status of the alien under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.); and

(B) if the defendant is determined not to be lawfully present in the United States, shall notify the court in writing of the determination, the defendant's alien status, and, to the extent possible, the country of origin or legal residence of the defendant; and

(3) ensure that the information described in paragraph (2) is included in the case file and the criminal records system of the office of the United States attorney.

(b) GUIDELINES.—A determination made under subsection (a)(1) shall be made in accordance with guidelines of the Executive Office for Immigration Review of the Department of Justice.

(c) RESPONSIBILITIES OF FEDERAL COURTS.—

(1) MODIFICATIONS OF RECORDS AND CASE MANAGEMENTS SYSTEMS.—Not later than 2 years after the date of the enactment of this Act, all Federal courts that hear criminal cases, or appeals of criminal cases, shall modify their criminal records and case management systems, in accordance with guidelines which the Director of the Administrative Office of the United States Courts shall establish, so as to enable accurate reporting of information described in subsection (a)(2).

(2) DATA ENTRIES.—Beginning 2 years after the date of the enactment of this Act, each Federal court described in paragraph (1) shall enter into its electronic records the information contained in each notification to the court under subsection (a)(2).

(d) ANNUAL REPORT TO CONGRESS.—The Director of the Administrative Office of the United States Courts shall include, in the annual report filed with the Congress under section 604 of title 28, United States Code—

(1) statistical information on criminal trials of aliens in the courts and criminal convictions of aliens in the lower courts and upheld on appeal, including the type of crime in each case and including information on the legal status of the aliens; and

(2) recommendations on whether additional court resources are needed to accommodate the volume of criminal cases brought against aliens in the Federal courts.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of fiscal years 2007 through 2012, such sums as may be necessary to carry out this Act. Funds appropriated pursuant to this subsection in any fiscal year shall remain available until expended.

Subtitle C—Detention of Aliens and Reimbursement of Costs

SEC. 221. INCREASE OF FEDERAL DETENTION SPACE AND THE UTILIZATION OF FACILITIES IDENTIFIED FOR CLOSURES AS A RESULT OF THE DEFENSE BASE CLOSURE REALIGNMENT ACT OF 1990.

(a) CONSTRUCTION OR ACQUISITION OF DETENTION FACILITIES.—

(1) IN GENERAL.—The Secretary of Homeland Security shall construct or acquire, in addition to existing facilities for the detention of aliens, 20 detention facilities in the United States that have the capacity to detain a combined total of not less than 10,000 individuals at any time for aliens detained pending removal or a decision on removal of such aliens from the United States.

(2) DETERMINATION OF LOCATION.—The location of any detention facility built or acquired in accordance with this subsection shall be determined with the concurrence of the Secretary by the senior officer responsible for Detention and Removal Operations in the Department of Homeland Security. The detention facilities shall be located so as

to enable the Department to increase to the maximum extent practicable the annual rate and level of removals of illegal aliens from the United States.

(3) USE OF INSTALLATIONS UNDER BASE CLOSURE LAWS.—In acquiring detention facilities under this subsection, the Secretary of Homeland Security shall consider the transfer of appropriate portions of military installations approved for closure or realignment under the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. 2687 note) for use in accordance with paragraph (1).

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 241(g)(1) of the Immigration and Nationality Act (8 U.S.C. 1231(g)(1)) is amended by striking “may expend” and inserting “shall expend”.

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

SEC. 222. FEDERAL CUSTODY OF ILLEGAL ALIENS APPREHENDED BY STATE OR LOCAL LAW ENFORCEMENT.

(a) IN GENERAL.—Title II of the Immigration and Nationality Act (8 U.S.C. 1151 et seq.) is amended by adding after section 240C the following new section:

“SEC. 240D. TRANSFER OF ILLEGAL ALIENS FROM STATE TO FEDERAL CUSTODY.

“(a) IN GENERAL.—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 illegal 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 illegal alien; and

“(B) if the individual is an illegal alien, 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 and incarcerate the alien; or

“(ii) request that the relevant State or local law enforcement agency temporarily detain or transport the illegal 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 criminal or illegal aliens to the Department of Homeland Security.

“(b) 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 a criminal or illegal alien as described in subparagraphs (A) and (B) of subsection (a)(1).

“(2) COST COMPUTATION.—Compensation provided for costs incurred under subparagraphs (A) and (B) of subsection (a)(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 criminal or illegal 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 illegal alien during the period between the time of transmittal of the request described in subsection (a) and the time of transfer into Federal custody.

“(c) REQUIREMENT FOR APPROPRIATE SECURITY.—The Secretary of Homeland Security shall ensure that illegal 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.

“(d) 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 illegal aliens from the custody of those States and political subdivisions of States which routinely submit requests described in subsection (a) into Federal custody.

“(e) 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.

“(f) ILLEGAL ALIEN DEFINED.—In this section, the term ‘illegal alien’ means an alien who—

“(1) entered the United States without inspection or at any time or place other than that designated by the Secretary of Homeland Security;

“(2) was admitted as a nonimmigrant and who, at the time the alien was taken into custody by the State or a political subdivision of the State, had failed to—

“(A) maintain the nonimmigrant status in which the alien was admitted or to which it was changed under section 248; or

“(B) comply with the conditions of any such status;

“(3) was admitted as an immigrant and has subsequently failed to comply with the requirements of that status; or

“(4) failed to depart the United States under a voluntary departure agreement or under a final order of removal.”.

(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. 223. INSTITUTIONAL REMOVAL PROGRAM.

(a) INSTITUTIONAL REMOVAL PROGRAM.—

(1) CONTINUATION.—The Secretary of Homeland Security shall continue to operate the Institutional Removal Program or develop and implement any other 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 of Homeland Security shall extend the institutional removal program to all States. Each State should—

(A) cooperate with officials of the Federal Institutional Removal Program;

(B) expeditiously and systematically identify criminal aliens in its prison and jail populations; and

(C) promptly convey the information collected under subparagraph (B) to officials of the Institutional Removal Program.

(b) IMPLEMENTATION OF COOPERATIVE INSTITUTIONAL REMOVAL PROGRAMS.—Section 642 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1373), is amended by adding at the end the following:

“(d) AUTHORIZATION FOR DETENTION AFTER COMPLETION OF STATE OR LOCAL PRISON SENTENCE.—Law enforcement officers of a State or political subdivision of a State are authorized to—

“(1) hold an illegal alien for a period of up to 14 days after the alien has completed the alien’s State prison sentence in order to effectuate the transfer of the alien to Federal custody when 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 personnel from the Bureau of Immigration and Customs Enforcement can take the alien into custody.

“(e) TECHNOLOGY USAGE.—Technology such as videoconferencing shall be used to the maximum extent practicable in order to make the Institutional Removal Program available in remote locations. Mobile access to Federal databases of aliens, such as the automated biometric fingerprint identification system (IDENT) of the Department of Homeland Security, and live scan technology shall be used to the maximum extent practicable in order to make these resources available to State and local law enforcement agencies in remote locations.

“(f) REPORT TO CONGRESS.—Not later than 1 year after the date of the enactment of the Border Security and Interior Enforcement Improvement Act of 2006, the Secretary of Homeland Security shall submit to Congress a report on the participation of States in the Institutional Removal Program and in any other program carried out under subsection (a).

“(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out the Institutional Removal Program—

“(1) \$30,000,000 for fiscal year 2007;

“(2) \$40,000,000 for fiscal year 2008;

“(3) \$50,000,000 for fiscal year 2009;

“(4) \$60,000,000 for fiscal year 2010; and

“(5) \$70,000,000 for fiscal year 2011 and each fiscal year thereafter.”.

Subtitle D—State, Local, and Tribal Enforcement of Immigration Laws

SEC. 231. CONGRESSIONAL AFFIRMATION OF IMMIGRATION LAW ENFORCEMENT AUTHORITY BY STATES AND POLITICAL SUBDIVISIONS OF STATES.

Notwithstanding any other provision of law and reaffirming the existing inherent authority of States, law enforcement personnel

of a State or a political subdivision of a State have the inherent authority of a sovereign entity to investigate, identify, apprehend, arrest, detain, or transfer to Federal custody aliens in the United States (including the transportation of such aliens across State lines to detention centers), for the purpose of assisting in the enforcement 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.

SEC. 232. IMMIGRATION LAW ENFORCEMENT TRAINING OF STATE AND LOCAL LAW ENFORCEMENT PERSONNEL.

(a) TRAINING MANUAL AND POCKET GUIDE.—

(1) ESTABLISHMENT.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Homeland Security shall establish—

(A) a training manual for law enforcement personnel of a State or political subdivision of a State to train such personnel in the investigation, identification, apprehension, arrest, detention, and transfer to Federal custody of aliens in the United States (including the transportation of such aliens across State lines to detention centers and the identification of fraudulent documents); and

(B) an immigration enforcement pocket guide for law enforcement personnel of a State or political subdivision of a State to provide a quick reference for such personnel in the course of duty.

(2) AVAILABILITY.—The training manual and pocket guide established in accordance with paragraph (1) shall be made available to all State and local law enforcement personnel.

(3) APPLICABILITY.—Nothing in this subsection shall be construed to require State or local law enforcement personnel to carry the training manual or pocket guide established in accordance with paragraph (1) with them while on duty.

(4) COSTS.—The Secretary of Homeland Security shall be responsible for any and all costs incurred in establishing the training manual and pocket guide under this subsection.

(b) TRAINING FLEXIBILITY.—

(1) IN GENERAL.—The Secretary of Homeland Security shall make training of State and local law enforcement officers available through as many means as possible, including residential training at the Center for Domestic Preparedness of the Department of Homeland Security, on-site training held at State or local police agencies or facilities, online training courses by computer, teleconferencing, and videotape, or the digital video display (DVD) of a training course or courses.

(2) ONLINE TRAINING.—The head of the Distributed Learning Program of the Federal Law Enforcement Training Center shall make training available for State and local law enforcement personnel via the Internet through a secure, encrypted distributed learning system that has all its servers based in the United States.

(3) FEDERAL PERSONNEL TRAINING.—The training of State and local law enforcement personnel under this section shall not displace the training of Federal personnel.

(c) COOPERATIVE ENFORCEMENT PROGRAMS.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall negotiate and execute, where practicable, a cooperative enforcement agreement described in section 287(g) of the Immigration and Nationality Act (8 U.S.C. 1357(g)) with at least 1 law enforcement agency in each State, to train law enforcement officers in the detection and apprehension of individuals engaged in transporting, harboring, sheltering, or encouraging aliens in violation of section 274 of such Act (8 U.S.C. 1324).

(d) DURATION OF TRAINING.—Section 287(g)(2) of the Immigration and Nationalization Act (8 U.S.C. 1357(g)(2)) is amended by adding at the end “Such training may not exceed 14 days or 80 hours of classroom training.”.

(e) CLARIFICATION.—Nothing in this Act or any other provision of law shall be construed as making any immigration-related training a requirement for, or prerequisite to, any State or local law enforcement officer exercising the inherent authority of the officer to investigate, identify, apprehend, arrest, detain, or transfer to Federal custody illegal aliens during the normal course of carrying out the law enforcement duties of the officer.

(f) TECHNICAL AMENDMENTS.—Section 287(g) of the Immigration and Nationality Act (8 U.S.C. 1357(g)) is amended by striking “Attorney General” each place it appears and inserting “Secretary of Homeland Security”.

SEC. 233. IMMUNITY.

(a) PERSONAL IMMUNITY.—Notwithstanding any other provision of law, a law enforcement officer of a State, or of a political subdivision of a State, shall be immune, to the same extent as a Federal law enforcement officer, from personal liability arising out of the enforcement of any immigration law. The immunity provided by this subsection shall only apply to an officer of a State, or of a political subdivision of a State, who is acting within the scope of such officer’s official duties.

(b) AGENCY IMMUNITY.—Notwithstanding any other provision of law, a law enforcement agency of a State, or of a political subdivision of a State, shall be immune from any claim for money damages based on Federal, State, or local civil rights law for an incident arising out of the enforcement of any immigration law, except to the extent that the law enforcement officer of such agency, whose action the claim involves, committed a violation of Federal, State, or local criminal law in the course of enforcing such immigration law.

TITLE III—VISA REFORM AND ALIEN STATUS

Subtitle A—Limitations on Visa Issuance and Validity

SEC. 301. CURTAILMENT OF VISAS FOR ALIENS FROM COUNTRIES DENYING OR DELAYING REPATRIATION OF NATIONALS.

(a) IN GENERAL.—Section 243 of the Immigration and Nationality Act (8 U.S.C. 1253) is amended by adding at the end the following new subsection:

“(e) PUBLIC LISTING OF ALIENS WITH NO SIGNIFICANT LIKELIHOOD OF REMOVAL.—

“(1) IN GENERAL.—The Secretary of Homeland Security shall establish and maintain a public listing of every alien who is subject to a final order of removal and with respect to whom the Secretary or any Federal court has determined that there is no significant likelihood of removal in the reasonably foreseeable future due to the refusal, or unreasonable delay, of all countries designated by the alien under this section to receive the alien. The public listing shall indicate whether such alien has been released from Federal custody, and the city and State in which such alien resides.

“(2) DISCONTINUATION OF VISAS.—If 25 or more of the citizens, subjects, or nationals of any foreign state remain on the public listing described in paragraph (1) throughout any month—

“(A) such foreign state shall be deemed to have denied or unreasonably delayed the acceptance of such aliens;

“(B) the Secretary of Homeland Security shall make the notification to the Secretary of State prescribed in subsection (d) of this section; and

“(C) the Secretary of State shall discontinue the issuance of nonimmigrant visas to citizens, subjects, or nationals of such foreign state until such time as the number of aliens on the public listing from such foreign state has—

“(i) declined to fewer than 6; or

“(ii) remained below 25 for at least 30 days.”.

(b) TECHNICAL AMENDMENT.—Section 243 of the Immigration and Nationality Act (8 U.S.C. 1253) is amended—

(1) in subsection (a)(1)(D), by inserting “or the Secretary of Homeland Security” after “Attorney General”;

(2) in subsection (c)—

(A) by striking “Attorney General” each place it appears and inserting “Secretary of Homeland Security”; and

(B) by striking “Commissioner” and inserting “Secretary”; and

(3) in subsection (d)—

(A) by striking “Attorney General” each place it appears and inserting “Secretary of Homeland Security”; and

(B) by inserting “of State” after “notifies the Secretary”.

SEC. 302. JUDICIAL REVIEW OF VISA REVOCATION.

Section 221(i) of the Immigration and Nationality Act (8 U.S.C. 1201(i)) is amended by striking “, except in the context of a removal proceeding if such revocation provides the sole ground for removal under section 237(a)(1)(B)”.

SEC. 303. ELIMINATION OF DIVERSITY IMMIGRANT PROGRAM.

(a) WORLDWIDE LEVEL OF DIVERSITY IMMIGRANTS.—Section 201 of the Immigration and Nationality Act (8 U.S.C. 1151) is amended—

(1) in subsection (a)—

(A) by inserting “and” at the end of paragraph (1);

(B) by striking “; and” at the end of paragraph (2) and inserting a period; and

(C) by striking paragraph (3); and

(2) by striking subsection (e).

(b) ALLOCATION OF DIVERSITY IMMIGRANT VISAS.—Section 203 of such Act (8 U.S.C. 1153) is amended—

(1) by striking subsection (c);

(2) in subsection (d), by striking “(a), (b), or (c),” and inserting “(a) or (b),”;

(3) in subsection (e), by striking paragraph (2) and redesignating paragraph (3) as paragraph (2);

(4) in subsection (f), by striking “(a), (b), or (c)” and inserting “(a) or (b)”; and

(5) in subsection (g), by striking “(a), (b), and (c)” and inserting “(a) and (b)”.

(c) PROCEDURE FOR GRANTING IMMIGRANT STATUS.—Section 204 of such Act (8 U.S.C. 1154) is amended—

(1) by striking subsection (a)(1)(I); and

(2) in subsection (e), by striking “(a), (b), or (c)” and inserting “(a) or (b)”.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2006.

SEC. 304. COMPLETION OF BACKGROUND AND SECURITY CHECKS.

Section 103 of the Immigration and Nationality Act (8 U.S.C. 1103) is amended by adding at the end the following new subsection:

“(i) Notwithstanding any other provision of law, the Secretary of Homeland Security, the Attorney General, or any court shall not—

“(1) grant or order the grant of adjustment of status 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 Attorney General, the Secretary, or any court,

until such background and security checks as the Secretary may in his discretion require have been completed to the satisfaction of the Secretary.”.

SEC. 305. NATURALIZATION AND GOOD MORAL CHARACTER.

(a) NATURALIZATION REFORM.—

(1) BARRING TERRORISTS FROM NATURALIZATION.—Section 316 of the Immigration and Nationality Act (8 U.S.C. 1427) is amended by adding at the end the following new subsection:

“(g) No person shall be naturalized who the Secretary of Homeland Security determines, in the Secretary’s discretion, to have been at any time an alien described in section 212(a)(3) or 237(a)(4). Such determination may be based upon any relevant information or evidence, including classified, sensitive, or national security information, and shall be binding upon, and unreviewable by, any court exercising jurisdiction under the immigration laws over any application for naturalization, regardless whether such jurisdiction to review a decision or action of the Secretary is de novo or otherwise.”.

(2) CONCURRENT NATURALIZATION AND REMOVAL PROCEEDINGS.—The last sentence of section 318 of such Act (8 U.S.C. 1429) is amended—

(A) by striking “shall be considered by the Attorney General” and inserting “shall be considered by the Secretary of Homeland Security or any court”;

(B) by striking “pursuant to a warrant of arrest issued under the provisions of this or any other Act.” and inserting “or other proceeding to determine the applicants inadmissibility or deportability, or to determine whether the applicants lawful permanent resident status should be rescinded, regardless of when such proceeding was commenced.”; and

(C) by striking “upon the Attorney General” and inserting “upon the Secretary of Homeland Security”.

(3) PENDING DENATURALIZATION OR REMOVAL PROCEEDINGS.—Section 204(b) of such Act (8 U.S.C. 1154(b)) is amended by adding at the end “No petition shall be approved pursuant to this section if there is any administrative or judicial proceeding (whether civil or criminal) pending against the petitioner that could (whether directly or indirectly) result in the petitioner’s denaturalization or the loss of the petitioner’s lawful permanent resident status.”.

(4) CONDITIONAL PERMANENT RESIDENTS.—Section 216(e) of such Act (8 U.S.C. 1186a(e)) and section 216A(e) of such Act (8 U.S.C. 1186b(e)) are each amended by inserting before the period at the end of each such section “, if the alien has had the conditional basis removed under this section”.

(5) DISTRICT COURT JURISDICTION.—Section 336(b) of such Act (8 U.S.C. 1447(b)) is amended to read as follows:

“(b) If there is a failure to render a final administrative decision under section 335 before the end of the 180-day period after the date on which the Secretary of Homeland Security completes all examinations and interviews conducted under such section (as such terms are defined in regulations issued by the Secretary), the applicant may apply to the district court for the district in which the applicant resides for a hearing on the matter. Such court shall only have jurisdiction to review the basis for delay and remand the matter to the Secretary for the Secretary’s determination on the application.”.

(6) CONFORMING AMENDMENTS.—Section 310(c) of such Act (8 U.S.C. 1421(c)) is amended—

(A) by inserting “, not later than 120 days after the date of the Secretary’s final determination” before “seek”; and

(B) by striking the second sentence and inserting “The burden shall be upon the petitioner to show that the Secretary’s denial of the application was not supported by facially legitimate and bona fide reasons. Except in a proceeding under section 340, notwithstanding any other provision of law, 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 determine, or to review a determination of the Secretary made at any time regarding, for purposes of an application for naturalization, whether an alien is a person of good moral character, whether an alien understands and is attached to the principles of the Constitution of the United States, or whether an alien is well disposed to the good order and happiness of the United States.”.

(7) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date of the enactment of this Act, shall apply to any act that occurred before, on, or after such date, and shall apply to any application for naturalization or any other case or matter under the immigration laws pending on, or filed on or after, such date.

(b) BAR TO GOOD MORAL CHARACTER.—

(1) IN GENERAL.—Section 101(f) of the Immigration and Nationality Act (8 U.S.C. 1101(f)) is amended—

(A) by inserting after paragraph (1) the following new paragraph:

“(2) one who the Secretary of Homeland Security or the Attorney General determines, in the unreviewable discretion of the Secretary or the Attorney General, to have been at any time an alien described in section 212(a)(3) or section 237(a)(4), which determination may be based upon any relevant information or evidence, including classified, sensitive, or national security information, and which shall be binding upon any court regardless of the applicable standard of review;”;

(B) in paragraph (8), by inserting “, regardless whether the crime was classified as an aggravated felony at the time of conviction” after “(as defined in subsection (a)(43))”; and

(C) by striking the first sentence in the undesignated paragraph following paragraph (9) and inserting “The fact that any person is not within any of the foregoing classes shall not preclude a discretionary finding for other reasons that such a person is or was not of good moral character. The Secretary and the Attorney General shall not be limited to the applicant’s conduct during the period for which good moral character is required, but may take into consideration as a basis for determination the applicant’s conduct and acts at any time.”.

(2) AGGRAVATED FELONY EFFECTIVE DATE.—Section 509(b) of the Immigration Act of 1990 (Public Law 101-649), as amended by section 306(a)(7) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (Public Law 102-232), is amended to read as follows:

“(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on November 29, 1990, and shall apply to convictions occurring before, on, or after such date.”.

(3) TECHNICAL CORRECTION TO THE INTELLIGENCE REFORM ACT.—Section 5504(2) of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108-458; 118 Stat. 3741) is amended by striking “adding at the end” and inserting “inserting after paragraph (8) and before the undesignated paragraph at the end”.

(4) EFFECTIVE DATES.—

(A) IN GENERAL.—The amendments made by paragraphs (1) and (2) shall take effect on the date of the enactment of this Act, shall apply to any act that occurred before, on, or

after such date, and shall apply to any application for naturalization or any other benefit or relief or any other case or matter under the immigration laws pending on, or filed on or after, such date; or

(B) INTELLIGENCE REFORM AND TERRORISM PREVENTION ACT OF 2004.—The amendments made by paragraph (3) shall take effect as if included in the enactment of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108-458; 118 Stat. 3638).

SEC. 306. DENIAL OF BENEFITS TO TERRORISTS AND CRIMINALS.

(a) IN GENERAL.—Chapter 2 of title II of the Immigration and Nationality Act (8 U.S.C. 1181 et seq.) is amended by adding at the end the following new section:

“SEC. 219A. PROHIBITION ON PROVIDING IMMIGRATION BENEFITS TO CERTAIN ALIENS.

“Nothing in this Act or any other provision of law shall permit the Secretary of Homeland Security, the Attorney General, the Secretary of State, the Secretary of Labor, or any other authorized head of any 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 subparagraphs (A)(i), (A)(iii), (B), or (F) of sections 212(a)(3) or subparagraphs (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) INADMISSIBILITY ON SECURITY AND RELATED GROUNDS.—Section 212(a)(3)(B)(ii)(I) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(ii)(I)) is amended by inserting “is able to demonstrate, by clear and convincing evidence, that such spouse or child” after “who”.

SEC. 307. REPEAL OF ADJUSTMENT OF STATUS OF CERTAIN ALIENS PHYSICALLY PRESENT IN UNITED STATES UNDER SECTION 245(i).

Section 245(i) of the Immigration and Nationality Act (8 U.S.C. 1255(i)) is repealed.

SEC. 308. GROUNDS OF INADMISSIBILITY AND REMOVAL FOR PERSECUTORS.

(a) GENERAL CLASSES OF ALIENS INELIGIBLE TO RECEIVE VISAS AND INELIGIBLE FOR ADMISSION.—

(1) PERSECUTION.—Section 212(a)(3)(E) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(E)) is amended—

(A) in the header, by striking “NAZI”; and

(B) by inserting after clause (iii) the following new clause:

“(iv) PARTICIPATION IN OTHER PERSECUTION.—Any alien who ordered, incited, assisted, or otherwise participated in the persecution of any person on account of race, religion, nationality, membership in a particular social group, or political opinion is inadmissible.”.

(2) RECOMMENDATIONS BY CONSULAR OFFICERS.—Section 212(d)(3)(A) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(3)(A)) by striking “and clauses (i) and (ii) of paragraph (3)(E)” both places it appears and inserting “or 3(E)”.

(b) GENERAL CLASSES OF DEPORTABLE ALIENS.—Section 237(a)(4)(D) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(4)(D)) is amended—

(1) in the header, by striking “NAZI”; and

(2) by striking “or (iii)” and inserting

“(iii), or (iv)”.

(c) BAR TO GOOD MORAL CHARACTER.—Section 101(f) of the Immigration and Nationality Act (8 U.S.C. 1101(f)) is amended—

(1) in paragraph (8), by striking “or”;
 (2) in paragraph (9), as added by section 5504(2) of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108-458; 118 Stat. 3741), as amended by section 305(b)(3) of this Act, by striking the period at the end and inserting a semicolon and “or”;
 and
 (3) inserting after paragraph (9), as added by section 5504(2) of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108-458; 118 Stat. 3741), as amended by section 305(b)(3) of this Act, and before the undesignated paragraph at the end the following new paragraph:

“(10) one who at any time has ordered, incited, assisted, or otherwise participated in the persecution of any person on account of race, religion, nationality, membership in a particular social group, or political opinion.”.

(d) VOLUNTARY DEPARTURE.—Section 240B of the Immigration and Nationality Act (8 U.S.C. 1229c) is amended—

(1) in subsection (a)(1), by striking “deportable under section 237(a)(2)(A)(iii) or section 237(a)(4)(B)” and inserting “removable under section 237(a)(2)(A)(iii), subparagraph (B) or (D) or section 237(a)(4), or section 212(a)(3)(E).”; and

(2) in subsection (b)(1)(C), by striking “deportable under section 237(a)(2)(A)(iii) or section 237(a)(4)(B)” and inserting “removable under section 237(a)(2)(A)(iii), subparagraph (B) or (D) of section 237(a)(4), or section 212(a)(3)(E).”.

(e) AIDING OR ASSISTING CERTAIN ALIENS TO ENTER THE UNITED STATES.—Section 277 of such Act (8 U.S.C. 1327) is amended by striking “or 212(a)(3) (other than subparagraph (E) thereof)” and inserting “, section 212(a)(3)”.

SEC. 309. TECHNICAL CORRECTIONS TO SEVIS REPORTING REQUIREMENTS.

(a) PROGRAM TO COLLECT INFORMATION RELATING TO NONIMMIGRANT FOREIGN STUDENTS.—

(1) IN GENERAL.—Section 641(a)(4) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1372(a)(4)) is amended—

(A) by striking “Not later than 30 days after the deadline for registering for classes for an academic term” and inserting “Not later than the program start date (for new students) or the next session start date (for continuing students) of an academic term”;
 and

(B) by striking “shall report to the Immigration and Naturalization Service any failure of the alien to enroll or to commence participation.” and inserting “shall report to the Secretary of Homeland Security any failure to enroll or to commence participation by the program start date or next session start date, as applicable.”.

(2) TECHNICAL AND CONFORMING AMENDMENTS.—

(A) AUTHORITY OF THE SECRETARY OF HOMELAND SECURITY.—Except as provided in subparagraph (B), section 641 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1372) is amended by striking “Attorney General” each place that term appears and inserting “Secretary of Homeland Security”.

(B) EXCEPTIONS.—Section 641 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1372) is amended—

(i) in subsections (b), (c)(4)(A), (c)(4)(B), (e)(1), (e)(6), and (g) by inserting “Secretary of Homeland Security or the” before “Attorney General” each place that term appears;

(ii) by striking the heading of section (c)(4)(B) and inserting “SECRETARY OF HOMELAND SECURITY AND ATTORNEY GENERAL”;

(iii) in subsection (f), by inserting “the Secretary of Homeland Security,” before “the Attorney General”.

(b) CLARIFICATION OF RELEASE OF INFORMATION.—Section 641 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1372), as amended by subsection (a), is further amended—

(1) in subsection (c)(1)—
 (A) in subparagraph (G), by striking “and” at the end;

(B) in subparagraph (H), by striking the period and inserting a semicolon and “and”;

(C) by adding at the end the following new subparagraph:

“(I) any other information the Secretary of Homeland Security determines is necessary.”; and

(2) in subsection (c)(2), by adding at the end “Approved institutions of higher education or other approved educational institutions shall release information regarding alien students referred to in this section to the Secretary of Homeland Security as part of such information collection program or upon request.”.

TITLE IV—WORKPLACE ENFORCEMENT AND IDENTIFICATION INTEGRITY

Subtitle A—In General

SEC. 401. SHORT TITLE.

This title may be cited as the “Employment Security Act of 2006”.

SEC. 402. FINDINGS.

Congress makes the following findings:
 (1) The failure of Federal, State, and local governments to control and sanction the unauthorized employment and unlawful exploitation of illegal alien workers is a primary cause of illegal immigration.

(2) The use of modern technology not available in 1986, when the Immigration Reform and Control Act of 1986 (Public Law 99-603; 100 Stat. 3359) created the I-9 worker verification system, will enable employers to rapidly and accurately verify the identity and work authorization of their employees and independent contractors.

(3) The Government and people of the United States share a compelling interest in protection of United States employment authorization, income tax withholding, and social security accounting systems, against unauthorized access by illegal aliens.

(4) Limited data sharing between the Department of Homeland Security, the Internal Revenue Service, and the Social Security Administration is essential to the integrity of these vital programs, which protect the employment and retirement security of all working Americans.

(5) The Federal judiciary must be open to private United States citizens, legal foreign workers, and law-abiding enterprises that seek judicial protection against injury to their wages and working conditions due to unlawful employment of illegal alien workers and the United States enterprises that utilize the labor or services provided by illegal aliens, especially where lack of resources constrains enforcement of Federal immigration law by Federal immigration officials.

Subtitle B—Employment Eligibility Verification System

SEC. 411. EMPLOYMENT ELIGIBILITY VERIFICATION SYSTEM.

(a) IN GENERAL.—Section 274A(b) of the Immigration and Nationality Act (8 U.S.C. 1324a(b)) is amended by adding at the end the following:

“(7) EMPLOYMENT ELIGIBILITY VERIFICATION SYSTEM.—

“(A) IN GENERAL.—The Secretary of Homeland Security shall establish and administer a verification system, known as the Employment Eligibility Verification System, through which the Secretary—

“(i) responds to inquiries made by persons at any time through a toll-free telephone line and other toll-free electronic media concerning an individual’s identity and whether the individual is authorized to be employed; and

“(ii) maintains records of the inquiries that were made, of verifications provided (or not provided), and of the codes provided to inquirers as evidence of their compliance with their obligations under this section.

“(B) INITIAL RESPONSE.—The verification system shall provide verification or a tentative nonverification of an individual’s identity and employment eligibility within 3 working days of the initial inquiry. If providing verification or tentative nonverification, the verification system shall provide an appropriate code indicating such verification or such nonverification.

“(C) SECONDARY VERIFICATION PROCESS IN CASE OF TENTATIVE NONVERIFICATION.—In cases of tentative nonverification, the Secretary shall specify, in consultation with the Commissioner of Social Security, an available secondary verification process to confirm the validity of information provided and to provide a final verification or nonverification within 10 working days after the date of the tentative nonverification. When final verification or nonverification is provided, the verification system shall provide an appropriate code indicating such verification or nonverification.

“(D) DESIGN AND OPERATION OF SYSTEM.—The verification system shall be designed and operated—

“(i) to maximize its reliability and ease of use by persons and other entities consistent with insulating and protecting the privacy and security of the underlying information;

“(ii) to respond to all inquiries made by such persons and entities on whether individuals are authorized to be employed and to register all times when such inquiries are not received;

“(iii) with appropriate administrative, technical, and physical safeguards to prevent unauthorized disclosure of personal information; and

“(iv) to have reasonable safeguards against the system’s resulting in unlawful discriminatory practices based on national origin or citizenship status, including—

“(I) the selective or unauthorized use of the system to verify eligibility;

“(II) the use of the system prior to an offer of employment; or

“(III) the exclusion of certain individuals from consideration for employment as a result of a perceived likelihood that additional verification will be required, beyond what is required for most job applicants.

“(E) RESPONSIBILITIES OF THE COMMISSIONER OF SOCIAL SECURITY.—As part of the verification system, the Commissioner of Social Security, in consultation with the Secretary of Homeland Security (and any designee of the Secretary selected to establish and administer the verification system), shall establish a reliable, secure method, which, within the time periods specified under subparagraphs (B) and (C), compares the name and social security account number provided in an inquiry against such information maintained by the Commissioner in order to validate (or not validate) the information provided regarding an individual whose identity and employment eligibility must be confirmed, the correspondence of the name and number, and whether the individual has presented a social security account number that is not valid for employment. The Commissioner shall not disclose or release social security information (other than such verification or nonverification) except as provided for in this section or section 205(c)(2)(I) of the Social Security Act.

“(F) RESPONSIBILITIES OF THE SECRETARY OF HOMELAND SECURITY.—(i) As part of the verification system, the Secretary of Homeland Security (in consultation with any designee of the Secretary selected to establish and administer the verification system), shall establish a reliable, secure method, which, within the time periods specified under subparagraphs (B) and (C), compares the name and alien identification or authorization number which are provided in an inquiry against such information maintained by the Secretary in order to validate (or not validate) the information provided, the correspondence of the name and number, and whether the alien is authorized to be employed in the United States.

“(ii) When a single employer has submitted to the verification system pursuant to paragraph (3)(A) the identical social security account number in more than one instance, or when multiple employers have submitted to the verification system pursuant to such paragraph the identical social security account number, in a manner which indicates the possible fraudulent use of that number, the Secretary of Homeland Security shall conduct an investigation, within the time periods specified in subparagraphs (B) and (C), in order to ensure that no fraudulent use of a social security account number has taken place. If the Secretary has selected a designee to establish and administer the verification system, the designee shall notify the Secretary when a single employer has submitted to the verification system pursuant to paragraph (3)(A) the identical social security account number in more than one instance, or when multiple employers have submitted to the verification system pursuant to such paragraph the identical social security account number, in a manner which indicates the possible fraudulent use of that number. The designee shall also provide the Secretary with all pertinent information, including the name and address of the employer or employers who submitted the relevant social security account number, the relevant social security account number submitted by the employer or employers, and the relevant name and date of birth of the employee submitted by the employer or employers.

“(G) UPDATING INFORMATION.—The Commissioner of Social Security and the Secretary of Homeland Security shall update their information in a manner that promotes maximum accuracy and shall provide a process for the prompt correction of erroneous information, including instances in which it is brought to their attention in the secondary verification process described in subparagraph (C).

“(H) LIMITATION ON USE OF THE VERIFICATION SYSTEM AND ANY RELATED SYSTEMS.—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 Government to utilize any information, database, or other records assembled under this subsection for any purpose other than the enforcement and administration of the immigration laws, the Social Security Act, or any provision of Federal criminal law.

“(I) FEDERAL TORT CLAIMS ACT.—If an individual alleges that the individual would not have been dismissed from a job but for an error of the verification mechanism, the individual may seek compensation only through the mechanism of the Federal Tort Claims Act, and injunctive relief to correct such error. No class action may be brought under this subparagraph.

“(J) PROTECTION FROM LIABILITY FOR ACTIONS TAKEN ON THE BASIS OF INFORMATION.—No person or entity shall be civilly or criminally

liable for any action taken in good faith reliance on information provided through the employment eligibility verification mechanism established under this paragraph.”.

(b) REPEAL OF PROVISION RELATING TO EVALUATIONS AND CHANGES IN EMPLOYMENT VERIFICATION.—Section 274A(d) (8 U.S.C. 1324a(d)) is repealed.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect 2 years after the date of the enactment of this Act.

SEC. 412. EMPLOYMENT ELIGIBILITY VERIFICATION PROCESS.

(a) IN GENERAL.—Section 274A of the Immigration and Nationality Act (8 U.S.C. 1324a) is amended—

(1) in subsection (a)(3), by inserting “(A)” after “DEFENSE.—”, and by adding at the end the following:

“(B) FAILURE TO SEEK AND OBTAIN VERIFICATION.—In the case of a person or entity in the United States that hires, or continues to employ, an individual, or recruits or refers an individual for employment, the following requirements apply:

“(i) FAILURE TO SEEK VERIFICATION.—

“(I) IN GENERAL.—If the person or entity has not made an inquiry, under the mechanism established under subsection (b)(7), seeking verification of the identity and work eligibility of the individual, by not later than the end of 3 working days (as specified by the Secretary of Homeland Security) after the date of the hiring, the date specified in subsection (b)(8)(B) for previously hired individuals, or before the recruiting or referring commences, the defense under subparagraph (A) shall not be considered to apply with respect to any employment, except as provided in subclause (II).

“(II) SPECIAL RULE FOR FAILURE OF VERIFICATION MECHANISM.—If such a person or entity in good faith attempts to make an inquiry in order to qualify for the defense under subparagraph (A) and the verification mechanism has registered that not all inquiries were responded to during the relevant time, the person or entity can make an inquiry until the end of the first subsequent working day in which the verification mechanism registers no nonresponses and qualify for such defense.

“(ii) FAILURE TO OBTAIN VERIFICATION.—If the person or entity has made the inquiry described in clause (i)(I) but has not received an appropriate verification of such identity and work eligibility under such mechanism within the time period specified under subsection (b)(7)(B) after the time the verification inquiry was received, the defense under subparagraph (A) shall not be considered to apply with respect to any employment after the end of such time period.”;

(2) by amending subparagraph (A) of subsection (b)(1) to read as follows:

“(A) IN GENERAL.—The person or entity must attest, under penalty of perjury and on a form designated or established by the Secretary by regulation, that it has verified that the individual is not an unauthorized alien by—

“(i) obtaining from the individual the individual’s social security account number and recording the number on the form (if the individual claims to have been issued such a number), and, if the individual does not attest to United States citizenship under paragraph (2), obtaining such identification or authorization number established by the Department of Homeland Security for the alien as the Secretary of Homeland Security may specify, and recording such number on the form; and

“(ii)(I) examining a document described in subparagraph (B); or

“(II) examining a document described in subparagraph (C) and a document described in subparagraph (D).

A person or entity has complied with the requirement of this paragraph with respect to examination of a document if the document reasonably appears on its face to be genuine, reasonably appears to pertain to the individual whose identity and work eligibility is being verified, and, if the document bears an expiration date, that expiration date has not elapsed. If an individual provides a document (or combination of documents) that reasonably appears on its face to be genuine, reasonably appears to pertain to the individual whose identity and work eligibility is being verified, and is sufficient to meet the first sentence of this paragraph, nothing in this paragraph shall be construed as requiring the person or entity to solicit the production of any other document or as requiring the individual to produce another document.”;

(3) in subsection (b)(1)(D)—

(A) in clause (i), by striking “or such other personal identification information relating to the individual as the Attorney General finds, by regulation, sufficient for purposes of this section”; and

(B) in clause (ii), by inserting before the period “and that contains a photograph of the individual”;

(4) in subsection (b)(2), by adding at the end the following: “The individual must also provide that individual’s social security account number (if the individual claims to have been issued such a number), and, if the individual does not attest to United States citizenship under this paragraph, such identification or authorization number established by the Department of Homeland Security for the alien as the Secretary may specify.”;

(5) by amending paragraph (3) of subsection (b) to read as follows:

“(3) RETENTION OF VERIFICATION FORM AND VERIFICATION.—

“(A) IN GENERAL.—After completion of such form in accordance with paragraphs (1) and (2), the person or entity shall—

“(i) retain a paper, microfiche, microfilm, or electronic version of the form and make it available for inspection by officers of the Department of Homeland Security, the Special Counsel for Immigration-Related Unfair Employment Practices, or the Department of Labor during a period beginning on the date of the hiring, recruiting, or referral of the individual or the date of the completion of verification of a previously hired individual and ending—

“(I) in the case of the recruiting or referral of an individual, three years after the date of the recruiting or referral;

“(II) in the case of the hiring of an individual, the later of—

“(aa) three years after the date of such hiring; or

“(bb) one year after the date the individual’s employment is terminated; and

“(III) in the case of the verification of a previously hired individual, the later of—

“(aa) three years after the date of the completion of verification; or

“(bb) one year after the date the individual’s employment is terminated;

“(ii) make an inquiry, as provided in paragraph (7), using the verification system to seek verification of the identity and employment eligibility of an individual, by not later than the end of 3 working days (as specified by the Secretary of Homeland Security) after the date of the hiring or in the case of previously hired individuals, the date specified in subsection (b)(8)(B), or before the recruiting or referring commences; and

“(iii) not commence recruitment or referral of the individual until the person or entity receives verification under subparagraph (B)(i) or (B)(iii).

“(B) VERIFICATION.—

“(i) VERIFICATION RECEIVED.—If the person or other entity receives an appropriate verification of an individual’s identity and work eligibility under the verification system within the time period specified, the person or entity shall record on the form an appropriate code that is provided under the system and that indicates a final verification of such identity and work eligibility of the individual.

“(ii) TENTATIVE NONVERIFICATION RECEIVED.—If the person or other entity receives a tentative nonverification of an individual’s identity or work eligibility under the verification system within the time period specified, the person or entity shall so inform the individual for whom the verification is sought. If the individual does not contest the nonverification within the time period specified, the nonverification shall be considered final. The person or entity shall then record on the form an appropriate code which has been provided under the system to indicate a tentative nonverification. If the individual does contest the nonverification, the individual shall utilize the process for secondary verification provided under paragraph (7). The nonverification will remain tentative until a final verification or nonverification is provided by the verification system within the time period specified. In no case shall an employer terminate employment of an individual because of a failure of the individual to have identity and work eligibility confirmed under this section until a nonverification becomes final. Nothing in this clause shall apply to a termination of employment for any reason other than because of such a failure.

“(iii) FINAL VERIFICATION OR NONVERIFICATION RECEIVED.—If a final verification or nonverification is provided by the verification system regarding an individual, the person or entity shall record on the form an appropriate code that is provided under the system and that indicates a verification or nonverification of identity and work eligibility of the individual.

“(iv) EXTENSION OF TIME.—If the person or other entity in good faith attempts to make an inquiry during the time period specified and the verification system has registered that not all inquiries were received during such time, the person or entity may make an inquiry in the first subsequent working day in which the verification system registers that it has received all inquiries. If the verification system cannot receive inquiries at all times during a day, the person or entity merely has to assert that the entity attempted to make the inquiry on that day for the previous sentence to apply to such an inquiry, and does not have to provide any additional proof concerning such inquiry.

“(v) CONSEQUENCES OF NONVERIFICATION.—

“(I) TERMINATION OR NOTIFICATION OF CONTINUED EMPLOYMENT.—If the person or other entity has received a final nonverification regarding an individual, the person or entity may terminate employment of the individual (or decline to recruit or refer the individual). If the person or entity does not terminate employment of the individual or proceeds to recruit or refer the individual, the person or entity shall notify the Secretary of Homeland Security of such fact through the verification system or in such other manner as the Secretary may specify.

“(II) FAILURE TO NOTIFY.—If the person or entity fails to provide notice with respect to an individual as required under subclause (I), the failure is deemed to constitute a viola-

tion of subsection (a)(1)(A) with respect to that individual.

“(vi) CONTINUED EMPLOYMENT AFTER FINAL NONVERIFICATION.—If the person or other entity continues to employ (or to recruit or refer) an individual after receiving final nonverification, a rebuttable presumption is created that the person or entity has violated subsection (a)(1)(A).”;

(6) by amending paragraph (4) of subsection (b) to read as follows:

“(4) COPYING AND RECORD KEEPING OF DOCUMENTATION REQUIRED.—

“(A) LAWFUL EMPLOYMENT DOCUMENTS.—Notwithstanding any other provision of law, a person or entity shall retain a copy of each document presented by an individual to the individual or entity pursuant to this subsection. Such copy may only be used (except as otherwise permitted under law) for the purposes of complying with the requirements of this subsection and shall be maintained for a time period to be determined by the Secretary of Homeland Security.

“(B) SOCIAL SECURITY CORRESPONDENCE.—A person or entity shall maintain records of correspondence from the Commissioner of Social Security regarding name and number mismatches or no-matches and the steps taken to resolve such mismatches or no-matches. The employer shall maintain such records for a time period to be determined by the Secretary.

“(C) OTHER DOCUMENTS.—The Secretary may, by regulation, require additional documents to be copied and maintained.”; and

(7) by amending paragraph (5) of subsection (b) to read as follows:

“(5) USE OF ATTESTATION FORM.—A form designated by the Secretary to be used for compliance with this subsection, and any information contained in or appended to such form, may not be used for purposes other than for enforcement of this chapter or of title 18, United States Code.”.

(b) INVESTIGATION NOT A WARRANTLESS ENTRY.—Section 287(e) of the Immigration and Nationality Act (8 U.S.C. 1357(e)) is amended by adding at the end the following: “An investigation authorized pursuant to subsections (b)(7) or (e) of section 274A is not a warrantless entry.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect 2 years after the date of the enactment of this Act.

SEC. 413. EXPANSION OF EMPLOYMENT ELIGIBILITY VERIFICATION SYSTEM TO PREVIOUSLY HIRED INDIVIDUALS AND RECRUITING AND REFERRING.

(a) APPLICATION TO RECRUITING AND REFERRING.—Section 274A of the Immigration and Nationality Act (8 U.S.C. 1324a) is amended—

(1) in subsection (a)(1)(A), by striking “for a fee”;

(2) in subsection (a)(1), by amending subparagraph (B) to read as follows:

“(B) to hire, continue to employ, or to recruit or refer for employment in the United States an individual without complying with the requirements of subsection (b).”;

(3) in subsection (a)(2) by striking “after hiring an alien for employment in accordance with paragraph (1),” and inserting “after complying with paragraph (1),”;

(4) in subsection (a)(3), as amended by section 702, is further amended by striking “hiring,” and inserting “hiring, employing,” each place it appears.

(b) EMPLOYMENT ELIGIBILITY VERIFICATION FOR PREVIOUSLY HIRED INDIVIDUALS.—Section 274A(b) of such Act (8 U.S.C. 1324a(b)), as amended by section 411(a), is amended by adding at the end the following new paragraph:

“(8) USE OF EMPLOYMENT ELIGIBILITY VERIFICATION SYSTEM FOR PREVIOUSLY HIRED INDIVIDUALS.—

“(A) ON A VOLUNTARY BASIS.—Beginning on the date that is 2 years after the date of the

enactment of the Employment Security Act of 2006 and until the date specified in subparagraph (B)(iii), a person or entity may make an inquiry, as provided in paragraph (7), using the verification system to seek verification of the identity and employment eligibility of any individual employed by the person or entity, as long as it is done on a nondiscriminatory basis.

“(B) ON A MANDATORY BASIS.—

“(i) INITIAL COMPLIANCE.—A person or entity described in clause (ii) shall make an inquiry as provided in paragraph (7), using the verification system to seek verification of the identity and employment eligibility of all individuals employed by the person or entity who have not been previously subject to an inquiry by the person or entity by the date 3 years after the date of the enactment of the Employment Security Act of 2006.

“(ii) PERSON OR ENTITY COVERED.—A person or entity is described in this clause if it is a Federal, State, or local governmental body (including the Armed Forces of the United States), or if it employs individuals working in a location that is a Federal, State, or local government building, a military base, a nuclear energy site, a weapon site, an airport, or that contains critical infrastructure (as defined in section 1016(e) of the Critical Infrastructure Protection Act of 2001 (42 U.S.C. 5195c(e))), but only to the extent of such individuals.

“(iii) SUBSEQUENT COMPLIANCE.—All persons and entities other than a person or entity described in clause (ii) shall make an inquiry, as provided in paragraph (7), using the verification system to seek verification of the identity and employment eligibility of all individuals employed by the person or entity that have not been previously subject to an inquiry by the person or entity by the date 6 years after the date of the enactment of the Employment Security Act of 2006.”.

SEC. 414. EXTENSION OF PREEMPTION TO REQUIRED CONSTRUCTION OF DAY LABORER SHELTERS.

Paragraph 274A(h)(2) of the Immigration and Nationality Act (8 U.S.C. 1324a(h)(2)) is amended—

(1) by striking “imposing”, and inserting a dash and “(A) imposing”;

(2) by striking the period at the end and inserting “; and”;

(3) by adding at the end the following:

“(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.”.

SEC. 415. BASIC PILOT PROGRAM.

Section 401(b) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note) is amended by striking “at the end of the 11-year period beginning on the first day the pilot program is in effect” and inserting “2 years after the date of the enactment of the Employment Security Act of 2006”.

SEC. 416. PROTECTION FOR UNITED STATES WORKERS AND INDIVIDUALS REPORTING IMMIGRATION LAW VIOLATIONS.

Section 274B(a) of the Immigration and Nationality Act (8 U.S.C. 1324b(a)) is amended by adding at the end the following:

“(7) PROTECTION OF RIGHT TO REPORT.—Notwithstanding any other provision of law, the rights protected by this subsection include the right of any individual to report a violation or suspected violation of any immigration law to the Secretary of Homeland Security or a law enforcement agency.”.

SEC. 417. PENALTIES.

(a) CIVIL AND CRIMINAL PENALTIES.—Section 274A(e)(4) of the Immigration and Nationality Act (8 U.S.C. 1324a(e)(4)) is amended to read:

“(4) CIVIL AND CRIMINAL PENALTIES.—

“(A) KNOWINGLY HIRING UNAUTHORIZED ALIENS.—Any person or entity that violates subsection (a)(1)(A) shall—

“(i) in the case of a first offense, be fined \$10,000 for each unauthorized alien;

“(ii) in the case of a second offense, be fined \$50,000 for each unauthorized alien; and

“(iii) in the case of a third or subsequent offense, be fined in accordance with title 18, United States Code, imprisoned not less than 1 year and not more than 3 years, or both.

“(B) CONTINUING EMPLOYMENT OF UNAUTHORIZED ALIENS.—Any person or entity that violates subsection (a)(2) shall be fined in accordance with title 18, United States Code, imprisoned not less than 1 year and not more than 3 years, or both.”

(b) PAPERWORK OR VERIFICATION VIOLATIONS.—Section 274A(e)(5) of the Immigration and Nationality Act (8 U.S.C. 1324a) is amended to read:

“(5) PAPERWORK OR VERIFICATION VIOLATIONS.—Any person or entity that violates subsection (a)(1)(B) shall—

“(A) in the case of a first offense, be fined \$1,000 for each violation;

“(B) in the case of a second violation, be fined \$5,000 for each violation; and

“(C) in the case of a third and subsequent violation, be fined \$10,000 for each such violation.”

(c) GOVERNMENT CONTRACTS.—Section 274A(e) of the Immigration and Nationality Act (8 U.S.C. 1324a(e)) is amended by adding at the end the following new paragraph:

“(10) GOVERNMENT CONTRACTS.—

“(A) EMPLOYERS.—

“(i) IN GENERAL.—If the Secretary of Homeland Security determines that a person or entity that employs an alien is a repeat violator of this section or is convicted of a crime under this section, such person or entity shall be debarred from the receipt of a Federal contract, grant, or cooperative agreement for a period of 2 years. The Secretary of Homeland Security 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 2-year period.

“(ii) WAIVER.—The Administrator of General Services, in consultation with the Secretary of Homeland Security and Attorney General, may waive the application of this subparagraph or may limit the duration or scope of the debarment imposed under it.

“(iii) PROHIBITION ON JUDICIAL REVIEW.—Any proposed debarment that is predicated on an administrative determination of liability for civil penalty by the Secretary of Homeland Security or the Attorney General may not be reviewable in any debarment proceeding. The decision of whether to debar or take alternation may not be reviewed by any court.

“(B) CONTRACTORS AND RECIPIENTS.—

“(i) IN GENERAL.—If the Secretary of Homeland Security determines that a person or entity that employs an alien and holds a Federal contract, grant, or cooperative agreement is a repeat violator of this section or is convicted of a crime under this section, such person or entity shall be debarred from the receipt of a Federal contract, grant, or cooperative agreement for a period of 2 years. Prior to debarring the employer, the Secretary of Homeland Security, in cooperation with the Administrator of General Services, shall advise the head of each agency holding such a contract, grant, or coopera-

tive agreement with person or entity 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.

“(ii) WAIVER.—After consideration of the views of the head of each such agency, the Secretary of Homeland Security may, in lieu of debarring the employer from the receipt of new a Federal contract, grant, or cooperative agreement for a period of 2 years, waive application of this subparagraph, 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.

“(iii) PROHIBITION ON REVIEW.—Any proposed debarment that is predicated on an administrative determination of liability for civil penalty by the Secretary of Homeland Security or the Attorney General may not be reviewable in any debarment proceeding. The decision of whether to debar or take alternation may not be reviewed by any court.

“(C) CAUSE FOR SUSPENSION.—Indictments for violations of this section or adequate evidence of actions that could form the basis for debarment under this paragraph shall be considered a cause for suspension under the procedures and standards for suspension prescribed by the Federal Acquisition Regulation.

“(D) APPLICABILITY.—The provisions of this paragraph shall apply to any Federal contract, grant, or cooperative agreement that is effective on or after the date of the enactment of the Employment Security Act of 2006.”

(d) CRIMINAL PENALTIES FOR PATTERN OR PRACTICE VIOLATIONS.—Section 274A(f)(1) of the Immigration and Nationality Act (8 U.S.C. 1324a(f)(1)) is amended to read as follows:

“(1) CRIMINAL PENALTY.—Any person or entity engages in a pattern or practice of violations of subsection (a)(1) or (2) shall be fined not more than \$50,000 for each unauthorized alien with respect to which such a violation occurs, imprisoned for not less than 3 years and not more than 5 years, or both, notwithstanding the provisions of any other Federal law relating to fine levels. The amount of the gross proceeds of such violation, and any property traceable to such proceeds, shall be seized and subject to forfeiture under title 18, United States Code.”

(e) AUTHORITY OF THE SECRETARY OF HOMELAND SECURITY.—Subsections (b)(2) and (f)(2) of section 274A of the Immigration and Nationality Act (8 U.S.C. 1324a) are amended by striking “Attorney General” each place it appears and inserting “Secretary of Homeland Security”.

Subtitle C—Work Eligibility Verification Reform in the Social Security Administration

SEC. 421. VERIFICATION RESPONSIBILITIES OF THE COMMISSIONER OF SOCIAL SECURITY.

The Commissioner of Social Security is authorized to perform activities with respect to carrying out the Commissioner's responsibilities in this title or the amendments made by this title, however in no case shall funds from the Federal Old-Age and Survivors Insurance Trust Fund or the Federal Disability Insurance Trust Fund be used to carry out such responsibilities.

SEC. 422. NOTIFICATION BY COMMISSIONER OF FAILURE TO CORRECT SOCIAL SECURITY INFORMATION.

The Commissioner of Social Security shall promptly notify the Secretary of Homeland Security of the failure of any individual to provide, upon any request of the Commis-

sioner made pursuant to section 205(c)(2) of the Social Security Act (42 U.S.C. 405(c)(2)), evidence necessary, under such section to—

(1) establish the age, citizenship, immigration or work eligibility status of the individual;

(2) establish such individual's true identity; or

(3) determine which (if any) social security account number has previously been assigned to such individual.

SEC. 423. RESTRICTION ON ACCESS AND USE.

Section 205(c)(2) of the Social Security Act (42 U.S.C. 405(c)(2)) is amended by adding at the end the following new subparagraph:

“(I)(i) Access to any information contained in the Employment Eligibility Verification System established section 274A(b)(7) of the Immigration and Nationality Act, shall be prohibited for any purpose other than the administration or enforcement of Federal immigration, social security, and tax laws, any provision of title 18, United States Code, or as otherwise authorized by Federal law.

“(ii) No person or entity may use the information in such Employment Eligibility Verification System for any purpose other than as permitted by Federal law.

“(iii) Whoever knowingly uses, discloses, publishes, or permits the unauthorized use of information in such Employment Eligibility Verification System in violation of clause (i) or (ii) shall be fined not more than \$10,000 per individual injured by such violation. The Commissioner of Social Security shall establish procedure to ensure that 60 percent of any fine imposed under this clause is awarded to the individual injured by such violation.”

SEC. 424. SHARING OF INFORMATION WITH THE COMMISSIONER OF INTERNAL REVENUE SERVICE.

Section 205(c)(2)(H) of the Social Security Act (42 U.S.C. 405(c)(2)(H)) is amended to read as follows:

“(H) The Commissioner of Social Security shall share with the Secretary of the Treasury—

“(i) the information obtained by the Commissioner pursuant to the second sentence of subparagraph (B)(ii) and to subparagraph (C)(ii) for the purpose of administering those sections of the Internal Revenue Code of 1986 that grant tax benefits based on support or residence of children; and

“(ii) information relating to the detection of wages or income from self-employment of unauthorized aliens (as defined by section 274A of the Immigration and Nationality Act (8 U.S.C. 1324a)), or the investigation of false statements or fraud by such persons incident to the administration of immigration, social security, or tax laws of the United States.

Information disclosed under this subparagraph shall be solely for the use of the officers and employees to whom such information is disclosed in such response or investigation.”

SEC. 425. SHARING OF INFORMATION WITH THE SECRETARY OF HOMELAND SECURITY.

(a) AMENDMENT TO THE SOCIAL SECURITY ACT.—Section 205(c)(2) of the Social Security Act (42 U.S.C. 405(c)(2)), as amended by section 423, is amended by adding at the end the following new subparagraph:

“(J) Upon the issuance of a social security account number under subparagraph (B) to any individual or the issuance of a Social Security card under subparagraph (G) to any individual, the Commissioner of social security shall transmit to the Secretary of Homeland Security such information received by the Commissioner in the individual's application for such number or such card as the Secretary of Homeland Security determines necessary and appropriate for administration of the immigration laws of the United States.”

(b) AMENDMENTS TO THE IMMIGRATION AND NATIONALITY ACT.—

(1) FORMS AND PROCEDURES.—Section 264(f) of the Immigration and Nationality Act (8 U.S.C. 1304(f)) is amended to read as follows:“(f) Notwithstanding any other provision of law (including section 6103 of title 26, United States Code), the Secretary of Homeland Security, Secretary of Labor and the Attorney General are authorized to require any individual to provide the individual's own social security account number for purposes of inclusion in any record of the individual maintained by any of any such Secretary or the Attorney General, or for inclusion on any application, document, or form provided under or required by the immigration laws.”.

(2) CENTRAL FILE.—Section 290(c) of the Immigration and Nationality Act (8 U.S.C. 1360(c)) is amended by striking paragraph (2) and inserting the following new paragraphs:“(2) Notwithstanding any other provision of law (including section 6103 of title 26, United States Code) if earnings are reported on or after January 1, 1997, to the Commissioner of Social Security on a social security account number issued to an alien who is not authorized to work in the United States, the Commissioner shall provide the Secretary of Homeland Security with information regarding the name, date of birth, and address of the alien, the name and address of the person reporting the earnings, and the amount of the earnings. The information shall be provided in an electronic form agreed upon by the Commissioner and the Secretary.”.

“(3) Notwithstanding any other provision of law (including section 6103 of title 26, United States Code), the Commissioner of Social Security shall provide the Secretary of Homeland Security information regarding the name, date of birth, and address of an individual, as well as the name and address of the person reporting the earnings, in any case where a social security account number does not match the name in the Social Security Administration record. The information shall be provided in an electronic form agreed upon by the Commissioner and the Secretary for the sole purpose of enforcing the immigration laws. The Secretary, in consultation with the Commissioner, may limit or modify these requirements as appropriate to identify those cases posing the highest possibility of fraudulent use of social security account numbers related to violation of the immigration laws.”.

“(4) Notwithstanding any other provision of law (including section 6103 of title 26, United States Code), the Commissioner of Social Security shall provide the Secretary of Homeland Security information regarding the name, date of birth, and address of an individual, as well as the name and address of the person reporting the earnings, in any case where the individual has more than one person reporting earnings for the individual during a single tax year and where a social security number was used with multiple names. The information shall be provided in an electronic form agreed upon by the Commissioner and the Secretary for the sole purpose of enforcing the immigration laws. The Secretary, in consultation with the Commissioner, may limit or modify these requirements as appropriate to identify those cases posing the highest possibility of fraudulent use of social security account numbers related to violation of the immigration laws.”.

“(5)(A) The Commissioner of Social Security shall perform, at the request of the Secretary of Homeland Security, any search or manipulation of records held by the Commissioner, so long as the Secretary certifies that the purpose of the search or manipulation is to obtain information likely to assist in identifying individuals (and their employers) who—

“(i) are using false names or social security numbers; who are sharing among multiple individuals a single valid name and social security number;

“(ii) are using the social security number of persons who are deceased, too young to work or not authorized to work; or

“(iii) are otherwise engaged in a violation of the immigration laws.”.

“(B) The Commissioner shall provide the results of such search or manipulation to the Secretary, notwithstanding any other provision of law (including section 6103 of title 26, United States Code). The Secretary shall transfer to the Commissioner the funds necessary to cover the additional cost directly incurred by the Commissioner in carrying out the searches or manipulations reported by the Secretary.”.

Subtitle D—Sharing of Information

SEC. 431. SHARING OF INFORMATION WITH THE SECRETARY OF HOMELAND SECURITY AND THE COMMISSIONER OF SOCIAL SECURITY.

(a) AMENDMENT TO THE INTERNAL REVENUE CODE OF 1986.—Section 6103(i) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

“(9) DISCLOSURE OF INFORMATION RELATING TO VIOLATIONS OF FEDERAL IMMIGRATION LAW.—

“(A) Upon receipt by the Secretary of the Treasury of a written request, by the Secretary of Homeland Security or Commissioner of Social Security, the Secretary of the Treasury shall disclose return information to officers and employees of the Department of Homeland Security and the Social Security Administration who are personally and directly engaged in—

“(i) preparation for any judicial or administrative civil or criminal enforcement proceeding against an alien under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), other than the adjudication of any application for a change in immigration status or other benefit by such alien, or

“(ii) preparation for a civil or criminal enforcement proceeding against a citizen or national of the United States under section 274, 274A, or 274C of the Immigration and Nationality Act (8 U.S.C. 1324, 1324a, or 1324c), or

“(iii) any investigation which may result in the proceedings enumerated in clauses (i) and (ii) above.”.

“(B) LIMITATION ON USE AND RETENTION OF TAX RETURN INFORMATION.—

“(i) Information disclosed under this paragraph shall be solely for the use of the officers and employees to whom such information is disclosed in such response or investigation.”.

“(ii) Should the proceeding for which such information has been disclosed not commence within 3 years after the date on which the information has been disclosed by the Secretary, the information shall be returned to the Secretary in its entirety, and shall not be retained in any form by the requestor, unless the taxpayer is notified in writing as to the information that has been retained.”.

(b) AMENDMENT TO THE IMMIGRATION AND NATIONALITY ACT.—Section 274A of the Immigration and Nationality Act (8 U.S.C. 1324a) is amended by adding at the end the following new subsection:

“(1) NO-MATCH NOTICE.—

“(1) NO-MATCH NOTICE DEFINED.—In this subsection, the term ‘no-match notice’ means a 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.”.

“(2) PROVISION OF INFORMATION.—

“(A) REQUIREMENT TO PROVIDE.—Notwithstanding any other provision of law (includ-

ing section 6103 of title 26, United States Code), the Commissioner shall provide the Secretary of Homeland Security with information relating to employers who have received no-match notices and, upon request, with such additional information as the Secretary certifies is necessary to administer or enforce the immigration laws.”.

“(B) FORM OF INFORMATION.—The information shall be provided in an electronic form agreed upon by the Commissioner and the Secretary.”.

“(C) USE OF INFORMATION.—A no-match notice received by the Secretary from the Commissioner may be used as evidence in any civil or criminal proceeding.”.

“(3) OTHER AUTHORITIES.—

“(A) VERIFICATION REQUIREMENT.—The Secretary, in consultation with the Commissioner, is authorized to establish by regulation requirements for verifying the identity and work authorization of an employee who is the subject of a no-match notice.”.

“(B) PENALTIES.—The Secretary is authorized to establish by regulation penalties for failure to comply with this subsection.”.

“(C) LIMITATION ON AUTHORITIES.—This authority in this subsection is provided in aid of the Secretary's authority to administer and enforce the immigration laws, and nothing in this subsection shall be construed to authorize the Secretary to establish any regulation regarding the administration or enforcement of laws otherwise relating to taxation or the Social Security system.”.

Subtitle E—Identification Document Integrity

SEC. 441. CONSULAR IDENTIFICATION DOCUMENTS.

(a) ACCEPTANCE OF FOREIGN IDENTIFICATION DOCUMENTS.—

(1) IN GENERAL.—Subject to paragraph (3), for purposes of personal identification, no agency, commission, entity, or agent of the executive or legislative branches of the Federal Government may accept, acknowledge, recognize, or rely on any identification document issued by the government of a foreign country, unless otherwise mandated by Federal law.”.

(2) AGENT DEFINED.—In this section, the term “agent” shall include the following:

(A) A Federal contractor or grantee.
(B) An institution or entity exempted from Federal income taxation under the Internal Revenue Code of 1986.”.

(C) A financial institution required to ask for identification under section 5318(1) of title 31, United States Code.”.

(3) EXCEPTIONS.—

(A) IN GENERAL.—An individual who is not a citizen or national of the United States may present for purposes of personal identification an official identification document issued by the government of a foreign country or other foreign identification document recognized pursuant to a treaty entered into by the United States, if—

(i) such individual simultaneously presents valid verifiable documentation of lawful presence in the United States issued by the appropriate agency of the Federal Government;

(ii) reporting a violation of law or seeking government assistance in an emergency;

(iii) the document presented is a passport issued to a citizen or national of a country that participates in the visa waiver program established under section 217 of the Immigration and Nationality Act (8 U.S.C. 1187) by the government of such country; or

(iv) such use is expressly permitted another provision of Federal law.”.

(B) NONAPPLICATION.—The provisions of paragraph (1) shall not apply to—

(i) inspections of alien applicants for admission to the United States; or

(ii) verification of personal identification of persons outside the United States.

(4) LISTING OF ACCEPTABLE DOCUMENTS.—The Secretary of Homeland Security shall issue and maintain an updated public listing, compiled in consultation with the Secretary of State, and including sample facsimiles, of all acceptable Federal documents that satisfy the requirements of paragraph (3)(A).

(b) ESTABLISHMENT OF PERSONAL IDENTITY.—Section 274C(a) of the Immigration and Nationality Act (8 U.S.C. 1324c(a)) is amended—

(1) in paragraph (5), by striking “or” at the end;

(2) in paragraph (6), by striking the period at the end and inserting a comma and “or”; and

(3) by inserting after paragraph (6) the following new paragraph:

“(7) to use to establish personal identity, before any agent of the Federal Government, or before any agency of the Federal Government or of a State or any political subdivision therein, a travel or identification document issued by a foreign government that is not accepted by the Secretary of Homeland Security to establish personal identity for purposes of admission to the United States at a port of entry, except—

“(A) in the case of a person who is not a citizen of the United States—

“(i) the person simultaneously presents valid verifiable documentation of lawful presence in the United States issued by an agency of the Federal Government;

“(ii) the person is reporting a violation of law or seeking government assistance in an emergency; or

“(iii) such use is expressly permitted by Federal law.”

SEC. 442. MACHINE-READABLE TAMPER-RESISTANT IMMIGRATION DOCUMENTS.

(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) in the heading, by striking “ENTRY AND EXIT DOCUMENTS” and inserting “TRAVEL, ENTRY, AND EVIDENCE OF STATUS DOCUMENTS”;

(2) in subsection (b)(1)—

(A) by striking “Not later than October 26, 2004, the Attorney General” and inserting “The Secretary of Homeland Security”; and

(B) by striking “visas and” each place it appears and inserting “visas, evidence of status, and”;

(3) by striking subsection (d) and inserting 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 immigrant, non-immigrant, parole, asylee, or refugee status, shall be machine-readable, tamper-resistant, and incorporate a biometric identifier to allow the Secretary of Homeland Security to electronically verify the identity and status of the alien.

“(e) FUNDING.—

“(1) AUTHORIZATION OF APPROPRIATION.—There are authorized to be appropriated such sums as may be necessary to carry out this section, including reimbursements to international and domestic standards organizations.

“(2) FEE.—During any fiscal year for which appropriations sufficient to issue documents described in subsection (d) are not made pursuant to law, the Secretary of Homeland Security is authorized to implement and collect a fee sufficient to cover the direct cost of issuance of such document from the alien to whom the document will be issued.

“(3) EXCEPTION.—The fee described in paragraph (2) may not be levied against nationals of a foreign country if the Secretary of

Homeland has determined that the total estimated population of such country who are unlawfully present in the United States does not exceed 3,000 aliens.”

(b) TECHNICAL AMENDMENT.—The table of contents in section 1(b) of the Enhanced Border Security and Visa Entry Reform Act of 2002 (Public Law 107–173; 116 Stat. 543) is amended by striking the item relating to section 303 and inserting the following:

“Sec. 303. Machine-readable, tamper-resistant travel, entry, and evidence of status documents.”

Subtitle F—Effective Date; Authorization of Appropriations

SEC. 451. EFFECTIVE DATE.

Except as otherwise specially provided in this Act, the provisions of this title shall take effect not later than 45 days after the date of the enactment of this Act.

SEC. 452. AUTHORIZATION OF APPROPRIATIONS.

In addition to amounts otherwise authorized to be appropriated, there are authorized to be appropriated such sums as may be necessary for each of fiscal years 2007 through 2011 to carry out this title.

TITLE V—PENALTIES AND ENFORCEMENT

Subtitle A—Criminal and Civil Penalties

SEC. 501. ALIEN SMUGGLING AND RELATED OFFENSES.

(a) IN GENERAL.—Section 274 of the Immigration and Nationality Act (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.—Whoever—

“(A) assists, encourages, directs, or induces a person to come to or enter the United States, or to attempt to come to or enter the United States, knowing or in reckless disregard of the fact that such person is an alien who lacks lawful authority to come to or enter the United States;

“(B) assists, encourages, directs, or induces a person to come to or enter 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, regardless of whether such person has official permission or lawful authority to be in the United States, knowing or in reckless disregard of the fact that such person is an alien;

“(C) assists, encourages, directs, or induces a person to reside in or remain in the United States, or to attempt to reside in 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;

“(D) 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, where the transportation or movement will aid or further in any manner the person’s illegal entry into or illegal presence in the United States;

“(E) 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;

“(F) 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 one country to another or on the high seas, under circumstances in which the person is in fact seeking to enter the United States without official permission or lawful authority; or

“(G) conspires or attempts to commit any of the preceding acts,

shall be punished as provided in paragraph (2), regardless of any official action which

may later be taken with respect to such alien.

“(2) CRIMINAL PENALTIES.—A person who violates the provisions of paragraph (1) shall—

“(A) except as provided in subparagraphs (D) through (H), in the case where the offense was not committed for commercial advantage, profit, or private financial gain, be imprisoned for not more than 5 years, or fined under title 18, United States Code, or both;

“(B) except as provided in subparagraphs (C) through (H), where the offense was committed for commercial advantage, profit, or private financial gain—

“(i) in the case of a first violation of this subparagraph, be imprisoned for not more than 20 years, or fined under title 18, United States Code, or both; and

“(ii) for any subsequent violation, be imprisoned for not less than 3 years nor more than 20 years, or fined under title 18, United States Code, or both;

“(C) in the case where the offense was committed for commercial advantage, profit, or private financial gain and involved 2 or more aliens other than the offender, be imprisoned for not less than 3 nor more than 20 years, or fined under title 18, United States Code, or both;

“(D) in the case where the offense furthers or aids the commission of any other offense against the United States or any State, which offense is punishable by imprisonment for more than 1 year, be imprisoned for not less than 5 nor more than 20 years, or fined under title 18, United States Code, or both;

“(E) in the case where any participant in the offense created a substantial risk of death or serious bodily injury to another person, including—

“(i) transporting a person in an engine compartment, storage compartment, or other confined space;

“(ii) transporting a person at an excessive speed or in excess of the rated capacity of the means of transportation; or

“(iii) transporting or harboring a person in a crowded, dangerous, or inhumane manner, be imprisoned not less than 5 nor more than 20 years, or fined under title 18, United States Code, or both;

“(F) in the case where the offense caused serious bodily injury (as defined in section 1365 of title 18, United States Code, including any conduct that would violate sections 2241 or 2242 of title 18, United States Code, if the conduct occurred in the special maritime and territorial jurisdiction of the United States) to any person, be imprisoned for not less than 7 nor more than 30 years, or fined under title 18, United States Code, or both;

“(G) in the case where the offense involved an alien who the offender knew or had reason to believe was an alien—

“(i) engaged in terrorist activity (as defined in section 212(a)(3)(B)); or

“(ii) intending to engage in such terrorist activity, be imprisoned for not less than 10 nor more than 30 years, or fined under title 18, United States Code, or both; and

“(H) in the case where the offense caused or resulted in the death of any person, be punished by death or imprisoned for not less than 10 years, or any term of years, or for life, or fined under title 18, United States Code, or both.

“(3) EXTRATERRITORIAL JURISDICTION.—There is extraterritorial Federal jurisdiction over the offenses described in this subsection.

“(b) EMPLOYMENT OF UNAUTHORIZED ALIENS.—

“(1) IN GENERAL.—Any person who, during any 12-month period, knowingly hires for

employment at least 10 individuals with actual knowledge that the individuals are aliens described in paragraph (2), shall be fined under title 18, United States Code, imprisoned for not more than 5 years, or both.

“(2) ALIEN DESCRIBED.—A alien described in this paragraph is an alien who—

“(A) is an unauthorized alien (as defined in section 274A(h)(3)); and

“(B) has been brought into the United States in violation of subsection (a).

“(c) SEIZURE AND FORFEITURE.—

“(1) IN GENERAL.—Any property, real or personal, that has been 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, including section 981(d) of such title, except that such duties as are imposed upon the Secretary of the Treasury under the customs laws described in that section shall be performed by such officers, agents, and other persons as may be designated for that purpose by the Secretary of Homeland Security.

“(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 officers and employees designated by the Secretary of Homeland Security, either individually or as a member of a class, and all other officers whose duty it is to enforce criminal laws.

“(e) ADMISSIBILITY OF EVIDENCE.—

“(1) PRIMA FACIE EVIDENCE IN DETERMINATIONS OF VIOLATIONS.—Notwithstanding any provision of the Federal Rules of Evidence, in determining whether a violation of subsection (a) has occurred, any of the following shall be prima facie evidence that an alien involved in the violation lacks lawful authority to come to, enter, reside, remain, or be in the United States or that such alien had come to, entered, resided, remained or been present in the United States in violation of law:

“(A) Any order, finding, or determination concerning the alien’s status or lack thereof made by a federal judge or administrative adjudicator (including an immigration judge or an immigration officer) during any judicial or administrative proceeding authorized under the immigration laws or regulations prescribed thereunder.

“(B) An official record of the Department of Homeland Security, Department of Justice, or the Department of State concerning the alien’s status or lack thereof.

“(C) Testimony by an immigration officer having personal knowledge of the facts concerning the alien’s status or lack thereof.

“(2) VIDEOTAPED 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 the witness was available for cross examination at the deposition and the deposition otherwise complies with the Federal Rules of Evidence.

“(f) DEFINITIONS.—For purposes of this section:

“(1) The term ‘lawful authority’ means permission, authorization, or license that is expressly provided for in the immigration laws of the United States or the regulations prescribed thereunder. Such term does not include any such authority secured by fraud or otherwise obtained in violation of law, nor does it include authority that has been

sought but not approved. No alien shall be deemed to have lawful authority to come to, enter, reside, remain, or be in the United States if such coming to, entry, residence, remaining, or presence was, is, or would be in violation of law.

“(2) 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 or to which the alien is traveling or moving.”.

(b) CLERICAL AMENDMENT.—The item relating to section 274 in the table of contents of such Act is amended to read as follows:

“Sec. 274. Alien smuggling and related offenses.”.

SEC. 502. EVASION OF INSPECTION OR VIOLATION OF ARRIVAL, REPORTING, ENTRY, OR CLEARANCE REQUIREMENTS.

(a) PROHIBITION.—

(1) IN GENERAL.—Chapter 27 of title 18, United States Code, is amended by adding at the end a new section as follows:

“§ 554. Evasion of inspection or during violation of arrival, reporting, entry, or clearance requirements

“(a) PROHIBITION.—A person shall be punished as described in subsection (b) if such person—

“(1) attempts to elude or eludes customs, immigration, or agriculture inspection or fails to stop at the command of an officer or employee of the United States charged with enforcing the immigration, customs, or other laws of the United States at a port of entry or customs or immigration checkpoint; or

“(2) intentionally violates an arrival, reporting, entry, or clearance requirement of—

“(A) section 107 of the Federal Plant Pest Act (7 U.S.C. 105ff);

“(B) section 10 of the Act of August 20, 1912 (7 U.S.C. 164(a));

“(C) section 7 of the Federal Noxious Weed Act of 1974 (7 U.S.C. 2806);

“(D) the Agriculture and Food Act of 1981 (Public Law 97-98; 95 Stat. 1213);

“(E) section 431, 433, 434, or 459 of the Tariff Act of 1930 (19 U.S.C. 1431, 1433, 1434, and 1459);

“(F) section 10 of the Act of August 20, 1890 (21 U.S.C. 105);

“(G) section 2 of the Act of February 2, 1903 (21 U.S.C. 111);

“(H) section 4197 of the Revised Statutes (46 U.S.C. App. 91); or

“(I) the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

“(b) PENALTIES.—A person who commits an offense described in subsection (a) shall be—

“(1) fined under this title;

“(2)(A) imprisoned for not more than 5 years, or both;

“(B) imprisoned for not more than 10 years, or both, if in commission of this violation, attempts to inflict or inflicts bodily injury (as defined in section 1365(g) of this title); or

“(C) imprisoned for any term of years or for life, or both, if death results, and may be sentenced to death; or

“(3) both fined and imprisoned under this subsection.

“(c) CONSPIRACY.—If 2 or more persons conspire to commit an offense described in subsection (a), and 1 or more of such persons do any act to effect the object of the conspiracy, each shall be punishable as a principal, except that the sentence of death may not be imposed.

“(d) PRIMA FACIE EVIDENCE.—For the purposes of seizure and forfeiture under applicable law, in the case of use of a vehicle or other conveyance in the commission of this offense, or in the case of disregarding or dis-

obeying the lawful authority or command of any officer or employee of the United States under section 111(b) of this title, such conduct shall constitute prima facie evidence of smuggling aliens or merchandise.”.

(2) CONFORMING AMENDMENT.—The table of sections for chapter 27 of title 18, United States Code, is amended by inserting at the end:

“554. Evasion of inspection or during violation of arrival, reporting, entry, or clearance requirements.”.

(b) FAILURE TO OBEY BORDER ENFORCEMENT OFFICERS.—Section 111 of title 18, United States Code, is amended by inserting after subsection (b) the following:

“(c) FAILURE TO OBEY LAWFUL ORDERS OF BORDER ENFORCEMENT OFFICERS.—Whoever willfully disregards or disobeys the lawful authority or command of any officer or employee of the United States charged with enforcing the immigration, customs, or other laws of the United States while engaged in, or on account of, the performance of official duties shall be fined under this title or imprisoned for not more than 5 years, or both.”.

SEC. 503. IMPROPER ENTRY BY, OR PRESENCE OF, ALIENS.

(a) IN GENERAL.—Section 275 of the Immigration and Nationality Act (8 U.S.C. 1325) is amended—

(1) in the section heading, by inserting “UNLAWFUL PRESENCE;” after “IMPROPER TIME OR PLACE;”;

(2) in subsection (a)—

(A) by striking “Any alien” and inserting “Except as provided in subsection (b), any alien”;

(B) by striking “or” before (3);

(C) by inserting after “concealment of a material fact,” the following: “or (4) is otherwise present in the United States in violation of the immigration laws or the regulations prescribed thereunder;” and

(D) by striking “6 months” and inserting “one year”;

(3) by amending subsection (c) to read as follows:

“(c)(1) Whoever—

“(A) knowingly enters into a marriage for the purpose of evading any provision of the immigration laws; or

“(B) knowingly misrepresents the existence or circumstances of a marriage—

“(i) in an application or document arising under or authorized by the immigration laws of the United States or the regulations prescribed thereunder, or

“(ii) 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 title 18, United States Code, or imprisoned not more than 10 years, or both.

“(2) Whoever—

“(A) knowingly enters into two or more marriages for the purpose of evading any provision of the immigration laws; or

“(B) knowingly arranges, supports, or facilitates two or more marriages designed or intended to evade any provision of the immigration laws; shall be fined under title 18, United States Code, imprisoned not less than 2 years nor more than 20 years, or both.

“(3) An offense under this subsection continues until the fraudulent nature of the marriage or marriages is discovered by an immigration officer.

“(4) For purposes of this section, the term ‘proceeding’ includes an adjudication, interview, hearing, or review.”

(4) in subsection (d)—

(A) by striking “5 years” and inserting “10 years”;

(B) by adding at the end the following: “An offense under this subsection continues until the fraudulent nature of the commercial enterprise is discovered by an immigration officer.”; and

(5) by adding at the end the following new subsections:

“(e)(1) Any alien described in paragraph (2)—

“(A) shall be fined under title 18, United States Code, imprisoned not more than 10 years, or both, if the offense described in such paragraph was committed subsequent to a conviction or convictions for commission of three or more misdemeanors involving drugs, crimes against the person, or both, or a felony;

“(B) whose violation was subsequent to conviction for a felony for which the alien received a sentence of 30 months or more, shall be fined under title 18, United States Code, imprisoned not more than 10 years, or both; or

“(C) whose violation was subsequent to conviction for a felony for which the alien received a sentence of 60 months or more, shall be fined under title 18, United States Code, imprisoned not more than 20 years, or both.

“(2) An alien described in this paragraph is an alien who—

“(A) enters or attempts to enter the United States at any time or place other than as designated by immigration officers;

“(B) eludes examination or inspection by immigration officers;

“(C) attempts to enter or obtains entry to the United States by a willfully false or misleading representation or the willful concealment of a material fact; or

“(D) is otherwise present in the United States in violation of the immigration laws or the regulations prescribed thereunder.

“(3) The prior convictions in subparagraph (A), (B), or (C) of paragraph (1) are elements of those crimes and the penalties in those subparagraphs shall apply only in cases in which the conviction (or convictions) that form the basis for the additional penalty are alleged in the indictment or information and are proven beyond a reasonable doubt at trial or admitted by the defendant in pleading guilty. Any admissible evidence may be used to show that the prior conviction is a qualifying crime, and the criminal trial for a violation of this section shall not be bifurcated.

“(4) An offense under subsection (a) or paragraph (1) of this subsection continues until the alien is discovered within the United States by immigration officers.

“(f) For purposes of this section, the term ‘attempts to enter’ refers to the general intent of the alien to enter the United States and does not refer to the intent of the alien to violate the law.”.

(b) **RULE OF CONSTRUCTION.**—Nothing in the amendment made by subsection (a) may be construed to limit the authority of any State or political subdivision therein to enforce criminal trespass laws against aliens whom a law enforcement agency has verified to be present in the United States in violation of this Act or the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

SEC. 504. FEES AND EMPLOYER COMPLIANCE FUND.

(a) **EQUAL ACCESS TO JUSTICE FEES.**—Section 286 of the Immigration and Nationality Act (8 U.S.C. 1356) is amended by adding at the end the following new subsection:

“(w) **FEES AND COSTS.**—The provisions of section 2412, title 28, United States Code, shall not apply to civil actions arising under or related to the immigration laws, including any action under—

“(1) any provision of title 5, United States Code;

“(2) any application for a writ of habeas corpus under section 2241 of title 28, United States Code, or any other habeas corpus provision; or

“(3) any action under section 1361 or 1651 of title 28, United States Code, that involves or is related to the enforcement or administration of the immigration laws with respect to any person or entity.”.

(b) **EMPLOYER COMPLIANCE FUND.**—

(1) **ESTABLISHMENT.**—Section 286 of the Immigration and Nationality Act (8 U.S.C. 1356), as amended by subsection (a), is further amended by adding at the end the following new subsection:

“(x) **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 monetary penalties collected by the Secretary of Homeland Security under section 274A.

“(3) **USE OF FUNDS.**—Amounts deposited into the Fund shall be used by the Secretary of Homeland Security for the purposes of enhancing employer compliance with section 274A, compliance training, and outreach.

“(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.”.

(2) **CONFORMING AMENDMENT.**—Section 274A of the Immigration and Nationality Act (8 U.S.C. 1324a), as amended by section 431(b), is further amended by adding at the end the following new subsection:

“(j) **DEPOSITS OF AMOUNTS RECEIVED.**—Amounts collected under this section shall be deposited by the Secretary of Homeland Security into the Employer Compliance Fund established under section 286(x).”.

SEC. 505. REENTRY OF REMOVED ALIEN.

(a) **IN GENERAL.**—Section 276 of the Immigration and Nationality Act (8 U.S.C. 1326) is amended—

(1) in subsection (a)—

(A) in paragraph (2), by striking all that follows “United States” the first place it appears and inserting a comma;

(B) in the matter following paragraph (2), by striking “imprisoned not more than 2 years,” and inserting “imprisoned for a term of not less than 1 year and not more than 2 years.”; and

(C) by adding at the end the following: “It shall be an affirmative defense to an offense under this subsection that (A) prior to an alien’s reembarkation at a place outside the United States or an alien’s application for admission from foreign contiguous territory, the Secretary of Homeland Security has expressly consented to the alien’s reapplying for admission; or (B) with respect to an alien previously denied admission and removed, such alien was not required to obtain such advance consent under this Act or any prior Act.”;

(2) in subsection (b)—

(A) in paragraph (1), by striking “imprisoned not more than 10 years,” and insert “imprisoned for a term of not less than 5 years and not more than 10 years.”;

(B) in paragraph (2), by striking “imprisoned not more than 20 years,” and insert “imprisoned for a term of not less than 10 years and not more than 20 years.”;

(C) in paragraph (3), by striking “. or” and inserting “; or”;

(D) in paragraph (4), by striking “imprisoned for not more than 10 years,” and insert

“imprisoned for a term of not less than 5 years and not more than 10 years.”; and

(E) by adding at the end the following: “The prior convictions in paragraphs (1) and (2) are elements of enhanced crimes and the penalties under such paragraphs shall apply only where the conviction (or convictions) that form the basis for the additional penalty are alleged in the indictment or information and are proven beyond a reasonable doubt at trial or admitted by the defendant in pleading guilty. Any admissible evidence may be used to show that the prior conviction is a qualifying crime and the criminal trial for a violation of either such paragraph shall not be bifurcated.”;

(3) in subsections (b)(3), (b)(4), and (c), by striking “Attorney General” and inserting “Secretary of Homeland Security” each place it appears;

(4) in subsection (c)—

(A) by inserting “(as in effect before the effective date of the amendments made by section 305 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104-208; 110 Stat. 3009-597)), or removed under section 241(a)(4),” after “242(h)(2)”;

(B) by striking “(unless the Attorney General has expressly consented to such alien’s reentry)”;

(C) by inserting “or removal” after “time of deportation”;

(D) by inserting “or removed” after “re-entry of deported”;

(5) in subsection (d)—

(A) in the matter before paragraph (1), by striking “deportation order” and inserting “deportation or removal order”; and

(B) in paragraph (2), by inserting “or removal” after “deportation”;

(6) by adding at the end the following new subsection:

“(e) For purposes of this section, the term ‘attempts to enter’ refers to the general intent of the alien to enter the United States and does not refer to the intent of the alien to violate the law.”.

(b) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to criminal proceedings involving aliens who enter, attempt to enter, or are found in the United States, after such date.

SEC. 506. CIVIL AND CRIMINAL PENALTIES FOR DOCUMENT FRAUD, BENEFIT FRAUD, AND FALSE CLAIMS OF CITIZENSHIP.

(a) **CIVIL PENALTIES FOR DOCUMENT FRAUD.**—Section 274C(d)(3) of the Immigration and Nationality Act (8 U.S.C. 1324c(d)(3)) is amended—

(1) in subparagraph (A), by striking “\$250 and not more than \$2,000” and inserting “\$500 and not more than \$4,000”; and

(2) in subparagraph (B), by striking “\$2,000 and not more than \$5,000” and inserting “\$4,000 and not more than \$10,000”.

(b) **FRAUD AND FALSE STATEMENTS.**—Chapter 47 of title 18, United States Code, is amended—

(1) in section 1015, by striking “not more than 5 years” and inserting “not more than 10 years”; and

(2) in section 1028(b)—

(A) in paragraph (1), by striking “15 years” and inserting “20 years”;

(B) in paragraph (2), by striking “5 years” and inserting “6 years”;

(C) in paragraph (3), by striking “20 years” and inserting “25 years”; and

(D) in paragraph (6), by striking “one year” and inserting “2 years”.

(c) **DOCUMENT FRAUD.**—Section 1546 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) by striking “not more than 25 years” and inserting “not less than 25 years”

(B) by inserting "and if the terrorism of- fense resulted in the death of any person, shall be punished by death or imprisoned for life," after "section 2331 of this title);";

(C) by striking "20 years" and inserting "imprisoned not more than 40 years";

(D) by striking "10 years" and inserting "imprisoned not more than 20 years"; and

(E) by striking "15 years" and inserting "imprisoned not more than 25 years"; and

(2) in subsection (b), by striking "5 years" and inserting "10 years".

(d) CRIMES OF VIOLENCE.—

(1) IN GENERAL.—Title 18, United States Code, is amended by inserting after chapter 51 the following:

"CHAPTER 52—ILLEGAL ALIENS

"Sec.

"1131. Enhanced penalties for certain crimes committed by illegal aliens.

"§ 1131. Enhanced penalties for certain crimes committed by illegal aliens

"(a) Any alien unlawfully present in the United States, who commits, or conspires or attempts to commit, a crime of violence or a drug trafficking crime (as such terms are defined in section 924), shall be fined under this title and sentenced to not less than 5 years in prison.

"(b) If an alien who violates subsection (a) was previously ordered removed under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) on the grounds of having committed a crime, the alien shall be sentenced to not less than 15 years in prison.

"(c) A sentence of imprisonment imposed under this section shall run consecutively to any other sentence of imprisonment imposed for any other crime."

(2) CLERICAL AMENDMENT.—The table of chapters at the beginning of part I of title 18, United States Code, is amended by inserting after the item relating to chapter 51 the following:

"52. Illegal aliens 1131". SEC. 507. RENDERING INADMISSIBLE AND DEPORTABLE ALIENS PARTICIPATING IN CRIMINAL STREET GANGS.

(a) INADMISSIBLE.—Section 212(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(2)) is amended by adding at the end the following:

"(J) CRIMINAL STREET GANG PARTICIPATION.—

"(i) IN GENERAL.—Any alien is inadmissible if—

"(I) the alien has been removed under section 237(a)(2)(F); or

"(II) the consular officer or the Secretary of Homeland Security knows, or has reasonable ground to believe that the alien—

"(aa) is a member of a criminal street gang and has committed, conspired, or threatened to commit, or seeks to enter the United States to engage solely, principally, or incidentally in, a gang crime or any other unlawful activity; or

"(bb) is a member of a criminal street gang designated under section 219A.

"(ii) DEFINITIONS.—In this subparagraph:

"(I) CRIMINAL STREET GANG.—The term 'criminal street gang' means an ongoing group, club organization or informal association of 5 or more persons who engage, or have engaged within the past 5 years in a continuing series of 3 or more gang crimes (1 of which is a crime of violence, as defined in section 16 of title 18, United States Code).

"(II) GANG CRIME.—The term 'gang crime' means conduct constituting any Federal or State crime, punishable by imprisonment for 1 year or more, in any of the following categories:

"(aa) A crime of violence (as defined in section 16 of title 18, United States Code).

"(bb) A crime involving obstruction of justice, tampering with or retaliating against a witness, victim, or informant, or burglary.

"(cc) A crime involving the manufacturing, importing, distributing, possessing with intent to distribute, or otherwise dealing in a controlled substance or listed chemical (as those terms are defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)).

"(dd) Any conduct punishable under section 844 of title 18, United States Code (relating to explosive materials), subsection (d), (g)(1) (where the underlying conviction is a violent felony (as defined in section 924(e)(2)(B) of such title) or is a serious drug offense (as defined in section 924(e)(2)(A)), (i), (j), (k), (o), (p), (q), (u), or (x) of section 922 of such title (relating to unlawful acts), or subsection (b), (c), (g), (h), (k), (l), (m), or (n) of section 924 of such title (relating to penalties), section 930 of such title (relating to possession of firearms and dangerous weapons in Federal facilities), section 931 of such title (relating to purchase, ownership, or possession of body armor by violent felons), sections 1028 and 1029 of such title (relating to fraud and related activity in connection with identification documents or access devices), section 1952 of such title (relating to interstate and foreign travel or transportation in aid of racketeering enterprises), section 1956 of such title (relating to the laundering of monetary instruments), section 1957 of such title (relating to engaging in monetary transactions in property derived from specified unlawful activity), or sections 2312 through 2315 of such title (relating to interstate transportation of stolen motor vehicles or stolen property).

"(ee) Any conduct punishable under section 274 (relating to bringing in and harboring certain aliens), section 277 (relating to aiding or assisting certain aliens to enter the United States), or section 278 (relating to importation of alien for immoral purpose) of this Act."

(b) DEPORTABLE.—Section 237(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(2)) is amended by adding at the end the following:

"(F) CRIMINAL STREET GANG PARTICIPATION.—

"(i) IN GENERAL.—An alien is deportable if the alien—

"(I) is a member of a criminal street gang and is convicted of committing, or conspiring, threatening, or attempting to commit, a gang crime; or

"(II) is determined by the Secretary of Homeland Security to be a member of a criminal street gang designated under section 219A.

"(ii) DEFINITIONS.—For purposes of this subparagraph, the terms 'criminal street gang' and 'gang crime' have the meaning given such terms in section 212(a)(2)(J)(ii)."

(c) DESIGNATION OF CRIMINAL STREET GANGS.—

(1) IN GENERAL.—Chapter 2 of title II of the Immigration and Nationality Act (8 U.S.C. 1181 et seq.) is amended by adding at the end the following:

"SEC. 219A. DESIGNATION OF CRIMINAL STREET GANGS.

"(a) DESIGNATION.—

"(1) IN GENERAL.—The Attorney General is authorized to designate a group or association as a criminal street gang in accordance with this subsection if the Attorney General finds that the group or association meets the criteria described in section 212(a)(2)(J)(ii)(I).

"(2) PROCEDURE.—

"(A) NOTICE.—

"(i) TO CONGRESSIONAL LEADERS.—Seven days before making a designation under this subsection, the Attorney General shall, by classified communication, notify the Speaker and Minority Leader of the House of Representatives, the President pro tempore, Majority Leader, and Minority Leader of the

Senate, and the members of the relevant committees, in writing, of the intent to designate a group or association under this subsection, together with the findings made under paragraph (1) with respect to that group or association, and the factual basis therefore.

"(ii) PUBLICATION IN FEDERAL REGISTER.—The Attorney General shall publish the designation in the Federal Register 7 days after providing the notification under clause (i).

"(B) EFFECT OF DESIGNATION.—A designation under this subsection shall take effect upon publication under subparagraph (A)(ii).

"(3) RECORD.—In making a designation under this subsection, the Attorney General shall create an administrative record.

"(4) PERIOD OF DESIGNATION.—

"(A) IN GENERAL.—A designation under this subsection shall be effective for all purposes until revoked under paragraph (5) or (6) or set aside pursuant to subsection (b).

"(B) REVIEW OF DESIGNATION UPON PETITION.—

"(i) IN GENERAL.—The Attorney General shall review the designation of a criminal street gang under the procedures set forth in clauses (iii) and (iv) if the designated gang or association files a petition for revocation within the petition period described in clause (ii).

"(ii) PETITION PERIOD.—For purposes of clause (i)—

"(I) if the designated gang or association has not previously filed a petition for revocation under this subparagraph, the petition period begins 2 years after the date on which the designation was made; or

"(II) if the designated gang or association has previously filed a petition for revocation under this subparagraph, the petition period begins 2 years after the date of the determination made under clause (iv) on that petition.

"(iii) PROCEDURES.—Any criminal street gang that submits a petition for revocation under this subparagraph shall provide evidence in that petition that the relevant circumstances described in paragraph (1) are sufficiently different from the circumstances that were the basis for the designation such that a revocation with respect to the gang is warranted.

"(iv) DETERMINATION.—

"(I) IN GENERAL.—Not later than 180 days after receiving a petition for revocation submitted under this subparagraph, the Attorney General shall make a determination as to such revocation.

"(II) PUBLICATION OF DETERMINATION.—A determination made by the Attorney General under this clause shall be published in the Federal Register.

"(III) PROCEDURES.—Any revocation by the Attorney General shall be made in accordance with paragraph (6).

"(C) OTHER REVIEW OF DESIGNATION.—

"(i) IN GENERAL.—If in a 4-year period no review has taken place under subparagraph (B), the Attorney General shall review the designation of the criminal street gang in order to determine whether such designation should be revoked pursuant to paragraph (6).

"(ii) PROCEDURES.—If a review does not take place pursuant to subparagraph (B) in response to a petition for revocation that is filed in accordance with that subparagraph, then the review shall be conducted pursuant to procedures established by the Attorney General. The results of such review and the applicable procedures shall not be reviewable in any court.

"(iii) PUBLICATION OF RESULTS OF REVIEW.—The Attorney General shall publish any determination made pursuant to this subparagraph in the Federal Register.

"(5) REVOCATION BASED ON CHANGE IN CIRCUMSTANCES.—

“(A) IN GENERAL.—The Attorney General may revoke a designation made under paragraph (1) at any time, and shall revoke a designation upon completion of a review conducted pursuant to subparagraphs (b) and (c) of paragraph (4) if the Attorney General finds that—

“(i) the circumstances that were the basis for the designation have changed in such a manner as to warrant revocation; or

“(ii) the national security of the United States warrants a revocation.

“(B) PROCEDURE.—The procedural requirements of paragraphs (2) and (3) shall apply to a revocation under this paragraph. Any revocation shall take effect on the date specified in the revocation or upon publication in the Federal Register if no effective date is specified.

“(6) EFFECT OF REVOCATION.—The revocation of a designation under paragraph (5) shall not affect any action or proceeding based on conduct committed prior to the effective date of such revocation.

“(7) USE OF DESIGNATION IN HEARING.—If a designation under this subsection has become effective under paragraph (2)(B), an alien in a removal proceeding shall not be permitted to raise any question concerning the validity of the issuance of such designation as a defense or an objection at any hearing.

“(b) JUDICIAL REVIEW OF DESIGNATION.—

“(1) IN GENERAL.—Not later than 60 days after publication of the designation in the Federal Register, a group or association designated as a criminal street gang may seek judicial review of the designation in the United States Court of Appeals for the District of Columbia Circuit.

“(2) BASIS OF REVIEW.—Review under this subsection shall be based solely upon the administrative record.

“(3) SCOPE OF REVIEW.—The court shall hold unlawful and set aside a designation the court finds to be—

“(A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;

“(B) contrary to constitutional right, power, privilege, or immunity;

“(C) in excess of statutory jurisdiction, authority, or limitation, or short of statutory right;

“(D) lacking substantial support in the administrative record taken as a whole; or

“(E) not in accord with the procedures required by law.

“(4) JUDICIAL REVIEW INVOKED.—The pendency of an action for judicial review of a designation shall not affect the application of this section, unless the court issues a final order setting aside the designation.

“(c) RELEVANT COMMITTEE DEFINED.—As used in this section, the term ‘relevant committees’ means the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives.”

(2) CLERICAL AMENDMENT.—The table of contents for the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended by inserting after the item relating to section 219 the following:

“Sec. 219A. Designation of criminal street gangs.”

SEC. 508. MANDATORY DETENTION OF SUSPECTED CRIMINAL STREET GANG MEMBERS.

(a) IN GENERAL.—Section 236(c)(1)(D) of the Immigration and Nationality Act (8 U.S.C. 1226(c)(1)(D)) is amended—

(1) by inserting “or 212(a)(2)(J)” after “212(a)(3)(B)”; and

(2) by inserting “or 237(a)(2)(F)” before “237(a)(4)(B)”.

(b) ANNUAL REPORT.—Not later than March 1 2007, and annually thereafter, the Secretary of Homeland Security, after consultation with the appropriate Federal agencies, shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives on the number of aliens detained under the amendments made by subsection (a).

SEC. 509. INELIGIBILITY FOR ASYLUM AND PROTECTION FROM REMOVAL.

(a) INAPPLICABILITY OF RESTRICTION TO REMOVAL TO CERTAIN COUNTRIES.—Section 241(b)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1231(b)(3)(B)) is amended, in the matter preceding clause (i), by inserting “who is described in section 212(a)(2)(J)(i) or section 237(a)(2)(F)(i) or who is” after “to an alien”.

(b) INELIGIBILITY FOR ASYLUM.—Section 208(b)(2)(A) of such Act (8 U.S.C. 1158(b)(2)(A)) is amended—

(1) in clause (v), by striking “or” at the end;

(2) by redesignating clause (vi) as clause (vii); and

(3) by inserting after clause (v) the following:

“(vi) the alien is described in section 212(a)(2)(J)(i) or section 237(a)(2)(F)(i) (relating to participation in criminal street gangs); or”.

(c) DENIAL OF REVIEW OF DETERMINATION OF INELIGIBILITY FOR TEMPORARY PROTECTED STATUS.—Section 244(c)(2) of such Act (8 U.S.C. 1254a(c)(2)) is amended by adding at the end the following:

“(C) LIMITATION ON JUDICIAL REVIEW.—There shall be no judicial review of any finding under subparagraph (B) that an alien is described in section 208(b)(2)(A)(vi).”

SEC. 510. PENALTIES FOR MISUSING SOCIAL SECURITY NUMBERS OR FILING FALSE INFORMATION WITH SOCIAL SECURITY ADMINISTRATION.

(a) MISUSE OF SOCIAL SECURITY NUMBERS.—

(1) IN GENERAL.—Section 208(a) of the Social Security Act (42 U.S.C. 408(a)) is amended—

(A) in paragraph (7), by adding after subparagraph (C) the following:

“(D) with intent to deceive, discloses, sells, or transfers his own social security account number, assigned to him by the Commissioner of Social Security (in the exercise of the Commissioner’s authority under section 205(c)(2) to establish and maintain records), to any person; or”;

(B) in paragraph (8), by adding “or” at the end; and

(C) by inserting after paragraph (8) the following:

“(9) without lawful authority, offers, for a fee, to acquire for any individual, or to assist in acquiring for any individual, an additional social security account number or a number that purports to be a social security account number;

“(10) willfully acts or fails to act so as to cause a violation of section 205(c)(2)(C)(xii);

“(11) being an officer or employee of any executive, legislative, or judicial agency or instrumentality of the Federal Government or of a State or political subdivision thereof, or a person acting as an agent of such an agency or instrumentality (or an officer or employee thereof or a person acting as an agent thereof) in possession of any individual’s social security account number, willfully acts or fails to act so as to cause a violation of clause (vi)(II), (x), (xi), (xii), (xiii), or (xiv) of section 205(c)(2)(C); or

“(12) being a trustee appointed in a case under title 11, United States Code (or an officer or employee thereof or a person acting as an agent thereof), willfully acts or fails to act so as to cause a violation of clause (x) or (xi) of section 205(c)(2)(C).”

(2) EFFECTIVE DATES.—Paragraphs (7)(D) and (9) of section 208(a) of the Social Security Act, as added by paragraph (1), shall apply with respect to each violation occurring after the date of the enactment of this Act. Paragraphs (10), (11), and (12) of section 208(a) of such Act, as added by paragraph (1)(C), shall apply with respect to each violation occurring on or after the effective date of this Act.

(b) REPORT ON ENFORCEMENT EFFORTS CONCERNING EMPLOYERS FILING FALSE INFORMATION RETURNS.—The Commissioner of Internal Revenue and the Commissioner of Social Security shall submit to Congress an annual report on efforts taken to identify and enforce penalties against employers that file incorrect information returns.

SEC. 511. TECHNICAL AND CLARIFYING AMENDMENTS.

(a) TERRORIST ACTIVITIES.—Section 212(a)(3)(B)(ii) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(ii)) is amended—

(1) by striking “Subclause (VII) of clause (i)” and inserting “Subclause (IX) of clause (i)”; and

(2) in subclause (II), by striking “consular officer or Attorney General” and inserting “consular officer, Attorney General, or Secretary of Homeland Security”.

(b) 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”.

Subtitle B—Detention, Removal, and Departure

SEC. 521. VOLUNTARY DEPARTURE REFORM.

(a) ENCOURAGING ALIENS TO DEPART VOLUNTARILY.—

(1) AUTHORITY.—Subsection (a) of section 240B of the Immigration and Nationality Act (8 U.S.C. 1229c) is amended—

(A) by amending paragraph (1) to read as follows:

“(1) IN LIEU OF REMOVAL PROCEEDINGS.—The Secretary of Homeland Security may permit an alien voluntarily to depart the United States at the alien’s own expense under this subsection, in lieu of being subject to proceedings under section 240, if the alien is not described in section 237(a)(2)(A)(iii) or section 237(a)(4).”;

(B) by striking paragraph (3);

(C) by redesignating paragraph (2) as paragraph (3);

(D) by inserting after paragraph (1) the following new paragraph:

“(2) PRIOR TO THE CONCLUSION OF REMOVAL PROCEEDINGS.—After removal proceedings under section 240 are initiated, the Attorney General may permit an alien voluntarily to depart the United States at the alien’s own expense under this subsection, prior to the conclusion of such proceedings before an immigration judge, if the alien is not described in section 237(a)(2)(A)(iii) or section 237(a)(4).”;

(E) in paragraph (4), by striking “paragraph (1)” and inserting “paragraphs (1) and (2)”.

(2) VOLUNTARY DEPARTURE PERIOD.—Such section is further amended—

(A) in subsection (a)(3), as redesignated by paragraph (1)(C)—

(i) by amending subparagraph (A) to read as follows:

“(A) IN LIEU OF REMOVAL.—Subject to subparagraph (C), permission to depart voluntarily under paragraph (1) shall not be valid for a period exceeding 90 days. The Secretary of Homeland Security may require an alien permitted to depart voluntarily 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) in subparagraph (B), by striking “subparagraphs (C) and (D)(ii)” and inserting “subparagraphs (D) and (E)(ii)”;

(iii) in subparagraphs (C) and (D), by striking “subparagraph (B)” and inserting “subparagraph (C)” each place it appears;

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

(v) by inserting after subparagraph (A) the following new subparagraph:

“(B) PRIOR TO THE CONCLUSION OF REMOVAL PROCEEDINGS.—Permission to depart voluntarily under paragraph (2) shall not be valid for a period exceeding 60 days, and may be granted only after a finding that the alien has established that the alien has the means to depart the United States and intends to do so. An alien permitted to depart voluntarily under paragraph (2) must 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 posting of a voluntary departure bond in individual cases upon a finding that the alien has presented compelling evidence that the posting of a bond will be a serious financial hardship and the alien has presented credible evidence that such a bond is unnecessary to guarantee timely departure.”; and

(B) in subsection (b)(2), by striking “60 days” and inserting “45 days”.

(3) VOLUNTARY DEPARTURE AGREEMENTS.—Subsection (c) of such section is amended to read as follows:

“(c) CONDITIONS ON VOLUNTARY DEPARTURE.—

“(1) VOLUNTARY DEPARTURE AGREEMENT.—Voluntary departure will be granted only 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 in the exercise of discretion may agree to a reduction in the period of inadmissibility under subparagraph (A) or (B)(i) of section 212(a)(9).

“(3) FAILURE TO COMPLY WITH AGREEMENT AND EFFECT OF FILING TIMELY APPEAL.—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 a failure to timely post any required bond), the alien automatically becomes ineligible for the benefits of the agreement, subject to the penalties described in subsection (d), and subject to an alternate order of removal if voluntary departure was granted under subsection (a)(2) or (b). However, if an alien agrees to voluntary departure but later 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 thereof, but the alien may not again be granted voluntary departure while the alien remains in the United States.”.

(4) ELIGIBILITY.—Subsection (e) of such section is amended to read as follows:

“(e) ELIGIBILITY.—

“(1) PRIOR GRANT OF VOLUNTARY DEPARTURE.—An alien shall not be permitted to depart voluntarily under this section if the Secretary of Homeland Security or the Attorney General previously permitted the alien to depart voluntarily.

“(2) ADDITIONAL LIMITATIONS.—The Secretary of Homeland Security may by regulation limit eligibility or impose additional conditions for voluntary departure under subsection (a)(1) for any class or classes of aliens. The Secretary or Attorney General may by regulation limit eligibility or impose additional conditions for voluntary departure under subsection (a)(2) or (b) for any class or classes of aliens. Notwithstanding any other provision of law (statutory or non-statutory), including section 2241 of title 28, United States Code, or any other habeas corpus provision, and section 1361 and 1651 of such title, no court may review any regulation issued under this subsection.”.

(b) AVOIDING DELAYS IN VOLUNTARY DEPARTURE.—

(1) ALIEN’S OBLIGATION TO DEPART WITHIN THE TIME ALLOWED.—Subsection (c) of section 240B of the Immigration and Nationality Act (8 U.S.C. 1229c), as amended by subsection (a), is further amended by adding at the end the following new paragraph:

“(4) VOLUNTARY DEPARTURE PERIOD NOT AFFECTED.—Except as expressly agreed to by the Secretary of Homeland Security 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.”.

(2) NO TOLLING.—Subsection (f) of such section is amended by adding at the end the following new sentence: “Notwithstanding any other provision of law (statutory or non-statutory), including section 2241 of title 28, United States Code, or any other habeas corpus provision, and section 1361 and 1651 of such title, no court shall have jurisdiction to affect, reinstate, enjoin, delay, stay, or toll the period allowed for voluntary departure under this section.”.

(c) PENALTIES FOR FAILURE TO DEPART VOLUNTARILY.—

(1) PENALTIES FOR FAILURE TO DEPART.—Subsection (d) of section 240B of the Immigration and Nationality Act (8 U.S.C. 1229c) is amended to read as follows:

“(d) PENALTIES FOR FAILURE TO DEPART.—If an alien is permitted to depart voluntarily under this section and fails voluntarily to depart from the United States within the time period specified or otherwise violates the terms of a voluntary departure agreement, the following provisions apply:

“(1) CIVIL PENALTY.—

“(A) IN GENERAL.—The alien will be liable for a civil penalty of \$3,000.

“(B) SPECIFICATION IN ORDER.—The order allowing voluntary departure shall specify the amount of the penalty, which shall be acknowledged by the alien on the record.

“(C) COLLECTION.—If the Secretary of Homeland Security 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.

“(D) INELIGIBILITY FOR BENEFITS.—An alien will be ineligible for any benefits under this title until any civil penalty under this subsection is paid.

“(2) INELIGIBILITY FOR RELIEF.—The alien will 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.

“(3) REOPENING.—

“(A) IN GENERAL.—Subject to subparagraph (B), the alien will be ineligible to reopen a

final order of removal which took effect upon the alien’s failure to depart, or the alien’s violation of the conditions for voluntary departure, during the period described in paragraph (2).

“(B) EXCEPTION.—Subparagraph (A) does not preclude a motion to reopen to seek withholding of removal under section 241(b)(3) or protection against torture.

“The order permitting the alien to depart voluntarily under this section shall inform the alien of the penalties under this subsection.”.

(2) IMPLEMENTATION OF EXISTING STATUTORY PENALTIES.—The Secretary of Homeland Security shall implement regulations to provide for the imposition and collection of penalties for failure to depart under section 240B(d) of the Immigration and Nationality Act, as amended by paragraph (1).

(d) VOLUNTARY DEPARTURE AGREEMENTS NEGOTIATED BY STATE OR LOCAL COURTS.—Section 240B of the Immigration and Nationality Act (8 U.S.C. 1229c) is amended by adding at the end the following new subsection:

“(g) VOLUNTARY DEPARTURE AGREEMENTS NEGOTIATED BY STATE OR LOCAL COURTS.—

“(1) IN GENERAL.—The Secretary of Homeland Security may permit an alien voluntarily to depart the United States at the alien’s own expense under this subsection at any time prior to the scheduling of the first merits hearing, in lieu of applying for another form of relief from removal, if the alien—

“(A) is deportable under section 237(a)(1);

“(B) is charged in a criminal proceeding in a State or local court for which conviction would subject the alien to deportation under paragraphs (2) through (6) of section 237(a); and

“(C) has accepted a plea bargain in such proceeding which stipulates that the alien, after consultation with counsel in such proceeding—

“(i) voluntarily waives application for another form of relief from removal;

“(ii) consents to transportation, under custody of a law enforcement officer of the State or local court, to an appropriate international port of entry where departure from the United States will occur;

“(iii) possesses or will promptly obtain travel documents issued by the foreign state of which the alien is a national or legal resident; and

“(iv) possesses the means to purchase transportation from the port of entry to the foreign state to which the alien will depart from the United States.

“(2) REVIEW.—The Secretary shall promptly review an application for voluntary departure for compliance with the requirements of paragraph (1). The Secretary shall permit voluntary departure under this subsection unless the State or local jurisdiction is informed in writing not later than 30 days after such application is filed, that the Secretary intends to seek removal under section 240.”.

(e) 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 date of the enactment of this Act.

(2) EXCEPTION.—The amendment made by subsection (b)(2) shall take effect on the date of the enactment of this Act and shall apply with respect to any petition for review which is entered on or after such date.

SEC. 522. RELEASE OF ALIENS IN REMOVAL PROCEEDINGS.

(a) IN GENERAL.—

(1) BONDS.—Section 236(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1226(a)(2)) is amended to read as follows:

“(2) may, upon an express finding by an immigration judge, that the alien is not a flight risk and is not a threat to the United States, release the alien on a bond—

“(A) of not less than \$5,000 release an alien;

or

“(B) if the alien is a national of Canada or Mexico, of not less than \$3,000; or.”.

(2) CONFORMING AMENDMENT.—Section 236(a) of the Immigration and Nationality Act (8 U.S.C. 1226) is amended by inserting “or the Secretary of Homeland Security” after the “Attorney General” each place it appears.

(3) REPORT.—Not later than 2 years after the enactment of this Act, the Secretary of Homeland Security shall submit to Congress a report on the number of aliens who are citizens or nationals of a country other than Canada or Mexico who are apprehended along an international land border of the United States between ports of entry.

(b) DETENTION OF ALIENS DELIVERED BY BONDSMEN.—Section 241(a) of the Immigration and Nationality Act (8 U.S.C. 1231(a)) is amended by adding at the end the following new paragraph:

“(8) EFFECT OF PRODUCTION OF ALIEN BY BONDSMAN.—Notwithstanding any other provision of law, the Secretary of Homeland Security shall take into custody any alien subject to a final order of removal, and cancel any bond previously posted for the alien, if the alien is produced within the prescribed time limit by the obligor on the bond. The obligor on the bond shall be deemed to have substantially performed all conditions imposed by the terms of the bond, and shall be released from liability on the bond, if the alien is produced within such time limit.”.

(c) EFFECTIVE DATE.—The amendments made by subsection (a) and (b) shall take effect on the date of the enactment of this Act and the amendment made by subsection (b) shall apply to all immigration bonds posted before, on, or after such date.

SEC. 523. EXPEDITED REMOVAL.

(a) IN GENERAL.—Section 238 of the Immigration and Nationality Act (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) of the Immigration and Nationality Act (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—”;

(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) of such Act (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. 524. REINSTATEMENT OF PREVIOUS REMOVAL ORDERS.

Section 241(a)(5) of the Immigration and Nationality Act (8 U.S.C. 1231(a)(5)) is amended to read as follows:

“(5) REINSTATEMENT OF PREVIOUS REMOVAL ORDERS.—

“(A) REMOVAL.—The Secretary of Homeland Security shall remove an alien who is an applicant for admission (other than an admissible alien presenting himself or herself for inspection at a port of entry or an alien paroled into the United States under section 212(d)(5)), after having been, on or after September 30, 1996, excluded, deported, or removed, or having departed voluntarily under an order of exclusion, deportation, or removal.

“(B) JUDICIAL REVIEW.—The removal described in subparagraph (A) shall not require any proceeding before an immigration judge, and shall be under the prior order of exclusion, deportation, or removal, which is not subject to reopening or review. The alien is not eligible and may not apply for or receive any immigration relief or benefit under this Act or any other law, with the exception of sections 208 or 241(b)(3) or the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York December 10, 1984, in the case of an alien who indicates either an intention to apply for asylum under section 208 or a fear of persecution or torture.”.

SEC. 525. CANCELLATION OF REMOVAL.

Section 240A(c) of the Immigration and Nationality Act (8 U.S.C. 1229b(c)) is amended by adding at the end the following:

“(7) An alien who is inadmissible under section 212(a)(9)(B)(i).”.

SEC. 526. DETENTION OF DANGEROUS ALIEN.

(a) IN GENERAL.—Section 241 of the Immigration and Nationality Act (8 U.S.C. 1231) is amended—

(1) in subsection (a), by striking “Attorney General” and inserting “Secretary of Homeland Security” each place it appears;

(2) in subsection (a)(1)(B), by adding after clause (ii) the following:

“‘If, at that time, the alien is not in the custody of the Secretary (under the authority of this Act), the Secretary shall take the alien into custody for removal, and the removal period shall not begin until the alien is taken into such custody. If the Secretary transfers custody of the alien during the removal period pursuant to law to another Federal agency or a State or local government agency in connection with the official duties of such agency, the removal period shall be tolled, and shall begin anew on the date of the alien’s return to the custody of the Secretary.’”.

(3) by amending clause (ii) of subsection (a)(1)(B) 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 date the stay of removal is no longer in effect.”;

(4) by amending subparagraph (C) of subsection (a)(1) to read as follows:

“(C) SUSPENSION 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 make all reasonable efforts to comply with the removal order, or to fully cooperate with the Secretary’s efforts to establish the alien’s identity and carry out the removal order, including making timely application in good faith for travel or other documents necessary to the alien’s departure, or conspires or acts to prevent the alien’s removal subject to an order of removal.”;

(5) in subsection (a)(2), by adding at the end “‘If a court orders a stay of removal of an alien who is subject to an administratively final order of removal, the Secretary in the exercise of discretion may detain the alien during the pendency of such stay of removal.’”;

(6) in subsection (a)(3), by amending subparagraph (D) to read as follows:

“(D) to obey reasonable restrictions on the alien’s conduct or activities, or perform affirmative acts, that the Secretary prescribes for the alien, in order to prevent the alien from absconding, or for the protection of the community, or for other purposes related to the enforcement of the immigration laws.”;

(7) in subsection (a)(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”;

(8) by redesignating paragraph (7) of subsection (a) as paragraph (10) and inserting after paragraph (6) of such subsection the following new paragraphs:

“(7) PAROLE.—If an alien detained pursuant to paragraph (6) is an applicant for admission, the Secretary, in the Secretary’s discretion, may parole the alien under section 212(d)(5) of this Act 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) APPLICATION OF ADDITIONAL RULES FOR DETENTION OR RELEASE OF CERTAIN ALIENS WHO HAVE MADE AN ENTRY.—The rules set forth in subsection (j) shall only apply with respect to an alien who was lawfully admitted the most recent time the alien entered the United States or has otherwise effected an entry into the United States.

“(9) JUDICIAL REVIEW.—Without regard to the place of confinement, judicial review of

any action or decision pursuant to paragraphs (6), (7), or (8) or subsection (j) shall be available exclusively in habeas corpus proceedings instituted in the United States District Court for the District of Columbia, and only if the alien has exhausted all administrative remedies (statutory and regulatory) available to the alien as of right.”; and

(9) by adding at the end the following new subsection:

“(j) **ADDITIONAL RULES FOR DETENTION OR RELEASE OF CERTAIN ALIENS WHO HAVE MADE AN ENTRY.**—

“(1) **APPLICATION.**—The rules set forth in this subsection apply in the case of an alien described in subsection (a)(8).

“(2) **ESTABLISHMENT OF A DETENTION REVIEW PROCESS FOR ALIENS WHO FULLY COOPERATE WITH REMOVAL.**—

“(A) **IN GENERAL.**—The Secretary of Homeland Security shall establish an administrative review process to determine whether the aliens should be detained or released on conditions for aliens who—

“(i) have made all reasonable efforts to comply with their removal orders;

“(ii) have complied with the Secretary’s efforts to carry out the removal orders, including making timely application in good faith for travel or other documents necessary to the alien’s departure; and

“(iii) have not conspired or acted to prevent removal.

“(B) **DETERMINATION.**—The Secretary shall make a determination whether to release an alien after the removal period in accordance with paragraphs (3) and (4). The determination—

“(i) shall include consideration of any evidence submitted by the alien and the history of the alien’s efforts to comply with the order of removal; and

“(ii) may include any information or assistance provided by the Secretary of State or other Federal agency and any other information available to the Secretary of Homeland Security pertaining to the ability to remove the alien.

“(3) **AUTHORITY TO DETAIN BEYOND REMOVAL PERIOD.**—

“(A) **INITIAL 90-DAY PERIOD.**—The Secretary of Homeland Security in the exercise of discretion, without any limitations other than those specified in this section, may continue to detain an alien for 90 days beyond the removal period (including any extension of the removal period as provided in subsection (a)(1)(C)).

“(B) **EXTENSION.**—

“(i) **IN GENERAL.**—The Secretary in the exercise of discretion, without any limitations other than those specified in this section, may continue to detain an alien beyond the 90-day period authorized in subparagraph (A)—

“(I) until the alien is removed if the conditions described in subparagraph (A) or (B) of paragraph (4) apply; or

“(II) pending a determination as provided in subparagraph (C) of paragraph (4).

“(ii) **RENEWAL.**—The Secretary may renew a certification under paragraph (4)(B) every six months without limitation, after providing an opportunity for the alien to request reconsideration of the certification and to submit documents or other evidence in support of that request. If the Secretary does not renew a certification, the Secretary may not continue to detain the alien under such paragraph.

“(iii) **DELEGATION.**—Notwithstanding section 103, the Secretary may not delegate the authority to make or renew a certification described in clause (ii), (iii), or (v) of paragraph (4)(B) below the level of the Assistant Secretary for Immigration and Customs Enforcement.

“(iv) **HEARING.**—The Secretary may request that the Attorney General provide for a hearing to make the determination described in clause (iv)(II) of paragraph (4)(B).

“(4) **CONDITIONS FOR EXTENSION.**—The conditions for continuation of detention are any of the following:

“(A) The Secretary determines that there is a significant likelihood that the alien—

“(i) will be removed in the reasonably foreseeable future; or

“(ii) would be removed in the reasonably foreseeable future, or would have been removed, but for the alien’s failure or refusal to make all reasonable efforts to comply with the removal order, or to fully cooperate with the Secretary’s efforts to establish the alien’s identity and carry out the removal order, including making timely application in good faith for travel or other documents necessary to the alien’s departure, or conspiracies or acts to prevent removal.

“(B) The Secretary certifies in writing any of the following:

“(i) In consultation with the Secretary of Health and Human Services, 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, the release of the alien is likely to have serious adverse foreign policy consequences for the United States.

“(iii) Based on information available to the Secretary (including available information from the intelligence community, and without regard to the grounds upon which the alien was ordered removed), there is reason to believe that the release of the alien would threaten the national security of the United States.

“(iv) The release of the alien will threaten the safety of the community or any person, the conditions of release cannot reasonably be expected to ensure the safety of the community or any person, and—

“(I) the alien has been convicted of one or more aggravated felonies described in section 101(a)(43)(A) or of one or more crimes identified by the Secretary by regulation, or of one or more attempts or conspiracies to commit any such aggravated felonies or such crimes, for an aggregate term of imprisonment of at least five years; or

“(II) the alien has committed one or more crimes of violence and, because of a mental condition or personality disorder and behavior associated with that condition or disorder, the alien is likely to engage in acts of violence in the future.

“(v) The release of the alien will threaten the safety of the community or any person, conditions of release cannot reasonably be expected to ensure the safety of the community or any person, and the alien has been convicted of at least one aggravated felony.

“(C) Pending a determination under subparagraph (B), if the Secretary has initiated the administrative review process no later than 30 days after the expiration of the removal period (including any extension of the removal period as provided in subsection (a)(1)(C)).

“(5) **RELEASE ON CONDITIONS.**—If it is determined that an alien should be released from detention, the Secretary in the exercise of discretion may impose conditions on release as provided in subsection (a)(3).

“(6) **REDETENTION.**—The Secretary in the exercise of discretion, without any limitations other than those specified in this section, may again detain any alien subject to a final removal order who is released from custody if the alien fails to comply with the conditions of release or to cooperate in the alien’s removal from the United States, or if, upon reconsideration, the Secretary determines that the alien can be detained under

paragraph (1). Paragraphs (6) through (8) of subsection (a) shall apply to any alien returned to custody pursuant to this paragraph, as if the removal period terminated on the day of the redetention.

“(7) **CERTAIN ALIENS WHO EFFECTED ENTRY.**—If an alien has effected an entry into the United States but has neither been lawfully admitted nor physically present in the United States continuously for the 2-year period immediately prior to the commencement of removal proceedings under this Act or deportation proceedings against the alien, the Secretary in the exercise of discretion may decide not to apply subsection (a)(8) and this subsection and may detain the alien without any limitations except those imposed by regulation.”

(b) **EFFECTIVE DATE.**—The amendments made by subsection (a) shall take effect upon the date of the enactment of this Act, and section 241 of the Immigration and Nationality Act, as amended, shall apply to—

(1) all aliens 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

(2) acts and conditions occurring or existing before, on, or after the date of the enactment of this Act.

SEC. 527. ALTERNATIVES TO DETENTION.

The Secretary of Homeland Security shall implement pilot programs in the 6 States with the largest estimated populations of deportable aliens to study 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.

SEC. 528. AUTHORIZATION OF APPROPRIATIONS.

In addition to amounts otherwise authorized to be appropriated, there are authorized to be appropriated such sums as may be necessary for each of fiscal years 2007 through 2011 to carry out this title.

SA 3422. Mr. KYL submitted an amendment intended to be proposed to amendment SA 3311 submitted by Mr. KYL (for himself and Mr. CORNYN) and intended to be proposed to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

Strike the matter proposed to be inserted and insert the following:

“(n)(1) For purposes of adjustment of status under subsection (a), employment-based immigrant visas shall be made available to an alien having nonimmigrant status described in section 101(a)(15)(H)(ii)(c) upon the filing of a petition for such a visa by the alien’s employer.

“(2) An alien having nonimmigrant status described in section 101(a)(15)(H)(ii)(c) may not apply for adjustment of status under this section unless the alien—

“(A) is physically present in the United States; and

“(B) the alien establishes that the alien—

“(i) meets the requirements of section 312; or

“(ii) is satisfactorily pursuing a course of study to achieve such an understanding of English and knowledge and understanding of the history and government of the United States.

“(3) An alien who demonstrates that the alien meets the requirements of section 312 may be considered to have satisfied the requirements of that section for purposes of becoming naturalized as a citizen of the United States under title III.

“(4) Filing a petition under paragraph (1) on behalf of an alien or otherwise seeking permanent residence in the United States for such alien shall not constitute evidence of the alien’s ineligibility for nonimmigrant status under section 101(a)(15)(H)(ii)(c).”

“(5) The Secretary of Homeland Security shall extend, in 1-year increments, the stay of an alien for whom a labor certification petition filed under section 203(b) or an immigrant visa petition filed under section 204(b) is pending until a final decision is made on the alien’s lawful permanent residence.

“(6) Nothing in this subsection shall be construed to prevent an alien having non-immigrant status described in section 101(a)(15)(H)(ii)(c) from filing an application for adjustment of status under this section in accordance with any other provision of law.”

SA 3423. Mr. KYL submitted an amendment intended to be proposed to amendment SA 3386 submitted by Mr. KYL and intended to be proposed to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

Strike the matter proposed to be inserted and insert the following:

TITLE I—BORDER ENFORCEMENT

Subtitle A—Assets for Controlling United States Borders

SEC. 101. ENFORCEMENT PERSONNEL.

(a) ADDITIONAL PERSONNEL.—

(1) 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 500 the number of positions for full-time active duty port of entry inspectors and provide appropriate training, equipment, and support to such additional inspectors.

(2) INVESTIGATIVE PERSONNEL.—

(A) IMMIGRATION AND CUSTOMS ENFORCEMENT INVESTIGATORS.—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) 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 (1) of subsection (a).

(2) BORDER PATROL AGENTS.—Section 5202 of the Intelligence Reform and Terrorism Prevention Act of 2004 (118 Stat. 3734) is amended to read as follows:

“SEC. 5202. INCREASE IN FULL-TIME BORDER PATROL AGENTS.

“(a) ANNUAL INCREASES.—The Secretary of Homeland Security shall, subject to the availability of appropriations for such purpose, increase the number of positions for full-time active-duty border patrol agents within the Department of Homeland Security (above the number of such positions for which funds were appropriated for the preceding fiscal year), by—

- “(1) 2,000 in fiscal year 2006;
- “(2) 2,400 in fiscal year 2007;

“(3) 2,400 in fiscal year 2008;

“(4) 2,400 in fiscal year 2009;

“(5) 2,400 in fiscal year 2010; and

“(6) 2,400 in fiscal year 2011;

“(b) NORTHERN BORDER.—In each of the fiscal years 2006 through 2011, in addition to the border patrol agents assigned along the northern border of the United States during the previous fiscal year, the Secretary shall assign a number of border patrol agents equal to not less than 20 percent of the net increase in border patrol agents during each such fiscal year.

“(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for each of fiscal years 2007 through 2011 to carry out this section.”

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 10 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, privacy 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, non-governmental 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 de-

velopment 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.

(d) LIMITATIONS ON ASSISTANCE.—Any funds made available to carry out this section shall be subject to the limitations contained in section 551 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act of 2006 (Public Law 109-102; 119 Stat. 2218).

SEC. 115. COMBATING HUMAN SMUGGLING.

(a) REQUIREMENT FOR PLAN.—The Secretary shall develop and implement a plan to improve coordination between the Bureau of Immigration and Customs Enforcement and the Bureau of Customs and Border Protection of the Department and any other Federal, State, local, or tribal authorities, as determined appropriate by the Secretary, to improve coordination efforts to combat human smuggling.

(b) CONTENT.—In developing the plan required by subsection (a), the Secretary shall consider—

(1) the interoperability of databases utilized to prevent human smuggling;

(2) adequate and effective personnel training;

(3) methods and programs to effectively target networks that engage in such smuggling;

(4) effective utilization of—

(A) visas for victims of trafficking and other crimes; and

(B) investigatory techniques, equipment, and procedures that prevent, detect, and prosecute international money laundering and other operations that are utilized in smuggling;

(5) joint measures, with the Secretary of State, to enhance intelligence sharing and cooperation with foreign governments whose citizens are preyed on by human smugglers; and

(6) other measures that the Secretary considers appropriate to combating human smuggling.

(c) REPORT.—Not later than 1 year after implementing the plan described in subsection (a), the Secretary shall submit to Congress a report on such plan, including any recommendations for legislative action to improve efforts to combating human smuggling.

(d) SAVINGS PROVISION.—Nothing in this section may be construed to provide additional authority to any State or local entity to enforce Federal immigration laws.

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 non-immigrant 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 (1)—

(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;

(8) an assessment of the effect of such a system on Indian reservations and units of the National Park System; and

(9) an assessment of the necessity of constructing such a system after the implementation of provisions of this Act relating to guest workers, visa reform, and interior and worksite enforcement, and the likely effect of such provisions on undocumented immigration and the flow of illegal immigrants across the international border of the United States;

(10) an assessment of the impact of such a system on diplomatic relations between the United States and Mexico, Central America, and South America, including the likely impact of such a system on existing and potential areas of bilateral and multilateral cooperative enforcement efforts;

(11) an assessment of the impact of such a system on the quality of life within border communities in the United States and Mexico, including its impact on noise and light pollution, housing, transportation, security, and environmental health;

(12) an assessment of the likelihood that such a system would lead to increased violations of the human rights, health, safety, or civil rights of individuals in the region near the southern international border of the United States, regardless of the immigration status of such individuals;

(13) an assessment of the effect such a system would have on violence near the southern international border of the United States; and

(14) an assessment of the effect of such a system on the vulnerability of the United States to infiltration by terrorists or other agents intending to inflict direct harm on the United States.

(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 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 than 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.

SEC. 131. MANDATORY DETENTION FOR ALIENS APPREHENDED AT OR BETWEEN PORTS OF ENTRY.

(a) IN GENERAL.—Beginning on October 1, 2007, an alien (other than a national of Mexico) 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 and 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, 2007, 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) does 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. 132. EVASION OF INSPECTION OR VIOLATION OF ARRIVAL, REPORTING, ENTRY, OR CLEARANCE REQUIREMENTS.

(a) IN GENERAL.—Chapter 27 of title 18, United States Code, is amended by adding at the end the following:

“§ 554. Evasion of inspection or during violation of arrival, reporting, entry, or clearance requirements

“(a) PROHIBITION.—A person shall be punished as described in subsection (b) if such person attempts to elude or eludes customs, immigration, or agriculture inspection or fails to stop at the command of an officer or employee of the United States charged with enforcing the immigration, customs, or other laws of the United States at a port of entry or customs or immigration checkpoint;

“(b) PENALTIES.—A person who commits an offense described in subsection (a) shall be—

“(1) fined under this title;

“(2)(A) imprisoned for not more than 3 years, or both;

“(B) imprisoned for not more than 10 years, or both, if in commission of this violation, attempts to inflict or inflicts bodily injury (as defined in section 1365(g) of this title); or

“(C) imprisoned for any term of years or for life, or both, if death results, and may be sentenced to death; or

“(3) both fined and imprisoned under this subsection.

“(c) CONSPIRACY.—If 2 or more persons conspire to commit an offense described in subsection (a), and 1 or more of such persons do any act to effect the object of the conspiracy, each shall be punishable as a principal, except that the sentence of death may not be imposed.

“(d) PRIMA FACIE EVIDENCE.—For the purposes of seizure and forfeiture under applicable law, in the case of use of a vehicle or other conveyance in the commission of this offense, or in the case of disregarding or disobeying the lawful authority or command of any officer or employee of the United States under section 111(b) of this title, such conduct shall constitute prima facie evidence of smuggling aliens or merchandise.”

(b) CONFORMING AMENDMENT.—The table of sections for chapter 27 of title 18, United States Code, is amended by inserting at the end:

“554. Evasion of inspection or during violation of arrival, reporting, entry, or clearance requirements.”

(c) FAILURE TO OBEY BORDER ENFORCEMENT OFFICERS.—Section 111 of title 18, United States Code, is amended by inserting after subsection (b) the following:

“(c) FAILURE TO OBEY LAWFUL ORDERS OF BORDER ENFORCEMENT OFFICERS.—Whoever willfully disregards or disobeys the lawful authority or command of any officer or employee of the United States charged with enforcing the immigration, customs, or other laws of the United States while engaged in, or on account of, the performance of official duties shall be fined under this title or imprisoned for not more than 5 years, or both.”

Subtitle D—Border Tunnel Prevention Act
SEC. 141. SHORT TITLE.

This subtitle may be cited as the “Border Tunnel Prevention Act”.

SEC. 142. CONSTRUCTION OF BORDER TUNNEL OR PASSAGE.

(a) IN GENERAL.—Chapter 27 of title 18, United States Code, as amended by section 132(a), is further amended by adding at the end the following:

“§ 555. Border tunnels and passages

“(a) Any person who knowingly constructs or finances the construction of a tunnel or subterranean passage that crosses the international border between the United States and another country, other than a lawfully authorized tunnel or passage known to the Secretary of Homeland Security and subject to inspection by the Bureau of Immigration and Customs Enforcement, shall be fined under this title and imprisoned for not more than 20 years.

“(b) Any person who knows or recklessly disregards the construction or use of a tunnel or passage described in subsection (a) on land that the person owns or controls shall be fined under this title and imprisoned for not more than 10 years.

“(c) Any person who uses a tunnel or passage described in subsection (a) to unlawfully smuggle an alien, goods (in violation of section 545), controlled substances, weapons of mass destruction (including biological weapons), or a member of a terrorist organization (as defined in section 212(a)(3)(B)(vi) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(vi))) shall be subject to a maximum term of imprisonment that is twice the maximum term of imprisonment that would have otherwise been applicable had the unlawful activity not made use of such a tunnel or passage.”.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 27 of title 18, United States Code, as amended by section 132(b), is further amended by adding at the end the following:

“Sec. 555. Border tunnels and passages.”.

(c) CRIMINAL FORFEITURE.—Section 982(a)(6) of title 18, United States Code, is amended by inserting “555,” before “1425.”.

SEC. 143. DIRECTIVE TO THE UNITED STATES SENTENCING COMMISSION.

(a) IN GENERAL.—Pursuant to its authority under section 994 of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission shall promulgate or amend sentencing guidelines to provide for increased penalties for persons convicted of offenses described in section 554 of title 18, United States Code, as added by section 132.

(b) REQUIREMENTS.—In carrying out this section, the United States Sentencing Commission shall—

(1) ensure that the sentencing guidelines, policy statements, and official commentary reflect the serious nature of the offenses described in section 554 of title 18, United States Code, and the need for aggressive and appropriate law enforcement action to prevent such offenses;

(2) provide adequate base offense levels for offenses under such section;

(3) account for any aggravating or mitigating circumstances that might justify exceptions, including—

(A) the use of a tunnel or passage described in subsection (a) of such section to facilitate other felonies; and

(B) the circumstances for which the sentencing guidelines currently provide applicable sentencing enhancements;

(4) ensure reasonable consistency with other relevant directives, other sentencing guidelines, and statutes;

(5) make any necessary and conforming changes to the sentencing guidelines and policy statements; and

(6) ensure that the sentencing guidelines adequately meet the purposes of sentencing set forth in section 3553(a)(2) of title 18, United States Code.

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 any act or condition constituting a ground for inadmissibility, excludability, or removal occurring or existing 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 this paragraph.

“(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 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.

(a) DEFINITION OF 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 (except for the provision providing an effective date for section 203 of the Comprehensive Reform Act of 2006), 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 (A), by striking “murder, rape, or sexual abuse of a minor;” and inserting “murder, rape, or sexual abuse of a minor, whether or not the minority of the victim is established by evidence contained in the record of conviction or by evidence extrinsic to the record of conviction;”;

(3) in subparagraph (N), by striking “paragraph (1)(A) or (2) of”;

(4) 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”;

(5) 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”;

(6) by striking the undesignated matter following subparagraph (U).

(b) EFFECTIVE DATE AND APPLICATION.—

(1) IN GENERAL.—The amendments made by subsection (a) shall—

(A) take effect on the date of the enactment of this Act; and

(B) apply to any act that occurred on or after the date of the enactment of this Act.

(2) APPLICATION OF HIRAIRA AMENDMENTS.—The amendments to section 101(a)(43) of the Immigration and Nationality Act made by section 321 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104-208; 110 Stat. 3009-627) shall continue to apply, whether the conviction was entered before, on, or after September 30, 1996.

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”;

(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: “Except that in any proceeding, other than a proceeding under section 340, the court shall review for substantial evidence the administrative record and findings of the Secretary of Homeland Security regarding whether an alien is a person of good moral character, understands and is attached to the principles of the Constitution of the United States, or is well disposed to the good order and happiness of the United States. The petitioner shall have the burden of showing that the Secretary’s denial of the application was contrary to law.”.

(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. The Secretary shall notify the applicant when such examinations and interviews have been completed. Such district court shall only have jurisdiction to review the basis for delay and remand the matter, with appropriate instructions, to the Secretary 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; and

(2) shall apply to any act that occurred on or 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.”;

(i) 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 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 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 or organization, not previously convicted of a violation of this section, to provide an alien who is present in the United States with humanitarian assistance, including medical care, housing, counseling, victim services, and food, or to transport the alien to a location where such assistance can be rendered.

“(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 as 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”;

(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.

(a) IN GENERAL.—Section 275 (8 U.S.C. 1325) is amended to read as follows:

“SEC. 275. ILLEGAL ENTRY.

“(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 (including failing to stop at the command of such officer), or a customs or agriculture inspection at a port of entry; or

“(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 (including such representation or concealment in the context of arrival, reporting, entry, or clearance requirements of the customs law, immigration laws, agriculture laws, or shipping laws).

“(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 imprison-

ment 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.

“(5) ATTEMPT.—Whoever attempts to commit any offense under this section shall be punished in the same manner as for a completion of such offense.

“(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.”.

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 re-apply 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 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) PASSPORT, VISA, AND IMMIGRATION FRAUD.—

(1) IN GENERAL.—Chapter 75 of title 18, United States Code, is amended to read as follows:

“CHAPTER 75—PASSPORT, VISA, AND IMMIGRATION FRAUD

“Sec.

“1541. Trafficking in passports.

“1542. False statement in an application for a passport.

“1543. Forgery and unlawful production of a passport.

“1544. Misuse of a passport.

“1545. Schemes to defraud aliens.

“1546. Immigration and visa fraud.

“1547. Marriage fraud.

“1548. Attempts and conspiracies.

“1549. Alternative penalties for certain offenses.

“1550. Seizure and forfeiture.

“1551. Additional jurisdiction.

“1552. Additional venue.

“1553. Definitions.

“1554. Authorized law enforcement activities.

“1555. Exception for refugees and asylees.

“§ 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 ‘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).

“§ 1555. Exception for refugees, asylees, and other vulnerable persons

“(a) IN GENERAL.—If a person believed to have violated section 1542, 1544, 1546, or 1548 while attempting to enter the United States, without delay, indicates an intention to apply for asylum under section 208 or 241(b)(3) of the Immigration and Nationality Act (8 U.S.C. 1158 and 1231), or for relief under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (in accordance with section 208.17 of title 8, Code of Federal Regulations), or under section 101(a)(15)(T), 101(a)(15)(U), 101(a)(27)(J), 101(a)(51), 216(c)(4)(C), 240A(b)(2), or 244(a)(3) (as in effect prior to March 31, 1997) of such Act, or a credible fear of persecution or torture—

“(1) the person shall be referred to an appropriate Federal immigration official to review such claim and make a determination if such claim is warranted;

“(2) if the Federal immigration official determines that the person qualifies for the claimed relief, the person shall not be considered to have violated any such section; and

“(3) if the Federal immigration official determines that the person does not qualify for the claimed relief, the person shall be referred to an appropriate Federal official for prosecution under this chapter.

“(b) SAVINGS PROVISION.—Nothing in this section shall be construed to diminish, increase, or alter the obligations of refugees or the United States under article 31(1) of the Convention Relating to the Status of Refugees, done at Geneva July 28, 1951 (as made applicable by the Protocol Relating to the Status of Refugees, done at New York January 31, 1967 (19 UST 6223)).”

(2) 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”.

(b) PROTECTION FOR LEGITIMATE REFUGEES AND ASYLUM SEEKERS.—Section 208 (8 U.S.C. 1158) is amended by adding at the end the following:

“(e) PROTECTION FOR LEGITIMATE REFUGEES AND ASYLUM SEEKERS.—The Attorney General, in consultation with the Secretary of Homeland Security, shall develop binding prosecution guidelines for federal prosecutors to ensure that any prosecution of an alien seeking entry into the United States by fraud is consistent with the written terms and limitations of Article 31(1) of the Convention Relating to the Status of Refugees, done at Geneva July 28, 1951 (as made applicable by the Protocol Relating to the Status of Refugees, done at New York January 31, 1967 (19 UST 6223)).”

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, with respect to conduct occurring on or after that date.

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 Sec-

retary 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)”;

(vi) in subparagraph (E), as redesignated, by striking “subparagraph (B)” each place

that term appears and inserting “subparagraph (C)”;

(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.”;

(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.”;

(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”;

(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”;

(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 entered 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”;

(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));”;

(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”;

(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 immigra-

tion 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. CONSTRUCTION.

(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 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 shall provide sufficient transportation and officers to take illegal aliens apprehended by State and local law enforcement officers into custody for processing at a detention facility operated by the Department.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for each of fiscal years 2007 through 2011 to carry out this section.

SEC. 220. 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. 221. 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. 222. 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. 223. 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 adding 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 Sec-

retary 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. 224. 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. 225. REMOVAL OF DRUNK DRIVERS.

(a) IN GENERAL.—Section 101(a)(43)(F) (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 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. 226. MEDICAL SERVICES IN UNDERSERVED AREAS.

Section 220(c) of the Immigration and Nationality Technical Corrections Act of 1994 (8 U.S.C. 1182 note) is amended by striking “and before June 1, 2006.”.

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—

“(A) has not been lawfully admitted to the United States for permanent residence; and

“(B) 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—”;

(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 (vii), any”;

(2) in subparagraph (A), by inserting after clause (vi) the following:

“(vii) Clause (i) shall not apply to a citizen of the United States who has been convicted of an offense described in subparagraph (A), (I), or (K) of section 101(a)(43), 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 resi-

dence who has been convicted of an offense described in subparagraph (A), (I), or (K) of section 101(a)(43), 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)(vii))” 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 section 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—

“(i) take the illegal alien into the custody of the Federal Government not later than 72 hours after—

“(I) the conclusion of the State charging process or dismissal process; or

“(II) the illegal alien is apprehended, if no State charging or dismissal process is required; 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, 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—

“(1) aliens incarcerated in a Federal facility pursuant to this section are held in facilities which provide an appropriate level of security; and

“(2) if 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 if 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. 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. 231. 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; and

(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-day 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. 232. COOPERATIVE ENFORCEMENT PROGRAMS.

Not later than 2 years after the date of the enactment of this Act, the Secretary shall negotiate and execute, where practicable, a cooperative enforcement agreement described in section 287(g) of the Immigration and Nationality Act (8 U.S.C. 1357(g)) with at least 1 law enforcement agency in each

State, to train law enforcement officers in the detection and apprehension of individuals engaged in transporting, harboring, sheltering, or encouraging aliens in violation of section 274 of such Act (8 U.S.C. 1324).

SEC. 233. INCREASE OF FEDERAL DETENTION SPACE AND THE UTILIZATION OF FACILITIES IDENTIFIED FOR CLOSURES AS A RESULT OF THE DEFENSE BASE CLOSURE REALIGNMENT ACT OF 1990.

(a) CONSTRUCTION OR ACQUISITION OF DETENTION FACILITIES.—

(1) IN GENERAL.—The Secretary shall construct or acquire, in addition to existing facilities for the detention of aliens, 20 detention facilities in the United States that have the capacity to detain a combined total of not less than 10,000 individuals at any time for aliens detained pending removal or a decision on removal of such aliens from the United States.

(2) DETERMINATION OF LOCATION.—The location of any detention facility built or acquired in accordance with this subsection shall be determined with the concurrence of the Secretary by the senior officer responsible for Detention and Removal Operations in the Department. The detention facilities shall be located so as to enable the officers and employees of the Department to increase to the maximum extent practicable the annual rate and level of removals of illegal aliens from the United States.

(3) USE OF INSTALLATIONS UNDER BASE CLOSURE LAWS.—In acquiring detention facilities under this subsection, the Secretary shall consider the transfer of appropriate portions of military installations approved for closure or realignment under the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note) for use in accordance with paragraph (1).

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 241(g)(1) (8 U.S.C. 1231(g)(1)) is amended by striking “may expend” and inserting “shall expend”.

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

SEC. 234. DETERMINATION OF IMMIGRATION STATUS OF INDIVIDUALS CHARGED WITH FEDERAL OFFENSES.

(a) RESPONSIBILITY OF UNITED STATES ATTORNEYS.—Beginning not later than 2 years after the date of the enactment of this Act, the office of the United States Attorney that is prosecuting a criminal case in a Federal court—

(1) shall determine, not later than 30 days after filing the initial pleadings in the case, whether each defendant in the case is lawfully present in the United States (subject to subsequent legal proceedings to determine otherwise);

(2)(A) if the defendant is determined to be an alien lawfully present in the United States, shall notify the court in writing of the determination and the current status of the alien under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.); and

(B) if the defendant is determined not to be lawfully present in the United States, shall notify the court in writing of the determination, the defendant’s alien status, and, to the extent possible, the country of origin or legal residence of the defendant; and

(3) ensure that the information described in paragraph (2) is included in the case file and the criminal records system of the office of the United States attorney.

(b) GUIDELINES.—A determination made under subsection (a)(1) shall be made in accordance with guidelines of the Executive Office for Immigration Review of the Department of Justice.

(c) RESPONSIBILITIES OF FEDERAL COURTS.—

(1) MODIFICATIONS OF RECORDS AND CASE MANAGEMENT SYSTEMS.—Not later than 2 years after the date of the enactment of this Act, all Federal courts that hear criminal cases, or appeals of criminal cases, shall modify their criminal records and case management systems, in accordance with guidelines which the Director of the Administrative Office of the United States Courts shall establish, so as to enable accurate reporting of information described in subsection (a)(2).

(2) DATA ENTRIES.—Beginning not later than 2 years after the date of the enactment of this Act, each Federal court described in paragraph (1) shall enter into its electronic records the information contained in each notification to the court under subsection (a)(2).

(d) CONSTRUCTION.—Nothing in this section may be construed to provide a basis for admitting evidence to a jury or releasing information to the public regarding an alien’s immigration status.

(e) ANNUAL REPORT TO CONGRESS.—The Director of the Administrative Office of the United States Courts shall include, in the annual report filed with Congress under section 604 of title 28, United States Code—

(1) statistical information on criminal trials of aliens in the courts and criminal convictions of aliens in the lower courts and upheld on appeal, including the type of crime in each case and including information on the legal status of the aliens; and

(2) recommendations on whether additional court resources are needed to accommodate the volume of criminal cases brought against aliens in the Federal courts.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of fiscal years 2007 through 2011, such sums as may be necessary to carry out this Act. Funds appropriated pursuant to this subsection in any fiscal year shall remain available until expended.

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 Comprehensive Immigration Reform Act of 2006, 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.

“(i) 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 inquiry 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) a 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 Comprehensive Immigration

Reform Act of 2006, 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 Comprehensive Immigration Reform Act of 2006, the Secretary may require an additional 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 Comprehensive Immigration Reform Act of 2006, the Secretary shall require an employer with 5,000 or more 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) MIDSIZED EMPLOYERS.—Not later than 3 years after the date of enactment of the Comprehensive Immigration Reform Act of 2006, the Secretary shall require an employer with less than 5,000 employees and with 1,000 or more 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 Comprehensive Immigration Reform Act of 2006, the Secretary shall require all employers with less than 1,000 employees and with 250 or more 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 Comprehensive Immigration Reform Act of 2006, 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 Comprehensive Immigration Reform Act of 2006, if the Secretary has reasonable cause 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) with 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, 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 Comprehensive Immigration Reform Act of 2006, 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 Comprehensive Immigration Reform Act of 2006, 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) PREPENALTY 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 subsection (b), (c), or (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 Security 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) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) 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 on the 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 immigra-

tion fraud detection during the 5-year period beginning on the 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—TEMPORARY WORKER PROGRAMS AND VISA REFORM

Subtitle A—Requirements for Participating Countries

SEC. 401. REQUIREMENTS FOR PARTICIPATING COUNTRIES.

(a) IN GENERAL.—An alien is not eligible for status as a nonimmigrant under section 101(a)(15)(W) of the Immigration and Nationality Act, as added by section 501 of this Act, or deferred mandatory departure status under section 218B of the Immigration and Nationality Act, as added by section 601 of this Act, unless the home country of the alien has entered into a bilateral agreement with the United States that conforms to the requirements under subsection (b).

(b) REQUIREMENTS OF BILATERAL AGREEMENTS.—Each agreement under subsection (a) shall require the home country to—

(1) accept, within 3 days, the return of nationals who are ordered removed from the United States;

(2) cooperate with the United States Government in—

(A) identifying, tracking, and reducing gang membership, violence, and human trafficking and smuggling; and

(B) controlling illegal immigration;

(3) provide the United States Government with—

(A) passport information and criminal records of aliens who are seeking admission to or are present in the United States; and

(B) admission and entry data to facilitate United States entry-exit data systems;

(4) take steps to educate nationals of the home country regarding the program under title V or VI to ensure that such nationals are not exploited; and

(5) provide a minimum level of health coverage to its participants.

(c) RULEMAKING.—

(1) IN GENERAL.—Not later than 3 months after the date of enactment of this Act, the Secretary of Health and Human Services shall, by regulation, define the minimum level of health coverage to be provided by participating countries.

(2) RESPONSIBILITY TO OBTAIN COVERAGE.—If the health coverage provided by the home country falls below the minimum level defined pursuant to paragraph (1), the employer of the alien shall provide or the alien shall obtain coverage that meets such minimum level.

(d) HOUSING.—Participating countries shall agree to evaluate means to provide housing incentives in the alien’s home country for returning workers.

Subtitle B—Nonimmigrant Temporary Worker Program

SEC. 411. NONIMMIGRANT TEMPORARY WORKER CATEGORY.

(a) NEW TEMPORARY WORKER CATEGORY.—Section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)) is amended by adding at the end the following:

“(W) an alien having a residence in a foreign country which the alien has no intention of abandoning who is coming temporarily to the United States to perform temporary labor or service, other than that

which would qualify an alien for status under sections 101(a)(15)(H)(i), 101(a)(15)(H)(ii)(a), 101(a)(15)(L), 101(a)(15)(O), 101(a)(15)(P), and who meets the requirements of section 218A; or”.

(b) REPEAL OF H-2B CATEGORY.—Section 101(a)(15)(H)(ii) is amended by striking “, or (b) having a residence in a foreign country which he has no intention of abandoning who is coming temporarily to the United States to perform other temporary service or labor if unemployed persons capable of performing such service or labor cannot be found in this country, but this clause shall not apply to graduates of medical schools coming to the United States to perform services as members of the medical profession”.

(c) TECHNICAL AMENDMENTS.—Section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)) is amended—

(1) in subparagraph (U)(iii), by striking “or” at the end; and

(2) in subparagraph (V)(ii)(II), by striking the period at the end and inserting a semicolon and “or”.

SEC. 412. TEMPORARY WORKER PROGRAM.

(a) IN GENERAL.—The Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended by inserting after section 218 the following new section:

“SEC. 218A. TEMPORARY WORKER PROGRAM.

“(a) IN GENERAL.—The Secretary of State may grant a temporary visa to a nonimmigrant described in section 101(a)(15)(W) who demonstrates an intent to perform labor or services in the United States (other than those occupational classifications covered under the provisions of clause (i)(b) or (ii)(a) of section 101(a)(15)(H) or subparagraph (L), (O), (P), or (R)) of section 101(a)(15).

“(b) REQUIREMENTS FOR ADMISSION.—In order to be eligible for nonimmigrant status under section 101(a)(15)(H)(W), an alien shall meet the following requirements:

“(1) ELIGIBILITY TO WORK.—The alien shall establish that the alien is capable of performing the labor or services required for an occupation under section 101(a)(15)(W).

“(2) EVIDENCE OF EMPLOYMENT.—The alien must establish that he has a job offer from an employer authorized to hire aliens under the Alien Employment Management Program.

“(3) FEE.—The alien shall pay a \$500 visa issuance fee in addition to the cost of processing and adjudicating such application. Nothing in this paragraph shall be construed to affect consular procedures for charging reciprocal fees.

“(4) MEDICAL EXAMINATION.—The alien shall undergo a medical examination (including a determination of immunization status) at the alien’s expense, that conforms to generally accepted standards of medical practice.

“(5) APPLICATION CONTENT AND WAIVER.—

“(A) APPLICATION FORM.—The Secretary of Homeland Security shall create an application form that an alien shall be required to complete as a condition of being admitted as a nonimmigrant under section 101(a)(15)(W).

“(B) CONTENT.—In addition to any other information that the Secretary determines is required to determine an alien’s eligibility for admission as a nonimmigrant under section 101(a)(15)(W), the Secretary shall require an alien to provide information concerning the alien’s physical and mental health, criminal history and gang membership, immigration history, involvement with groups or individuals that have engaged in terrorism, genocide, persecution, or who seek the overthrow of the United States Government, voter registration history, claims to United States citizenship, and tax history.

“(C) WAIVER.—The Secretary of Homeland Security may require an alien to include

with the application a waiver of rights that explains to the alien that, in exchange for the discretionary benefit of admission as a nonimmigrant under section 101(a)(15)(W), the alien agrees to waive any right—

“(i) to administrative or judicial review or appeal of an immigration officer’s determination as to the alien’s admissibility; or

“(ii) to contest any removal action, other than on the basis of an application for asylum pursuant to the provisions contained in section 208 or 241(b)(3), or under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York December 10, 1984, if such removal action is initiated after the termination of the alien’s period of authorized admission as a nonimmigrant under section 101(a)(15)(W).

“(D) KNOWLEDGE.—The Secretary of Homeland Security shall require an alien to include with the application a signed certification in which the alien certifies that the alien has read and understood all of the questions and statements on the application form, and that the alien certifies under penalty of perjury under the laws of the United States that the application, and any evidence submitted with it, are all true and correct, and that the applicant authorizes the release of any information contained in the application and any attached evidence for law enforcement purposes.

“(c) GROUNDS OF INADMISSIBILITY.—

“(1) IN GENERAL.—In determining an alien’s admissibility as a nonimmigrant under section 101(a)(15)(W)—

“(A) paragraphs (5), (6)(A), (7), and (9)(B) or (C) of section 212(a) may be waived for conduct that occurred on a date prior to the effective date of this Act; and

“(B) the Secretary of Homeland Security may not waive—

“(i) subparagraph (A), (B), (C), (E), (G), (H), or (I) of section 212(a)(2) (relating to criminals);

“(ii) section 212(a)(3) (relating to security and related grounds); or

“(iii) subparagraphs (A), (C) or (D) of section 212(a)(10) (relating to polygamists, child abductors and illegal voters);

“(C) for conduct that occurred prior to the date this Act was introduced in Congress, the Secretary of Homeland Security may waive the application of any provision of section 212(a) not listed in subparagraph (B) on behalf of an individual alien for humanitarian purposes, to ensure family unity, or when such waiver is otherwise in the public interest; and

“(D) nothing in this paragraph shall be construed as affecting the authority of the Secretary of Homeland Security to waive the provisions of section 212(a).

“(2) WAIVER FEE.—An alien who is granted a waiver under subparagraph (1) shall pay a \$500 fee upon approval of the alien’s visa application.

“(3) RENEWAL OF AUTHORIZED ADMISSION AND SUBSEQUENT ADMISSIONS.—An alien seeking renewal of authorized admission or subsequent admission as a nonimmigrant under section 101(a)(15)(W) shall establish that the alien is not inadmissible under section 212(a).

“(d) BACKGROUND CHECKS AND INTERVIEW.—The Secretary of Homeland Security shall not admit, and the Secretary of State shall not issue a visa to, an alien seeking admission under section 101(a)(15)(W) until all appropriate background checks have been completed. The Secretary of State shall ensure that an employee of the Department of State conducts a personal interview of an applicant for a visa under section 101(a)(15)(W).

“(e) INELIGIBLE TO CHANGE NONIMMIGRANT CLASSIFICATION.—An alien admitted under

section 101(a)(15)(W) is ineligible to change status under section 248.

“(f) DURATION.—

“(1) GENERAL.—The period of authorized admission as a nonimmigrant under 101(a)(15)(W) shall be 2 years, and may not be extended. An alien is ineligible to reenter as an alien under 101(a)(15)(W) until the alien has resided continuously in the alien’s home country for a period of 1 year. The total period of admission as a nonimmigrant under section 101(a)(15)(W) may not exceed 6 years.

“(2) SEASONAL WORKERS.—An alien who spends less than 6 months a year as a nonimmigrant described in section 101(a)(15)(W) is not subject to the time limitations under subparagraph (1).

“(3) COMMUTERS.—An alien who resides outside the United States, but who commutes to the United States to work as a nonimmigrant described in section 101(a)(15)(W), is not subject to the time limitations under paragraph (1).

“(4) DEFERRED MANDATORY DEPARTURE.—An alien granted Deferred Mandatory Departure status, who remains in the United States under such status for—

“(A) a period of 2 years, may not be granted status as a nonimmigrant under section 101(a)(15)(W) for more than a total of 5 years;

“(B) a period of 3 years, may not be granted status as a nonimmigrant under section 101(a)(15)(W) for more than a total of 4 years;

“(C) a period of 4 years, may not be granted status as a nonimmigrant under section 101(a)(15)(W) for more than a total of 3 years; or

“(D) a period of 5 years, may not be granted status as a nonimmigrant under section 101(a)(15)(W) for more than a total of 2 years.

“(g) INTENT TO RETURN HOME.—In addition to other requirements in this section, an alien is not eligible for nonimmigrant status under section 101(a)(15)(W) unless the alien—

“(1) maintains a residence in a foreign country which the alien has no intention of abandoning; and

“(2) is present in such foreign country for at least 7 consecutive days during each year that the alien is a temporary worker.

“(h) BIOMETRIC DOCUMENTATION.—Evidence of status under section 101(a)(15)(W) shall be machine-readable, tamper-resistant, and allow for biometric authentication. The Secretary of Homeland Security is authorized to incorporate integrated-circuit technology into the document. The Secretary of Homeland Security shall consult with the Forensic Document Laboratory in designing the document. The document may serve as a travel, entry, and work authorization document during the period of its validity.

“(i) PENALTY FOR FAILURE TO DEPART.—An alien who fails to depart the United States prior to 10 days after the date that the alien’s authorized period of admission as a temporary worker ends is not eligible and may not apply for or receive any immigration relief or benefit under this Act or any other law, with the exception of section 208 or 241(b)(3) or the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York December 10, 1984, in the case of an alien who indicates either an intention to apply for asylum under section 208 or a fear of persecution or torture.

“(j) PENALTY FOR ILLEGAL ENTRY OR OVERSTAY.—An alien who, after the effective date of enactment of the Comprehensive Enforcement and Immigration Reform Act of 2005, enters the United States without inspection, or violates a term or condition of admission into the United States as a nonimmigrant, including overstaying the period of authorized admission, shall be ineligible for nonimmigrant status under section 101(a)(15)(W) or Deferred Mandatory Departure status under section 218B for a period of 10 years.

“(k) ESTABLISHMENT OF TEMPORARY WORKER TASK FORCE.—

“(1) IN GENERAL.—There is established a task force to be known as the Temporary Worker Task Force (referred to in this section as the ‘Task Force’).

“(2) PURPOSES.—The purposes of the Task Force are—

“(A) to study the impact of the admission of aliens under section 101(a)(15)(W) on the wages, working conditions, and employment of United States workers; and

“(B) to make recommendations to the Secretary of Labor regarding the need for an annual numerical limitation on the number of aliens that may be admitted in any fiscal year under section 101(a)(15)(W).

“(3) MEMBERSHIP.—The Task Force shall be composed of 10 members, of whom—

“(A) 1 shall be appointed by the President and shall serve as chairman of the Task Force;

“(B) 1 shall be appointed by the leader of the minority party in the Senate, in consultation with the leader of the minority party in the House of Representatives, and shall serve as vice chairman of the Task Force;

“(C) 2 shall be appointed by the majority leader of the Senate;

“(D) 2 shall be appointed by the minority leader of the Senate;

“(E) 2 shall be appointed by the Speaker of the House of Representatives; and

“(F) 2 shall be appointed by the minority leader of the House of Representatives.

“(4) QUALIFICATIONS.—

“(A) IN GENERAL.—Members of the Task Force shall be—

“(i) individuals with expertise in economics, demography, labor, business, or immigration or other pertinent qualifications or experience; and

“(ii) representative of a broad cross-section of perspectives within the United States, including the public and private sectors and academia.

“(B) POLITICAL AFFILIATION.—Not more than 5 members of the Task Force may be members of the same political party.

“(C) NONGOVERNMENTAL APPOINTEES.—An individual appointed to the Task Force may not be an officer or employee of the Federal Government or of any State or local government.

“(5) DEADLINE FOR APPOINTMENT.—All members of the Task Force shall be appointed not later than 6 months after the date of enactment of the Comprehensive Enforcement and Immigration Reform Act of 2005.

“(6) VACANCIES.—Any vacancy in the Task Force shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

“(7) MEETINGS.—

“(A) INITIAL MEETING.—The Task Force shall meet and begin the operations of the Task Force as soon as practicable.

“(B) SUBSEQUENT MEETINGS.—After its initial meeting, the Task Force shall meet upon the call of the chairman or a majority of its members.

“(8) QUORUM.—Six members of the Task Force shall constitute a quorum.

“(9) REPORT.—Not later than 18 months after the date of enactment of the Comprehensive Enforcement and Immigration Reform Act of 2005, the Task Force shall submit to Congress, the Secretary of Labor, and the Secretary of Homeland Security a report that contains—

“(A) findings with respect to the duties of the Task Force;

“(B) recommendations for imposing a numerical limit.

“(10) DETERMINATION.—Not later than 6 months after the submission of the report,

the Secretary of Labor may impose a numerical limitation on the number of aliens that may be admitted under section 101(a)(15)(W). Any numerical limit shall not become effective until 6 months after the Secretary of Labor submits a report to Congress regarding the imposition of a numerical limit.

“(1) FAMILY MEMBERS.—

“(1) FAMILY MEMBERS OF W NON-IMMIGRANTS.—

“(A) IN GENERAL.—The spouse or child of an alien admitted as a nonimmigrant under section 101(a)(15)(W) may be admitted to the United States—

“(i) as a nonimmigrant under section 101(a)(15)(B) for a period of not more than 30 days, which may not be extended unless the Secretary of Homeland Security, in his sole and unreviewable discretion, determines that exceptional circumstances exist; or

“(ii) under any other provision of this Act, if such family member is otherwise eligible for such admission.

“(B) APPLICATION FEE.—

“(i) IN GENERAL.—The spouse or child of an alien admitted as a nonimmigrant under section 101(a)(15)(W) who is seeking to be admitted as a nonimmigrant under section 101(a)(15)(B) shall submit, in addition to any other fee authorized by law, an additional fee of \$100.

“(ii) USE OF FEE.—The fees collected under clause (i) shall be available for use by the Secretary of Homeland Security for activities to identify, locate, or remove illegal aliens.

“(m) TRAVEL OUTSIDE THE UNITED STATES.—

“(1) IN GENERAL.—Under regulations established by the Secretary of Homeland Security, a nonimmigrant alien under section 101(a)(15)(W)—

“(A) may travel outside of the United States; and

“(B) may be readmitted without having to obtain a new visa if the period of authorized admission has not expired.

“(2) EFFECT ON PERIOD OF AUTHORIZED ADMISSION.—Time spent outside the United States under paragraph (1) shall not extend the period of authorized admission in the United States.

“(n) EMPLOYMENT.—

“(1) PORTABILITY.—An alien may be employed by any United States employer authorized by the Secretary of Homeland Security to hire aliens admitted under section 218C.

“(2) CONTINUOUS EMPLOYMENT.—An alien must be employed while in the United States. An alien who fails to be employed for 30 days is ineligible for hire until the alien departs the United States and reenters as a nonimmigrant under section 101(a)(15)(W). The Secretary of Homeland Security may, in its sole and unreviewable discretion, reauthorize an alien for employment, without requiring the alien's departure from the United States.

“(o) ENUMERATION OF SOCIAL SECURITY NUMBER.—The Secretary of Homeland Security, in coordination with the Commissioner of Social Security, shall implement a system to allow for the enumeration of a Social Security number and production of a Social Security card at time of admission of an alien under section 101(a)(15)(W).

“(p) DENIAL OF DISCRETIONARY RELIEF.—The determination of whether an alien is eligible for a grant of nonimmigrant status under section 101(a)(15)(W) is solely within the discretion of the Secretary of Homeland Security. Notwithstanding any other provision of law, no court shall have jurisdiction to review—

“(1) any judgment regarding the granting of relief under this section; or

“(2) any other decision or action of the Secretary of Homeland Security the authority for which is specified under this section to be in the discretion of the Secretary, other than the granting of relief under section 1158(a).

“(q) JUDICIAL REVIEW.—

“(1) LIMITATIONS ON RELIEF.—Without regard to the nature of the action or claim and without regard to the identity of the party or parties bringing the action, no court may—

“(A) enter declaratory, injunctive, or other equitable relief in any action pertaining to—

“(i) an order or notice denying an alien a grant of nonimmigrant status under section 101(a)(15)(W) or any other benefit arising from such status; or

“(ii) an order of removal, exclusion, or deportation entered against an alien if such order is entered after the termination of the alien's period of authorized admission as a nonimmigrant under section 101(a)(15)(W); or

“(B) certify a class under Rule 23 of the Federal Rules of Civil Procedure in any action for which judicial review is authorized under a subsequent paragraph of this subsection.

“(2) CHALLENGES TO VALIDITY.—

“(A) IN GENERAL.—Any right or benefit not otherwise waived or limited pursuant this section is available in an action instituted in the United States District Court for the District of Columbia, but shall be limited to determinations of—

“(i) whether such section, or any regulation issued to implement such section, violates the Constitution of the United States; or

“(ii) whether such a regulation, or a written policy directive, written policy guideline, or written procedure issued by or under the authority the Secretary of Homeland Security to implement such section, is not consistent with applicable provisions of this section or is otherwise in violation of law.”.

(b) PROHIBITION ON CHANGE IN NON-IMMIGRANT CLASSIFICATION.—Section 248(1) of the Immigration and Nationality Act (8 U.S.C. 1258(1)) is amended by striking “or (S)” and inserting “(S), or (W)”.

SEC. 413. STATUTORY CONSTRUCTION.

Nothing in this subtitle, or any amendment made by this title, shall be construed to create any substantive or procedural right or benefit that is legally enforceable by any party against the United States or its agencies or officers or any other person.

SEC. 414. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated \$500,000,000 for facilities, personnel (including consular officers), training, technology and processing necessary to carry out the amendments made by this subtitle.

Subtitle C—Mandatory Departure and Reentry in Legal Status

SEC. 421. MANDATORY DEPARTURE AND REENTRY IN LEGAL STATUS.

(a) IN GENERAL.—The Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended by inserting after section 218A, as added by section 412, the following new section:

“SEC. 218B. MANDATORY DEPARTURE AND REENTRY.

“(a) IN GENERAL.—The Secretary of Homeland Security may grant Deferred Mandatory Departure status to aliens who are in the United States illegally to allow such aliens time to depart the United States and to seek admission as a nonimmigrant or immigrant alien.

“(b) REQUIREMENTS.—

“(1) PRESENCE.—An alien must establish that the alien was physically present in the United States 1 year prior to the date of the introduction of the Comprehensive Enforcement and Immigration Reform Act of 2005 in

Congress and has been continuously in the United States since such date, and was not legally present in the United States under any classification set forth in section 101(a)(15) on that date.

“(2) EMPLOYMENT.—An alien must establish that the alien was employed in the United States prior to the date of the introduction of the Comprehensive Enforcement and Immigration Reform Act of 2005, and has been employed in the United States since that date.

“(3) ADMISSIBILITY.—

“(A) IN GENERAL.—The alien must establish that he—

“(i) is admissible to the United States, except as provided as in (B); and

“(ii) has not assisted in the persecution of any person or persons on account of race, religion, nationality, membership in a particular social group, or political opinion.

“(B) GROUNDS NOT APPLICABLE.—The provisions of paragraphs (5), (6)(A), and (7) of section 212(a) shall not apply.

“(C) WAIVER.—The Secretary of Homeland Security may waive any other provision of section 212(a), or a ground of ineligibility under paragraph (4), in the case of individual aliens for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest.

“(4) INELIGIBLE.—An alien is ineligible for Deferred Mandatory Departure status if the alien—

“(A) is subject to a final order or removal under section 240;

“(B) failed to depart the United States during the period of a voluntary departure order under section 240B;

“(C) has been issued a Notice to Appear under section 239, unless the sole acts of conduct alleged to be in violation of the law are that the alien is removable under section 237(a)(1)(C) or is inadmissible under section 212(a)(6)(A);

“(D) is a resident of a country for which the Secretary of State has made a determination that the government of such country has repeatedly provided support for acts of international terrorism under section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)) or under section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371); or

“(E) fails to comply with any request for information by the Secretary of Homeland Security.

“(5) MEDICAL EXAMINATION.—The alien may be required, at the alien's expense, to undergo such a medical examination (including a determination of immunization status) as is appropriate and conforms to generally accepted professional standards of medical practice.

“(6) TERMINATION.—The Secretary of Homeland Security may terminate an alien's Deferred Mandatory Departure status—

“(A) if the Secretary of Homeland Security determines that the alien was not in fact eligible for such status; or

“(B) if the alien commits an act that makes the alien removable from the United States.

“(7) APPLICATION CONTENT AND WAIVER.—

“(A) APPLICATION FORM.—The Secretary of Homeland Security shall create an application form that an alien shall be required to complete as a condition of obtaining Deferred Mandatory Departure status.

“(B) CONTENT.—In addition to any other information that the Secretary determines is required to determine an alien's eligibility for Deferred Mandatory Departure, the Secretary shall require an alien to answer questions concerning the alien's physical and mental health, criminal history and gang membership, immigration history, involvement with groups or individuals that have

engaged in terrorism, genocide, persecution, or who seek the overthrow of the United States government, voter registration history, claims to United States citizenship, and tax history.

“(C) WAIVER.—The Secretary of Homeland Security shall require an alien to include with the application a waiver of rights that explains to the alien that, in exchange for the discretionary benefit of obtaining Deferred Mandatory Departure status, the alien agrees to waive any right to administrative or judicial review or appeal of an immigration officer’s determination as to the alien’s eligibility, or to contest any removal action, other than on the basis of an application for asylum pursuant to the provisions contained in section 208 or 241(b)(3), or under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York December 10, 1984.

“(D) KNOWLEDGE.—The Secretary of Homeland Security shall require an alien to include with the application a signed certification in which the alien certifies that the alien has read and understood all of the questions and statements on the application form, and that the alien certifies under penalty of perjury under the laws of the United States that the application, and any evidence submitted with it, are all true and correct, and that the applicant authorizes the release of any information contained in the application and any attached evidence for law enforcement purposes.

“(C) IMPLEMENTATION AND APPLICATION TIME PERIODS.—

“(1) IN GENERAL.—The Secretary of Homeland Security shall ensure that the application process is secure and incorporates anti-fraud protection. The Secretary of Homeland Security shall interview an alien to determine eligibility for Deferred Mandatory Departure status and shall utilize biometric authentication at time of document issuance.

“(2) INITIAL RECEIPT OF APPLICATIONS.—The Secretary of Homeland Security shall begin accepting applications for Deferred Mandatory Departure status not later than 3 months after the date of enactment of the Comprehensive Enforcement and Immigration Reform Act of 2005.

“(3) APPLICATION.—An alien must submit an initial application for Deferred Mandatory Departure status not later than 6 months after the date of enactment of the Comprehensive Enforcement and Immigration Reform Act of 2005. An alien that fails to comply with this requirement is ineligible for Deferred Mandatory Departure status.

“(4) COMPLETION OF PROCESSING.—The Secretary of Homeland Security shall ensure that all applications for Deferred Mandatory Departure status are processed not later than 12 months after the date of enactment of the Comprehensive Enforcement and Immigration Reform Act of 2005.

“(d) SECURITY AND LAW ENFORCEMENT BACKGROUND CHECKS.—An alien may not be granted Deferred Mandatory Departure status unless the alien submits biometric data in accordance with procedures established by the Secretary of Homeland Security. The Secretary of Homeland Security may not grant Deferred Mandatory Departure status until all appropriate background checks are completed to the satisfaction of the Secretary of Homeland Security.

“(e) ACKNOWLEDGMENT.—An alien who applies for Deferred Mandatory Departure status shall submit to the Secretary of Homeland Security—

“(1) an acknowledgment made in writing and under oath that the alien—

“(A) is unlawfully present in the United States and subject to removal or deportation, as appropriate, under this Act; and

“(B) understands the terms of the terms of Deferred Mandatory Departure;

“(2) any Social Security account number or card in the possession of the alien or relied upon by the alien;

“(3) any false or fraudulent documents in the alien’s possession.

“(f) MANDATORY DEPARTURE.—

“(1) IN GENERAL.—The Secretary of Homeland Security may, in the Secretary’s sole and unreviewable discretion, grant an alien Deferred Mandatory Departure status for a period not to exceed 5 years.

“(2) REGISTRATION AT TIME OF DEPARTURE.—An alien granted Deferred Mandatory Departure must depart prior to the expiration of the period of Deferred Mandatory Departure status. The alien must register with the Secretary of Homeland Security at time of departure and surrender any evidence of Deferred Mandatory Departure status at time of departure.

“(3) RETURN IN LEGAL STATUS.—An alien who complies with the terms of Deferred Mandatory Departure status and who departs prior to the expiration of such status shall not be subject to section 212(a)(9)(B) and, if otherwise eligible, may immediately seek admission as a nonimmigrant or immigrant.

“(4) FAILURE TO DEPART.—An alien who fails to depart the United States prior to the expiration of Mandatory Deferred Departure status is not eligible and may not apply for or receive any immigration relief or benefit under this Act or any other law for a period of 10 years, with the exception of section 208 or 241(b)(3) or the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York December 10, 1984, in the case of an alien who indicates either an intention to apply for asylum under section 208 or a fear of persecution or torture.

“(5) PENALTIES FOR DELAYED DEPARTURE.—An alien who fails to depart immediately shall be subject to the following fees:

“(A) No fine if the alien departs within the first year after the grant of Deferred Mandatory Departure.

“(B) \$2,000 if the alien does not depart within the second year after the grant of Deferred Mandatory Departure.

“(C) \$3,000 if the alien does not depart within the third year following the grant of Deferred Mandatory Departure.

“(D) \$4,000 if the alien does not depart within the fourth year following the grant of Deferred Mandatory Departure.

“(E) \$5,000 if the alien does not depart during the fifth year following the grant of Deferred Mandatory Departure.

“(g) EVIDENCE OF DEFERRED MANDATORY DEPARTURE STATUS.—Evidence of Deferred Mandatory Departure status shall be machine-readable, tamper-resistant, and allow for biometric authentication. The Secretary of Homeland Security is authorized to incorporate integrated-circuit technology into the document. The Secretary of Homeland Security shall consult with the Forensic Document Laboratory in designing the document. The document may serve as a travel, entry, and work authorization document during the period of its validity. The document may be accepted by an employer as evidence of employment authorization and identity under section 274A(b)(1)(B).

“(h) TERMS OF STATUS.—

“(1) REPORTING.—During the period of Deferred Mandatory Departure, an alien shall comply with all registration requirements under section 264.

“(2) TRAVEL.—

“(A) An alien granted Deferred Mandatory Departure is not subject to section 212(a)(9) for any unlawful presence that occurred prior to the Secretary of Homeland Security

granting the alien Deferred Mandatory Departure status.

“(B) Under regulations established by the Secretary of Homeland Security, an alien granted Deferred Mandatory Departure—

“(i) may travel outside of the United States and may be readmitted if the period of Deferred Mandatory Departure status has not expired; and

“(ii) must establish at the time of application for admission that the alien is admissible under section 212.

“(C) EFFECT ON PERIOD OF AUTHORIZED ADMISSION.—Time spent outside the United States under subparagraph (B) shall not extend the period of Deferred Mandatory Departure status.

“(3) BENEFITS.—During the period in which an alien is granted Deferred Mandatory Departure under this section—

“(A) the alien shall not be considered to be permanently residing in the United States under the color of law and shall be treated as a nonimmigrant admitted under section 214; and

“(B) the alien may be deemed ineligible for public assistance by a State (as defined in section 101(a)(36)) or any political subdivision thereof which furnishes such assistance.

“(i) PROHIBITION ON CHANGE OF STATUS OR ADJUSTMENT OF STATUS.—An alien granted Deferred Mandatory Departure status is prohibited from applying to change status under section 248 or, unless otherwise eligible under section 245(i), from applying for adjustment of status to that of a permanent resident under section 245.

“(j) APPLICATION FEE.—

“(1) IN GENERAL.—An alien seeking a grant of Deferred Mandatory Departure status shall submit, in addition to any other fees authorized by law, an application fee of \$1,000.

“(2) USE OF FEE.—The fees collected under paragraph (1) shall be available for use by the Secretary of Homeland Security for activities to identify, locate, or remove illegal aliens.

“(k) FAMILY MEMBERS.—

“(1) FAMILY MEMBERS.—

“(A) IN GENERAL.—The spouse or child of an alien granted Deferred Mandatory Departure status is subject to the same terms and conditions as the principal alien, but is not authorized to work in the United States.

“(B) APPLICATION FEE.—

“(i) IN GENERAL.—The spouse or child of an alien seeking Deferred Mandatory Departure shall submit, in addition to any other fee authorized by law, an additional fee of \$500.

“(ii) USE OF FEE.—The fees collected under clause (i) shall be available for use by the Secretary of Homeland Security for activities to identify, locate, or remove aliens who are removable under section 237.

“(1) EMPLOYMENT.—

“(1) IN GENERAL.—An alien may be employed by any United States employer authorized by the Secretary of Homeland Security to hire aliens under section 218C.

“(2) CONTINUOUS EMPLOYMENT.—An alien must be employed while in the United States. An alien who fails to be employed for 30 days is ineligible for hire until the alien has departed the United States and reentered. The Secretary of Homeland Security may, in the Secretary’s sole and unreviewable discretion, reauthorize an alien for employment without requiring the alien’s departure from the United States.

“(m) ENUMERATION OF SOCIAL SECURITY NUMBER.—The Secretary of Homeland Security, in coordination with the Commissioner of the Social Security System, shall implement a system to allow for the enumeration of a Social Security number and production of a Social Security card at the time the

Secretary of Homeland Security grants an alien Deferred Mandatory Departure status.

“(n) PENALTIES FOR FALSE STATEMENTS IN APPLICATION FOR DEFERRED MANDATORY DEPARTURE.—

“(1) CRIMINAL PENALTY.—

“(A) VIOLATION.—It shall be unlawful for any person—

“(i) to file or assist in filing an application for adjustment of status under this section and knowingly and willfully falsify, misrepresent, conceal, or cover up a material fact or make any false, fictitious, or fraudulent statements or representations, or make or use any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry; or

“(ii) to create or supply a false writing or document for use in making such an application.

“(B) PENALTY.—Any person who violates subparagraph (A) shall be fined in accordance with title 18, United States Code, imprisoned not more than 5 years, or both.

“(2) INADMISSIBILITY.—An alien who is convicted of a crime under paragraph (1) shall be considered to be inadmissible to the United States on the ground described in section 212(a)(6)(C)(i).

“(o) RELATION TO CANCELLATION OF REMOVAL.—With respect to an alien granted Deferred Mandatory Departure status under this section, the period of such status shall not be counted as a period of physical presence in the United States for purposes of section 240A(a), unless the Secretary of Homeland Security determines that extreme hardship exists.

“(p) WAIVER OF RIGHTS.—An alien is not eligible for Deferred Mandatory Departure status, unless the alien has waived any right to contest, other than on the basis of an application for asylum or protection under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York December 10, 1984, any action for deportation or removal of the alien that is instituted against the alien subsequent to a grant of Deferred Mandatory Departure status.

“(q) DENIAL OF DISCRETIONARY RELIEF.—The determination of whether an alien is eligible for a grant of Deferred Mandatory Departure status is solely within the discretion of the Secretary of Homeland Security. Notwithstanding any other provision of law, no court shall have jurisdiction to review—

“(1) any judgment regarding the granting of relief under this section; or

“(2) any other decision or action of the Secretary of Homeland Security the authority for which is specified under this section to be in the discretion of the Secretary, other than the granting of relief under section 1158(a).

“(r) JUDICIAL REVIEW.—

“(1) LIMITATIONS ON RELIEF.—Without regard to the nature of the action or claim and without regard to the identity of the party or parties bringing the action, no court may—

“(A) enter declaratory, injunctive, or other equitable relief in any action pertaining to—

“(i) an order or notice denying an alien a grant of Deferred Mandatory Departure status or any other benefit arising from such status; or

“(ii) an order of removal, exclusion, or deportation entered against an alien after a grant of Deferred Mandatory Departure status; or

“(B) certify a class under Rule 23 of the Federal Rules of Civil Procedure in any action for which judicial review is authorized under a subsequent paragraph of this subsection.

“(2) CHALLENGES TO VALIDITY.—

“(A) IN GENERAL.—Any right or benefit not otherwise waived or limited pursuant this

section is available in an action instituted in the United States District Court for the District of Columbia, but shall be limited to determinations of—

“(i) whether such section, or any regulation issued to implement such section, violates the Constitution of the United States; or

“(ii) whether such a regulation, or a written policy directive, written policy guideline, or written procedure issued by or under the authority the Secretary of Homeland Security to implement such section, is not consistent with applicable provisions of this section or is otherwise in violation of law.”.

(b) CONFORMING AMENDMENT.—Amend section 237(a)(2)(A)(i)(II) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(2)(A)(i)(II)) is amended by striking the period at the end and inserting “(or 6 months in the case of an alien granted Deferred Mandatory Departure status under section 218B).”.

SEC. 422. STATUTORY CONSTRUCTION.

Nothing in this subtitle, or any amendment made by this subtitle, shall be construed to create any substantive or procedural right or benefit that is legally enforceable by any party against the United States or its agencies or officers or any other person.

SEC. 423. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated \$1,000,000,000 for facilities, personnel (including consular officers), training, technology, and processing necessary to carry out the amendments made by this subtitle.

Subtitle D—Alien Employment Management System

SEC. 431. ALIEN EMPLOYMENT MANAGEMENT SYSTEM.

The Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended by inserting after section 218B, as added by section 621, the following new section:

“SEC. 218C. ALIEN EMPLOYMENT MANAGEMENT SYSTEM.

“(a) ESTABLISHMENT.—

“(1) PURPOSE.—The Secretary of Homeland Security, in consultation with the Secretary of Labor, the Secretary of State, and the Commissioner of Social Security, shall develop and implement a program to authorize, manage and track the employment of aliens described in section 218A or 218B.

“(2) DEADLINE.—The program under subsection (a) shall commence prior to any alien being admitted under section 101(a)(15)(W) or granted Deferred Mandatory Departure under section 218B.

“(b) REQUIREMENTS.—The program shall—

“(1) enable employers who seek to hire aliens described in section 218A or 218B to apply for authorization to employ such aliens;

“(2) be interoperable with Social Security databases and must provide a means of immediately verifying the identity and employment authorization of an alien described in section 218A or 218B, for purposes of complying with title III of the Comprehensive Enforcement and Immigration Reform Act of 2005;

“(3) require an employer to utilize readers or scanners at the location of employment or at a Federal facility to transmit the biometric and biographic information contained in the alien's evidence of status to the Secretary of Homeland Security, for purposes of complying with title III of the Comprehensive Enforcement and Immigration Reform Act of 2005; and

“(4) collect sufficient information from employers to enable the Secretary of Homeland Security to identify—

“(A) whether an alien described in section 218A or 218B is employed;

“(B) any employer that has hired an alien described in section 218A or 218B;

“(C) the number of aliens described in section 218A or 218B that an employer is authorized to hire and is currently employing; and

“(D) the occupation, industry and length of time that an alien described in section 218A or 218B has been employed in the United States.

“(c) AUTHORIZATION TO HIRE ALIENS DESCRIBED IN SECTION 218A OR 218B.—

“(1) APPLICATION.—An employer must apply, through the program described in subsection (a) of this section, to obtain authorization to hire aliens described in section 218A or 218B.

“(2) PENALTIES.—An employer who employs an alien described in section 218A or 218B without authorization is subject to the same penalties and provisions as an employer who violates section 274(a)(1)(A) or (a)(2). An employer shall be subject to penalties prescribed by the Secretary of Homeland Security by regulation, which may include monetary penalties and debarment from eligibility to hire aliens described in section 218A or 218B.

“(3) ELIGIBILITY.—An employer must establish that it is a legitimate company and must attest that it will comply with the terms of the program established under subsection (a).

“(4) NUMBER OF ALIENS AUTHORIZED.—An employer may request authorization to multiple aliens described in section 218A or 218B.

“(5) ELECTRONIC FORM.—The program established under subsection (a) shall permit employers to submit applications under this subsection in an electronic form.

“(d) NOTIFICATION UPON TERMINATION OF EMPLOYMENT.—An employer, through the program established under subsection (a), must notify the Secretary of Homeland Security not more than 3 business days after the date of the termination of the alien's employment. The employer is not authorized to fill the position with another alien described in section 218A or 218B until the employer notifies the Secretary of Homeland Security that the alien is no longer employed by that employer.

“(e) PROTECTION OF UNITED STATES WORKERS.—An employer may not be authorized to hire an alien described in section 218A or 218B until the employer submits an attestation stating the following:

“(1) The employer has posted the position in a national, electronic job registry maintained by the Secretary of Labor, for not less than 30 days.

“(2) The employer has offered the position to any eligible United States worker who applies and is equally or better qualified for the job for which a temporary worker is sought and who will be available at the time and place of need. An employer shall maintain records for not less than 1 year demonstrating that why United States workers who applied were not hired.

“(3) The employer shall comply with the terms of the program established under subsection (a), including the terms of any temporary worker monitoring program established by the Secretary.

“(4) The employer shall not hire more aliens than the number authorized by the Secretary of Homeland Security has authorized it to hire.

“(5) The worker shall be paid at least the greater of the hourly wage prescribed under section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) or the applicable State minimum wage. All wages will be paid in a timely manner and all payroll records will be maintained accurately.

“(6) The employment of a temporary worker shall not adversely affect the working conditions of other similarly employed United States workers.

“(f) APPROVAL.—After determining that there are no United States workers who are qualified and willing to obtain the employment for which the employer is seeking temporary workers, the Secretary of Homeland Security may approve the application submitted by the employer under this paragraph for the number of temporary workers that the Secretary determines are required by the employer. Such approval shall be valid for a 2-year period.”

SEC. 432. LABOR INVESTIGATIONS.

(a) IN GENERAL.—The Secretary of Homeland Security and the Secretary of Labor shall conduct audits, including random audits, of employers who employ aliens described under section 218A or 218B of the Immigration and Nationality Act, as added by section 412 and 421, respectively.

(b) PENALTIES.—The Secretary of Homeland Security shall establish penalties, which may include debarment from eligibility for hire also described under section 218A, as added by section 412 of this Act, 218B, as added by section 421 of this Act, for employers who fail to comply with section 218C of the Immigration and Nationality Act as added by section 431 of this Act, and shall establish protections for aliens who report employers who fail to comply with such section.

Subtitle E—Protection Against Immigration Fraud

SEC. 441. GRANTS TO SUPPORT PUBLIC EDUCATION AND TRAINING.

(a) GENERAL PROGRAM PURPOSE.—The purpose of this subtitle is to assist qualified non-profit community organizations to educate, train, and support non-profit agencies, immigrant communities, and other interested entities regarding this Act and the amendments made by this Act.

(b) PURPOSES FOR WHICH GRANTS MAY BE USED.—The grants under this part shall be used to fund public education, training, technical assistance, government liaison, and all related costs (including personnel and equipment) incurred by non-profit community organizations in providing services related to this Act, and to educate, train and support non-profit organizations, immigrant communities, and other interested parties regarding this Act and the amendments made by this Act and on matters related to its implementation. In particular, funding shall be provided to non-profit organizations for the purposes of—

(1) educating immigrant communities and other interested entities on the individuals and organizations that can provide authorized legal representation in immigration matters under regulations prescribed by the Secretary of Homeland Security, and on the dangers of securing legal advice and assistance from those who are not authorized to provide legal representation in immigration matters;

(2) educating interested entities on the requirements for obtaining non-profit recognition and accreditation to represent immigrants under regulations prescribed by the Secretary of Homeland Security, and providing non-profit agencies with training and technical assistance on the recognition and accreditation process; and

(3) educating non-profit community organizations, immigrant communities and other interested entities on the process for obtaining benefits under this Act or an amendment made by this Act, and the availability of authorized legal representation for low-income persons who may qualify for benefits under this Act or an amendment made by this Act.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Office of Justice Programs at the United States Department of Justice to carry out this section—

- (1) \$40,000,000 for fiscal year 2006;
- (2) \$40,000,000 for fiscal year 2007; and
- (3) \$40,000,000 for fiscal year 2008.

(d) IN GENERAL.—The Office of Justice Programs shall ensure, to the extent possible, that the non-profit community organizations funded under this Section shall serve geographically diverse locations and ethnically diverse populations who may qualify for benefits under the Act.

Subtitle F—Circular Migration

SEC. 451. INVESTMENT ACCOUNTS.

(a) IN GENERAL.—Section 201 of the Social Security Act (42 U.S.C. 401) is amended by adding at the end the following:

“(o)(1) Notwithstanding any other provision of this section, the Secretary of the Treasury shall transfer at least quarterly from the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund 100 percent of the temporary worker taxes to the Temporary Worker Investment Fund for deposit in a temporary worker investment account for each temporary worker as specified in section 253.

“(2) For purposes of this subsection—

“(A) the term ‘temporary worker taxes’ means that portion of the amounts appropriated to the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund under this section and properly attributable to the wages (as defined in section 3121 of the Internal Revenue Code of 1986) and self-employment income (as defined in section 1402 of such Code) of temporary workers as determined by the Commissioner of Social Security; and

“(B) the term ‘temporary worker’ means an alien who is admitted to the United States as a nonimmigrant under section 101(a)(15)(W) of the Immigration and Nationality Act.”

(b) TEMPORARY WORKER INVESTMENT ACCOUNTS.—Title II of the Social Security Act (42 U.S.C. 401 et seq.) is amended—

(1) by inserting before section 201 the “**PART A—SOCIAL SECURITY**”; and

(2) by adding at the end the following:

“PART II—TEMPORARY WORKER INVESTMENT ACCOUNTS
DEFINITIONS

“SEC. 251. For purposes of this part:

“(1) COVERED EMPLOYER.—The term ‘covered employer’ means, for any calendar year, any person on whom an excise tax is imposed under section 3111 of the Internal Revenue Code of 1986 with respect to having an individual in the person’s employ to whom wages are paid by such person during such calendar year.

“(2) SECRETARY.—The term ‘Secretary’ means the Secretary of the Treasury.

“(3) TEMPORARY WORKER.—The term ‘temporary worker’ an alien who is admitted to the United States as a nonimmigrant under section 101(a)(15)(W) of the Immigration and Nationality Act.

“(4) TEMPORARY WORKER INVESTMENT ACCOUNT.—The term ‘temporary worker investment account’ means an account for a temporary worker which is administered by the Secretary through the Temporary Worker Investment Fund.

“(5) TEMPORARY WORKER INVESTMENT FUND.—The term ‘Temporary Worker Investment Fund’ means the fund established under section 253.

“TEMPORARY WORKER INVESTMENT ACCOUNTS

“SEC. 252. (a) IN GENERAL.—A temporary worker investment account shall be established by the Secretary in the Temporary Worker Investment Fund for each individual not later than 10 business days after the covered employer of such individual submits a W-4 form (or any successor form) identifying such individual as a temporary worker.

“(b) TIME ACCOUNT TAKES EFFECT.—A temporary worker investment account established under subsection (a) shall take effect with respect to the first pay period beginning more than 14 days after the date of such establishment.

“(c) TEMPORARY WORKER’S PROPERTY RIGHT IN TEMPORARY WORKER INVESTMENT ACCOUNT.—The temporary worker investment account established for a temporary worker is the sole property of the worker.

“TEMPORARY WORKER INVESTMENT FUND

“SEC. 253. (a) IN GENERAL.—There is created on the books of the Treasury of the United States a trust fund to be known as the ‘Temporary Worker Investment Fund’ to be administered by the Secretary. Such Fund shall consist of the assets transferred under section 201(o) to each temporary worker investment account established under section 252 and the income earned under subsection (e) and credited to such account.

“(b) NOTICE OF CONTRIBUTIONS.—The full amount of a temporary worker’s investment account transfers shall be shown on such worker’s W-2 tax statement, as provided in section 6051(a)(14) of the Internal Revenue Code of 1986.

“(c) INVESTMENT EARNINGS REPORT.—

“(1) IN GENERAL.—At least annually, the Temporary Worker Investment Fund shall provide to each temporary worker with a temporary worker investment account managed by the Fund a temporary worker investment status report. Such report may be transmitted electronically upon the agreement of the temporary worker under the terms and conditions established by the Secretary.

“(2) CONTENTS OF REPORT.—The temporary worker investment status report, with respect to a temporary worker investment account, shall provide the following information:

“(A) The total amounts transferred under section 201(o) in the last quarter, the last year, and since the account was established.

“(B) The amount and rate of income earned under subsection (e) for each period described in subparagraph (A).

“(d) MAXIMUM ADMINISTRATIVE FEE.—The Temporary Worker Investment Fund shall charge each temporary worker in the Fund a single, uniform annual administrative fee not to exceed 0.3 percent of the value of the assets invested in the worker’s account.

“(e) INVESTMENT DUTIES OF SECRETARY.—The Secretary shall establish policies for the investment and management of temporary worker investment accounts, including policies that shall provide for prudent Federal Government investment instruments suitable for accumulating funds.

“TEMPORARY WORKER INVESTMENT ACCOUNT DISTRIBUTIONS

“SEC. 254. (a) DATE OF DISTRIBUTION.—Except as provided in subsections (b) and (c), a distribution of the balance in a temporary worker investment account may only be made on or after the date such worker departs the United States and abandons such worker’s nonimmigrant status under section 101(a)(15)(W) of the Immigration and Nationality Act and returns to the worker’s home country.

“(b) DISTRIBUTION IN THE EVENT OF DEATH.—If the temporary worker dies before the date determined under subsection (a), the balance in the worker’s account shall be distributed to the worker’s estate under rules established by the Secretary.”

(c) TEMPORARY WORKER INVESTMENT ACCOUNT TRANSFERS SHOWN ON W-2s.—

(1) IN GENERAL.—Section 6051(a) of the Internal Revenue Code of 1986 (relating to receipts for employees) is amended—

(A) by striking “and” at the end of paragraph (12);

(B) by striking the period at the end of paragraph (13) and inserting “; and”; and

(C) by inserting after paragraph (13) the following:

“(14) in the case of a temporary worker (as defined in section 251(1) of the Social Security Act), of the amount shown pursuant to paragraph (6), the total amount transferred to such worker’s temporary worker investment account under section 201(o) of such Act.”

(2) CONFORMING AMENDMENTS.—Section 6051 of the Internal Revenue Code of 1986 is amended—

(A) in subsection (a)(6), by inserting “and paid as tax under section 3111” after “section 3101”; and

(B) in subsection (c), by inserting “and paid as tax under section 3111” after “section 3101”.

Subtitle G—Backlog Reduction

SEC. 461. EMPLOYMENT BASED IMMIGRANTS.

(a) EMPLOYMENT-BASED IMMIGRANT LIMIT.—Section 201(d) of the Immigration and Nationality Act (8 U.S.C. 1151(d)) is amended to read as follows:

“(d) WORLDWIDE LEVEL OF EMPLOYMENT-BASED IMMIGRANTS.—The worldwide level of employment-based immigrants under this subsection for a fiscal year is equal to the sum of—

“(1) 140,000;

“(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 and the number of visa numbers issued under this subsection during those years; and

“(B) the number of visas described in subparagraph (A) that were issued after fiscal year 2005; and

“(4) the number of visas previously made available under section 203(e).”

(b) DIVERSITY VISA TERMINATION.—The allocation of immigrant visas to aliens under section 203(c) of the Immigration and Nationality Act (8 U.S.C. 1153(c)), and the admission of such aliens to the United States as immigrants, is terminated. This provision shall become effective on October 1st of the fiscal year following enactment of this Act.

(c) IMMIGRATION TASK FORCE.—

(1) IN GENERAL.—There is established a task force to be known as the Immigration Task Force (referred to in this section as the “Task Force”).

(2) PURPOSES.—The purposes of the Task Force are—

(A) to study the impact of the delay between the date on which an application for immigration is submitted and the date on which a determination on such application is made;

(B) to study the impact of immigration of workers to the United States on family unity; and

(C) to provide to Congress any recommendations of the Task Force regarding increasing the number immigrant visas issued by the United States for family members and on the basis of employment.

(3) MEMBERSHIP.—The Task Force shall be composed of 10 members, of whom—

(A) 1 shall be appointed by the President and shall serve as chairman of the Task Force;

(B) 1 shall be appointed by the leader of the minority party in the Senate, in consultation with the leader of the minority party in the House of Representatives, and shall serve as vice chairman of the Task Force;

(C) 2 shall be appointed by the majority leader of the Senate;

(D) 2 shall be appointed by the minority leader of the Senate;

(E) 2 shall be appointed by the Speaker of the House of Representatives; and

(F) 2 shall be appointed by the minority leader of the House of Representatives.

(4) QUALIFICATIONS.—

(A) IN GENERAL.—Members of the Task Force shall be—

(i) individuals with expertise in economics, demography, labor, business, or immigration or other pertinent qualifications or experience; and

(ii) representative of a broad cross-section of perspectives within the United States, including the public and private sectors and academia.

(B) POLITICAL AFFILIATION.—Not more than 5 members of the Task Force may be members of the same political party.

(C) NONGOVERNMENTAL APPOINTEES.—An individual appointed to the Task Force may not be an officer or employee of the Federal Government or of any State or local government.

(5) DEADLINE FOR APPOINTMENT.—All members of the Task Force shall be appointed not later than 6 months after the date of enactment of this Act.

(6) VACANCIES.—Any vacancy in the Task Force shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

(7) MEETINGS.—

(A) INITIAL MEETING.—The Task Force shall meet and begin the operations of the Task Force as soon as practicable.

(B) SUBSEQUENT MEETINGS.—After its initial meeting, the Task Force shall meet upon the call of the chairman or a majority of its members.

(8) QUORUM.—Six members of the Task Force shall constitute a quorum.

(9) REPORT.—Not later than 18 months after the date of enactment of this Act, the Task Force shall submit to Congress, the Secretary of Labor, and the Secretary of Homeland Security a report that contains—

(A) findings with respect to the duties of the Task Force; and

(B) recommendations for modifying the numerical limits on the number immigrant visas issued by the United States for family members of individuals in the United States and on the basis of employment.

SEC. 462. COUNTRY LIMITS.

Section 202(a) of the Immigration and Nationality Act (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. 463. ALLOCATION OF IMMIGRANT VISAS.

(a) PREFERENCE ALLOCATION FOR EMPLOYMENT-BASED IMMIGRANTS.—Section 203(b) of the Immigration and Nationality Act (8 U.S.C. 1153(b)) is amended—

(1) in paragraph (1), by striking “28.6 percent” and inserting “10 percent”;

(2) in paragraph (2)(A), by striking “28.6 percent” and inserting “10 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 “4 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 36 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).

(b) CONFORMING AMENDMENTS.—

(1) DEFINITION OF SPECIAL IMMIGRANT.—Section 101(a)(27)(M) of the Immigration and Nationality Act (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 (8 U.S.C. 1153 note) is repealed.

Subtitle H—Temporary Agricultural Workers

SEC. 471. SENSE OF THE SENATE ON TEMPORARY AGRICULTURAL WORKERS.

It is the sense of the Senate that consideration of any comprehensive immigration reform during the 109th Congress will include agricultural workers.

Subtitle I—Effect of Other Provisions

SEC. 481. EFFECT OF OTHER PROVISIONS.

Notwithstanding any other provision of this Act, the provisions of, and the amendments made by, titles V and VI of this Act are null and void.

SA 3424. Mr. FRIST proposed an amendment to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Comprehensive Immigration Reform Act of 2006”.

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

Sec. 1. Short title; table of contents.

Sec. 2. Reference to the Immigration and Nationality Act.

Sec. 3. Definitions.

Sec. 4. Severability.

TITLE I—BORDER ENFORCEMENT

Subtitle A—Assets for Controlling United States Borders

Sec. 101. Enforcement personnel.

Sec. 102. Technological assets.

Sec. 103. Infrastructure.

Sec. 104. Border patrol checkpoints.

Sec. 105. Ports of entry.

Sec. 106. Construction of strategic border fencing and vehicle barriers.

Subtitle B—Border Security Plans, Strategies, and Reports

Sec. 111. Surveillance plan.

Sec. 112. National Strategy for Border Security.

Sec. 113. Reports on improving the exchange of information on North American security.

Sec. 114. Improving the security of Mexico’s southern border.

Sec. 115. Combating human smuggling.

Sec. 116. Deaths at United States-Mexico border.

Subtitle C—Other Border Security Initiatives

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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.

SEC. 4. SEVERABILITY.

If any provision of this Act, any amendment made by this Act, 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 Act, the amendments made by this Act, and the application of the provisions of such to any other person or circumstance shall not be affected by such holding.

TITLE I—BORDER ENFORCEMENT

Subtitle A—Assets for Controlling United States Borders

SEC. 101. ENFORCEMENT PERSONNEL.

(a) ADDITIONAL PERSONNEL.—

(1) 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 500 the number of positions for full-time active duty port of entry inspectors and provide appropriate training, equipment, and support to such additional inspectors.

(2) INVESTIGATIVE PERSONNEL.—

(A) IMMIGRATION AND CUSTOMS ENFORCEMENT INVESTIGATORS.—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) 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 (1) of subsection (a).

(2) BORDER PATROL AGENTS.—Section 5202 of the Intelligence Reform and Terrorism Prevention Act of 2004 (118 Stat. 3734) is amended to read as follows:

“SEC. 5202. INCREASE IN FULL-TIME BORDER PATROL AGENTS.

“(a) ANNUAL INCREASES.—The Secretary of Homeland Security shall, subject to the availability of appropriations for such purpose, increase the number of positions for full-time active-duty border patrol agents within the Department of Homeland Security (above the number of such positions for which funds were appropriated for the preceding fiscal year), by—

- “(1) 2,000 in fiscal year 2006;
- “(2) 2,400 in fiscal year 2007;
- “(3) 2,400 in fiscal year 2008;
- “(4) 2,400 in fiscal year 2009;
- “(5) 2,400 in fiscal year 2010; and
- “(6) 2,400 in fiscal year 2011;

“(b) NORTHERN BORDER.—In each of the fiscal years 2006 through 2011, in addition to the border patrol agents assigned along the northern border of the United States during the previous fiscal year, the Secretary shall assign a number of border patrol agents equal to not less than 20 percent of the net increase in border patrol agents during each such fiscal year.

“(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for each of fiscal years 2007 through 2011 to carry out this section.”

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 Sec-

retary 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 10 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, privacy 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, non-governmental 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.

(d) LIMITATIONS ON ASSISTANCE.—Any funds made available to carry out this section shall be subject to the limitations contained in section 551 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act of 2006 (Public Law 109-102; 119 Stat. 2218).

SEC. 115. COMBATING HUMAN SMUGGLING.

(a) REQUIREMENT FOR PLAN.—The Secretary shall develop and implement a plan to improve coordination between the Bureau of Immigration and Customs Enforcement and the Bureau of Customs and Border Protection of the Department and any other Federal, State, local, or tribal authorities, as determined appropriate by the Secretary, to improve coordination efforts to combat human smuggling.

(b) CONTENT.—In developing the plan required by subsection (a), the Secretary shall consider—

(1) the interoperability of databases utilized to prevent human smuggling;

(2) adequate and effective personnel training;

(3) methods and programs to effectively target networks that engage in such smuggling;

(4) effective utilization of—

(A) visas for victims of trafficking and other crimes; and

(B) investigatory techniques, equipment, and procedures that prevent, detect, and prosecute international money laundering and other operations that are utilized in smuggling;

(5) joint measures, with the Secretary of State, to enhance intelligence sharing and cooperation with foreign governments whose citizens are preyed on by human smugglers; and

(6) other measures that the Secretary considers appropriate to combating human smuggling.

(c) REPORT.—Not later than 1 year after implementing the plan described in subsection (a), the Secretary shall submit to Congress a report on such plan, including any recommendations for legislative action to improve efforts to combating human smuggling.

(d) SAVINGS PROVISION.—Nothing in this section may be construed to provide additional authority to any State or local entity to enforce Federal immigration laws.

SEC. 116. DEATHS AT UNITED STATES-MEXICO BORDER.

(a) COLLECTION OF STATISTICS.—The Commissioner of the Bureau of Customs and Border Protection shall collect statistics relating to deaths occurring at the border between the United States and Mexico, including—

(1) the causes of the deaths; and

(2) the total number of deaths.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, and annually thereafter, the Commissioner of the Bureau of Customs and Border Protection shall submit to the Secretary a report that—

(1) analyzes trends with respect to the statistics collected under subsection (a) during the preceding year; and

(2) recommends actions to reduce the deaths described in subsection (a).

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 Identifi-

cation 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 non-immigrant 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 (1)—

(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 Protec-

tion 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;

(8) an assessment of the effect of such a system on Indian reservations and units of the National Park System; and

(9) an assessment of the necessity of constructing such a system after the implementation of provisions of this Act relating to guest workers, visa reform, and interior and worksite enforcement, and the likely effect of such provisions on undocumented immigration and the flow of illegal immigrants across the international border of the United States;

(10) an assessment of the impact of such a system on diplomatic relations between the United States and Mexico, Central America, and South America, including the likely impact of such a system on existing and potential areas of bilateral and multilateral cooperative enforcement efforts;

(11) an assessment of the impact of such a system on the quality of life within border communities in the United States and Mexico, including its impact on noise and light pollution, housing, transportation, security, and environmental health;

(12) an assessment of the likelihood that such a system would lead to increased violations of the human rights, health, safety, or civil rights of individuals in the region near the southern international border of the United States, regardless of the immigration status of such individuals;

(13) an assessment of the effect such a system would have on violence near the southern international border of the United States; and

(14) an assessment of the effect of such a system on the vulnerability of the United States to infiltration by terrorists or other agents intending to inflict direct harm on the United States.

(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 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 than 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.

SEC. 131. MANDATORY DETENTION FOR ALIENS APPREHENDED AT OR BETWEEN PORTS OF ENTRY.

(a) IN GENERAL.—Beginning on October 1, 2007, an alien (other than a national of Mexico) 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 and 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, 2007, 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) does 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. 132. EVASION OF INSPECTION OR VIOLATION OF ARRIVAL, REPORTING, ENTRY, OR CLEARANCE REQUIREMENTS.

(a) IN GENERAL.—Chapter 27 of title 18, United States Code, is amended by adding at the end the following:

“§ 554. Evasion of inspection or during violation of arrival, reporting, entry, or clearance requirements

“(a) PROHIBITION.—A person shall be punished as described in subsection (b) if such person attempts to elude or eludes customs, immigration, or agriculture inspection or fails to stop at the command of an officer or employee of the United States charged with enforcing the immigration, customs, or other laws of the United States at a port of entry or customs or immigration checkpoint;

“(b) PENALTIES.—A person who commits an offense described in subsection (a) shall be—

“(1) fined under this title;

“(2)(A) imprisoned for not more than 3 years, or both;

“(B) imprisoned for not more than 10 years, or both, if in commission of this violation, attempts to inflict or inflicts bodily injury (as defined in section 1365(g) of this title); or

“(C) imprisoned for any term of years or for life, or both, if death results, and may be sentenced to death; or

“(3) both fined and imprisoned under this subsection.

“(c) CONSPIRACY.—If 2 or more persons conspire to commit an offense described in subsection (a), and 1 or more of such persons do any act to effect the object of the conspiracy, each shall be punishable as a principal, except that the sentence of death may not be imposed.

“(d) PRIMA FACIE EVIDENCE.—For the purposes of seizure and forfeiture under applicable law, in the case of use of a vehicle or other conveyance in the commission of this offense, or in the case of disregarding or disobeying the lawful authority or command of any officer or employee of the United States under section 111(b) of this title, such conduct shall constitute prima facie evidence of smuggling aliens or merchandise.”

(b) CONFORMING AMENDMENT.—The table of sections for chapter 27 of title 18, United States Code, is amended by inserting at the end:

“554. Evasion of inspection or during violation of arrival, reporting, entry, or clearance requirements.”

(c) FAILURE TO OBEY BORDER ENFORCEMENT OFFICERS.—Section 111 of title 18, United States Code, is amended by inserting after subsection (b) the following:

“(c) FAILURE TO OBEY LAWFUL ORDERS OF BORDER ENFORCEMENT OFFICERS.—Whoever willfully disregards or disobeys the lawful authority or command of any officer or employee of the United States charged with enforcing the immigration, customs, or other laws of the United States while engaged in, or on account of, the performance of official duties shall be fined under this title or imprisoned for not more than 5 years, or both.”

Subtitle D—Border Tunnel Prevention Act

SEC. 141. SHORT TITLE.

This subtitle may be cited as the “Border Tunnel Prevention Act”.

SEC. 142. CONSTRUCTION OF BORDER TUNNEL OR PASSAGE.

(a) IN GENERAL.—Chapter 27 of title 18, United States Code, is amended by adding at the end the following:

“§ 554. Border tunnels and passages

“(a) Any person who knowingly constructs or finances the construction of a tunnel or subterranean passage that crosses the international border between the United States and another country, other than a lawfully authorized tunnel or passage known to the Secretary of Homeland Security and subject to inspection by the Bureau of Immigration and Customs Enforcement, shall be fined under this title and imprisoned for not more than 20 years.

“(b) Any person who knows or recklessly disregards the construction or use of a tunnel or passage described in subsection (a) on land that the person owns or controls shall be fined under this title and imprisoned for not more than 10 years.

“(c) Any person who uses a tunnel or passage described in subsection (a) to unlawfully smuggle an alien, goods (in violation of section 545), controlled substances, weapons of mass destruction (including biological weapons), or a member of a terrorist organization (as defined in section 212(a)(3)(B)(vi) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(vi))) shall be subject to a maximum term of imprisonment that is twice the maximum term of imprisonment that would have otherwise been applicable had the unlawful activity not made use of such a tunnel or passage.”

(b) CLERICAL AMENDMENT.—The table of sections for chapter 27 of title 18, United States Code, is amended by adding at the end the following:

“Sec. 554. Border tunnels and passages.”

(c) **CRIMINAL FORFEITURE.**—Section 982(a)(6) of title 18, United States Code, is amended by inserting “554,” before “1425.”

SEC. 143. DIRECTIVE TO THE UNITED STATES SENTENCING COMMISSION.

(a) **IN GENERAL.**—Pursuant to its authority under section 994 of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission shall promulgate or amend sentencing guidelines to provide for increased penalties for persons convicted of offenses described in section 554 of title 18, United States Code, as added by section 132.

(b) **REQUIREMENTS.**—In carrying out this section, the United States Sentencing Commission shall—

(1) ensure that the sentencing guidelines, policy statements, and official commentary reflect the serious nature of the offenses described in section 554 of title 18, United States Code, and the need for aggressive and appropriate law enforcement action to prevent such offenses;

(2) provide adequate base offense levels for offenses under such section;

(3) account for any aggravating or mitigating circumstances that might justify exceptions, including—

(A) the use of a tunnel or passage described in subsection (a) of such section to facilitate other felonies; and

(B) the circumstances for which the sentencing guidelines currently provide applicable sentencing enhancements;

(4) ensure reasonable consistency with other relevant directives, other sentencing guidelines, and statutes;

(5) make any necessary and conforming changes to the sentencing guidelines and policy statements; and

(6) ensure that the sentencing guidelines adequately meet the purposes of sentencing set forth in section 3553(a)(2) of title 18, United States Code.

Subtitle E—Border Law Enforcement Relief Act

SEC. 151. SHORT TITLE.

This subtitle may be cited as the “Border Law Enforcement Relief Act of 2006”.

SEC. 152. FINDINGS.

Congress finds the following:

(1) It is the obligation of the Federal Government of the United States to adequately secure the Nation’s borders and prevent the flow of undocumented persons and illegal drugs into the United States.

(2) Despite the fact that the United States Border Patrol apprehends over 1,000,000 people each year trying to illegally enter the United States, according to the Congressional Research Service, the net growth in the number of unauthorized aliens has increased by approximately 500,000 each year. The Southwest border accounts for approximately 94 percent of all migrant apprehensions each year. Currently, there are an estimated 11,000,000 unauthorized aliens in the United States.

(3) The border region is also a major corridor for the shipment of drugs. According to the El Paso Intelligence Center, 65 percent of the narcotics that are sold in the markets of the United States enter the country through the Southwest Border.

(4) Border communities continue to incur significant costs due to the lack of adequate border security. A 2001 study by the United States-Mexico Border Counties Coalition found that law enforcement and criminal justice expenses associated with illegal immigration exceed \$89,000,000 annually for the Southwest border counties.

(5) In August 2005, the States of New Mexico and Arizona declared states of emergency in order to provide local law enforcement immediate assistance in addressing criminal activity along the Southwest border.

(6) While the Federal Government provides States and localities assistance in covering costs related to the detention of certain criminal aliens and the prosecution of Federal drug cases, local law enforcement along the border are provided no assistance in covering such expenses and must use their limited resources to combat drug trafficking, human smuggling, kidnappings, the destruction of private property, and other border-related crimes.

(7) The United States shares 5,525 miles of border with Canada and 1,989 miles with Mexico. Many of the local law enforcement agencies located along the border are small, rural departments charged with patrolling large areas of land. Counties along the Southwest United States-Mexico border are some of the poorest in the country and lack the financial resources to cover the additional costs associated with illegal immigration, drug trafficking, and other border-related crimes.

(8) Federal assistance is required to help local law enforcement operating along the border address the unique challenges that arise as a result of their proximity to an international border and the lack of overall border security in the region

SEC. 153. BORDER RELIEF GRANT PROGRAM.

(a) **GRANTS AUTHORIZED.**—

(1) **IN GENERAL.**—The Secretary is authorized to award grants, subject to the availability of appropriations, to an eligible law enforcement agency to provide assistance to such agency to address—

(A) criminal activity that occurs in the jurisdiction of such agency by virtue of such agency’s proximity to the United States border; and

(B) the impact of any lack of security along the United States border.

(2) **DURATION.**—Grants may be awarded under this subsection during fiscal years 2007 through 2011.

(3) **COMPETITIVE BASIS.**—The Secretary shall award grants under this subsection on a competitive basis, except that the Secretary shall give priority to applications from any eligible law enforcement agency serving a community—

(A) with a population of less than 50,000; and

(B) located no more than 100 miles from a United States border with—

(i) Canada; or

(ii) Mexico.

(b) **USE OF FUNDS.**—Grants awarded pursuant to subsection (a) may only be used to provide additional resources for an eligible law enforcement agency to address criminal activity occurring along any such border, including—

(1) to obtain equipment;

(2) to hire additional personnel;

(3) to upgrade and maintain law enforcement technology;

(4) to cover operational costs, including overtime and transportation costs; and

(5) such other resources as are available to assist that agency.

(c) **APPLICATION.**—

(1) **IN GENERAL.**—Each eligible law enforcement agency seeking a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

(2) **CONTENTS.**—Each application submitted pursuant to paragraph (1) shall—

(A) describe the activities for which assistance under this section is sought; and

(B) provide such additional assurances as the Secretary determines to be essential to ensure compliance with the requirements of this section.

(d) **DEFINITIONS.**—For the purposes of this section:

(1) **ELIGIBLE LAW ENFORCEMENT AGENCY.**—The term “eligible law enforcement agency” means a tribal, State, or local law enforcement agency—

(A) located in a county no more than 100 miles from a United States border with—

(i) Canada; or

(ii) Mexico; or

(B) located in a county more than 100 miles from any such border, but where such county has been certified by the Secretary as a High Impact Area.

(2) **HIGH IMPACT AREA.**—The term “High Impact Area” means any county designated by the Secretary as such, taking into consideration—

(A) whether local law enforcement agencies in that county have the resources to protect the lives, property, safety, or welfare of the residents of that county;

(B) the relationship between any lack of security along the United States border and the rise, if any, of criminal activity in that county; and

(C) any other unique challenges that local law enforcement face due to a lack of security along the United States border.

(e) **AUTHORIZATION OF APPROPRIATIONS.**—

(1) **IN GENERAL.**—There are authorized to be appropriated \$50,000,000 for each of fiscal years 2007 through 2011 to carry out the provisions of this section.

(2) **DIVISION OF AUTHORIZED FUNDS.**—Of the amounts authorized under paragraph (1)—

(A) 2/3 shall be set aside for eligible law enforcement agencies located in the 6 States with the largest number of undocumented alien apprehensions; and

(B) 1/3 shall be set aside for areas designated as a High Impact Area under subsection (d).

(f) **SUPPLEMENT NOT SUPPLANT.**—Amounts appropriated for grants under this section shall be used to supplement and not supplant other State and local public funds obligated for the purposes provided under this title.

SEC. 154. ENFORCEMENT OF FEDERAL IMMIGRATION LAW.

Nothing in this subtitle shall be construed to authorize State or local law enforcement agencies or their officers to exercise Federal immigration law enforcement authority.

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).”;

(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 any act or condition constituting a ground for inadmissibility, excludability, or removal occurring or existing 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 re-

moval 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 this paragraph.

“(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 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.

(a) DEFINITION OF 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 (except for the provision providing an effective date for section 203 of the Comprehensive Reform Act of 2006), 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 (A), by striking “murder, rape, or sexual abuse of a minor;” and inserting “murder, rape, or sexual abuse of a minor, whether or not the minority of the victim is established by evidence contained in the record of conviction or by evidence extrinsic to the record of conviction;”;

(3) in subparagraph (N), by striking “paragraph (1)(A) or (2) of”;

(4) 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”;

(5) 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

(6) by striking the undesignated matter following subparagraph (U).

(b) EFFECTIVE DATE AND APPLICATION.—

(1) IN GENERAL.—The amendments made by subsection (a) shall—

(A) take effect on the date of the enactment of this Act; and

(B) apply to any act that occurred on or after the date of the enactment of this Act.

(2) APPLICATION OF HIRAIRA AMENDMENTS.—The amendments to section 101(a)(43) of the Immigration and Nationality Act made by section 321 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104-208; 110 Stat. 3009-627) shall continue to apply, whether the conviction was entered before, on, or after September 30, 1996.

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”;

(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: “Except that in any proceeding, other than a proceeding under section 340, the court shall review for substantial evidence the administrative record and findings of the Secretary of Homeland Security regarding whether an alien is a person of good moral character, understands and is attached to the principles of the Constitution of the United States, or is well disposed to the good order and happiness of the United States. The petitioner shall have the burden of showing that the Secretary’s denial of the application was contrary to law.”

(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. The Secretary shall notify the applicant when such examinations and interviews have been completed. Such district court shall only have jurisdiction to review the basis for delay and remand the matter, with appropriate instructions, to the Secretary 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; and

(2) shall apply to any act that occurred on or 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”; and

(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).”;

(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 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 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 or organization, not previously convicted of a violation of this section, to provide an alien who is present in the United States with humanitarian assistance, including medical care, housing, counseling, victim services, and food, or to trans-

port the alien to a location where such assistance can be rendered.

“(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 as 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.

(a) IN GENERAL.—Section 275 (8 U.S.C. 1325) is amended to read as follows:

SEC. 275. ILLEGAL ENTRY.

“(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 (including failing to stop at the command of such officer), or a customs or agriculture inspection at a port of entry; or

“(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 (including such representation or concealment in the context of arrival, reporting, entry, or clearance requirements of the customs law, immigration laws, agriculture laws, or shipping laws).

“(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.

“(5) ATTEMPT.—Whoever attempts to commit any offense under this section shall be punished in the same manner as for a completion of such offense.

“(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.”.

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 re-apply 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 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) PASSPORT, VISA, AND IMMIGRATION FRAUD.—

(1) IN GENERAL.—Chapter 75 of title 18, United States Code, is amended to read as follows:

CHAPTER 75—PASSPORT, VISA, AND IMMIGRATION FRAUD

“Sec.

“1541. Trafficking in passports.

“1542. False statement in an application for a passport.

“1543. Forgery and unlawful production of a passport.

- “1544. Misuse of a passport.
- “1545. Schemes to defraud aliens.
- “1546. Immigration and visa fraud.
- “1547. Marriage fraud.
- “1548. Attempts and conspiracies.
- “1549. Alternative penalties for certain offenses.
- “1550. Seizure and forfeiture.
- “1551. Additional jurisdiction.
- “1552. Additional venue.
- “1553. Definitions.
- “1554. Authorized law enforcement activities.
- “1555. Exception for refugees and asylees.

“§ 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).

“§ 1555. Exception for refugees, asylees, and other vulnerable persons

“(a) IN GENERAL.—If a person believed to have violated section 1542, 1544, 1546, or 1548 while attempting to enter the United States, without delay, indicates an intention to apply for asylum under section 208 or 241(b)(3) of the Immigration and Nationality Act (8 U.S.C. 1158 and 1231), or for relief under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (in accordance with section 208.17 of title 8, Code of Federal Regulations), or under section 101(a)(15)(T), 101(a)(15)(U), 101(a)(27)(J), 101(a)(51), 216(c)(4)(C), 240A(b)(2), or 244(a)(3) (as in effect prior to March 31, 1997) of such Act, or a credible fear of persecution or torture—

“(1) the person shall be referred to an appropriate Federal immigration official to review such claim and make a determination if such claim is warranted;

“(2) if the Federal immigration official determines that the person qualifies for the claimed relief, the person shall not be considered to have violated any such section; and

“(3) if the Federal immigration official determines that the person does not qualify for the claimed relief, the person shall be referred to an appropriate Federal official for prosecution under this chapter.

“(b) SAVINGS PROVISION.—Nothing in this section shall be construed to diminish, increase, or alter the obligations of refugees or the United States under article 31(1) of the Convention Relating to the Status of Refugees, done at Geneva July 28, 1951 (as made applicable by the Protocol Relating to the Status of Refugees, done at New York January 31, 1967 (19 UST 6223)).”

(2) 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”.

(b) PROTECTION FOR LEGITIMATE REFUGEES AND ASYLUM SEEKERS.—Section 208 (8 U.S.C. 1158) is amended by adding at the end the following:

“(e) PROTECTION FOR LEGITIMATE REFUGEES AND ASYLUM SEEKERS.—The Attorney General, in consultation with the Secretary of Homeland Security, shall develop binding prosecution guidelines for federal prosecutors to ensure that any prosecution of an alien seeking entry into the United States by fraud is consistent with the written terms and limitations of Article 31(1) of the Convention Relating to the Status of Refugees, done at Geneva July 28, 1951 (as made applicable by the Protocol Relating to the Status of Refugees, done at New York January 31, 1967 (19 UST 6223)).”

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, with respect to conduct occurring on or after that date.

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)”;

(vi) in subparagraph (E), as redesignated, by striking “subparagraph (B)” each place that term appears and inserting “subparagraph (C)”;

(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 entered 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”;

(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));”;

(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”;

(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. CONSTRUCTION.

(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 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 shall provide sufficient transportation and officers to take illegal aliens apprehended by State and local law enforcement officers into custody for processing at a detention facility operated by the Department.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for each of fiscal years 2007 through 2011 to carry out this section.

SEC. 220. 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. 221. 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. 222. 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. 223. 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 adding 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”;

(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”;

(B) in subsection (f)—

(i) by striking “Attorney General is authorized” and inserting “Secretary of Homeland Security and Attorney General are authorized”;

(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”;

(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. 224. 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 po-

litical subdivision of a State, the cost of such training (including applicable overtime costs) shall be reimbursed by the Secretary of Homeland Security.”;

(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. 225. REMOVAL OF DRUNK DRIVERS.

(a) IN GENERAL.—Section 101(a)(43)(F) (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 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. 226. MEDICAL SERVICES IN UNDERSERVED AREAS.

Section 220(c) of the Immigration and Nationality Technical Corrections Act of 1994 (8 U.S.C. 1182 note) is amended by striking “and before June 1, 2006.”.

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—

“(A) has not been lawfully admitted to the United States for permanent residence; and

“(B) 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—”;

(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 (vii), any”;

(2) in subparagraph (A), by inserting after clause (vi) the following:

“(vii) Clause (i) shall not apply to a citizen of the United States who has been convicted of an offense described in subparagraph (A), (I), or (K) of section 101(a)(43), 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.”;

(3) in subparagraph (B)(i)—

(A) by striking “Any alien” and inserting the following: “(I) Except as provided in subclause (II), any alien”;

(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 subparagraph (A), (I), or (K) of section 101(a)(43), 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)(vii))” 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 section 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—

“(i) take the illegal alien into the custody of the Federal Government not later than 72 hours after—

“(I) the conclusion of the State charging process or dismissal process; or

“(II) the illegal alien is apprehended, if no State charging or dismissal process is required; 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, 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—

“(1) aliens incarcerated in a Federal facility pursuant to this section are held in fa-

cilities which provide an appropriate level of security; and

“(2) if 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 if 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. 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. 231. 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; and

(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-day 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. 232. COOPERATIVE ENFORCEMENT PROGRAMS.

Not later than 2 years after the date of the enactment of this Act, the Secretary shall negotiate and execute, where practicable, a cooperative enforcement agreement described in section 287(g) of the Immigration and Nationality Act (8 U.S.C. 1357(g)) with at least 1 law enforcement agency in each State, to train law enforcement officers in the detection and apprehension of individuals engaged in transporting, harboring, sheltering, or encouraging aliens in violation of section 274 of such Act (8 U.S.C. 1324).

SEC. 233. INCREASE OF FEDERAL DETENTION SPACE AND THE UTILIZATION OF FACILITIES IDENTIFIED FOR CLOSURES AS A RESULT OF THE DEFENSE BASE CLOSURE REALIGNMENT ACT OF 1990.

(a) CONSTRUCTION OR ACQUISITION OF DETENTION FACILITIES.—

(1) IN GENERAL.—The Secretary shall construct or acquire, in addition to existing facilities for the detention of aliens, 20 detention facilities in the United States that have the capacity to detain a combined total of not less than 10,000 individuals at any time for aliens detained pending removal or a decision on removal of such aliens from the United States.

(2) DETERMINATION OF LOCATION.—The location of any detention facility built or acquired in accordance with this subsection shall be determined with the concurrence of the Secretary by the senior officer responsible for Detention and Removal Operations in the Department. The detention facilities shall be located so as to enable the officers and employees of the Department to increase to the maximum extent practicable the annual rate and level of removals of illegal aliens from the United States.

(3) USE OF INSTALLATIONS UNDER BASE CLOSURE LAWS.—In acquiring detention facilities

under this subsection, the Secretary shall consider the transfer of appropriate portions of military installations approved for closure or realignment under the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note) for use in accordance with paragraph (1).

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 241(g)(1) (8 U.S.C. 1231(g)(1)) is amended by striking “may expend” and inserting “shall expend”.

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

SEC. 234. DETERMINATION OF IMMIGRATION STATUS OF INDIVIDUALS CHARGED WITH FEDERAL OFFENSES.

(a) RESPONSIBILITY OF UNITED STATES ATTORNEYS.—Beginning not later than 2 years after the date of the enactment of this Act, the office of the United States Attorney that is prosecuting a criminal case in a Federal court—

(1) shall determine, not later than 30 days after filing the initial pleadings in the case, whether each defendant in the case is lawfully present in the United States (subject to subsequent legal proceedings to determine otherwise);

(2)(A) if the defendant is determined to be an alien lawfully present in the United States, shall notify the court in writing of the determination and the current status of the alien under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.); and

(B) if the defendant is determined not to be lawfully present in the United States, shall notify the court in writing of the determination, the defendant's alien status, and, to the extent possible, the country of origin or legal residence of the defendant; and

(3) ensure that the information described in paragraph (2) is included in the case file and the criminal records system of the office of the United States attorney.

(b) GUIDELINES.—A determination made under subsection (a)(1) shall be made in accordance with guidelines of the Executive Office for Immigration Review of the Department of Justice.

(c) RESPONSIBILITIES OF FEDERAL COURTS.—

(1) MODIFICATIONS OF RECORDS AND CASE MANagements SYSTEMS.—Not later than 2 years after the date of the enactment of this Act, all Federal courts that hear criminal cases, or appeals of criminal cases, shall modify their criminal records and case management systems, in accordance with guidelines which the Director of the Administrative Office of the United States Courts shall establish, so as to enable accurate reporting of information described in subsection (a)(2).

(2) DATA ENTRIES.—Beginning not later than 2 years after the date of the enactment of this Act, each Federal court described in paragraph (1) shall enter into its electronic records the information contained in each notification to the court under subsection (a)(2).

(d) CONSTRUCTION.—Nothing in this section may be construed to provide a basis for admitting evidence to a jury or releasing information to the public regarding an alien's immigration status.

(e) ANNUAL REPORT TO CONGRESS.—The Director of the Administrative Office of the United States Courts shall include, in the annual report filed with Congress under section 604 of title 28, United States Code—

(1) statistical information on criminal trials of aliens in the courts and criminal convictions of aliens in the lower courts and upheld on appeal, including the type of crime in each case and including information on the legal status of the aliens; and

(2) recommendations on whether additional court resources are needed to accom-

modate the volume of criminal cases brought against aliens in the Federal courts.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of fiscal years 2007 through 2011, such sums as may be necessary to carry out this Act. Funds appropriated pursuant to this subsection in any fiscal year shall remain available until expended.

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 Comprehensive Immigration Reform Act of 2006, 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 inquiry 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) a 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 Comprehensive Immigration Reform Act of 2006, 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 Comprehensive Immigration Reform Act of 2006, the Secretary may require an additional 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 Comprehensive Immigration Reform Act of 2006, the Secretary shall require an employer with 5,000 or more 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 Comprehensive Immigration Reform Act of 2006, the Secretary shall require an employer with less than 5,000 employees and with 1,000 or more 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 Comprehensive Immigration Reform Act of 2006, the Secretary shall require all employers with less than 1,000 employees and with 250 or more 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 Comprehensive Immigration Reform Act of 2006, 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 Comprehensive Immigration Reform Act of 2006, if the Secretary has reasonable cause 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) with 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, 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 Comprehensive Immigration Reform Act of 2006, 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 Comprehensive Immigration Reform Act of 2006, 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) PREPENALTY 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 subsection (b), (c), or (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 Security 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.

“(1) 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) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) 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 on the 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 on the 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—NONIMMIGRANT AND IMMIGRANT VISA REFORM

Subtitle A—Temporary Guest Workers

SEC. 401. IMMIGRATION IMPACT STUDY.

(a) EFFECTIVE DATE.—Any regulation that would increase the number of aliens who are eligible for legal status may not take effect before 90 days after the date on which the Director of the Bureau of the Census submits a report to Congress under subsection (c).

(b) STUDY.—The Director of the Bureau of the Census, jointly with the Secretary, the Secretary of Agriculture, the Secretary of Education, the Secretary of Energy, the Secretary of Health and Human Services, the Secretary of Housing and Urban Development, the Secretary of the Interior, the Secretary of Labor, the Secretary of Transportation, the Secretary of the Treasury, the Attorney General, and the Administrator of the Environmental Protection Agency, shall undertake a study examining the impacts of the current and proposed annual grants of

legal status, including immigrant and non-immigrant status, along with the current level of illegal immigration, on the infrastructure of and quality of life in the United States.

(c) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Director of the Bureau of the Census shall submit to Congress a report on the findings of the study required by subsection (b), including the following information:

(1) An estimate of the total legal and illegal immigrant populations of the United States, as they relate to the total population.

(2) The projected impact of legal and illegal immigration on the size of the population of the United States over the next 50 years, which regions of the country are likely to experience the largest increases, which small towns and rural counties are likely to lose their character as a result of such growth, and how the proposed regulations would affect these projections.

(3) The impact of the current and projected foreign-born populations on the natural environment, including the consumption of non-renewable resources, waste production and disposal, the emission of pollutants, and the loss of habitat and productive farmland, an estimate of the public expenditures required to maintain current standards in each of these areas, the degree to which current standards will deteriorate if such expenditures are not forthcoming, and the additional effects the proposed regulations would have.

(4) The impact of the current and projected foreign-born populations on employment and wage rates, particularly in industries such as agriculture and services in which the foreign born are concentrated, an estimate of the associated public costs, and the additional effects the proposed regulations would have.

(5) The impact of the current and projected foreign-born populations on the need for additions and improvements to the transportation infrastructure of the United States, an estimate of the public expenditures required to meet this need, the impact on Americans' mobility if such expenditures are not forthcoming, and the additional effect the proposed regulations would have.

(6) The impact of the current and projected foreign-born populations on enrollment, class size, teacher-student ratios, and the quality of education in public schools, an estimate of the public expenditures required to maintain current median standards, the degree to which those standards will deteriorate if such expenditures are not forthcoming, and the additional effect the proposed regulations would have.

(7) The impact of the current and projected foreign-born populations on home ownership rates, housing prices, and the demand for low-income and subsidized housing, the public expenditures required to maintain current median standards in these areas, the degree to which those standards will deteriorate if such expenditures are not forthcoming, and the additional effect the proposed regulations would have.

(8) The impact of the current and projected foreign-born populations on access to quality health care and on the cost of health care and health insurance, an estimate of the public expenditures required to maintain current median standards, the degree to which those standards will deteriorate if such expenditures are not forthcoming, and the additional effect the proposed regulations would have.

(9) The impact of the current and projected foreign-born populations on the criminal justice system in the United States, an estimate of the associated public costs, and the

additional effect the proposed regulations would have.

SEC. 402. NONIMMIGRANT TEMPORARY WORKER.

(a) TEMPORARY WORKER CATEGORY.—Section 101(a)(15)(H) (8 U.S.C. 1101(a)(15)(H)) is amended to read as follows:

“(H) an alien—

“(i)(b) subject to section 212(j)(2)—

“(aa) who is coming temporarily to the United States to perform services (other than services described in clause (ii)(a) or subparagraph (O) or (P)) in a specialty occupation described in section 214(i)(1) or as a fashion model;

“(bb) who meets the requirements for the occupation specified in section 214(i)(2) or, in the case of a fashion model, is of distinguished merit and ability; and

“(cc) with respect to whom the Secretary of Labor determines and certifies to the Secretary of Homeland Security that the intending employer has filed an application with the Secretary in accordance with section 212(n)(1);

“(bl)(aa) who is entitled to enter the United States under the provisions of an agreement listed in section 214(g)(8)(A);

“(bb) who is engaged in a specialty occupation described in section 214(i)(3); and

“(cc) with respect to whom the Secretary of Labor determines and certifies to the Secretary of Homeland Security and the Secretary of State that the intending employer has filed an attestation with the Secretary of Labor in accordance with section 212(t)(1); or

“(c)(aa) who is coming temporarily to the United States to perform services as a registered nurse;

“(bb) who meets the qualifications described in section 212(m)(1); and

“(cc) with respect to whom the Secretary of Labor determines and certifies to the Secretary of Homeland Security that an unexpired attestation is on file and in effect under section 212(m)(2) for the facility (as defined in section 212(m)(6)) for which the alien will perform the services; or

“(i)(a) who—

“(aa) has a residence in a foreign country which the alien has no intention of abandoning; and

“(bb) is coming temporarily to the United States to perform agricultural labor or services (as defined by the Secretary of Labor), including agricultural labor (as defined in section 3121(g) of the Internal Revenue Code of 1986), agriculture (as defined in section 3(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f))), and the pressing of apples for cider on a farm, of a temporary or seasonal nature;

“(b) who—

“(aa) has a residence in a foreign country which the alien has no intention of abandoning;

“(bb) is coming temporarily to the United States to perform nonagricultural work or services of a temporary or seasonal nature (if unemployed persons capable of performing such work or services cannot be found in the United States), excluding medical school graduates coming to the United States to perform services as members of the medical profession; or

“(c) who—

“(aa) has a residence in a foreign country which the alien has no intention of abandoning;

“(bb) is coming temporarily to the United States to perform temporary labor or services other than the labor or services described in clause (i)(b), (i)(c), (ii)(a), or (iii), or subparagraph (L), (O), (P), or (R) (if unemployed persons capable of performing such labor or services cannot be found in the United States); and

“(cc) meets the requirements of section 218A, including the filing of a petition under such section on behalf of the alien;

“(iii) who—

“(a) has a residence in a foreign country which the alien has no intention of abandoning; and

“(b) is coming temporarily to the United States as a trainee (other than to receive graduate medical education or training) in a training program that is not designed primarily to provide productive employment; or

“(iv) who—

“(a) is the spouse or a minor child of an alien described in clause (iii); and

“(b) is accompanying or following to join such alien.”

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date which is 1 year after the date of the enactment of this Act and shall apply to aliens, who, on such effective date, are outside of the United States.

SEC. 403. ADMISSION OF NONIMMIGRANT TEMPORARY GUEST WORKERS.

(a) TEMPORARY GUEST WORKERS.—

(1) IN GENERAL.—Chapter 2 of title II (8 U.S.C. 1181 et seq.) is amended by inserting after section 218 the following:

“SEC. 218A. ADMISSION OF H-2C NON-IMMIGRANTS.

“(a) AUTHORIZATION.—The Secretary of State may grant a temporary visa to an H-2C nonimmigrant who demonstrates an intent to perform labor or services in the United States (other than the labor or services described in clause (i)(b) or (ii)(a) of section 101(a)(15)(H) or subparagraph (L), (O), (P), or (R)) of section 101(a)(15).

“(b) REQUIREMENTS FOR ADMISSION.—An alien shall be eligible for H-2C nonimmigrant status if the alien meets the following requirements:

“(1) ELIGIBILITY TO WORK.—The alien shall establish that the alien is capable of performing the labor or services required for an occupation under section 101(a)(15)(H)(ii)(c).

“(2) EVIDENCE OF EMPLOYMENT.—The alien shall establish that the alien has received a job offer from an employer who has complied with the requirements of 218B.

“(3) FEE.—The alien shall pay a \$500 visa issuance fee in addition to the cost of processing and adjudicating such application. Nothing in this paragraph shall be construed to affect consular procedures for charging reciprocal fees.

“(4) MEDICAL EXAMINATION.—The alien shall undergo a medical examination (including a determination of immunization status), at the alien's expense, that conforms to generally accepted standards of medical practice.

“(5) APPLICATION CONTENT AND WAIVER.—

“(A) APPLICATION FORM.—The alien shall submit to the Secretary a completed application, on a form designed by the Secretary of Homeland Security, including proof of evidence of the requirements under paragraphs (1) and (2).

“(B) CONTENT.—In addition to any other information that the Secretary requires to determine an alien's eligibility for H-2C nonimmigrant status, the Secretary shall require an alien to provide information concerning the alien's—

“(i) physical and mental health;

“(ii) criminal history and gang membership;

“(iii) immigration history; and

“(iv) involvement with groups or individuals that have engaged in terrorism, genocide, persecution, or who seek the overthrow of the United States Government.

“(C) KNOWLEDGE.—The alien shall include with the application submitted under this paragraph a signed certification in which the alien certifies that—

“(i) the alien has read and understands all of the questions and statements on the application form;

“(ii) the alien certifies under penalty of perjury under the laws of the United States that the application, and any evidence submitted with it, are all true and correct; and

“(iii) the applicant authorizes the release of any information contained in the application and any attached evidence for law enforcement purposes.

“(c) GROUNDS OF INADMISSIBILITY.—

“(1) IN GENERAL.—In determining an alien’s admissibility as an H-2C nonimmigrant—

“(A) paragraphs (5), (6)(A), (7), (9)(B), and (9)(C) of section 212(a) may be waived for conduct that occurred before the effective date of the Comprehensive Immigration Reform Act of 2006;

“(B) the Secretary of Homeland Security may not waive the application of—

“(i) subparagraph (A), (B), (C), (E), (G), (H), or (I) of section 212(a)(2) (relating to criminals);

“(ii) section 212(a)(3) (relating to security and related grounds); or

“(iii) subparagraph (A), (C) or (D) of section 212(a)(10) (relating to polygamists and child abductors); and

“(C) for conduct that occurred before the date of the enactment of the Comprehensive Immigration Reform Act of 2006, the Secretary of Homeland Security may waive the application of any provision of section 212(a) not listed in subparagraph (B) on behalf of an individual alien—

“(i) for humanitarian purposes;

“(ii) to ensure family unity; or

“(iii) if such a waiver is otherwise in the public interest.

“(2) RENEWAL OF AUTHORIZED ADMISSION AND SUBSEQUENT ADMISSIONS.—An alien seeking renewal of authorized admission or subsequent admission as an H-2C nonimmigrant shall establish that the alien is not inadmissible under section 212(a).

“(d) BACKGROUND CHECKS.—The Secretary of Homeland Security shall not admit, and the Secretary of State shall not issue a visa to, an alien seeking H-2C nonimmigrant status unless all appropriate background checks have been completed.

“(e) INELIGIBLE TO CHANGE NONIMMIGRANT CLASSIFICATION.—An H-2C nonimmigrant may not change nonimmigrant classification under section 248.

“(f) PERIOD OF AUTHORIZED ADMISSION.—

“(1) AUTHORIZED PERIOD AND RENEWAL.—The initial period of authorized admission as an H-2C nonimmigrant shall be 3 years, and the alien may seek 1 extension for an additional 3-year period.

“(2) INTERNATIONAL COMMUTERS.—An alien who resides outside the United States and commutes into the United States to work as an H-2C nonimmigrant, is not subject to the time limitations under paragraph (1).

“(3) LOSS OF EMPLOYMENT.—

“(A) IN GENERAL.—Subject to subsection (c), the period of authorized admission of an H-2C nonimmigrant shall terminate if the alien is unemployed for 60 or more consecutive days.

“(B) RETURN TO FOREIGN RESIDENCE.—Any alien whose period of authorized admission terminates under subparagraph (A) shall be required to leave the United States.

“(C) PERIOD OF VISA VALIDITY.—Any alien, whose period of authorized admission terminates under subparagraph (A), who leaves the United States under subparagraph (B), may reenter the United States as an H-2C nonimmigrant to work for an employer, if the alien has complied with the requirements of subsections (b) and (f)(2). The Secretary may, in the Secretary’s sole and unreviewable discretion, reauthorize such alien for admission as an H-2C non-

immigrant without requiring the alien’s departure from the United States.

“(4) VISITS OUTSIDE UNITED STATES.—

“(A) IN GENERAL.—Under regulations established by the Secretary of Homeland Security, an H-2C nonimmigrant—

“(i) may travel outside of the United States; and

“(ii) may be readmitted without having to obtain a new visa if the period of authorized admission has not expired.

“(B) EFFECT ON PERIOD OF AUTHORIZED ADMISSION.—Time spent outside the United States under subparagraph (A) shall not extend the period of authorized admission in the United States.

“(5) BARS TO EXTENSION OR ADMISSION.—An alien may not be granted H-2C nonimmigrant status, or an extension of such status, if—

“(A) the alien has violated any material term or condition of such status granted previously, including failure to comply with the change of address reporting requirements under section 265;

“(B) the alien is inadmissible as a nonimmigrant; or

“(C) the granting of such status or extension of such status would allow the alien to exceed 6 years as an H-2C nonimmigrant, unless the alien has resided and been physically present outside the United States for at least 1 year after the expiration of such H-2C nonimmigrant status.

“(g) EVIDENCE OF NONIMMIGRANT STATUS.—Each H-2C nonimmigrant shall be issued documentary evidence of nonimmigrant status, which—

“(1) shall be machine-readable, tamper-resistant, and allow for biometric authentication;

“(2) shall be designed in consultation with the Forensic Document Laboratory of the Bureau of Immigration and Customs Enforcement;

“(3) shall, during the alien’s authorized period of admission under subsection (f), serve as a valid entry document for the purpose of applying for admission to the United States—

“(A) instead of a passport and visa if the alien—

“(i) is a national of a foreign territory contiguous to the United States; and

“(ii) is applying for admission at a land border port of entry; and

“(B) in conjunction with a valid passport, if the alien is applying for admission at an air or sea port of entry;

“(4) may be accepted during the period of its validity by an employer as evidence of employment authorization and identity under section 274A(b)(1)(B); and

“(5) shall be issued to the H-2C nonimmigrant by the Secretary of Homeland Security promptly after the final adjudication of such alien’s application for H-2C nonimmigrant status.

“(h) PENALTY FOR FAILURE TO DEPART.—If an H-2C nonimmigrant fails to depart the United States before the date which is 10 days after the date that the alien’s authorized period of admission as an H-2C nonimmigrant terminates, the H-2C nonimmigrant may not apply for or receive any immigration relief or benefit under this Act or any other law, except for relief under sections 208 and 241(b)(3) and relief under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, for an alien who indicates either an intention to apply for asylum under section 208 or a fear of persecution or torture.

“(i) PENALTY FOR ILLEGAL ENTRY OR OVERSTAY.—Any alien who enters, attempts to enter, or crosses the border after the date of the enactment of this section, and is phys-

ically present in the United States after such date in violation of this Act or of any other Federal law, may not receive, for a period of 10 years—

“(1) any relief under sections 240A and 240B; or

“(2) nonimmigrant status under section 101(a)(15).

“(j) PORTABILITY.—A nonimmigrant alien described in this section, who was previously issued a visa or otherwise provided H-2C nonimmigrant status, may accept a new offer of employment with a subsequent employer, if—

“(1) the employer complies with section 218B; and

“(2) the alien, after lawful admission to the United States, did not work without authorization.

“(k) CHANGE OF ADDRESS.—An H-2C nonimmigrant shall comply with the change of address reporting requirements under section 265 through either electronic or paper notification.

“(l) COLLECTION OF FEES.—All fees collected under this section shall be deposited in the Treasury in accordance with section 286(c).

“(m) ISSUANCE OF H-4 NONIMMIGRANT VISAS FOR SPOUSE AND CHILDREN.—

“(1) IN GENERAL.—The alien spouse and children of an H-2C nonimmigrant (referred to in this section as ‘dependent aliens’) who are accompanying or following to join the H-2C nonimmigrant may be issued nonimmigrant visas under section 101(a)(15)(H)(iv).

“(2) REQUIREMENTS FOR ADMISSION.—A dependent alien is eligible for nonimmigrant status under 101(a)(15)(H)(iv) if the dependent alien meets the following requirements:

“(A) ELIGIBILITY.—The dependent alien is admissible as a nonimmigrant and does not fall within a class of aliens ineligible for H-4A nonimmigrant status listed under subsection (c).

“(B) MEDICAL EXAMINATION.—Before a nonimmigrant visa is issued to a dependent alien under this subsection, the dependent alien may be required to submit to a medical examination (including a determination of immunization status) at the alien’s expense, that conforms to generally accepted standards of medical practice.

“(C) BACKGROUND CHECKS.—Before a nonimmigrant visa is issued to a dependent alien under this section, the consular officer shall conduct such background checks as the Secretary of State, in consultation with the Secretary of Homeland Security, considers appropriate.

“(n) DEFINITIONS.—In this section and sections 218B, 218C, and 218D:

“(1) AGGRIEVED PERSON.—The term ‘aggrieved person’ means a person adversely affected by an alleged violation of this section, including—

“(A) a worker whose job, wages, or working conditions are adversely affected by the violation; and

“(B) a representative for workers whose jobs, wages, or working conditions are adversely affected by the violation who brings a complaint on behalf of such worker.

“(2) AREA OF EMPLOYMENT.—The terms ‘area of employment’ and ‘area of intended employment’ mean the area within normal commuting distance of the worksite or physical location at which the work of the temporary worker is or will be performed. If such worksite or location is within a Metropolitan Statistical Area, any place within such area is deemed to be within the area of employment.

“(3) ELIGIBLE INDIVIDUAL.—The term ‘eligible individual’ means, with respect to employment, an individual who is not an unauthorized alien (as defined in section 274A) with respect to that employment.

“(4) EMPLOY; EMPLOYEE; EMPLOYER.—The terms ‘employ’, ‘employee’, and ‘employer’ have the meanings given such terms in section 3 of the Fair Labor Standards Act of 1938 (29 U.S.C. 203).

“(5) FOREIGN LABOR CONTRACTOR.—The term ‘foreign labor contractor’ means any person who for any compensation or other valuable consideration paid or promised to be paid, performs any foreign labor contracting activity.

“(6) FOREIGN LABOR CONTRACTING ACTIVITY.—The term ‘foreign labor contracting activity’ means recruiting, soliciting, hiring, employing, or furnishing, an individual who resides outside of the United States for employment in the United States as a nonimmigrant alien described in section 101(a)(15)(H)(ii)(c).

“(7) H-2C NONIMMIGRANT.—The term ‘H-2C nonimmigrant’ means a nonimmigrant described in section 101(a)(15)(H)(ii)(c).

“(8) SEPARATION FROM EMPLOYMENT.—The term ‘separation from employment’ means the worker’s loss of employment, other than through a discharge for inadequate performance, violation of workplace rules, cause, voluntary departure, voluntary retirement, or the expiration of a grant or contract. The term does not include any situation in which the worker is offered, as an alternative to such loss of employment, a similar employment opportunity with the same employer at equivalent or higher compensation and benefits than the position from which the employee was discharged, regardless of whether the employee accepts the offer. Nothing in this paragraph shall limit an employee’s rights under a collective bargaining agreement or other employment contract.

“(9) UNITED STATES WORKER.—The term ‘United States worker’ means an employee who is—

- “(A) a citizen or national of the United States; or
- “(B) an alien who is—
 - “(i) lawfully admitted for permanent residence;
 - “(ii) admitted as a refugee under section 207;
 - “(iii) granted asylum under section 208; or
 - “(iv) otherwise authorized, under this Act or by the Secretary of Homeland Security, to be employed in the United States.”.

(2) CLERICAL AMENDMENT.—The table of contents for the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended by inserting after the item relating to section 218 the following:

“Sec. 218A. Admission of temporary H-2C workers.”.

(b) CREATION OF STATE IMPACT ASSISTANCE ACCOUNT.—Section 286 (8 U.S.C. 1356) is amended by adding at the end the following:

“(x) STATE IMPACT ASSISTANCE ACCOUNT.—There is established in the general fund of the Treasury a separate account, which shall be known as the ‘State Impact Aid Account’. Notwithstanding any other provision under this Act, there shall be deposited as offsetting receipts into the account all family supplemental visa and family supplemental extension of status fees collected under sections 218A and 218B.”.

SEC. 404. EMPLOYER OBLIGATIONS.

(a) IN GENERAL.—Title II (8 U.S.C. 1201 et seq.) is amended by inserting after section 218A, as added by section 403, the following:

“SEC. 218B. EMPLOYER OBLIGATIONS.

“(a) GENERAL REQUIREMENTS.—Each employer who employs an H-2C nonimmigrant shall—

- “(1) file a petition in accordance with subsection (b); and
- “(2) pay the appropriate fee, as determined by the Secretary of Labor.

“(b) PETITION.—A petition to hire an H-2C nonimmigrant under this section shall in-

clude an attestation by the employer of the following:

“(1) PROTECTION OF UNITED STATES WORKERS.—The employment of an H-2C nonimmigrant—

“(A) will not adversely affect the wages and working conditions of workers in the United States similarly employed; and

“(B) did not and will not cause the separation from employment of a United States worker employed by the employer within the 180-day period beginning 90 days before the date on which the petition is filed.

“(2) WAGES.—

“(A) IN GENERAL.—The H-2C nonimmigrant will be paid not less than the greater of—

“(i) the actual wage level paid by the employer to all other individuals with similar experience and qualifications for the specific employment in question; or

“(ii) the prevailing wage level for the occupational classification in the area of employment, taking into account experience and skill levels of employees.

“(B) CALCULATION.—The wage levels under subparagraph (A) shall be calculated based on the best information available at the time of the filing of the application.

“(C) PREVAILING WAGE LEVEL.—For purposes of subparagraph (A)(ii), the prevailing wage level shall be determined in accordance with this subparagraph. If the job opportunity is covered by a collective bargaining agreement between a union and the employer, the prevailing wage shall be the wage rate set forth in the collective bargaining agreement. If the job opportunity is not covered by such an agreement, and it is in an occupation that is covered by a wage determination under a provision of subchapter IV of chapter 31 of title 40, United States Code, or the Service Contract Act of 1965 (41 U.S.C. 351 et seq.), the prevailing wage level shall be the appropriate statutory wage.

“(3) WORKING CONDITIONS.—All workers in the occupation at the place of employment at which the H-2C nonimmigrant will be employed will be provided the working conditions and benefits that are normal to workers similarly employed in the area of intended employment.

“(4) LABOR DISPUTE.—There is not a strike, lockout, or work stoppage in the course of a labor dispute in the occupation at the place of employment at which the H-2C nonimmigrant will be employed. If such strike, lockout, or work stoppage occurs following submission of the petition, the employer will provide notification in accordance with regulations promulgated by the Secretary of Labor.

“(5) PROVISION OF INSURANCE.—If the position for which the H-2C nonimmigrant is sought is not covered by the State workers’ compensation law, the employer will provide, at no cost to the H-2C nonimmigrant, insurance covering injury and disease arising out of, and in the course of, the worker’s employment, which will provide benefits at least equal to those provided under the State workers’ compensation law for comparable employment.

“(6) NOTICE TO EMPLOYEES.—

“(A) IN GENERAL.—The employer has provided notice of the filing of the petition to the bargaining representative of the employer’s employees in the occupational classification and area of employment for which the H-2C nonimmigrant is sought.

“(B) NO BARGAINING REPRESENTATIVE.—If there is no such bargaining representative, the employer has—

- “(i) posted a notice of the filing of the petition in a conspicuous location at the place or places of employment for which the H-2C nonimmigrant is sought; or
- “(ii) electronically disseminated such a notice to the employer’s employees in the oc-

cupational classification for which the H-2C nonimmigrant is sought.

“(7) RECRUITMENT.—Except where the Secretary of Labor has determined that there is a shortage of United States workers in the occupation and area of intended employment for which the H-2C nonimmigrant is sought—

“(A) there are not sufficient workers who are able, willing, and qualified, and who will be available at the time and place needed, to perform the labor or services involved in the petition; and

“(B) good faith efforts have been taken to recruit United States workers, in accordance with regulations promulgated by the Secretary of Labor, which efforts included—

“(i) the completion of recruitment during the period beginning on the date that is 90 days before the date on which the petition was filed with the Department of Homeland Security and ending on the date that is 14 days before such filing date; and

“(ii) the actual wage paid by the employer for the occupation in the areas of intended employment was used in conducting recruitment.

“(8) INELIGIBILITY.—The employer is not currently ineligible from using the H-2C nonimmigrant program described in this section.

“(9) BONAFIDE OFFER OF EMPLOYMENT.—The job for which the H-2C nonimmigrant is sought is a bona fide job—

“(A) for which the employer needs labor or services;

“(B) which has been and is clearly open to any United States worker; and

“(C) for which the employer will be able to place the H-2C nonimmigrant on the payroll.

“(10) PUBLIC AVAILABILITY AND RECORDS RETENTION.—A copy of each petition filed under this section and documentation supporting each attestation, in accordance with regulations promulgated by the Secretary of Labor, will—

“(A) be provided to every H-2C nonimmigrant employed under the petition;

“(B) be made available for public examination at the employer’s place of business or work site;

“(C) be made available to the Secretary of Labor during any audit; and

“(D) remain available for examination for 5 years after the date on which the petition is filed.

“(11) NOTIFICATION UPON SEPARATION FROM OR TRANSFER OF EMPLOYMENT.—The employer will notify the Secretary of Labor and the Secretary of Homeland Security of an H-2C nonimmigrant’s separation from employment or transfer to another employer not more than 3 business days after the date of such separation or transfer, in accordance with regulations promulgated by the Secretary of Homeland Security.

“(12) ACTUAL NEED FOR LABOR OR SERVICES.—The petition was filed not more than 60 days before the date on which the employer needed labor or services for which the H-2C nonimmigrant is sought.

“(c) AUDIT OF ATTESTATIONS.—

“(1) REFERRALS BY SECRETARY OF HOMELAND SECURITY.—The Secretary of Homeland Security shall refer all approved petitions for H-2C nonimmigrants to the Secretary of Labor for potential audit.

“(2) AUDITS AUTHORIZED.—The Secretary of Labor may audit any approved petition referred pursuant to paragraph (1), in accordance with regulations promulgated by the Secretary of Labor.

“(d) INELIGIBLE EMPLOYERS.—

“(1) IN GENERAL.—The Secretary of Homeland Security shall not approve an employer’s petitions, applications, certifications, or attestations under any immigrant or nonimmigrant program if the Secretary of

Labor determines, after notice and an opportunity for a hearing, that the employer submitting such documents—

“(A) has, with respect to the attestations required under subsection (b)—

“(i) misrepresented a material fact;

“(ii) made a fraudulent statement; or

“(iii) failed to comply with the terms of such attestations; or

“(B) failed to cooperate in the audit process in accordance with regulations promulgated by the Secretary of Labor.

“(2) LENGTH OF INELIGIBILITY.—An employer described in paragraph (1) shall be ineligible to participate in the labor certification programs of the Secretary of Labor for not less than the time period determined by the Secretary, not to exceed 3 years.

“(3) EMPLOYERS IN HIGH UNEMPLOYMENT AREAS.—Beginning on the date that is 1 year after the date of the enactment of the Comprehensive Immigration Reform Act of 2006, the Secretary of Homeland Security may not approve any employer's petition under subsection (b) if the work to be performed by the H-2C nonimmigrant is located in a metropolitan or micropolitan statistical area (as defined by the Office of Management and Budget) in which the unemployment rate for unskilled and low-skilled workers during the most recently completed 6-month period averaged more than 11.0 percent.

“(e) REGULATION OF FOREIGN LABOR CONTRACTORS.—

“(1) COVERAGE.—Notwithstanding any other provision of law, an H-2C nonimmigrant may not be treated as an independent contractor.

“(2) APPLICABILITY OF LAWS.—An H-2C nonimmigrant shall not be denied any right or any remedy under Federal, State, or local labor or employment law that would be applicable to a United States worker employed in a similar position with the employer because of the alien's status as a nonimmigrant worker.

“(3) TAX RESPONSIBILITIES.—With respect to each employed H-2C nonimmigrant, an employer shall comply with all applicable Federal, State, and local tax and revenue laws.

“(f) WHISTLEBLOWER PROTECTION.—It shall be unlawful for an employer or a labor contractor of an H-2C nonimmigrant to intimidate, threaten, restrain, coerce, retaliate, discharge, or in any other manner, discriminate against an employee or former employee because the employee or former employee—

“(1) discloses information to the employer or any other person that the employee or former employee reasonably believes demonstrates a violation of this Act; or

“(2) cooperates or seeks to cooperate in an investigation or other proceeding concerning compliance with the requirements of this Act.

“(g) LABOR RECRUITERS.—

“(1) IN GENERAL.—Each employer that engages in foreign labor contracting activity and each foreign labor contractor shall ascertain and disclose, to each such worker who is recruited for employment at the time of the worker's recruitment—

“(A) the place of employment;

“(B) the compensation for the employment;

“(C) a description of employment activities;

“(D) the period of employment;

“(E) any other employee benefit to be provided and any costs to be charged for each benefit;

“(F) any travel or transportation expenses to be assessed;

“(G) the existence of any labor organizing effort, strike, lockout, or other labor dispute at the place of employment;

“(H) the existence of any arrangement with any owner, employer, foreign contractor, or its agent where such person receives a commission from the provision of items or services to workers;

“(I) the extent to which workers will be compensated through workers' compensation, private insurance, or otherwise for injuries or death, including—

“(i) work related injuries and death during the period of employment;

“(ii) the name of the State workers' compensation insurance carrier or the name of the policyholder of the private insurance;

“(iii) the name and the telephone number of each person who must be notified of an injury or death; and

“(iv) the time period within which such notice must be given;

“(J) any education or training to be provided or required, including—

“(i) the nature and cost of such training;

“(ii) the entity that will pay such costs; and

“(iii) whether the training is a condition of employment, continued employment, or future employment; and

“(K) a statement, in a form specified by the Secretary of Labor, describing the protections of this Act for workers recruited abroad.

“(2) FALSE OR MISLEADING INFORMATION.—No foreign labor contractor or employer who engages in foreign labor contracting activity shall knowingly provide material false or misleading information to any worker concerning any matter required to be disclosed in paragraph (1).

“(3) LANGUAGES.—The information required to be disclosed under paragraph (1) shall be provided in writing in English or, as necessary and reasonable, in the language of the worker being recruited. The Secretary of Labor shall make forms available in English, Spanish, and other languages, as necessary, which may be used in providing workers with information required under this section.

“(4) FEES.—A person conducting a foreign labor contracting activity shall not assess any fee to a worker for such foreign labor contracting activity.

“(5) TERMS.—No employer or foreign labor contractor shall, without justification, violate the terms of any agreement made by that contractor or employer regarding employment under this program.

“(6) TRAVEL COSTS.—If the foreign labor contractor or employer charges the employee for transportation such transportation costs shall be reasonable.

“(7) OTHER WORKER PROTECTIONS.—

“(A) NOTIFICATION.—Not less frequently than once every 2 years, each employer shall notify the Secretary of Labor of the identity of any foreign labor contractor engaged by the employer in any foreign labor contractor activity for, or on behalf of, the employer.

“(B) REGISTRATION OF FOREIGN LABOR CONTRACTORS.—

“(1) IN GENERAL.—No person shall engage in foreign labor recruiting activity unless such person has a certificate of registration from the Secretary of Labor specifying the activities that such person is authorized to perform. An employer who retains the services of a foreign labor contractor shall only use those foreign labor contractors who are registered under this subparagraph.

“(i) ISSUANCE.—The Secretary shall promulgate regulations to establish an efficient electronic process for the investigation and approval of an application for a certificate of registration of foreign labor contractors not later than 14 days after such application is filed, including—

“(I) requirements under paragraphs (1), (4), and (5) of section 102 of the Migrant and Sea-

sonal Agricultural Worker Protection Act (29 U.S.C. 1812);

“(II) an expeditious means to update registrations and renew certificates; and

“(III) any other requirements that the Secretary may prescribe.

“(iii) TERM.—Unless suspended or revoked, a certificate under this subparagraph shall be valid for 2 years.

“(iv) REFUSAL TO ISSUE; REVOCATION; SUSPENSION.—In accordance with regulations promulgated by the Secretary of Labor, the Secretary may refuse to issue or renew, or may suspend or revoke, a certificate of registration under this subparagraph if—

“(I) the application or holder of the certification has knowingly made a material misrepresentation in the application for such certificate;

“(II) the applicant for, or holder of, the certification is not the real party in interest in the application or certificate of registration and the real party in interest—

“(aa) is a person who has been refused issuance or renewal of a certificate;

“(bb) has had a certificate suspended or revoked; or

“(cc) does not qualify for a certificate under this paragraph; or

“(III) the applicant for or holder of the certification has failed to comply with this Act.

“(C) REMEDY FOR VIOLATIONS.—An employer engaging in foreign labor contracting activity and a foreign labor contractor that violates the provisions of this subsection shall be subject to remedies for foreign labor contractor violations under subsections (h) and (i). If a foreign labor contractor acting as an agent of an employer violates any provision of this subsection, the employer shall also be subject to remedies under subsections (h) and (i). An employer that violates a provision of this subsection relating to employer obligations shall be subject to remedies under subsections (h) and (i).

“(D) EMPLOYER NOTIFICATION.—An employer shall notify the Secretary of Labor if the employer becomes aware of a violation of this subsection by a foreign labor recruiter.

“(E) WRITTEN AGREEMENTS.—A foreign labor contractor may not violate the terms of any written agreements made with an employer relating to any contracting activity or worker protection under this subsection.

“(F) BONDING REQUIREMENT.—The Secretary of Labor may require a foreign labor contractor to post a bond in an amount sufficient to ensure the protection of individuals recruited by the foreign labor contractor. The Secretary may consider the extent to which the foreign labor contractor has sufficient ties to the United States to adequately enforce this subsection.

“(h) ENFORCEMENT.—

“(1) IN GENERAL.—The Secretary of Labor shall promulgate regulations for the receipt, investigation, and disposition of complaints by an aggrieved person respecting a violation of this section.

“(2) FILING DEADLINE.—No investigation or hearing shall be conducted on a complaint concerning a violation under this section unless the complaint was filed not later than 12 months after the date of such violation.

“(3) REASONABLE CAUSE.—The Secretary of Labor shall conduct an investigation under this subsection if there is reasonable cause to believe that a violation of this section has occurred. The process established under this subsection shall provide that, not later than 30 days after a complaint is filed, the Secretary shall determine if there is reasonable cause to find such a violation.

“(4) NOTICE AND HEARING.—

“(A) IN GENERAL.—Not later than 60 days after the Secretary of Labor makes a determination of reasonable cause under paragraph (4), the Secretary shall issue a notice

to the interested parties and offer an opportunity for a hearing on the complaint, in accordance with section 556 of title 5, United States Code.

“(B) COMPLAINT.—If the Secretary of Labor, after receiving a complaint under this subsection, does not offer the aggrieved party or organization an opportunity for a hearing under subparagraph (A), the Secretary shall notify the aggrieved party or organization of such determination and the aggrieved party or organization may seek a hearing on the complaint in accordance with such section 556.

“(C) HEARING DEADLINE.—Not later than 60 days after the date of a hearing under this paragraph, the Secretary of Labor shall make a finding on the matter in accordance with paragraph (5).

“(5) ATTORNEYS’ FEES.—A complainant who prevails with respect to a claim under this subsection shall be entitled to an award of reasonable attorneys’ fees and costs.

“(6) POWER OF THE SECRETARY.—The Secretary may bring an action in any court of competent jurisdiction—

“(A) to seek remedial action, including injunctive relief;

“(B) to recover the damages described in subsection (i); or

“(C) to ensure compliance with terms and conditions described in subsection (g).

“(7) SOLICITOR OF LABOR.—Except as provided in section 518(a) of title 28, United States Code, the Solicitor of Labor may appear for and represent the Secretary of Labor in any civil litigation brought under this subsection. All such litigation shall be subject to the direction and control of the Attorney General.

“(8) PROCEDURES IN ADDITION TO OTHER RIGHTS OF EMPLOYEES.—The rights and remedies provided to workers under this section are in addition to any other contractual or statutory rights and remedies of the workers, and are not intended to alter or affect such rights and remedies.

“(i) PENALTIES.—

“(1) IN GENERAL.—If, after notice and an opportunity for a hearing, the Secretary of Labor finds a violation of subsection (b), (e), (f), or (g), the Secretary may impose administrative remedies and penalties, including—

“(A) back wages;

“(B) benefits; and

“(C) civil monetary penalties.

“(2) CIVIL PENALTIES.—The Secretary of Labor may impose, as a civil penalty—

“(A) for a violation of subsection (e) or (f)—

“(i) a fine in an amount not to exceed \$2,000 per violation per affected worker;

“(ii) if the violation was willful violation, a fine in an amount not to exceed \$5,000 per violation per affected worker;

“(iii) if the violation was willful and if in the course of such violation a United States worker was harmed, a fine in an amount not to exceed \$25,000 per violation per affected worker; and

“(B) for a violation of subsection (g)—

“(i) a fine in an amount not less than \$500 and not more than \$4,000 per violation per affected worker;

“(ii) if the violation was willful, a fine in an amount not less than \$2,000 and not more than \$5,000 per violation per affected worker; and

“(iii) if the violation was willful and if in the course of such violation a United States worker was harmed, a fine in an amount not less than \$6,000 and not more than \$35,000 per violation per affected worker.

“(3) USE OF CIVIL PENALTIES.—All penalties collected under this subsection shall be deposited in the Treasury in accordance with section 286(w).

“(4) CRIMINAL PENALTIES.—If a willful and knowing violation of subsection (g) causes extreme physical or financial harm to an individual, the person in violation of such subsection may be imprisoned for not more than 6 months, fined in an amount not more than \$35,000, or both.”.

(b) CLERICAL AMENDMENT.—The table of contents is amended by inserting after the item relating to section 218A, as added by section 403, the following:

“Sec. 218B. Employer obligations.”.

SEC. 405. ALIEN EMPLOYMENT MANAGEMENT SYSTEM.

(a) IN GENERAL.—Title II (8 U.S.C. 1151 et seq.) is amended by inserting after section 218B, as added by section 404, the following:

“SEC. 218C. ALIEN EMPLOYMENT MANAGEMENT SYSTEM.

“(a) ESTABLISHMENT.—The Secretary of Homeland Security, in consultation with the Secretary of Labor, the Secretary of State, and the Commission of Social Security, shall develop and implement a program (referred to in this section as the ‘alien employment management system’) to manage and track the employment of aliens described in sections 218A and 218D.

“(b) REQUIREMENTS.—The alien employment management system shall—

“(1) provide employers who seek employees with an opportunity to recruit and advertise employment opportunities available to United States workers before hiring an H-2C nonimmigrant;

“(2) collect sufficient information from employers to enable the Secretary of Homeland Security to determine—

“(A) if the nonimmigrant is employed;

“(B) which employers have hired an H-2C nonimmigrant;

“(C) the number of H-2C nonimmigrants that an employer is authorized to hire and is currently employing;

“(D) the occupation, industry, and length of time that an H-2C nonimmigrant has been employed in the United States;

“(3) allow employers to request approval of multiple H-2C nonimmigrant workers; and

“(4) permit employers to submit applications under this section in an electronic form.”.

(b) CLERICAL AMENDMENT.—The table of contents for the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended by inserting after the item relating to section 218B, as added by section 404, the following:

“Sec. 218C. Alien employment management system.”.

SEC. 406. RULEMAKING; EFFECTIVE DATE.

(a) RULEMAKING.—Not later than 6 months after the date of enactment of this Act, the Secretary of Labor shall promulgate regulations, in accordance with the notice and comment provisions of section 553 of title 5, United States Code, to carry out the provisions of sections 218A, 218B, and 218C, as added by this Act.

(b) EFFECTIVE DATE.—The amendments made by sections 403, 404, and 405 shall take effect on the date that is 1 year after the date of the enactment of this Act with regard to aliens, who, on such effective date, are in the foreign country where they maintain residence.

SEC. 407. RECRUITMENT OF UNITED STATES WORKERS.

(a) ELECTRONIC JOB REGISTRY.—The Secretary of Labor shall establish a publicly accessible Web page on the Internet website of the Department of Labor that provides a single Internet link to each State workforce agency’s statewide electronic registry of jobs available throughout the United States to United States workers.

(b) RECRUITMENT OF UNITED STATES WORKERS.—

(1) POSTING.—An employer shall attest that the employer has posted an employment opportunity in accordance with section 218B(b)(9) of the Immigration and Nationality Act, as added by this Act.

(2) RECORDS.—An employer shall maintain records for not less than 1 year after the date on which an H-2C nonimmigrant is hired that describe the reasons for not hiring any of the United States workers who may have applied for such position.

(c) OVERSIGHT AND MAINTENANCE OF RECORDS.—The Secretary of Labor shall promulgate regulations regarding the maintenance of electronic job registry records for the purpose of audit or investigation.

(d) ACCESS TO ELECTRONIC JOB REGISTRY.—The Secretary of Labor shall ensure that job opportunities advertised on an electronic job registry established under this section are accessible—

(1) by the State workforce agencies, which may further disseminate job opportunity information to other interested parties; and

(2) through the Internet, for access by workers, employers, labor organizations, and other interested parties.

SEC. 408. TEMPORARY GUEST WORKER VISA PROGRAM TASK FORCE.

(a) ESTABLISHMENT.—There is established a task force to be known as the “Temporary Worker Task Force” (referred to in this section as the “Task Force”).

(b) PURPOSES.—The purposes of the Task Force are—

(1) to study the impact of the admission of aliens under section 101(a)(15)(ii)(c) on the wages, working conditions, and employment of United States workers; and

(2) to make recommendations to the Secretary of Labor regarding the need for an annual numerical limitation on the number of aliens that may be admitted in any fiscal year under section 101(a)(15)(ii)(c).

(c) MEMBERSHIP.—

(1) IN GENERAL.—The Task Force shall be composed of 10 members, of whom—

(A) 1 shall be appointed by the President and shall serve as chairman of the Task Force;

(B) 1 shall be appointed by the leader of the minority party in the Senate, in consultation with the leader of the minority party in the House of Representatives, and shall serve as vice chairman of the Task Force;

(C) 2 shall be appointed by the majority leader of the Senate;

(D) 2 shall be appointed by the minority leader of the Senate;

(E) 2 shall be appointed by the Speaker of the House of Representatives; and

(F) 2 shall be appointed by the minority leader of the House of Representatives.

(2) DEADLINE FOR APPOINTMENT.—All members of the Task Force shall be appointed not later than 6 months after the date of the enactment of this Act.

(3) VACANCIES.—Any vacancy in the Task Force shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

(4) QUORUM.—Six members of the Task Force shall constitute a quorum.

(d) QUALIFICATIONS.—

(1) IN GENERAL.—Members of the Task Force shall be—

(A) individuals with expertise in economics, demography, labor, business, or immigration or other pertinent qualifications or experience; and

(B) representative of a broad cross-section of perspectives within the United States, including the public and private sectors and academia.

(2) POLITICAL AFFILIATION.—Not more than 5 members of the Task Force may be members of the same political party.

(3) **NONGOVERNMENTAL APPOINTEES.**—An individual appointed to the Task Force may not be an officer or employee of the Federal Government or of any State or local government.

(e) **MEETINGS.**—

(1) **INITIAL MEETING.**—The Task Force shall meet and begin the operations of the Task Force as soon as practicable.

(2) **SUBSEQUENT MEETINGS.**—After its initial meeting, the Task Force shall meet upon the call of the chairman or a majority of its members.

(f) **REPORT.**—Not later than 18 months after the date of the enactment of this Act, the Task Force shall submit, to Congress, the Secretary of Labor, and the Secretary, a report that contains—

(1) findings with respect to the duties of the Task Force; and

(2) recommendations for imposing a numerical limit.

(g) **NUMERICAL LIMITATIONS.**—Section 214(g)(1) (8 U.S.C. 1184(g)(1)) is amended—

(1) in subparagraph (B), by striking the period at the end and inserting “; and”; and

(2) by adding at the end the following:

“(C) under section 101(a)(15)(H)(ii)(c) may not exceed—

“(i) 400,000 for the first fiscal year in which the program is implemented;

“(ii) in any subsequent fiscal year—

“(I) if the total number of visas allocated for that fiscal year are allotted within the first quarter of that fiscal year, then an additional 20 percent of the allocated number shall be made available immediately and the allocated amount for the following fiscal year shall increase by 20 percent of the original allocated amount in the prior fiscal year;

“(II) if the total number of visas allocated for that fiscal year are allotted within the second quarter of that fiscal year, then an additional 15 percent of the allocated number shall be made available immediately and the allocated amount for the following fiscal year shall increase by 15 percent of the original allocated amount in the prior fiscal year;

“(III) if the total number of visas allocated for that fiscal year are allotted within the third quarter of that fiscal year, then an additional 10 percent of the allocated number shall be made available immediately and the allocated amount for the following fiscal year shall increase by 10 percent of the original allocated amount in the prior fiscal year;

“(IV) if the total number of visas allocated for that fiscal year are allotted within the last quarter of that fiscal year, then the allocated amount for the following fiscal year shall increase by 10 percent of the original allocated amount in the prior fiscal year; and

“(V) with the exception of the first subsequent fiscal year to the fiscal year in which the program is implemented, if fewer visas were allotted the previous fiscal year than the number of visas allocated for that year and the reason was not due to processing delays or delays in promulgating regulations, then the allocated amount for the following fiscal year shall decrease by 10 percent of the allocated amount in the prior fiscal year.”

(h) **ADJUSTMENT TO LAWFUL PERMANENT RESIDENT STATUS.**—Section 245 (8 U.S.C. 1255) is amended by adding at the end the following:

“(n)(1) For purposes of adjustment of status under subsection (a), employment-based immigrant visas shall be made available to an alien having nonimmigrant status described in section 101(a)(15)(H)(ii)(c) upon the filing of a petition for such a visa—

“(A) by the alien’s employer; or

“(B) by the alien, if the alien has maintained such nonimmigrant status in the

United States for a cumulative total of 4 years.

“(2) An alien having nonimmigrant status described in section 101(a)(15)(H)(ii)(c) may not apply for adjustment of status under this section unless the alien—

“(A) is physically present in the United States; and

“(B) the alien establishes that the alien—

“(i) meets the requirements of section 312; or

“(ii) is satisfactorily pursuing a course of study to achieve such an understanding of English and knowledge and understanding of the history and government of the United States.

“(3) An alien who demonstrates that the alien meets the requirements of section 312 may be considered to have satisfied the requirements of that section for purposes of becoming naturalized as a citizen of the United States under title III.

“(4) Filing a petition under paragraph (1) on behalf of an alien or otherwise seeking permanent residence in the United States for such alien shall not constitute evidence of the alien’s ineligibility for nonimmigrant status under section 101(a)(15)(H)(ii)(c).

“(5) The Secretary of Homeland Security shall extend, in 1-year increments, the stay of an alien for whom a labor certification petition filed under section 203(b) or an immigrant visa petition filed under section 204(b) is pending until a final decision is made on the alien’s lawful permanent residence.

“(6) Nothing in this subsection shall be construed to prevent an alien having nonimmigrant status described in section 101(a)(15)(H)(ii)(c) from filing an application for adjustment of status under this section in accordance with any other provision of law.”

SEC. 409. REQUIREMENTS FOR PARTICIPATING COUNTRIES.

(a) **IN GENERAL.**—The Secretary of State, in cooperation with the Secretary and the Attorney General, shall negotiate with each home country of aliens described in section 101(a)(15)(H)(ii)(c) of the Immigration and Nationality Act, as added by section 402, to enter into a bilateral agreement with the United States that conforms to the requirements under subsection (b).

(b) **REQUIREMENTS OF BILATERAL AGREEMENTS.**—Each agreement negotiated under subsection (a) shall require the participating home country to—

(1) accept the return of nationals who are ordered removed from the United States within 3 days of such removal;

(2) cooperate with the United States Government to—

(A) identify, track, and reduce gang membership, violence, and human trafficking and smuggling; and

(B) control illegal immigration;

(3) provide the United States Government with—

(A) passport information and criminal records of aliens who are seeking admission to, or are present in, the United States; and

(B) admission and entry data to facilitate United States entry-exit data systems; and

(4) educate nationals of the home country regarding United States temporary worker programs to ensure that such nationals are not exploited; and

(5) evaluate means to provide housing incentives in the alien’s home country for returning workers.

(c) **EXPANSION OF S VISA CLASSIFICATION.**—Section 101(a)(15)(S) (8 U.S.C. 1101(a)(15)(S)) is amended—

(1) in clause (i)—

(A) by striking “Attorney General” each place that term appears and inserting “Secretary of Homeland Security”;

(B) in subclause (I), by inserting before the semicolon, “, including a criminal enterprise undertaken by a foreign government, its agents, representatives, or officials”;

(C) in subclause (III), by inserting “where the information concerns a criminal enterprise undertaken by an individual or organization that is not a foreign government, its agents, representatives, or officials,” before “whose”; and

(D) by striking “or” at the end; and

(2) in clause (ii)—

(A) by striking “Attorney General” and inserting “Secretary of Homeland Security”; and

(B) by striking “1956,” and all that follows through “the alien;” and inserting the following: “1956; or

“(iii) who the Secretary of Homeland Security and the Secretary of State, in consultation with the Director of Central Intelligence, jointly determine—

“(I) is in possession of critical reliable information concerning the activities of governments or organizations, or their agents, representatives, or officials, with respect to weapons of mass destruction and related delivery systems, if such governments or organizations are at risk of developing, selling, or transferring such weapons or related delivery systems; and

“(II) is willing to supply or has supplied, fully and in good faith, information described in subclause (I) to appropriate persons within the United States Government;

“and, if the Secretary of Homeland Security (or with respect to clause (ii), the Secretary of State and the Secretary of Homeland Security jointly) considers it to be appropriate, the spouse, married and unmarried sons and daughters, and parents of an alien described in clause (i), (ii), or (iii) if accompanying, or following to join, the alien;”.

(b) **NUMERICAL LIMITATION.**—Section 214(k)(1) (8 U.S.C. 1184(k)(1)) is amended by striking “The number of aliens” and all that follows through the period and inserting the following: “The number of aliens who may be provided a visa as nonimmigrants under section 101(a)(15)(S) in any fiscal year may not exceed 1,000.”

(c) **REPORTS.**—

(1) **CONTENT.**—Paragraph (4) of section 214(k) (8 U.S.C. 1184(k)) is amended—

(A) in the matter preceding subparagraph (A)—

(i) by striking “The Attorney General” and inserting “The Secretary of Homeland Security”; and

(ii) by striking “concerning—” and inserting “that includes—”;

(B) in subparagraph (D), by striking “and”; (C) in subparagraph (E), by striking the period at the end and inserting “; and”; and

(D) by inserting at the end the following: “(F) in the event that the total number of such nonimmigrants admitted is fewer than 25 percent of the total number provided for under paragraph (1) of this subsection—

“(i) the reasons why the number of such nonimmigrants admitted is fewer than 25 percent of that provided for by law;

“(ii) the efforts made by the Secretary of Homeland Security to admit such nonimmigrants; and

“(iii) any extenuating circumstances that contributed to the admission of a number of such nonimmigrants that is fewer than 25 percent of that provided for by law.”

(2) **FORM OF REPORT.**—Section 214(k) (8 U.S.C. 1184(k)) is amended by adding at the end the following new paragraph:

“(5) To the extent required by law and if it is in the interests of national security or the security of such nonimmigrants that are admitted, as determined by the Secretary of Homeland Security, the information contained in a report described in paragraph (4)

may be classified, and the Secretary of Homeland Security shall, to the extent feasible, submit a non-classified version of the report to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate.”

SEC. 411. L VISA LIMITATIONS.

Section 214(c)(2) (8 U.S.C. 1184(c)(2)) is amended—

(1) by striking “Attorney General” each place it appears and inserting “Secretary of Homeland Security”;

(2) in subparagraph (E), by striking “In the case” and inserting “Except as provided in subparagraph (H), in the case”; and

(3) by adding at the end the following:

“(G)(i) If the beneficiary of a petition under this subsection is coming to the United States to open, or be employed in, a new facility, the petition may be approved for a period not to exceed 12 months only if the employer operating the new facility has—

“(I) a business plan;

“(II) sufficient physical premises to carry out the proposed business activities; and

“(III) the financial ability to commence doing business immediately upon the approval of the petition.

“(ii) An extension of the approval period under clause (i) may not be granted until the importing employer submits to the Secretary of Homeland Security—

“(I) evidence that the importing employer meets the requirements of this subsection;

“(II) evidence that the beneficiary meets the requirements of section 101(a)(15)(L);

“(III) a statement summarizing the original petition;

“(IV) evidence that the importing employer has fully complied with the business plan submitted under clause (i);

“(V) evidence of the truthfulness of any representations made in connection with the filing of the original petition;

“(VI) evidence that the importing employer, during the previous 12 months, has been doing business at the new facility through regular, systematic, and continuous provision of goods or services, or has otherwise been taking commercially reasonable steps to establish the new facility as a commercial enterprise;

“(VII) a statement of the duties the beneficiary has performed at the new facility during the previous 12 months and the duties the beneficiary will perform at the new facility during the extension period approved under this clause;

“(VIII) a statement describing the staffing at the new facility, including the number of employees and the types of positions held by such employees;

“(IX) evidence of wages paid to employees if the beneficiary will be employed in a managerial or executive capacity;

“(X) evidence of the financial status of the new facility; and

“(XI) any other evidence or data prescribed by the Secretary.

“(iii) Notwithstanding subclauses (I) through (VI) of clause (ii) and subject to the maximum period of authorized admission set forth in subparagraph (D), the Secretary of Homeland Security may approve a subsequently filed petition on behalf of the beneficiary to continue employment at the facility described in this subsection for a period beyond the initially granted 12-month period if the importing employer demonstrates that the failure to satisfy any of the requirements described in those subclauses was directly caused by extraordinary circumstances beyond the control of the importing employer.

“(H)(i) The Secretary of Homeland Security may not authorize the spouse of an alien described under section 101(a)(15)(L), who is a

dependent of a beneficiary under subparagraph (G), to engage in employment in the United States during the initial 9-month period described in subparagraph (G)(i).

“(ii) A spouse described in clause (i) may be provided employment authorization upon the approval of an extension under subparagraph (G)(ii).

“(I) For purposes of determining the eligibility of an alien for classification under Section 101(a)(15)(L) of this Act, the Secretary of Homeland Security shall establish a program to work cooperatively with the Department of State to verify a company or facility’s existence in the United States and abroad.”

SEC. 412. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary such sums as may be necessary to carry out this subtitle and the amendments made by this subtitle for the first fiscal year beginning before the date of enactment of this Act and each of the subsequent fiscal years beginning not more than 7 years after the effective date of the regulations promulgated by the Secretary to implement this subtitle.

Subtitle B—Immigration Injunction Reform

SEC. 421. SHORT TITLE.

This subtitle may be cited as the “Fairness in Immigration Litigation Act of 2006”.

SEC. 422. APPROPRIATE REMEDIES FOR IMMIGRATION LEGISLATION.

(a) REQUIREMENTS FOR AN ORDER GRANTING PROSPECTIVE RELIEF AGAINST THE GOVERNMENT.—

(1) IN GENERAL.—If a court determines that prospective relief should be ordered against the Government in any civil action pertaining to the administration or enforcement of the immigration laws of the United States, the court shall—

(A) limit the relief to the minimum necessary to correct the violation of law;

(B) adopt the least intrusive means to correct the violation of law;

(C) minimize, to the greatest extent practicable, the adverse impact on national security, border security, immigration administration and enforcement, and public safety, and

(D) provide for the expiration of the relief on a specific date, which is not later than the earliest date necessary for the Government to remedy the violation.

(2) WRITTEN EXPLANATION.—The requirements described in subsection (1) shall be discussed and explained in writing in the order granting prospective relief and must be sufficiently detailed to allow review by another court.

(3) EXPIRATION OF PRELIMINARY INJUNCTIVE RELIEF.—Preliminary injunctive relief shall automatically expire on the date that is 90 days after the date on which such relief is entered, unless the court—

(A) makes the findings required under paragraph (1) for the entry of permanent prospective relief; and

(B) makes the order final before expiration of such 90-day period.

(4) REQUIREMENTS FOR ORDER DENYING MOTION.—This subsection shall apply to any order denying the Government’s motion to vacate, modify, dissolve or otherwise terminate an order granting prospective relief in any civil action pertaining to the administration or enforcement of the immigration laws of the United States.

(b) PROCEDURE FOR MOTION AFFECTING ORDER GRANTING PROSPECTIVE RELIEF AGAINST THE GOVERNMENT.—

(1) IN GENERAL.—A court shall promptly rule on the Government’s motion to vacate, modify, dissolve or otherwise terminate an order granting prospective relief in any civil action pertaining to the administration or

enforcement of the immigration laws of the United States.

(2) AUTOMATIC STAYS.—

(A) IN GENERAL.—The Government’s motion to vacate, modify, dissolve, or otherwise terminate an order granting prospective relief made in any civil action pertaining to the administration or enforcement of the immigration laws of the United States shall automatically, and without further order of the court, stay the order granting prospective relief on the date that is 15 days after the date on which such motion is filed unless the court previously has granted or denied the Government’s motion.

(B) DURATION OF AUTOMATIC STAY.—An automatic stay under subparagraph (A) shall continue until the court enters an order granting or denying the Government’s motion.

(C) POSTPONEMENT.—The court, for good cause, may postpone an automatic stay under subparagraph (A) for not longer than 15 days.

(D) ORDERS BLOCKING AUTOMATIC STAYS.—Any order staying, suspending, delaying, or otherwise barring the effective date of the automatic stay described in subparagraph (A), other than an order to postpone the effective date of the automatic stay for not longer than 15 days under subparagraph (C), shall be—

(i) treated as an order refusing to vacate, modify, dissolve or otherwise terminate an injunction; and

(ii) immediately appealable under section 1292(a)(1) of title 28, United States Code.

(c) SETTLEMENTS.—

(1) CONSENT DECREES.—In any civil action pertaining to the administration or enforcement of the immigration laws of the United States, the court may not enter, approve, or continue a consent decree that does not comply with subsection (a).

(2) PRIVATE SETTLEMENT AGREEMENTS.—Nothing in this section shall preclude parties from entering into a private settlement agreement that does not comply with subsection (a) if the terms of that agreement are not subject to court enforcement other than reinstatement of the civil proceedings that the agreement settled.

(d) DEFINITIONS.—In this section:

(1) CONSENT DECREE.—The term “consent decree”—

(A) means any relief entered by the court that is based in whole or in part on the consent or acquiescence of the parties; and

(B) does not include private settlements.

(2) GOOD CAUSE.—The term “good cause” does not include discovery or congestion of the court’s calendar.

(3) GOVERNMENT.—The term “Government” means the United States, any Federal department or agency, or any Federal agent or official acting within the scope of official duties.

(4) PERMANENT RELIEF.—The term “permanent relief” means relief issued in connection with a final decision of a court.

(5) PRIVATE SETTLEMENT AGREEMENT.—The term “private settlement agreement” means an agreement entered into among the parties that is not subject to judicial enforcement other than the reinstatement of the civil action that the agreement settled.

(6) PROSPECTIVE RELIEF.—The term “prospective relief” means temporary, preliminary, or permanent relief other than compensatory monetary damages.

(e) EXPEDITED PROCEEDINGS.—It shall be the duty of every court to advance on the docket and to expedite the disposition of any civil action or motion considered under this section.

SEC. 423. EFFECTIVE DATE.

(a) IN GENERAL.—This subtitle shall apply with respect to all orders granting prospective relief in any civil action pertaining to the administration or enforcement of the immigration laws of the United States, whether such relief was ordered before, on, or after the date of the enactment of this Act.

(b) PENDING MOTIONS.—Every motion to vacate, modify, dissolve or otherwise terminate an order granting prospective relief in any such action, which motion is pending on the date of the enactment of this Act, shall be treated as if it had been filed on such date of enactment.

(c) AUTOMATIC STAY FOR PENDING MOTIONS.—

(1) IN GENERAL.—An automatic stay with respect to the prospective relief that is the subject of a motion described in subsection (b) shall take effect without further order of the court on the date which is 10 days after the date of the enactment of this Act if the motion—

(A) was pending for 45 days as of the date of the enactment of this Act; and

(B) is still pending on the date which is 10 days after such date of enactment.

(2) DURATION OF AUTOMATIC STAY.—An automatic stay that takes effect under paragraph (1) shall continue until the court enters an order granting or denying the Government's motion under section 422(b). There shall be no further postponement of the automatic stay with respect to any such pending motion under section 422(b)(2). Any order, staying, suspending, delaying or otherwise barring the effective date of this automatic stay with respect to pending motions described in subsection (b) shall be an order blocking an automatic stay subject to immediate appeal under section 422(b)(2)(D).

TITLE V—BACKLOG REDUCTION**SEC. 501. 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)(i) 450,000, for each of the fiscal years 2007 through 2016; or

“(ii) 290,000, for fiscal year 2017 and each subsequent fiscal year;

“(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 dur-

ing 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. 502. 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)”;

(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”;

(2) by striking paragraph (5).

SEC. 503. 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”;

(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.—

“(A) IN GENERAL.—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.

“(B) PRIORITY.—In allocating visas under subparagraph (A), priority shall be given to qualified immigrants who were physically present in the United States before January 7, 2004;”

(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. 504. 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. 505. SHORTAGE OCCUPATIONS.

(a) EXCEPTION TO DIRECT NUMERICAL LIMITATIONS.—Section 201(b)(1) (8 U.S.C. 1151(b)(1)) is amended by adding at the end the following new subparagraph:

“(F)(i) During the period beginning on the date of the enactment of the Comprehensive Immigration Reform Act of 2006 and ending on September 30, 2017, an alien—

“(I) who is otherwise described in section 203(b); and

“(II) who is seeking admission to the United States to perform labor in shortage occupations designated by the Secretary of Labor for blanket certification under section 212(a)(5)(A) due to the lack of sufficient United States workers able, willing, qualified, and available for such occupations and for which the employment of aliens will not adversely affect the terms and conditions of similarly employed United States workers.

“(ii) During the period described in clause (i), the spouse or dependents of an alien described in clause (i), if accompanying or following to join such alien.”.

(b) EXCEPTION TO NONDISCRIMINATION REQUIREMENTS.—Section 202(a)(1)(A) (8 U.S.C. 1152(a)(1)(A)) is amended by striking “201(b)(2)(A)(i)” and inserting “201(b)”.

(c) EXCEPTION TO PER COUNTRY LEVELS FOR FAMILY-SPONSORED AND EMPLOYMENT-BASED IMMIGRANTS.—Section 202(a)(2) (8 U.S.C. 1152(a)(2)), as amended by section 502(1), is further amended by inserting “, except for aliens described in section 201(b),” after “any fiscal year”.

(d) INCREASING THE DOMESTIC SUPPLY OF NURSES AND PHYSICAL THERAPISTS.—Not later than January 1, 2007, the Secretary of Health and Human Services shall—

(1) submit to Congress a report on the source of newly licensed nurses and physical therapists in each State, which report shall—

(A) include the past 3 years for which data are available;

(B) provide separate data for each occupation and for each State;

(C) separately identify those receiving their initial license and those licensed by endorsement from another State;

(D) within those receiving their initial license in each year, identify the number who received their professional education in the United States and those who received such education outside the United States; and

(E) to the extent possible, identify, by State of residence and country of education, the number of nurses and physical therapists who were educated in any of the 5 countries (other than the United States) from which the most nurses and physical therapists arrived;

(F) identify the barriers to increasing the supply of nursing faculty, domestically trained nurses, and domestically trained physical therapists;

(G) recommend strategies to be followed by Federal and State governments that would be effective in removing such barriers, including strategies that address barriers to advancement to become registered nurses for other health care workers, such as home health aides and nurses assistants;

(H) recommend amendments to Federal legislation that would increase the supply of nursing faculty, domestically trained nurses, and domestically trained physical therapists;

(I) recommend Federal grants, loans, and other incentives that would provide increases in nurse educators, nurse training facilities, and other steps to increase the domestic education of new nurses and physical therapists;

(J) identify the effects of nurse emigration on the health care systems in their countries of origin; and

(K) recommend amendments to Federal law that would minimize the effects of health care shortages in the countries of origin from which immigrant nurses arrived;

(2) enter into a contract with the National Academy of Sciences Institute of Medicine to determine the level of Federal investment under titles VII and VIII of the Public Health Service Act necessary to eliminate

the domestic nursing and physical therapist shortage not later than 7 years from the date on which the report is published; and

(3) collaborate with other agencies, as appropriate, in working with ministers of health or other appropriate officials of the 5 countries from which the most nurses and physical therapists arrived, to—

(A) address health worker shortages caused by emigration;

(B) ensure that there is sufficient human resource planning or other technical assistance needed to reduce further health worker shortages in such countries.

SEC. 506. RELIEF FOR WIDOWS AND ORPHANS.

(a) SHORT TITLE.—This section may be cited as the “Widows and Orphans Act of 2006”.

(b) NEW SPECIAL IMMIGRANT CATEGORY.—

(1) CERTAIN CHILDREN AND WOMEN AT RISK OF HARM.—Section 101(a)(27) (8 U.S.C. 1101(a)(27)) is amended—

(A) in subparagraph (L), by inserting a semicolon at the end;

(B) in subparagraph (M), by striking the period at the end and inserting “; or”; and

(C) by adding at the end the following:

“(N) subject to subsection (j), an immigrant who is not present in the United States—

“(i) who is—

“(I) referred to a consular, immigration, or other designated official by a United States Government agency, an international organization, or recognized nongovernmental entity designated by the Secretary of State for purposes of such referrals; and

“(II) determined by such official to be a minor under 18 years of age (as determined under subsection (j)(5))—

“(aa) for whom no parent or legal guardian is able to provide adequate care;

“(bb) who faces a credible fear of harm related to his or her age;

“(cc) who lacks adequate protection from such harm; and

“(dd) for whom it has been determined to be in his or her best interests to be admitted to the United States; or

“(ii) who is—

“(I) referred to a consular or immigration official by a United States Government agency, an international organization or recognized nongovernmental entity designated by the Secretary of State for purposes of such referrals; and

“(II) determined by such official to be a female who has—

“(aa) a credible fear of harm related to her sex; and

“(bb) a lack of adequate protection from such harm.”.

(2) STATUTORY CONSTRUCTION.—Section 101 (8 U.S.C. 1101) is amended by adding at the end the following:

“(j)(1) No natural parent or prior adoptive parent of any alien provided special immigrant status under subsection (a)(27)(N)(i) shall thereafter, by virtue of such parentage, be accorded any right, privilege, or status under this Act.

“(2)(A) No alien who qualifies for a special immigrant visa under subsection (a)(27)(N)(ii) may apply for derivative status or petition for any spouse who is represented by the alien as missing, deceased, or the source of harm at the time of the alien’s application and admission. The Secretary of Homeland Security may waive this requirement for an alien who demonstrates that the alien’s representations regarding the spouse were bona fide.

“(B) An alien who qualifies for a special immigrant visa under subsection (a)(27)(N) may apply for derivative status or petition for any sibling under the age of 18 years or children under the age of 18 years of any

such alien, if accompanying or following to join the alien. For purposes of this subparagraph, a determination of age shall be made using the age of the alien on the date the petition is filed with the Department of Homeland Security.

“(3) An alien who qualifies for a special immigrant visa under subsection (a)(27)(N) shall be treated in the same manner as a refugee solely for purposes of section 412.

“(4) The provisions of paragraphs (4), (5), and (7)(A) of section 212(a) shall not be applicable to any alien seeking admission to the United States under subsection (a)(27)(N), and the Secretary of Homeland Security may waive any other provision of such section (other than paragraph 2(C) or subparagraph (A), (B), (C), or (E) of paragraph (3) with respect to such an alien for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest. Any such waiver by the Secretary of Homeland Security shall be in writing and shall be granted only on an individual basis following an investigation. The Secretary of Homeland Security shall provide for the annual reporting to Congress of the number of waivers granted under this paragraph in the previous fiscal year and a summary of the reasons for granting such waivers.

“(5) For purposes of subsection (a)(27)(N)(i)(II), a determination of age shall be made using the age of the alien on the date on which the alien was referred to the consular, immigration, or other designated official.

“(6) The Secretary of Homeland Security shall waive any application fee for a special immigrant visa for an alien described in section 101(a)(27)(N).”.

(3) EXPEDITED PROCESS.—Not later than 45 days after the date of referral to a consular, immigration, or other designated official (as described in section 101(a)(27)(N) of the Immigration and Nationality Act, as added by paragraph (1))—

(A) special immigrant status shall be adjudicated; and

(B) if special immigrant status is granted, the alien shall be paroled to the United States pursuant to section 212(d)(5) of that Act (8 U.S.C. 1182(d)(5)) and allowed to apply for adjustment of status to permanent residence under section 245 of that Act (8 U.S.C. 1255) within 1 year after the alien’s arrival in the United States.

(4) REPORT TO CONGRESS.—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 on the progress of the implementation of this section and the amendments made by this section, including—

(A) data related to the implementation of this section and the amendments made by this section;

(B) data regarding the number of placements of females and children who faces a credible fear of harm as referred to in section 101(a)(27)(N) of the Immigration and Nationality Act, as added by paragraph (1); and

(C) any other information that the Secretary considers appropriate.

(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this subsection and the amendments made by this subsection.

(c) REQUIREMENTS FOR ALIENS.—

(1) REQUIREMENT PRIOR TO ENTRY INTO THE UNITED STATES.—

(A) DATABASE SEARCH.—An alien may not be admitted to the United States unless the Secretary has ensured that a search of each

database maintained by an agency or department of the United States has been conducted to determine whether such alien is ineligible to be admitted to the United States on criminal, security, or related grounds.

(B) COOPERATION AND SCHEDULE.—The Secretary and the head of each appropriate agency or department of the United States shall work cooperatively to ensure that each database search required by subparagraph (A) is completed not later than 45 days after the date on which an alien files a petition seeking a special immigration visa under section 101(a)(27)(N) of the Immigration and Nationality Act, as added by subsection (b)(1).

(2) REQUIREMENT AFTER ENTRY INTO THE UNITED STATES.—

(A) REQUIREMENT TO SUBMIT FINGERPRINTS.—

(i) IN GENERAL.—Not later than 30 days after the date that an alien enters the United States, the alien shall be fingerprinted and submit to the Secretary such fingerprints and any other personal biometric data required by the Secretary.

(ii) OTHER REQUIREMENTS.—The Secretary may prescribe regulations that permit fingerprints submitted by an alien under section 262 of the Immigration and Nationality Act (8 U.S.C. 1302) or any other provision of law to satisfy the requirement to submit fingerprints of clause (i).

(B) DATABASE SEARCH.—The Secretary shall ensure that a search of each database that contains fingerprints that is maintained by an agency or department of the United States be conducted to determine whether such alien is ineligible for an adjustment of status under any provision of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) on criminal, security, or related grounds.

(C) COOPERATION AND SCHEDULE.—The Secretary and the head of each appropriate agency or department of the United States shall work cooperatively to ensure that each database search required by subparagraph (B) is completed not later than 180 days after the date on which the alien enters the United States.

(D) ADMINISTRATIVE AND JUDICIAL REVIEW.—

(i) IN GENERAL.—There may be no review of a determination by the Secretary, after a search required by subparagraph (B), that an alien is ineligible for an adjustment of status, under any provision of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) on criminal, security, or related grounds except as provided in this subparagraph.

(ii) ADMINISTRATIVE REVIEW.—An alien may appeal a determination described in clause (i) through the Administrative Appeals Office of the Bureau of Citizenship and Immigration Services. The Secretary shall ensure that a determination on such appeal is made not later than 60 days after the date that the appeal is filed.

(iii) JUDICIAL REVIEW.—There may be no judicial review of a determination described in clause (i).

SEC. 507. 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)(D), 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 \$2,000 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. 508. 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. 151(b)(1)), as amended by section 505, is amended by adding at the end the following:

“(G) 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).

“(H) 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).

“(I) 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.

TITLE VI—WORK AUTHORIZATION AND LEGALIZATION OF UNDOCUMENTED INDIVIDUALS

Subtitle A—Access to Earned Adjustment and Mandatory Departure and Reentry

SEC. 601. ACCESS TO EARNED ADJUSTMENT AND MANDATORY DEPARTURE AND REENTRY.

(a) SHORT TITLE.—This section may be cited as the “Immigrant Accountability Act of 2006”.

(b) ADJUSTMENT OF STATUS.—

(1) IN GENERAL.—Chapter 5 of title II (8 U.S.C. 1255 et seq.) is amended by inserting after section 245A the following:

“SEC. 245B. ACCESS TO EARNED ADJUSTMENT.

“(a) ADJUSTMENT OF STATUS.—

“(1) PRINCIPAL ALIENS.—Notwithstanding any other provision of law, the Secretary of Homeland Security shall adjust to the status of an alien lawfully admitted for permanent residence, an alien who satisfies the following requirements:

“(A) APPLICATION.—The alien shall file an application establishing eligibility for ad-

justment of status and pay the fine required under subsection (m) and any additional amounts owed under that subsection.

“(B) CONTINUOUS PHYSICAL PRESENCE.—

“(1) IN GENERAL.—The alien shall establish that the alien—

“(I) was physically present in the United States on or before the date that is 5 years before April 5, 2006;

“(II) was not legally present in the United States on April 5, 2006; and

“(III) did not depart from the United States during the 5-year period ending on April 5, 2006, except for brief, casual, and innocent departures.

“(i) LEGALLY PRESENT.—For purposes of this subparagraph, an alien who has violated any conditions of his or her visa shall be considered not to be legally present in the United States.

“(C) ADMISSIBLE UNDER IMMIGRATION LAWS.—The alien shall establish that the alien is not inadmissible under section 212(a) except for any provision of that section that is waived under subsection (b) of this section.

“(D) EMPLOYMENT IN UNITED STATES.—

“(i) IN GENERAL.—The alien shall have been employed in the United States, in the aggregate, for—

“(I) at least 3 years during the 5-year period ending on April 5, 2006; and

“(II) at least 6 years after the date of enactment of the Immigrant Accountability Act of 2006.

“(ii) EXCEPTIONS.—

“(I) The employment requirement in clause (i)(I) shall not apply to an individual who is under 20 years of age on the date of enactment of the Immigrant Accountability Act of 2006.

“(II) The employment requirement in clause (i)(II) shall be reduced for an individual who cannot demonstrate employment based on a physical or mental disability or as a result of pregnancy.

“(III) The employment requirement in clause (i)(II) shall be reduced for an individual who is under 20 years of age on the date of enactment of the Immigrant Accountability Act of 2006 by a period of time equal to the time period beginning on such date of enactment and ending on the date on which the individual reaches 20 years of age.

“(IV) The employment requirements in clause (i) shall be reduced by 1 year for each year of full time post-secondary study in the United States during the relevant period.

“(iii) PORTABILITY.—An alien shall not be required to complete the employment requirements in clause (i) with the same employer.

“(iv) EVIDENCE OF EMPLOYMENT.—

“(I) CONCLUSIVE DOCUMENTS.—For purposes of satisfying the requirements in clause (i), the alien shall submit at least 2 of the following documents for each period of employment, which shall be considered conclusive evidence of such employment:

“(aa) Records maintained by the Social Security Administration.

“(bb) Records maintained by an employer, such as pay stubs, time sheets, or employment work verification.

“(cc) Records maintained by the Internal Revenue Service.

“(dd) Records maintained by a union or day labor center.

“(ee) Records maintained by any other government agency, such as worker compensation records, disability records, or business licensing records.

“(II) OTHER DOCUMENTS.—Aliens unable to submit documents described in subclause (I) shall submit at least 3 other types of reliable documents, including sworn declarations, for each period of employment to satisfy the requirement in clause (i).

“(III) INTENT OF CONGRESS.—It is the intent of Congress that the requirement in clause (i) be interpreted and implemented in a manner that recognizes and takes into account the difficulties encountered by aliens in obtaining evidence of employment due to the undocumented status of the alien.

“(v) BURDEN OF PROOF.—An alien applying for adjustment of status under this subsection has the burden of proving by a preponderance of the evidence that the alien has satisfied the employment requirements in clause (i). An alien may satisfy such burden of proof by producing sufficient evidence to show the extent of that employment as a matter of just and reasonable inference. Once the burden is met, the burden shall shift to the Secretary of Homeland Security to disprove the alien’s evidence with a showing which negates the reasonableness of the inference to be drawn from the evidence.

“(E) PAYMENT OF INCOME TAXES.—Not later than the date on which status is adjusted under this subsection, the alien shall establish the payment of all Federal and State income taxes owed for employment during the period of employment required under subparagraph (D)(i). The alien may satisfy such requirement by establishing that—

“(i) no such tax liability exists;

“(ii) all outstanding liabilities have been met; or

“(iii) the alien has entered into an agreement for payment of all outstanding liabilities with the Internal Revenue Service and with the department of revenue of each State to which taxes are owed.

“(F) BASIC CITIZENSHIP SKILLS.—

“(i) IN GENERAL.—Except as provided in clause (ii), the alien shall demonstrate that the alien either—

“(I) meets the requirements of section 312(a) (relating to minimal understanding of ordinary English and a knowledge and understanding of the history and Government of the United States); or

“(II) is satisfactorily pursuing a course of study, recognized by the Secretary of Homeland Security, to achieve such understanding of English and the history and Government of the United States.

“(ii) EXCEPTIONS.—

“(I) MANDATORY.—The requirements of clause (i) shall not apply to any person who is unable to comply with those requirements because of a physical or developmental disability or mental impairment.

“(II) DISCRETIONARY.—The Secretary of Homeland Security may waive all or part of the requirements of clause (i) in the case of an alien who is 65 years of age or older as of the date of the filing of the application for adjustment of status.

“(G) SECURITY AND LAW ENFORCEMENT CLEARANCES.—The alien shall submit fingerprints in accordance with procedures established by the Secretary of Homeland Security. Such fingerprints shall be submitted to relevant Federal agencies to be checked against existing databases for information relating to criminal, national security, or other law enforcement actions that would render the alien ineligible for adjustment of status under this subsection. The relevant Federal agencies shall work to ensure that such clearances are completed within 90 days of the submission of fingerprints. An appeal of a security clearance determination by the Secretary of Homeland Security shall be processed through the Department of Homeland Security.

“(H) MILITARY SELECTIVE SERVICE.—The alien shall establish that if the alien is within the age period required under the Military Selective Service Act (50 U.S.C. App. 451 et seq.) that such alien has registered under that Act.

“(I) ADJUSTMENT OF STATUS.—An alien may not adjust to an immigrant classification under this section until after the earlier of—

“(i) the consideration of all applications filed under section 201, 202, or 203 before the date of enactment of this section; or

“(ii) 8 years after the date of enactment of this section.

“(2) SPOUSES AND CHILDREN.—

“(A) IN GENERAL.—

“(i) ADJUSTMENT OF STATUS.—Notwithstanding any other provision of law, the Secretary of Homeland Security shall, if otherwise eligible under subparagraph (B), adjust the status to that of a lawful permanent resident for—

“(I) the spouse, or child who was under 21 years of age on the date of enactment of the Immigrant Accountability Act of 2006, of an alien who adjusts status or is eligible to adjust status to that of a permanent resident under paragraph (1); or

“(II) an alien who, within 5 years preceding the date of enactment of the Immigrant Accountability Act of 2006, was the spouse or child of an alien who adjusts status to that of a permanent resident under paragraph (1), if—

“(aa) the termination of the qualifying relationship was connected to domestic violence; or

“(bb) the spouse or child has been battered or subjected to extreme cruelty by the spouse or parent who adjusts status or is eligible to adjust status to that of a permanent resident under paragraph (1).

“(ii) APPLICATION OF OTHER LAW.—In acting on applications filed under this paragraph with respect to aliens who have been battered or subjected to extreme cruelty, the Secretary of Homeland Security shall apply the provisions of section 204(a)(1)(J) and the protections, prohibitions, and penalties under section 384 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1367).

“(B) GROUNDS OF INADMISSIBILITY NOT APPLICABLE.—In establishing admissibility to the United States, the spouse or child described in subparagraph (A) shall establish that they are not inadmissible under section 212(a), except for any provision of that section that is waived under subsection (b) of this section.

“(C) SECURITY AND LAW ENFORCEMENT CLEARANCE.—The spouse or child, if that child is 14 years of age or older, described in subparagraph (A) shall submit fingerprints in accordance with procedures established by the Secretary of Homeland Security. Such fingerprints shall be submitted to relevant Federal agencies to be checked against existing databases for information relating to criminal, national security, or other law enforcement actions that would render the alien ineligible for adjustment of status under this subsection. The relevant Federal agencies shall work to ensure that such clearances are completed within 90 days of the submission of fingerprints. An appeal of a denial by the Secretary of Homeland Security shall be processed through the Department of Homeland Security.

“(3) NONAPPLICABILITY OF NUMERICAL LIMITATIONS.—When an alien is granted lawful permanent resident status under this subsection, the number of immigrant visas authorized to be issued under any provision of this Act shall not be reduced.

“(b) GROUNDS OF INADMISSIBILITY.—

“(1) APPLICABLE PROVISIONS.—In the determination of an alien's admissibility under paragraphs (1)(C) and (2) of subsection (a), the following provisions of section 212(a) shall apply and may not be waived by the Secretary of Homeland Security under paragraph (3)(A):

“(A) Paragraph (1) (relating to health).

“(B) Paragraph (2) (relating to criminals).

“(C) Paragraph (3) (relating to security and related grounds).

“(D) Subparagraphs (A) and (C) of paragraph (10) (relating to polygamists and child abductors).

“(2) GROUNDS OF INADMISSIBILITY NOT APPLICABLE.—The provisions of paragraphs (5), (6)(A), (6)(B), (6)(C), (6)(F), (6)(G), (7), (9), and (10)(B) of section 212(a) shall not apply to an alien who is applying for adjustment of status under subsection (a).

“(3) WAIVER OF OTHER GROUNDS.—

“(A) IN GENERAL.—Except as provided in paragraph (1), the Secretary of Homeland Security may waive any provision of section 212(a) in the case of individual aliens for humanitarian purposes, to ensure family unity, or when it is otherwise in the public interest.

“(B) CONSTRUCTION.—Nothing in this paragraph shall be construed as affecting the authority of the Secretary of Homeland Security, other than under this subparagraph, to waive the provisions of section 212(a).

“(4) SPECIAL RULE FOR DETERMINATION OF PUBLIC CHARGE.—An alien is not ineligible for adjustment of status under subsection (a) by reason of a ground of inadmissibility under section 212(a)(4) if the alien establishes a history of employment in the United States evidencing self-support without public cash assistance.

“(5) SPECIAL RULE FOR INDIVIDUALS WHERE THERE IS NO COMMERCIAL PURPOSE.—An alien is not ineligible for adjustment of status under subsection (a) by reason of a ground of inadmissibility under section 212(a)(6)(E) if the alien establishes that the action referred to in that section was taken for humanitarian purposes, to ensure family unity, or was otherwise in the public interest.

“(6) APPLICABILITY OF OTHER PROVISIONS.—Section 241(a)(5) and section 240B(d) shall not apply with respect to an alien who is applying for adjustment of status under subsection (a).

“(c) TREATMENT OF APPLICANTS.—

“(1) IN GENERAL.—An alien who files an application under subsection (a)(1)(A) for adjustment of status, including a spouse or child who files for adjustment of status under subsection (b)—

“(A) shall be granted employment authorization pending final adjudication of the alien's application for adjustment of status;

“(B) shall be granted permission to travel abroad pursuant to regulation pending final adjudication of the alien's application for adjustment of status;

“(C) shall not be detained, determined inadmissible or deportable, or removed pending final adjudication of the alien's application for adjustment of status, unless the alien commits an act which renders the alien ineligible for such adjustment of status; and

“(D) shall not be considered an unauthorized alien as defined in section 274A(h)(3) until such time as employment authorization under subparagraph (A) is denied.

“(2) DOCUMENT OF AUTHORIZATION.—The Secretary of Homeland Security shall provide each alien described in paragraph (1) with a counterfeit-resistant document of authorization that—

“(A) meets all current requirements established by the Secretary of Homeland Security for travel documents, including the requirements under section 403 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note); and

“(B) reflects the benefits and status set forth in paragraph (1).

“(3) SECURITY AND LAW ENFORCEMENT CLEARANCE.—Before an alien is granted employment authorization or permission to travel under paragraph (1), the alien shall be required to undergo a name check against existing databases for information relating

to criminal, national security, or other law enforcement actions. The relevant Federal agencies shall work to ensure that such name checks are completed not later than 90 days after the date on which the name check is requested.

“(4) TERMINATION OF PROCEEDINGS.—An alien in removal proceedings who establishes prima facie eligibility for adjustment of status under subsection (a) shall be entitled to termination of the proceedings pending the outcome of the alien's application, unless the removal proceedings are based on criminal or national security grounds.

“(d) APPREHENSION BEFORE APPLICATION PERIOD.—The Secretary of Homeland Security shall provide that in the case of an alien who is apprehended before the beginning of the application period described in subsection (a) and who can establish prima facie eligibility to have the alien's status adjusted under that subsection (but for the fact that the alien may not apply for such adjustment until the beginning of such period), until the alien has had the opportunity during the first 180 days of the application period to complete the filing of an application for adjustment, the alien may not be removed from the United States unless the alien is removed on the basis that the alien has engaged in criminal conduct or is a threat to the national security of the United States.

“(e) CONFIDENTIALITY OF INFORMATION.—

“(1) IN GENERAL.—Except as otherwise provided in this section, no Federal agency or bureau, nor any officer or employee of such agency or bureau, may—

“(A) use the information furnished by the applicant pursuant to an application filed under paragraph (1) or (2) of subsection (a) for any purpose other than to make a determination on the application;

“(B) make any publication through which the information furnished by any particular applicant can be identified; or

“(C) permit anyone other than the sworn officers and employees of such agency, bureau, or approved entity, as approved by the Secretary of Homeland Security, to examine individual applications that have been filed.

“(2) REQUIRED DISCLOSURES.—The Secretary of Homeland Security and the Secretary of State shall provide the information furnished pursuant to an application filed under paragraph (1) or (2) of subsection (a), and any other information derived from such furnished information, to a duly recognized law enforcement entity in connection with a criminal investigation or prosecution or a national security investigation or prosecution, in each instance about an individual suspect or group of suspects, when such information is requested in writing by such entity.

“(3) CRIMINAL PENALTY.—Any person who knowingly uses, publishes, or permits information to be examined in violation of this subsection shall be fined not more than \$10,000.

“(f) PENALTIES FOR FALSE STATEMENTS IN APPLICATIONS.—

“(1) CRIMINAL PENALTY.—

“(A) VIOLATION.—It shall be unlawful for any person to—

“(i) file or assist in filing an application for adjustment of status under this section and knowingly and willfully falsify, conceal, or cover up a material fact or make any false, fictitious, or fraudulent statements or representations, or make or use any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry; or

“(ii) create or supply a false writing or document for use in making such an application.

“(B) PENALTY.—Any person who violates subparagraph (A) shall be fined in accordance with title 18, United States Code, or imprisoned not more than 5 years, or both.

“(2) INADMISSIBILITY.—An alien who is convicted of a crime under paragraph (1) shall be considered to be inadmissible to the United States.

“(3) EXCEPTION.—Notwithstanding paragraphs (1) and (2), any alien or other entity (including an employer or union) that submits an employment record that contains incorrect data that the alien used in order to obtain such employment, shall not have violated this subsection.

“(g) INELIGIBILITY FOR PUBLIC BENEFITS.—For purposes of section 403 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1613), an alien whose status has been adjusted in accordance with subsection (a) shall not be eligible for any Federal means-tested public benefit unless the alien meets the alien eligibility criteria for such benefit under title IV of such Act (8 U.S.C. 1601 et seq.).

“(h) RELATIONSHIPS OF APPLICATION TO CERTAIN ORDERS.—

“(1) IN GENERAL.—An alien who is present in the United States and has been ordered excluded, deported, removed, or to depart voluntarily from the United States or is subject to reinstatement of removal under any provision of this Act may, notwithstanding such order, apply for adjustment of status under subsection (a). Such an alien shall not be required, as a condition of submitting or granting such application, to file a separate motion to reopen, reconsider, or vacate the exclusion, deportation, removal or voluntary departure order. If the Secretary of Homeland Security grants the application, the order shall be canceled. If the Secretary of Homeland Security renders a final administrative decision to deny the application, such order shall be effective and enforceable. Nothing in this paragraph shall affect the review or stay of removal under subsection (j).

“(2) STAY OF REMOVAL.—The filing of an application described in paragraph (1) shall stay the removal or detention of the alien pending final adjudication of the application, unless the removal or detention of the alien is based on criminal or national security grounds.

“(i) APPLICATION OF OTHER PROVISIONS.—Nothing in this section shall preclude an alien who may be eligible to be granted adjustment of status under subsection (a) from seeking such status under any other provision of law for which the alien may be eligible.

“(j) ADMINISTRATIVE AND JUDICIAL REVIEW.—

“(1) IN GENERAL.—Except as provided in this subsection, there shall be no administrative or judicial review of a determination respecting an application for adjustment of status under subsection (a).

“(2) ADMINISTRATIVE REVIEW.—

“(A) SINGLE LEVEL OF ADMINISTRATIVE APPELLATE REVIEW.—The Secretary of Homeland Security shall establish an appellate authority to provide for a single level of administrative appellate review of a determination respecting an application for adjustment of status under subsection (a).

“(B) STANDARD FOR REVIEW.—Administrative appellate review referred to in subparagraph (A) shall be based solely upon the administrative record established at the time of the determination on the application and upon the presentation of additional or newly discovered evidence during the time of the pending appeal.

“(3) JUDICIAL REVIEW.—

“(A) DIRECT REVIEW.—A person whose application for adjustment of status under subsection (a) is denied after administrative ap-

pellate review under paragraph (2) may seek review of such denial, in accordance with chapter 7 of title 5, United States Code, before the United States district court for the district in which the person resides.

“(B) REVIEW AFTER REMOVAL PROCEEDINGS.—There shall be judicial review in the Federal courts of appeal of the denial of an application for adjustment of status under subsection (a) in conjunction with judicial review of an order of removal, deportation, or exclusion, but only if the validity of the denial has not been upheld in a prior judicial proceeding under subparagraph (A). Notwithstanding any other provision of law, the standard for review of such a denial shall be governed by subparagraph (C).

“(C) STANDARD FOR JUDICIAL REVIEW.—Judicial review of a denial of an application under this section shall be based solely upon the administrative record established at the time of the review. The findings of fact and other determinations contained in the record shall be conclusive unless the applicant can establish abuse of discretion or that the findings are directly contrary to clear and convincing facts contained in the record, considered as a whole.

“(4) STAY OF REMOVAL.—Aliens seeking administrative or judicial review under this subsection shall not be removed from the United States until a final decision is rendered establishing ineligibility under this section, unless such removal is based on criminal or national security grounds.

“(k) DISSEMINATION OF INFORMATION ON ADJUSTMENT PROGRAM.—During the 12 months following the issuance of final regulations in accordance with subsection (o), the Secretary of Homeland Security, in cooperation with approved entities, approved by the Secretary of Homeland Security, shall broadly disseminate information respecting adjustment of status under this section and the requirements to be satisfied to obtain such status. The Secretary of Homeland Security shall also disseminate information to employers and labor unions to advise them of the rights and protections available to them and to workers who file applications under this section. Such information shall be broadly disseminated, in the languages spoken by the top 15 source countries of the aliens who would qualify for adjustment of status under this section, including to television, radio, and print media such aliens would have access to.

“(l) EMPLOYER PROTECTIONS.—

“(1) IMMIGRATION STATUS OF ALIEN.—Employers of aliens applying for adjustment of status under this section shall not be subject to civil and criminal tax liability relating directly to the employment of such alien.

“(2) PROVISION OF EMPLOYMENT RECORDS.—Employers that provide unauthorized aliens with copies of employment records or other evidence of employment pursuant to an application for adjustment of status under this section or any other application or petition pursuant to other provisions of the immigration laws, shall not be subject to civil and criminal liability pursuant to section 274A for employing such unauthorized aliens.

“(3) APPLICABILITY OF OTHER LAW.—Nothing in this subsection shall be used to shield an employer from liability pursuant to section 274B or any other labor and employment law provisions.

“(m) AUTHORIZATION OF FUNDS; FINES.—

“(1) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Homeland Security such sums as are necessary to commence the processing of applications filed under this section.

“(2) FINE.—An alien who files an application under this section shall pay a fine commensurate with levels charged by the De-

partment of Homeland Security for other applications for adjustment of status.

“(3) ADDITIONAL AMOUNTS OWED.—Prior to the adjudication of an application for adjustment of status filed under this section, the alien shall pay an amount equaling \$2,000, but such amount shall not be required from an alien under the age of 18.

“(4) USE OF AMOUNTS COLLECTED.—The Secretary of Homeland Security shall deposit payments received under this subsection in the Immigration Examinations Fee Account, and these payments in such account shall be available, without fiscal year limitation, such that—

“(A) 80 percent of such funds shall be available to the Department of Homeland Security for border security purposes;

“(B) 10 percent of such funds shall be available to the Department of Homeland Security for implementing and processing applications under this section; and

“(C) 10 percent of such funds shall be available to the Department of Homeland Security and the Department of State to cover administrative and other expenses incurred in connection with the review of applications filed by immediate relatives of aliens applying for adjustment of status under this section.

“(n) MANDATORY DEPARTURE AND REENTRY.—Any alien who was physically present in the United States on January 7, 2004, who seeks to adjust status under this section, but does not satisfy the requirements of subparagraph (B) or (D) of subsection (a)(1), shall be eligible to depart the United States and to seek admission as a nonimmigrant or an immigrant alien described in section 245C.

“(o) ISSUANCE OF REGULATIONS.—Not later than 120 days after the date of enactment of the Immigrant Accountability Act of 2006, the Secretary of Homeland Security shall issue regulations to implement this section.”

(2) TABLE OF CONTENTS.—The table of contents (8 U.S.C. 1101 et seq.) is amended by inserting after the item relating to section 245A the following:

“245B. Access to Earned Adjustment.”

(c) MANDATORY DEPARTURE AND REENTRY.—

(1) IN GENERAL.—Chapter 5 of title II (8 U.S.C. 1255 et seq.), as amended by subsection (b)(1), is further amended by inserting after section 245B the following: “

“SEC. 245C. MANDATORY DEPARTURE AND REENTRY.

“(a) IN GENERAL.—The Secretary of Homeland Security may grant Deferred Mandatory Departure status to aliens who are in the United States illegally to allow such aliens time to depart the United States and to seek admission as a nonimmigrant or immigrant alien.

“(b) REQUIREMENTS.—An alien desiring an adjustment of status under subsection (a) shall meet the following requirements:

“(1) PRESENCE.—The alien shall establish that the alien—

“(A) was physically present in the United States on January 7, 2004;

“(B) has been continuously in the United States since such date, except for brief, casual, and innocent departures; and

“(C) was not legally present in the United States on that date under any classification set forth in section 101(a)(15).

“(2) EMPLOYMENT.—

“(A) IN GENERAL.—The alien shall establish that the alien—

“(i) was employed in the United States, whether full time, part time, seasonally, or self-employed, before January 7, 2004; and

“(ii) has been continuously employed in the United States since that date, except for brief periods of unemployment lasting not longer than 60 days.

“(B) EVIDENCE OF EMPLOYMENT.—

“(i) IN GENERAL.—An alien may conclusively establish employment status in compliance with subparagraph (A) by submitting to the Secretary of Homeland Security records demonstrating such employment maintained by—

“(I) the Social Security Administration, Internal Revenue Service, or by any other Federal, State, or local government agency;

“(II) an employer; or

“(III) a labor union, day labor center, or an organization that assists workers in matters related to employment.

“(ii) OTHER DOCUMENTS.—An alien who is unable to submit a document described in subclauses (I) through (III) of clause (i) may satisfy the requirement in subparagraph (A) by submitting to the Secretary at least 2 other types of reliable documents that provide evidence of employment, including—

“(I) bank records;

“(II) business records;

“(III) sworn affidavits from nonrelatives who have direct knowledge of the alien's work; or

“(IV) remittance records.

“(iii) INTENT OF CONGRESS.—It is the intent of Congress that the requirement in this subsection be interpreted and implemented in a manner that recognizes and takes into account the difficulties encountered by aliens in obtaining evidence of employment due to the undocumented status of the alien.

“(iv) BURDEN OF PROOF.—An alien who is applying for adjustment of status under this section has the burden of proving by a preponderance of the evidence that the alien has satisfied the requirements of this subsection. An alien may meet such burden of proof by producing sufficient evidence to demonstrate such employment as a matter of reasonable inference.

“(3) ADMISSIBILITY.—

“(A) IN GENERAL.—The alien shall establish that such alien—

“(i) is admissible to the United States, except as provided as in (B); and

“(ii) has not assisted in the persecution of any person or persons on account of race, religion, nationality, membership in a particular social group, or political opinion.

“(B) GROUNDS NOT APPLICABLE.—The provisions of paragraphs (5), (6)(A), and (7) of section 212(a) shall not apply.

“(C) WAIVER.—The Secretary of Homeland Security may waive any other provision of section 212(a), or a ground of ineligibility under paragraph (4), in the case of individual aliens for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest.

“(4) INELIGIBLE.—The alien is ineligible for Deferred Mandatory Departure status if the alien—

“(A) has been ordered excluded, deported, removed, or to depart voluntarily from the United States; or

“(B) fails to comply with any request for information by the Secretary of Homeland Security.

“(5) MEDICAL EXAMINATION.—The alien may be required, at the alien's expense, to undergo such a medical examination (including a determination of immunization status) as is appropriate and conforms to generally accepted professional standards of medical practice.

“(6) TERMINATION.—The Secretary of Homeland Security may terminate an alien's Deferred Mandatory Departure status if—

“(A) the Secretary of Homeland Security determines that the alien was not in fact eligible for such status; or

“(B) the alien commits an act that makes the alien removable from the United States.

“(7) APPLICATION CONTENT AND WAIVER.—

“(A) APPLICATION FORM.—The Secretary of Homeland Security shall create an application form that an alien shall be required to complete as a condition of obtaining Deferred Mandatory Departure status.

“(B) CONTENT.—In addition to any other information that the Secretary requires to determine an alien's eligibility for Deferred Mandatory Departure, the Secretary shall require an alien to answer questions concerning the alien's physical and mental health, criminal history, gang membership, renunciation of gang affiliation, immigration history, involvement with groups or individuals that have engaged in terrorism, genocide, persecution, or who seek the overthrow of the United States Government, voter registration history, claims to United States citizenship, and tax history.

“(C) WAIVER.—The Secretary of Homeland Security shall require an alien to include with the application a waiver of rights that explains to the alien that, in exchange for the discretionary benefit of obtaining Deferred Mandatory Departure status, the alien agrees to waive any right to administrative or judicial review or appeal of an immigration officer's determination as to the alien's eligibility, or to contest any removal action, other than on the basis of an application for asylum or restriction of removal pursuant to the provisions contained in section 208 or 241(b)(3), or under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York December 10, 1984, or cancellation of removal pursuant to section 240A(a).

“(D) KNOWLEDGE.—The Secretary of Homeland Security shall require an alien to include with the application a signed certification in which the alien certifies that the alien has read and understood all of the questions and statements on the application form, and that the alien certifies under penalty of perjury under the laws of the United States that the application, and any evidence submitted with it, are all true and correct, and that the applicant authorizes the release of any information contained in the application and any attached evidence for law enforcement purposes.

“(c) IMPLEMENTATION AND APPLICATION TIME PERIODS.—

“(1) IN GENERAL.—The Secretary of Homeland Security shall ensure that the application process is secure and incorporates anti-fraud protection. The Secretary of Homeland Security shall interview an alien to determine eligibility for Deferred Mandatory Departure status and shall utilize biometric authentication at time of document issuance.

“(2) INITIAL RECEIPT OF APPLICATIONS.—The Secretary of Homeland Security shall begin accepting applications for Deferred Mandatory Departure status not later than 3 months after the date on which the application form is first made available.

“(3) APPLICATION.—An alien must submit an initial application for Deferred Mandatory Departure status not later than 6 months after the date on which the application form is first made available. An alien that fails to comply with this requirement is ineligible for Deferred Mandatory Departure status.

“(4) COMPLETION OF PROCESSING.—The Secretary of Homeland Security shall ensure that all applications for Deferred Mandatory Departure status are processed not later than 12 months after the date on which the application form is first made available.

“(d) SECURITY AND LAW ENFORCEMENT BACKGROUND CHECKS.—An alien may not be granted Deferred Mandatory Departure status unless the alien submits biometric data in accordance with procedures established by the Secretary of Homeland Security. The Secretary of Homeland Security may not

grant Deferred Mandatory Departure status until all appropriate background checks are completed to the satisfaction of the Secretary of Homeland Security.

“(e) ACKNOWLEDGMENT.—

“(1) IN GENERAL.—An alien who applies for Deferred Mandatory Departure status shall submit to the Secretary of Homeland Security—

“(A) an acknowledgment made in writing and under oath that the alien—

“(i) is unlawfully present in the United States and subject to removal or deportation, as appropriate, under this Act; and

“(ii) understands the terms of the terms of Deferred Mandatory Departure;

“(B) any Social Security account number or card in the possession of the alien or relied upon by the alien;

“(C) any false or fraudulent documents in the alien's possession.

“(2) USE OF INFORMATION.—None of the documents or other information provided in accordance with paragraph (1) may be used in a criminal proceeding against the alien providing such documents or information.

“(f) MANDATORY DEPARTURE.—

“(1) IN GENERAL.—The Secretary of Homeland Security shall grant Deferred Mandatory Departure status to an alien who meets the requirements of this section for a period not to exceed 3 years.

“(2) REGISTRATION AT TIME OF DEPARTURE.—An alien granted Deferred Mandatory Departure shall—

“(A) depart from the United States before the expiration of the period of Deferred Mandatory Departure status;

“(B) register with the Secretary of Homeland Security at the time of departure; and

“(C) surrender any evidence of Deferred Mandatory Departure status at the time of departure.

“(3) APPLICATION FOR READMISSION.—

“(A) IN GENERAL.—An alien under this section may apply for admission to the United States as an immigrant or nonimmigrant while in the United States or from any location outside of the United States, but may not be granted admission until the alien has departed from the United States in accordance with paragraph (2).

“(B) APPROVAL.—The Secretary may approve an application under subparagraph (A) during the period in which the alien is present in the United States under Deferred Mandatory Departure status.

“(C) US-VISIT.—An alien in Deferred Mandatory Departure status who is seeking admission as a nonimmigrant or immigrant alien may exit the United States and immediately reenter the United States at any land port of entry at which the US-VISIT exit and entry system can process such alien for admission into the United States.

“(D) INTERVIEW REQUIREMENTS.—Notwithstanding any other provision of law, any admission requirement involving in-person interviews at a consulate of the United States shall be waived for aliens granted Deferred Mandatory Departure status under this section.

“(E) WAIVER OF NUMERICAL LIMITATIONS.—The numerical limitations under section 214 shall not apply to any alien who is admitted as a nonimmigrant under this paragraph.

“(4) EFFECT OF READMISSION ON SPOUSE OR CHILD.—The spouse or child of an alien granted Deferred Mandatory Departure and subsequently granted an immigrant or nonimmigrant visa before departing the United States shall be—

“(A) deemed to have departed under this section upon the successful admission of the principal alien; and

“(B) eligible for the derivative benefits associated with the immigrant or nonimmigrant visa granted to the principal

alien without regard to numerical caps related to such visas.

“(5) WAIVERS.—The Secretary of Homeland Security may waive the departure requirement under this subsection if the alien—

“(A) is granted an immigrant or non-immigrant visa; and

“(B) can demonstrate that the departure of the alien would create a substantial hardship on the alien or an immediate family member of the alien.

“(6) RETURN IN LEGAL STATUS.—An alien who complies with the terms of Deferred Mandatory Departure status and who departs before the expiration of such status—

“(A) shall not be subject to section 212(a)(9)(B); and

“(B) if otherwise eligible, may immediately seek admission as a nonimmigrant or immigrant.

“(7) FAILURE TO DEPART.—An alien who fails to depart the United States prior to the expiration of Mandatory Deferred Departure status is not eligible and may not apply for or receive any immigration relief or benefit under this Act or any other law for a period of 10 years, with the exception of section 208 or 241(b)(3) or the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York December 10, 1984, in the case of an alien who indicates either an intention to apply for asylum under section 208 or a fear of persecution or torture.

“(8) PENALTIES FOR DELAYED DEPARTURE.—An alien who fails to depart immediately shall be subject to—

“(A) no fine if the alien departs not later than 1 year after the grant of Deferred Mandatory Departure;

“(B) a fine of \$2,000 if the alien does not depart within 2 years after the grant of Deferred Mandatory Departure; and

“(C) a fine of \$3,000 if the alien does not depart within 3 years after the grant of Deferred Mandatory Departure.

“(g) EVIDENCE OF DEFERRED MANDATORY DEPARTURE STATUS.—Evidence of Deferred Mandatory Departure status shall be machine-readable and tamper-resistant, shall allow for biometric authentication, and shall comply with the requirements under section 403 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note). The Secretary of Homeland Security is authorized to incorporate integrated-circuit technology into the document. The Secretary of Homeland Security shall consult with the Forensic Document Laboratory in designing the document. The document may serve as a travel, entry, and work authorization document during the period of its validity. The document may be accepted by an employer as evidence of employment authorization and identity under section 274A(b)(1)(B).

“(h) TERMS OF STATUS.—

“(1) REPORTING.—During the period of Deferred Mandatory Departure, an alien shall comply with all registration requirements under section 264.

“(2) TRAVEL.—

“(A) An alien granted Deferred Mandatory Departure is not subject to section 212(a)(9) for any unlawful presence that occurred prior to the Secretary of Homeland Security granting the alien Deferred Mandatory Departure status.

“(B) Under regulations established by the Secretary of Homeland Security, an alien granted Deferred Mandatory Departure—

“(i) may travel outside of the United States and may be readmitted if the period of Deferred Mandatory Departure status has not expired; and

“(ii) must establish at the time of application for admission that the alien is admissible under section 212.

“(C) EFFECT ON PERIOD OF AUTHORIZED AD-MISSION.—Time spent outside the United States under subparagraph (B) shall not extend the period of Deferred Mandatory Departure status.

“(3) BENEFITS.—During the period in which an alien is granted Deferred Mandatory Departure under this section—

“(A) the alien shall not be considered to be permanently residing in the United States under the color of law and shall be treated as a nonimmigrant admitted under section 214; and

“(B) the alien may be deemed ineligible for public assistance by a State (as defined in section 101(a)(36)) or any political subdivision thereof which furnishes such assistance.

“(1) PROHIBITION ON CHANGE OF STATUS OR ADJUSTMENT OF STATUS.—

“(1) IN GENERAL.—Before leaving the United States, an alien granted Deferred Mandatory Departure status may not apply to change status under section 248.

“(2) ADJUSTMENT OF STATUS.—An alien may not adjust to an immigrant classification under this section until after the earlier of—

“(A) the consideration of all applications filed under section 201, 202, or 203 before the date of enactment of this section; or

“(B) 8 years after the date of enactment of this section.

“(j) APPLICATION FEE.—

“(1) IN GENERAL.—An alien seeking a grant of Deferred Mandatory Departure status shall submit, in addition to any other fees authorized by law, an application fee of \$1,000.

“(2) USE OF FEE.—The fees collected under paragraph (1) shall be available for use by the Secretary of Homeland Security for activities to identify, locate, or remove illegal aliens.

“(k) FAMILY MEMBERS.—

“(1) IN GENERAL.—Subject subsection (f)(4), the spouse or child of an alien granted Deferred Mandatory Departure status is subject to the same terms and conditions as the principal alien.

“(2) APPLICATION FEE.—

“(A) IN GENERAL.—The spouse or child of an alien seeking Deferred Mandatory Departure status shall submit, in addition to any other fee authorized by law, an additional fee of \$500.

“(B) USE OF FEE.—The fees collected under subparagraph (A) shall be available for use by the Secretary of Homeland Security for activities to identify, locate, or remove aliens who are removable under section 237.

“(1) EMPLOYMENT.—

“(1) IN GENERAL.—An alien who has applied for or has been granted Deferred Mandatory Departure status may be employed in the United States.

“(2) CONTINUOUS EMPLOYMENT.—An alien granted Deferred Mandatory Departure status must be employed while in the United States. An alien who fails to be employed for 60 days is ineligible for hire until the alien has departed the United States and reentered. The Secretary of Homeland Security may reauthorize an alien for employment without requiring the alien’s departure from the United States.

“(m) ENUMERATION OF SOCIAL SECURITY NUMBER.—The Secretary of Homeland Security, in coordination with the Commissioner of the Social Security system, shall implement a system to allow for the enumeration of a Social Security number and production of a Social Security card at the time the Secretary of Homeland Security grants an alien Deferred Mandatory Departure status.

“(n) PENALTIES FOR FALSE STATEMENTS IN APPLICATION FOR DEFERRED MANDATORY DEPARTURE.—

“(1) CRIMINAL PENALTY.—

“(A) VIOLATION.—It shall be unlawful for any person—

“(i) to file or assist in filing an application for adjustment of status under this section and knowingly and willfully falsify, misrepresent, conceal, or cover up a material fact or make any false, fictitious, or fraudulent statements or representations, or make or use any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry; or

“(ii) to create or supply a false writing or document for use in making such an application.

“(B) PENALTY.—Any person who violates subparagraph (A) shall be fined in accordance with title 18, United States Code, imprisoned not more than 5 years, or both.

“(2) INADMISSIBILITY.—An alien who is convicted of a crime under paragraph (1) shall be considered to be inadmissible to the United States on the ground described in section 212(a)(6)(C)(i).

“(o) RELATION TO CANCELLATION OF REMOVAL.—With respect to an alien granted Deferred Mandatory Departure status under this section, the period of such status shall not be counted as a period of physical presence in the United States for purposes of section 240A(a), unless the Secretary of Homeland Security determines that extreme hardship exists.

“(p) WAIVER OF RIGHTS.—An alien is not eligible for Deferred Mandatory Departure status, unless the alien has waived any right to contest, other than on the basis of an application for asylum, restriction of removal, or protection under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York December 10, 1984, or cancellation of removal pursuant to section 240A(a), any action for deportation or removal of the alien that is instituted against the alien subsequent to a grant of Deferred Mandatory Departure status.

“(q) DENIAL OF DISCRETIONARY RELIEF.—The determination of whether an alien is eligible for a grant of Deferred Mandatory Departure status is solely within the discretion of the Secretary of Homeland Security. Notwithstanding any other provision of law, no court shall have jurisdiction to review—

“(1) any judgment regarding the granting of relief under this section; or

“(2) any other decision or action of the Secretary of Homeland Security the authority for which is specified under this section to be in the discretion of the Secretary, other than the granting of relief under section 208(a).

“(r) JUDICIAL REVIEW.—

“(1) LIMITATIONS ON RELIEF.—Without regard to the nature of the action or claim and without regard to the identity of the party or parties bringing the action, no court may—

“(A) enter declaratory, injunctive, or other equitable relief in any action pertaining to—

“(i) an order or notice denying an alien a grant of Deferred Mandatory Departure status or any other benefit arising from such status; or

“(ii) an order of removal, exclusion, or deportation entered against an alien after a grant of Deferred Mandatory Departure status; or

“(B) certify a class under Rule 23 of the Federal Rules of Civil Procedure in any action for which judicial review is authorized under a subsequent paragraph of this subsection.

“(2) CHALLENGES TO VALIDITY.—

“(A) IN GENERAL.—Any right or benefit not otherwise waived or limited pursuant this section is available in an action instituted in the United States District Court for the District of Columbia, but shall be limited to determinations of—

“(i) whether such section, or any regulation issued to implement such section, violates the Constitution of the United States; or

“(ii) whether such a regulation, or a written policy directive, written policy guideline, or written procedure issued by or under the authority of the Secretary of Homeland Security to implement such section, is not consistent with applicable provisions of this section or is otherwise in violation of law.”.

(2) TABLE OF CONTENTS.—The table of contents (8 U.S.C. 1101 et seq.), as amended by this subsection (b)(2), is further amended by inserting after the item relating to section 245B the following:

“245C. Mandatory Departure and Reentry.”.

(3) CONFORMING AMENDMENT.—Section 237(a)(2)(A)(i)(II) (8 U.S.C. 1227(a)(2)(A)(i)(II)) is amended by inserting “(or 6 months in the case of an alien granted Deferred Mandatory Departure status under section 245C)” after “imposed”.

(4) STATUTORY CONSTRUCTION.—Nothing in this subsection, or any amendment made by this subsection, shall be construed to create any substantive or procedural right or benefit that is legally enforceable by any party against the United States or its agencies or officers or any other person.

(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such amounts as may be necessary for facilities, personnel (including consular officers), training, technology, and processing necessary to carry out the amendments made by this subsection.

(d) CORRECTION OF SOCIAL SECURITY RECORDS.—Section 208(e)(1) of the Social Security Act (42 U.S.C. 408(e)(1)) is amended—

(1) in subparagraph (B)(ii), by striking “or” at the end;

(2) in subparagraph (C), by inserting “or” at the end;

(3) by inserting after subparagraph (C) the following:

“(D) whose status is adjusted to that of lawful permanent resident under section 245B of the Immigration and Nationality Act.”; and

(4) by striking “1990.” and inserting “1990, or in the case of an alien described in subparagraph (D), if such conduct is alleged to have occurred prior to the date on which the alien became lawfully admitted for temporary residence.”.

Subtitle B—Agricultural Job Opportunities, Benefits, and Security

SEC. 611. SHORT TITLE.

This subtitle may be cited as the “Agricultural Job Opportunities, Benefits, and Security Act of 2006” or the “AgJOBS Act of 2006”.

SEC. 612. DEFINITIONS.

In this subtitle:

(1) AGRICULTURAL EMPLOYMENT.—The term “agricultural employment” means any service or activity that is considered to be agricultural under section 3(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f)) or agricultural labor under section 3121(g) of the Internal Revenue Code of 1986 (26 U.S.C. 3121(g)). For purposes of this paragraph, agricultural employment includes employment under section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a)).

(2) BLUE CARD STATUS.—The term “blue card status” means the status of an alien who has been lawfully admitted into the United States for temporary residence under section 613(a).

(3) EMPLOYER.—The term “employer” means any person or entity, including any farm labor contractor and any agricultural association, that employs workers in agricultural employment.

(4) JOB OPPORTUNITY.—The term “job opportunity” means a job opening for temporary full-time employment at a place in the United States to which United States workers can be referred.

(5) TEMPORARY.—A worker is employed on a “temporary” basis where the employment is intended not to exceed 10 months.

(6) UNITED STATES WORKER.—The term “United States worker” means any worker, whether a United States citizen or national, a lawfully admitted permanent resident alien, or any other alien, who is authorized to work in the job opportunity within the United States, except an alien admitted or otherwise provided status under section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a)).

(7) WORK DAY.—The term “work day” means any day in which the individual is employed 1 or more hours in agriculture consistent with the definition of “man-day” under section 3(u) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(u)).

CHAPTER 1—PILOT PROGRAM FOR EARNED STATUS ADJUSTMENT OF AGRICULTURAL WORKERS

SEC. 613. AGRICULTURAL WORKERS.

(a) BLUE CARD PROGRAM.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary shall confer blue card status upon an alien who qualifies under this subsection if the Secretary determines that the alien—

(A) has performed agricultural employment in the United States for at least 863 hours or 150 work days, whichever is less, during the 24-month period ending on December 31, 2005;

(B) applied for such status during the 18-month application period beginning on the first day of the seventh month that begins after the date of enactment of this Act; and

(C) is otherwise admissible to the United States under section 212 of the Immigration and Nationality Act (8 U.S.C. 1182), except as otherwise provided under subsection (e)(2).

(2) AUTHORIZED TRAVEL.—An alien in blue card status has the right to travel abroad (including commutation from a residence abroad) in the same manner as an alien lawfully admitted for permanent residence.

(3) AUTHORIZED EMPLOYMENT.—An alien in blue card status shall be provided an “employment authorized” endorsement or other appropriate work permit, in the same manner as an alien lawfully admitted for permanent residence.

(4) TERMINATION OF BLUE CARD STATUS.—

(A) IN GENERAL.—The Secretary may terminate blue card status granted under this subsection only upon a determination under this subtitle that the alien is deportable.

(B) GROUNDS FOR TERMINATION OF BLUE CARD STATUS.—Before any alien becomes eligible for adjustment of status under subsection (c), the Secretary may deny adjustment to permanent resident status and provide for termination of the blue card status granted such alien under paragraph (1) if—

(i) the Secretary finds, by a preponderance of the evidence, that the adjustment to blue card status was the result of fraud or willful misrepresentation (as described in section 212(a)(6)(C)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(6)(C)(i)); or

(ii) the alien—

(I) commits an act that makes the alien inadmissible to the United States as an immigrant, except as provided under subsection (e)(2);

(II) is convicted of a felony or 3 or more misdemeanors committed in the United States; or

(III) is convicted of an offense, an element of which involves bodily injury, threat of se-

rious bodily injury, or harm to property in excess of \$500.

(5) RECORD OF EMPLOYMENT.—

(A) IN GENERAL.—Each employer of a worker granted status under this subsection shall annually—

(i) provide a written record of employment to the alien; and

(ii) provide a copy of such record to the Secretary.

(B) SUNSET.—The obligation under subparagraph (A) shall terminate on the date that is 6 years after the date of the enactment of this Act.

(6) REQUIRED FEATURES OF BLUE CARD.—The Secretary shall provide each alien granted blue card status and the spouse and children of each such alien residing in the United States with a card that contains—

(A) an encrypted, machine-readable, electronic identification strip that is unique to the alien to whom the card is issued;

(B) biometric identifiers, including fingerprints and a digital photograph; and

(C) physical security features designed to prevent tampering, counterfeiting, or duplication of the card for fraudulent purposes.

(7) FINE.—An alien granted blue card status shall pay a fine to the Secretary in an amount equal to \$100.

(8) MAXIMUM NUMBER.—The Secretary may issue not more than 1,500,000 blue cards during the 5-year period beginning on the date of the enactment of this Act.

(b) RIGHTS OF ALIENS GRANTED BLUE CARD STATUS.—

(1) IN GENERAL.—Except as otherwise provided under this subsection, an alien in blue card status shall be considered to be an alien lawfully admitted for permanent residence for purposes of any law other than any provision of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

(2) DELAYED ELIGIBILITY FOR CERTAIN FEDERAL PUBLIC BENEFITS.—An alien in blue card status shall not be eligible, by reason of such status, for any form of assistance or benefit described in section 403(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1613(a)) until 5 years after the date on which the Secretary confers blue card status upon that alien.

(3) TERMS OF EMPLOYMENT RESPECTING ALIENS ADMITTED UNDER THIS SECTION.—

(A) PROHIBITION.—No alien granted blue card status may be terminated from employment by any employer during the period of blue card status except for just cause.

(B) TREATMENT OF COMPLAINTS.—

(i) ESTABLISHMENT OF PROCESS.—The Secretary shall establish a process for the receipt, initial review, and disposition of complaints by aliens granted blue card status who allege that they have been terminated without just cause. No proceeding shall be conducted under this subparagraph with respect to a termination unless the Secretary determines that the complaint was filed not later than 6 months after the date of the termination.

(ii) INITIATION OF ARBITRATION.—If the Secretary finds that a complaint has been filed in accordance with clause (i) and there is reasonable cause to believe that the complainant was terminated without just cause, the Secretary shall initiate binding arbitration proceedings by requesting the Federal Mediation and Conciliation Service to appoint a mutually agreeable arbitrator from the roster of arbitrators maintained by such Service for the geographical area in which the employer is located. The procedures and rules of such Service shall be applicable to the selection of such arbitrator and to such arbitration proceedings. The Secretary shall pay the fee and expenses of the arbitrator, subject to the availability of appropriations for such purpose.

(iii) **ARBITRATION PROCEEDINGS.**—The arbitrator shall conduct the proceeding in accordance with the policies and procedures promulgated by the American Arbitration Association applicable to private arbitration of employment disputes. The arbitrator shall make findings respecting whether the termination was for just cause. The arbitrator may not find that the termination was for just cause unless the employer so demonstrates by a preponderance of the evidence. If the arbitrator finds that the termination was not for just cause, the arbitrator shall make a specific finding of the number of days or hours of work lost by the employee as a result of the termination. The arbitrator shall have no authority to order any other remedy, including, but not limited to, reinstatement, back pay, or front pay to the affected employee. Within 30 days from the conclusion of the arbitration proceeding, the arbitrator shall transmit the findings in the form of a written opinion to the parties to the arbitration and the Secretary. Such findings shall be final and conclusive, and no official or court of the United States shall have the power or jurisdiction to review any such findings.

(iv) **EFFECT OF ARBITRATION FINDINGS.**—If the Secretary receives a finding of an arbitrator that an employer has terminated an alien granted blue card status without just cause, the Secretary shall credit the alien for the number of days or hours of work lost for purposes of the requirement of subsection (c)(1).

(v) **TREATMENT OF ATTORNEY'S FEES.**—The parties shall bear the cost of their own attorney's fees involved in the litigation of the complaint.

(vi) **NONEXCLUSIVE REMEDY.**—The complaint process provided for in this subparagraph is in addition to any other rights an employee may have in accordance with applicable law.

(vii) **EFFECT ON OTHER ACTIONS OR PROCEEDINGS.**—Any finding of fact or law, judgment, conclusion, or final order made by an arbitrator in the proceeding before the Secretary shall not be conclusive or binding in any separate or subsequent action or proceeding between the employee and the employee's current or prior employer brought before an arbitrator, administrative agency, court, or judge of any State or the United States, regardless of whether the prior action was between the same or related parties or involved the same facts, except that the arbitrator's specific finding of the number of days or hours of work lost by the employee as a result of the employment termination may be referred to the Secretary pursuant to clause (iv).

(C) **CIVIL PENALTIES.**—

(i) **IN GENERAL.**—If the Secretary finds, after notice and opportunity for a hearing, that an employer of an alien granted blue card status has failed to provide the record of employment required under subsection (a)(5) or has provided a false statement of material fact in such a record, the employer shall be subject to a civil money penalty in an amount not to exceed \$1,000 per violation.

(ii) **LIMITATION.**—The penalty applicable under clause (i) for failure to provide records shall not apply unless the alien has provided the employer with evidence of employment authorization granted under this section.

(c) **ADJUSTMENT TO PERMANENT RESIDENCE.**—

(1) **AGRICULTURAL WORKERS.**—

(A) **IN GENERAL.**—Except as provided in subparagraph (B), the Secretary shall adjust the status of an alien granted blue card status to that of an alien lawfully admitted for permanent residence if the Secretary determines that the following requirements are satisfied:

(i) **QUALIFYING EMPLOYMENT.**—The alien has performed at least—

(I) 5 years of agricultural employment in the United States, for at least 100 work days or 575 hours, but in no case less than 575 hours per year, during the 5-year period beginning on the date of the enactment of this Act; or

(II) 3 years of agricultural employment in the United States, for at least 150 work days or 863 hours, but in no case less than 863 hours per year, during the 5-year period beginning on the date of the enactment of this Act.

(ii) **PROOF.**—An alien may demonstrate compliance with the requirement under clause (i) by submitting—

(I) the record of employment described in subsection (a)(5); or

(II) such documentation as may be submitted under subsection (d)(3).

(iii) **EXTRAORDINARY CIRCUMSTANCES.**—In determining whether an alien has met the requirement under clause (i)(I), the Secretary may credit the alien with not more than 12 additional months to meet the requirement under clause (i) if the alien was unable to work in agricultural employment due to—

(I) pregnancy, injury, or disease, if the alien can establish such pregnancy, disabling injury, or disease through medical records;

(II) illness, disease, or other special needs of a minor child, if the alien can establish such illness, disease, or special needs through medical records; or

(III) severe weather conditions that prevented the alien from engaging in agricultural employment for a significant period of time.

(iv) **APPLICATION PERIOD.**—The alien applies for adjustment of status not later than 7 years after the date of the enactment of this Act.

(v) **FINE.**—The alien pays a fine to the Secretary in an amount equal to \$400.

(B) **GROUND FOR DENIAL OF ADJUSTMENT OF STATUS.**—The Secretary may deny an alien adjustment to permanent resident status, and provide for termination of the blue card status granted such alien, if—

(i) the Secretary finds by a preponderance of the evidence that the adjustment to blue card status was the result of fraud or willful misrepresentation, as described in section 212(a)(6)(C)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(6)(C)(i)); or

(ii) the alien—

(I) commits an act that makes the alien inadmissible to the United States under section 212 of the Immigration and Nationality Act (8 U.S.C. 1182), except as provided under subsection (e)(2);

(II) is convicted of a felony or 3 or more misdemeanors committed in the United States; or

(III) is convicted of a single misdemeanor for which the actual sentence served is 6 months or longer.

(C) **GROUND FOR REMOVAL.**—Any alien granted blue card status who does not apply for adjustment of status under this subsection before the expiration of the application period described in subparagraph (A)(iv), or who fails to meet the other requirements of subparagraph (A) by the end of the applicable period, is deportable and may be removed under section 240 of the Immigration and Nationality Act (8 U.S.C. 1229a).

(D) **PAYMENT OF INCOME TAXES.**—

(i) **IN GENERAL.**—Not later than the date on which an alien's status is adjusted under this subsection, the alien shall establish the payment of all Federal income taxes owed for employment during the period of employment required under paragraph (1)(A) by establishing that—

(I) no such tax liability exists;

(II) all outstanding liabilities have been met; or

(III) the alien has entered into an agreement for payment of all outstanding liabilities with the Internal Revenue Service.

(ii) **IRS COOPERATION.**—The Commissioner of Internal Revenue shall provide documentation to an alien upon request to establish the payment of all income taxes required under this paragraph.

(2) **SPOUSES AND MINOR CHILDREN.**—

(A) **IN GENERAL.**—Notwithstanding any other provision of law, the Secretary shall confer the status of lawful permanent resident on the spouse and minor child of an alien granted status under paragraph (1), including any individual who was a minor child on the date such alien was granted blue card status, if the spouse or minor child applies for such status, or if the principal alien includes the spouse or minor child in an application for adjustment of status to that of a lawful permanent resident.

(B) **TREATMENT OF SPOUSES AND MINOR CHILDREN BEFORE ADJUSTMENT OF STATUS.**—

(i) **REMOVAL.**—The spouse and any minor child of an alien granted blue card status may not be removed while such alien maintains such status, except as provided in subparagraph (C).

(ii) **TRAVEL.**—The spouse and any minor child of an alien granted blue card status may travel outside the United States in the same manner as an alien lawfully admitted for permanent residence.

(iii) **EMPLOYMENT.**—The spouse of an alien granted blue card status may apply to the Secretary for a work permit to authorize such spouse to engage in any lawful employment in the United States while such alien maintains blue card status.

(C) **GROUND FOR DENIAL OF ADJUSTMENT OF STATUS AND REMOVAL.**—The Secretary may deny an alien spouse or child adjustment of status under subparagraph (A) and may remove such spouse or child under section 240 of the Immigration and Nationality Act (8 U.S.C. 1229a) if the spouse or child—

(i) commits an act that makes the alien spouse or child inadmissible to the United States under section 212 of such Act (8 U.S.C. 1182), except as provided under subsection (e)(2);

(ii) is convicted of a felony or 3 or more misdemeanors committed in the United States; or

(iii) is convicted of a single misdemeanor for which the actual sentence served is 6 months or longer.

(d) **APPLICATIONS.**—

(1) **TO WHOM MAY BE MADE.**—The Secretary shall provide that—

(A) applications for blue card status may be filed—

(i) with the Secretary, but only if the applicant is represented by an attorney or a non-profit religious, charitable, social service, or similar organization recognized by the Board of Immigration Appeals under section 292.2 of title 8, Code of Federal Regulations; or

(ii) with a qualified designated entity (designated under paragraph (2)), but only if the applicant consents to the forwarding of the application to the Secretary; and

(B) applications for adjustment of status under subsection (c) shall be filed directly with the Secretary.

(2) **DESIGNATION OF ENTITIES TO RECEIVE APPLICATIONS.**—

(A) **IN GENERAL.**—For purposes of receiving applications under subsection (a), the Secretary—

(i) shall designate qualified farm labor organizations and associations of employers; and

(ii) may designate such other persons as the Secretary determines are qualified and

have substantial experience, demonstrate competence, and have traditional long-term involvement in the preparation and submission of applications for adjustment of status under section 209, 210, or 245 of the Immigration and Nationality Act, Public Law 89-732, Public Law 95-145, or the Immigration Reform and Control Act of 1986.

(B) REFERENCES.—Organizations, associations, and persons designated under subparagraph (A) are referred to in this subtitle as “qualified designated entities”.

(3) PROOF OF ELIGIBILITY.—

(A) IN GENERAL.—An alien may establish that the alien meets the requirement of subsection (a)(1)(A) or (c)(1)(A) through government employment records or records supplied by employers or collective bargaining organizations, and other reliable documentation as the alien may provide. The Secretary shall establish special procedures to properly credit work in cases in which an alien was employed under an assumed name.

(B) DOCUMENTATION OF WORK HISTORY.—

(i) BURDEN OF PROOF.—An alien applying for status under subsection (a)(1) or (c)(1) has the burden of proving by a preponderance of the evidence that the alien has worked the requisite number of hours or days (as required under subsection (a)(1)(A) or (c)(1)(A)).

(ii) TIMELY PRODUCTION OF RECORDS.—If an employer or farm labor contractor employing such an alien has kept proper and adequate records respecting such employment, the alien’s burden of proof under clause (i) may be met by securing timely production of those records under regulations to be promulgated by the Secretary.

(iii) SUFFICIENT EVIDENCE.—An alien can meet the burden of proof under clause (i) to establish that the alien has performed the work described in subsection (a)(1)(A) or (c)(1)(A) by producing sufficient evidence to show the extent of that employment as a matter of just and reasonable inference.

(4) TREATMENT OF APPLICATIONS BY QUALIFIED DESIGNATED ENTITIES.—Each qualified designated entity shall agree to forward to the Secretary applications filed with it in accordance with paragraph 1(A)(i)(II) but shall not forward to the Secretary applications filed with it unless the applicant has consented to such forwarding. No such entity may make a determination required by this section to be made by the Secretary. Upon the request of the alien, a qualified designated entity shall assist the alien in obtaining documentation of the work history of the alien.

(5) LIMITATION ON ACCESS TO INFORMATION.—Files and records prepared for purposes of this subsection by qualified designated entities operating under this subsection are confidential and the Secretary shall not have access to such files or records relating to an alien without the consent of the alien, except as allowed by a court order issued pursuant to paragraph (6).

(6) CONFIDENTIALITY OF INFORMATION.—

(A) IN GENERAL.—Except as otherwise provided in this subsection, neither the Secretary, nor any other official or employee of the Department, or a bureau or agency of the Department, may—

(i) use the information furnished by the applicant pursuant to an application filed under this section, the information provided to the applicant by a person designated under paragraph 2(A), or any information provided by an employer or former employer, for any purpose other than to make a determination on the application, or for enforcement of paragraph (7);

(ii) make any publication whereby the information furnished by any particular individual can be identified; or

(iii) permit anyone other than the sworn officers and employees of the Department, or a bureau or agency of the Department, or, with respect to applications filed with a qualified designated entity, that qualified designated entity, to examine individual applications.

(B) REQUIRED DISCLOSURES.—The Secretary shall provide the information furnished under this section, or any other information derived from such furnished information, to—

(i) a duly recognized law enforcement entity in connection with a criminal investigation or prosecution, if such information is requested in writing by such entity; or

(ii) an official coroner, for purposes of affirmatively identifying a deceased individual, whether or not the death of such individual resulted from a crime.

(C) CONSTRUCTION.—

(i) IN GENERAL.—Nothing in this paragraph shall be construed to limit the use, or release, for immigration enforcement purposes or law enforcement purposes of information contained in files or records of the Department pertaining to an application filed under this section, other than information furnished by an applicant pursuant to the application, or any other information derived from the application, that is not available from any other source.

(ii) CRIMINAL CONVICTIONS.—Information concerning whether the applicant has at any time been convicted of a crime may be used or released for immigration enforcement or law enforcement purposes.

(D) CRIME.—Any person who knowingly uses, publishes, or permits information to be examined in violation of this paragraph shall be subject to a fine in an amount not to exceed \$10,000.

(7) PENALTIES FOR FALSE STATEMENTS IN APPLICATIONS.—

(A) CRIMINAL PENALTY.—Any person who—

(i) files an application for status under subsection (a) or (c) and knowingly and willfully falsifies, conceals, or covers up a material fact or makes any false, fictitious, or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry; or

(ii) creates or supplies a false writing or document for use in making such an application,

shall be fined in accordance with title 18, United States Code, imprisoned not more than 5 years, or both.

(B) INADMISSIBILITY.—An alien who is convicted of a crime under subparagraph (A) shall be considered to be inadmissible to the United States on the ground described in section 212(a)(6)(C)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(6)(C)(i)).

(8) ELIGIBILITY FOR LEGAL SERVICES.—Section 504(a)(11) of Public Law 104-134 (110 Stat. 1321-53 et seq.) shall not be construed to prevent a recipient of funds under the Legal Services Corporation Act (42 U.S.C. 2996 et seq.) from providing legal assistance directly related to an application for adjustment of status under this section.

(9) APPLICATION FEES.—

(A) FEE SCHEDULE.—The Secretary shall provide for a schedule of fees that—

(i) shall be charged for the filing of applications for status under subsections (a) and (c); and

(ii) may be charged by qualified designated entities to help defray the costs of services provided to such applicants.

(B) PROHIBITION ON EXCESS FEES BY QUALIFIED DESIGNATED ENTITIES.—A qualified designated entity may not charge any fee in excess of, or in addition to, the fees authorized under subparagraph (A)(ii) for services provided to applicants.

(C) DISPOSITION OF FEES.—

(i) IN GENERAL.—There is established in the general fund of the Treasury a separate account, which shall be known as the “Agricultural Worker Immigration Status Adjustment Account”. Notwithstanding any other provision of law, there shall be deposited as offsetting receipts into the account all fees collected under subparagraph (A)(i).

(ii) USE OF FEES FOR APPLICATION PROCESSING.—Amounts deposited in the “Agricultural Worker Immigration Status Adjustment Account” shall remain available to the Secretary until expended for processing applications for status under subsections (a) and (c).

(e) WAIVER OF NUMERICAL LIMITATIONS AND CERTAIN GROUNDS FOR INADMISSIBILITY.—

(1) NUMERICAL LIMITATIONS DO NOT APPLY.—The numerical limitations of sections 201 and 202 of the Immigration and Nationality Act (8 U.S.C. 1151 and 1152) shall not apply to the adjustment of aliens to lawful permanent resident status under this section.

(2) WAIVER OF CERTAIN GROUNDS OF INADMISSIBILITY.—In the determination of an alien’s eligibility for status under subsection (a)(1)(C) or an alien’s eligibility for adjustment of status under subsection (c)(1)(B)(ii)(I), the following rules shall apply:

(A) GROUNDS OF EXCLUSION NOT APPLICABLE.—The provisions of paragraphs (5), (6)(A), (7), and (9) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)) shall not apply.

(B) WAIVER OF OTHER GROUNDS.—

(i) IN GENERAL.—Except as provided in clause (ii), the Secretary may waive any other provision of such section 212(a) in the case of individual aliens for humanitarian purposes, to ensure family unity, or if otherwise in the public interest.

(ii) GROUNDS THAT MAY NOT BE WAIVED.—Paragraphs 2(A), 2(B), 2(C), (3), and (4) of such section 212(a) may not be waived by the Secretary under clause (i).

(iii) CONSTRUCTION.—Nothing in this subparagraph shall be construed as affecting the authority of the Secretary other than under this subparagraph to waive provisions of such section 212(a).

(C) SPECIAL RULE FOR DETERMINATION OF PUBLIC CHARGE.—An alien is not ineligible for status under this section by reason of a ground of inadmissibility under section 212(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(4)) if the alien demonstrates a history of employment in the United States evidencing self-support without reliance on public cash assistance.

(f) TEMPORARY STAY OF REMOVAL AND WORK AUTHORIZATION FOR CERTAIN APPLICANTS.—

(1) BEFORE APPLICATION PERIOD.—Effective on the date of enactment of this Act, the Secretary shall provide that, in the case of an alien who is apprehended before the beginning of the application period described in subsection (a)(1)(B) and who can establish a nonfrivolous case of eligibility for blue card status (but for the fact that the alien may not apply for such status until the beginning of such period), until the alien has had the opportunity during the first 30 days of the application period to complete the filing of an application for blue card status, the alien—

(A) may not be removed; and

(B) shall be granted authorization to engage in employment in the United States and be provided an “employment authorized” endorsement or other appropriate work permit for such purpose.

(2) DURING APPLICATION PERIOD.—The Secretary shall provide that, in the case of an

alien who presents a nonfrivolous application for blue card status during the application period described in subsection (a)(1)(B), including an alien who files such an application within 30 days of the alien's apprehension, and until a final determination on the application has been made in accordance with this section, the alien—

(A) may not be removed; and

(B) shall be granted authorization to engage in employment in the United States and be provided an "employment authorized" endorsement or other appropriate work permit for such purpose.

(g) ADMINISTRATIVE AND JUDICIAL REVIEW.—

(1) IN GENERAL.—There shall be no administrative or judicial review of a determination respecting an application for status under subsection (a) or (c) except in accordance with this subsection.

(2) ADMINISTRATIVE REVIEW.—

(A) SINGLE LEVEL OF ADMINISTRATIVE APPELLATE REVIEW.—The Secretary shall establish an appellate authority to provide for a single level of administrative appellate review of such a determination.

(B) STANDARD FOR REVIEW.—Such administrative appellate review shall be based solely upon the administrative record established at the time of the determination on the application and upon such additional or newly discovered evidence as may not have been available at the time of the determination.

(3) JUDICIAL REVIEW.—

(A) LIMITATION TO REVIEW OF REMOVAL.—There shall be judicial review of such a determination only in the judicial review of an order of removal under section 242 of the Immigration and Nationality Act (8 U.S.C. 1252).

(B) STANDARD FOR JUDICIAL REVIEW.—Such judicial review shall be based solely upon the administrative record established at the time of the review by the appellate authority and the findings of fact and determinations contained in such record shall be conclusive unless the applicant can establish abuse of discretion or that the findings are directly contrary to clear and convincing facts contained in the record considered as a whole.

(h) DISSEMINATION OF INFORMATION ON ADJUSTMENT PROGRAM.—Beginning not later than the first day of the application period described in subsection (a)(1)(B), the Secretary, in cooperation with qualified designated entities, shall broadly disseminate information respecting the benefits that aliens may receive under this section and the requirements to be satisfied to obtain such benefits.

(i) REGULATIONS.—The Secretary shall issue regulations to implement this section not later than the first day of the seventh month that begins after the date of enactment of this Act.

(j) EFFECTIVE DATE.—This section shall take effect on the date that regulations are issued implementing this section on an interim or other basis.

(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out this section \$40,000,000 for each of fiscal years 2007 through 2010.

SEC. 614. CORRECTION OF SOCIAL SECURITY RECORDS.

(a) IN GENERAL.—Section 208(d)(1) of the Social Security Act (42 U.S.C. 408(d)(1)) is amended—

(1) in subparagraph (B)(ii), by striking "or" at the end;

(2) in subparagraph (C), by inserting "or" at the end;

(3) by inserting after subparagraph (C) the following:

"(D) who is granted blue card status under the Agricultural Job Opportunity, Benefits, and Security Act of 2006,"; and

(4) by striking "1990." and inserting "1990, or in the case of an alien described in subparagraph (D), if such conduct is alleged to have occurred before the date on which the alien was granted blue card status."

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the first day of the seventh month that begins after the date of the enactment of this Act.

CHAPTER 2—REFORM OF H-2A WORKER PROGRAM

SEC. 615. AMENDMENT TO THE IMMIGRATION AND NATIONALITY ACT.

(a) IN GENERAL.—Title II (8 U.S.C. 1151 et seq.) is amended—

(1) by striking section 218 and inserting the following:

"SEC. 218. H-2A EMPLOYER APPLICATIONS.

"(a) APPLICATIONS TO THE SECRETARY OF LABOR.—

"(1) IN GENERAL.—No alien may be admitted to the United States as an H-2A worker, or otherwise provided status as an H-2A worker, unless the employer has filed with the Secretary of Labor an application containing—

"(A) the assurances described in subsection (b);

"(B) a description of the nature and location of the work to be performed;

"(C) the anticipated period (expected beginning and ending dates) for which the workers will be needed; and

"(D) the number of job opportunities in which the employer seeks to employ the workers.

"(2) ACCOMPANIED BY JOB OFFER.—Each application filed under paragraph (1) shall be accompanied by a copy of the job offer describing the wages and other terms and conditions of employment and the bona fide occupational qualifications that shall be possessed by a worker to be employed in the job opportunity in question.

"(b) ASSURANCES FOR INCLUSION IN APPLICATIONS.—The assurances referred to in subsection (a)(1) are the following:

"(1) JOB OPPORTUNITIES COVERED BY COLLECTIVE BARGAINING AGREEMENTS.—With respect to a job opportunity that is covered under a collective bargaining agreement:

"(A) UNION CONTRACT DESCRIBED.—The job opportunity is covered by a union contract which was negotiated at arm's length between a bona fide union and the employer.

"(B) STRIKE OR LOCKOUT.—The specific job opportunity for which the employer is requesting an H-2A worker is not vacant because the former occupant is on strike or being locked out in the course of a labor dispute.

"(C) NOTIFICATION OF BARGAINING REPRESENTATIVES.—The employer, at the time of filing the application, has provided notice of the filing under this paragraph to the bargaining representative of the employer's employees in the occupational classification at the place or places of employment for which aliens are sought.

"(D) TEMPORARY OR SEASONAL JOB OPPORTUNITIES.—The job opportunity is temporary or seasonal.

"(E) OFFERS TO UNITED STATES WORKERS.—The employer has offered or will offer the job to any eligible United States worker who applies and is equally or better qualified for the job for which the nonimmigrant is, or the nonimmigrants are, sought and who will be available at the time and place of need.

"(F) PROVISION OF INSURANCE.—If the job opportunity is not covered by the State workers' compensation law, the employer will provide, at no cost to the worker, insurance covering injury and disease arising out of, and in the course of, the worker's employment which will provide benefits at least

equal to those provided under the State's workers' compensation law for comparable employment.

"(2) JOB OPPORTUNITIES NOT COVERED BY COLLECTIVE BARGAINING AGREEMENTS.—With respect to a job opportunity that is not covered under a collective bargaining agreement:

"(A) STRIKE OR LOCKOUT.—The specific job opportunity for which the employer is requesting an H-2A worker is not vacant because the former occupant is on strike or being locked out in the course of a labor dispute.

"(B) TEMPORARY OR SEASONAL JOB OPPORTUNITIES.—The job opportunity is temporary or seasonal.

"(C) BENEFIT, WAGE, AND WORKING CONDITIONS.—The employer will provide, at a minimum, the benefits, wages, and working conditions required by section 218E to all workers employed in the job opportunities for which the employer has applied under subsection (a) and to all other workers in the same occupation at the place of employment.

"(D) NONDISPLACEMENT OF UNITED STATES WORKERS.—The employer did not displace and will not displace a United States worker employed by the employer during the period of employment and for a period of 30 days preceding the period of employment in the occupation at the place of employment for which the employer seeks approval to employ H-2A workers.

"(E) REQUIREMENTS FOR PLACEMENT OF NON-IMMIGRANT WITH OTHER EMPLOYERS.—The employer will not place the nonimmigrant with another employer unless—

"(i) the nonimmigrant performs duties in whole or in part at 1 or more work sites owned, operated, or controlled by such other employer;

"(ii) there are indicia of an employment relationship between the nonimmigrant and such other employer; and

"(iii) the employer has inquired of the other employer as to whether, and has no actual knowledge or notice that, during the period of employment and for a period of 30 days preceding the period of employment, the other employer has displaced or intends to displace a United States worker employed by the other employer in the occupation at the place of employment for which the employer seeks approval to employ H-2A workers.

"(F) STATEMENT OF LIABILITY.—The application form shall include a clear statement explaining the liability under subparagraph (E) of an employer if the other employer described in such subparagraph displaces a United States worker as described in such subparagraph.

"(G) PROVISION OF INSURANCE.—If the job opportunity is not covered by the State workers' compensation law, the employer will provide, at no cost to the worker, insurance covering injury and disease arising out of and in the course of the worker's employment which will provide benefits at least equal to those provided under the State's workers' compensation law for comparable employment.

"(H) EMPLOYMENT OF UNITED STATES WORKERS.—

"(i) RECRUITMENT.—The employer has taken or will take the following steps to recruit United States workers for the job opportunities for which the H-2A nonimmigrant is, or H-2A nonimmigrants are, sought:

"(I) CONTACTING FORMER WORKERS.—The employer shall make reasonable efforts through the sending of a letter by United States Postal Service mail, or otherwise, to contact any United States worker the employer employed during the previous season

in the occupation at the place of intended employment for which the employer is applying for workers and has made the availability of the employer's job opportunities in the occupation at the place of intended employment known to such previous workers, unless the worker was terminated from employment by the employer for a lawful job-related reason or abandoned the job before the worker completed the period of employment of the job opportunity for which the worker was hired.

“(II) FILING A JOB OFFER WITH THE LOCAL OFFICE OF THE STATE EMPLOYMENT SECURITY AGENCY.—Not later than 28 days before the date on which the employer desires to employ an H-2A worker in a temporary or seasonal agricultural job opportunity, the employer shall submit a copy of the job offer described in subsection (a)(2) to the local office of the State employment security agency which serves the area of intended employment and authorize the posting of the job opportunity on ‘America’s Job Bank’ or other electronic job registry, except that nothing in this subclause shall require the employer to file an interstate job order under section 653 of title 20, Code of Federal Regulations.

“(III) ADVERTISING OF JOB OPPORTUNITIES.—Not later than 14 days before the date on which the employer desires to employ an H-2A worker in a temporary or seasonal agricultural job opportunity, the employer shall advertise the availability of the job opportunities for which the employer is seeking workers in a publication in the local labor market that is likely to be patronized by potential farm workers.

“(IV) EMERGENCY PROCEDURES.—The Secretary of Labor shall, by regulation, provide a procedure for acceptance and approval of applications in which the employer has not complied with the provisions of this subparagraph because the employer's need for H-2A workers could not reasonably have been foreseen.

“(ii) JOB OFFERS.—The employer has offered or will offer the job to any eligible United States worker who applies and is equally or better qualified for the job for which the nonimmigrant is, or nonimmigrants are, sought and who will be available at the time and place of need.

“(iii) PERIOD OF EMPLOYMENT.—The employer will provide employment to any qualified United States worker who applies to the employer during the period beginning on the date on which the foreign worker departs for the employer's place of employment and ending on the date on which 50 percent of the period of employment for which the foreign worker who is in the job was hired has elapsed, subject to the following requirements:

“(I) PROHIBITION.—No person or entity shall willfully and knowingly withhold United States workers before the arrival of H-2A workers in order to force the hiring of United States workers under this clause.

“(II) COMPLAINTS.—Upon receipt of a complaint by an employer that a violation of subclause (I) has occurred, the Secretary of Labor shall immediately investigate. The Secretary of Labor shall, within 36 hours of the receipt of the complaint, issue findings concerning the alleged violation. If the Secretary of Labor finds that a violation has occurred, the Secretary of Labor shall immediately suspend the application of this clause with respect to that certification for that date of need.

“(III) PLACEMENT OF UNITED STATES WORKERS.—Before referring a United States worker to an employer during the period described in the matter preceding subclause (I), the Secretary of Labor shall make all reasonable efforts to place the United States worker in an open job acceptable to the

worker, if there are other job offers pending with the job service that offer similar job opportunities in the area of intended employment.

“(iv) STATUTORY CONSTRUCTION.—Nothing in this subparagraph shall be construed to prohibit an employer from using such legitimate selection criteria relevant to the type of job that are normal or customary to the type of job involved so long as such criteria are not applied in a discriminatory manner.

“(c) APPLICATIONS BY ASSOCIATIONS ON BEHALF OF EMPLOYER MEMBERS.—

“(1) IN GENERAL.—An agricultural association may file an application under subsection (a) on behalf of 1 or more of its employer members that the association certifies in its application has or have agreed in writing to comply with the requirements of this section and sections 218E through 218G.

“(2) TREATMENT OF ASSOCIATIONS ACTING AS EMPLOYERS.—If an association filing an application under paragraph (1) is a joint or sole employer of the temporary or seasonal agricultural workers requested on the application, the certifications granted under subsection (e)(2)(B) to the association may be used for the certified job opportunities of any of its producer members named on the application, and such workers may be transferred among such producer members to perform the agricultural services of a temporary or seasonal nature for which the certifications were granted.

“(d) WITHDRAWAL OF APPLICATIONS.—

“(1) IN GENERAL.—An employer may withdraw an application filed pursuant to subsection (a), except that if the employer is an agricultural association, the association may withdraw an application filed pursuant to subsection (a) with respect to 1 or more of its members. To withdraw an application, the employer or association shall notify the Secretary of Labor in writing, and the Secretary of Labor shall acknowledge in writing the receipt of such withdrawal notice. An employer who withdraws an application under subsection (a), or on whose behalf an application is withdrawn, is relieved of the obligations undertaken in the application.

“(2) LIMITATION.—An application may not be withdrawn while any alien provided status under section 101(a)(15)(H)(ii)(a) pursuant to such application is employed by the employer.

“(3) OBLIGATIONS UNDER OTHER STATUTES.—Any obligation incurred by an employer under any other law or regulation as a result of the recruitment of United States workers or H-2A workers under an offer of terms and conditions of employment required as a result of making an application under subsection (a) is unaffected by withdrawal of such application.

“(e) REVIEW AND APPROVAL OF APPLICATIONS.—

“(1) RESPONSIBILITY OF EMPLOYERS.—The employer shall make available for public examination, within 1 working day after the date on which an application under subsection (a) is filed, at the employer's principal place of business or work site, a copy of each such application (and such accompanying documents as are necessary).

“(2) RESPONSIBILITY OF THE SECRETARY OF LABOR.—

“(A) COMPILATION OF LIST.—The Secretary of Labor shall compile, on a current basis, a list (by employer and by occupational classification) of the applications filed under this subsection. Such list shall include the wage rate, number of workers sought, period of intended employment, and date of need. The Secretary of Labor shall make such list available for examination in the District of Columbia.

“(B) REVIEW OF APPLICATIONS.—The Secretary of Labor shall review such an applica-

tion only for completeness and obvious inaccuracies. Unless the Secretary of Labor finds that the application is incomplete or obviously inaccurate, the Secretary of Labor shall certify that the intending employer has filed with the Secretary of Labor an application as described in subsection (a). Such certification shall be provided within 7 days of the filing of the application.”; and

(2) by inserting after section 218D, as added by section 601 of this Act, the following:

“SEC. 218E. H-2A EMPLOYMENT REQUIREMENTS.

“(a) PREFERENTIAL TREATMENT OF ALIENS PROHIBITED.—Employers seeking to hire United States workers shall offer the United States workers no less than the same benefits, wages, and working conditions that the employer is offering, intends to offer, or will provide to H-2A workers. Conversely, no job offer may impose on United States workers any restrictions or obligations which will not be imposed on the employer's H-2A workers.

“(b) MINIMUM BENEFITS, WAGES, AND WORKING CONDITIONS.—Except in cases where higher benefits, wages, or working conditions are required by the provisions of subsection (a), in order to protect similarly employed United States workers from adverse effects with respect to benefits, wages, and working conditions, every job offer which shall accompany an application under section 218(b)(2) shall include each of the following benefit, wage, and working condition provisions:

“(1) REQUIREMENT TO PROVIDE HOUSING OR A HOUSING ALLOWANCE.—

“(A) IN GENERAL.—An employer applying under section 218(a) for H-2A workers shall offer to provide housing at no cost to all workers in job opportunities for which the employer has applied under that section and to all other workers in the same occupation at the place of employment, whose place of residence is beyond normal commuting distance.

“(B) TYPE OF HOUSING.—In complying with subparagraph (A), an employer may, at the employer's election, provide housing that meets applicable Federal standards for temporary labor camps or secure housing that meets applicable local standards for rental or public accommodation housing or other substantially similar class of habitation, or in the absence of applicable local standards, State standards for rental or public accommodation housing or other substantially similar class of habitation. In the absence of applicable local or State standards, Federal temporary labor camp standards shall apply.

“(C) FAMILY HOUSING.—When it is the prevailing practice in the occupation and area of intended employment to provide family housing, family housing shall be provided to workers with families who request it.

“(D) WORKERS ENGAGED IN THE RANGE PRODUCTION OF LIVESTOCK.—The Secretary of Labor shall issue regulations that address the specific requirements for the provision of housing to workers engaged in the range production of livestock.

“(E) LIMITATION.—Nothing in this paragraph shall be construed to require an employer to provide or secure housing for persons who were not entitled to such housing under the temporary labor certification regulations in effect on June 1, 1986.

“(F) CHARGES FOR HOUSING.—

“(i) CHARGES FOR PUBLIC HOUSING.—If public housing provided for migrant agricultural workers under the auspices of a local, county, or State government is secured by an employer, and use of the public housing unit normally requires charges from migrant workers, such charges shall be paid by the employer directly to the appropriate individual or entity affiliated with the housing's management.

“(ii) DEPOSIT CHARGES.—Charges in the form of deposits for bedding or other similar incidentals related to housing shall not be levied upon workers by employers who provide housing for their workers. An employer may require a worker found to have been responsible for damage to such housing which is not the result of normal wear and tear related to habitation to reimburse the employer for the reasonable cost of repair of such damage.

“(G) HOUSING ALLOWANCE AS ALTERNATIVE.—

“(i) IN GENERAL.—If the requirement under clause (ii) is satisfied, the employer may provide a reasonable housing allowance instead of offering housing under subparagraph (A). Upon the request of a worker seeking assistance in locating housing, the employer shall make a good faith effort to assist the worker in identifying and locating housing in the area of intended employment. An employer who offers a housing allowance to a worker, or assists a worker in locating housing which the worker occupies, pursuant to this clause shall not be deemed a housing provider under section 203 of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1823) solely by virtue of providing such housing allowance. No housing allowance may be used for housing which is owned or controlled by the employer.

“(ii) CERTIFICATION.—The requirement of this clause is satisfied if the Governor of the State certifies to the Secretary of Labor that there is adequate housing available in the area of intended employment for migrant farm workers, and H-2A workers, who are seeking temporary housing while employed at farm work. Such certification shall expire after 3 years unless renewed by the Governor of the State.

“(iii) AMOUNT OF ALLOWANCE.—

“(I) NONMETROPOLITAN COUNTIES.—If the place of employment of the workers provided an allowance under this subparagraph is a nonmetropolitan county, the amount of the housing allowance under this subparagraph shall be equal to the statewide average fair market rental for existing housing for nonmetropolitan counties for the State, as established by the Secretary of Housing and Urban Development pursuant to section 8(c) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)), based on a 2 bedroom dwelling unit and an assumption of 2 persons per bedroom.

“(II) METROPOLITAN COUNTIES.—If the place of employment of the workers provided an allowance under this paragraph is in a metropolitan county, the amount of the housing allowance under this subparagraph shall be equal to the statewide average fair market rental for existing housing for metropolitan counties for the State, as established by the Secretary of Housing and Urban Development pursuant to section 8(c) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)), based on a 2-bedroom dwelling unit and an assumption of 2 persons per bedroom.

“(2) REIMBURSEMENT OF TRANSPORTATION.—

“(A) TO PLACE OF EMPLOYMENT.—A worker who completes 50 percent of the period of employment of the job opportunity for which the worker was hired shall be reimbursed by the employer for the cost of the worker's transportation and subsistence from the place from which the worker came to work for the employer (or place of last employment, if the worker traveled from such place) to the place of employment.

“(B) FROM PLACE OF EMPLOYMENT.—A worker who completes the period of employment for the job opportunity involved shall be reimbursed by the employer for the cost of the worker's transportation and subsistence from the place of employment to the place from which the worker, disregarding

intervening employment, came to work for the employer, or to the place of next employment, if the worker has contracted with a subsequent employer who has not agreed to provide or pay for the worker's transportation and subsistence to such subsequent employer's place of employment.

“(C) LIMITATION.—

“(i) AMOUNT OF REIMBURSEMENT.—Except as provided in clause (ii), the amount of reimbursement provided under subparagraph (A) or (B) to a worker or alien shall not exceed the lesser of—

“(I) the actual cost to the worker or alien of the transportation and subsistence involved; or

“(II) the most economical and reasonable common carrier transportation charges and subsistence costs for the distance involved.

“(ii) DISTANCE TRAVELED.—No reimbursement under subparagraph (A) or (B) shall be required if the distance traveled is 100 miles or less, or the worker is not residing in employer-provided housing or housing secured through an allowance as provided in paragraph (1)(G).

“(D) EARLY TERMINATION.—If the worker is laid off or employment is terminated for contract impossibility (as described in paragraph (4)(D)) before the anticipated ending date of employment, the employer shall provide the transportation and subsistence required by subparagraph (B) and, notwithstanding whether the worker has completed 50 percent of the period of employment, shall provide the transportation reimbursement required by subparagraph (A).

“(E) TRANSPORTATION BETWEEN LIVING QUARTERS AND WORK SITE.—The employer shall provide transportation between the worker's living quarters and the employer's work site without cost to the worker, and such transportation will be in accordance with applicable laws and regulations.

“(3) REQUIRED WAGES.—

“(A) IN GENERAL.—An employer applying for workers under section 218(a) shall offer to pay, and shall pay, all workers in the occupation for which the employer has applied for workers, not less (and is not required to pay more) than the greater of the prevailing wage in the occupation in the area of intended employment or the adverse effect wage rate. No worker shall be paid less than the greater of the hourly wage prescribed under section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) or the applicable State minimum wage.

“(B) LIMITATION.—Effective on the date of the enactment of the Agricultural Job Opportunities, Benefits, and Security Act of 2006 and continuing for 3 years thereafter, no adverse effect wage rate for a State may be more than the adverse effect wage rate for that State in effect on January 1, 2003, as established by section 655.107 of title 20, Code of Federal Regulations.

“(C) REQUIRED WAGES AFTER 3-YEAR FREEZE.—

“(i) FIRST ADJUSTMENT.—If Congress does not set a new wage standard applicable to this section before the first March 1 that is not less than 3 years after the date of enactment of this section, the adverse effect wage rate for each State beginning on such March 1 shall be the wage rate that would have resulted if the adverse effect wage rate in effect on January 1, 2003, had been annually adjusted, beginning on March 1, 2006, by the lesser of—

“(I) the 12 month percentage change in the Consumer Price Index for All Urban Consumers between December of the second preceding year and December of the preceding year; and

“(II) 4 percent.

“(ii) SUBSEQUENT ANNUAL ADJUSTMENTS.—Beginning on the first March 1 that is not

less than 4 years after the date of enactment of this section, and each March 1 thereafter, the adverse effect wage rate then in effect for each State shall be adjusted by the lesser of—

“(I) the 12 month percentage change in the Consumer Price Index for All Urban Consumers between December of the second preceding year and December of the preceding year; and

“(II) 4 percent.

“(D) DEDUCTIONS.—The employer shall make only those deductions from the worker's wages that are authorized by law or are reasonable and customary in the occupation and area of employment. The job offer shall specify all deductions not required by law which the employer will make from the worker's wages.

“(E) FREQUENCY OF PAY.—The employer shall pay the worker not less frequently than twice monthly, or in accordance with the prevailing practice in the area of employment, whichever is more frequent.

“(F) HOURS AND EARNINGS STATEMENTS.—The employer shall furnish to the worker, on or before each payday, in 1 or more written statements—

“(i) the worker's total earnings for the pay period;

“(ii) the worker's hourly rate of pay, piece rate of pay, or both;

“(iii) the hours of employment which have been offered to the worker (broken out by hours offered in accordance with and over and above the three-quarters guarantee described in paragraph (4));

“(iv) the hours actually worked by the worker;

“(v) an itemization of the deductions made from the worker's wages; and

“(vi) if piece rates of pay are used, the units produced daily.

“(G) REPORT ON WAGE PROTECTIONS.—Not later than December 31, 2008, the Comptroller General of the United States shall prepare and transmit to the Secretary of Labor, the Committee on the Judiciary of the Senate, and Committee on the Judiciary of the House of Representatives, a report that addresses—

“(i) whether the employment of H-2A or unauthorized aliens in the United States agricultural work force has depressed United States farm worker wages below the levels that would otherwise have prevailed if alien farm workers had not been employed in the United States;

“(ii) whether an adverse effect wage rate is necessary to prevent wages of United States farm workers in occupations in which H-2A workers are employed from falling below the wage levels that would have prevailed in the absence of the employment of H-2A workers in those occupations;

“(iii) whether alternative wage standards, such as a prevailing wage standard, would be sufficient to prevent wages in occupations in which H-2A workers are employed from falling below the wage level that would have prevailed in the absence of H-2A employment;

“(iv) whether any changes are warranted in the current methodologies for calculating the adverse effect wage rate and the prevailing wage; and

“(v) recommendations for future wage protection under this section.

“(H) COMMISSION ON WAGE STANDARDS.—

“(i) ESTABLISHMENT.—There is established the Commission on Agricultural Wage Standards under the H-2A program (in this subparagraph referred to as the ‘Commission’).

“(ii) COMPOSITION.—The Commission shall consist of 10 members as follows:

“(I) 4 representatives of agricultural employers and 1 representative of the Department of Agriculture, each appointed by the Secretary of Agriculture.

“(II) 4 representatives of agricultural workers and 1 representative of the Department of Labor, each appointed by the Secretary of Labor.

“(iii) FUNCTIONS.—The Commission shall conduct a study that shall address—

“(I) whether the employment of H-2A or unauthorized aliens in the United States agricultural workforce has depressed United States farm worker wages below the levels that would otherwise have prevailed if alien farm workers had not been employed in the United States;

“(II) whether an adverse effect wage rate is necessary to prevent wages of United States farm workers in occupations in which H-2A workers are employed from falling below the wage levels that would have prevailed in the absence of the employment of H-2A workers in those occupations;

“(III) whether alternative wage standards, such as a prevailing wage standard, would be sufficient to prevent wages in occupations in which H-2A workers are employed from falling below the wage level that would have prevailed in the absence of H-2A employment;

“(IV) whether any changes are warranted in the current methodologies for calculating the adverse effect wage rate and the prevailing wage rate; and

“(V) recommendations for future wage protection under this section.

“(iv) FINAL REPORT.—Not later than December 31, 2008, the Commission shall submit a report to the Congress setting forth the findings of the study conducted under clause (iii).

“(v) TERMINATION DATE.—The Commission shall terminate upon submitting its final report.

“(4) GUARANTEE OF EMPLOYMENT.—

“(A) OFFER TO WORKER.—The employer shall guarantee to offer the worker employment for the hourly equivalent of at least three-fourths of the work days of the total period of employment, beginning with the first work day after the arrival of the worker at the place of employment and ending on the expiration date specified in the job offer. For purposes of this subparagraph, the hourly equivalent means the number of hours in the work days as stated in the job offer and shall exclude the worker’s Sabbath and Federal holidays. If the employer affords the United States or H-2A worker less employment than that required under this paragraph, the employer shall pay such worker the amount which the worker would have earned had the worker, in fact, worked for the guaranteed number of hours.

“(B) FAILURE TO WORK.—Any hours which the worker fails to work, up to a maximum of the number of hours specified in the job offer for a work day, when the worker has been offered an opportunity to do so, and all hours of work actually performed (including voluntary work in excess of the number of hours specified in the job offer in a work day, on the worker’s Sabbath, or on Federal holidays) may be counted by the employer in calculating whether the period of guaranteed employment has been met.

“(C) ABANDONMENT OF EMPLOYMENT, TERMINATION FOR CAUSE.—If the worker voluntarily abandons employment before the end of the contract period, or is terminated for cause, the worker is not entitled to the ‘three-fourths guarantee’ described in subparagraph (A).

“(D) CONTRACT IMPOSSIBILITY.—If, before the expiration of the period of employment specified in the job offer, the services of the worker are no longer required for reasons be-

yond the control of the employer due to any form of natural disaster, including but not limited to a flood, hurricane, freeze, earthquake, fire, drought, plant or animal disease or pest infestation, or regulatory drought, before the guarantee in subparagraph (A) is fulfilled, the employer may terminate the worker’s employment. In the event of such termination, the employer shall fulfill the employment guarantee in subparagraph (A) for the work days that have elapsed from the first work day after the arrival of the worker to the termination of employment. In such cases, the employer will make efforts to transfer the United States worker to other comparable employment acceptable to the worker. If such transfer is not effected, the employer shall provide the return transportation required in paragraph (2)(D).

“(5) MOTOR VEHICLE SAFETY.—

“(A) MODE OF TRANSPORTATION SUBJECT TO COVERAGE.—

“(i) IN GENERAL.—Except as provided in clauses (iii) and (iv), this subsection applies to any H-2A employer that uses or causes to be used any vehicle to transport an H-2A worker within the United States.

“(ii) DEFINED TERM.—In this paragraph, the term ‘uses or causes to be used’—

“(I) applies only to transportation provided by an H-2A employer to an H-2A worker, or by a farm labor contractor to an H-2A worker at the request or direction of an H-2A employer; and

“(II) does not apply to—

“(aa) transportation provided, or transportation arrangements made, by an H-2A worker, unless the employer specifically requested or arranged such transportation; or

“(bb) car pooling arrangements made by H-2A workers themselves, using 1 of the workers’ own vehicles, unless specifically requested by the employer directly or through a farm labor contractor.

“(iii) CLARIFICATION.—Providing a job offer to an H-2A worker that causes the worker to travel to or from the place of employment, or the payment or reimbursement of the transportation costs of an H-2A worker by an H-2A employer, shall not constitute an arrangement of, or participation in, such transportation.

“(iv) AGRICULTURAL MACHINERY AND EQUIPMENT EXCLUDED.—This subsection does not apply to the transportation of an H-2A worker on a tractor, combine, harvester, picker, or other similar machinery or equipment while such worker is actually engaged in the planting, cultivating, or harvesting of agricultural commodities or the care of livestock or poultry or engaged in transportation incidental thereto.

“(v) COMMON CARRIERS EXCLUDED.—This subsection does not apply to common carrier motor vehicle transportation in which the provider holds itself out to the general public as engaging in the transportation of passengers for hire and holds a valid certification of authorization for such purposes from an appropriate Federal, State, or local agency.

“(B) APPLICABILITY OF STANDARDS, LICENSING, AND INSURANCE REQUIREMENTS.—

“(i) IN GENERAL.—When using, or causing to be used, any vehicle for the purpose of providing transportation to which this subparagraph applies, each employer shall—

“(I) ensure that each such vehicle conforms to the standards prescribed by the Secretary of Labor under section 401(b) of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1841(b)) and other applicable Federal and State safety standards;

“(II) ensure that each driver has a valid and appropriate license, as provided by State law, to operate the vehicle; and

“(III) have an insurance policy or a liability bond that is in effect which insures the employer against liability for damage to persons or property arising from the ownership, operation, or causing to be operated, of any vehicle used to transport any H-2A worker.

“(ii) AMOUNT OF INSURANCE REQUIRED.—The level of insurance required shall be determined by the Secretary of Labor pursuant to regulations to be issued under this subsection.

“(iii) EFFECT OF WORKERS’ COMPENSATION COVERAGE.—If the employer of any H-2A worker provides workers’ compensation coverage for such worker in the case of bodily injury or death as provided by State law, the following adjustments in the requirements of subparagraph (B)(i)(III) relating to having an insurance policy or liability bond apply:

“(I) No insurance policy or liability bond shall be required of the employer, if such workers are transported only under circumstances for which there is coverage under such State law.

“(II) An insurance policy or liability bond shall be required of the employer for circumstances under which coverage for the transportation of such workers is not provided under such State law.

“(c) COMPLIANCE WITH LABOR LAWS.—An employer shall assure that, except as otherwise provided in this section, the employer will comply with all applicable Federal, State, and local labor laws, including laws affecting migrant and seasonal agricultural workers, with respect to all United States workers and alien workers employed by the employer, except that a violation of this assurance shall not constitute a violation of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1801 et seq.).

“(d) COPY OF JOB OFFER.—The employer shall provide to the worker, not later than the day the work commences, a copy of the employer’s application and job offer described in section 218(a), or, if the employer will require the worker to enter into a separate employment contract covering the employment in question, such separate employment contract.

“(e) RANGE PRODUCTION OF LIVESTOCK.—Nothing in this section, section 218, or section 218F shall preclude the Secretary of Labor and the Secretary from continuing to apply special procedures and requirements to the admission and employment of aliens in occupations involving the range production of livestock.

“SEC. 218F. PROCEDURE FOR ADMISSION AND EXTENSION OF STAY OF H-2A WORKERS.

“(a) PETITIONING FOR ADMISSION.—An employer, or an association acting as an agent or joint employer for its members, that seeks the admission into the United States of an H-2A worker may file a petition with the Secretary. The petition shall be accompanied by an accepted and currently valid certification provided by the Secretary of Labor under section 218(e)(2)(B) covering the petitioner.

“(b) EXPEDITED ADJUDICATION BY THE SECRETARY.—The Secretary shall establish a procedure for expedited adjudication of petitions filed under subsection (a) and within 7 working days shall, by fax, cable, or other means assuring expedited delivery, transmit a copy of notice of action on the petition to the petitioner and, in the case of approved petitions, to the appropriate immigration officer at the port of entry or United States consulate (as the case may be) where the petitioner has indicated that the alien beneficiary (or beneficiaries) will apply for a visa or admission to the United States.

“(c) CRITERIA FOR ADMISSIBILITY.—

“(1) IN GENERAL.—An H-2A worker shall be considered admissible to the United States if

the alien is otherwise admissible under this section, section 218, and section 218E, and the alien is not ineligible under paragraph (2).

“(2) DISQUALIFICATION.—An alien shall be considered inadmissible to the United States and ineligible for nonimmigrant status under section 101(a)(15)(H)(ii)(a) if the alien has, at any time during the past 5 years—

“(A) violated a material provision of this section, including the requirement to promptly depart the United States when the alien’s authorized period of admission under this section has expired; or

“(B) otherwise violated a term or condition of admission into the United States as a nonimmigrant, including overstaying the period of authorized admission as such a nonimmigrant.

“(3) WAIVER OF INELIGIBILITY FOR UNLAWFUL PRESENCE.—

“(A) IN GENERAL.—An alien who has not previously been admitted into the United States pursuant to this section, and who is otherwise eligible for admission in accordance with paragraphs (1) and (2), shall not be deemed inadmissible by virtue of section 212(a)(9)(B). If an alien described in the preceding sentence is present in the United States, the alien may apply from abroad for H-2A status, but may not be granted that status in the United States.

“(B) MAINTENANCE OF WAIVER.—An alien provided an initial waiver of ineligibility pursuant to subparagraph (A) shall remain eligible for such waiver unless the alien violates the terms of this section or again becomes ineligible under section 212(a)(9)(B) by virtue of unlawful presence in the United States after the date of the initial waiver of ineligibility pursuant to subparagraph (A).

“(d) PERIOD OF ADMISSION.—

“(1) IN GENERAL.—The alien shall be admitted for the period of employment in the application certified by the Secretary of Labor pursuant to section 218(e)(2)(B), not to exceed 10 months, supplemented by a period of not more than 1 week before the beginning of the period of employment for the purpose of travel to the work site and a period of 14 days following the period of employment for the purpose of departure or extension based on a subsequent offer of employment, except that—

“(A) the alien is not authorized to be employed during such 14-day period except in the employment for which the alien was previously authorized; and

“(B) the total period of employment, including such 14-day period, may not exceed 10 months.

“(2) CONSTRUCTION.—Nothing in this subsection shall limit the authority of the Secretary to extend the stay of the alien under any other provision of this Act.

“(e) ABANDONMENT OF EMPLOYMENT.—

“(1) IN GENERAL.—An alien admitted or provided status under section 101(a)(15)(H)(ii)(a) who abandons the employment which was the basis for such admission or status shall be considered to have failed to maintain nonimmigrant status as an H-2A worker and shall depart the United States or be subject to removal under section 237(a)(1)(C)(i).

“(2) REPORT BY EMPLOYER.—The employer, or association acting as agent for the employer, shall notify the Secretary not later than 7 days after an H-2A worker prematurely abandons employment.

“(3) REMOVAL BY THE SECRETARY.—The Secretary shall promptly remove from the United States any H-2A worker who violates any term or condition of the worker’s nonimmigrant status.

“(4) VOLUNTARY TERMINATION.—Notwithstanding paragraph (1), an alien may voluntarily terminate his or her employment if

the alien promptly departs the United States upon termination of such employment.

“(f) REPLACEMENT OF ALIEN.—

“(1) IN GENERAL.—Upon presentation of the notice to the Secretary required by subsection (e)(2), the Secretary of State shall promptly issue a visa to, and the Secretary shall admit into the United States, an eligible alien designated by the employer to replace an H-2A worker—

“(A) who abandons or prematurely terminates employment; or

“(B) whose employment is terminated after a United States worker is employed pursuant to section 218(b)(2)(H)(iii), if the United States worker voluntarily departs before the end of the period of intended employment or if the employment termination is for a lawful job-related reason.

“(2) CONSTRUCTION.—Nothing in this subsection is intended to limit any preference required to be accorded United States workers under any other provision of this Act.

“(g) IDENTIFICATION DOCUMENT.—

“(1) IN GENERAL.—Each alien authorized to be admitted under section 101(a)(15)(H)(ii)(a) shall be provided an identification and employment eligibility document to verify eligibility for employment in the United States and verify such person’s proper identity.

“(2) REQUIREMENTS.—No identification and employment eligibility document may be issued which does not meet the following requirements:

“(A) The document shall be capable of reliably determining whether—

“(i) the individual with the identification and employment eligibility document whose eligibility is being verified is in fact eligible for employment;

“(ii) the individual whose eligibility is being verified is claiming the identity of another person; and

“(iii) the individual whose eligibility is being verified is authorized to be admitted into, and employed in, the United States as an H-2A worker.

“(B) The document shall be in a form that is resistant to counterfeiting and to tampering.

“(C) The document shall—

“(i) be compatible with other databases of the Secretary for the purpose of excluding aliens from benefits for which they are not eligible and determining whether the alien is unlawfully present in the United States; and

“(ii) be compatible with law enforcement databases to determine if the alien has been convicted of criminal offenses.

“(h) EXTENSION OF STAY OF H-2A ALIENS IN THE UNITED STATES.—

“(1) EXTENSION OF STAY.—If an employer seeks approval to employ an H-2A alien who is lawfully present in the United States, the petition filed by the employer or an association pursuant to subsection (a), shall request an extension of the alien’s stay and a change in the alien’s employment.

“(2) LIMITATION ON FILING A PETITION FOR EXTENSION OF STAY.—A petition may not be filed for an extension of an alien’s stay—

“(A) for a period of more than 10 months; or

“(B) to a date that is more than 3 years after the date of the alien’s last admission to the United States under this section.

“(3) WORK AUTHORIZATION UPON FILING A PETITION FOR EXTENSION OF STAY.—

“(A) IN GENERAL.—An alien who is lawfully present in the United States may commence the employment described in a petition under paragraph (1) on the date on which the petition is filed.

“(B) DEFINITION.—For purposes of subparagraph (A), the term ‘file’ means sending the petition by certified mail via the United States Postal Service, return receipt requested, or delivered by guaranteed commer-

cial delivery which will provide the employer with a documented acknowledgment of the date of receipt of the petition.

“(C) HANDLING OF PETITION.—The employer shall provide a copy of the employer’s petition to the alien, who shall keep the petition with the alien’s identification and employment eligibility document as evidence that the petition has been filed and that the alien is authorized to work in the United States.

“(D) APPROVAL OF PETITION.—Upon approval of a petition for an extension of stay or change in the alien’s authorized employment, the Secretary shall provide a new or updated employment eligibility document to the alien indicating the new validity date, after which the alien is not required to retain a copy of the petition.

“(4) LIMITATION ON EMPLOYMENT AUTHORIZATION OF ALIENS WITHOUT VALID IDENTIFICATION AND EMPLOYMENT ELIGIBILITY DOCUMENT.—An expired identification and employment eligibility document, together with a copy of a petition for extension of stay or change in the alien’s authorized employment that complies with the requirements of paragraph (1), shall constitute a valid work authorization document for a period of not more than 60 days beginning on the date on which such petition is filed, after which time only a currently valid identification and employment eligibility document shall be acceptable.

“(5) LIMITATION ON AN INDIVIDUAL’S STAY IN STATUS.—

“(A) MAXIMUM PERIOD.—The maximum continuous period of authorized status as an H-2A worker (including any extensions) is 3 years.

“(B) REQUIREMENT TO REMAIN OUTSIDE THE UNITED STATES.—

“(i) IN GENERAL.—Subject to clause (ii), in the case of an alien outside the United States whose period of authorized status as an H-2A worker (including any extensions) has expired, the alien may not again apply for admission to the United States as an H-2A worker unless the alien has remained outside the United States for a continuous period equal to at least ½ the duration of the alien’s previous period of authorized status as an H-2A worker (including any extensions).

“(ii) EXCEPTION.—Clause (i) shall not apply in the case of an alien if the alien’s period of authorized status as an H-2A worker (including any extensions) was for a period of not more than 10 months and such alien has been outside the United States for at least 2 months during the 12 months preceding the date the alien again is applying for admission to the United States as an H-2A worker.

“(i) SPECIAL RULES FOR ALIENS EMPLOYED AS SHEEPHERDERS, GOAT HERDERS, OR DAIRY WORKERS.—Notwithstanding any provision of the Agricultural Job Opportunities, Benefits, and Security Act of 2006, an alien admitted under section 101(a)(15)(H)(ii)(a) for employment as a shepherd, goat herder, or dairy worker—

“(1) may be admitted for an initial period of 12 months;

“(2) subject to subsection (j)(5), may have such initial period of admission extended for a period of up to 3 years; and

“(3) shall not be subject to the requirements of subsection (h)(5) (relating to periods of absence from the United States).

“(j) ADJUSTMENT TO LAWFUL PERMANENT RESIDENT STATUS FOR ALIENS EMPLOYED AS SHEEPHERDERS, GOAT HERDERS, OR DAIRY WORKERS.—

“(1) ELIGIBLE ALIEN.—For purposes of this subsection, the term ‘eligible alien’ means an alien—

“(A) having nonimmigrant status under section 101(a)(15)(H)(ii)(a) based on employment as a shepherd, goat herder, or dairy worker;

“(B) who has maintained such nonimmigrant status in the United States for a cumulative total of 36 months (excluding any period of absence from the United States); and

“(C) who is seeking to receive an immigrant visa under section 203(b)(3)(A)(iii).

“(2) CLASSIFICATION PETITION.—In the case of an eligible alien, the petition under section 204 for classification under section 203(b)(3)(A)(iii) may be filed by—

“(A) the alien’s employer on behalf of an eligible alien; or

“(B) the eligible alien.

“(3) NO LABOR CERTIFICATION REQUIRED.—Notwithstanding section 203(b)(3)(C), no determination under section 212(a)(5)(A) is required with respect to an immigrant visa described in paragraph (1)(C) for an eligible alien.

“(4) EFFECT OF PETITION.—The filing of a petition described in paragraph (2) or an application for adjustment of status based on the approval of such a petition, shall not constitute evidence of an alien’s ineligibility for nonimmigrant status under section 101(a)(15)(H)(ii)(a).

“(5) EXTENSION OF STAY.—The Secretary of Homeland Security shall extend the stay of an eligible alien having a pending or approved classification petition described in paragraph (2) in 1-year increments until a final determination is made on the alien’s eligibility for adjustment of status to that of an alien lawfully admitted for permanent residence.

“(6) CONSTRUCTION.—Nothing in this subsection shall be construed to prevent an eligible alien from seeking adjustment of status in accordance with any other provision of law.

“SEC. 218G. WORKER PROTECTIONS AND LABOR STANDARDS ENFORCEMENT.

“(a) ENFORCEMENT AUTHORITY.—

“(1) INVESTIGATION OF COMPLAINTS.—

“(A) AGGRIEVED PERSON OR THIRD-PARTY COMPLAINTS.—The Secretary of Labor shall establish a process for the receipt, investigation, and disposition of complaints respecting a petitioner’s failure to meet a condition specified in section 218(b), or an employer’s misrepresentation of material facts in an application under section 218(a). Complaints may be filed by any aggrieved person or organization (including bargaining representatives). No investigation or hearing shall be conducted on a complaint concerning such a failure or misrepresentation unless the complaint was filed not later than 12 months after the date of the failure, or misrepresentation, respectively. The Secretary of Labor shall conduct an investigation under this subparagraph if there is reasonable cause to believe that such a failure or misrepresentation has occurred.

“(B) DETERMINATION ON COMPLAINT.—Under such process, the Secretary of Labor shall provide, within 30 days after the date such a complaint is filed, for a determination as to whether or not a reasonable basis exists to make a finding described in subparagraph (C), (D), (E), or (H). If the Secretary of Labor determines that such a reasonable basis exists, the Secretary of Labor shall provide for notice of such determination to the interested parties and an opportunity for a hearing on the complaint, in accordance with section 556 of title 5, United States Code, within 60 days after the date of the determination. If such a hearing is requested, the Secretary of Labor shall make a finding concerning the matter not later than 60 days after the date of the hearing. In the case of similar complaints respecting the same ap-

plicant, the Secretary of Labor may consolidate the hearings under this subparagraph on such complaints.

“(C) FAILURES TO MEET CONDITIONS.—If the Secretary of Labor finds, after notice and opportunity for a hearing, a failure to meet a condition of paragraph (1)(A), (1)(B), (1)(D), (1)(F), (2)(A), (2)(B), or (2)(G) of section 218(b), a substantial failure to meet a condition of paragraph (1)(C), (1)(E), (2)(C), (2)(D), (2)(E), or (2)(H) of section 218(b), or a material misrepresentation of fact in an application under section 218(a)—

“(i) the Secretary of Labor shall notify the Secretary of such finding and may, in addition, impose such other administrative remedies (including civil money penalties in an amount not to exceed \$1,000 per violation) as the Secretary of Labor determines to be appropriate; and

“(ii) the Secretary may disqualify the employer from the employment of aliens described in section 101(a)(15)(H)(ii)(a) for a period of 1 year.

“(D) WILLFUL FAILURES AND WILLFUL MISREPRESENTATIONS.—If the Secretary of Labor finds, after notice and opportunity for hearing, a willful failure to meet a condition of section 218(b), a willful misrepresentation of a material fact in an application under section 218(a), or a violation of subsection (d)(1)—

“(i) the Secretary of Labor shall notify the Secretary of such finding and may, in addition, impose such other administrative remedies (including civil money penalties in an amount not to exceed \$5,000 per violation) as the Secretary of Labor determines to be appropriate;

“(ii) the Secretary of Labor may seek appropriate legal or equitable relief to effectuate the purposes of subsection (d)(1); and

“(iii) the Secretary may disqualify the employer from the employment of H-2A workers for a period of 2 years.

“(E) DISPLACEMENT OF UNITED STATES WORKERS.—If the Secretary of Labor finds, after notice and opportunity for hearing, a willful failure to meet a condition of section 218(b) or a willful misrepresentation of a material fact in an application under section 218(a), in the course of which failure or misrepresentation the employer displaced a United States worker employed by the employer during the period of employment on the employer’s application under section 218(a) or during the period of 30 days preceding such period of employment—

“(i) the Secretary of Labor shall notify the Secretary of such finding and may, in addition, impose such other administrative remedies (including civil money penalties in an amount not to exceed \$15,000 per violation) as the Secretary of Labor determines to be appropriate; and

“(ii) the Secretary may disqualify the employer from the employment of H-2A workers for a period of 3 years.

“(F) LIMITATIONS ON CIVIL MONEY PENALTIES.—The Secretary of Labor shall not impose total civil money penalties with respect to an application under section 218(a) in excess of \$90,000.

“(G) FAILURES TO PAY WAGES OR REQUIRED BENEFITS.—If the Secretary of Labor finds, after notice and opportunity for a hearing, that the employer has failed to pay the wages, or provide the housing allowance, transportation, subsistence reimbursement, or guarantee of employment, required under section 218E(b), the Secretary of Labor shall assess payment of back wages, or other required benefits, due any United States worker or H-2A worker employed by the employer in the specific employment in question. The back wages or other required benefits under section 218E(b) shall be equal to the difference between the amount that should

have been paid and the amount that actually was paid to such worker.

“(2) STATUTORY CONSTRUCTION.—Nothing in this section shall be construed as limiting the authority of the Secretary of Labor to conduct any compliance investigation under any other labor law, including any law affecting migrant and seasonal agricultural workers, or, in the absence of a complaint under this section, under section 218 or 218E.

“(b) RIGHTS ENFORCEABLE BY PRIVATE RIGHT OF ACTION.—H-2A workers may enforce the following rights through the private right of action provided in subsection (c), and no other right of action shall exist under Federal or State law to enforce such rights:

“(1) The providing of housing or a housing allowance as required under section 218E(b)(1).

“(2) The reimbursement of transportation as required under section 218E(b)(2).

“(3) The payment of wages required under section 218E(b)(3) when due.

“(4) The benefits and material terms and conditions of employment expressly provided in the job offer described in section 218(a)(2), not including the assurance to comply with other Federal, State, and local labor laws described in section 218E(c), compliance with which shall be governed by the provisions of such laws.

“(5) The guarantee of employment required under section 218E(b)(4).

“(6) The motor vehicle safety requirements under section 218E(b)(5).

“(7) The prohibition of discrimination under subsection (d)(2).

“(c) PRIVATE RIGHT OF ACTION.—

“(1) MEDIATION.—Upon the filing of a complaint by an H-2A worker aggrieved by a violation of rights enforceable under subsection (b), and within 60 days of the filing of proof of service of the complaint, a party to the action may file a request with the Federal Mediation and Conciliation Service to assist the parties in reaching a satisfactory resolution of all issues involving all parties to the dispute. Upon a filing of such request and giving of notice to the parties, the parties shall attempt mediation within the period specified in subparagraph (B).

“(A) MEDIATION SERVICES.—The Federal Mediation and Conciliation Service shall be available to assist in resolving disputes arising under subsection (b) between H-2A workers and agricultural employers without charge to the parties.

“(B) 90-DAY LIMIT.—The Federal Mediation and Conciliation Service may conduct mediation or other non-binding dispute resolution activities for a period not to exceed 90 days beginning on the date on which the Federal Mediation and Conciliation Service receives the request for assistance unless the parties agree to an extension of this period of time.

“(C) AUTHORIZATION.—

“(i) IN GENERAL.—Subject to clause (ii), there are authorized to be appropriated to the Federal Mediation and Conciliation Service \$500,000 for each fiscal year to carry out this section.

“(ii) MEDIATION.—Notwithstanding any other provision of law, the Director of the Federal Mediation and Conciliation Service is authorized to conduct the mediation or other dispute resolution activities from any other appropriated funds available to the Director and to reimburse such appropriated funds when the funds are appropriated pursuant to this authorization, such reimbursement to be credited to appropriations currently available at the time of receipt.

“(2) MAINTENANCE OF CIVIL ACTION IN DISTRICT COURT BY AGGRIEVED PERSON.—An H-2A worker aggrieved by a violation of rights enforceable under subsection (b) by an agricultural employer or other person may file suit

in any district court of the United States having jurisdiction of the parties, without regard to the amount in controversy, without regard to the citizenship of the parties, and without regard to the exhaustion of any alternative administrative remedies under this Act, not later than 3 years after the date the violation occurs.

“(3) ELECTION.—An H-2A worker who has filed an administrative complaint with the Secretary of Labor may not maintain a civil action under paragraph (2) unless a complaint based on the same violation filed with the Secretary of Labor under subsection (a)(1) is withdrawn before the filing of such action, in which case the rights and remedies available under this subsection shall be exclusive.

“(4) PREEMPTION OF STATE CONTRACT RIGHTS.—Nothing in this Act shall be construed to diminish the rights and remedies of an H-2A worker under any other Federal or State law or regulation or under any collective bargaining agreement, except that no court or administrative action shall be available under any State contract law to enforce the rights created by this Act.

“(5) WAIVER OF RIGHTS PROHIBITED.—Agreements by employees purporting to waive or modify their rights under this Act shall be void as contrary to public policy, except that a waiver or modification of the rights or obligations in favor of the Secretary of Labor shall be valid for purposes of the enforcement of this Act. The preceding sentence may not be construed to prohibit agreements to settle private disputes or litigation.

“(6) AWARD OF DAMAGES OR OTHER EQUITABLE RELIEF.—

“(A) If the court finds that the respondent has intentionally violated any of the rights enforceable under subsection (b), it shall award actual damages, if any, or equitable relief.

“(B) Any civil action brought under this section shall be subject to appeal as provided in chapter 83 of title 28, United States Code.

“(7) WORKERS’ COMPENSATION BENEFITS; EXCLUSIVE REMEDY.—

“(A) Notwithstanding any other provision of this section, where a State’s workers’ compensation law is applicable and coverage is provided for an H-2A worker, the workers’ compensation benefits shall be the exclusive remedy for the loss of such worker under this section in the case of bodily injury or death in accordance with such State’s workers’ compensation law.

“(B) The exclusive remedy prescribed in subparagraph (A) precludes the recovery under paragraph (6) of actual damages for loss from an injury or death but does not preclude other equitable relief, except that such relief shall not include back or front pay or in any manner, directly or indirectly, expand or otherwise alter or affect—

“(i) a recovery under a State workers’ compensation law; or

“(ii) rights conferred under a State workers’ compensation law.

“(8) TOLLING OF STATUTE OF LIMITATIONS.—If it is determined under a State workers’ compensation law that the workers’ compensation law is not applicable to a claim for bodily injury or death of an H-2A worker, the statute of limitations for bringing an action for actual damages for such injury or death under subsection (c) shall be tolled for the period during which the claim for such injury or death under such State workers’ compensation law was pending. The statute of limitations for an action for actual damages or other equitable relief arising out of the same transaction or occurrence as the injury or death of the H-2A worker shall be tolled for the period during which the claim for such injury or death was pending under the State workers’ compensation law.

“(9) PRECLUSIVE EFFECT.—Any settlement by an H-2A worker and an H-2A employer or any person reached through the mediation process required under subsection (c)(1) shall preclude any right of action arising out of the same facts between the parties in any Federal or State court or administrative proceeding, unless specifically provided otherwise in the settlement agreement.

“(10) SETTLEMENTS.—Any settlement by the Secretary of Labor with an H-2A employer on behalf of an H-2A worker of a complaint filed with the Secretary of Labor under this section or any finding by the Secretary of Labor under subsection (a)(1)(B) shall preclude any right of action arising out of the same facts between the parties under any Federal or State court or administrative proceeding, unless specifically provided otherwise in the settlement agreement.

“(d) DISCRIMINATION PROHIBITED.—

“(1) IN GENERAL.—It is a violation of this subsection for any person who has filed an application under section 218(a), to intimidate, threaten, restrain, coerce, blacklist, discharge, or in any other manner discriminate against an employee (which term, for purposes of this subsection, includes a former employee and an applicant for employment) because the employee has disclosed information to the employer, or to any other person, that the employee reasonably believes evidences a violation of section 218 or 218E or any rule or regulation pertaining to section 218 or 218E, or because the employee cooperates or seeks to cooperate in an investigation or other proceeding concerning the employer’s compliance with the requirements of section 218 or 218E or any rule or regulation pertaining to either of such sections.

“(2) DISCRIMINATION AGAINST H-2A WORKERS.—It is a violation of this subsection for any person who has filed an application under section 218(a), to intimidate, threaten, restrain, coerce, blacklist, discharge, or in any manner discriminate against an H-2A employee because such worker has, with just cause, filed a complaint with the Secretary of Labor regarding a denial of the rights enumerated and enforceable under subsection (b) or instituted, or caused to be instituted, a private right of action under subsection (c) regarding the denial of the rights enumerated under subsection (b), or has testified or is about to testify in any court proceeding brought under subsection (c).

“(e) AUTHORIZATION TO SEEK OTHER APPROPRIATE EMPLOYMENT.—The Secretary of Labor and the Secretary shall establish a process under which an H-2A worker who files a complaint regarding a violation of subsection (d) and is otherwise eligible to remain and work in the United States may be allowed to seek other appropriate employment in the United States for a period not to exceed the maximum period of stay authorized for such nonimmigrant classification.

“(f) ROLE OF ASSOCIATIONS.—

“(1) VIOLATION BY A MEMBER OF AN ASSOCIATION.—An employer on whose behalf an application is filed by an association acting as its agent is fully responsible for such application, and for complying with the terms and conditions of sections 218 and 218E, as though the employer had filed the application itself. If such an employer is determined, under this section, to have committed a violation, the penalty for such violation shall apply only to that member of the association unless the Secretary of Labor determines that the association or other member participated in, had knowledge, or reason to know, of the violation, in which case the penalty shall be invoked against the association or other association member as well.

“(2) VIOLATIONS BY AN ASSOCIATION ACTING AS AN EMPLOYER.—If an association filing an application as a sole or joint employer is determined to have committed a violation under this section, the penalty for such violation shall apply only to the association unless the Secretary of Labor determines that an association member or members participated in or had knowledge, or reason to know of the violation, in which case the penalty shall be invoked against the association member or members as well.

“SEC. 218H. DEFINITIONS.

“For purposes of this section, section 218, and sections 218E through 218G:

“(1) AGRICULTURAL EMPLOYMENT.—The term ‘agricultural employment’ means any service or activity that is considered to be agricultural under section 3(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f)) or agricultural labor under section 3121(g) of the Internal Revenue Code of 1986 (26 U.S.C. 3121(g)). For purposes of this paragraph, agricultural employment includes employment under section 101(a)(15)(H)(ii)(a).

“(2) BONA FIDE UNION.—The term ‘bona fide union’ means any organization in which employees participate and which exists for the purpose of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or other terms and conditions of work for agricultural employees. Such term does not include an organization formed, created, administered, supported, dominated, financed, or controlled by an employer or employer association or its agents or representatives.

“(3) DISPLACE.—The term ‘displace’, in the case of an application with respect to 1 or more H-2A workers by an employer, means laying off a United States worker from a job for which the H-2A worker or workers is or are sought.

“(4) ELIGIBLE.—The term ‘eligible’, when used with respect to an individual, means an individual who is not an unauthorized alien (as defined in section 274A).

“(5) EMPLOYER.—The term ‘employer’ means any person or entity, including any farm labor contractor and any agricultural association, that employs workers in agricultural employment.

“(6) H-2A EMPLOYER.—The term ‘H-2A employer’ means an employer who seeks to hire 1 or more nonimmigrant aliens described in section 101(a)(15)(H)(ii)(a).

“(7) H-2A WORKER.—The term ‘H-2A worker’ means a nonimmigrant described in section 101(a)(15)(H)(ii)(a).

“(8) JOB OPPORTUNITY.—The term ‘job opportunity’ means a job opening for temporary full-time employment at a place in the United States to which United States workers can be referred.

“(9) LAYS OFF.—

“(A) IN GENERAL.—The term ‘lays off’, with respect to a worker—

“(i) means to cause the worker’s loss of employment, other than through a discharge for inadequate performance, violation of workplace rules, cause, voluntary departure, voluntary retirement, contract impossibility (as described in section 218E(b)(4)(D)), or temporary layoffs due to weather, markets, or other temporary conditions; but

“(ii) does not include any situation in which the worker is offered, as an alternative to such loss of employment, a similar employment opportunity with the same employer (or, in the case of a placement of a worker with another employer under section 218(b)(2)(E), with either employer described in such section) at equivalent or higher compensation and benefits than the position from which the employee was discharged, regardless of whether or not the employee accepts the offer.

“(B) STATUTORY CONSTRUCTION.—Nothing in this paragraph is intended to limit an employee's rights under a collective bargaining agreement or other employment contract.

“(10) REGULATORY DROUGHT.—The term ‘regulatory drought’ means a decision subsequent to the filing of the application under section 218 by an entity not under the control of the employer making such filing which restricts the employer's access to water for irrigation purposes and reduces or limits the employer's ability to produce an agricultural commodity, thereby reducing the need for labor.

“(11) SEASONAL.—Labor is performed on a ‘seasonal’ basis if—

“(A) ordinarily, it pertains to or is of the kind exclusively performed at certain seasons or periods of the year; and

“(B) from its nature, it may not be continuous or carried on throughout the year.

“(12) SECRETARY.—The term ‘Secretary’ means the Secretary of Homeland Security.

“(13) TEMPORARY.—A worker is employed on a ‘temporary’ basis where the employment is intended not to exceed 10 months.

“(14) UNITED STATES WORKER.—The term ‘United States worker’ means any worker, whether a United States citizen or national, a lawfully admitted permanent resident alien, or any other alien, who is authorized to work in the job opportunity within the United States, except an alien admitted or otherwise provided status under section 101(a)(15)(H)(ii)(a).”

(b) TABLE OF CONTENTS.—The table of contents (8 U.S.C. 1101 et seq.) is amended—

(1) by striking the item relating to section 218 and inserting the following:

“Sec. 218. H-2A employer applications.”; and

(2) by inserting after the item relating to section 218D, as added by section 601 of this Act, the following:

“Sec. 218E. H-2A employment requirements.

“Sec. 218F. Procedure for admission and extension of stay of H-2A workers.

“Sec. 218G. Worker protections and labor standards enforcement.

“Sec. 218H. Definitions.”.

CHAPTER 3—MISCELLANEOUS PROVISIONS

SEC. 616. DETERMINATION AND USE OF USER FEES.

(a) SCHEDULE OF FEES.—The Secretary shall establish and periodically adjust a schedule of fees for the employment of aliens under this subtitle and the amendments made by this subtitle, and a collection process for such fees from employers participating in the program provided under this subtitle. Such fees shall be the only fees chargeable to employers for services provided under this subtitle.

(b) DETERMINATION OF SCHEDULE.—

(1) IN GENERAL.—The schedule under subsection (a) shall reflect a fee rate based on the number of job opportunities indicated in the employer's application under section 218 of the Immigration and Nationality Act, as added by section 615 of this Act, and sufficient to provide for the direct costs of providing services related to an employer's authorization to employ eligible aliens pursuant to this subtitle, to include the certification of eligible employers, the issuance of documentation, and the admission of eligible aliens.

(2) PROCEDURE.—

(A) IN GENERAL.—In establishing and adjusting such a schedule, the Secretary shall comply with Federal cost accounting and fee setting standards.

(B) PUBLICATION AND COMMENT.—The Secretary shall publish in the Federal Register

an initial fee schedule and associated collection process and the cost data or estimates upon which such fee schedule is based, and any subsequent amendments thereto, pursuant to which public comment shall be sought and a final rule issued.

(c) USE OF PROCEEDS.—Notwithstanding any other provision of law, all proceeds resulting from the payment of the alien employment user fees shall be available without further appropriation and shall remain available without fiscal year limitation to reimburse the Secretary, the Secretary of State, and the Secretary of Labor for the costs of carrying out sections 218 and 218F of the Immigration and Nationality Act, as added by section 615 of this Act, and the provisions of this subtitle.

SEC. 617. REGULATIONS.

(a) REGULATIONS OF THE SECRETARY.—The Secretary shall consult with the Secretary of Labor and the Secretary of Agriculture on all regulations to implement the duties of the Secretary under this subtitle and the amendments made by this subtitle.

(b) REGULATIONS OF THE SECRETARY OF STATE.—The Secretary of State shall consult with the Secretary, the Secretary of Labor, and the Secretary of Agriculture on all regulations to implement the duties of the Secretary of State under this subtitle and the amendments made by this subtitle.

(c) REGULATIONS OF THE SECRETARY OF LABOR.—The Secretary of Labor shall consult with the Secretary of Agriculture and the Secretary on all regulations to implement the duties of the Secretary of Labor under this subtitle and the amendments made by this subtitle.

(d) DEADLINE FOR ISSUANCE OF REGULATIONS.—All regulations to implement the duties of the Secretary, the Secretary of State, and the Secretary of Labor created under sections 218, 218E, 218F, and 218G of the Immigration and Nationality Act, as added by section 615 of this Act, shall take effect on the effective date of section 615 and shall be issued not later than 1 year after the date of enactment of this Act.

SEC. 618. REPORT TO CONGRESS.

Not later than September 30 of each year, the Secretary shall submit a report to Congress that identifies, for the previous year—

(1) the number of job opportunities approved for employment of aliens admitted under section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a)), and the number of workers actually admitted, by State and by occupation;

(2) the number of such aliens reported to have abandoned employment pursuant to subsection 218F(e)(2) of such Act;

(3) the number of such aliens who departed the United States within the period specified in subsection 218F(d) of such Act;

(4) the number of aliens who applied for adjustment of status pursuant to section 613(a);

(5) the number of such aliens whose status was adjusted under section 613(a);

(6) the number of aliens who applied for permanent residence pursuant to section 613(c); and

(7) the number of such aliens who were approved for permanent residence pursuant section 613(c).

SEC. 619. EFFECTIVE DATE.

(a) IN GENERAL.—Except as otherwise provided, sections 615 and 616 shall take effect 1 year after the date of the enactment of this Act.

(b) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall prepare and submit to the appropriate committees of Congress a report that describes the measures being taken and the progress made in implementing this subtitle.

Subtitle C—DREAM Act

SEC. 621. SHORT TITLE.

This subtitle may be cited as the “Development, Relief, and Education for Alien Minors Act of 2006” or the “DREAM Act of 2006”.

SEC. 622. DEFINITIONS.

In this subtitle:

(1) INSTITUTION OF HIGHER EDUCATION.—The term “institution of higher education” has the meaning given that term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).

(2) UNIFORMED SERVICES.—The term “uniformed services” has the meaning given that term in section 101(a) of title 10, United States Code.

SEC. 623. RESTORATION OF STATE OPTION TO DETERMINE RESIDENCY FOR PURPOSES OF HIGHER EDUCATION BENEFITS.

(a) IN GENERAL.—Section 505 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1623) is repealed.

(b) EFFECTIVE DATE.—The repeal under subsection (a) shall take effect as if included in the enactment of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996.

SEC. 624. CANCELLATION OF REMOVAL AND ADJUSTMENT OF STATUS OF CERTAIN LONG-TERM RESIDENTS WHO ENTERED THE UNITED STATES AS CHILDREN.

(a) SPECIAL RULE FOR CERTAIN LONG-TERM RESIDENTS WHO ENTERED THE UNITED STATES AS CHILDREN.—

(1) IN GENERAL.—Notwithstanding any other provision of law and except as otherwise provided in this subtitle, the Secretary may cancel removal of, and adjust to the status of an alien lawfully admitted for permanent residence, subject to the conditional basis described in section 625, an alien who is inadmissible or deportable from the United States, if the alien demonstrates that—

(A) the alien has been physically present in the United States for a continuous period of not less than 5 years immediately preceding the date of enactment of this Act, and had not yet reached the age of 16 years at the time of initial entry;

(B) the alien has been a person of good moral character since the time of application;

(C) the alien—

(i) is not inadmissible under paragraph (2), (3), (6)(B), (6)(C), (6)(E), (6)(F), or (6)(G) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)), or, if inadmissible solely under subparagraph (C) or (F) of paragraph (6) of such subsection, the alien was under the age of 16 years at the time the violation was committed; and

(ii) is not deportable under paragraph (1)(E), (1)(G), (2), (3)(B), (3)(C), (3)(D), (4), or (6) of section 237(a) of the Immigration and Nationality Act (8 U.S.C. 1227(a)), or, if deportable solely under subparagraphs (C) or (D) of paragraph (3) of such subsection, the alien was under the age of 16 years at the time the violation was committed;

(D) the alien, at the time of application, has been admitted to an institution of higher education in the United States, or has earned a high school diploma or obtained a general education development certificate in the United States; and

(E) the alien has never been under a final administrative or judicial order of exclusion, deportation, or removal, unless the alien has remained in the United States under color of law or received the order before attaining the age of 16 years.

(2) WAIVER.—The Secretary may waive the grounds of ineligibility under section 212(a)(6) of the Immigration and Nationality Act and the grounds of deportability under

paragraphs (1), (3), and (6) of section 237(a) of that Act for humanitarian purposes or family unity or when it is otherwise in the public interest.

(3) PROCEDURES.—The Secretary shall provide a procedure by regulation allowing eligible individuals to apply affirmatively for the relief available under this subsection without being placed in removal proceedings.

(b) TERMINATION OF CONTINUOUS PERIOD.—For purposes of this section, any period of continuous residence or continuous physical presence in the United States of an alien who applies for cancellation of removal under this section shall not terminate when the alien is served a notice to appear under section 239(a) of the Immigration and Nationality Act (8 U.S.C. 1229(a)).

(c) TREATMENT OF CERTAIN BREAKS IN PRESENCE.—

(1) IN GENERAL.—An alien shall be considered to have failed to maintain continuous physical presence in the United States under subsection (a) if the alien has departed from the United States for any period in excess of 90 days or for any periods in the aggregate exceeding 180 days.

(2) EXTENSIONS FOR EXCEPTIONAL CIRCUMSTANCES.—The Secretary may extend the time periods described in paragraph (1) if the alien demonstrates that the failure to timely return to the United States was due to exceptional circumstances. The exceptional circumstances determined sufficient to justify an extension should be no less compelling than serious illness of the alien, or death or serious illness of a parent, grandparent, sibling, or child.

(d) EXEMPTION FROM NUMERICAL LIMITATIONS.—Nothing in this section may be construed to apply a numerical limitation on the number of aliens who may be eligible for cancellation of removal or adjustment of status under this section.

(e) REGULATIONS.—

(1) PROPOSED REGULATIONS.—Not later than 180 days after the date of enactment of this Act, the Secretary shall publish proposed regulations implementing this section. Such regulations shall be effective immediately on an interim basis, but are subject to change and revision after public notice and opportunity for a period for public comment.

(2) INTERIM, FINAL REGULATIONS.—Within a reasonable time after publication of the interim regulations in accordance with paragraph (1), the Secretary shall publish final regulations implementing this section.

(f) REMOVAL OF ALIEN.—The Secretary may not remove any alien who has a pending application for conditional status under this subtitle.

SEC. 625. CONDITIONAL PERMANENT RESIDENT STATUS.

(a) IN GENERAL.—

(1) CONDITIONAL BASIS FOR STATUS.—Notwithstanding any other provision of law, and except as provided in section 626, an alien whose status has been adjusted under section 624 to that of an alien lawfully admitted for permanent residence shall be considered to have obtained such status on a conditional basis subject to the provisions of this section. Such conditional permanent resident status shall be valid for a period of 6 years, subject to termination under subsection (b).

(2) NOTICE OF REQUIREMENTS.—

(A) AT TIME OF OBTAINING PERMANENT RESIDENCE.—At the time an alien obtains permanent resident status on a conditional basis under paragraph (1), the Secretary shall provide for notice to the alien regarding the provisions of this section and the requirements of subsection (c) to have the conditional basis of such status removed.

(B) EFFECT OF FAILURE TO PROVIDE NOTICE.—The failure of the Secretary to provide a notice under this paragraph—

(i) shall not affect the enforcement of the provisions of this subtitle with respect to the alien; and

(ii) shall not give rise to any private right of action by the alien.

(b) TERMINATION OF STATUS.—

(1) IN GENERAL.—The Secretary shall terminate the conditional permanent resident status of any alien who obtained such status under this subtitle, if the Secretary determines that the alien—

(A) ceases to meet the requirements of subparagraph (B) or (C) of section 624(a)(1);

(B) has become a public charge; or

(C) has received a dishonorable or other than honorable discharge from the uniformed services.

(2) RETURN TO PREVIOUS IMMIGRATION STATUS.—Any alien whose conditional permanent resident status is terminated under paragraph (1) shall return to the immigration status the alien had immediately prior to receiving conditional permanent resident status under this subtitle.

(c) REQUIREMENTS OF TIMELY PETITION FOR REMOVAL OF CONDITION.—

(1) IN GENERAL.—In order for the conditional basis of permanent resident status obtained by an alien under subsection (a) to be removed, the alien must file with the Secretary, in accordance with paragraph (3), a petition which requests the removal of such conditional basis and which provides, under penalty of perjury, the facts and information so that the Secretary may make the determination described in paragraph (2)(A).

(2) ADJUDICATION OF PETITION TO REMOVE CONDITION.—

(A) IN GENERAL.—If a petition is filed in accordance with paragraph (1) for an alien, the Secretary shall make a determination as to whether the alien meets the requirements set out in subparagraphs (A) through (E) of subsection (d)(1).

(B) REMOVAL OF CONDITIONAL BASIS IF FAVORABLE DETERMINATION.—If the Secretary determines that the alien meets such requirements, the Secretary shall notify the alien of such determination and immediately remove the conditional basis of the status of the alien.

(C) TERMINATION IF ADVERSE DETERMINATION.—If the Secretary determines that the alien does not meet such requirements, the Secretary shall notify the alien of such determination and terminate the conditional permanent resident status of the alien as of the date of the determination.

(3) TIME TO FILE PETITION.—An alien may petition to remove the conditional basis to lawful resident status during the period beginning 180 days before and ending 2 years after either the date that is 6 years after the date of the granting of conditional permanent resident status or any other expiration date of the conditional permanent resident status as extended by the Secretary in accordance with this subtitle. The alien shall be deemed in conditional permanent resident status in the United States during the period in which the petition is pending.

(d) DETAILS OF PETITION.—

(1) CONTENTS OF PETITION.—Each petition for an alien under subsection (c)(1) shall contain information to permit the Secretary to determine whether each of the following requirements is met:

(A) The alien has demonstrated good moral character during the entire period the alien has been a conditional permanent resident.

(B) The alien is in compliance with section 624(a)(1)(C).

(C) The alien has not abandoned the alien's residence in the United States. The Secretary shall presume that the alien has abandoned such residence if the alien is absent from the United States for more than 365 days, in the aggregate, during the period of

conditional residence, unless the alien demonstrates that alien has not abandoned the alien's residence. An alien who is absent from the United States due to active service in the uniformed services has not abandoned the alien's residence in the United States during the period of such service.

(D) The alien has completed at least 1 of the following:

(i) The alien has acquired a degree from an institution of higher education in the United States or has completed at least 2 years, in good standing, in a program for a bachelor's degree or higher degree in the United States.

(ii) The alien has served in the uniformed services for at least 2 years and, if discharged, has received an honorable discharge.

(E) The alien has provided a list of all of the secondary educational institutions that the alien attended in the United States.

(2) HARDSHIP EXCEPTION.—

(A) IN GENERAL.—The Secretary may, in the Secretary's discretion, remove the conditional status of an alien if the alien—

(i) satisfies the requirements of subparagraphs (A), (B), and (C) of paragraph (1);

(ii) demonstrates compelling circumstances for the inability to complete the requirements described in paragraph (1)(D); and

(iii) demonstrates that the alien's removal from the United States would result in exceptional and extremely unusual hardship to the alien or the alien's spouse, parent, or child who is a citizen or a lawful permanent resident of the United States.

(B) EXTENSION.—Upon a showing of good cause, the Secretary may extend the period of the conditional resident status for the purpose of completing the requirements described in paragraph (1)(D).

(e) TREATMENT OF PERIOD FOR PURPOSES OF NATURALIZATION.—For purposes of title III of the Immigration and Nationality Act (8 U.S.C. 1401 et seq.), in the case of an alien who is in the United States as a lawful permanent resident on a conditional basis under this section, the alien shall be considered to have been admitted as an alien lawfully admitted for permanent residence and to be in the United States as an alien lawfully admitted to the United States for permanent residence. However, the conditional basis must be removed before the alien may apply for naturalization.

SEC. 626. RETROACTIVE BENEFITS.

If, on the date of enactment of this Act, an alien has satisfied all the requirements of subparagraphs (A) through (E) of section 624(a)(1) and section 625(d)(1)(D), the Secretary may adjust the status of the alien to that of a conditional resident in accordance with section 624. The alien may petition for removal of such condition at the end of the conditional residence period in accordance with section 625(c) if the alien has met the requirements of subparagraphs (A), (B), and (C) of section 625(d)(1) during the entire period of conditional residence.

SEC. 627. EXCLUSIVE JURISDICTION.

(a) IN GENERAL.—The Secretary shall have exclusive jurisdiction to determine eligibility for relief under this subtitle, except where the alien has been placed into deportation, exclusion, or removal proceedings either prior to or after filing an application for relief under this subtitle, in which case the Attorney General shall have exclusive jurisdiction and shall assume all the powers and duties of the Secretary until proceedings are terminated, or if a final order of deportation, exclusion, or removal is entered the Secretary shall resume all powers and duties delegated to the Secretary under this subtitle.

(b) STAY OF REMOVAL OF CERTAIN ALIENS ENROLLED IN PRIMARY OR SECONDARY

SCHOOL.—The Attorney General shall stay the removal proceedings of any alien who—

(1) meets all the requirements of subparagraphs (A), (B), (C), and (E) of section 624(a)(1);

(2) is at least 12 years of age; and

(3) is enrolled full time in a primary or secondary school.

(c) EMPLOYMENT.—An alien whose removal is stayed pursuant to subsection (b) may be engaged in employment in the United States, consistent with the Fair Labor Standards Act (29 U.S.C. 201 et seq.), and State and local laws governing minimum age for employment.

(d) LIFT OF STAY.—The Attorney General shall lift the stay granted pursuant to subsection (b) if the alien—

(1) is no longer enrolled in a primary or secondary school; or

(2) ceases to meet the requirements of subsection (b)(1).

SEC. 628. PENALTIES FOR FALSE STATEMENTS IN APPLICATION.

Whoever files an application for relief under this subtitle and willfully and knowingly falsifies, misrepresents, or conceals a material fact or makes any false or fraudulent statement or representation, or makes or uses any false writing or document knowing the same to contain any false or fraudulent statement or entry, shall be fined in accordance with title 18, United States Code, or imprisoned not more than 5 years, or both.

SEC. 629. CONFIDENTIALITY OF INFORMATION.

(a) PROHIBITION.—No officer or employee of the United States may—

(1) use the information furnished by the applicant pursuant to an application filed under this subtitle to initiate removal proceedings against any persons identified in the application;

(2) make any publication whereby the information furnished by any particular individual pursuant to an application under this subtitle can be identified; or

(3) permit anyone other than an officer or employee of the United States Government or, in the case of applications filed under this subtitle with a designated entity, that designated entity, to examine applications filed under this subtitle.

(b) REQUIRED DISCLOSURE.—The Attorney General or the Secretary shall provide the information furnished under this section, and any other information derived from such furnished information, to—

(1) a duly recognized law enforcement entity in connection with an investigation or prosecution of an offense described in paragraph (2) or (3) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)), when such information is requested in writing by such entity; or

(2) an official coroner for purposes of affirmatively identifying a deceased individual (whether or not such individual is deceased as a result of a crime).

(c) PENALTY.—Whoever knowingly uses, publishes, or permits information to be examined in violation of this section shall be fined not more than \$10,000.

SEC. 630. EXPEDITED PROCESSING OF APPLICATIONS; PROHIBITION ON FEES.

Regulations promulgated under this subtitle shall provide that applications under this subtitle will be considered on an expedited basis and without a requirement for the payment by the applicant of any additional fee for such expedited processing.

SEC. 631. HIGHER EDUCATION ASSISTANCE.

Notwithstanding any provision of the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.), with respect to assistance provided under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.), an alien who ad-

justs status to that of a lawful permanent resident under this subtitle shall be eligible only for the following assistance under such title IV:

(1) Student loans under parts B, D, and E of such title IV (20 U.S.C. 1071 et seq., 1087a et seq., 1087aa et seq.), subject to the requirements of such parts.

(2) Federal work-study programs under part C of such title IV (42 U.S.C. 2751 et seq.), subject to the requirements of such part.

(3) Services under such title IV (20 U.S.C. 1070 et seq.), subject to the requirements for such services.

SEC. 632. GAO REPORT.

Seven years after the date of enactment of this Act, the Comptroller General of the United States shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives, which sets forth—

(1) the number of aliens who were eligible for cancellation of removal and adjustment of status under section 624(a);

(2) the number of aliens who applied for adjustment of status under section 624(a);

(3) the number of aliens who were granted adjustment of status under section 624(a); and

(4) the number of aliens whose conditional permanent resident status was removed under section 625.

Subtitle D—Grant Programs to Assist Nonimmigrant Workers

SEC. 641. GRANTS TO SUPPORT PUBLIC EDUCATION AND COMMUNITY TRAINING.

(a) GRANTS AUTHORIZED.—The Assistant Attorney General, Office of Justice Programs, may award grants to qualified nonprofit community organizations to educate, train, and support non-profit agencies, immigrant communities, and other interested entities regarding the provisions of this Act and the amendments made by this Act.

(b) USE OF FUNDS.—

(1) IN GENERAL.—Grants awarded under this section shall be used—

(A) for public education, training, technical assistance, government liaison, and all related costs (including personnel and equipment) incurred by the grantee in providing services related to this Act; and

(B) to educate, train, and support nonprofit organizations, immigrant communities, and other interested parties regarding this Act and the amendments made by this Act and on matters related to its implementation.

(2) EDUCATION.—In addition to the purposes described in paragraph (1), grants awarded under this section shall be used to—

(A) educate immigrant communities and other interested entities regarding—

(i) the individuals and organizations that can provide authorized legal representation in immigration matters under regulations prescribed by the Secretary; and

(ii) the dangers of securing legal advice and assistance from those who are not authorized to provide legal representation in immigration matters;

(B) educate interested entities regarding the requirements for obtaining nonprofit recognition and accreditation to represent immigrants under regulations prescribed by the Secretary;

(C) provide nonprofit agencies with training and technical assistance on the recognition and accreditation process; and

(D) educate nonprofit community organizations, immigrant communities, and other interested entities regarding—

(i) the process for obtaining benefits under this Act or under an amendment made by this Act; and

(ii) the availability of authorized legal representation for low-income persons who may qualify for benefits under this Act or under an amendment made by this Act.

(c) DIVERSITY.—The Assistant Attorney General shall ensure, to the extent possible, that the nonprofit community organizations receiving grants under this section serve geographically diverse locations and ethnically diverse populations who may qualify for benefits under the Act.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Office of Justice Programs of the Department of Justice such sums as may be necessary for each of the fiscal years 2007 through 2009 to carry out this section.

SEC. 642. FUNDING FOR THE OFFICE OF CITIZENSHIP.

(a) AUTHORIZATION.—The Secretary, acting through the Director of the Bureau of Citizenship and Immigration Services, is authorized to establish the United States Citizenship and Immigration Foundation (referred to in this subtitle as the "Foundation").

(b) PURPOSE.—The Foundation shall be incorporated in the District of Columbia, exclusively for charitable and educational purposes to support the functions of the Office of Citizenship of the Bureau of Citizenship and Immigration Services.

(c) GIFTS.—

(1) TO FOUNDATION.—The Foundation may solicit, accept, and make gifts of money and other property in accordance with section 501(c)(3) of the Internal Revenue Code of 1986.

(2) FROM FOUNDATION.—The Office of Citizenship may accept gifts from the Foundation to support the functions of the Office.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the mission of the Office of Citizenship.

SEC. 643. CIVICS INTEGRATION GRANT PROGRAM.

(a) IN GENERAL.—The Secretary shall establish a competitive grant program to provide financial assistance to nonprofit organizations, including faith-based organizations, to support—

(1) efforts by entities certified by the Office of Citizenship to provide civics and English as a second language courses; and

(2) other activities approved by the Secretary to promote civics and English as a second language.

(b) ACCEPTANCE OF GIFTS.—The Secretary may accept and use gifts from the Foundation for grants under this section.

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

SEC. 644. STRENGTHENING AMERICAN CITIZENSHIP.

(a) SHORT TITLE.—This section may be cited as the "Strengthening American Citizenship Act of 2006".

(b) DEFINITION.—In this section, the term "Oath of Allegiance" means the binding oath (or affirmation) of allegiance required to be naturalized as a citizen of the United States, as prescribed in section 337(e) of the Immigration and Nationality Act, as added by subsection (h)(1)(B).

(c) ENGLISH FLUENCY.—

(1) EDUCATION GRANTS.—

(A) ESTABLISHMENT.—The Chief of the Office of Citizenship of the Department (referred to in this paragraph as the "Chief") shall establish a grant program to provide grants in an amount not to exceed \$500 to assist legal residents of the United States who declare an intent to apply for citizenship in the United States to meet the requirements under section 312 of the Immigration and Nationality Act (8 U.S.C. 1423).

(B) USE OF FUNDS.—Grant funds awarded under this paragraph shall be paid directly to an accredited institution of higher education or other qualified educational institution (as determined by the Chief) for tuition,

fees, books, and other educational resources required by a course on the English language in which the legal resident is enrolled.

(C) APPLICATION.—A legal resident desiring a grant under this paragraph shall submit an application to the Chief at such time, in such manner, and accompanied by such information as the Chief may reasonably require.

(D) PRIORITY.—If insufficient funds are available to award grants to all qualified applicants, the Chief shall give priority based on the financial need of the applicants.

(E) NOTICE.—The Secretary, upon relevant registration of a legal resident with the Department, shall notify such legal resident of the availability of grants under this paragraph for legal residents who declare an intent to apply for United States citizenship.

(F) DEFINITION.—For purposes of this subsection, the term “legal resident” means a lawful permanent resident or a lawfully admitted alien who, in order to adjust status to that of a lawful permanent resident must demonstrate a knowledge of the English language or satisfactory pursuit of a course of study to acquire such knowledge of the English language.

(2) FASTER CITIZENSHIP FOR ENGLISH FLUENCY.—Section 316 (8 U.S.C. 1427) is amended by adding at the end the following:

“(g) A lawful permanent resident of the United States who demonstrates English fluency, in accordance with regulations prescribed by the Secretary of Homeland Security, in consultation with the Secretary of State, will satisfy the residency requirement under subsection (a) upon the completion of 4 years of continuous legal residency in the United States.”.

(3) SAVINGS PROVISION.—Nothing in this subsection shall be construed to—

(A) modify the English language requirements for naturalization under section 312(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1423(a)(1)); or

(B) influence the naturalization test redesign process of the Office of Citizenship (except for the requirement under subsection (h)(2)).

(d) AMERICAN CITIZENSHIP GRANT PROGRAM.—

(1) IN GENERAL.—The Secretary shall establish a competitive grant program to provide financial assistance for—

(A) efforts by entities (including veterans and patriotic organizations) certified by the Office of Citizenship to promote the patriotic integration of prospective citizens into the American way of life by providing civics, history, and English as a second language courses, with a specific emphasis on attachment to principles of the Constitution of the United States, the heroes of American history (including military heroes), and the meaning of the Oath of Allegiance; and

(B) other activities approved by the Secretary to promote the patriotic integration of prospective citizens and the implementation of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), including grants—

(i) to promote an understanding of the form of government and history of the United States; and

(ii) to promote an attachment to the principles of the Constitution of the United States and the well being and happiness of the people of the United States.

(2) ACCEPTANCE OF GIFTS.—The Secretary may accept and use gifts from the United States Citizenship Foundation, if the foundation is established under subsection (e), for grants under this subsection.

(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this subsection.

(e) FUNDING FOR THE OFFICE OF CITIZENSHIP.—

(1) AUTHORIZATION.—The Secretary, acting through the Director of the Bureau of Citizenship and Immigration Services, is authorized to establish the United States Citizenship Foundation (referred to in this subsection as the “Foundation”), an organization duly incorporated in the District of Columbia, exclusively for charitable and educational purposes to support the functions of the Office of Citizenship.

(2) DEDICATED FUNDING.—

(A) IN GENERAL.—Not less than 1.5 percent of the funds made available to the Bureau of Citizenship and Immigration Services from fees shall be dedicated to the functions of the Office of Citizenship, which shall include the patriotic integration of prospective citizens into—

(i) American common values and traditions, including an understanding of American history and the principles of the Constitution of the United States; and

(ii) civic traditions of the United States, including the Pledge of Allegiance, respect for the flag of the United States, and voting in public elections.

(B) SENSE OF CONGRESS.—It is the sense of Congress that dedicating increased funds to the Office of Citizenship should not result in an increase in fees charged by the Bureau of Citizenship and Immigration Services.

(3) GIFTS.—

(A) TO FOUNDATION.—The Foundation may solicit, accept, and make gifts of money and other property in accordance with section 501(c)(3) of the Internal Revenue Code of 1986.

(B) FROM FOUNDATION.—The Office of Citizenship may accept gifts from the Foundation to support the functions of the Office.

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the mission of the Office of Citizenship, including the functions described in paragraph (2)(A).

(f) RESTRICTION ON USE OF FUNDS.—No funds appropriated to carry out a program under this subsection (d) or (e) may be used to organize individuals for the purpose of political activism or advocacy.

(g) REPORTING REQUIREMENT.—

(1) IN GENERAL.—The Chief of the Office of Citizenship shall submit an annual report to the Committee on Health, Education, Labor, and Pensions of the Senate, the Committee on the Judiciary of the Senate, the Committee on Education and the Workforce of the House of Representatives, and the Committee on the Judiciary of the House of Representatives.

(2) CONTENTS.—The report submitted under paragraph (1) shall include—

(A) a list of the entities that have received funds from the Office of Citizenship during the reporting period under this section and the amount of funding received by each such entity;

(B) an evaluation of the extent to which grants received under this section successfully promoted an understanding of—

(i) the English language; and

(ii) American history and government, including the heroes of American history, the meaning of the Oath of Allegiance, and an attachment to the principles of the Constitution of the United States; and

(C) information about the number of legal residents who were able to achieve the knowledge described under paragraph (2) as a result of the grants provided under this subsection.

(h) OATH OR AFFIRMATION OF RENUNCIATION AND ALLEGIANCE.—

(1) REVISION OF OATH.—Section 337 (8 U.S.C. 1448) is amended—

(A) in subsection (a), by striking “under section 310(b) an oath” and all that follows through “personal moral code.” and insert-

ing “under section 310(b), the oath (or affirmation) of allegiance prescribed in subsection (e).”; and

(B) by adding at the end the following:

“(e)(1) Subject to paragraphs (2) and (3), the oath (or affirmation) of allegiance prescribed in this subsection is as follows: ‘I take this oath solemnly, freely, and without any mental reservation. I absolutely and entirely renounce all allegiance to any foreign state or power of which I have been a subject or citizen. My fidelity and allegiance from this day forward are to the United States of America. I will bear true faith and allegiance to the Constitution and laws of the United States, and will support and defend them against all enemies, foreign and domestic. I will bear arms, or perform noncombatant military or civilian service, on behalf of the United States when required by law. This I do solemnly swear, so help me God.’

“(2) If a person, by reason of religious training and belief (or individual interpretation thereof) or for other reasons of good conscience, cannot take the oath prescribed in paragraph (1)—

“(A) with the term ‘oath’ included, the term ‘affirmation’ shall be substituted for the term ‘oath’; and

“(B) with the phrase ‘so help me God’ included, the phrase ‘so help me God’ shall be omitted.

“(3) If a person shows by clear and convincing evidence to the satisfaction of the Attorney General that such person, by reason of religious training and belief, cannot take the oath prescribed in paragraph (1)—

“(A) because such person is opposed to the bearing of arms in the Armed Forces of the United States, the words ‘bear arms, or’ shall be omitted; and

“(B) because such person is opposed to any type of service in the Armed Forces of the United States, the words ‘bear arms, or’ and ‘noncombatant military or’ shall be omitted.

“(4) As used in this subsection, the term ‘religious training and belief’—

“(A) means a belief of an individual in relation to a Supreme Being involving duties superior to those arising from any human relation; and

“(B) does not include essentially political, sociological, or philosophical views or a merely personal moral code.

“(5) Any reference in this title to ‘oath’ or ‘oath of allegiance’ under this section shall be deemed to refer to the oath (or affirmation) of allegiance prescribed under this subsection.”.

(2) HISTORY AND GOVERNMENT TEST.—The Secretary shall incorporate a knowledge and understanding of the meaning of the Oath of Allegiance into the history and government test given to applicants for citizenship.

(3) NOTICE TO FOREIGN EMBASSIES.—Upon the naturalization of a new citizen, the Secretary, in cooperation with the Secretary of State, shall notify the embassy of the country of which the new citizen was a citizen or subject that such citizen has—

(A) renounced allegiance to that foreign country; and

(B) sworn allegiance to the United States.

(4) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on the date that is 6 months after the date of enactment of this Act.

(i) ESTABLISHMENT OF NEW CITIZENS AWARD PROGRAM.—

(1) ESTABLISHMENT.—There is established a new citizens award program to recognize citizens who—

(A) have made an outstanding contribution to the United States; and

(B) were naturalized during the 10-year period ending on the date of such recognition.

(2) PRESENTATION AUTHORIZED.—

(A) IN GENERAL.—The President is authorized to present a medal, in recognition of

outstanding contributions to the United States, to citizens described in paragraph (1).

(B) MAXIMUM NUMBER OF AWARDS.—Not more than 10 citizens may receive a medal under this subsection in any calendar year.

(3) DESIGN AND STRIKING.—The Secretary of the Treasury shall strike a medal with suitable emblems, devices, and inscriptions, to be determined by the President.

(4) NATIONAL MEDALS.—The medals struck pursuant to this subsection are national medals for purposes of chapter 51 of title 31, United States Code.

(j) NATURALIZATION CEREMONIES.—

(1) IN GENERAL.—The Secretary, in consultation with the Director of the National Park Service, the Archivist of the United States, and other appropriate Federal officials, shall develop and implement a strategy to enhance the public awareness of naturalization ceremonies.

(2) VENUES.—In developing the strategy under this subsection, the Secretary shall consider the use of outstanding and historic locations as venues for select naturalization ceremonies.

(3) REPORTING REQUIREMENT.—The Secretary shall submit an annual report to Congress that includes—

(A) the content of the strategy developed under this subsection; and

(B) the progress made towards the implementation of such strategy.

SA 3425. Mr. FRIST proposed an amendment to amendment SA 3424 proposed by Mr. FRIST to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; as follows:

At the end of the instructions, add the following amendment:

This section shall become effective one (1) day after the date of enactment.

SA 3426. Mr. FRIST proposed an amendment to amendment SA 3425 proposed by Mr. FRIST to the amendment SA 3424, proposed by Mr. FRIST to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; as follows:

Strike “one (1) day” and insert “two days”.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to hold a hearing on Wednesday, April 5, 2006, at 9:30 a.m. to consider the following nominations pending before the Committee: Richard Capka to be Administrator, Federal Highway Administration; James Gulliford to be an Assistant Administrator, EPA; and William Wehrum to be an Assistant Administrator, EPA.

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

COMMITTEE ON FINANCE

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session on Wednesday, April 5, 2006, at 10 a.m., in 215 Dirksen

Senate Office Building, to consider the nomination of Mr. W. Ralph Basham, of Virginia, to be Commissioner of Customs, Department of Homeland Security.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, April 5, 2006, at 9:30 a.m. to hold a hearing on U.S.-India Atomic Energy Cooperation.

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

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet on Wednesday, April 5, 2006, at 10 a.m. for a hearing titled, “The Future of Port Security: The GreenLane Maritime Cargo Security Act.”

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

COMMITTEE ON INDIAN AFFAIRS

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Wednesday, April 5, 2006, at 9:30 a.m. in Room 485 of the Russell Senate Office Building to conduct an oversight hearing on The Problem of Methamphetamine in Indian Country.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on April 5, 2006 at 2:30 p.m. to hold a closed business meeting.

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

SUBCOMMITTEE ON BIOTERRORISM AND PUBLIC HEALTH PREPAREDNESS

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Subcommittee on Bioterrorism and Public Health Preparedness, be authorized to hold a hearing during the session of the Senate on Wednesday, April 5, 2006 at 10 a.m. in SD-430.

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

SUBCOMMITTEE ON EMERGING THREATS AND CAPABILITIES

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Subcommittee on Emerging Threats and Capabilities be authorized to meet during the session of the Senate on April 5, 2006, at 9:30 a.m., to receive testimony on the Department of Defense's role in combating terrorism, in review of the defense authorization request for fiscal year 2007 and the Future Years Defense Program.

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

SUBCOMMITTEE ON EUROPEAN AFFAIRS

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Sub-

committee on European Affairs be authorized to meet during the session of the Senate on Wednesday, April 5, 2006, at 2:30 p.m. to hold a hearing on Islamist Extremism in Europe.

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

SUBCOMMITTEE ON FEDERAL FINANCIAL MANAGEMENT, GOVERNMENT INFORMATION, AND INTERNATIONAL SECURITY

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Subcommittee on Federal Financial Management, Government Information, and International Security be authorized to meet on Wednesday, April 5, 2006, at 2:30 p.m. for a hearing regarding “Federal Funding of Museums.”

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

SUBCOMMITTEE ON GLOBAL CLIMATE CHANGE AND IMPACTS

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Subcommittee on Global Climate Change and Impacts be authorized to meet on Wednesday, April 5, 2006, at 2:30 p.m., on The Current and Future Role of Science in the Asia Pacific Partnership.

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

SUBCOMMITTEE ON PUBLIC LANDS AND FORESTS

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands and Forests be authorized to meet during the session of the Senate on Wednesday, April 5 at 2:30 p.m. The purpose of the hearings is to review the 2005 Wildfire Season and the Federal Management Agencies' preparations for the 2006 Wildfire Season.

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

SUBCOMMITTEE ON READINESS AND MANAGEMENT SUPPORT

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Subcommittee on Readiness and Management Support of the Committee on Armed Services be authorized to meet during the session of the Senate on April 5, 2006 at 3 p.m., in open session to receive testimony on improving contractor incentives in review of the Defense Authorization Request for Fiscal Year 2007.

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

COMMENDING THE UNIVERSITY OF MARYLAND WOMEN'S BASKETBALL TEAM

Ms. MIKULSKI. Mr. President, on behalf of Senator SARBANES and myself, I call up a resolution which is at the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 425) to commend the University of Maryland women's basketball

team for winning the 2006 National Collegiate Athletic Association Division I National Basketball Championship.

There being no objection, the Senate proceeded to consider the resolution.

Ms. MIKULSKI. Mr. President, I offer this resolution on behalf of Senator SARBANES and myself.

Yes, the women's basketball team of the University of Maryland did win the women's basketball championship. I am here today to offer this resolution and to state I am so proud of the young women of this championship basketball team.

Led by Coach B, Brenda Frese, the Terps finished the season with a record of 34 wins and 4 losses, a fine record for any basketball team. It was especially sweet because those Terps defied all expert predictions.

Last night was a game for the history books. It went into overtime and, at the same time, was in overdrive.

I have to say a word about our worthy opponent, the Blue Devils. They were champions, too. What we saw on the court was fierce play, brilliant strategy, and the American value of sportsmanship.

But there is only one winner of each game, and although Duke played very well, our Maryland Lady Terps were, indeed, a story champion. The University of Maryland has a fine basketball tradition. The national championship team exemplifies all that is good about it. They are student athletes. They study 2 hours a day to make sure they are going to graduate and have fulfilled the American dream while they are out there playing the hoop dream.

Last night proved to the country their maturity, their grace under pressure, their skill, and their indomitable spirit.

The most outstanding player of the tournament, Laura Harper, held the Terps together, scoring in that first half when Duke was playing great defense. But in the second half, after Coach B's terrific motivational speech, they were out there and the colors shone through. Behind by 13 points with only 15 minutes left, they would not give up to pressure. Coach B called her team to the bench for a breather, and they returned to the court as if there were no deficit to overcome. The energy and the poise of the tri-captains—Shay Doron, scooting down that court, dashing through the defense of the Blue Devils, zinging in for her points and, at the same time, making most of her free throws; Crystal Langhorne, though boxed in, did a dramatic steal and surged ahead; and there was Charmaine Carr, backing up the team.

This pushed the team over the hump. As the clock wound down, the Terps had closed the gap and finally we were into overtime. Then a freshman guard, Kristi Toliver, came down the floor. They had her boxed in, yet from a dramatic distance she made a magical three-pointer with only 6 seconds left. And as the Terps fans know, it was fear

the turtle. It showed that overtime is our time.

Freshman Marissa Coleman played superb basketball. We all know the outcome.

When the final buzzer sounded, the University of Maryland Terrapins were crowned the national champion.

I congratulate the players and the coach for the excitement of such a wonderful game and a wonderful season, and I congratulate them on their sportsmanship.

ELIZABETH DOLE and I had a bet on the outcome. By the way, you should know that in order to be in the final four you have to have a woman Senator here. There was LSU, Senator LANDRIEU; Senator DOLE had to have two teams, and there she was; and, of course, Senator BARB MIKULSKI with her Terrapins. Senator DOLE and I had a friendly bet, my crab cakes against her barbecue. We shared some barbecue together and some of their sweet tea, which is as nice as our friendship.

That is what sportsmanship is. Hats off to the Terps, and hats off to title IX that made it all possible.

I will not yield that championship next year.

Mr. SARBANES. Mr. President, it is with a profound sense of Maryland pride and pleasure that I rise in joining my Maryland colleague, Senator BARBARA MIKULSKI, in introducing a resolution congratulating the University of Maryland Terrapins for winning the 2006 NCAA Women's National Basketball Championship. Joining us in this effort is the Maryland House delegation, spearheaded by University of Maryland alum, Congressman STENY HOYER.

As our resolution highlights, this has been a terrific run for the women's basketball team. The team notched 33 wins, the most for any Division I men's or women's basketball team this season. Maryland was also the only team in the Nation to score more than 3,000 points. With this championship, the team became only the fourth school to secure championships in both men's and women's basketball, joining Stanford University, the University of Connecticut and the University of North Carolina.

Maryland, after its stellar regular season, was surprisingly selected as a No. 2 seed. The young team, which started two freshmen, two sophomores and one junior, seemed to thrive on the NCAA selection committee's underestimation. They played in, and won, six overtime games this season, including the positively thrilling come-from-behind-victory in the championship game. Down by thirteen points with fifteen minutes left in regulation, the Terps kept chipping away at the lead, capping it off with a terrific three point shot by freshman guard, Kristi Toliver, to tie the game at 70 with 6.1 seconds left in regulation.

In overtime the Lady Terps showed why they consider the extra period to be "their time." Smothering defense

and poise in shooting free throws secured the brilliant win down the final stretch.

The championship team consisted of senior guard/forward Charmaine Carr, freshman guard/forward Marissa Coleman, junior guard Shay Doron, junior guard Kalika France, sophomore forward/center Laura Harper, sophomore center/forward Crystal Langhorne, sophomore guard Christie Marrone, sophomore guard Ashleigh Newman, junior center Aurelie Noirez, sophomore forward/center Jade Perry, senior forward/center Angel Ross, freshman guard Kristi Toliver, and sophomore guard Sa'de Wiley-Gatewood. Their victory could not have been secured without the talented coaches and staff led by head coach Brenda Frese, assisted by coaches Jeff Walz, Erica Floyd, and Joanna Bernabei. Finally, I'd like to acknowledge the director of basketball operations, Mark Pearson and athletic director Debbie Yow.

On behalf of the State of Maryland, the Maryland congressional delegation and the University of Maryland, I ask my colleagues to join me in acknowledging the outstanding efforts of this amazing group of basketball players, coaches and staff.

Cheer the turtle!

Ms. MIKULSKI. I ask unanimous consent the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table.

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

The resolution (S. Res. 425) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 425

Whereas the University of Maryland women's basketball team has worked vigorously, dynamically, and very enthusiastically to reach a championship level of play;

Whereas the students, alumni, faculty, and fans of the Terrapins should be congratulated for their commitment to the University of Maryland Terrapins national champion women's basketball team;

Whereas the student athletes, led by Crystal Langhorne and her teammates, Kristi Toliver, Freshman of the Year Marissa Coleman, Shay Doron, Laura Harper, Kalika France, Christie Marrone, Ashleigh Newman, Aurelie Noirez, Jade Perry, Angel Ross, Charmaine Carr, and Sa'de Wiley-Gatewood participated in this national championship season;

Whereas Head Coach Brenda Frese has recruited and taught the top talent in the United States to be student athletes at the University of Maryland and has been assisted by coaches Jeff Walz, Erica Floyd, Joanna Bernabei, and Director of Basketball Operations Mark Pearson, to imbue in these young women the values of teamwork, perseverance, and competitiveness;

Whereas the University of Maryland women's basketball team, also known as the "Terps", was able to defeat their 2 greatest foes en route to a first national championship in women's basketball;

Whereas the championship game was won in overtime after overcoming a deficit of 13 points with only 15 minutes remaining in regulation play; and

Whereas the grit, heart, and maturity of the 2006 University of Maryland Terrapins

women's basketball team will be the standard-bearer for years to come in the game of Women's College Basketball: Now, therefore, be it

Resolved, That the Senate—

(1) congratulates the University of Maryland Terrapins women's college basketball team for winning the 2006 National Collegiate Athletic Association Division I National Championship;

(2) recognizes the breathtaking achievements of Head Coach Brenda Frese, her assistant coaches, and all of the outstanding players; and

(3) directs the Secretary of the Senate to transmit a copy of this resolution to Brenda Frese, Head Coach of the national champions University of Maryland Terrapins and to the University of Maryland College Park President, Dr. Dan Mote for appropriate display.

UNANIMOUS CONSENT AGREEMENT—S. RES. 427 THRU S. RES. 433

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed en bloc to the consideration of S. Res. 427 through 433, which were submitted earlier today.

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

Mr. FRIST. Mr. President, I ask unanimous consent that the resolutions be agreed to, the preambles be agreed to, and the motions to reconsider be laid upon the table en bloc.

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

COMMEMORATING THE 50TH ANNIVERSARY OF THE INTERSTATE SYSTEM

Mr. INHOFE. Mr. President, as Chairman and on behalf of my colleagues on the Environment and Public Works Committee, I urge support of this resolution to commemorate the 50th Anniversary of the Interstate System. The Committee as a whole would like to mark the momentous achievements made over the last 50 years that have provided for revolutionary advances in our nation's vital infrastructure. It is essential that Congress, just as it did in 1956, recognize the importance of continued investment in our nation's highways and the undeniable link between a robust economy and a vibrant national infrastructure.

Because of my work on SAFETEA-LU (Public Law 109-59) I have a better appreciation of just how visionary the authors of the Federal-Aid Highway Act of 1956 were when they laid out a network of interstate highways and devised a stable and reliable funding stream to pay for it. I am certain that at the time there were those who felt the plan was too ambitious, too expensive and consequently not a good use of scarce Federal dollars. I am sure all would agree that not only was it a good use of scarce Federal dollars, but that the nation has enjoyed a many-fold return on the expenditure.

Laying out the full interstate system—rather than a piecemeal of road segments—along with providing a dedi-

cated funding source expedited construction and provided certainty. This certainty maximized the economic and mobility benefits of the system. Businesses and individuals knew that they could locate somewhere on the future interstate system and be connected to rest of the country.

The second essential element of the success of the highway program over the last 50 years has been the dependable funding stream for the interstate. In the absence of this dedicated funding source, it is my firm belief that investment in our nation's highways and bridges would be far less than has been the case. Without the relative certainty of funding and knowledge of the interstate's general location, the impacts on productivity and economic growth would have been dramatically less than we experienced.

The connectivity and mobility provided for both freight and people by our interstate system is unrivaled; and I believe was more than just a small part of the economic success enjoyed by the U.S. over the past 50 years. It is essential that we continue to make the necessary investment to fight congestion and maintain the mobility necessary to keep the economy growing.

I have always said that the federal government has two main functions: national defense and to provide infrastructure. Since one of the earliest justifications for the interstate system was to provide for national defense, the highway program is actually a perfect merger of the 2 most important functions of government.

For the last 50 years the gas tax has been deposited into the trust fund and used to construct and maintain our roads. In the past, the gas tax has been a reasonably good proxy for road use; and the trust fund has in recent history had sufficient receipts to fund the highway program. This is changing with the increase in fuel efficiency, highlighted by fuel-cell vehicles coming just over the horizon, and improved technology allows for improvements in how to collect the user fee. It is important to look forward to how we fund the highway program in the future because when the next highway bill is drafted, there will be no cushion of a cash balance left in the trust fund.

The current challenges facing the highway trust fund—and hence the highway program—will be very difficult to resolve and not unlike the challenges faced by the authors of the 1956 act. It will be up to policymakers to be as visionary as they were 50 years ago. A new vision is needed in what the highway program will stand for in the next 50 years and how to pay for it.

The resolution (S. Res. 427) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 427

Whereas, on June 29, 1956, President Dwight D. Eisenhower signed into law—

(1) the Federal-Aid Highway Act of 1956 (Public Law 84-627; 70 Stat. 374) to establish

the 41,000-mile National System of Interstate and Defense Highways, later designated as the "Dwight D. Eisenhower National System of Interstate and Defense Highways"; and

(2) the Highway Revenue Act of 1956 (Public Law 84-627; 70 Stat. 387) to create the Highway Trust Fund;

Whereas, in 1990, the National System of Interstate and Defense Highways was renamed the Dwight D. Eisenhower System of Interstate and Defense Highways to recognize the role of President Eisenhower in the creation of the Interstate Highway System;

Whereas that web of superhighways, now spanning a total of 46,876 miles throughout the United States, has had a powerful and positive impact on the lives of United States citizens;

Whereas the Interstate System has proven to be a vital tool for transporting people and goods from 1 region to another speedily and safely;

Whereas the use of the Interstate System has helped the Nation facilitate domestic and global trade, and has allowed the Nation to create unprecedented economic expansion and opportunities for millions of United States citizens;

Whereas the Interstate System has enabled diverse communities throughout the United States to come closer together, and has allowed United States citizens to remain connected to each other as well as to the larger world;

Whereas the Interstate System has made it easier and more enjoyable for United States citizens to travel to long-distance destinations and spend time with family members and friends who live far away;

Whereas the Interstate System is a pivotal link in the national chain of defense and emergency preparedness efforts;

Whereas the Interstate System remains 1 of the paramount assets of the United States, as well as a symbol of human ingenuity and freedom;

Whereas the anniversary of the Interstate System provides United States citizens with an occasion to honor 1 of the largest public works achievements of all time, and reflect on how the Nation can maintain the effectiveness of the System in the years ahead: Now, therefore, be it

Resolved that the Senate

(1) proclaims 2006 as the Golden Anniversary Year of the Dwight D. Eisenhower National System of Interstate and Defense Highways;

(2) recognizes and celebrates the achievements of the Federal Highway Administration, State departments of transportation, and the highway construction industry of the United States, including contractors, designers, engineers, labor, materials producers, and equipment companies, for their contributions to the quality of life of the citizens of the United States; and

(3) encourages citizens, communities, governmental agencies, and other organizations to promote and participate in celebratory and educational activities that mark this uniquely important and historic milestone.

CONGRATULATING THE UNIVERSITY OF WISCONSIN MEN'S CROSS COUNTRY TEAM

The resolution (S. Res. 428) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 428

Whereas, on November 21, 2005, after finishing second for 3 consecutive years, the University of Wisconsin men's cross country

team (referred to in this preamble as the "Badgers cross country team") won the National Collegiate Athletic Association Division I Cross Country Championship in Terre Haute, Indiana, by placing first ahead of—

- (1) the University of Arkansas; and
- (2) Notre Dame University;

Whereas the Badgers cross country team secured its victory through the strong performances of its members, including—

- (1) Simon Bairu, who won his second consecutive individual national championship with a time of 29:15.9;
- (2) Chris Solinsky, who finished third in the championship race with a time of 29:27.8;
- (3) Matt Withrow, who finished ninth in the race with a time of 29:50.7;
- (4) Antony Ford, who finished 14th with a time of 29:55.2;
- (5) Stuart Eagon, who finished 17th with a time of 30:05.3;
- (6) Tim Nelson, who finished 18th with a time of 30:06.4; and
- (7) Christian Wagner, who finished 58th with a time of 30:35.7;

Whereas the success of the season depended on the hard work, dedication, and performance of every player on the Badgers cross country team, including—

- (1) Simon Bairu;
- (2) Brandon Bethke;
- (3) Bryan Culver;
- (4) Stuart Eagon;
- (5) Antony Ford;
- (6) Ryan Gasper;
- (7) Ben Gregory;
- (8) Bobby Lockhart;
- (9) Tim Nelson;
- (10) Teddy O'Reilly;
- (11) Tim Pierie;
- (12) Joe Pierre;
- (13) Ben Porter;
- (14) Codie See;
- (15) Chris Solinsky;
- (16) Christian Wagner; and
- (17) Matt Withrop;

Whereas, on October, 30, 2005, the Badgers cross country team won its seventh straight Big Ten championship with a record-setting score and margin of victory by sweeping the top four positions and eight of the top ten positions;

Whereas numerous members of the Badgers cross country team were recognized for their performance in the Big Ten Conference, including—

- (1) Simon Bairu, who was named the Big Ten Men's Cross Country Athlete of the Year and won the Big Ten Conference individual title;
- (2) Matt Withrop, who was named the Big Ten Men's Cross Country Freshman of the Year after finishing third in the conference meet; and
- (3) Head Coach Jerry Schumacher, who was named the Big Ten Men's Cross Country Coach of the Year for the fifth consecutive year; and

Whereas Simon Bairu, Chris Solinsky, Matt Withrow, Antony Ford, Stuart Eagon, and Tim Nelson earned All-American honors: Now, therefore, be it

Resolved, That the Senate—

- (1) congratulates the University of Wisconsin men's cross country team, Head Coach Jerry Schumacher and his coaching staff, Athletic Director Barry Alvarez, and Chancellor John D. Wiley for an outstanding championship season; and
- (2) respectfully requests the Clerk of the Senate to transmit an enrolled copy of this resolution to the Chancellor of the University of Wisconsin-Madison.

CONGRATULATING THE UNIVERSITY OF WISCONSIN WOMEN'S HOCKEY TEAM

The resolution (S. Res. 429) was agreed to.

The preamble was agreed to.
The resolution, with its preamble, reads as follows:

S. RES. 429

Whereas on March 26, 2006, the University of Wisconsin Badgers won the women's Frozen Four in Minneapolis, Minnesota, with a victory over the 2-time defending champion University of Minnesota Golden Gophers by 3 to 0 in the championship game after having defeated St. Lawrence University by 1 to 0 in the semifinals;

Whereas Jinelle Zaugg of Eagle River, Wisconsin, scored 2 goals, Grace Hutchison of Winnetka, Illinois, scored a goal, and Jessie Vetter of Cottage Grove, Wisconsin, had 31 saves in the championship game, and recorded the first shut-out in the history of the women's Frozen Four championship games;

Whereas every player on the University of Wisconsin women's hockey team (Sara Bauer, Rachel Bible, Nikki Burish, Sharon Cole, Vicki Davis, Christine Dufour, Kayla Hagen, Tia Hanson, Meghan Horras, Grace Hutchins, Cyndy Kenyon, Angie Keseley, Heidi Kletzien, Erika Lawler, Alycia Matthews, Meaghan Mikkelson, Phoebe Monteleone, Emily Morris, Mikka Nordby, Bobbi-Jo Slusar, Jessie Vetter, Kristen Witting, and Jinelle Zaugg) contributed to the success of this team;

Whereas Sara Bauer and Bobbi-Jo Slusar were named to the All-Western Collegiate Hockey Association (known as "WCHA") First Team, Sharon Cole, Meaghan Mikkelson, and Meghan Horras were named to the All-WCHA Second Team, Bobbi-Jo Slusar was named the WCHA Defensive Player of the Year, and Sara Bauer was named the WCHA Player of the Year;

Whereas Coach Mark Johnson, who won a National Collegiate Athletic Association National (known as "NCAA") championship as a member of the University of Wisconsin men's 1977 championship team, was a star on the 1980 United States Olympic hockey team, which produced what is known as the "Miracle on Ice", and is one of the few people who have won a national championship as both a player and coach, and was named the WCHA Coach of the Year;

Whereas Sara Bauer and Bobbi-Jo Slusar were named first team All-Americans, and Sara Bauer won the Patty Kazmaier Award, as the Nation's top player;

Whereas Jessie Vetter won the 2006 NCAA Tournament's Most Outstanding Player award and was joined on the All-Tournament Team by Jinelle Zaugg and Bobbi-Jo Slusar;

Whereas the victory in the women's Frozen Four is the University of Wisconsin's first varsity women's hockey national championship, and the university's first women's team national championship since 1984; and

Whereas this victory ended a terrific season in which the University of Wisconsin women's hockey team outscored their opponents 155-51 and had a record of 34-4-1: Now, therefore, be it

Resolved, That the Senate—

- (1) congratulates the University of Wisconsin women's hockey team, the coaching staff, including Head Coach Mark Johnson, Athletic Director Barry Alvarez, and Chancellor John D. Wiley on an outstanding championship season; and
- (2) respectfully requests the Clerk of the Senate to transmit an enrolled copy of this resolution to the Chancellor of the University of Wisconsin-Madison.

COMMENDING THE UNIVERSITY OF FLORIDA MEN'S BASKETBALL TEAM

The resolution (S. Res. 430) was agreed to.

The preamble was agreed to.
The resolution, with its preamble, reads as follows:

S. RES. 430

Whereas on Monday, April 3, 2006, the University of Florida men's basketball team (referred to in this preamble as the "Florida Gators") defeated the men's basketball team of the University of California, Los Angeles, by a score of 73-57, to win the 2006 National Collegiate Athletic Association Division I Basketball Championship;

Whereas that historic victory by the Florida Gators was a product of—

- (1) an almost flawless and unselfish team performance; and
- (2) individual player excellence and versatility from members of the Florida Gators;

Whereas that victory marked the first national basketball championship victory for the University of Florida, and occurred 10 years after the school won the National Collegiate Athletic Association Division I Football Championship;

Whereas the head coach of the Florida Gators, Billy Donovan, became the second youngest coach to win the national championship, after leading the Florida Gators to a school-best, 33-6 record;

Whereas University of Florida sophomore Joakim Noah was chosen as the most outstanding player of the Final Four;

Whereas each player, coach, trainer, and manager dedicated his or her time and effort to ensuring that the Florida Gators reached the pinnacle of team achievement; and

Whereas the families of the players, students, alumni, and faculty of the University of Florida, and all of the supporters of the University of Florida, are to be congratulated for their commitment to, and pride in, the basketball program at the University of Florida; Now, therefore, be it

Resolved, That the Senate—

- (1) commends the University of Florida men's basketball team for winning the 2006 National Collegiate Athletic Association Division I Basketball Championship;
- (2) recognizes the achievements of all of the players, coaches, and support staff who were instrumental in helping the University of Florida men's basketball team win the 2006 National Collegiate Athletic Association Division I Basketball Championship, and invites those individuals to the United States Capitol Building to be honored; and
- (4) respectfully requests the Enrolling Clerk of the Senate to transmit an enrolled copy of this resolution to—
 - (A) the University of Florida for appropriate display; and
 - (B) the coach of the University of Florida men's basketball team, Billy Donovan.

ENDANGERED SPECIES DAY

The resolution (S. Res. 431) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 431

Whereas in the United States and around the world, more than 1,000 species are officially designated as at risk of extinction and thousands more also face a heightened risk of extinction;

Whereas the actual and potential benefits derived from many species have not yet been fully discovered and would be permanently lost if not for conservation efforts;

Whereas recovery efforts for species such as the whooping crane, Kirtland's warbler, the peregrine falcon, the gray wolf, the gray

whale, the grizzly bear, and others have resulted in great improvements in the viability of such species;

Whereas saving a species requires a combination of sound research, careful coordination, and intensive management of conservation efforts, along with increased public awareness and education;

Whereas two-thirds of endangered or threatened species reside on private lands;

Whereas voluntary cooperative conservation programs have proven to be critical for habitat restoration and species recovery; and

Whereas education and increasing public awareness are the first steps in effectively informing the public about endangered species and species restoration efforts: Now, therefore, be it

Resolved, That the Senate—

(1) designates May 11, 2006, as “Endangered Species Day”; and

(2) encourages—

(A) educational entities to spend at least 30 minutes on Endangered Species Day teaching and informing students about threats to, and the restoration of, endangered species around the world, including the essential role of private landowners and private stewardship to the protection and recovery of species;

(B) organizations, businesses, private landowners, and agencies with a shared interest in conserving endangered species to collaborate on educational information for use in schools; and

(C) the people of the United States to observe the day with appropriate ceremonies and activities.

SENATE LEGAL COUNSEL AUTHORIZATION

Mr. FRIST. Mr. President, this resolution concerns a request for testimony, through written affidavit, and representation in an attorney fee dispute proceeding pending before a State bar arbitration committee in Nevada. The distinguished Democratic Leader, Senator REID, has been asked to provide an affidavit in this proceeding. Senator REID believes that he has relevant first-hand knowledge, acquired in his capacity as a Senator, and would like to cooperate with this request.

Accordingly, this resolution would authorize Senator REID to provide an affidavit in this matter with representation by the Senate Legal Counsel.

The resolution (S. Res. 432) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 432

Whereas, in *E.M. Gunderson v. Neil G. Galatz*, File No. 04-106, pending before the Fee Dispute Arbitration Committee of the State Bar of Nevada, the petitioner has requested an affidavit from Senator Harry Reid;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(2), the Senate may direct its counsel to represent Members of the Senate with respect to any subpoena, order, or request for testimony relating to their official responsibilities;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial or administrative process, be taken from such control or possession but by permission of the Senate;

Whereas, by Rule VI of the Standing Rules of the Senate, no Senator shall absent himself from the service of the Senate without leave;

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate: Now, therefore, be it

Resolved, That Senator Harry Reid is authorized to testify in the case of *E.M. Gunderson v. Neil G. Galatz*, except when his attendance at the Senate is necessary for the performance of his legislative duties and except concerning matters for which a privilege should be asserted.

SEC. 2. The Senate Legal Counsel is authorized to represent Senator Harry Reid in connection with the testimony authorized in section one of this resolution.

HONORING THE AMERICAN SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS

Mr. DURBIN. Mr. President, today I introduced this resolution, S. Res. 433, honoring the American Society for the Prevention of Cruelty to Animals on the 140th Anniversary of their founding.

The dedicated employees and volunteers of the ASPCA have provided shelter, medical care, and placement for abandoned and abused animals for more than a century.

The ASPCA is the oldest animal welfare organization in North America. Henry Bergh began the organization in 1866 as a platform to prevent the cruel beating of carriage horses in New York City. Today, the ASPCA is a national organization that provides services to millions of people and their animals. The success of the organization has made the term ASPCA synonymous with “animal rescue,” “animal shelter,” “animal adoptions” and “humane education.”

For over 25 years, my home State of Illinois has hosted the ASPCA’s Animal Poison Control Center. The Center is staffed 24 hours a day, 365 days a year by numerous veterinarians and toxicologists who provide a unique and valuable service to pet owners and veterinarians. Each year, tens of thousands of animal lovers concerned about the health of their pets contact the Animal Poison Control Center seeking assistance on how to relieve their poisoned animals’ pain and suffering. I am proud to have the Animal Poison Control Center located in the State of Illinois.

I ask my colleagues in the Senate to join me in congratulating the staff, directors and volunteers of the ASPCA on a successful 140 years of service.

The resolution (S. Res. 433) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 433

Whereas April 10, 2006, marks the 140th anniversary of the founding of The American Society for the Prevention of Cruelty to Ani-

mals (referred to in this preamble as “ASPCA”);

Whereas ASPCA has provided services to millions of citizens of the United States and their animals since Henry Bergh established the society in New York City in 1866;

Whereas ASPCA was the first humane society established in the western hemisphere;

Whereas ASPCA teaches children the character-building virtues of compassion, kindness, and respect for all of God’s creatures;

Whereas the dedicated directors, staff, and volunteers of ASPCA have provided shelter, medical care, behavioral counseling, and placement for abandoned, abused, or homeless animals in the United States for more than a century; and

Whereas ASPCA, through its observance of April as “Prevention of Cruelty to Animals Month”, its Animal Poison Control Center, and its promotion of humane animal treatment through programs dedicated to law enforcement, education, shelter outreach, legislative affairs, counseling, veterinary services, and behavioral training, has provided invaluable services to the citizens of the United States and their animals: Now, therefore, be it

Resolved, That the Senate—

(1) honors The American Society for the Prevention of Cruelty to Animals for its 140 years of service to the citizens of the United States and their animals; and

(2) respectfully requests the Secretary of the Senate to transmit a copy of this resolution to the president of The American Society for the Prevention of Cruelty to Animals.

NATIONAL DAY OF THE AMERICAN COWBOY

Mr. FRIST. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration and the Senate proceed to S. Res. 371.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 371) designating July 22, 2006, as “National Day of the American Cowboy.”

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

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

The resolution (S. Res. 371) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 371

Whereas pioneering men and women, recognized as cowboys, helped establish the American West;

Whereas that cowboy spirit continues to infuse this country with its solid character, sound family values, and good common sense;

Whereas the cowboy embodies honesty, integrity, courage, compassion, respect, a strong work ethic, and patriotism;

Whereas the cowboy loves, lives off of, and depends on the land and its creatures, and is an excellent steward, protecting and enhancing the environment;

Whereas the cowboy continues to play a significant role in the culture and economy of the United States;

Whereas approximately 800,000 ranchers are conducting business in all 50 States and are contributing to the economic well being of nearly every county in the Nation;

Whereas rodeo is the sixth most-watched sport in the United States;

Whereas membership in rodeo and other organizations encompassing the livelihood of a cowboy transcends race and sex and spans every generation;

Whereas the cowboy is an American icon; Whereas to recognize the American cowboy is to acknowledge the ongoing commitment of the United States to an esteemed and enduring code of conduct; and

Whereas the ongoing contributions made by cowboys to their communities should be recognized and encouraged: Now, therefore, be it

Resolved, That the Senate—

(1) designates July 22, 2006, as “National Day of the American Cowboy”; and

(2) encourages the people of the United States to observe the day with appropriate ceremonies and activities.

APPOINTMENT OF PHILLIP FROST AS A CITIZEN REGENT

REAPPOINTMENT OF ALAN G. SPOON AS A CITIZEN REGENT

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate en bloc consideration of H.J. Res. 81 and H.J. Res. 82, which were received from the House.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the joint resolutions by title.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 81) providing for the appoint of Phillip Frost as a citizen regent of the Board of Regents of the Smithsonian Institution.

A joint resolution (H.J. Res. 82) providing for the reappointment of Alan G. Spoon as a citizen regent of the Board of Regents of the Smithsonian Institution.

There being no objection, the Senate proceeded to consider the joint resolutions.

Mr. FRIST. Mr. President, I ask unanimous consent that the joint resolutions be read a third time and passed, the motions to reconsider be laid upon the table, and that any statements relating to the resolutions be printed in the RECORD.

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

The joint resolutions (H.J. Res. 81 and H.J. Res. 82) were read the third time and passed.

ORDERS FOR THURSDAY, APRIL 6, 2006

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m., Thursday, April 6. I further ask unanimous consent that following the prayer

and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and the Senate resume consideration of S. 2454, the border security bill, with the time from 9:30 a.m. until 10:30 a.m. equally divided between the managers or their designees, and the Senate then proceed to a vote on the motion to invoke cloture, as under the previous order; further, I ask that the mandatory quorum under rule XXII be waived and that second-degree amendments be filed at the desk no later than 10:30 a.m., pursuant to rule XXII.

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

PROGRAM

Mr. FRIST. Mr. President, just a few minutes ago I filed two cloture motions on the border security bill and four cloture motions on Executive Calendar nominations. Under the provisions of rule XXII, we will have several votes on Friday unless an agreement can be reached which we will consider tomorrow. Tomorrow morning at 10:30 a.m. we will have a cloture vote on the Specter substitute amendment, which was filed by the minority leader, with the other cloture vote on nominations. We still have a lot of work to be done before we leave at the end of the week.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. FRIST. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 9:40 p.m., adjourned until Thursday, April 6, 2006, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate April 5, 2006:

DEPARTMENT OF STATE

ERIC M. BOST, OF TEXAS, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF SOUTH AFRICA.

LISA BOBBIE SCHREIBER HUGHES, OF PENNSYLVANIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF SURINAME.

DAVID M. ROBINSON, OF CONNECTICUT, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE CO-OPERATIVE REPUBLIC OF GUYANA.

EARL ANTHONY WAYNE, OF MARYLAND, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF CAREER MINISTER, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO ARGENTINA.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICERS FOR REGULAR APPOINTMENT IN THE GRADES INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 531:

To be colonel

THOMAS E. BALDWIN, 0000
LEE C. BAUER, 0000
JAMES A. CAPPS, JR., 0000
PAUL B. CHRISTIANSON, 0000
PAUL D. GOVEN, 0000
STEVEN A. HOCKING, 0000

VINCENT T. JONES, 0000
HALIFAX C. KING, 0000
RAYMOND M. KLEIN, 0000
LISA A. KUHAR, 0000
JOHN F. KURZAK, 0000
STEVEN T. LAMB, 0000
FREDRIC A. MARKS, 0000
WILLIAM A. POLLAN, 0000
RONALD D. POOLE, 0000
CAROL S. RAMSEY, 0000
ANTHONY M. RIZZO, 0000
DIANA J. SCHULZ, 0000
GERALD R. SCHWARTZ, 0000
STEPHEN J. SHARP, 0000
JOHN C. STONER, 0000
FRANCIS A. STRATFORD, JR., 0000
MARIA M. TIAMSONBEATO, 0000
RICHARD A. WILLIAMS, 0000

To be lieutenant colonel

FEDERICO AGUILAR, 0000
KIRK W. ALVORD, 0000
FRANK J. ARCHBALD, 0000
MICHAEL A. ARNOLD, 0000
MATTHEW E. BANNON, 0000
JIMMY L. BARROW, 0000
ROBERT V. BATES, 0000
ROBERT W. BECK, 0000
LAURA K. BELKNAP, 0000
STEPHEN F. BELL, 0000
FREDERICK L. BELLAMY, 0000
THOMAS C. BERRY, 0000
DEBORAH C. BERTRAND, 0000
CHRISTOPHER D. BINGHAM, 0000
DANIEL C. BLANK, 0000
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HUBERT C. BOWDITCH, 0000
RAY BOWEN, 0000
DAVID J. BOWERS, 0000
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LORIE C. BROSCH, 0000
JAMES W. BROWN, 0000
JERRY D. BROWN, 0000
ROY C. BROWN, 0000
DOUGLAS J. BURGOYNE, 0000
ALLAN C. BUSHNELL, 0000
JOYCE CADY, 0000
WILLIAM F. CAPPIELLO, 0000
JAMES D. CARLIN, 0000
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JAMES W. COCKERILL, 0000
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JOSEPH G. CONIGLIO, JR., 0000
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JESUS CORTESMORALES, 0000
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RONALD O. CRANDALL, 0000
ROBERT J. CRAVEN, 0000
JOHN M. CURRY, 0000
ROMAN B. CYBAK, 0000
JEANINE M. CZECH, 0000
CARMELLA L. DADDEZIO, 0000
HECTOR F. DAVILA, 0000
RENE P. DECHAMNE, 0000
KENNETH J. DENMAN, JR., 0000
ROLLIN S. DIXON, 0000
MARK G. DRINKARD, 0000
JOSEPH A. DUFF, 0000
AARON J. DYESS III, 0000
TEDDY J. ELLIS, 0000
ALFRED C. EMMEL, 0000
DANIEL J. EPRIGHT, 0000
CHRISTOPHER C. ERICKSON, 0000
RICHARD B. EVANS, 0000
HAROLD H. FAIN, JR., 0000
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ROBERT J. FISCHER, 0000
CARLOS L. FLEMING, 0000
JOHN F. FORBES, 0000
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JAMES W. FRESSE, 0000
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ROGER I. GERRARD, 0000
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WILLIAM C. GIBBONS, 0000
WILLIAM A. GIBSON, 0000
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ATUL K. GOEL, 0000
DANIEL V. GOERES, 0000
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TIMOTHY W. HARRIS, 0000
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 RANDALL L. JONES, 0000
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 TIMOTHY W. KACZMAR, 0000
 JAMES G. KAHR, 0000
 ANWAR J. KALEEMULLAH, 0000
 THOMAS F. KELLY, 0000
 TIMOTHY M. KERSEY, 0000
 GEORGE J. KRAKIE, 0000
 MARK KRAUTHHEIM, 0000
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 ROBERT E. LEHMAN, 0000
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 SHOBHA SEM, 0000
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 LUN S. YAN, 0000
 GLENN E. YURGIL, 0000
 SCOTT D. ZALESKI, 0000
 MICHAEL C. ZECA, 0000

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 KENT D. ABBOTT, 0000
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 SAMEH G. ABUERREISH, 0000
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 LUTHER M. ADAMS, 0000
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 STEVEN M. BAUGHMAN, 0000
 ROBERT ANDREW BEALE, 0000
 KRISTEN J. BEALS, 0000
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 PETRAN J. BEARD, 0000
 SHERYL M. BEARD, 0000
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 DEVIN P. BECKSTRAND, 0000
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 CHRISTOPHER T. BIRD, 0000
 ALEXANDER B. BLACK, 0000
 BRANDON R. BLACK, 0000
 EDWARD P. BLACK, 0000
 JASON T. BLACKHAM, 0000
 CHRISTOPHER A. BLACKWELL, 0000
 REBECCA SMILEY BLACKWELL, 0000
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 CELESTE S. BLANKEN, 0000
 MARVIN D. BLANKENSHIP, 0000
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 KURT R. BOLLIN, 0000
 BRANT W. BOLLING, 0000
 WILLIAM S. BOLLING, 0000
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 SCOTT G. BOOK, 0000
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 CHRISTOPHER J. BORCHARDT, 0000
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 ALEX P. BORMANN, 0000
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 GREGORY CLARK BORSTAD, 0000
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 PAUL BOSTROM, 0000
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 ANDREW N. BOWSER, 0000
 LINDA R. BOYD, 0000
 BRENT J. BRADLEY, 0000
 KIMBERLY R. BRADLEY, 0000
 BRYCE H. BRAKMAN, 0000
 STACEY L. BRANCH, 0000
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 LAZARO O. BRAVO, JR., 0000
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 DOBON BRESLER, 0000
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 STEVEN OWEN BROWN, 0000
 JOSEPH V. BROWNE, 0000
 STEVEN S. BRUMFIELD, 0000
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 DAVID S. BUSH, 0000
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 SOTO DAMARIES CANDELARIO, 0000
 WHITNEY J. CANFIELD, 0000
 MICHAEL W. CANTRELL, 0000
 MICHAEL K. CAO, 0000
 MADHAVI P. CAPOCCIA, 0000
 RAFAEL I. CARBONELL, 0000
 JOSHUA P. CAREY, 0000
 DAWN E. CARLSON, 0000
 RENEE D. CARLSON, 0000
 DAVID H. CARNAHAN, 0000
 MAURICIO C. CAROTA, 0000
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 MARK R. CARTER, 0000
 LINDA A. CASE, 0000
 JEFFERY A. CASEY, 0000
 HEATHER R. CASSELL, 0000
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 TOBIN W. CAVALLARI, 0000
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 JILL A. CHERRY, 0000
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 HAEHOH CHOE, 0000
 JOHN H. CHOE, 0000
 CHOL H. CHONG, 0000
 YUN C. CHONG, 0000
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 KEVIN CHOU, 0000
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 KIMBERLY CHRISTIAN, 0000
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 NORMAN A. CLARK, 0000
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 ELTON H. DAVIS, 0000
 RICHARD T. DAVIS, 0000
 RONALD S. DAY, 0000
 CHRISTINA T. DEANGELIS, 0000
 JEFFREY L. DEANS, 0000
 CYNTHIA J. DECHENES, 0000
 ALAN J. DELOSSANTOS, 0000
 DOUGLAS D. DEMAIO, 0000
 MICHAEL R. DENNISON, 0000
 CATHERINE J. F. DERBER, 0000
 EDWARD G. DETAR, 0000
 DONALD G. DETMERING, 0000
 GREGORY A. DEYE, 0000
 SCOTT V. DICKSON, 0000
 PAUL A. DICPINIGATTIS, 0000
 PAUL B. DIDOMENICO, 0000
 WILLIAM G. DIENSSNER, 0000
 ANDREW B. DILL, 0000
 DELLA E. DILLARD, 0000
 DANNY R. DIMAGGIO, 0000
 SARA A. DIXON, 0000
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 GEORGE M. DOCKENDORF, 0000
 JAMES P. DOLAN, 0000
 ERIC R. DOPSLA F, 0000
 KELLY L. DORENKOTT, 0000
 HEATH A. DORION, 0000
 MICHAEL E. DOWLER, 0000
 SUSAN M. DOWLING, 0000
 SCOTT L. DOYLE, 0000
 AMANDA M. DRAPER, 0000
 AMY FORSBERG DRESS, 0000
 CHRISTOPHER M. DRESS, 0000
 PETER G. DREWES, 0000
 ERICA J. DRUKE, 0000
 KALMAN DUBOV, 0000
 RITA L. DUBOYCE, 0000
 SARAH E. DUCHARME, 0000
 MIROSLAWA R. DUDEK, 0000
 ERIC J. DUDENHOEFER, 0000
 MICHELLE D. DUFFLANTY, 0000
 CLAYTON A. DUNCAN, 0000
 MATTHEW D. DUNCAN, 0000
 STEFFEN P. DUNCAN, 0000
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 NEIL E. DUNLOW, 0000
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 HUYEN CHAU DUNN, 0000
 JAMES S. DUNN, JR., 0000
 STEPHEN J. DURANT, 0000
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 DAVID V. EASTHAM, 0000
 MICHAEL W. EATON, 0000
 RICHARD J. ECKERT, JR., 0000
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 THOMAS P. EDMONSON, 0000
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 JAMISON W. ELDER, 0000
 JONATHAN L. ELIASON, 0000
 STEFAN V. ELING, 0000
 HOLLY V. ELLENBERGER, 0000
 DANNY R. ELLER, 0000
 KRISTIAN S. ELLINGSSEN, 0000
 ERIC D. ELLIOTT, 0000
 CAROL J. ELNICKY, 0000
 DARRYL G. ELROD, JR., 0000
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 MICHAEL A. EOVINE, 0000
 CHRISTINE R. ERDIJALENA, 0000
 LEIGHANN ERIDMAN, 0000
 MARSHALL A. ERICKSON, 0000
 QUENBY L. ERICKSON, 0000
 BETTINA C. ERZEN, 0000
 DAVID L. ESTEP, JR., 0000
 CHRISTOPHER A. ETRICH, 0000
 JONATHAN D. EVANS, 0000
 RONALD C. EVENSON, 0000
 MICHAEL T. EYLANDER, 0000
 ISAAC J. FAIBISOFF, 0000
 BASSAM M. FAKHOURI, 0000
 RAYMOND FANG, 0000
 AGUSTIN L. FARIAS, 0000
 CHARLES S. FARMER, 0000
 MATTHEW D. FABION, 0000

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 JEFFREY A. FEINSTEIN, 0000
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 PETER K. FENGER, 0000
 CHRISTOPHER F. FENNELL, 0000
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 ANN S. FENTON, 0000
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 VAL W. FINNELL, 0000
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 ROBIN E. FONTENOT, 0000
 EDWARD F. FORD, 0000
 MICHAEL A. FORGIONE, 0000
 GERALD R. FORTUNA, JR., 0000
 SARAH O. FORTUNA, 0000
 KIMBERLY F. FOSTER, 0000
 JENNIFER E. FOURNIER, 0000
 CURTIS M. FOY, 0000
 TEGRAN O. FRAITES, 0000
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 SPENCER C. GREENE, 0000
 DANIEL W. GREGG, 0000

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 JAMES E. HUIZENGA, 0000
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 DUSTIN G. HUNTZINGER, 0000
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 CONRAD L. HUYGEN, 0000
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 RAJIV C. IYER, 0000
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 PHILIP S. JUNGHANS, 0000
 ROBERT F. KACPROWICZ, 0000
 WARREN R. KADRMAS, 0000
 BENJAMIN C. KAM, JR., 0000
 FARHAD A. KANDAKLOO, 0000
 SHERYL L. KANE, 0000
 HYON SIK SCOTT KANG, 0000
 JOHN CHOONGWHA KANG, 0000
 PHYLLIS J. KAPLEEN, 0000
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 MARK A. KARCUTSKIE, 0000
 DAVID M. KASE, 0000
 PACHAVIT KASEMSAP, 0000
 LEONID M. KATKOVSKY, 0000
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 STEVEN M. KINDSVATER, 0000
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 HEIDI L. KJOS, 0000
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 DAYTON S. KOBYASHI, 0000
 KY M. KOBYASHI, 0000
 PETER J. KOBES, 0000
 GRETCHEN L. KOHLER, 0000
 JANA S. KOKKONEN, 0000
 HENRY S. KORZENIOWSKI, JR., 0000
 AMAR KOSARAJU, 0000
 JOHN F. KOSS, 0000
 WALLACE J. KOST, 0000
 DONALD C. KOWALEWSKI, 0000
 MARK C. KOZIOL, 0000
 ROBYN T. K. KRAMER, 0000
 KATHLEEN S. KREICHER, 0000
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 MICAL J. KUPKE, 0000
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 JERRY D. LABSON, 0000
 JEFFREY K. LADINE, 0000
 JOHN C. LAMANTIA, 0000
 MICHAEL F. LAMB, 0000
 DYJERLYNN C. LAMPLEY, 0000
 MICHAEL L. LANDRUM, 0000
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 NONATO A. LARGOZA, 0000
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 HENRY K. K. LAU, 0000
 DAVID P. LAUGHLIN, 0000
 MICHAEL S. LAUGHREY, 0000
 JEFFREY L. LAVALLEE, 0000
 JAMES A. LAWSON, JR., 0000
 JARRETT B. LEA, 0000
 CHARLES A. LEATH III, 0000
 JAMES B. LEAVENWORTH, 0000
 ALEX J. LEE, 0000
 CHRISTINE Y. LEE, 0000
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 KENYA D. LEE, 0000
 MARVIN LEE II, 0000
 MICHAEL K. LEE, 0000
 REBECCA L. LEHR, 0000
 SHANNON C. LEHR, 0000
 JAMES D. LEIBER, 0000
 BRIAN E. LEININGER, 0000
 JASON S. LENK, 0000
 PAUL M. LENTS, 0000
 SARAH L. LENTZ, 0000
 XAVIER LEOS, 0000
 LUKE M. LEVEILLEE, 0000
 ROBERT J. LEVERTON, 0000
 JEFFREY D. LEWIS, 0000
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 ROBERT C. LIEBMAN, 0000
 PETER A. LIEHR, 0000
 WEN LIEN, 0000
 RALPH R. LIM, JR., 0000
 TREVOR D. LIM, 0000
 JOHN C. LIN, 0000
 NEAL S. LINCH, 0000
 CHRISTOPHER M. LINE, 0000
 DOUGLAS M. LITTLEFIELD, 0000
 BRADLEY A. LLOYD, 0000
 JEREMY D. LLOYD, 0000
 HORACE P. LO, 0000
 PETER J. LODICO, 0000
 JONATHAN C. LOHRBACH, 0000
 GIANG K. LOI, 0000
 TERENCE PATRICK LONERGAN, 0000
 BRIAN M. LONG, 0000
 LARRY K. LONG, 0000
 PAUL A. LONGO, 0000
 DON J. LOPEZ, 0000
 MANUEL A. LOPEZ, 0000
 JEFFREY C. LOUIE, 0000
 BRIAN W. LOVEEDGE, 0000
 THOMAS R. LOWRY, 0000
 TIMOTHY R. LUCE, 0000
 SALVATORE J. LUCIDO, 0000
 DAVID A. LUNGER, 0000
 LARS W. LUNSFORD, 0000
 DAVID J. LUTHER, 0000
 THOMAS W. LUTZ, 0000
 ADMIRADO LUZURIAGA, 0000
 FORREST J. LYKINS, JR., 0000
 MARK LYMAN, 0000
 KEEGAN M. LYONS, 0000
 KAI WOOD MA, 0000
 DANIEL M. MACALPINE, 0000
 THOMAS A. MACIAS, 0000
 ANDREW B. MACKERSIE, 0000
 DEBORAH L. MACKERSIE, 0000
 KIRIN L. MADDEN, 0000
 STEVEN W. MADSON, 0000
 VICTOR B. MAGGIO, 0000
 MEGAN E. MAHAFFEY, 0000
 CHARLES G. MAHAKIAN, 0000
 DAVID A. MAHER, 0000
 DAVID S. MALLETT, 0000
 HAROLD W. MANLEY, 0000
 SCOTT S. MANLEY, 0000
 MATTHEW C. MANTEI, 0000
 DAVID L. MAPES, 0000
 ARA M. MARANIAN, 0000
 DEBORAH R. MARGUS, 0000
 MELVIN J. MARQUE III, 0000
 SHERON B. MARSHALL, 0000
 MICHAEL L. MARSTON, 0000
 KATHLEEN MARTIN, 0000
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 IGOR MARYANCHIN, 0000
 PHILLIP J. MASCIOLA, 0000
 MYLA B. MASON, 0000
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 BURTON M. MASSEY, 0000
 MICHAEL E. MATHER, 0000

DENNIS R. MATHEWS, 0000
 DEREK A. MATHIS, 0000
 TODD T. MATSUMOTO, 0000
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 DEAN W. MAUD, 0000
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 JUDITH L. MAYRAND, 0000
 TIMOTHY J. MAZZOLA, 0000
 RYAN M. MCADAMS, 0000
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 RANDALL E. MCCORMICK, 0000
 ROBERT C. MCDONOUGH III, 0000
 LAVETA L. MCDOWELL, 0000
 PATRICK D. MCEVOY, 0000
 SOPHIA MCFADDEN, 0000
 ROSS W. MCFARLAND, 0000
 SEAN C. MCFARLAND, 0000
 KEVIN C. MCGAUGHEY, 0000
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 HOWARD J. MCGOWAN, 0000
 ROBERT P. MCGRATH, JR., 0000
 MIA M. MCGREGOR, 0000
 YURI F. MCKEE, 0000
 DONALD J. MCKEEL, 0000
 HEIDI C. MCKENNA, 0000
 NOLA S. MCMANNUS, 0000
 JEFFREY D. MCNEIL, 0000
 JOHN K. MCNULTY, 0000
 OLIVER L. MCPHERSON, 0000
 PAMELA J. MCSHANE, 0000
 ANITA L. MCSWAIN, 0000
 DAREN R. MEALER, 0000
 MARK A. MEARS, 0000
 BERTRAM K. MEDLOCK, 0000
 ERIC A. MEIER, 0000
 ALEKSANDR G. MELIKOV, 0000
 KURT D. MENTZER, 0000
 VICTORIA LYNN MEREDITH, 0000
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 STEPHEN E. MESSIER, 0000
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 ANTHONY L. MITCHELL, 0000
 DARIUS F. MITCHELL III, 0000
 LISA C. MITCHELL, 0000
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 VINEETH MOHAN, 0000
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 WALTER C. MULLEN, 0000
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 JOSEPH M. MURPHY, JR., 0000
 DANIEL H. MURRAY, 0000
 DENNIS W. NACCARATO, 0000
 BASEEMAH S. NAJEMULLAH, 0000
 ANDREW M. NALIN, 0000
 ALAN J. NAPLES, 0000
 HEZ A. NASR, 0000
 JUSTIN B. NAST, 0000
 MARC H. NEIBERG, 0000
 PAIGE L. NEIFERT, 0000
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 ERIC W. NELSON, 0000
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 TIMOTHY A. NESLEY, 0000
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 SCOTT E. NEUMANN, 0000
 ANDREW D. NEWMAN, 0000
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 VISETH NGAUY, 0000
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 NGHIA H. NGUYEN, 0000
 PAMELA PHUONG K. NGUYEN, 0000
 JOHN G. NIAKAROS, 0000
 BRIAN G. NICHOLS, 0000
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 JEANLUC G. C. NIEL, 0000
 GRACE S. NIEVES, 0000
 WILFREDO J. NIEVES, 0000
 BRETT JASON NILE, 0000
 ROBERT E. NOLL, JR., 0000
 BRENDAN M. NOONE, 0000
 MICHAEL J. NORKUS, 0000
 KENNETH J. NORRIS, JR., 0000
 DAVID A. NORTON, 0000
 JIMMY JOHN N. NOVERO, 0000
 JEFFREY S. NUGENT, 0000
 JORGE L. NUNEZ, 0000
 TERRI J. NUTT, 0000
 ANTHONY B. OCHOA, 0000
 AUDRA L. OCHSNER, 0000
 ROBERT J. OCONNELL, 0000
 KYLE W. ODOM, 0000
 BRIAN P. O'DONNELL, 0000
 SEAN L. O'DONNELL, 0000
 ADEDAYO ODUNSI, 0000
 JOHN Y. OH, 0000
 MICHAEL J. OLIVE, 0000
 MARVIN P. OLK, 0000
 AMY OLSEN, 0000
 STEVEN L. OLSEN, 0000
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 LINDA RUTH OLSON, 0000
 ROBERT P. OLSON, 0000
 BRADLEY A. OLSSON, 0000
 MARIBEL B. ORANTEMANGILO, 0000
 HOWARD L. ORBAN, 0000
 KENNETH J. ORR, 0000
 DAVID J. ORRINGER, 0000
 DAVID D. ORTIZ, 0000
 KYLE T. OSBOEN, 0000
 GREG M. OSGOOD, 0000
 ALBERT L. OUELLETTE, 0000
 EDWARD G. OUELLETTE, 0000
 JOSEPH A. OUMA, 0000
 CRAIG R. K. PACK, 0000
 ROBERT PADGETT, 0000
 JOHN P. PAGIOTAS, 0000
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 MYUNG S. PARK, 0000
 MICHAEL T. PARKE, 0000
 BOYD C. L. PARKER IV, 0000
 JEFFREY E. PARKER, 0000
 JOHN M. PARKER, 0000
 TIMOTHY A. PARKER, 0000
 SYLVIA L. PARRA, 0000
 JERRY L. PARTIN, 0000
 RALPH W. PASSARELLI III, 0000
 AMIT I. PATEL, 0000
 MICHAEL A. PECK, 0000
 STEVEN J. PECKHAM, 0000
 MICHAEL S. PEDERSON, 0000
 ERIC L. PEBBLES, 0000
 JANICE PEEBLY, 0000
 STEVEN D. PEINE, 0000
 KYLE E. PELKEY, 0000
 RAYMOND A. PENSY, 0000
 BARRY W. PEPPERS, 0000
 DAWN E. PEREDO, 0000
 ANDRE R. PERRAULT, 0000
 MICHAEL D. PERRINO, 0000
 GREGORY A. PERRON, 0000
 ELLEEN J. PERRY, 0000
 LUTHER G. PERSON, 0000
 RACHEL R. PETERSEN, 0000
 JEFFREY S. PETERSON, 0000
 LAURA J. PETERSON, 0000
 MICHAEL C. PETRO, 0000
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 RANDOLPH E. PHARR, 0000
 GRANT C. PHILLIPS, 0000
 ALLAN S. PHILP, JR., 0000
 KEVIN P. PIATT, 0000
 MICHAEL R. PICHARDO, 0000
 PAUL D. PIDGON, 0000
 WILLIAM N. PIERCE, 0000
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 KELLY M. PITTMAN, 0000
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 REBECCA W. SHORT, 0000
 MARTIN W. SHUPE, 0000
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 MONA A. SINNO, 0000
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 PAUL A. SKLUZACEK, 0000
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 ALICIA L. TSCHIRHART, 0000
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 KIMBERLY A. YOUNGQUIST, 0000
 AARON T. YU, 0000
 KENNETH C. Y. YU, 0000
 DENNIS F. ZAGRODNIK, 0000
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 SHAWN P. ZARR, 0000
 SOLOMON F. ZEWU, 0000
 REGGIE ZHAN, 0000
 JIANZHONG J. ZHANG, 0000
 AN ZHU, 0000
 GABRIEL ZIMMERER, 0000
 MICHELLE K. ZIMMERMAN, 0000

IN THE ARMY

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

To be colonel

E. N. STEELY III, 0000

EXTENSIONS OF REMARKS

A TRIBUTE TO YOLANDA MARTIN

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 5, 2006

Mr. TOWNS. Mr. Speaker, I rise today in recognition of Yolanda Martin, a native of the town of Puerto Annuelles in the beautiful and rich province of Chiriqui, in the Republic of Panama. I hope my colleagues will join me in recognizing her accomplishments.

Ms. Martin migrated to the United States in 1981, and settled in Brooklyn, New York. Ms. Martin's story is similar to many of our Nation's proud immigrants. In 1999 through 2002, she founded three Child Care Services. Ms. Martin is the executive director and CEO of Minnie's Day Care Center, Parents United For A Better Day Care Centers No. 1 and No. 2, both of which operate 24 hours. All centers provide parents with day care services, an after school program, pre-kindergarten classes, a summer program and overnight child care.

Ms. Martin attended several colleges over the years and is a N.Y. State certified EMT, NY State certified AIDS and HIV educational instructor, an American Red Cross CPR and First Aid instructor.

From 1982–1985, Ms. Martin worked for NY State with the mentally disabled, from 1985–1998, she worked for the NYS Division for Youth Corrections in facilities with incarcerated youth ages 14 to 18 years old. From 1991 to 1995, she worked with the NYC Department of Education as an integrating bilingual paraprofessional in special education. From 1990 to 1995, Ms. Martin also worked as an Emergency Technician with Tri-Com Ambulance services.

Ms. Martin is the proud mother of three beautiful children: Ronald (25) Kendra (18) Courtney (9) and an adopted daughter in Panama, Kiris (10). When she is not working with others in the community, Ms. Martin spends time with her children and family. She is known for her excellent cooking, baking and interior decorating skills. Ms. Martin's hobbies are the performing arts, modeling, and horseback riding. One of her short-term goals is to own her own horse and then a stable with a minimum of six horses is her long-term goal. Ms. Martin truly believes that the key to success is to do for others. Says Ms. Martin, "the more you do, the more is returned to you," it is the rule of the Universe.

Mr. Speaker, Yolanda Martin's selfless service has continuously demonstrated a level of altruistic dedication that makes her most worthy of our recognition today.

75TH ANNIVERSARY OF THE MISSOURI STATE HIGHWAY PATROL

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 5, 2006

Mr. SKELTON. Mr. Speaker, let me take this means to recognize the 75th Anniversary of the Missouri State Highway Patrol. I am proud to pay tribute to the years of service and protection provided to the citizens of Missouri by the Highway Patrol.

On April 24, 1931, Governor Henry S. Caulfield signed Senate Bill 36, establishing the Missouri State Highway Patrol. The bill provided for a superintendent, 10 captains, and 115 patrolmen, but only 55 men were originally hired as troopers. The first superintendent, Lewis Ellis, was hired on July 21, 1931, and the Missouri State Highway Patrol became effective on September 14, 1931.

Throughout its 75 years, the Patrol has provided many invaluable services. In addition to enforcing traffic laws, it encourages traffic safety to the public through displays, speaking engagements, Community Alliance Programs, and the Safety Education Center. The Governor's Security Division, a branch of the Patrol, provides security to Missouri's governor, his family, and visiting dignitaries. Since the Patrol assumed the operation of Missouri's weigh stations in 1942, it has also proven vital to the removal of illegal drugs from the highways.

In the last 75 years, Missouri has called upon the Patrol for assistance in periods of civil unrest and natural disaster. In 1954, troopers were called upon to help quell a full-scale prison riot. The Patrol helped Missourians overcome the paralysis caused by the Great Flood of 1993. After Hurricane Katrina, 56 Patrol personnel responded to a call for assistance to Biloxi, Mississippi.

Mr. Speaker, the Missouri State Highway Patrol can be proud of all it has done for the State of Missouri. I know the Members of the House will join me in congratulating the Missouri State Highway Patrol for 75 years of excellent service.

TRIBUTE TO OLIVIA "LIBBY" MAYNARD

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 5, 2006

Mr. KILDEE. Mr. Speaker, I rise today to pay tribute to Olivia Maynard as she receives the Eleanor Roosevelt Award from the Michigan Democratic Women's Caucus. Olivia will be honored at a luncheon on Saturday, April 8th in Detroit.

Olivia Maynard, also known as Libby, has served the people of Michigan in numerous capacities since graduating from the University

of Michigan in 1971 with a Master of Social Work degree. After serving as the director of the Office of Services to the Aging, she ran for Lieutenant Governor in 1990 with Governor Jim Blanchard. President Clinton appointed her to the Federal Council on Aging, and she served as a delegate to the 1995 White House Conference on Aging.

Elected in 1996 as a Regent of the University of Michigan, she was re-elected in 2004 and continues in that capacity at the present time. Deeply committed to Michigan and its people, Libby was a founding member of Michigan Prospect an organization committed to connecting government to its citizens and creating a caring democratic society. Currently serving as President of Michigan Prospect, Libby devotes her time and energy to bringing about a diverse, just, humane state of Michigan.

Libby also serves as a trustee of the C.S. Mott Foundation, on the boards of the Nature Conservancy of Michigan, McLaren Regional Medical Center, the Council on Michigan Foundations and the Council on Foundations. She is the past chair of the Michigan Democratic Party. Along with her husband, S. Olof Karlstrom, an attorney in private practice, they have generously supported Michigan establishments. Their gift of \$2.25 million to the University of Michigan School of Social Work is just one example of their commitment to supporting the institutions and ideas that will make the future of Michigan brighter.

Mr. Speaker, I ask the House of Representatives to stand with me and applaud the tremendous contributions Olivia Maynard has made to the promotion of dignity, justice, education, and social well-being. Her lifelong commitment to all segments of society has made a positive impact on the lives of countless persons. I value her support, counsel and common sense. Olivia Maynard is one of the giants of the Flint Michigan community and I am honored to call her my friend.

REAFFIRMING OUR SUPPORT FOR THE PEOPLE OF TAIWAN

HON. PETE SESSIONS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 5, 2006

Mr. SESSIONS. Mr. Speaker, Chinese President Hu Jintao is scheduled to visit Washington, DC, later this month. Mr. Hu is most likely to discuss trade, currency, North Korea, Iran and Taiwan with President Bush. I ask President Bush to not yield to Chinese demands on Taiwan but to reaffirm our long standing support for Taiwan and its people.

During the 1995–1996 Taiwan Strait missile crises, President Clinton sent two aircraft carrier battle groups into the region. Since then, the Chinese military has greatly expanded its capabilities and deployed hundreds of missiles targeting Taiwan. As the Assistant Secretary of Defense for International Security Affairs

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

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Peter Rodman mentioned in his remarks before the U.S.-China Economic and Security Review Commission, "U.S. policy opposes unilateral changes in the Taiwan Strait status quo by either party. The PLA military build-up changes that status quo and requires us to adapt to the new situation, as we are doing now." Therefore, we must help the Taiwanese people to protect themselves in the event of a military conflict in the Strait.

Taiwan is very worried about China's military intentions. Last March, the Chinese enacted the anti-secession law, which gives them the right to use force against Taiwan. Chinese leaders have consistently maintained that military action is a viable possibility.

I ask President Bush to persuade Mr. Hu to withdraw Chinese missiles from the Strait, to rescind the anti-secession law and to resume a dialogue with Taiwan's elected leaders.

Peace in the Strait is important to the United States, China, and Taiwan. The 23 million people of Taiwan have worked hard to earn their democratic way of life and they should be allowed to determine their own future. Keeping the freedom of the Taiwanese people secure is a matter of deepest concern to all of us.

THE HUMAN RIGHTS DIALOGUE
WITH VIETNAM: IS VIETNAM
MAKING SIGNIFICANT PROGRESS

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 5, 2006

Mr. SMITH of New Jersey. Mr. Speaker, on March 29, I co-chaired a hearing to examine the results of the recent Human Rights Dialogue with the government of Vietnam, and the progress, or lack thereof, in Vietnam's respect for human rights and religious freedom. While the hearing revealed that there have been some improvements in Vietnam's human rights record, the testimony showed that the evidence of abuse is still too strong for us to relax our efforts.

It would be inappropriate, in any discussion of Vietnam, not to first raise the issue that engages more Americans, more deeply, than any other when we talk of Vietnam—the need to complete a full, thorough and responsible accounting of the remaining American MIAs from the Vietnam conflict. As my colleagues know well, of the 2,583 POW/MIAs who were unaccounted for—Vietnam (1,923), Laos (567), Cambodia (83) and China (10)—just under 1,400 remain unaccounted for in Vietnam. During my last visit to Vietnam in December 2005 I met with LTC Lentfort Mitchell, head of the Joint POW-MIA Accounting Command (JPAC). While JPAC is making steady progress and is able to conduct approximately four joint field activities per year in Vietnam, I remain deeply concerned that the government of Vietnam could be more forthcoming and transparent in providing the fullest accounting. It is our sacred duty to the families of the missing that we never forget and never cease our pursuit until we achieve the fullest possible accounting of our MIAs.

This hearing took place in the context of the recently concluded Human Rights Dialogue with Vietnam, which our distinguished witnesses from the State Department, the Honorable Barry F. Lowenkron, Assistant Secretary

of the Bureau of Democracy, Human Rights and Labor, the Honorable John V. Hanford III, Ambassador-at-Large for the Office of International Religious Freedom, and the Honorable Eric John, Deputy Assistant Secretary for the Bureau of East Asian and Pacific Affairs, reported on.

The State Department had suspended the Human Rights Dialogue since 2002 because it was clear Hanoi was not serious about our concerns. Since that time Hanoi was designated a Country of Particular Concern (CPC) for egregious and systematic violations of religious freedom in both 2004 and 2005. Vietnam is currently anxious to receive Permanent Normal Trade Relations (PNTR) with the U.S., to gain admittance to the World Trade Organization (WTO), and to have President Bush attend the Asia Pacific Economic Cooperation (APEC) Summit in November. Indeed, this is the "APEC Year" in Hanoi. Now that the dialogue has been resumed, at Hanoi's request, it is both imperative and opportune for the administration and Congress to pressure Hanoi for more deeds than words. Vietnam needs to show that it is not merely trying to smooth out some minor "misunderstandings" which get in the way of Vietnam's important economic and political goals, but rather that it has made a fundamental commitment to human rights and reform, and to fulfilling its international commitments, a fundamental commitment which will not be forgotten after it has achieved those goals.

Section 702 of Public Law 107-671 requires the Department to submit a report on the U.S.-Vietnam Human Rights Dialogue within 60 days of its conclusion "describing to what extent the Government of Vietnam has made progress during the calendar year toward achieving the following objectives:

(1) Improving the Government of Vietnam's commercial and criminal codes to bring them into conformity with international standards, including the repeal of the Government of Vietnam's administrative detention decree (Directive 311/CP).

(2) Releasing political and religious activists who have been imprisoned or otherwise detained by the Government of Vietnam, and ceasing surveillance and harassment of those who have been released.

(3) Ending official restrictions on religious activity, including implementing the recommendations of the United Nations Special Rapporteur on Religious Intolerance.

(4) Promoting freedom for the press, including freedom of movement of members of the Vietnamese and foreign press.

(5) Improving prison conditions and providing transparency in the penal system of Vietnam, including implementing the recommendations of the United Nations Working Group on Arbitrary Detention.

(6) Respecting the basic rights of indigenous minority groups, especially in the central and northern highlands of Vietnam.

(7) Respecting the basic rights of workers, including working with the International Labor Organization to improve mechanisms for promoting such rights.

(8) Cooperating with requests by the United States to obtain full and free access to persons who may be eligible for admission to the United States as refugees or immigrants, and allowing such persons to leave Vietnam without being subjected to extortion or other corrupt practices.

So far, all the evidence suggests, however, that Vietnam still has a long way to go before it can convince us that it has made any fundamental and lasting change in its human rights policy. The State Department's Human Rights report on Vietnam for 2005, upgraded Vietnam's Human Rights record from "poor" to merely "unsatisfactory." Freedom House still rates Vietnam as "unfree," but it is no longer at the absolute bottom of the repression scale. These are not exactly ringing endorsements.

There are fewer religious and political dissidents in jail, but there still are too many. Even those let out, like Father Ly, Father Loi, Dan Que, are subject to continued forms of house arrest or harassment. Restrictions on the legal churches have eased, but requests to build churches, to receive back confiscated properties, and provide charitable and educational services, which are allowed under current law, are never answered quickly, and often never answered at all. Hundreds of churches have been closed in the past 5 years. Last year, a few dozen were opened, which does to begin to redress the earlier harm. And still large numbers of believers who belong to "illegal churches" suffer continued harassment—not everywhere, not everyone, not always, but their rights to believe and practice are still not secured by rule of law. Too often all of the improvements are based on local and arbitrary decisions which can be reversed at any time. The Unified Buddhist Church of Vietnam (UBCV) is still illegal, and its leaders, the Venerable Thich Quang Do and Patriarch Thich Huyen Quang remain under strict "pagoda" arrest, and 13 other senior figures remain under similar restrictions. The independent Hoa Hao Buddhists are also illegal, and their church was singled out for repression last year. Evangelical Protestant house churches, Mennonites, Bahai, Hindus, and others exist in a legal limbo: technically illegal, sometimes tolerated, but sometimes repressed. Those officials who violate government guaranteed religious rights appear never to be punished. This is not the way a rule of law society is constructed.

Reports of forced renunciations of Christianity in the Montagnard regions have diminished—but they have not ended. Montagnard house churches are allowed to operate, but have not received their registration. The UNHCR, and various diplomats, are allowed to travel, sometimes, to some Montagnard regions, but only when carefully monitored. Montagnards eligible for resettlement in the U.S. get their passports and exit visas, but not all, not everywhere. And hundreds of Montagnards languish in detention.

Vietnam reportedly weakened its two-child policy several years ago, after coercive policies involving contraception, birth quotas, sterilization and abortion cut Vietnam's fertility almost in half in 20 years. Yet last year the Deputy Prime Minister called for "more drastic measures" to cut the birth rate further. It is not clear that this has yet been enforced, but it hangs there as a storm cloud over all families, but especially over Vietnam's long-abused indigenous minorities. Like China's one child policy, Vietnam's two-child policy has led to a large and growing imbalance in male and female births, which will only increase its already severe problems as a source, transit and destination country for human trafficking. According to last year's State Department's Human Trafficking report, Vietnam remained a

Tier II country because of its serious trafficking problems, but was removed from the Watch List. Many of us think this was an error, and that Vietnam's response to its trafficking problems remains inadequate.

In December I met with over 60 people: government officials, political and religious activists, archbishops, heads of churches and ordinary believers. I have had several, somewhat stilted, I must admit, conversations recently with mixed delegations of religious leaders and government officials. That the Vietnamese government even consented to send these delegations was an important step. It does seem that some of the government officials at least are beginning to understand our concerns. What they will now do is the question. I believe that Michael Cromartie, Chairman of the U.S. Commission on International Religious Freedom, has made the crucial observation: "We are not arguing over whether the glass is half-full or half-empty. We just do not know if the glass, so recently constructed, will continue to hold any water. Will legal developments hold in a country where the rule of law is not fully functioning? Are changes only cosmetic, intended to increase Vietnam's ability to gain WTO membership and pass a Congressional vote on PNTR? . . . Though promises of future improvement are encouraging, we should not reward Vietnam too quickly by lifting the CPC designation or downplaying human rights concerns to advance economic or military interests."

I could not agree more. We have seen various thaws in other Communist regimes. The Khrushchev thaw was followed by the worst persecution of religion in 30 years, and then the long stagnation of the Brezhnev regime. In the 60's we thought Nicolae Ceausescu of Romania would be the next Tito, I remember when we thought that was an advance; instead, he decided to be the next Kim Il-Sung. Finally, who can forget the democratic opening in China which was crushed at Tienanmen Square.

We must be sure that the change in Vietnam is real. We have a unique opportunity this year to achieve real and lasting progress in Vietnam. We should use the leverage we have, and seek to increase it. The House of Representatives has twice passed legislation authored by me on human rights in Vietnam. H.R. 1587, The Vietnam Human Rights Act of 2004, passed the House by a 323-45 vote in July 2004. A similar measure passed by a 410-1 landslide in the House in 2001. The measures called for limiting further increases of non-humanitarian United States aid from being provided to Vietnam if certain human rights provisions were not met, and authorized funding to overcome the jamming of Radio Free Asia and funding to support non-governmental organizations which promote human rights and democratic change in Vietnam. Regrettably, both bills stalled in Senate committees and have not been enacted into law. But we are again ready to work with the administration to find ways to encourage and promote civil society in Vietnam. I have re-introduced the Vietnam Human Rights Act of 2005, H.R. 3190. I would be delighted to hear what sort of measures we could add to the bill to cooperate with Vietnam's government if it is indeed serious about strengthening civil society and the rule of law: to help promote genuine NGO's, especially faith-based NGO's, to deal with Vietnam's problems with trafficking, addic-

tion, HIV/AIDS, street children; to create an independent bar association, and help train lawyers who can defend the rights already guaranteed to Vietnam's people by Vietnam's own constitution and laws.

Human rights are central. They are at the core of our relationship with governments and the people they purport to represent. The United States of America will not turn a blind eye to the oppression of a people, any people in any region of the world. Our non-governmental witnesses: Ms. Kay Reibold, project development specialist for the Montagnard Human Rights Organization; Mrs. H'Pun Mio, a Montagnard refugee who after many years of abuse, was finally allowed to join her family in the U.S.; Dr. Nguyen Dinh Thang, the executive director of Boat People SOS; and Mr. Doan Viet Hoat, the president of International Institute for Vietnam, gave us valuable independent testimony, so that the world will get a true and complete picture of this government with whom we are growing ever closer.

THE CONGRESSIONAL YOUTH ADVISORY COUNCIL MAKES A DIFFERENCE

HON. SAM JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 5, 2006

Mr. SAM JOHNSON of Texas. Mr. Speaker, when you think of the leaders of the future—what qualities come to mind? Civic activism? Community awareness? Personal leadership? Academic excellence? It is a privilege to recognize the members of the 2005-2006 Congressional Youth Advisory Council because they embody these qualities and more.

For the last 2 years, the members of the Congressional Youth Advisory Council have represented the young people of the Third District well by working as ambassadors of the future. Several times a year the members of the Youth Council would share a valuable youth perspective on the current issues before Congress. This year 42 students from public, private, and home schools in grades 10 through 12 made their voices heard and made a difference to Congress.

For the first time, this year there was a philanthropy element to the Youth Council. For the community service project, the members of the Youth Council reached out to veterans and encouraged them to share their stories. Called the "Preserving History Project," each member had to interview a veteran. Then the student had to submit a lengthy paper detailing the veteran's service and sharing what the student learned from that experience. The students submitted a summary of their work. Today I'm proud to submit the briefs provided so the hard and valuable work of the Youth Council may be preserved for antiquity in the CONGRESSIONAL RECORD.

Someday, each member will be able to share with children and grandchildren—"In high school I served my community and my work will always be recognized in the official CONGRESSIONAL RECORD."

A copy of each submitted student summary follows.

To each member of the Congressional Youth Advisory Council, thank you for your time, effort and sacrifice to help make the

Congressional Youth Advisory Council a success. You're the voices of the future and I salute you. God bless you and God bless America.

I was thankful for my list of questions as my Grandpa (William Frank Morgan) began relating his military experiences to me. I learned about his life, sacrifices, and service. He was a Seaman First Class in the Navy, and later a Senior Master Sergeant when he retired from the Air Force. This opportunity to talk with him and hear his story has strengthened our relationship, and I'm so thankful for this chance to glean more knowledge about my family. Grandpa and Grandma Morgan visit once a year at Thanksgiving and I always look forward to their arrival. Reconnection through our talks and the time we spend together has become more precious each year. We also try to visit them, and keep in touch through phone calls and letters. Surprisingly, although Grandpa is not talkative, he will sporadically crack the funniest jokes. He is a good example in studying the Bible and desiring a life of a Godly character. He has a talented green thumb, and I enjoy stepping into his untidy greenhouse to watch him care for his healthy plants. When he isn't gardening, Grandpa spends time among his books, or checking the weather for the coming week. Grandpa's traveling, distance from loved ones, disrupted education, interesting experiences with food, and dangerous challenges have molded his character and sacrificially ensured the freedoms and safety Americans enjoy today.—Meredith Morgan

A native of Elmira, New York, William Stone, Jr. served in the U.S. Army for two years as an officer stationed in Germany. There he was assigned as a motor officer responsible for CMMI's beginning in 1967. Stone entered the Army as a 2nd lieutenant and reached the rank of 1st lieutenant prior to returning to civilian life. After working for several years as an insurance adjuster in New York, Stone moved to Texas, where he and his wife have been teaching in the Plano Independent School District.

As a result of this interview, I was able to gain insight into the role of our nation's military. Mr. Stone, like many others, is among those who have helped safeguard the freedoms we enjoy in the United States. Listening to his experiences has allowed me to better understand the sacrifices the men and women of the military have made on our behalf.—Albert Chang

Joe McAnally is a great man. He is my neighbor, who I have known for about four years, and is very active, knowledgeable and helpful. His tour doesn't even seem to have affected him in any adverse way. He was born, raised and still lives in the Dallas area. He chose to be in the Army R.O.T.C. because he knew, since his birthday was 12th on the draft list, he would have to serve anyway. Since he was already an officer his enlistment and boot camp were an easier transition, and since his family knew he was going to be drafted, they supported him fully. He served in the Vietnam War and had to find his own way, because he landed at midnight when everyone was asleep. He earned two Bronze Stars, the third highest medal in the service. His food was good, especially the food mailed from home, except for the mutton. His platoon was well supplied and was entertained by Bob Hope once. On leave he went to Thailand and Australia. When he returned home he was offered his old job back, got married and eventually bought a business making plastic molds, which he still owns and runs to this day.—Elliot Post

I interviewed Mr. Spencer Guimarin, a retired first class petty officer in the United States Navy. Mr. Guimarin surmounted obstacles in his life that most men would consider their worst fear. He survived the first

wave of D-Day landings at Omaha Beach, the invasion of Okinawa, and every other confrontation that war threw his way. I have read books and seen movies and documentaries about Okinawa and D-Day, but to actually have the chance to sit down and talk with someone that was there was an experience I will never forget. The movies just don't do it justice. I was excited when I heard that we were going to have the chance to do a project like this, and I couldn't wait to get started. It was a humbling experience hearing his stories, yet not being able to appreciate it for what it is worth because I was not there. I learned about the lasting effects a war can have on a veteran. As I will be entering Merchant Marine Academy in July of 2006 and hope to pursue a career in the military, I realize that I may be faced with some of the same repercussions.—Doug Hermann

For my Preserving History project, I interviewed Lieutenant Colonel Charles Beck. He was a veteran of the Vietnam War, serving as a jet fighter pilot in the Air Force. He flew reconnaissance and bombing missions over North Vietnam, tracking enemy base movement, taking surveillance pictures, and calling and participating in air strikes. He was deployed for three years. Survival rate for his fighter group was less than 50%, but Lt. Beck made it through the war without ever being captured by enemy forces. For his service to our country, Lt. Beck was awarded 27 medals, including a Silver Star.

I found it interesting how a man from such humble beginnings pursued a passion for flying. He served heroically during major combat operations. His pride and his service to our country and his love for the United States have helped me understand the important role that our veterans have played in preserving the freedoms we enjoy in America. I think that it is very important that we capture our veteran's stories so that we have documented history of not only their military service, but of the values that led them to serve their country so honorably.—Jocelyn Sedlet

For my veteran project, I interviewed Robert L. Staib, former Captain in the United States Air Force. By the end of his service, he had fought in the Vietnam War and the Cold War as a fighter pilot and a forward air controller. He received a Distinguished Flying Cross, seventeen Air Medals, and Air Force Commendation Medal, an Army Commendation Medal, a Vietnam Service Medal, and an Air Force Outstanding Unit Award Ribbon. He flew in over at least sixteen countries. He was brave and courageous in all his endeavors. From this project, I learned that a hero really is. I learned that my grandfather is a hero because he was willing to sacrifice his life for the freedom of people he didn't even know. I also learned about the deep love he felt for my grandmother and mother. Most importantly, I learned that heroes don't just do great things, they do them with great motives. If my grandfather had gone into the service for glory, he would not have been a hero. He went into the Air Force knowing he might die, because he wanted to preserve and spread freedom, a freedom that I sometimes take for granted. This is a freedom that must be fought for. This project taught me about Robert L. Staib and about my freedom.—Britney Thomas

What I gained from this interesting interview was not just another few hours spent, but an insightful and rather intriguing conversation with the most well versed person I know, Mr. John Neese. Beginning as a private, Mr. Neese escalated to the height of full colonel. He became a very outspoken individual during the interview, however his personal anecdotes and stories kept me asking for more. His impact on the conflict in

Vietnam may have been easily overlooked, however, his objectives and goals at dropping leaflets and speaking in an ultimately "fire arm free" duty, was an amazing opportunity, as well as daily routine as a member of the U.S. Air Force. He gained a new insight as to how he could survive in a "dog eat dog society." By simply joining the Air Force, he received tools he could use the rest of his life—tools that are hardly apparent in everyday Americans. What I gained from the interview was a new friend. A new friend that thinks the same way I do. A man that stands for God and represents his country to the fullest.—Bryan Blair

Around the first of the year, my mom introduced me to Lt. Colonel Kirk Chandler, a den leader in my younger brother's Cub Scout pack. His military service in the Navy spanned fourteen years from May 1991, to his retirement in October 2005. With many veterans you find battle-hardiness seeping in them, and an unwillingness to recount their combat tales. With Mr. Chandler, I found a laid back former soldier who was quite positive in his descriptions of his time in the service. Although he didn't do anything extraordinary in the field of battle, I feel his accomplishments lie in the soldiers he inspired, and in the connections he still maintains to this day with the people that he served with.

In interviewing Mr. Chandler, I was given a whole new dimension with regards to the military. In talking to him, I found someone who experienced much in the realm of the world—someone who's traveled around the world, meeting new people and new cultures. I learned how one enjoys life even in the toughest of times. In meeting Mr. Chandler, I met the embodiment of an American hero and a true stand up guy who serves the community with pride.—Adam Rosenfield

I interviewed Marvin Alan Sternberg who was a part of the Army during the Vietnam War. He started as a private and ended as a 1st Lieutenant when his service ended. Mr. Sternberg gained a lot from his experience in the Army, but the biggest lesson that he was taught and forced into was growing up and becoming a man.

After interviewing Mr. Sternberg, I realize how much a person can go through just for the protection of others. It amazes me how someone like Mr. Sternberg can dedicate part of their life so selflessly in order to protect their country and fellow citizens that are totally unknown to them. I have always had a respect for veterans, but now, after this interview, I have a different kind of respect for all of those men and women who have served in our country. There is something special about people that go into the service, and I have come to find that it is people like that that I look up to and admire. It all has become a reality to me, because I actually heard what happens behind the scenes and what they really go through instead of a sugarcoated testimony that we hear in school or out of a textbook. I'm so thankful that Mr. Sternberg took time out of his day to sit down, talk, and explain to me his experiences he faced during his journey. This is an experience that I will treasure forever, because I learned firsthand how veterans are affected by war. Thank you for giving me the opportunity to participate in this preserving history project.—Kristy MacDonnell

In my interview with my grandfather, Thomas Dale Alexander, Colonel, United States Air Force (Retired), I learned quite a few things about why he does things the way he does and all sorts of things that I never knew about my mother's family. He is a much wiser man than the young high school graduate that joined the Air Force in 1943. He served in the occupation of Japan, fought

in Korea, worked with the FAA for a while, fought in Vietnam, and retired after commanding a supply squadron. His plane was shot up badly three times in Korea, but he did always manage to fly home—feats for which he was awarded three Distinguished Flying Crosses. In Vietnam, he commanded a squadron of Forward Air Controllers, who interfaced with the troops on the ground and marked targets for the fighter-bombers with smoke rockets. After he retired, he moved to Junction, Texas, to build a house by the Llano River and was hired as Director of Operations at the Texas Tech Center in Junction, now called Texas Tech at Junction. After he retired for the second time, he continued to keep up with the hobbies he had started in the Air Force, like playing golf and building.—Evan Dale Wise

While his time in the Army was limited to the Postal Services, my grandfather, Charles Wallander Junior, was an excellent soldier who defined the traits of discipline, diligence, and obedience. At the completion of his military work my grandfather obtained the rank of Corporal in the Army, and was awarded with the mark of excellence in the Post Office. Through his work with the Army Post Office, my grandfather was a key factor in organizing the Korean mail infrastructure, and allowing for the Postal Service to function, in his post as Postmaster General. From this experience I can undoubtedly say that I have gained a sense of unmatched pride in my grandfather and all he has done for this country and the world. My appreciation for him is only matched by my respect for the Armed Forces at large, and my gained trust in the American way that helps to guide this country.—Andrew Schreiber

Stanley S. Malewicki was drafted into the United States Army at the age of 19 at the outset of the Second World War. After leaving his home in New York, he received five months of training before deploying to Oxford where he remained for two more months until the invasion of France. Private Malewicki entered Normandy at D-Day plus three along with the 204th Combat Engineering Battalion and General Patton's third Army. For the greater part of his service, Malewicki and his unit were tasked with transporting infantry and vehicles across the rivers of France and Germany. Whether by boat or portable bridge, they always got the job done despite fierce opposition. During his time in the service, Pvt. Malewicki earned a Purple Heart and several campaign medals. After the war was over, he got married and had two children. He also went on to become a supervisor for the Long Island Lighting Company (LILCO). Mr. Malewicki says that he did not mind being drafted one bit, and the United States of America is one great country. After completing this interview, I have gained knowledge of my grandfather I had never expected to experience. To fully understand the nature of war, you have to see it through the eyes of someone that was actually in the arena.—Erik De Sousa

The veteran I interviewed is my uncle, Matthew Hancock. The branch that he served in was the U.S. Army. His initial rank was Private, and his finishing rank was CW3. Most of the work he did during his service to this country revolved around weapons specialty. He was living in Davenport, Iowa, which was his hometown, at the time that he signed up for the military. Mr. Hancock served in the military for over 20 years, and fought in both Iraqi Wars: Operation Desert Storm and Operation Iraqi Freedom. He chose to serve in the military because he felt the military offered the best opportunity for him, and he had always wanted to be in the Army since he was young. He accomplished a great deal during his impressive span of service, winning several medals, including three

bronze stars. I am very glad for having done this interview, for it has given me a much more indepth understanding of what our soldiers go through in order to protect the rest of us. Before this, I mostly knew general things, but now what I know is much more specific.—Jordan Schmittou

HONORING ARTHUR TREVETHAN
ON THE OCCASION OF HIS RE-
TIREMENT

HON. PATRICK J. TIBERI

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 5, 2006

Mr. TIBERI. Mr. Speaker, I rise today to congratulate Art Trevehan on his long and illustrious career with Nationwide Insurance and to celebrate his accomplishments with him as he embarks upon a new chapter in life.

Art's legendary leadership and service have contributed to central Ohio's business community and its growing fame as one of the most vibrant areas in America. No matter what he has involved himself in, he has always found success. His outstanding record of achievement speaks volumes about his quality as a topflight businessman and civic-minded leader. His commitment to free enterprise and interest in fostering good government have had a tremendous impact across our state and nation.

I appreciate the countless hours and tremendous amount of personal energy he has expended working to bridge the business and public policy worlds. Art understands the decisions made in the halls of our government impact businesses and the lives of employees. Rather than stand on the sidelines and wring his hands over public policy in Columbus or Washington, he has worked to inform policymakers about how their proposals affect companies and encouraged working people and executives to become involved in the process.

Art Trevehan has been a tremendous asset not only to Nationwide, but to the community as well. As he closes the book on one career and begins another as founder of (Re) Insurance Recovery Solutions, I am confident he will continue his good works and find happiness and success in the years ahead.

INTRODUCTION OF VICTIMS'
RIGHTS WEEK RESOLUTION

HON. JIM COSTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 5, 2006

Mr. COSTA. Mr. Speaker, as co-chair of the Congressional Victim's Rights Caucus, I rise today to introduce the 2006 Victims Rights Week Resolution on behalf of myself, and Caucus Co-chairs Congressman TED POE of Texas and Congresswoman KATHERINE HARRIS of Florida. This concurrent resolution expresses Congress' support of the goals and ideals of National Crime Victims' Rights Week and the efforts to increase public awareness of the rights, needs, and concerns of crime victims and survivors in the United States. This observance will take place the week of April 23 through April 29.

In 1980, President Reagan first called for a national observance to recognize and honor the millions of victims of crimes in our country, their families, and survivors. National Crime Victims' Rights Week also pays tribute to the thousands of community-based and system-based victim services providers and to the criminal justice and allied professionals who provide critical support and assistance to victims every week of the year. National Crime Victims' Rights Week has since been proclaimed annually with ceremonies and observances in Washington D.C. and in hundreds of communities throughout our nation.

President Reagan's commitment to the rights of victims lead to the passage of the Victims of Crime Act, which in 1984 created the Crime Victims Fund. Since then, the Crime Victims Fund has dedicated more than \$7.4 billion collected from criminal fines—not taxpayers dollars—that annually supports more than 4,400 victim assistance programs serving some 3.8 million victims and compensation to more than 165,000 victims for their unreimbursed medical expenses, lost wages and funeral costs.

The 2006 National Crime Victims' Rights Week theme is "Victims' Rights: Strength in Unity." It is indeed appropriate because today an unprecedented coalition of victims and survivors, victim advocacy organizations, justice professional and service providers are once together joining together to protect the Crime

Victims Fund, a legacy of the Reagan Administration.

Before the emergence of the victims' rights movement, you would hear plenty about criminals, but nothing about victims. You could go to college and take courses to learn how to help and manage abusers, but little was said about those they abused. Crime was the main issue; victims, if at all, were an afterthought. Meanwhile, society treated victims in the same manner. Victims had no voice. They had few rights. They were largely left in the shadows.

This has changed thanks to our Nation's victims' rights movement. Today, victims of crime and those who serve them have not only a voice, but a vision for what justice should look like in America. Today, there are over 32,000 laws that define and protect victim's rights. In 2006, we not only listen to victims; we learn from them. We are beginning to view them not only as an obligation mandated by law, but also as an opportunity—as people with vital information to help us better manage violent offenders; and as people who have helped us understand the devastating impact of crime.

I am proud to be one of the three co-founders, along with Representatives POE and HARRIS of the Congressional Victim's Rights Caucus. The goals of the Victim's Rights Caucus are to (1) represent crime victims in the United States through the bipartisan legislation that reflects their interests, rights and needs; (2) provide an ongoing forum for proactive interactions between the U.S. Congress and national victim assistance organizations to enhance mutual education, legislative advocacy and initiatives that promote justice for all—including victims of crime; and (3) seek opportunities for public education initiatives to help people in America to understand the impact of crime on victims, and to encourage their involvement in crime prevention, victim assistance, and community safety.

Crime does not know any geographic, demographic or political boundaries; it touches all of our constituents in every community. And so, as Congress expresses its support for National Crime Victims Rights Week and its efforts to increase public awareness of the impact of crime on victims, survivors and on our communities, we encourage all members to join the Caucus, as a critical voice of victims, in the Congress.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, April 6, 2006 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

APRIL 25

9:30 a.m.

Agriculture, Nutrition, and Forestry

To hold hearings to examine the state of the biofuels industry.

SR-328A

Judiciary

To hold hearings to examine the McCarran-Ferguson Act, focusing on implications of repealing the insurers' antitrust exemption.

SD-226

2 p.m.

Judiciary

To hold hearings to examine pending judicial nominations.

SD-226

APRIL 26

9:30 a.m.

Judiciary

To hold hearings to examine parity, platforms and protection relating to the future of the music industry in the digital radio revolution.

SD-226

10 a.m.

Commerce, Science, and Transportation Technology, Innovation, and Competitiveness Subcommittee

To hold hearings to examine fostering innovation in math and science education.

Room to be announced

10:30 a.m.

Appropriations

Legislative Branch Subcommittee

To resume hearings to examine the progress of construction on the Capitol Visitor Center.

SD-138

MAY 3

10:30 a.m.

Appropriations

Legislative Branch Subcommittee

To hold hearings to examine proposed budget estimates for fiscal year 2007 for the Government Printing Office, Congressional Budget Office, and Office of Compliance.

SD-138

MAY 17

10 a.m.

Commerce, Science, and Transportation Technology, Innovation, and Competitiveness Subcommittee

To hold hearings to examine accelerating the adoption of health information technology.

Room to be announced

MAY 24

10:30 a.m.

Appropriations

Legislative Branch Subcommittee

To resume hearings to examine the progress of construction on the Capitol Visitor Center.

SD-138

JUNE 14

10 a.m.

Commerce, Science, and Transportation Technology, Innovation, and Competitiveness Subcommittee

To hold hearings to examine alternative energy technologies.

Room to be announced

Daily Digest

Senate

Chamber Action

Routine Proceedings, pages S2849–S3166

Measures Introduced: Forty-eight bills and twelve resolutions were introduced, as follows: S. 2508–2555, S. Res. 424–433, and S. Con. Res. 86–87. **Pages S2901–02**

Measures Reported:

H.R. 4939, making emergency supplemental appropriations for the fiscal year ending September 30, 2006, with an amendment in the nature of a substitute. (S. Rept. No. 109–230) **Page S2900**

Measures Passed:

Commending the University of Maryland Women's Basketball Team: Senate agreed to S. Res. 425, to commend the University of Maryland women's basketball team for winning the 2006 National Collegiate Athletic Association Division I National Basketball Championship. **Pages S3156–58**

Commemorating 50th Anniversary of the Interstate System: Senate agreed to S. Res. 427, commemorating the 50th anniversary of the Interstate System. **Page S3158**

Congratulating the University of Wisconsin Men's Cross Country Team: Senate agreed to S. Res. 428, congratulating the University of Wisconsin men's cross country team for winning the 2006 National Collegiate Athletic Association Division I Cross Country Championship. **Pages S3158–59**

Congratulating the University of Wisconsin Women's Hockey Team: Senate agreed to S. Res. 429, congratulating the University of Wisconsin women's hockey team for winning the 2006 National Collegiate Athletic Association Division I Hockey Championship. **Page S3159**

Commending the University of Florida Men's Basketball Team: Senate agreed to S. Res. 430, commending the University of Florida men's basketball team for winning the 2006 National Collegiate Athletic Association Division I Basketball Championship. **Page S3159**

Endangered Species Day: Senate agreed to S. Res. 431, designating May 11, 2006, as "Endangered

Species Day," and encouraging the people of the United States to become educated about, and aware of, threats to species, success stories in species recovery, and the opportunity to promote species conservation worldwide. **Pages S3159–60**

Authorizing Testimony: Senate agreed to S. Res. 432, to authorize testimony of a Member of the Senate in *E.M. Gunderson v. Neil G. Galatz*. **Page S3160**

Honoring The American Society for the Prevention of Cruelty to Animals: Senate agreed to S. Res. 433, honoring The American Society for the Prevention of Cruelty to Animals for the 140 years of service that it has provided to the citizens of the United States and their animals. **Page S3160**

National Day of the American Cowboy: Committee on the Judiciary was discharged from further consideration of S. Res. 371, designating July 22, 2006, as "National Day of the American Cowboy," and the resolution was then agreed to. **Pages S3160–61**

Appointment to the Board of Regents of the Smithsonian Institution: Senate passed H.J. Res. 81, providing for the appointment of Phillip Frost as a citizen regent of the Board of Regents of the Smithsonian Institution, clearing the measure for the President. **Page S3161**

Reappointment to the Board of Regents of the Smithsonian Institution: Senate passed H.J. Res. 82, providing for the reappointment of Alan G. Spoon as a citizen regent of the Board of Regents of the Smithsonian Institution, clearing the measure for the President. **Page S3161**

Securing America's Borders Act: Senate continued consideration of S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform, taking action on the following amendments proposed thereto: **Pages S2850–96**

Pending:

Specter/Leahy Amendment No. 3192, in the nature of a substitute. **Page S2850**

Kyl/Cornyn Amendment No. 3206 (to Amendment No. 3192), to make certain aliens ineligible for conditional nonimmigrant work authorization and status. **Pages S2850, S2856–63**

Cornyn Amendment No. 3207 (to Amendment No. 3206), to establish an enactment date.

Page S2850

Isakson Amendment No. 3215 (to Amendment No. 3192), to demonstrate respect for legal immigration by prohibiting the implementation of a new alien guest-worker program until the Secretary of Homeland Security certifies to the President and the Congress that the borders of the United States are reasonably sealed and secured.

Page S2850

Dorgan Amendment No. 3223 (to Amendment No. 3192), to allow United States citizens under 18 years of age to travel to Canada without a passport, to develop a system to enable United States citizens to take 24-hour excursions to Canada without a passport, and to limit the cost of passport cards or similar alternatives to passports to \$20.

Page S2850

Mikulski/Warner Amendment No. 3217 (to Amendment No. 3192), to extend the termination date for the exemption of returning workers from the numerical limitations for temporary workers.

Page S2850

Santorum/Mikulski Amendment No. 3214 (to Amendment No. 3192), to designate Poland as a program country under the visa waiver program established under section 217 of the Immigration and Nationality Act.

Pages S2850–52

Nelson (FL) Amendment No. 3220 (to Amendment No. 3192), to use surveillance technology to protect the borders of the United States.

Pages S2852–53

Sessions Amendment No. 3420 (to the language proposed to be stricken by Amendment No. 3192), of a perfecting nature.

Page S2890

Nelson (NE) Amendment No. 3421 (to Amendment No. 3420), of a perfecting nature.

Pages S2890–95

Frist Motion to Commit the bill to the Committee on the Judiciary with instructions to report back forthwith with an amendment in the nature of a substitute (Frist Amendment No. 3424).

Page S2895

Frist Amendment No. 3425 (to the instructions to the motion to commit the bill to the Committee on the Judiciary), to establish an effective date.

Pages S2895–96

Frist Amendment No. 3426 (to Amendment No. 3425), of a technical nature.

Page S2896

A motion was entered to close further debate on the Frist Motion to Commit (listed above) and, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, a vote on cloture will occur on Friday, April 7, 2006.

Page S2896

A motion was entered to close further debate on the bill and, in accordance with the provisions of

rule XXII of the Standing Rules of the Senate, a vote on cloture may occur on Friday, April 7, 2006.

Page S2896

A unanimous-consent agreement was reached providing for further consideration of the bill at 9:30 a.m. on Thursday, April 6, 2006; that the time until 10:30 a.m. be equally divided between the bill managers, or their designees; and that at 10:30 a.m., Senate vote on the motion to invoke cloture on Specter Amendment No. 3192 (listed above); provided further, that second-degree amendments be filed at the desk no later than 10:30 a.m. on Thursday, April 6, 2006, pursuant to rule XXII.

Page S3161

Nomination: Senate began consideration of Benjamin A. Powell, of Florida, to be General Counsel of the Office of the Director of National Intelligence.

Page S2897

A motion was entered to close further debate on the nomination and, pursuant to the provisions of rule XXII of the Standing Rules of the Senate, a cloture vote will occur on Friday, April 7, 2006.

Page S2897

Nomination: Senate began consideration of Gordon England, of Texas, to be Deputy Secretary of Defense.

Page S2897

1A motion was entered to close further debate on the nomination and, pursuant to the provisions of rule XXII of the Standing Rules of the Senate, a cloture vote will occur on Friday, April 7, 2006.

Page S2897

Nomination: Senate began consideration of Dorrance Smith, of Virginia, to be an Assistant Secretary of Defense.

Page S2897

A motion was entered to close further debate on the nomination and, pursuant to the provisions of rule XXII of the Standing Rules of the Senate, a cloture vote will occur on Friday, April 7, 2006.

Pages S2897–98

Nomination: Senate began consideration of Peter Cyril Wyche Flory, of Virginia, to be an Assistant Secretary of Defense.

Page S2898

A motion was entered to close further debate on the nomination and, pursuant to the provisions of rule XXII of the Standing Rules of the Senate, a cloture vote will occur on Friday, April 7, 2006.

Page S2898

Nominations Received: Senate received the following nominations:

Eric M. Bost, of Texas, to be Ambassador to the Republic of South Africa.

Lisa Bobbie Schreiber Hughes, of Pennsylvania, to be Ambassador to the Republic of Suriname.

David M. Robinson, of Connecticut, to be Ambassador to the Co-operative Republic of Guyana.

Earl Anthony Wayne, of Maryland, to be Ambassador to Argentina.

Routine lists in the Air Force, Army.

Pages S3161–66

Messages From the House: Page S2899

Measures Referred: Page S2899

Executive Communications: Pages S2899–S2900

Additional Cosponsors: Pages S2902–03

Statements on Introduced Bills/Resolutions: Pages S2903–20

Additional Statements: Page S2899

Amendments Submitted: Pages S2920–S3156

Authorities for Committees to Meet: Page S3156

Adjournment: Senate convened at 9:30 a.m., and adjourned at 9:40 p.m., until 9:30 a.m., on Thursday, April 6, 2006. (For Senate’s program, see the remarks of the Majority Leader in today’s Record on page S3161.)

Committee Meetings

(Committees not listed did not meet)

APPROPRIATIONS: LEGISLATIVE DEPARTMENTS

Committee on Appropriations: Subcommittee on Legislative Branch concluded a hearing to examine proposed budget estimates for fiscal year 2007, after receiving testimony in behalf of funds for their respective activities from William H. Pickle, Sergeant at Arms and Doorkeeper of the Senate; Wilson Livingood, Chairman, Capitol Police Board and Capitol Guide Service; and Christopher McGaffin, Acting Chief of Police, Capitol Police Board; Tom Stevens, Head, Congressional Special Services Office and Capitol Guide Service; and Alan Hantman, Architect of the Capitol.

APPROPRIATIONS: DEPARTMENT OF JUSTICE

Committee on Appropriations: Subcommittee on Commerce, Justice, Science and Related Agencies concluded a hearing to examine proposed budget estimates for fiscal year 2007 for the Department of Justice, after receiving testimony from Alberto R. Gonzales, Attorney General, Robert Mueller, Director, Federal Bureau of Investigation, Karen Tandy, Administrator, Drug Enforcement Administration, Carl J. Truscott, Director, Bureau of Alcohol, Tobacco, Firearms and Explosives, and John Clark, Director, U.S. Marshals Service, all of the Department of Justice.

APPROPRIATIONS: ARMY CORPS OF ENGINEERS

Committee on Appropriations: Subcommittee on Energy and Water concluded a hearing to examine proposed budget estimates for fiscal year 2007 for the Army Corps of Engineers, after receiving testimony from John Paul Woodley, Assistant Secretary of the Army for Civil Works; and Lieutenant General Carl A. Strock, Chief of Engineers.

DEFENSE AUTHORIZATION

Committee on Armed Services: Subcommittee on Emerging Threats and Capabilities concluded closed and open hearings to examine the proposed defense authorization request for fiscal year 2007 and the future years defense program, focusing on Department of Defense’s role in combating terrorism, after receiving testimony from Thomas W. O’Connell, Assistant Secretary of Defense for Special Operations and Low-Intensity Conflict; Vice Admiral Eric T. Olson, USN, Deputy Commander, United States Special Operations Command; Vice Admiral John Scott Redd, USN (Ret.), Director, National Counterterrorism Center; and Jeffrey N. Rapp, Director, Joint Intelligence Task Force-Combating Terrorism, Defense Intelligence Agency.

DEFENSE AUTHORIZATION

Committee on Armed Services: Subcommittee on Readiness and Management Support concluded a hearing to examine the proposed defense authorization request for fiscal year 2007, focusing on improving contractor incentives, after receiving testimony from Kenneth J. Krieg, Under Secretary of Defense for Acquisition, Technology and Logistics; and David M. Walker, Comptroller General, Government Accountability Office.

ASIA PACIFIC PARTNERSHIP

Committee on Commerce, Science, and Transportation: Subcommittee on Global Climate Change and Impacts concluded a hearing to examine the current and future role of science in the Asia Pacific Partnership, focusing on the public-private initiative that addresses the interconnected challenges of assuring economic growth and development, poverty eradication, energy security, pollution reduction, and mitigating climate change, after receiving testimony from James L. Connaughton, Chairman, White House Council on Environmental Quality; and W. David Montgomery, CRA International, Margo Thorning, International Council for Capital Formation, and David D. Doniger, Natural Resources Defense Council Climate Center, all of Washington, D.C.

WILDFIRE SEASON

Committee on Energy and Natural Resources: Subcommittee on Public Lands and Forests concluded an oversight hearing to examine the 2005 wildfire season and the Federal land management agencies' preparations for the 2006 wildfire season, after receiving testimony from Mark Rey, Under Secretary of Agriculture for Natural Resources and the Environment; and Nina Rose Hatfield, Deputy Assistant Secretary of the Interior for Policy, Management and Budget.

NOMINATIONS

Committee on Environment and Public Works: Committee concluded a hearing to examine the nominations of Richard Capka, of Pennsylvania, to be Administrator of the Federal Highway Administration, Department of Transportation, and James B. Gulliford, of Missouri, to be Assistant Administrator for Toxic Substances, and William Ludwig Wehrum, Jr., of Tennessee, to be an Assistant Administrator, both of the Environmental Protection Agency, after the nominees testified and answered questions in their own behalf.

NOMINATION

Committee on Finance: Committee concluded a hearing to examine the nomination of W. Ralph Basham, of Virginia, to be Commissioner of Customs, Department of Homeland Security, after the nominee testified and answered questions in his own behalf.

U.S.-INDIA CIVILIAN NUCLEAR AGREEMENT

Committee on Foreign Relations: Committee concluded a hearing to examine the United States-India Civilian Nuclear Agreement, and non-proliferation goals, global energy requirements, environmental concerns, and the United States geo-strategic relationship with India, focusing on S. 2429, to authorize the President to waive the application of certain requirements under the Atomic Energy Act of 1954 with respect to India, after receiving testimony from Condoleezza Rice, Secretary of State.

ISLAMIST EXTREMISM IN EUROPE

Committee on Foreign Relations: Subcommittee on European Affairs concluded a hearing to examine the nature and scope of Islamist extremism in Europe, focusing on secular and spiritual alienation, after receiving testimony from Daniel Fried, Assistant Secretary for European and Eurasian Affairs, Henry A. Crumpton, Coordinator for Counterterrorism, and Tom C. Korologos, United States Ambassador to Belgium, all of the Department of State; and Robin Niblett, and Daniel Benjamin, both of the Center for Strategic and International Studies, and Mary

Habeck, Johns Hopkins University Paul H. Nitze School of Advanced International Studies, all of Washington, D.C.

PORT SECURITY

Committee on Homeland Security and Governmental Affairs: Committee concluded a hearing to examine S. 2459, to improve cargo security, and other related measures, after receiving testimony from Senator Murray; Representatives Lungren and Harman; Michael P. Jackson, Deputy Secretary of Homeland Security; Jeffrey W. Monroe, Department of Ports and Transportation, Portland, Maine; M.R. Dinsmore, Port of Seattle, Seattle, Washington; and Andrew Howell, U.S. Chamber of Commerce, and James P. Hoffa, International Brotherhood of Teamsters, Washington, D.C.

FEDERAL FUNDING OF MUSEUMS

Committee on Homeland Security and Governmental Affairs: Subcommittee on Federal Financial Management, Government Information, and International Security concluded a hearing to examine various avenues of Federal funding for museums including authorized programs, grantmaking agencies, and earmarks, after receiving testimony from David A. Ucko, Head, Informal Science Education, Division of Elementary, Secondary, and Informal Education, Education and Human Resources Directorate, National Science Foundation; Anne-Imelda M. Radice, Director, Institute of Museums and Library Services; Edward H. Able, Jr., American Association of Museums, and Thomas A. Schatz, Citizens Against Government Waste, both of Washington, D.C.

ALL-HAZARDS MEDICAL PREPAREDNESS AND RESPONSE

Committee on Health, Education, Labor, and Pensions: Subcommittee on Bioterrorism and Public Health Preparedness concluded a hearing to examine all-hazards medical preparedness and response, after receiving testimony from John Agwunobi, Assistant Secretary of Health and Human Services for Health; Ellen Embrey, Deputy Assistant Secretary for Force Health Protection and Readiness, and Director, Deployment Health Support, Department of Defense; Lawrence Deyton, Chief Public Health and Environmental Hazards Officer, Department of Veterans Affairs; Eddy A. Bresnitz, New Jersey Department of Health and Senior Services, Trenton, on behalf of the Council of State and Territorial Epidemiologists; Thomas V. Inglesby, Center for Biosecurity, University of Pittsburgh Medical Center, Baltimore, Maryland; Richard Serino, Boston Emergency Medical Services, Boston, Massachusetts; and Rob Gougelet, Dartmouth-Hitchcock Medical Center, Lebanon, New Hampshire.

METHAMPHETAMINE

Committee on Indian Affairs: Committee concluded an oversight hearing to examine the impact methamphetamine use is having in Indian country, after receiving testimony from Senator Burns; William P. Ragsdale, Director, Bureau of Indian Affairs, Department of the Interior; Robert McSwain, Deputy Director, Jon Perez, Director, Division of Behavioral Health, and Anthony Dekker, Associate Director, Clinical Services, Phoenix Indian Medical Center, all of the Indian Health Service, Department of Health and Human Services; Matthew H. Mead, United States Attorney for the District of Wyoming, Chey-

enne, Department of Justice; Kathleen W. Kitcheyan, San Carlos Apache Tribe, San Carlos, Arizona; Jefferson Keel, National Congress of American Indians, and Gary L. Edwards, National Native American Law Enforcement Association, both of Washington, D.C.; and Karrie Azure, United Tribes Technical College, Bismark, North Dakota.

BUSINESS MEETING

Select Committee on Intelligence: Committee met in closed session to consider pending intelligence matters.

Committee recessed subject to the call.

House of Representatives

Chamber Action

Public Bills and Resolutions Introduced: 21 public bills, H.R. 5091–5111; 8 resolutions, H. Con. Res. 378–380; and H. Res. 762–765, 768 were introduced. **Pages H1561–63**

Additional Cosponsors: **Pages H1563–64**

Reports Filed: Reports were filed today as follows: H. Res. 766, providing for consideration of the concurrent resolution (H. Con. Res. 376) establishing the congressional budget for the United States Government for fiscal year 2007 and setting forth appropriate budgetary levels for fiscal years 2008 through 2011 (H. Rept. 109–405);

H. Res. 767, waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules (H. Rept. 109–406);

H.R. 2955, to amend title 28, United States Code, to clarify that the Court of Appeals for the Federal Circuit has exclusive jurisdiction of appeals relating to patents, plant variety protection, or copyrights, and for other purposes (H. Rept. 109–407);

H.R. 4742, to amend title 35, United States Code, to allow the Director of the Patent and Trademark Office to waive statutory provisions governing patents and trademarks in certain emergencies (H. Rept. 109–408); and

H. Con. Res. 319, expressing the sense of the Congress regarding the successful and substantial contributions of the amendments to the patent and trademark laws that were enacted in 1980 (Public Law 96–517; commonly known as the “Bayh-Dole Act”), on the occasion of the 25th anniversary of its enactment (H. Rept. 109–409). **Page H1561**

Speaker: Read a letter from the Speaker wherein he appointed Representative Capito to act as Speaker pro tempore for today. **Page H1455**

Chaplain: The prayer was offered by the guest Chaplain, Dr. Clyde P. Thomas, Pastor, Cherokee Avenue Baptist Church, Gaffney, South Carolina. **Page H1455**

Suspensions: The House agreed to suspend the rules and pass the following measures:

Darfur Peace and Accountability Act of 2006: H.R. 3127, amended, to impose sanctions against individuals responsible for genocide, war crimes, and crimes against humanity, to support measures for the protection of civilians and humanitarian operations, and to support peace efforts in the Darfur region of Sudan, by a yea-and-nay vote of 416 yeas to 3 nays, Roll No. 90; **Pages H1461–75, H1530**

Expressing the sense of the Congress that Saudi Arabia should fully live up to its World Trade Organization commitments and end all aspects of any boycott on Israel: H. Res. 370, to express the sense of the Congress that Saudi Arabia should fully live up to its World Trade Organization commitments and end all aspects of any boycott on Israel; **Pages H1482–85**

Designating the facility of the United States Postal Service located at 1 Boyden Street in Badin, North Carolina, as the “Mayor John Thompson ‘Tom’ Garrison Memorial Post Office”: H.R. 4688, to designate the facility of the United States Postal Service located at 1 Boyden Street in Badin, North Carolina, as the “Mayor John Thompson ‘Tom’ Garrison Memorial Post Office”; **Pages H1485–86**

Designating the facility of the United States Postal Service located at 8624 Ferguson Road in Dallas, Texas, as the “Francisco ‘Pancho’ Medrano Post Office Building”: H.R. 4561, to designate the facility of the United States Postal Service located at 8624 Ferguson Road in Dallas, Texas, as the “Francisco ‘Pancho’ Medrano Post Office Building”;

Pages H1492–94

Designating the facility of the United States Postal Service located at 7320 Reseda Boulevard in Reseda, California, as the “Coach John Wooden Post Office Building”: H.R. 4646, to designate the facility of the United States Postal Service located at 7320 Reseda Boulevard in Reseda, California, as the “Coach John Wooden Post Office Building”;

Pages H1494–95

Authorizing the use of the Capitol Grounds for the National Peace Officers’ Memorial Service: H. Con. Res. 360, to authorize the use of the Capitol Grounds for the National Peace Officers’ Memorial Service;

Pages H1500–01

Honoring and congratulating the Minnesota National Guard, on its 150th anniversary, for its spirit of dedication and service to the State of Minnesota and the Nation and recognizing that the role of the National Guard, the Nation’s citizen-soldier based militia, which was formed before the United States Army, has been and still is extremely important to the security and freedom of the Nation: H. Con. Res. 371, to honor and congratulate the Minnesota National Guard, on its 150th anniversary, for its spirit of dedication and service to the State of Minnesota and the Nation and recognizing that the role of the National Guard, the Nation’s citizen-soldier based militia, which was formed before the United States Army, has been and still is extremely important to the security and freedom of the Nation; and

Pages H1501–05

Honoring Drs. Roy J. Glauber, John L. Hall, and Theodor W. Hansch for being awarded the Nobel Prize in Physics for 2005, and Drs. Yves Chauvin, Robert H. Grubbs, and Richard R. Schrock for being awarded the Nobel Prize in Chemistry for 2005: H. Res. 541, to honor Drs. Roy J. Glauber, John L. Hall, and Theodor W. Hansch for being awarded the Nobel Prize in Physics for 2005, and Drs. Yves Chauvin, Robert H. Grubbs, and Richard R. Schrock for being awarded the Nobel Prize in Chemistry for 2005.

Pages H1533–36

Privileged Resolution: The House agreed to table H. Res. 762, relating to a question of the privileges

of the House, by a recorded vote of 218 ayes to 198 noes with 5 voting “present,” Roll No. 87.

Pages H1513–14

527 Reform Act of 2005: The House passed H.R. 513, to amend the Federal Election Campaign Act of 1971 to clarify when organizations described in section 527 of the Internal Revenue Code of 1986 must register as political committees by a ye-and-nay vote 218 yeas to 209 nays, Roll No. 88, after agreeing to order the previous question without objection.

Pages H1506–13, H1514–29

Pursuant to the rule the amendment in the nature of a substitute recommended by the Committee on House Administration, now printed in the bill and modified by the amendment printed in H. Rept. 109–404, shall be considered as adopted. **Page H1506**

H. Res. 755, the rule providing for consideration of the bill was agreed to by a recorded vote of 223 ayes to 199 noes, Roll No. 86.

Page H1513

Agreed to the Dreier amendment to the rule by voice vote, after agreeing to order the previous question by a ye-and-nay vote of 226 yeas to 198 nays, Roll No. 85.

Pages H1512–13

Suspensions—Proceedings Resumed: The House agreed to suspend the rules and pass the following measure which was debated on Tuesday, April 4th:

Commending the people of the Republic of the Marshall Islands for the contributions and sacrifices they made to the United States nuclear testing program in the Marshall Islands, solemnly acknowledging the first detonation of a hydrogen bomb by the United States on March 1, 1954, on the Bikini Atoll in the Marshall Islands, and remembering that 60 years ago the United States began its nuclear testing program in the Marshall Islands: H. Res. 692, amended, to commend the people of the Republic of the Marshall Islands for the contributions and sacrifices they made to the United States nuclear testing program in the Marshall Islands, solemnly acknowledging the first detonation of a hydrogen bomb by the United States on March 1, 1954, on the Bikini Atoll in the Marshall Islands, and remembering that 60 years ago the United States began its nuclear testing program in the Marshall Islands, by a ye-and-nay vote of 424 yeas with none voting “nay,” Roll No. 89.

Pages H1529–30

Suspensions—Proceedings Postponed: The House completed debate on the following measures under suspension of the rules. Further consideration will continue tomorrow, April 6th.

Concerning the Government of Romania’s ban on intercountry adoptions and the welfare of orphaned or abandoned children in Romania: H.

Res. 578, concerning the Government of Romania's ban on intercountry adoptions and the welfare of orphaned or abandoned children in Romania;

Pages H1475–79

Calling on the Government of the Socialist Republic of Vietnam to immediately and unconditionally release Dr. Pham Hong Son and other political prisoners and prisoners of conscience: H. Con. Res. 320, amended, to call on the Government of the Socialist Republic of Vietnam to immediately and unconditionally release Dr. Pham Hong Son and other political prisoners and prisoners of conscience;

Pages H1479–82

Supporting the goals and ideals of Financial Literacy Month: H. Res. 737, to support the goals and ideals of Financial Literacy Month;

Pages H1486–92

Expressing the sense of the House of Representatives that a National Methamphetamine Prevention Week should be established to increase awareness of methamphetamine and to educate the public on ways to help prevent the use of that damaging narcotic: H. Res. 556, to express the sense of the House of Representatives that a National Methamphetamine Prevention Week should be established to increase awareness of methamphetamine and to educate the public on ways to help prevent the use of that damaging narcotic; and

Pages H1495–H1500

Congratulating the National Aeronautics and Space Administration on the 25th anniversary of the first flight of the Space Transportation System, to honor Commander John Young and the Pilot Robert Crippen, who flew Space Shuttle Columbia on April 12–14, 1981, on its first orbital test flight, and to commend the men and women of the National Aeronautics and Space Administration and all those supporting America's space program for their accomplishments and their role in inspiring the American people: H. Con. Res. 366, to congratulate the National Aeronautics and Space Administration on the 25th anniversary of the first flight of the Space Transportation System, to honor Commander John Young and the Pilot Robert Crippen, who flew Space Shuttle Columbia on April 12–14, 1981, on its first orbital test flight, and to commend the men and women of the National Aeronautics and Space Administration and all those supporting America's space program for their accomplishments and their role in inspiring the American people.

Pages H1531–33

Amendments: Amendments ordered printed pursuant to the rule appear on pages 1564.

Quorum Calls—Votes: Four yea-and-nay votes and two recorded votes developed during the proceedings

of today and appear on pages H1512–13, H1513, H1514, H1528–29, H1529–30, H1530. There were no quorum calls.

Adjournment: The House met at 10 a.m. and adjourned at 10:51 p.m.

Committee Meetings

FOREST EMERGENCY RECOVERY AND RESEARCH ACT

Committee on Agriculture: Ordered reported, as amended, H.R. 4200, Forest Emergency Recovery and Research Act.

DEPARTMENTS OF TRANSPORTATION, TREASURY, HUD, THE JUDICIARY, DISTRICT OF COLUMBIA, AND INDEPENDENT AGENCIES APPROPRIATIONS

Committee on Appropriations: Subcommittee on the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and Independent Agencies held a hearing on the Department of the Treasury. Testimony was heard from John W. Snow, Secretary of the Treasury.

The Subcommittee held a hearing on the Federal Judiciary. Testimony was heard from Julia Smith Gibbons, U.S. Circuit Court Judge, U.S. Court of Appeals for the Sixth District; and Leoniodas Ralph Mecham, Director, Administrative Office of the U.S. Courts.

ENERGY AND WATER DEVELOPMENT, AND RELATED AGENCIES APPROPRIATIONS

Committee on Appropriations: Subcommittee on Energy and Water Development, and Related Agencies held a hearing on DOE Energy Supply and Conservation, Fossil Energy. Testimony was heard from David Garman, Under Secretary, Science and Environment, Department of Energy.

INTERIOR, ENVIRONMENT, AND RELATED AGENCIES APPROPRIATIONS

Committee on Appropriations: Subcommittee on Interior, Environment, and Related Agencies held a hearing on National Park Service. Testimony was heard from the following officials of the National Park Service, Department of the Interior: Fran Mainella, Director, Steve Martin, Deputy Director; and Bruce Shaeffer, Comptroller.

MILITARY QUALITY OF LIFE AND VETERANS AFFAIRS, AND RELATED AGENCIES APPROPRIATIONS

Committee on Appropriations: Subcommittee on Military Quality of Life and Veterans Affairs, and Related Agencies held a hearing on BRAC 2005 Implementation. Testimony was heard from the following officials of the Department of Defense: Keith Eastin, Assistant Secretary, Installations and Environment, Department of the Army; B.J. Penn, Assistant Secretary, Installations and Environment, Department of the Navy; and William C. Anderson, Assistant Secretary, Installations, Environment and Logistics, Department of the Air Force.

SCIENCE, THE DEPARTMENTS OF STATE, JUSTICE, AND COMMERCE, AND RELATED AGENCIES APPROPRIATIONS

Committee on Appropriations: Subcommittee on Science, the Departments of State, Justice, and Commerce, and Related Agencies held a hearing on the Department of Commerce. Testimony was heard from Carlos Gutierrez, Secretary of Commerce.

The Subcommittee also held a hearing on the State International Organizations. Testimony was heard from the following officials of the Department of State: Kristen L. Silverberg, Assistant Secretary, International Affairs; and John R. Bolton, Permanent Representative to the United Nations.

MAJOR DEFENSE ACQUISITION REFORMS INITIATIVES

Committee on Armed Services: Held a hearing to review major defense acquisition reform initiatives. Testimony was heard from the following officials of the Department of Defense: ADM Edmund P. Giambastiani, USN, Vice Chairman, Joint Chiefs of Staff; David Patterson, Under Secretary, Comptroller; and Kenneth Krieg, Under Secretary, Acquisition, Technology and Logistics; and David M. Walker, Comptroller General, GAO.

U.S. SHIPBUILDING INDUSTRIAL BASE

Committee on Armed Services: Subcommittee on Projection Forces held a hearing on the U.S. Shipbuilding Industrial Base. Testimony was heard from the following officials of the Department of Defense: Gary Powell, Acting Deputy Under Secretary (Industrial Policy); Allison Stiller, Deputy Assistant Secretary, Ships, Department of the Navy; VADM Paul E. Sullivan, USN, Commander, Naval Sea Systems Command; and RADM Charles S. Hamilton, II, USN, Program Executive Officer for Ships, Naval Sea Systems Command; Mark L. Montroll, Professor, Industrial College of the Armed Forces, National Defense University; and public witnesses.

MILITARY READINESS—SERVICES CONTRACTING'S IMPACT

Committee on Armed Services: Subcommittee on Readiness held a hearing on service contracting's impact on military readiness. Testimony was heard from the following officials of the Department of Defense: Claude M. Bolton, Jr., Assistant Secretary, Acquisition, Logistics and Technology, Department of the Army; LG Donald J. Hoffman, USAF, Military Deputy, Office of the Assistant Secretary of the Air Force, Acquisition; and Ronald Poussard, Air Force Program Executive Officer, Combat Mission Support.

DOE NUCLEAR WEAPONS COMPLEX INFRASTRUCTURE

Committee on Armed Services: Subcommittee on Strategic Forces held a hearing on future plans for the Department of Energy's nuclear weapons complex infrastructure. Testimony was heard from the following officials of the Department of Energy: Tom D'Agostino, Deputy Administrator, Defense Programs, National Nuclear Security Administration; and Charles Anderson, Principal Deputy Assistant Secretary, Office of Environmental Management; and public witnesses.

WMD THREAT REDUCTION

Committee on Armed Services: Subcommittee on Terrorism, Unconventional Threats and Capabilities held a hearing on implementing the 2006 Quadrennial Defense Review (QDR) recommendations to combat weapons of mass destruction (WMD). Testimony was heard from the following officials of the Department of Defense: Peter Flory, Assistant Secretary, International Security Policy; and James A. Tegnalia, Director, Defense Threat Reduction Agency, Director, U.S. Strategic Command Center, Combating Weapons of Mass Destruction (SCC—WMD).

COMMUNICATIONS OPPORTUNITY, PROMOTION, AND ENHANCEMENT ACT OF 2006

Committee on Energy and Commerce: Subcommittee on Telecommunications and the Internet approved for full Committee action, as amended, the Communications Opportunity, Promotion, and Enhancement Act of 2006.

DUBAI PORTS WORLD DOCUMENTS

Committee on Financial Services: Ordered reported, as amended, H. Res. 718, Requesting the President and directing the Secretary of Homeland Security to provide to the House of Representatives certain documents in their possession relating to the Dubai Ports World acquisition of six United States ports leases.

EXPORT-IMPORT BANK REAUTHORIZATION

Committee on Financial Services: Subcommittee Domestic and International Monetary Policy, Trade, and Technology held a hearing entitled “Reauthorization of the Export-Import Bank of the United States.” Testimony was heard from James H. Lambright, Chairman and Acting President, Export-Import Bank of the United States.

FHA TRANSFORMATION

Committee on Financial Services: Subcommittee on Housing and Community Opportunity held a hearing entitled “Transforming the Federal Housing Administration for the 21st Century.” Testimony was heard from Brian Montgomery, Assistant Secretary, Housing/Federal Housing Commission, Department of Housing and Urban Development; and public witnesses.

WESTERN STATES WATER MANAGEMENT

Committee on Government Reform: Subcommittee on Energy and Resources held a hearing entitled: “Conjunctive Water Management: A Solution to the West’s Growing Water Demand?” Testimony was heard from Jason Peltier, Deputy Assistant Secretary, Water and Science, Department of the Interior; and public witnesses.

FEDERAL AGENCY PAYMENTS OVERSIGHT.

Committee on Government Reform: Subcommittee on Government Management, Finance, and Accountability held a hearing entitled “The Improper Payments Information Act—Are Agencies Meeting the Requirements of the Law?” Testimony was heard from Linda Combs, Controller, Office of Federal Financial Management, OMB; Charles E. Johnson, Assistant Secretary, Budget, Technology, and Finance, Department of Health and Human Services; and McCoy Williams, Director, Financial Management and Assurance, GAO.

SARBANES-OXLEY ACT

Committee on Government Reform: Subcommittee on Regulatory Affairs held a hearing entitled “The Sarbanes-Oxley Act Four Years Later: What Have We Learned?” Testimony was heard from Representatives Feeney, Kirk and Meeks of New York; and public witnesses.

U.S.-INDIA GLOBAL PARTNERSHIP

Committee on International Relations: Held a hearing on the U.S.-India Global Partnership. Testimony was heard from Condoleezza Rice, Secretary of State.

LOBBYING ACCOUNTABILITY AND TRANSPARENCY ACT

Committee on the Judiciary: Ordered reported, as amended;: H.R. 4975, Lobbying Accountability and Transparency Act of 2006.

PATENT QUALITY ENHANCEMENT

Committee on the Judiciary: Subcommittee on Courts, the Internet, and Intellectual Property held an oversight hearing entitled “Patent Quality Enhancement in the Information-Based Economy.” Testimony was heard from Jon W. Dudas, Under Secretary, Intellectual Property and Director, U.S. Patent and Trademark Office, Department of Commerce; and public witnesses.

INTERNET GAMBLING PROHIBITION ACT

Committee on the Judiciary: Subcommittee on Crime, Terrorism and Homeland Security held a hearing on H.R. 4777, Internet Gambling Prohibition Act. Testimony was heard from Representative Goodlatte; Bruce Ohr, Chief, Organized Crime and Racketeering Section, Department of Justice; and public witnesses.

INDIAN GAMING RESTRICTIONS

Committee on Resources: Held a hearing on H.R. 4893, to amend section 20 of the Indian Gaming Regulatory Act to restrict off-reservation gaming. Testimony was heard from Fulton Sheen, Representative, State of Michigan, JoAnn D. Osmond, Representative State of Illinois; and public witnesses.

MISCELLANEOUS MEASURES

Committee on Resources: Subcommittee on Forests and Forest Health held a hearing on the following bills: H.R. 5025, Mount Hood Stewardship Legacy Act; H.R. 5016, Las Cienegas Enhancement Act; and H.R. 3534, Piedras Blancas Historic Light Station Outstanding Natural Area Act of 2005. Testimony was heard from Representatives Kolbe and Capps; Tom Lonnie, Assistant Director, Minerals, Realty, and Resource Protection, Bureau of Land Management, Department of the Interior; Matt Garrett, Director, Department of Transportation, State of Oregon; and public witnesses.

OVERSIGHT—WATER AND POWER SUPPLIES

Committee on Resources: Subcommittee on Water and Power held an oversight hearing entitled “The Bureau of Reclamation’s 21st Century Challenges in Managing, Protecting and Developing Water and Power Supplies.” Testimony was heard from the following officials of the Department of the Interior: Mark A. Limbaugh, Assistant Secretary, Water and

Science; and John Keys, III, Commissioner, Bureau of Reclamation; and public witnesses.

CONCURRENT RESOLUTION ON THE BUDGET, FY 2007

Committee on Rules: Granted, by voice vote, a rule providing for general debate only on H. Con. Res. 376, a concurrent resolution establishing the congressional budget for the United States Government for fiscal year 2007 and setting forth appropriate budgetary levels for fiscal years 2008 through 2011. The rule provides 4 hours of general debate, with 3 hours equally divided and controlled by the chairman and ranking minority member of the Committee on the Budget, and 1 hour on the subject of economic goals and policies equally divided and controlled by Representative Saxton of New Jersey and Representative Maloney of New York or their designees. The rule waives all points of order against consideration of the concurrent resolution. The rule provides that after general debate the Committee of the Whole shall rise without motion and no further consideration of the bill shall be in order except by a subsequent order of the House.

LOBBYING ACCOUNTABILITY AND TRANSPARENCY ACT OF 2006

Committee on Rules: Ordered reported, as amended, H.R. 4975, Lobbying Accountability and Transparency Act of 2006.

SAME DAY CONSIDERATION OF CERTAIN RESOLUTIONS REPORTED BY THE RULES COMMITTEE

Committee on Rules: Granted, by voice vote, a rule waiving clause 6(a) of rule XIII (requiring a two-thirds vote to consider a rule on the same day it is reported from the Rules Committee) against certain resolutions reported from the Rules Committee. The rule applies the waiver to any special rule reported on the legislative day of April 6, 2006, providing for consideration of the concurrent resolution (H. Con. Res. 376) establishing the congressional budget for the United States Government for fiscal year 2007 and setting forth appropriate budgetary levels for fiscal years 2008 through 2011.

WORKPLACE GLOBALIZATION REPORT

Committee on Science: Ordered adversely reported without recommendation H. Res. 717, Directing the Secretary of Commerce to transmit to the House of Representatives a copy of a workforce globalization final draft report produced by the Technology Administration.

SMALL BUSINESS TAX ENFORCEMENT

Committee on Small Business: Held a hearing entitled "IRS Latest Enforcement: Is the Bulls-eye on Small Businesses?" Testimony was heard from the following officials of the IRS, Department of the Treasury; Mark W. Everson, Commissioner; and Kevin Brown, Commissioner, Small Business/Self-Employed Division Internal; Thomas M. Sullivan, Chief Counsel, Office of Advocacy, SBA; and public witnesses.

MISCELLANEOUS MEASURES

Committee on Transportation and Infrastructure: Ordered reported the following measures: H. Con. Res. 235, Expressing the sense of the Congress that States should require candidates for driver's licenses to demonstrate an ability to exercise greatly increased caution when driving in the proximity of a potentially visually impaired individual; H. Con. Res. 349, Authorizing the use of the Capitol Grounds for the Greater Washington Soap Box Derby; H. Con. Res. 359, Authorizing the use of the Capitol Grounds for the District of Columbia Special Olympics Law Enforcement Torch Run; H. Con. Res. 372, amended, Recognizing the 50th anniversary of the Interstate Highway System; H.R. 3858, Pets Evacuation and Transportation Standards Act of 2005; H.R. 4880, amended, Maritime Terminal Security Enhancement Act of 2006; H.R. 5076, National Transportation Safety Board Amendments Act of 2006; and H.R. 5074, Railroad Retirement Technical Improvement Act of 2006.

The Committee also approved the following: U.S. Army Corps of Engineers Survey Resolutions; and GSA Capital Investment and Leasing Program Resolutions.

U.S.-OMAN FREE TRADE AGREEMENT

Committee on Ways and Means: Held a hearing on implementation of the United States-Oman Free Trade Agreement. Testimony was heard from Susan Schwab, Deputy U.S. Trade Representative; and public witnesses.

PUBLIC BENEFIT PROGRAM TECHNOLOGY ENHANCEMENT

Committee on Ways and Means: Subcommittee on Human Resources held a hearing on the use of technology to improve public benefit programs. Testimony was heard from Diane Ruth, Chair and Commissioner, Public Workforce Commission, State of Texas; Marketa Gautreau, Assistant Secretary, Community Services, Department of Social Services, State of Louisiana; Don Winstead, Deputy Secretary, Department of Children and Families, State of Florida; Lisa Henley, Project Director, EBT Project, Department of Human Services, State of Oklahoma; and

Dennis Fecci, former Chief Information Officer, Human Resources Administration, New York City.

COMMITTEE MEETINGS FOR THURSDAY, APRIL 6, 2006

(Committee meetings are open unless otherwise indicated)

Senate

Committee on Appropriations: Subcommittee on Interior and Related Agencies, to hold hearings to examine proposed budget estimates for fiscal year 2007 for Environmental Protection Agency, 9:30 a.m., SD-124.

Subcommittee on Transportation, Treasury, the Judiciary, and Housing and Urban Development, and Related Agencies, to hold hearings to examine proposed budget estimates for fiscal year 2007 for the Department of the Treasury, 9:30 a.m., SD-138.

Subcommittee on Homeland Security, to hold hearings to examine the U.S. Coast Guard's role in border and maritime security, 10:30 a.m., SD-192.

Subcommittee on District of Columbia, to hold hearings to examine health care in the District of Columbia, 1:30 p.m., SD-138.

Subcommittee on Energy and Water, to hold hearings to examine proposed budget estimates for fiscal year 2007 for the National Nuclear Security Administration, 2 p.m., SD-192.

Committee on Armed Services: Subcommittee on SeaPower, to hold hearings to examine Navy Shipbuilding in review of the defense authorization request for fiscal year 2007, 2:30 p.m., SR-232A.

Subcommittee on Strategic Forces, to hold hearings to examine military space programs in review of the defense authorization request for fiscal year 2007, 3:30 p.m., SR-222.

Committee on Commerce, Science, and Transportation: Subcommittee on National Ocean Policy Study, to hold hearings to examine offshore aquaculture, focusing on current proposals to regulate offshore aquaculture operations, discuss research in this field being conducted off the coasts of New England and Hawaii, and the impacts that expanded aquaculture operations would have on fishermen, seafood processors, and consumers, 10 a.m., SD-562.

Committee on Energy and Natural Resources: Subcommittee on National Parks, to hold hearings to examine S. 1510, to designate as wilderness certain lands within the Rocky Mountain National Park in the State of Colorado, S. 1719 and H.R. 1492, bills to provide for the preservation of the historic confinement sites where Japanese Americans were detained during World War II, S. 1957, to authorize the Secretary of the Interior to convey to the Missouri River Basin Lewis and Clark Interpretive Trail and Visitor Center Foundation, Inc. certain Federal land associated with the Lewis and Clark National Historic Trail in Nebraska, to be used as an historical interpretive site along the trail, S. 2034 and H.R. 394, bills to direct the Secretary of the Interior to conduct a study to evaluate the significance of the Colonel James Barrett Farm in the Commonwealth of Massachusetts and assess the suitability

and feasibility of including the farm in the National Park System as part of the Minute Man National Historical Park, S. 2252, to designate the National Museum of Wildlife Art, located at 2820 Rungius Road, Jackson, Wyoming, as the National Museum of Wildlife Art of the United States, and S. 2403, to authorize the Secretary of the Interior to include in the boundaries of the Grand Teton National Park land and interests in land of the GT Park Subdivision, 2:30 p.m., SD-366.

Committee on Finance: to hold hearings to examine challenges and opportunities relating to health care coverage for small businesses, 10:30 a.m., SD-215.

Subcommittee on Long-term Growth and Debt Reduction, to hold hearings to examine if America is saving enough to be competitive in the global marketplace relating to saving for the 21st century, 2:30 p.m., SD-215.

Committee on Foreign Relations: to hold hearings to examine the nomination of Mark C. Minton, of Florida, to be Ambassador to Mongolia, 2 p.m., SD-419.

Committee on Homeland Security and Governmental Affairs: Subcommittee on Federal Financial Management, Government Information, and International Security, to hold hearings to examine the effectiveness of the Small Business Administration, focusing on SBA programs and their financial impact on the budget and economy, 2:30 p.m., SD-342.

Committee on the Judiciary: business meeting to consider the nominations of Norman Randy Smith, of Idaho, to be United States Circuit Judge for the Ninth Circuit, Steven G. Bradbury, of Maryland, to be Assistant Attorney General for the Office of Legal Counsel, and Timothy Anthony Junker, to be United States Marshal for the Northern District of Iowa, both of the Department of Justice, S. 489, to amend chapter 111 of title 28, United States Code, to limit the duration of Federal consent decrees to which State and local governments are a party, S. 2039, to provide for loan repayment for prosecutors and public defenders, S. 2292, to provide relief for the Federal judiciary from excessive rent charges, S. 2453, to establish procedures for the review of electronic surveillance programs, S. 2455, to provide in statute for the conduct of electronic surveillance of suspected terrorists for the purposes of protecting the American people, the Nation, and its interests from terrorist attack while ensuring that the civil liberties of United States citizens are safeguarded, S. 2468, to provide standing for civil actions for declaratory and injunctive relief to persons who refrain from electronic communications through fear of being subject to warrantless electronic surveillance for foreign intelligence purposes, S.J. Res. 1, proposing an amendment to the Constitution of the United States relating to marriage, and S. Res. 398, relating to the censure of George W. Bush, 9:30 a.m., SD-226.

Subcommittee on Intellectual Property, to hold hearings to examine proposals for a legislative solution relating to orphan works, 2 p.m., SD-226.

Committee on Veterans' Affairs: to hold hearings to examine the VA's 5-year capital construction plan, 2 p.m., SR-418.

Select Committee on Intelligence: to receive a closed briefing regarding certain intelligence matters, 2:30 p.m., SH-219.

Special Committee on Aging: to hold hearings to examine employment and community service for low-income seniors, 10 a.m., SD-106.

House

Committee on Appropriations, Subcommittee on the Department of Labor, Health and Human Services, Education, and Related Agencies, on NIH, 10 a.m., 2358 Rayburn.

Subcommittee on the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and Independent Agencies, on District of Columbia, 10 a.m., 2358 Rayburn.

Subcommittee on Energy and Water Development, and Related Agencies, on Oversight of DOE's Waste Treatment Plant at Hanford, 10 a.m., 2362B Rayburn.

Subcommittee on Homeland Security, on Secure Border Initiative/Immigrations Custom Enforcement/Customs Border Protection, 2 p.m., 2359 Rayburn.

Subcommittee on Military Quality of Life, and Veterans Affairs, and Related Agencies, on Veterans Affairs, 9:30 a.m., 2359 Rayburn.

Subcommittee on Science, the Departments of State, Justice, and Commerce, and Related Agencies, on DEA/ATF, 10 a.m., and on Members of Congress, 2 p.m., H-309 Capitol.

Committee on Armed Services, Subcommittee on Military Personnel, hearing on policy, compensation and benefits overview, 9 a.m., 2212 Rayburn.

Subcommittee on Projection Forces, hearing on Integration of Energy Efficient Propulsion Systems for Future U.S. Navy Vessels, 4 p.m., 2212 Rayburn.

Subcommittee on Readiness, hearing on Navy Transformation, 2 p.m., 2118 Rayburn.

Subcommittee on Tactical Air and Land Forces, hearing on Fiscal Year 2007 National Defense Authorization budget request—Unmanned Aerial Vehicles (UAVs) and Intelligence, Surveillance, and Reconnaissance (ISR) capabilities, 10 a.m., 2118 Rayburn.

Subcommittee on Terrorism, Unconventional Threats and Capabilities, hearing on information technology issues and defense transformation, 1 p.m., 2212 Rayburn.

Committee on Education and the Workforce, hearing entitled "Building America's Competitiveness: Examining What Is Needed to Compete in a Global Economy," 10 a.m., 2175 Rayburn.

Committee on Energy and Commerce, Subcommittee on Oversight and Investigations, to continue hearings entitled "Sexual Exploitation of Children Over the Internet: What Parents, Kids, and Congress Need To Know About Child Predators," 10 a.m., 2322 Rayburn.

Subcommittee on Health, hearing entitled "Project Bioshield Reauthorization Issues, 1 p.m., 2123 Rayburn.

Committee on Financial Services, Subcommittee on Oversight and Investigations, hearing entitled "Counterterrorism Financing Foreign Training and Assistance: Progress Since 9/11," 10 a.m., 2128 Rayburn.

Committee on Government Reform, to consider the following: H.R. 4975, Lobbying Accountability and Transparency Act of 2006; a measure to increase the transparency of agency contacts with the private sector, enhance the revolving door restrictions on executive branch employees, and provide for disclosure of federal sponsorship of communications; a Committee report "Strengthening Disease Surveillance; and a Committee report "Updating Nuclear Security Standards: How Long Can the Department of Energy Afford To Wait?"; followed by a hearing entitled "Looking a Gift Horse in the Mouth: A Post-Katrina Review of International Disaster Assistance," 10 a.m., 2154 Rayburn.

Committee on Homeland Security, Subcommittee on Intelligence, Information-Sharing, and Terrorism Risk Assessment, hearing entitled "Protection of Privacy in the DHS Intelligence Enterprise," 9 a.m., 311 Cannon.

Subcommittee on Prevention of Nuclear and Biological Attack and the Subcommittee on Emergency Preparedness, Science, and Technology, executive, briefing on the implementation plan for the President's National Strategy for Pandemic Influenza, 1:30 p.m., Cannon.

Committee on House Administration, to mark up H.R. 4975, Lobbying Accountability and Transparency Act of 2006, 2 p.m., 1310 Longworth.

Committee on International Relations, to mark up the following: H.R. 4681, Palestinian Anti-Terrorism Act of 2006; and H. Res. 697, Congratulating the people and Government of Italy, the Torino Olympic Organizing Committee, the International Olympic Committee, the United States Olympic Committee, the 2006 United States Olympic Team, and all international athletes upon the successful completion of the 2006 Olympic Winter Games in Turin, Italy, 1 p.m., 2172 Rayburn.

Subcommittee on Africa, Global Human Rights and International Operations, hearing on An End to Impunity: Investigating the 1993 Killing of Mexican Archbishop Juan Jesus Posadas Ocampo; and to mark up the following measures: H.R. 4423, Ethiopia Consolidation Act of 2005; and H. Res. 608, Condemning the escalating levels of religious persecution in the People's Republic of China, 2 p.m., 2200 Rayburn.

Subcommittee on International Terrorism and Non-proliferation, hearing on Checking Terrorism at the Border, 10 a.m., 2172 Rayburn.

Subcommittee on Oversight and Investigations, hearing on the Iraqi Documents: A Glimpse Into the Regime of Saddam Hussein, 2 p.m., 2172 Rayburn.

Committee on the Judiciary, oversight hearing entitled "The United States Department of Justice," 9 a.m., 2141 Rayburn.

Committee on Resources, Subcommittee on Energy and Mineral Resources, oversight hearing on the Role of the Federal Government and Federal Lands in Fueling Renewable and Alternative Energy in America, 2 p.m., 1334 Longworth.

Subcommittee on Fisheries and Oceans, hearing on the following bills: H.R. 138, to revise the boundaries of John H. Chafee Coastal Barrier Resources System Jekyll Island Unit GA-06P; H.R. 479, To replace a Coastal

Barrier Resources System map relating to Coastal Barrier Resources System Grayton Beach Unit FL-95P in Walton County, Florida; H.R. 1656, To correct maps depicting Unit T-10 of the John H. Chafee Coastal Barrier Resources System; H.R. 3280, To exempt certain coastal barrier areas in Florida from Limitations on Federal expenditures and financial assistance under the Coastal Barriers Resources Act, and limitations on flood insurance coverage under the National Flood Insurance Act of 1968; and H.R. 4165, to clarify the boundaries of Coastal Barrier Resources System Clam Pass Unit FL-64P, 2 p.m., 1324 Longworth.

Subcommittee on National Parks, oversight hearing on Visitation Trends in the National Park System, 10 a.m., 1324 Longworth.

Subcommittee on Water and Power, oversight hearing entitled "Protecting Sacramento/San Joaquin Bay-Delta Water Supplies and Responding to Catastrophic Failures in California Water Deliveries," 10 a.m., 1334 Longworth.

Committee on Science, Subcommittee on Energy, hearing on Assessing the Goals, Schedule and Costs of the Global Nuclear Energy Partnership, 10 a.m., 2318 Rayburn.

Committee on Small Business, Subcommittee on Regulatory Reform and Oversight, hearing entitled "Can Small Healthcare Groups Feasibly Adopt Electronic Medical Records Technology?" 2 p.m., 2360 Rayburn.

Committee on Transportation and Infrastructure, Subcommittee on Water Resources and Environment, oversight hearing on H.R. 4650, National Levee Safety Program Act of 2005, 10 a.m., 2167 Rayburn.

Committee on Veterans' Affairs, Subcommittee on Disability Assistance and Memorial Affairs, hearing on the following measures: H.R. 23, Belated Thank You to the Merchant Marines of World War II Act of 2005; H.R. 601, Native American Veterans Cemetery Act of 2005; H.R. 2188, To amend title 38, United States Code, to authorize the placement in a national cemetery of memorial markers for the purpose of commemorating servicemembers or other persons whose remains are interred in an American Battle Monuments Commission cemetery; H.R. 2963, Dr. James Allen Disabled Veterans Equity Act; H.R. 4843, Veterans' Compensation Cost-of-Living Adjustment Act of 2006; H.R. 5037, Respect for America's Fallen Heroes Act; and H.R. 5038, To amend title 38, United States Code, to extend and expand the application of the Department of Veterans Affairs benefit for Government markers for marked graves of veterans buried in private cemeteries and to provide Government markers or memorial headstones for deceased dependent children of veterans whose remains are unavailable for burial, 1 p.m., 334 Cannon.

Committee on Ways and Means, Subcommittee on Health, hearing on health information technology (IT), 2 p.m., 1100 Longworth.

Subcommittee on Oversight, hearing on the 2006 tax return filing season, the Internal Revenue Service budget for fiscal year 2007, and other issues in tax administration, 10 a.m., 1100 Longworth.

Permanent Select Committee on Intelligence, executive, Briefing on Global Updates/Hotspots, 9 a.m., and, executive, Briefing entitled "Use of Strategic Communications by al-Qaeda," 2 p.m., H-405 Capitol.

Next Meeting of the SENATE

9:30 a.m., Thursday, April 6

Next Meeting of the HOUSE OF REPRESENTATIVES

10 a.m., Thursday, April 6

Senate Chamber

Program for Thursday: Senate will continue consideration of S. 2454, Securing America's Borders Act, with a vote on the motion to invoke cloture on Specter/Leahy Amendment No. 3192 to occur at approximately 10:30 a.m.

House Chamber

Program for Thursday: Begin consideration of H. Con. Res. 376—Concurrent Resolution on the Budget for FY 2007 (Subject to a Rule).

Extensions of Remarks, as inserted in this issue

HOUSE

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