

fact that many good provisions were taken out of the final bill by the House-Senate conference committee. The provisions I want to talk about were intended to improve our ability to enforce immigration law in the interior and to secure the border to protect the homeland.

First, I want to talk about the amendment I pushed for during Senate consideration of the appropriations bill. It would have given businesses the tools to ensure that they have a legal workforce. My amendment would have allowed employers to voluntarily check their existing workforce and make sure their workers are legally in this country to work. It said that if an employer chooses to verify the status of all their workers—not just new hires—then they should be allowed to do so. And, it had protections in place. If an employer were to elect to check all workers, they would have to notify the Secretary of Homeland Security that they plan to verify their existing workforce. The employer would then have 10 days to check all workers. This short time period would prevent employers from targeting certain workers by claiming that they are “still working on” verifying the remainder of their workforce. And, my amendment would have required the employer to check all individuals if they plan to check their existing workforce. If they check one, they check them all.

Employers want to abide by the law and hire people that are legally in this country. Right now, E-Verify only allows them to check prospective employees. But, we should be allowing employers to access this free, online database system to check all their workers.

Second, while I am grateful that the committee recognizes the need to keep E-Verify operational and that the bill includes a three year reauthorization of the program, I am disappointed that the conference committee stripped an amendment to permanently reauthorize E-Verify. The amendment authored by Senator SESSIONS was passed with bipartisan support. The administration and the majority leadership claim they fully back the E-Verify program, but their actions don't show it. Our businesses need to know that this program will be around for the long-term, and that they can rely on the Federal Government to make sure that the workers they hire are legally in this country.

The third amendment stripped by the conference committee would have increased our ability to secure the border by putting funds into fencing to reduce illegal pedestrian border crossings. The DeMint provision would have required 700 miles of reinforced pedestrian fencing to be built along the southern border by December 31, 2010.

Finally, an amendment to allow the Department of Homeland Security to go forward with the “no match” rule was stripped. This amendment by Senator VITTER would have blocked the Obama administration from gutting

the “no-match” rule put in place in 2008 to notify employers when their employees are using a Social Security number that does not match their name. These “no match” letters help employers who want to follow the law and make sure they are employing legally authorized individuals.

I voted for this bill on the Senate floor because homeland security is not something we should play politics with. Defending our country is our No. 1 constitutional priority. Taxpayers expect us to get these bills passed and we have that responsibility. I voted for this bill today because it includes funding for essential border security and interior security efforts. However, there are a number of problems with this bill despite my vote for it. I am concerned that the House and Senate conference committee did a disservice to the American people by taking out language preventing illegal aliens from gaining work in this country. The conference committee, had they kept the provisions I talked about, would have helped many Americans who are looking for work and struggling to make ends meet. The provisions would have also held employers accountable for their hiring practices. It's my hope that this body will work harder to beef up our immigration enforcement efforts, and ensure that Americans are given a priority over illegal aliens during this time of high unemployment.

MORNING BUSINESS

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Senate proceed to a period for the transaction of morning business, with Senators permitted to speak for up to 10 minutes each.

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

Mr. BAUCUS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

Mr. KAUFMAN. 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.

NAKED SHORT SELLING

Mr. KAUFMAN. Mr. President, I rise to applaud the SEC's Enforcement Division for recently bringing two actions for insider trading against Wall Street actors. While our judicial system must run its course, I am nonetheless pleased that the investigators and prosecutors are working together to target Wall Street wrongdoing.

In white-collar crime, securities fraud, and insider trading, enforcement is critical to deterrence. In turn, deterrence is critical to maintaining the integrity of our capital markets.

The importance of these cases extends beyond deterring and punishing

criminal conduct. By identifying, prosecuting, and punishing alleged criminals on Wall Street, we are restoring the public's faith in our financial markets and the rule of law.

So while the Enforcement Division is sending a strong signal about insider trading, it still has not brought any enforcement actions against naked short sellers. This is despite the fact that naked short selling is widely acknowledged by many on Wall Street to have helped manipulate downward the prices of Lehman Brothers and Bear Stearns in their final days. Their resulting failure served as a catalyst for the ensuing financial crisis that affected millions of Americans.

I am pleased the SEC has flashed a red light in front of insider trading. But until it brings a case or makes the naked short selling that took place last year an investigative priority, the Commission is leaving a green light in front of naked short sellers. When you have a red light on one road and a green light on another road, everyone knows where the cars are going to go.

This concern is not mine alone. In the words of the Dow Jones Market Watch, in a recent article entitled “SEC Loses Taste for Short Selling Fight:”

More than a year after short sellers allegedly sucked the broader market lower by concentrating negative bets in troubled financial firms, the Nation's securities regulators appear to be backing off curbing the practice.

In a piece on the naked short-selling debate, Forbes magazine noted:

We have become a nation that ponders everything without resolution.

This is critical because the SEC's current rule against naked short selling—a reasonable belief standard that the underlying stock would be available if it is needed—is widely viewed as unenforceable. The market has recently been showing promise in moving upward, but if it goes south—and I am sorry to say eventually it will again—the bear raiders who destroyed our economy a year ago and made millions in the process will strike again.

If you know you can sell 5,000 umbrellas on a rainy day in New York, you are going to be out on the street with 5,000 umbrellas the next time it rains. The next time one of our TARP banks or other financial institutions look vulnerable, naked short sellers will seize the opportunity to profit again, and this time it could cost the taxpayers directly. The SEC will have no ability to stop them or punish them after the fact.

Given what is at stake, why have we not had action? Frankly, it is a story emblematic of problems on Wall Street. The story starts in July 2007, when the SEC decided to remove the uptick rule which forces short sellers to wait until a stock ticks up at least once before being allowed to sell without putting anything effective in its place.