being included in essential legislation, which totals more than 1,600 pages, without any debate under a closed rule. I believe that we are moving forward with this policy without a clear understanding of with whom we are partnering, and without a clearly defined goal or an articulated strategy for achieving these goals. Without this understanding, I remain gravely concerned that this two year extension could be the first step into wider, more entrenched involvement in yet another war in the Middle East.

Instead, we should be placing our focus on building a stable government in Iraq, a policy that must include ensuring they have the support they need to prevent the spread of the Islamic State. Indeed, the Iraqis have made great strides in stabilizing their government and unifying fractious segments of their population. This week, the Iraqi government signed an historic agreement with its autonomous Kurdish region in which the two sides agreed to share oil revenues, and will allow for greater cooperation in equipping Kurdish pesh merga forces in combatting the Islamic State. We should continue to press the new Iraqi government to fulfill its responsibility to defeat the Islamic State and maintain a viable and inclusive government.

We have been and will continue to be a leader in the world's fight against terrorism and those who wish to harm this country. But we should not allow our responsibility to defeat terrorism draw us into an unwise, expensive, and risky military engagement in the Middle East. Because of my grave concerns about moving forward with a hasty and in my view incomplete program to arm rebels in Syria, despite the other favorable provisions included in this legislation, I could not vote in favor of its passage.

Mr. JOLLY. Mr. Speaker, I rise today to reluctantly oppose the National Defense Authorization Act, both because we as a Congress and the President have failed to honor our men and women in uniform by properly recognizing and authorizing the current actions against ISIS, and because this legislation wrongly begins to roll back the pay and benefits our service members rightfully deserve.

Its been nearly two months since the President announced his military campaign against ISIS. Our military has flown thousands of sorties and we have thousands of our men and women in uniform with their boots on the ground. The President calls them military advisors but they are Soldiers, Sailors, Airmen and Marines. We are engaged against an enemy that has taken American lives, and enemy that has said they want to penetrate our homeland, an enemy the President has identified by name and declared that our national strategy is to destroy this enemy.

And yet the President has yet to propose an Authorization to Use Military Force, and this body has yet to bring one up. We each have failed in our Constitutional responsibility to have an honest debate about whether we are a nation indeed at war, and whether we are a nation prepared to accept the human sacrifice that comes from conflict, and very importantly how we as a nation will responsibly pay for this conflict.

Instead, we have considered only the President's proposal to arm moderate Syrians—an elusive strategy that will do little to combat the war on ISIS, only complicates our geo-political strategy as it relates to Syria, Iran, Russia and other hostile nations, and a strategy most likely to fail.

Two months ago we had a debate over approving the Presidents strategy to arm and train Syrian rebels, but not a broad Authorization to Use Military Force as we should have. I voted against the President's plan then, and today I most reluctantly rise to oppose this National Defense Authorization Act because quietly tucked into this legislation is a renewal of this authority for two years. While our men and women in uniform continue to commit their lives to fighting our enemy and protect our homeland, we quietly approved for two years the weakest part of an already questionable military strategy.

To make matters worse, the President and the Senate included in this legislation a cut to the housing allowance for our military, and increase in pharmaceutical co-pays, and a rejection to the pay increased proposed by this House of 1.8%.

This is wrong.

Earlier this summer, this body passed a National Defense Authorization Act that rejected the President's proposals. Our body rejected the President's proposed pay increase of 1% and instead passed a raise of 1.8%. We rejected the President's proposal to require a 5% reduction in personnel housing allowance, we rejected changes to the commissary program that would increase costs on military families, and we rejected new pharmaceutical copays proposed by the President. I was pleased to vote for this measure because it was right for our men and women in uniform, it recognized their sacrifices by rejecting proposals that would have had a significant negative impact on the quality of life of those who serve us every day.

Despite our efforts, the President and the Senate prevailed in implementing these cuts through this legislation—and most insultingly, at a time when we are asking our military to confront ISIS and tenor elements around the globe, and at a time when the Commander in Chief has decided it important to commit military troops to battle the scourge of Ebola.

This President and this Congress can do better. We should vote down this measure, return to negotiations with the President and the Senate, and do what is right for our men and women in uniform and what is required of this Congress Constitutionally—to debate and decide if we are today a nation at war with ISIS and if we are a nation with a clearly defined strategy that will be effective in combatting this growing threat to our national security.

Mr. Speaker, I urge my colleagues to reject this measure and demand better.

Mr. PAULSEN. Mr. Speaker, I want to thank Chairman MCKEON and Ranking Member SMITH for their work on the NDAA. I also want to thank Chairman HASTINGS and Ranking Member DEFAZIO for their work on the Public Lands portion of the bill.

Included in this bipartisan, bicameral legislation is my bill to allow the Department of Treasury to authorize the minting of a series of commemorative coins to celebrate the 100th Anniversary of the National Park Service in 2016.

Our national parks are America's crown jewels and our greatest natural resources that deserve to be celebrated and preserved, so future generations can enjoy the beauty and history of our country.

Today, the National Park Service comprises 401 areas, covering more than 84 million acres in every state, DC, American Samoa, Guam, Puerto Rico, and the Virgin Islands. Minnesota is home to 5 national parks that are visited by more than 650,000 people each year and they contribute $34 million to the economy.

I grew up in a family that often vacationed in our National Parks. And I've carried on this tradition with my four daughters and wife, where we enjoy camping, hiking, fishing and seeing America's beauty. Just this past August we camped in Glacier National Park—one of the girls' favorites.

Proceeds from this commemorative coin program would go to the National Park Foundation, which is responsible for preserving and protecting resources under the stewardship of the National Park Service and promoting public enjoyment and appreciation of those resources. These funds will be critical to prepare for the celebration of the centennial. I want to emphasize that this bill will not cost the taxpayers money.

This is an important step to help us honor our country's important heritage. I look forward to its passage and appreciate its inclusion in this bill.

The SPEAKER pro tempore. All time for debate has expired.

Pursuant to House Resolution 770, the previous question is ordered.

The question is on the motion by the gentleman from California (Mr. MCKEON).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

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

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the order of the House of today, further proceedings on this question will be postponed.

PREVENTING EXECUTIVE OVERREACH ON IMMIGRATION ACT OF 2014

Mr. GOODLATTE. Mr. Speaker, pursuant to House Resolution 770, I call up the bill (H.R. 5759) to establish a rule of construction clarifying the limitations on executive authority to provide certain forms of immigration relief, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). Pursuant to House Resolution 770, the amendment in the nature of a substitute printed in part B of House Report 113–646 shall be considered as adopted, and the bill, as amended, shall be considered read.

The text of the bill, as amended, is as follows:

H.R. 5759

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 ''Preventing Executive Overreach on Immigration Act of 2014''.

SEC. 2. FINDINGS.

The Congress finds as follows:

(1) Under article I, section 8, of the Constitution, the Congress has the power to ''establish an uniform Rule of Naturalization''.

As the Supreme Court found in Galvan v. Press, ''that the formulation of . . . policies [pertaining to the entry of aliens and their right to remain here] is entrusted exclusively to Congress has become about as firmly imbedded in the legislative and judicial tissues of our body politic as any aspect of our government''.

(2) Under article II, section 3, of the Constitution, the President is required to ''take Care that the Laws be faithfully executed''.

(3) Historically, executive branch officials have legitimately exercised their prosecutorial discretion through their constitutional power over foreign affairs to permit individuals or narrow groups of noncitizens to remain in the United States temporarily due to extraordinary circumstances in their country of origin that pose an imminent threat to the individuals' life or physical safety.

(4) Prosecutorial discretion generally ought to be applied on a case-by-case basis and not to whole categories of persons.

(5) President Obama himself has stated at least 22 times in the past that he can't ignore existing immigration law or create his own immigration law.

(6) President Obama's grant of deferred action to more than 4,000,000 unlawfully present aliens, as directed in a November 20, 2014, memorandum issued by Secretary of Homeland Security Jeh Charles Johnson, is without any constitutional or statutory basis.

SEC. 3. RULE OF CONSTRUCTION.

(a) IN GENERAL.—Notwithstanding any other law, the executive branch of the Government shall not—

(1) exempt or defer, by Executive order, regulation, or any other means, categories of aliens considered under the immigration laws (as defined in section 101(a)(17) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(17))) to be unlawfully present in the United States from removal under such laws;

(2) treat such aliens as if they were lawfully present or had a lawful immigration status; or

(3) treat such aliens other than as unauthorized aliens (as defined in section 274A(h)(3) of the Immigration and Nationality Act (8 U.S.C. 1324a(h)(3))).

(b) EXCEPTIONS.—Subsection (a) shall apply except—

(1) to the extent prohibited by the Constitution;

(2) upon the request of Federal, State, or local law enforcement agencies, for purposes of maintaining aliens in the United States to be tried for crimes or to be witnesses at trial; or

(3) for humanitarian purposes where the aliens are at imminent risk of serious bodily harm or death.

(c) EFFECT OF EXECUTIVE ACTION.—Any action by the executive branch with the purpose of circumventing the objectives of this section shall be null and void and without legal effect.

(d) EFFECTIVE DATE.—This section shall take effect as if enacted on November 20, 2014, and shall apply to requests (regardless of whether the request is original or for reopening of a previously denied request) submitted on or after such date for —

(1) work authorization; or

(2) exemption from, or deferral of, removal.

The SPEAKER pro tempore. The gentleman from Virginia (Mr. GOODLATTE) and the gentleman from Michigan (Mr. CONYERS) each will control 30 minutes.

The Chair recognizes the gentleman from Virginia.

GENERAL LEAVE

Mr. GOODLATTE. 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 materials on H.R. 5759.

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

There was no objection.

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

Mr. Speaker, I urge my colleagues to support Mr. YOHO's important bill, the Preventing Executive Overreach on Immigration Act of 2014.

President Obama has just announced one of the biggest constitutional power grabs ever by a President. He has declared unilaterally that, by his own estimation, more than 4 million unlawful immigrants will be free from the legal consequences of their lawless actions.

Not only that, he will, in addition, bestow upon them gifts such as work authorization and other immigration benefits. This despite the fact that President Obama has stated, over 20 times in the past, that he does not have the constitutional power to take such steps on his own and has repeatedly stated, ''I'm not a king.''

Pursuant to article I, section 8, of the Constitution, only Congress has the power to write immigration laws. Our Founding Fathers established this separation of powers to prevent tyranny. As James Madison wrote:

> No political truth is certainly of greater intrinsic value or is stamped with the authority of more enlightened patrons of liberty than that . . . the accumulation of all powers legislative, executive, and judiciary, in the same hands, whether of one, a few, or many, and whether hereditary, self-appointed, or elective, may justly be pronounced the very definition of tyranny.

President Obama is, in effect, rewriting our immigration laws by granting deferred action to more than 4 million unlawful aliens.

Pursuant to article II, section 3, of the Constitution, the President is required to ''take care that the laws be faithfully executed''; yet President Obama is refusing to enforce our immigration laws for these millions of unlawful aliens.

President Obama justifies his actions by claiming that his administration is merely exercising the power of prosecutorial discretion; yet as Clinton administration INS Commissioner Doris Meissner told her agency, ''Exercising prosecutorial discretion does not lessen the INS' commitment to enforce the immigration laws to the best of our ability.''

While previous Presidents have provided immigration relief to groups of aliens, usually their actions were based on emergencies in foreign countries, thereby relying upon the broad constitutional power given to a President to conduct foreign affairs.

Without any such foreign crisis and in granting deferred action to a totally unprecedented number of aliens, President Obama has clearly exceeded his constitutional authority.

I commend Mr. YOHO for introducing his bill, which undoes the damage to our constitutional system that President Obama's actions are causing. The bill reaffirms the constitutional principles that only Congress has the power to write immigration laws and that the President must enforce those laws.

Mr. YOHO's bill prevents President Obama or any future President from exempting or deferring the removal of categories of unlawful aliens, except to the extent that the President is relying on his constitutional powers over foreign affairs or utilizing exceptions provided for in the bill for exceptional humanitarian and law enforcement circumstances.

The bill prevents President Obama or any future President from considering such aliens to be lawfully present in the United States and thus ineligible for the rights and privileges available to lawfully present aliens.

□ 1230

It prevents President Obama or any future President from granting work authorization to such aliens.

Finally, the bill takes effect as if enacted on November 20, 2014, thus nullifying the President's recent executive actions. I, again, urge my colleagues to vote for this necessary bill.

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

Mr. CONYERS. Mr. Speaker, I yield myself as much time as I may consume.

Mr. Speaker, Members of the House, in 1 week this 113th Congress will expire without having considered a single piece of legislation to fix our Nation's broken immigration system.

It has been 525 days since the Senate passed bipartisan comprehensive immigration reform legislation that would have made meaningful and long overdue reforms. But our Chamber here has still steadfastly refused to allow an up-or-down vote on that measure.

No one questions that our immigration system is broken. It is failing our economy and millions of families and our businesses. And yet, rather than deal with these critical issues, we are here today to vote on yet another symbolic, anti-immigrant measure that has absolutely no chance of consideration in the Senate.

I want to be clear. H.R. 5759 is politically motivated, hastily drafted, and an attempt, once again, to attack our President, as well as immigrant families who contribute to our communities and our economy.

By blocking the protections offered by the President's actions, the legislation would deprive nearly 5 million immigrants and their families of the hope that they might finally live without constant fear of separation and deportation.

It would undermine the administration's efforts to devote greater resources toward securing our borders and deporting felons and not families. This would mean millions of undocumented immigrants would not be asked

to pass national security and criminal background checks and pay their fair share of taxes in order to register for temporary protection from deportation.

Now, H.R. 5759 falsely claims that President Obama's assertion of authority is unlawful. The constitutionality of the President's executive order is recognized by both liberal and conservative legal experts. In a letter written last month, 11 prominent scholars explained that the President's actions ''are within the power of the executive branch and that they represent a lawful exercise of the President's authority.''

This letter was signed—I was amazed at the list of constitutional authorities: Walter Dellinger; David Strauss, formerly with the Solicitor General's Office; Laurence Tribe; and even conservative professors like Eric Posner.

Five days later, 135 immigration law professors echoed that conclusion and provided substantial constitutional, statutory, and regulatory authority for these actions; not to mention that the President himself was a professor of constitutional law.

Finally, this measure, H.R. 5759, goes well beyond preventing the President from expanding deferred action for childhood arrivals or creating a program to protect the parents of U.S. citizens and lawful permanent residents from deportation.

It would not only prevent this President, but any future President from protecting discrete categories of individuals facing unique dangers and challenges. This means that no future administration would be able to parole in place the undocumented parents or spouses and children of military personnel and veterans, or facilitate enlistment in our armed services by American citizens who have undocumented family members, or grant deferred action to victims of a crime or serious forms of human trafficking.

For these and other reasons, this legislation is opposed by many organizations that care about our immigration system and are working to protect the vulnerable among us, including the United States Conference of Catholic Bishops, the AFL–CIO, the Service Workers International Union, and the National Task Force to End Sexual and Domestic Violence Against Women.

Let's think this through carefully, and I urge you to oppose this very dangerous anti-immigrant measure.

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

Mr. GOODLATTE. Mr. Speaker, I yield myself 30 seconds to clarify a couple of things.

First of all, it is not true that the House of Representatives has not acted to fix our broken immigration system. First of all, last summer, we passed two bills, one from the Appropriations Committee and one under the jurisdiction of the Judiciary Committee, that did just that, that provided resources to secure our borders to stop the surge of illegal immigrants coming into our country and make sure that the similarly unconstitutional DACA program that the President implemented earlier was frozen and could not proceed further. So, to me, that is simply not true.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. GOODLATTE. I yield myself an additional 15 seconds to say that the fact of the matter is that when you talk about taxes, there is no requirement in the President's executive order that anyone who qualifies as an unlawful alien must get this administrative legalization to pay back taxes. There is none.

They have to pay taxes moving forward, but one of the benefits is they qualify for the earned income tax credit. So this could cost the taxpayers of the country even more.

Mr. Speaker, I yield 5 minutes to the gentleman from Florida (Mr. YOHO), the chief sponsor of the legislation.

Mr. YOHO. Mr. Chairman, I appreciate the work that you have done on this, and I appreciate the attention that this has brought.

Mr. Speaker, there is a lot of consternation about this bill. I stand here today, obviously, in support of my bill, H.R. 5759, the Preventing Executive Overreach on Immigration Act of 2014. It is a simple bill. It is four pages, but yet, it has caused a lot of debate.

It just simply states that the President, Mr. Obama, does not have the constitutional authority to grant amnesty by issuing work visas to 5 million people here illegally.

I have got a list of scholars too that back up the claim that this is unconstitutional.

This bill doesn't talk about deporting anybody, as you might hear later on today that it is going to deport 9 million people. It doesn't talk about that. It doesn't talk about granting amnesty. It just stops an unconstitutional action by our President, who has taken an oath to defend and protect the Constitution of the United States, just like the rest of us in this body have.

To vote ''no'' against this bill is to vote ''no'' against the Constitution.

HARRY REID has already said he will not bring up this bill for a vote. The President says he will veto this if it makes it to his desk.

My question is, to not bring up this bill, or to not sign it, is that not a vote against our Constitution?

It is important that we address the true debate here, and that is the separation of powers. This bill is not about border security, work visas, E-Verify, or immigration reform. This is about the administration overstepping its bounds and unilaterally challenging the laws of this great Nation of ours.

Article II, section 3 of our Constitution makes very clear that the duty of the President is to ''take care that the laws be faithfully executed.'' Despite this straightforward charge, the administration is refusing to enforce our existing immigration laws for millions of unlawful aliens.

Article I, section 8 of the Constitution clearly states, ''Only Congress has the power to write immigration laws.'' And our Founding Fathers established this separation of powers to prevent an overreaching executive.

Mr. Speaker, the Supreme Court found in Galvan v. Press ''that the formulation of policies pertaining to the entry of aliens and their right to remain here is entrusted exclusively to Congress, and it has become about as firmly embedded in the legislative and judicial tissues of our body politic as any aspect of our government.''

Preserving article I, the legislative powers, this is not a partisan issue. It is not Republican or Democrat. Allowing executive action like this to slide simply because we are frustrated with a system establishes a dangerous precedent that could be abused by Presidents of both parties for any area of law they disagree with.

I would like to point out to my colleagues on the other side that if we continue to surrender, from this body, our legislative powers to the executive branch, then we could easily be standing here in 2, 5, or 10 years discussing a Republican President who refuses to enforce the employer mandate of the Affordable Care Act or uphold portions of the Voting Rights Act, and it can go on and on, and it has opened up a dangerous precedent.

Just because one might agree with the outcome does not justify overlooking or violating the process to get to that outcome.

Congress has the constitutional powers to create and write laws, and the President has a duty to faithfully execute those laws, not to pick and choose, like he does or doesn't like them. And that is according, again, to article II, section 3.

I urge Members to support H.R. 5759, restore constitutional powers to Congress, and stand on the side of the Constitution to protect this great Nation of ours.

Mr. CONYERS. Mr. Speaker, I yield myself 10 seconds before I call on our distinguished gentlelady from California.

I want everyone, particularly the author of this bill, to know that, as the senior member of the House Judiciary Committee, I firmly believe and support the Constitution, the amendments, and the precedents.

I yield 4 minutes to the gentlewoman from California (Ms. LOFGREN), a senior member of the Judiciary Committee who has worked on this issue for a number of years.

Ms. LOFGREN. Mr. Speaker, there is legal authority for the President's immigration actions derived, in part, from his constitutional duty to take care that the laws be faithfully executed.

In Heckler v. Chaney, the Supreme Court explained this duty does not require the President to act against every technical violation of the law. The Court said: ''An agency's decision

not to prosecute or enforce, whether through civil or criminal process, is a decision generally committed to the agency's absolute discretion.''

Two years ago, the Supreme Court, in Arizona v. United States, struck down most of Arizona's S.B. 1070 law. The Court said then the broad discretion exercised by Federal immigration officials extends to ''whether it makes sense to pursue removal at all.'' The Court said discretion in the enforcement of immigration law embraces immediate human concerns and can turn on factors, including whether the alien has children born in the United States, long ties to the community, or a record of distinguished military service.

When we created the Department of Homeland Security in 2002, we charged the Secretary with the duty to establish national immigration enforcement policies and priorities. That is at 6 U.S. Code 202.

□ 1245

Congress delegated that authority to the executive branch, and they are now using this authority. We enacted a law that permits the issuance of employment authorization. They are now implementing that part of the law.

This bill would block some portions of the President's recent action to keep young people from facing deportation and to prevent parents of U.S. citizen kids from being deported, but the bill harms others, too. Immigrant victims of domestic violence who seek a green card through the Violence Against Women Act are not protected from deportation while they wait for a visa. With this bill, they would face deportation.

Victims of serious crimes approved for U visas get deferred action while they wait for a visa. Under this bill, they would face deportation. The exception in the bill is insufficient because victims may assist law enforcement without appearing at trial.

Victims of severe forms of human trafficking eligible for statutorily-capped T visas could also face deportation. The bill would end the ability to parole in place the undocumented families of American military personnel and veterans. Deporting the mothers of American soldiers could be the result.

There is strong historical precedent for the President's actions. Prior Presidents were not met with such obstructionism. President Ronald Reagan created the family fairness program. Once expanded by President George H.W. Bush, that program is expected to protect 1.5 million people. The reason was to keep families together, one of the key motivations for the President's actions last month.

As some wrongly claim, the Reagan program was to carry out congressional intent in the 1986 act. That is false. When the Senate Judiciary Committee reported the bill, they said: ''It is the intent of the committee that the families of legalized aliens will obtain no special petitioning right by virtue of the legalization. They will be required to wait in line in the same manner as immediate family members of other new resident aliens.'' President Reagan decided otherwise.

Some wrongly argue the scope of the Reagan family fairness program was smaller, that it was not intended to provide relief to 1.5 million people, about 40 percent of the undocumented population at the time. Again, that is false. The INS Commissioner then testified before Congress that it covered 1.5 million people. An internal decision memo at the time states:

Family fairness policy provides voluntary departure and employment authorization to potentially millions of individuals.

The draft processing plan at the time said:

Current estimates are that greater than 1 million IRCA-eligible family members will file for this benefit.

Now, many Members on the other side of the aisle want to prevent the President's actions from going into effect, but the President has strong constitutional and statutory authority to take these actions.

The SPEAKER pro tempore. The time of the gentlewoman has expired.

Mr. CONYERS. I yield the gentlewoman an additional 30 seconds.

Ms. LOFGREN. He cannot change the law, and he has not done so. He does have the authority to grant temporary relief to some. We need broad reform, and to do that, we need to legislate.

It is shameful that the House has failed in its duty to legislate to fix our broken immigration system. The Judiciary Committee has reported out four bills. We have yet to see them on the floor.

I would like to enter into the RECORD the testimony by the Commissioner before the Judiciary Committee in 1990, the draft processing plan from 1990, and the decision memo from 1990 that prove the elements of the Reagan fairness plan.

HEARINGS
BEFORE THE
SUBCOMMITTEE ON IMMIGRATION, REFUGEES, AND INTERNATIONAL LAW
OF THE
COMMITTEE ON THE JUDICIARY

Mr. MORRISON. Now, Mr. McNary, you used the number 1.5 million IRCA relatives who are undocumented but who are covered by your family fairness policy. Do I have that number right?

Mr. MCNARY. Yes.

Mr. MORRISON. Under your recent administrative order, these 1.5 million people essentially are here to stay, with work and travel privileges. Isn't that right?

Mr. MCNARY. We think you are right as to the 1.5 million being here. There is an estimate of another 1.5 million that would come as a result of this change in definition.

Mr. MORRISON. There is another 1.5 million who you think would be eligible to come?

Mr. MCNARY. Yes.

DRAFT PROCESSING PLAN
RPF PROCESSING OF FAMILY FAIRNESS APPLICATIONS
UTILIZING DIRECT MAIL PROCEDURES

This proposal identifies one feasible method for accomplishing the initial receipt of documents required for an alien to request coverage under the Service's recently announced policy shift on family fairness. As a result of this change in policy, current estimates are that greater than one million IRCA-ineligible family members will file for this benefit.

Because of the anticipated scope of this workload on the Service, it is advisable to identify cost-efficient and effective methods to receive and process applications for inclusion under the Family Fairness Policy (PEP). Therefore, it is recommended that one viable option will incorporate many of the resources currently in place throughout the Service. One such plan, which can be activated with a minimum lead time and effort is to have aliens direct mail their applications to Service Regional Processing Facilities (RPF).

ALIEN MUST FILE BY MAIL WITH THEIR RPF:

1. One Form I–765, Application for Employment Authorization.

Instructions are modified for this form to tell aliens to enter in the three ( ) ''F F P'' located in item #16 on the I–765.

Money order or bank Check for $35.00 made out to INS, if employment authorization is required.

Affidavit of family membership, using the required format.

THE RPF WILL USE THE LAPS SYSTEM TO DO THE FOLLOWING:

Note: Simply stated, the REF will handle the I–765 with accompanying documentation, in very much the same manner as the current I–698, used by temporary residents under § 245a to apply for adjustment to permanent resident status.

1. If application is complete, as required, process. If not, it is returned to the alien until it is perfected.

2. If processable, the I–765 is forwarded to data entry. Here, a new A-number will be assigned to the application and the resulting record.

3. LAPS will be used to capture all data from the I–765 for which there is a comparable field in LAPS. For starters, the form type will be I–765, the fee amount $35.00, etc. Information for which there is no comparable field in LAPS will not be able to be keyed until modifications are made to the system. The resulting electronic record will enable the Service to track individual cases, produce timely management reports, and send notices to the alien.

4. After data entry, all paperwork is placed in the appropriate A-file folder.

5. The fee, if indicated, is processed with monies deposited to X accounts.

6. LAPS will preempt all other interviews which have been scheduled and will schedule I–765 applicants to appear for interview instead, at the earliest practicable date.

7. LAPS prints an automated mailer to the applicant. This mailer tells the alien that their request for coverage under FFP has been received. The mailer states that it is a replacement I–689 document and grants employment authorization until the date of a scheduled interview. Suggested text:

''We have received your request for relief from deportation under the Family Fairness Policy. You must appear at the office listed below on _____ for an interview so we may make a decision on this application. If we approve your application, you will receive employment authorization at that time. If you move, notify the INS of your new address using form I–697A, available at any INS office.''

MESSAGE REPEATS IN SPANISH—MAXIMUM MAILER LINES = 12

7A. Alternatively, if policy requires that employment authorization be instantaneous, upon processing of the I–765, the suggested language is:

''We have received your request for relief from deportation under the Family Fairness

Policy. You will be notified to appear at an INS office for an interview so we may make a decision on this application. This document replaces form I–689 and, combined with proper identification, authorizes employment until _____. If you move, notify the INS of your new address using form I–697A, available at any INS office.''

MESSAGE REPEATS IN SPANISH—MAXIMUM MAILER LINES = 12

ALTEN RECEIVES NOTICE AND SHOW UP AT PHASE II OFFICE HAVING LAPS ACCESS

1. I–213 completed on alien. Decision on EVD is made.

2. Alien is interviewed to determine applicability of FFP relief and veracity of family relationship claim. Examiner uses online screen record of I–765 data.

3. If I–765 approved, alien processed at that office for EAD card.

4. If FFP coverage denied, alien notified in writing using Form I–210. LAPS screen updated to reflect status.

5. Copy of I–210, I–213 sent to district Deportation and Investigation branches for issuance of an OSC if alien does not leave the country within 30 days voluntarily, as provided on the I–210.

ESTIMATED RESOURCES REQUIRED

	Est. cost.
1. Clerical staff at RPFs: 100	$1,348,500
2. Adjudicators at RPFs: 250	3,371,250
3. Clerical staff in Field: 250	3,371,250
4. Adjudicators in Field: 500	6,742,500
est. subtotal personnel costs: 1,100	14,833,500
est. software modification costs	200,000
est. miscellaneous support costs	2,000,000
Total estimated costs:	17,033,500

@1,000,000 interviewed in 100 workdays.

PRO:

Centralizes control, security and consistency.

Requires less personnel than a more distributed plan.

Buys the Service valuable time to get ready. The time normally wasted in mailing can work to our benefit.

Diminishes the potential for a ''circus atmosphere'' created by the media or our critics, who will be avidly looking for signs of disorganization or inconsistency at our offices.

CON:

Cost. This can be offset if the Legalization program is allowed to use the fees received from Form I–765 applications, without restriction, to accomplish this special project and to remedy disruption caused to the ongoing legalization, SAW and RAW programs.

Holds the alien, and their representative at arms length. This may be perceived as negative by the public. However, given the emotional nature of this issue, the Service cannot take the risk of exposing too much of itself to the public until we are ready to handle however many aliens come forward.

T. Andreotta (February 8, 1990)

RPF–1.FFP

DECISION MEMO

FEBRUARY 8, 1990.

To: Gene McNary, Commissioner.

Subject: The implementation of the Family Fairness Policy—Providing For Voluntary Departure under 8 CFR 242.5 and Employment Authorization under 8 CFR 274a.12 for the spouses and children of legalized aliens (section 245a and section 210).

The family fairness policy provides voluntary departure and employment authorization to potentially millions of individuals. The Service must establish specific procedures to ensure consistency of processing requests for voluntary departure and employment authorization from ineligible family members of temporary resident aliens legalized under the legalization (section 245a) and special agricultural (section 210) programs. The following processing options are submitted for consideration.

TRADITIONAL PROCESSING PURSUANT TO 8 CFR 242.5 (VOLUNTARY DEPARTURE) AND 8 CFR (274a.12 (EMPLOYMENT AUTHORIZATION).

Request for voluntary departure will be made in writing to the district director in whose jurisdiction the ineligible spouse or child resides.

The district's records section will create an A-file, if a file has not been previously opened.

The district's investigations section will prepare form I–213, ''Record of Deportable Alien'' for each ineligible spouse or child, a determination will be made to grant or deny voluntary departure, and the aliens will be placed under docket control.

The district's deportation section will control both granted and denied cases that have been placed under docket control. One year call-ups will be maintained for granted cases. Requests for extensions will be processed by deportation personnel. Denied cases will be processed for Orders to Show Cause if the alien has not departed the United States within the required time frame.

Application for employment authorization will be made on form I–765, ''Application for Employment Authorization'', with fee.

PROS

Follows established regulatory procedures and guidelines.

Utilizes personnel experienced in processing requests for voluntary departure, employment authorization, and file creation.

Does not ''link'' to legalization's promise of confidentiality and ''no risk'' if alien comes forward to request voluntary departure. (alien can be denied and placed into deportation proceedings, etc.)

Does not impact on legalization processing, thus complying with Congressional intent for a temporary legalization program that will continue to phase down (adjudicating the remaining 700,000+ Phase I 245a and 210 cases, the remaining 800,000 Phase II 245a cases, replacement card applications, processing the 60,000 ongoing litigation cases etc.)

Allows for maximum use of district director's exercise of discretion.

CONS

Places large workload on in place INS structure, that will strain existing resources.

Jeopardizes the Regional Commissioners and the District Directors performance goals in other operational activities.

Operational budgets do not contain sufficient funds for this effort. (a ''user fee'' may have to be charged generating negative publicity and charges that the Service's policy was a ruse to raise money)

Large numbers of individuals will visit in place INS offices that already experience unacceptable crowds and long waiting times. (Again, the risk of negative publicity is great)

Congressional complaints are likely to increase as resources are diverted from other activities, slowing the disbursement of benefits and services associated with these activities)

The morale of personnel in investigations and deportation is likely to suffer in that the perception of this program will not ''fit'' with their regular mission assignments. (Low morale can translate into inadequate processing and poor service and consequently reflecting badly on the Service)

Not an efficient way to consistently process large numbers.

DRAFT PROCESSING PLAN

RPF PROCESSING OF FAMILY FAIRNESS APPLICATIONS

UTILIZING DIRECT MAIL PROCEDURES

This proposal identifies one feasible method for accomplishing the initial receipt of documents required for an alien to request coverage under the Service's recently announced policy shift on family fairness. As a result of this change in policy, rent estimates are that greater than one million IRCA-ineligible family members will file for this benefit.

Because of the anticipated scope of this workload on the Service, it is advisable to identify cost-efficient and effective methods to receive and process applications for inclusion under the Family Fairness Policy (FFP). Therefore, it is recommended that one viable option will incorporate many of the resources currently in place throughout the Service. One such plan, which can be activated with a minimum lead time and effort is to have aliens direct mail their applications to Service Regional Processing Facilities (RPF).

ALIEN MUST FILE BY MAIL WITH THEIR RPF:

1. One Form I–765, Application for Employment Authorization.

Instructions are modified for this form to tell aliens to enter in the three ( ) ''F F P'' located in item #16 on the I–765.

Money order or bank check for $35.00 made out to INS, if employment authorization is required.

Affidavit of family membership, using the required format.

THE RPF WILL USE THE LAPS SYSTEM TO DO THE FOLLOWING:

Note: Simply stated, the RPF will handle the I–765 with accompanying documentation, in very much the same manner as the current I–698, used by temporary residents under § 245a to apply for adjustment to permanent resident status.

1. If application is complete, as required, process. If not, it is returned to the alien until it is perfected.

2. If processable, the I–765 is forwarded to data entry. Here, a new A–number will be assigned to the application and the resulting record.

3. LAPS will be used to capture all data from the I–765 for which there is a comparable field in LAPS. For starters, the form type will be I–765, the fee amount $35.00, etc. Information for which there is no comparable field in LAPS will not be able to be keyed until modifications are made to the system. The resulting electronic record will enable the Service to track individual cases, produce timely management reports, and send notices to the alien.

4. After data entry, all paperwork is placed in the appropriate A–file folder.

5. The fee, if indicated, is processed with monies deposited to X accounts.

6. LAPS will preempt all other interviews which have been scheduled and will schedule I–765 applicants to appear for interview instead, at the earliest practicable date.

7. LAPS prints an automated mailers to the applicant. This mailer tells the alien that their request for coverage under FFP has been received. The mailer states that it is a replacement I–689 document and grants employment authorization until the date of a scheduled interview. Suggested text:

''We have received your request for relief from deportation under the Family Fairness Policy. You must appear at the office listed below on_____ for an interview so we may make a decision on this application. If we approve your application, you will receive employment authorization at that time. If

you move, notify the INS of your new address using form I–697A, available at any INS office.''

MESSAGE REPEATS IN SPANISH—MAXIMUM MAILER LINES = 12

7A. Alternatively, if policy requires that employment authorization be instantaneous, upon processing of the I–765, the suggested language is:

''We have received your request for relief from deportation under the Family Fairness Policy. You will be notified to appear at an INS office for an interview so we may make a decision on this application. This document replaces form I–689 and, combined with proper identification, authorizes employment until _____. If you move, notify the INS of your new address using form I–697A, available at any INS office.''

MESSAGE REPEATS IN SPANISH—MAXIMUM MAILER LINES = 12

ALIEN RECEIVES NOTICE AND SHOW UP AT PHASE II OFFICE HAVING LAPS ACCESS

1. I–213 completed on alien. Decision on EVD is made.

2. Alien is interviewed to determine applicability of FFP relief and veracity of family relationship claim. Examiner uses online screen record of I–765 data.

3. If I–765 approved, alien processed at that office for EAD card.

4. If FFP coverage denied, alien notified in writing using Form I–210. LAPS screen updated to reflect status.

5. Copy of I–210, I–213 sent to district Deportation and Investigation branches for issuance of an OSC if alien does not leave the country within 30 days voluntarily, as provided on the I–210.

ESTIMATED RESOURCES REQUIRED

		est. cost
1. Clerical staff at RPFs:	100	$1,348,500
2. Adjudicators at RPFs:	250	3,371,250
3. Clerical staff in Field:	250	3,371,250
4. Adjudicators in Field:	500	6,742,500
est. subtotal personnel costs:	1,100	14,833,500
est. software modification costs	.....	200,000
est. miscellaneous support costs	.....	2,000,000
Total estimated cost:	.....	17,033,500

@ 1,000,000 interviewed in 100 workdays.

PRO:

Centralizes control, security and consistency.

Requires less personnel than a more distributed plan.

Buys the Service valuable time to get ready. The time normally wasted in mailing can work to our benefit.

Diminishes the potential for a ''circus atmosphere'' created by the media or our critics, who will be avidly looking for signs of disorganization or inconsistency at our offices.

CON:

Cost. This can be offset if the Legalization program is allowed to use the fees received from I–765 applications, without restriction, to accomplish this special project and to remedy disruption caused to the ongoing legalization, SAW and RAW programs.

Holds the alien, and their representative at arm's length. This may be perceived as negative by the public. However, given the emotional nature of this issue, the Service cannot take the risk of exposing too much of itself to the public until we are ready to handle however many aliens come forward.

T. Andreotta (February 8, 1990)

RPF–1.FFP

Mr. GOODLATTE. Mr. Speaker, I yield myself 30 seconds.

I would point out that the Supreme Court decision in Heckler v. Chaney in no way justifies the claim that the President of the United States has this authority to issue this enormous order.

Nor do we have a situation where it could justifiably be found that the agency has consciously and expressly adopted a general policy that is so extreme as to amount to an abdication of its statutory responsibilities.

That is what has happened here. The President has abdicated his statutory responsibilities in enforcing the law and changed the law, and that is why it cannot be upheld.

I yield 2 minutes to the gentleman from Missouri (Mr. SMITH), a member of the Judiciary Committee.

Mr. SMITH of Missouri. Mr. Speaker, I thank the chairman for bringing this legislation to the floor.

Mr. Speaker, President Obama, just last week, made the action and said, ''Change the law,'' on immigration granting amnesty to millions of illegal aliens. The President should not be allowed to do this. In fact, article II, section 3, of the Constitution requires the President to take care that the law is being faithfully executed.

On March 28, 2011, President Obama said he would not use an executive order for amnesty, explaining that, ''Temporary protective status historically has been used for special circumstances.'' Those are his words.

More than 20 times, the President said executive action on immigration would not be appropriate. Nothing has changed in our Constitution, but now, the administration is singing a different tune.

Mr. Speaker, I am from the Show-Me State. I would love for any of my colleagues in this body to show me in this document, the Constitution of the United States, where it grants the President the authority to change the laws. Article I of the Constitution says Congress will change the laws, not the President. The President will execute the laws—faithfully execute the laws.

Mr. Speaker, I proudly support this legislation, and I ask all my colleagues to do so to stop this action.

Mr. CONYERS. Mr. Speaker, I yield 1 minute to the gentlelady from California (Ms. PELOSI), our leader.

Ms. PELOSI. Mr. Speaker, I thank the gentleman for yielding. I commend him for his leadership as chairman and now ranking member of the Judiciary Committee and his important work for comprehensive immigration reform.

I also salute the ranking member of the Subcommittee on Immigration and Border Security, Congresswoman ZOE LOFGREN of California, who has not only chaired the Immigration and Border Security Subcommittee, she has taught immigration law, she has been an immigration lawyer. She represents a very diverse district in California blessed with a strong immigrant population.

Mr. Speaker, more than 520 days ago, the Senate passed bold bipartisan comprehensive immigration reform by an overwhelming margin. It was bipartisan, it was overwhelming, 520 days ago—more than that.

Time and again, the Republican leadership of the House has promised productive action to fix our clearly broken immigration system; yet, time and again, Republicans have refused to give the American people a vote on this critical issue.

They have ignored law enforcement, the badges; faith leaders, the Bibles; and business groups—the three Bs. They have denied our country billions of dollars in economic benefits and $1 trillion in deficit reduction, turned their backs on millions of hardworking immigrant families forced to live in daily dread of separation and deportation.

In the face of Republicans' failure to act, President Obama has used his well-established legal and constitutional authority to bring our immigration system back into line with our needs as a Nation and our values as a people.

The President's executive actions will restore accountability to our immigration enforcement: securing our borders; deporting felons, not families; and requiring undocumented immigrants to pass a criminal background check and pay taxes.

Presidents have had broad authority to defer removal when it is in the national interest, and past Presidents have regularly used this authority. President Ronald Reagan understood that immigration was the constant reinvigoration of our Nation.

As a new President in 1981, President Reagan said:

Our Nation is a nation of immigrants. More than any other country, our strength comes from our own immigrant heritage and our capacity to welcome those from other lands.

In the lead-up to the Immigration Reform and Control Act, President Reagan, again, called our Nation to action when he said:

We are also going to have compassion and legalize those who came here sometime ago and have legitimately put roots down and are living as legal residents of our country, even though illegal. We are going to make them legal.

In his signing statement of the Immigration Reform and Control Act, President Reagan said:

We have consistently supported a legalization program which is both generous to the alien and fair to the countless thousands of people throughout the world who seek legally to come to America.

He went on to say:

The legalization provisions in this act will go far to improve the lives of a class of individuals who now must hide in the shadows without access to many of the benefits of a free and open society.

Does that sound familiar?

He went on to say:

Very soon, many of these men and women will be able to step into the sunlight, and, ultimately, if they choose, they may become Americans.

In the years immediately following the enactment of the 1986 Immigration Reform and Control Act, President Reagan and President George Herbert

Walker Bush took bold action to protect the spouses and children of people who received status under that law.

Although Congress explicitly chose not to grant status to these people, Presidents Reagan and Bush recognized that it was not in the national interest to separate families. Using their authority to establish a family fairness program by executive action, they offered spouses and children indefinite protection from deportation and gave them work authorization.

Every President since President Dwight David Eisenhower has used this same broad authority, Republicans and Democrats alike. Dating back more than 50 years, Presidents have granted Extended Voluntary Departure to nationals of more than a dozen countries, including Cuba, Vietnam, Laos, Cambodia, Chile, Poland, Afghanistan, Ethiopia, and Uganda.

President George Herbert Walker Bush granted Deferred Enforced Departure to Chinese nationals after the Tiananmen Square massacre, even though he vetoed a similar bill passed by Congress.

I remember that well. It was my bill. He vetoed the bill because he didn't want to sign the bill, and then he issued the executive order doing exactly what the bill would do. Several years later, he granted the same status to 200,000 Salvadorans.

Thanks to President Obama's immigration accountability executive actions, in the same vein, millions of hardworking, law-abiding families will be able to celebrate the holidays with renewed hope in the future.

In response to this Presidential action of common sense and compassion, Republicans are advancing today on this floor a radical bill of appalling callousness and cruelty. With this bill, Republicans are demanding that we deport hundreds of thousands of young DREAMers who know no country but the United States. With this bill, Republicans would tear apart millions of families and throw thousands upon thousands of American children into foster care.

With this bill, Republicans would deport the family members of our heroes in uniform who are serving overseas, deny relief and respite to victims of human trafficking and domestic violence, and reject the values that are at the heart of our heritage and our history.

This legislation is unworthy of our Nation.

Don't take it from me. That is why this bill is opposed by groups, including the United States Conference of Catholic Bishops, who wrote:

> Instead of traumatizing these children and young adults—the future leaders of our country—we should invest in them by ensuring that their families remain intact.

Mr. Speaker, I hope our colleagues will take the advice of the Conference of Catholic Bishops and vote against this legislation.

Democrats in the House will continue to demand comprehensive immigration reform, which honors our heritage, giving certainty to families, fueling innovation, creating jobs, and reducing the deficit. We know that the President's steps cannot be a substitute for legislation. They must be a summons to action.

Here in Congress and across the country, we will keep up the drumbeat for the progress of advancing comprehensive immigration reform. We will do so in heeding the advice of President George W. Bush, who told us as we dealt with this issue to treat the people who are affected by it with respect.

Republicans should reject this coldhearted bill and give the American people the vote on immigration reform that they deserve.

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Mr. GOODLATTE. Mr. Speaker, it is my pleasure to yield 3 minutes to the gentleman from Louisiana (Mr. SCALISE), the majority whip.

Mr. SCALISE. Mr. Speaker, I thank the gentleman from Virginia for yielding and for his leadership on immigration issues.

I especially want to thank my colleague and friend from Florida, Congressman YOHO, for bringing forward this important piece of legislation, which just goes back and reestablishes the rule of law, Mr. Speaker. You have got a President who has consistently gone out, time and time again, and shown disregard for the Constitution and the rule of law of this Nation.

We just had an election in November. The President, himself, said this was going to be a referendum on his agenda, and the American people were crystal clear about their dislike of this failed agenda from this President. They have told him: Get back to work. Go work with Congress to solve problems.

What is the first response? The President has to poke his finger in the eye of the American people, people who spoke loud and clear to him, in saying that he is going to disregard what they said; and he is going to ignore the rule of law and, in fact, ignore what our constitutional framework of checks and balances is. He thinks he can just sit in the Oval Office and write his own laws, and then he comes forward with this proposal to literally disregard enforcement of our Nation's immigration laws.

This isn't going to stand, Mr. Speaker. This legislation says: You can't do that, Mr. President. There is a rule of law. You need to start enforcing that law.

We came together as a House just a few months ago and passed a border security bill. Let's actually get back to the rule of law and protecting our Nation's borders. It is not just an immigration issue; it is a national security issue.

So what is the President's response to this legislation? He threatens a veto. Again, the President thinks he can just sit in the Oval Office and make up his own laws.

That is not the way our system of government works, Mr. Speaker. So we bring this legislation forward today to get us back to that rule of law and to remind the President that it is time for him to heed the message that millions of Americans across the country sent just a few weeks ago in saying: You need to start working with Congress to solve real problems.

In fact, this weekend, in my home State of Louisiana, there are three more elections on that ballot. Pay close attention, Mr. President. Pay close attention to yet another referendum on your agenda that is going to occur this Saturday with a Senate election and two more House races. The American people want you to get out of the cocoon of the Oval Office and start working with Congress to solve real problems.

We have passed legislation to solve those problems. You can try to ignore them, issue veto threats, but it is time for to you roll up your sleeves and get to work with us and solve those problems together. Pull back your executive action. This legislation ensures that happens.

I urge approval.

The SPEAKER pro tempore. The Chair reminds Members to address their remarks to the Chair.

Mr. CONYERS. Mr. Speaker, I am proud to yield 1 minute to the gentlewoman from California, JUDY CHU, a dedicated member of the Judiciary Committee.

Ms. CHU. Mr. Speaker, it seems the Republicans will do anything other than put a bill on the floor to pass immigration reform. So far, they have refused to allow for a vote on the bipartisan H.R. 15; they are threatening another government shutdown; and they suggest impeaching the President for doing what is right.

When they did put a bill on the floor, it was to repeal DACA. It has been more than a year and a half of refusing to allow a vote on H.R. 15, even though, if it were on the floor today, it would pass. Instead, we have this bill to undo the President's executive action, a step he wouldn't have had to take had Congress done its job.

This is just another distraction when what we need are real solutions. There are real families at stake who need real immigration reform. American businesses need it. Our communities need it.

If Republicans are unhappy that the President acted, there is still an option for them—legislative. Join us in crafting and voting on a bill that will fix our broken immigration system.

Mr. GOODLATTE. Mr. Speaker, at this time, it is my pleasure to yield 2 minutes to the gentleman from Tennessee (Mr. DUNCAN).

Mr. DUNCAN of Tennessee. Mr. Speaker, I thank the gentleman for yielding.

I rise in support of this very reasonable legislation, which really simply requires that our present immigration

laws be fully enforced, or at least not be violated. I commend the gentleman from Florida (Mr. YOHO) for bringing this legislation to the floor.

The President has said he has been forced to act because the Congress has not done so. That is not correct, as Chairman GOODLATTE pointed out a few minutes ago. Congress can act in any one of three ways: writing a new law, changing an old law, or leaving present law in effect.

The administration is glossing over—or is ignoring—the fact that we have very detailed immigration laws on the books now. They may not like present law, but no one has the right or the power or the authority to pick and choose and enforce some laws but not others.

Presidential executive orders have traditionally been used almost entirely for noncontroversial, administrative-type actions. They were not meant to be a way for a President to bypass the Congress. We do not live or are not supposed to live under a system where all the power is vested in the Executive. We have a Constitution, and it should be followed.

Mr. Speaker, all of us admire those who have immigrated here legally and have contributed so much to this Nation. We have allowed many millions here legally since the Simpson-Mazzoli law of 1986, far more than any other country. But with 58 percent of the people in the world having to get by on $4 or less a day, that means that almost 4 billion people are hoping to get one good meal today and probably aren't.

We are blessed beyond belief to live in this Nation, but our entire infrastructure—our schools, our hospitals, our jails, our roads, our sewers—simply cannot handle the rapid influx of megamillions who would come in a relatively short time if we simply opened our borders. We have to have a legal, orderly system of immigration, and it must be enforced.

I urge my colleagues to support this very commonsense legislation.

Mr. CONYERS. Mr. Speaker, I am pleased to yield 2½ minutes to the gentlelady from Texas, SHEILA JACKSON LEE, a distinguished member of the Judiciary.

Ms. JACKSON LEE. I thank the gentleman for yielding.

Mr. Speaker, I rise with a sense of moral indignation that we would want to block parents from loving their children, children from loving their parents, and deporting persons who have no reason to criminally act in this Nation.

I join with the President in saying let us keep families and deport felons. That is a discretion that is given by the law to allow Presidents to take care and ensure that the laws are enforced properly.

This legislation is wrongheaded and misdirected. Allow me to say that this November 20 executive order is now being retroactively judged by this Congress. That is not the Congress' responsibility. The Congress, if they desire to do so, as they have done on many occasions, is to bring this to the judicial courts. But if they do so, they will find that the law has dictated that courts grant without much interest in deciding whether or not an administrative decision has been made with fault. The President, through his executive order, is making an administrative decision in terms of how laws are prosecuted.

Just yesterday, the State of Texas and a number of other States filed a lawsuit against the executive actions announced by the President on November 20. Much to my surprise—and, of course, with great joy—the Fifth Circuit Court of Appeals appears to have already issued a decision, dismissing such a complaint. It did so in 1997 when Governor George W. Bush was arguing that the Federal Government's failure to enforce our immigration laws violated article I, and the court rejected Texas' argument that the Federal Government had breached a nondiscretionary duty to control immigration under the Immigration and Nationality Act.

Specifically, the court said: ''We are not aware of and have difficulty conceiving of any judicially discoverable standards for determining whether immigration control efforts by Congress are constitutionally adequate.'' Why? Because there is an interpretation of the law and an administrative component of the law.

Likewise, in Heckler v. Chaney, the Court said: ''An agency's decision not to take enforcement actions is unreviewable under the Administrative Procedure Act because a court has no workable standard against which to judge the agency's exercise of discretion.''

The President of the United States is not exercising discretion of executive order. He is instructing and giving guidance to administrative agencies who will make decisions accordingly to the framework of making sure that those who are felons are out but families are not.

If you want to stop human trafficking, if you want to have a conscience in this Nation, if you want to protect the vulnerable, if you want to keep young people who are bright-eyed simply to serve in the United States military——

The SPEAKER pro tempore. The time of the gentlewoman has expired.

Mr. CONYERS. I yield the gentlelady an additional 30 seconds.

Ms. JACKSON LEE. I thank the gentleman for his kindness.

Mr. Speaker, if you want to recognize those individuals who have come here to do what is right and if you want to stop the siege of human trafficking, as I have said, where Houston is the epicenter of such, where we see it every day, where people are out of the shadows, if you want to do that, then you will vote against this misdirected law and you will read the constitutional dictates—first from the Fifth Circuit Court of Appeals, then from the United States Supreme Court in Arizona v. United States—and understand that the President has the executive authority to do just what he has done, to be a moral keeper and to give discretion to the law.

Mr. Speaker, I rise in opposition to the rule governing debate of H.R. 5759, the so-called ''Preventing Executive Overreach On Immigration Act,'' and the underlying bill.

I oppose the rule and the underlying bill because it is nothing more than the Republican majority's latest partisan attack on the President and another diversionary tactic to avoid addressing the challenge posed by the nation's broken immigration system.

Mr. Speaker, H.R. 5759, which by all appearances was hastily introduced on November 20, 2014, without evident deliberation for the ostensible purpose of establishing a retroactive ''rule of construction clarifying the limitations on executive authority to provide certain forms of immigration relief.''

As originally drafted and introduced the bill provided:

No provision of the United States Constitution, the Immigration and Nationality Act, or other Federal law shall be interpreted or applied to authorize the executive branch of the Government to exempt, by Executive order, regulation, or any other means, categories of persons unlawfully present in the United States from removal under the immigration laws (as such term is defined in section 101 of the Immigration and Nationality Act).

Any action by the executive branch with the purpose of circumventing the objectives of this statute shall be null and void and without legal effect.

Although the bill was referred to the Committee on the Judiciary, upon which I have served throughout my ten terms in Congress, no hearing or markup of the bill was ever held. And it shows.

The most obvious and fatal flaw in the bill as introduced and considered by the Rules Committee is its attempt to dictate to the federal judiciary how the Constitution is to be interpreted—''No provision of the United States Constitution . . . shall be interpreted or applied to authorize the executive branch . . .''

Mr. Speaker, it has been settled law for 211 years, since 1803, when the Supreme Court decided the landmark case of Marbury v. Madison that the federal courts, and ultimately, the Supreme Court are the arbiters when it comes to interpreting the Constitution and the laws. As Chief Justice John Marshall stated in Marbury:

''It is emphatically the province and duty of the judicial department to say what the law is. Those who apply the rule to particular cases, must of necessity expound and interpret that rule. If two laws conflict with each other, the courts must decide on the operation of each.''

Had regular order been followed and this ill-conceived bill been subject to hearing and markup this fatal deficiency would have been revealed and made plain and the bill likely would have died a quiet death.

Mr. Speaker, because H.R. 5759 was so poorly conceived and drafted, it would have embarrassed the Republican leadership to bring the bill to floor in its original form so the bill was amended in the Rules Committee, which made in order an Amendment in the

Nature of a Substitute (ANS) that tries—but does not succeed—in remedying the many deficiencies of the original bill.

As amended and reported by the Rules Committee, H.R. 5759 seeks to prohibit the executive branch from exempting or deferring from deportation any immigrants considered to be unlawfully present in the United States under U.S. immigration law, and to prohibit the administration from treating those immigrants as if they were lawfully present or had lawful immigration status.

The amended bill now includes three exceptions to this prohibition:

1. ''to the extent prohibited by the Constitution:''

2. ''upon the request of Federal, State, or local law enforcement agencies, for purposes of maintaining aliens in the United States to be tried for crimes or to be witnesses at trial''; and

3. ''for humanitarian purposes where the aliens are at imminent risk of serious bodily harm or death.''

The amended bill seeks to make November 20, 2014 the effective date of these prohibitions—thereby retroactively blocking the executive actions taken on that date by President Obama to address our broken immigration system by providing smarter enforcement at the border, prioritize deporting felons—not families—and allowing certain undocumented immigrants, including the parents of U.S. citizens and lawful residents, who pass a criminal background check and pay taxes to temporarily stay in the U.S. without fear of deportation.

Mr. Speaker, let me briefly discuss why the executive actions taken by President Obama are reasonable, responsible, and within his constitutional authority.

Under Article II, Section 3 of the Constitution, the President, the nation's Chief Executive, ''shall take Care that the Laws be faithfully executed.''

In addition to establishing the President's obligation to execute the law, the Supreme Court has consistently interpreted the Take Care Clause as ensuring presidential control over those who execute and enforce the law and the authority to decide how best to enforce the laws. See, e.g., Arizona v. United States; Bowsher v. Synar; Buckley v. Valeo; Printz v. United States; Free Enterprise Fund v. PCAOB.

Every law enforcement agency, including the agencies that enforce immigration laws, has ''prosecutorial discretion''—the power to decide whom to investigate, arrest, detain, charge, and prosecute.

Agencies, including the U.S. Department of Homeland Security (DHS), may develop discretionary policies specific to the laws they are charged with enforcing, the population they serve, and the problems they face so that they can prioritize resources to meet mission critical enforcement goals.

Executive authority to take action is thus ''fairly wide'', indeed the federal government's discretion is extremely ''broad''; as the Supreme Court held in the recent case of Arizona v. United States, 132 S. Ct. 2492, 2499 (2012), an opinion written Justice Kennedy and joined by Chief Justice Roberts:

''Congress has specified which aliens may be removed from the United States and the procedures for doing so. Aliens may be removed if they were inadmissible at the time of entry, have been convicted of certain crimes, or meet other criteria set by federal law. Removal is a civil, not criminal, matter. A principal feature of the removal system is the broad discretion exercised by immigration officials. Federal officials, as an initial matter, must decide whether it makes sense to pursue removal at all. If removal proceedings commence, aliens may seek asylum and other discretionary relief allowing them to remain in the country or at least to leave without formal removal.'' (emphasis added) (citations omitted).

The Court's decision in Arizona v. United States, also strongly suggests that the executive branch's discretion in matters of deportation may be exercised on an individual basis, or it may be used to protect entire classes of individuals such as ''[u]nauthorized workers trying to support their families'' or immigrants who originate from countries torn apart by internal conflicts:

''Discretion in the enforcement of immigration law embraces immediate human concerns. Unauthorized workers trying to support their families, for example, likely pose less danger than alien smugglers or aliens who commit a serious crime. The equities of an individual case may turn on many factors, including whether the alien has children born in the United States, long ties to the community, or a record of distinguished military service.

Some discretionary decisions involve policy choices that bear on this Nation's international relations. Returning an alien to his own country may be deemed inappropriate even where he has committed a removable offense or fails to meet the criteria for admission. The foreign state may be mired in civil war, complicit in political persecution, or enduring conditions that create a real risk that the alien or his family will be harmed upon return.

The dynamic nature of relations with other countries requires the Executive Branch to ensure that enforcement policies are consistent with this Nation's foreign policy with respect to these and other realities.''

Mr. Speaker, in exercising his broad discretion in the area of removal proceedings, President Obama has acted responsibly and reasonably in determining the circumstances in which it makes sense to pursue removal and when it does not.

In exercising this broad discretion, President Obama has not done anything that is novel or unprecedented.

Here are just a few examples of executive action taken by several presidents, both Republican and Democratic, on issues affecting immigrants over the past 35 years:

1. In 1980, President Jimmy Carter exercised parole authority to allow Cubans to enter the U.S., and about 123,000 ''Mariel Cubans'' were paroled into the U.S. by 1981.

2. In 1987, President Ronald Reagan used executive action in 1987 to allow 200,000 Nicaraguans facing deportation to apply for relief from expulsion and work authorization.

3. In 1990, President George H.W. Bush issued an executive order that granted Deferred Enforced Departure (DED) to certain nationals of the People's Republic of China who were in the United States.

4. In 1992, the Bush administration granted DED to certain nationals of El Salvador.

5. In 1997, President Bill Clinton issued an executive order granting DED to certain Haitians who had arrived in the United States before Dec. 31, 1995.

6. In 2010 the Obama administration began a policy of granting parole to the spouses, parents, and children of military members.

Mr. Speaker, because of the President's leadership and far-sighted executive action, 594,000 undocumented immigrants in my home state of Texas are eligible for deferred action.

If these immigrants are able to remain united with their families and receive a temporary work permit, it would lead to a $338 million increase in tax revenues, over five years.

Mr. Speaker, the President's laudable executive actions are a welcome development but not a substitute modernizing the nation's immigration laws. Only Congress can do that.

America's borders are dynamic, with constantly evolving security challenges. Border security must be undertaken in a manner that allows actors to use pragmatism and common sense.

And as shown by the success of H.R. 17, the bipartisan ''Border Security Results Act, which I helped to write and introduced along with the senior leaders of the House Homeland Security Committee, we can do this without putting the nation at risk or rejecting our national heritage as a welcoming and generous nation.

This legislation has been incorporated in H.R. 15, the bipartisan ''Border Security, Economic Opportunity, and Immigration Modernization Act,'' legislation which reflects nearly all of the core principles announced earlier this year by House Republicans.

As a nation of immigrants, the United States has set the example for the world as to what can be achieved when people of diverse backgrounds, cultures, and experiences come together.

It is now time to open the golden symbolized by Lady Liberty's lamp to the immigrant community of today so they can participate fully in the American Dream.

These loyal and law-abiding persons have been waiting patiently for far too long for their chance.

We can and should seize this historic opportunity to pass legislation to ensure that we have in place adequate systems and resources to secure our borders while at the same time preserving America's character as the most open and welcoming country in the history of the world and to reap the hundreds of billions of dollars in economic productivity that will result from comprehensive immigration reform.

President Obama has acted boldly, responsibly, and compassionately in exercising his constitutional authority to enforce the immigration laws in an effective and humane manner.

If congressional Republicans, who have refused to debate comprehensive immigration reform legislation for more than 500 days, disapprove of the lawful actions taken by the President, an alternative course of action is readily available to them: pass a bill and send it to the President for signature.

The President has shown responsible leadership. The next step is up to congressional Republicans.

I urge all Members to join me in opposing the rule and the underlying bill.

Just yesterday, the State of Texas and a number of other States filed a lawsuit challenging the executive actions announced by the President on November 20. The lawsuit,

which will be known as Texas v. United States of America, was filed in the U.S. District Court for the Southern District of Texas.

Much to my surprise, the Fifth Circuit Court of Appeals appears to have already issued a decision dismissing the Complaint. In the case of Texas v. United States—sound similar?—the Fifth Circuit in 1997 dismissed a lawsuit by then Governor George W. Bush arguing that the Federal Government's failure to enforce our immigration laws violated Article I, Section 8, Clause 4 of the Constitution—the Naturalization Clause. The Fifth Circuit also rejected Texas's argument that the Federal Government had breached a nondiscretionary duty to control immigration under the Immigration and Nationality Act.

In rejecting the Naturalization Clause argument, the Fifth Circuit wrote that ''A judicial action presents a nonjusticiable political question not amenable to judicial resolution where there is . . . a lack of judicially discoverable and manageable standards for resolving it.'' In this case, the Court stated plainly that ''We are not aware of and have difficulty conceiving of any judicially discoverable standards for determining whether immigration control efforts by Congress are constitutionally adequate.'' Of course the President lawsuit challenges the enforcement actions of the President, not of Congress, but the broader point is the same.

In rejecting the statutory claim brought by Texas, the Court cited the Administrative Procedure Act and Heckler v. Chaney—the Supreme Court's leading case on the nonreviewability of agency decisions not to take enforcement actions—for the proposition that ''An agency's decision not to take enforcement actions is unreviewable under the Administrative Procedure Act because a court has no workable standard against which to judge the agency's exercise of discretion.''

At a time when illegal border crossings was at its peak—1.5 million returns each year in 1996 and 1997—the Court stated: ''We reject out-of-hand the State's contention that the federal defendants' alleged systemic failure to control immigration is so extreme as to constitute a reviewable abdication of duty. The State does not contend that federal defendants are doing nothing to enforce the immigration laws or that they have consciously decided to abdicate their enforcement responsibilities. Real or perceived inadequate enforcement of immigration laws does not constitute a reviewable abdication of duty.''

During this President's tenure, well over 2 million people have been formally removed from this country. Prosecutions for illegal entry and reentry after removal have increased exponentially. And even if 5 million people come forward and receive temporary protection from removal through DACA and the new Deferred Action for Parental Accountability program, there will still be well over 6 million undocumented immigrants who have received no such protection. With funds to deport no more than 400,000 people each year I assure my colleagues on the other side of the aisle that the President is in no danger of ''doing nothing to enforce the immigration laws'' and that he had not ''consciously decided to abdicate [his] enforcement responsibilities.''

The argument that the President has declared that he will no longer enforce our immigration laws is offensive to the 34,000 people—including thousands of women and children—who are sitting in detention centers today waiting for their day in court. It is also frivolous.

The lawsuit filed yesterday will fail and this bill never will become law. Rather, the President's actions will soon take effect and will bring a small measure of sanity to our broken immigration system.

Mr. GOODLATTE. Mr. Speaker, may I inquire how much time is remaining on each side.

The SPEAKER pro tempore. The gentleman from Virginia has 14½ minutes remaining, and the gentleman from Michigan has 14¼ minutes remaining.

Mr. GOODLATTE. Mr. Speaker, at this time, it is my pleasure to yield 2 minutes to the gentleman from California (Mr. MCCLINTOCK).

Mr. MCCLINTOCK. I thank the gentleman for yielding.

Mr. Speaker, this question transcends the issue of illegal immigration. The President's action has crossed a very bright line that separates the American Republic, which prides itself on being a nation of laws and not of men, from those unhappy regimes whose rulers boast that the law is in their mouths.

It is true that throughout the Nation's history, Presidents have tested the limits of their authority, but this is the first time a Chief Executive, who is charged with the responsibility to ''take care that the laws be faithfully executed,'' has asserted the absolute power to nullify or change these laws by decree.

Under our Constitution, the President does not get to pick which laws to enforce and which laws to ignore. He does not get to pick who must obey the law and who gets to live above the law. He is forbidden from making laws himself. ''All legislative power herein granted shall be vested in a Congress of the United States.''

Whether we choose to recognize it or not, this is a full-fledged constitutional crisis. If this precedent is allowed to stand, it will render meaningless the separation of powers and the checks and balances that comprise the fundamental architecture of our Constitution, that have preserved our freedom for 225 years. If this precedent stands, every future President—Republican and Democrat—will cite it as justification for lawmaking by decree.

The measure before us is the first act of this Congress to restore the balance of powers within this government. The President would be well advised to heed it before sterner measures are required.

The seizure of legislative authority by the executive proved fatal to the Roman republic. Now that is happening in our own time. Let that not be the legacy of this administration.

For more than two centuries, Americans have successfully defended our Constitution, and now history requires this generation to do so again, which it does beginning with this measure today.

Mr. CONYERS. Mr. Speaker, I am pleased to yield now 2 minutes to the gentleman from Rhode Island, Representative CICILLINE, a member of the Judiciary Committee.

Mr. CICILLINE. I thank the gentleman for yielding.

Mr. Speaker, everyone in Congress and most people in this country understand that our immigration system is broken and needs to be fixed. Our colleagues on the other side of the aisle have blocked a bipartisan Senate bill from coming to the floor, and President Obama has taken action that he is legally permitted and morally obligated to take.

Executive orders are not unusual. Every President since President Eisenhower has used this authority to take action on immigration issues, including six Republican Presidents.

So, Mr. Speaker, when the gentleman from Florida said voting against his bill is like voting against the Constitution, I suggest it is just the opposite. The contours for the executive authority of the President are defined in the Constitution and by precedent of the courts. There is no question that the President has the authority to exercise prosecutorial discretion in this regard. So, in fact, voting for this bill undermines the Constitution because the executive authority of the President is set forth in the Constitution of the United States.

We all recognize there are 11 million undocumented residents of this country. We don't allocate resources to deport all 11 million. We allocate resources to deport about 400,000, which means, by definition, we are asking the department to set priorities in deciding whom to deport. Setting those priorities ensures that they deport the most serious offenders, people who pose threats to our communities.

That act of prosecutorial discretion is what is reflected in the President's executive order.

□ 1315

It is very important to understand that there is practically very little question from legal scholars.

I insert in the RECORD a letter which has the signature of 136 law professors who support the constitutionality of this provision, as well as a separate letter from additional titans in the legal community, beginning with President Lee Bollinger from Columbia University, Adam Cox from New York University, Walter Dellinger, and several other legal scholars.

25 NOVEMBER 2014.

We write as scholars and teachers of immigration law who have reviewed the executive actions announced by the President on November 20, 2014. It is our considered view that the expansion of the Deferred Action for Childhood Arrivals (DACA) and establishment of the Deferred Action for Parental Accountability (DAPA) programs are within the legal authority of the executive branch of the government of the United States. To explain, we cite federal statutes, regulations, and historical precedents. We do not express any views on the policy aspects of these two executive actions.

This letter updates a letter transmitted by 136 law professors to the White House on

September 3, 2014, on the role of executive action in immigration law. We focus on the legal basis for granting certain noncitizens in the United States ''deferred action'' status as a temporary reprieve from deportation. One of these programs, Deferred Action for Childhood Arrivals (DACA), was established by executive action in June 2012. On November 20, the President announced the expansion of eligibility criteria for DACA and the creation of a new program, Deferred Action for Parental Accountability (DAPA).

PROSECUTORIAL DISCRETION IN IMMIGRATION LAW ENFORCEMENT

Both November 20 executive actions relating to deferred action are exercises of prosecutorial discretion. Prosecutorial discretion refers to the authority of the Department of Homeland Security to decide how the immigration laws should be applied. Prosecutorial discretion is a long-accepted legal practice in practically every law enforcement context, unavoidable whenever the appropriated resources do not permit 100 percent enforcement. In immigration enforcement, prosecutorial discretion covers both agency decisions to refrain from acting on enforcement like cancelling or not serving or filing a charging document to Notice to Appear with the immigration court, as well as decisions to provide a discretionary remedy like granting a stay of removal, parole, or deferred action.

Prosecutorial discretion provides a temporary reprieve from deportation. Some forms of prosecutorial discretion, like deferred action, confer ''lawful presence'' and the ability to apply for work authorization. However, the benefits of the deferred action programs announced on November 20 are not unlimited. The DACA and DAPA programs, like any other exercise of prosecutorial discretion do not provide an independent means to obtain permanent residence in the United States, nor do they allow a noncitizen to acquire eligibility to apply for naturalization as a U.S. citizen. As the President has emphasized, only Congress can prescribe the qualifications for permanent resident status or citizenship.

STATUTORY AUTHORITY AND LONG-STANDING AGENCY PRACTICE

Focusing first on statutes enacted by Congress, §103(a) of the Immigration and Nationality Act (''INA'' or the ''Act''), clearly empowers the Department of Homeland Security (DHS) to make choices about immigration enforcement. That section provides: ''The Secretary of Homeland Security shall be charged with the administration and enforcement of this Act and all other laws relating to the immigration and naturalization of aliens . . . .'' INA §242(g) recognizes the executive branch's legal authority to exercise prosecutorial discretion, specifically by barring judicial review of three particular types of prosecutorial discretion decisions: to commence removal proceedings, to adjudicate cases, and to execute removal orders. In other sections of the Act, Congress has explicitly recognized deferred action by name, as a tool that the executive branch may use, in the exercise of its prosecutorial discretion, to protect certain victims of abuse, crime or trafficking. Another statutory provision, INA §274A(h)(3), recognizes executive branch authority to authorize employment for noncitizens who do not otherwise receive it automatically by virtue of their particular immigration status. This provision (and the formal regulations noted below) confer the work authorization eligibility that is part of both the DACA and DAPA programs.

Based on this statutory foundation, the application of prosecutorial discretion to individuals or groups has been part of the immigration system for many years. Long-standing provisions of the formal regulations promulgated under the Act (which have the force of law) reflect the prominence of prosecutorial discretion in immigration law. Deferred action is expressly defined in one regulation as ''an act of administrative convenience to the government which gives some cases lower priority'' and goes on to authorize work permits for those who receive deferred action. Agency memoranda further reaffirm the role of prosecutorial discretion in immigration law. In 1976, President Ford's Immigration and Naturalization Service (INS) General Counsel Sam Bernsen stated in a legal opinion, ''The reasons for the exercise of prosecutorial discretion are both practical and humanitarian. There simply are not enough resources to enforce all of the rules and regulations presently on the books.' In 2000, a memorandum on prosecutorial discretion in immigration matters issued by INS Commissioner Doris Meissner provided that [s]ervice officers are not only authorized by law but expected to exercise discretion in a judicious manner at all stages of the enforcement process,'' and spelled out the factors that should guide those decisions. In 2011, Immigration and Customs Enforcement in the Department of Homeland Security published guidance known as the ''Morton Memo,'' outlining more than one dozen factors, including humanitarian factors, for employees to consider in deciding whether prosecutorial discretion should be exercised. These factors—now updated by the November 20 executive actions—include tender or elderly age, long-time lawful permanent residence, and serious health conditions.

JUDICIAL RECOGNITION OF EXECUTIVE BRANCH PROSECUTORIAL DISCRETION IN IMMIGRATION CASES

Federal courts have also explicitly recognized prosecutorial discretion in general and deferred action in particular: Notably, the U.S. Supreme Court noted in its Arizona v. United States decision in 2012: ''A principal feature of the removal system is the broad discretion exercised by immigration officials . . . Federal officials, as an initial matter, must decide whether it makes sense to pursue removal at all . . .'' In its 1999 decision in Reno v. American-Arab Anti-Discrimination Committee, the Supreme Court explicitly recognized deferred action by name. This affirmation of the role of discretion is consistent with congressional appropriations for immigration enforcement, which are at an annual level that would allow for the arrest, detention, and deportation of fewer than 4 percent of the noncitizens in the United States who lack lawful immigration status.

Based on statutory authority, U.S. immigration agencies have a long history of exercising prosecutorial discretion for a range of reasons that include economic or humanitarian considerations, especially—albeit not only—when the noncitizens involved have strong family ties or long-term residence in the United States. Prosecutorial discretion, including deferred action, has been made available on both a case-by-case basis and a group basis, as are true under DACA and DAPA. But even when a program like deferred action has been aimed at a particular group of people, individuals must apply, and the agency must exercise its discretion based on the facts of each individual case. Both DACA and DAPA explicitly incorporate that requirement.

HISTORICAL PRECEDENTS FOR DEFERRED ACTION AND SIMILAR PROGRAMS FOR INDIVIDUALS AND GROUPS

As examples of the exercise of prosecutorial discretion, numerous administrations have issued directives providing deferred action or functionally similar forms of prosecutorial discretion to groups of noncitizens, often to large groups. The administrations of Presidents Ronald Reagan and George H.W. Bush deferred the deportations of a then-predicted (though ultimately much lower) 1.5 million noncitizen spouses and children of immigrants who qualified for legalization under the Immigration Reform and Control Act (IRCA) of 1986, authorizing work permits for the spouses. Presidents Reagan and Bush took these actions, even though Congress had decided to exclude them from IRCA. Among the many other examples of significant deferred action or similar programs are two during the George W. Bush administration: a deferred action program in 2005 for foreign academic students affected by Hurricane Katrina, and ''Deferred Enforcement Departure'' for certain Liberians in 2007.'' Several decades earlier, the Reagan administration issued a form of prosecutorial discretion called ''Extended Voluntary Departure'' in 1981 to thousands of Polish nationals. The legal sources and historical examples of immigration prosecutorial discretion described above are by no means exhaustive, but they underscore the legal authority for an administration to apply prosecutorial discretion to both individuals and groups.

Some have suggested that the size of the group who may ''benefit'' from an act of prosecutorial discretion is relevant to its legality. We are unaware of any legal authority for such an assumption. Notably, the Reagan-Bush programs of the late 1980s and early 1990s were based on an initial estimated percentage of the unauthorized population (about 40 percent) that is comparable to the initial estimated percentage for the November 20 executive actions. The President could conceivably decide to cap the number of people who can receive prosecutorial discretion or make the conditions restrictive enough to keep the numbers small, but this would be a policy choice, not a legal issue. For all of these reasons, the President is not ''re-writing'' the immigration laws, as some of his critics have suggested. He is doing precisely the opposite—exercising a discretion conferred by the immigration laws and settled general principles of enforcement discretion.

THE CONSTITUTION AND IMMIGRATION ENFORCEMENT DISCRETION

Critics have also suggested that the deferred action programs announced on November 20 violate the President's constitutional duty to ''take Care that the Laws be faithfully executed.'' A serious legal question would therefore arise if the executive branch were to halt all immigration enforcement, or even if the Administration were to refuse to substantially spend the resources appropriated by Congress. In either of those scenarios, the justification based on resource limitations would not apply. But the Obama administration has fully utilized all the enforcement resources Congress has appropriated. It has enforced the immigration law at record levels through apprehensions, investigations, and detentions that have resulted in over two million removals. At the same time that the President announced the November 20 executive actions that we discuss here, he also announced revised enforcement priorities to focus on removing the most serious criminal offenders and further shoring up the southern border. Nothing in the President's actions will prevent him from continuing to remove as many violators as the resources Congress has given him permit.

Moreover, when prosecutorial discretion is exercised, particularly when the numbers are large, there is no legal barrier to formalizing that policy decision through sound procedures that include a formal application and dissemination of the relevant criteria to the

officers charged with implementing the program and to the public. As DACA has shown, those kinds of procedures assure that important policy decisions are made at the leadership level, help officers to implement policy decisions fairly and consistently, and offer the public the transparency that government priority decisions require in a democracy.

CONCLUSION

Our conclusion is that the expansion of the DACA program and the establishment of Deferred Action for Parental Accountability are legal exercises of prosecutorial discretion. Both executive actions are well within the legal authority of the executive branch of the government of the United States.

Hiroshi Motomura & Susan Westerberg Prager, University of California, Los Angeles, School of Law*; Shoba Sivaprasad Wadhia, Pennsylvania State University Dickinson School of Law; Stephen H. Legomsky, Washington University School of Law; David Abraham, University of Miami School of Law; Raquel Aldana, University of the Pacific, McGeorge School of Law; Farrin R. Anello, Seton Hall University School of Law; Deborah Anker, Harvard Law School; Sabrineh Ardalan, Harvard Law School; David C. Baluarte, Washington and Lee University School of Law; Melynda Barnhart, New York Law School; Jon Bauer, University of Connecticut School of Law; Lenni B. Benson, New York Law School; Jacqueline Bhabha, Harvard Law School;

Linda Bosniak, Rutgers University School of Law-Camden; Richard A. Boswell, U.C. Hastings College of the Law; Jason A. Cade, University of Georgia Law School; Janet Calvo, CUNY School of Law, New York; Kristina M. Campbell, University of the District of Columbia David A. Clarke School of Law; Stacy Caplow, Brooklyn Law School; Benjamin Casper, University of Minnesota Law School; Linus Chan, University of Minnesota; Howard F. Chang, University of Pennsylvania Law School; Michael J. Churgin, University of Texas at Austin; Marisa Cianciarulo, Chapman University Dale E. Fowler School of Law; Evelyn Cruz, Arizona State University; Ingrid Eagly, UCLA School of Law; Philip Eichorn, Cleveland State—Cleveland Marshall School of Law;

Bram T. Elias, University of Iowa College of Law; Stella Burch Elias, University of Iowa College of Law; Jill E. Family, Widener University School of Law; Niels Frenzen, University of Southern California; Maryellen Fullerton, Brooklyn Law School; César Cuauhtémoc García Hernández, University of Denver Sturm College of Law; Lauren Gilbert, St. Thomas University School of Law; Denise L. Gilman, University of Texas School of Law; John F. Gossart, Jr., University of Maryland School of Law; P. Gulasekaram, Santa Clara University; Anju Gupta, Rutgers School of Law—Newark; Susan R. Gzesh, University of Chicago; Jonathan Hafetz, Seton Hall University; Dina Francesca Haynes, New England Law, Boston; Susan Hazeldean, Cornell Law School;

Ernesto Hernández-López, Chapman University; Laura A. Hernandez, Baylor Law School; Michael Heyman, John Marshall Law School; Barbara Hines, University of Texas School of Law; Laila L. Hlass, Boston University School of Law; Geoffrey Hoffman, University of Houston Law Center; Mary Holper, Boston College Law School; Alan Hyde, Rutgers University School of Law—Newark; Kate Jastram, University of California, Berkeley, School of Law; Kit Johnson, University of Oklahoma College of Law; Anil Kalhan, Drexel University Kline School of Law; Daniel Kanstroom, Boston College Law School; Elizabeth Keyes, University of Baltimore School of Law; Kathleen Kim, Loyola Law School Los Angeles; David C. Koelsch, University of Detroit Mercy School of Law; Jennifer Lee Koh, Western State College of Law;

Kevin Lapp, Loyola Law School, Los Angeles; Christopher Lasch, University of Denver Sturm College of Law; Jennifer J. Lee, Temple University Beasley School of Law; Stephen Lee, University of California, Irvine; Christine Lin, University of California, Hastings College of the Law; Beth Lyon, Villanova University School of Law; Stephen Manning, Lewis & Clark College; Lynn Marcus, University of Arizona James E. Rogers College of Law; Miriam H. Marton, University of Tulsa College of Law; Elizabeth McCormick, University of Tulsa College of Law; M. Isabel Medina, Loyola University New Orleans College of Law; Stephen Meili, University of Minnesota Law School; Vanessa Merton, Pace University School of Law; Andrew Moore, University of Detroit Mercy School of Law; Jennifer Moore, University of New Mexico School of Law;

Daniel I. Morales, DePaul University College of Law; Nancy Morawetz, NYU School of Law; Karen Musalo, U.C. Hastings College of the Law; Alizabeth Newman, CUNY School of Law; Noah Novogrodsky, University of Wyoming College of Law; Fernando A. Nuñez, Charlotte School of Law; Mariela Olivares, Howard University School of Law; Michael A. Olivas, University of Houston Law Center; Patrick D. O'Neill, Esq., University of Puerto Rico School of Law; Sarah Paoletti, University of Pennsylvania Law School; Sunita Patel, American University, Washington College of Law; Huyen Pham, Texas A&M University School of Law; Michele R. Pistone, Villanova University School of Law; Luis F.B. Plascencia, Arizona State University; Polly J. Price, Emory University School of Law; Doris Marie Provine, Arizona State University; Nina Rabin, James E. Rogers College of Law, University of Arizona;

Jaya Ramji-Nogales, Temple University, Beasley School of Law; Renee C. Redman, University of Connecticut School of Law; Ediberto Roman, Florida International University; Victor C. Romero, Penn State Law; Joseph H. Rosen, Atlanta's John Marshall Law School; Carrie Rosenbaum, Golden Gate University School of Law; Rachel E. Rosenbloom, Northeastern University School of Law; Rubén G. Rumbaut, University of California, Irvine; Ted Ruthizer, Columbia Law School; Leticia M. Saucedo, UC Davis School of Law; Heather Scavone, Elon University School of Law; Andrew I. Schoenholtz, Georgetown Law; Philip Schrag, Georgetown University Law Center; Bijal Shah, NYU School of Law; Ragini Shah, Suffolk University Law School; Careen Shannon, Yeshiva University, Benjamin N. Cardozo School of Law; Anna Williams Shavers, University of Nebraska College of Law; Bryn Siegel, Pacific Coast University School of Law;

Anita Sinha, American University, Washington College of Law; Dan R. Smulian, Brooklyn Law School; Gemma Solimene, Fordham University School of Law; Jayashri Srikantiah, Stanford Law School; Juliet Stumpf, Lewis & Clark Law School; Maureen A. Sweeney, University of Maryland Carey School of Law; Barbara Szweda, Lincoln Memorial University Duncan School of Law; Margaret H. Taylor, Wake Forest University School of Law; David Thronson, Michigan State University College of Law; Allison Brownell Tirres, DePaul University College of Law; Scott Titshaw, Mercer University School of Law; Phil Torrey, Harvard Law School; Enid Trucios-Haynes, Louis D. Brandeis School of Law, University of Louisville;

Diane Uchimiya, University of La Verne College of Law; Gloria Valencia-Weber, University of New Mexico School of Law; Sheila I. Vélez Martínez, University of Pittsburgh School of Law; Alex Vernon, Ave Maria School of Law; Rose Cuison Villazor, University of California at Davis School of Law; Leti Volpp, University of California, Berkeley; Jonathan Weinberg, Wayne State University; Deborah M. Weissman, University of North Carolina at Chapel Hill; Lisa Weissman-Ward, Stanford Law School; Anna R. Welch, University of Maine School of Law; Virgil O. Wiebe, University of St. Thomas School of Law, Minneapolis; Michael J. Wishnie, Yale Law School; Stephen Yale-Loehr, Cornell University Law School; Elizabeth Lee Young, University of Arkansas School of Law.

NOVEMBER 20, 2014.

We are law professors and lawyers who teach, study, and practice constitutional law and related subjects. We have reviewed the executive actions taken by the President on November 20, 2014, to establish priorities for removing undocumented noncitizens from the United States and to make deferred action available to certain noncitizens. While we differ among ourselves on many issues relating to Presidential power and immigration policy, we are all of the view that these actions are lawful. They are exercises of prosecutorial discretion that are consistent with governing law and with the policies that Congress has expressed in the statutes that it has enacted.

1. Prosecutorial discretion—the power of the executive to determine when to enforce the law—is one of the most well-established traditions in American law. Prosecutorial discretion is, in particular, central to the enforcement of immigration law against removable noncitizens. As the Supreme Court has said, ''the broad discretion exercised by immigration officials'' is ''[a] principal feature of the removal system.'' Arizona v. United States, 132 S. Ct. 2492, 2499 (2012).

Even apart from this established legal tradition, prosecutorial discretion in the enforcement of immigration law is unavoidable. According to most current estimates, there are approximately 11 million undocumented noncitizens in the United States. The resources that Congress has appropriated for immigration enforcement permit the removal of approximately 400,000 individuals each year. In these circumstances, some officials will necessarily exercise their discretion in deciding which among many potentially removable individuals is to be removed.

The effect of the November 20 executive actions is to secure greater transparency by having enforcement policies articulated explicitly by high-level officials, including the President. Immigration officials and officers in the field are provided with clear guidance while also being allowed a degree of flexibility. This kind of transparency promotes the values underlying the rule of law.

2. There are, of course, limits on the prosecutorial discretion that may be exercised by the executive branch. We would not endorse an executive action that constituted an abdication of the President's responsibility to enforce the law or that was inconsistent with the purposes underlying a statutory scheme. But these limits on the lawful exercise of prosecutorial discretion are not breached here.

Both the setting of removal priorities and the use of deferred action are well-established ways in which the executive has exercised discretion in using its removal authority. These means of exercising discretion in the immigration context have been used many times by the executive branch under Presidents of both parties, and Congress has explicitly and implicitly endorsed their use.

The specific enforcement priorities set by the November 20 order give the highest priority to removing noncitizens who present threats to national security, public safety, or border security. These common-sense priorities are consistent with long-standing congressional policies and are reflected in Acts of Congress.

Similarly, allowing parents of citizens and permanent lawful residents to apply for deferred action will enable families to remain together in the United States for a longer period of time until they are eligible to exercise the option, already given to them by Congress, to seek to regularize the parents' status. Many provisions of the immigration laws reflect Congress's determination that, when possible, individuals entitled to live in the United States should not be separated from their families; the November 20 executive action reflects the same policy. The authority for deferred action, which is temporary and revocable, does not change the status of any noncitizen or give any noncitizen a path to citizenship.

In view of the practical and legal centrality of discretion to the removal system, Congress's decision to grant these families a means of regularizing their status, and the general congressional policy of keeping families intact, we believe that the deferred action criteria established in the November 20 executive order are comfortably within the discretion allowed to the executive branch.

As a group, we express no view on the merits of these executive actions as a matter of policy. We do believe, however, that they are within the power of the Executive Branch and that they represent a lawful exercise of the President's authority.

Lee C. Bollinger, President, Columbia University; Adam B. Cox, Professor of Law, New York University School of Law; Walter E. Dellinger III, Douglas B. Maggs Professor of Law, Duke University and O'Melveny & Myers, Washington, D.C.; Harold Hongju Koh, Sterling Professor of International Law, Yale Law School; Gillian Metzger, Stanley H. Fuld Professor of Law, Columbia Law School; Eric Posner, Kirkland and Ellis Distinguished Service Professor of Law, University of Chicago Law School; Cristina Rodríguez, Leighton Homer Surbeck Professor of Law, Yale Law School; Geoffrey R. Stone, Edward H. Levi Distinguished Service Professor of Law, The University of Chicago; David A. Strauss, Gerald Ratner Distinguished Service Professor of Law, University of Chicago Law School; Laurence H. Tribe, Carl M. Loeb University Professor and Professor of Constitutional Law Harvard Law School.

Mr. CICILLINE. Mr. Speaker, the President's executive order will ensure that we have a safer country, that we will grow our economy, and that we will keep families together. I strongly urge my colleagues to reject this Republican proposal and to allow the President's executive order to remain.

Mr. GOODLATTE. Mr. Speaker, at this time, I am pleased to yield 3 minutes to the gentleman from Pennsylvania (Mr. BARLETTA).

Mr. BARLETTA. Mr. Speaker, I rise in support of H.R. 5759. This bill simply says that the President cannot issue blanket amnesty. This legislation also contains language that is similar to my own bill, the Defense of Legal Workers Act, H.R. 5761. It states clearly that illegal immigrants who are granted executive amnesty are not authorized to work in the United States.

When we talk about illegal immigration, we always hear about what we should do to help the illegal immigrants. Well, what about the American workers? Who is going to stand up for them? There is a toxic intersection of this executive amnesty and the Affordable Care Act. Under the ACA, employers with 50 or more workers will have to provide health insurance or pay a $3,000 fine. But under the President's amnesty, illegal immigrants are exempt from the ACA. That means with their new work permits, illegal immigrants will be $3,000 cheaper to hire. That will drive companies to hire illegal immigrants instead of legal American workers—or worse yet, get rid of American workers in exchange for cheaper replacements.

This bill is a small step, but I will vote for any bill that stops executive amnesty and that includes stopping the funding and supporting my own bill that protects American workers.

Let's remember that we have been put in this position by a President who campaigned on a slogan of ''yes we can'' but governs under the philosophy of ''because I want to.''

Mr. CONYERS. I am pleased to yield 2 minutes to the distinguished gentleman from North Carolina (Mr. PRICE).

(Mr. PRICE of North Carolina asked and was given permission to revise and extend his remarks.)

Mr. PRICE of North Carolina. Mr. Speaker, I rise in strong opposition to this misguided and politically motivated legislation. In fact it would be dangerous and irresponsible for this body to prohibit the Department of Homeland Security from exercising prosecutorial discretion. DHS and ICE must be able to prioritize the detention and the deportation of people who pose a threat to public safety and national security, as opposed to deporting, for example, college students who were brought to this country by their parents. Or, perhaps, spouses of U.S. citizens serving in the military. It is not even a close question.

The reality is discretion is and always has been exercised by every prosecutor in this country. To my knowledge, Republicans have never questioned this, never challenged it, until the current President began prioritizing dangerous criminals for immigration enforcement.

As former Solicitor General Walter Dellinger recently wrote:

In light of how legally conservative the Justice Department opinion really is, it is a wonder that this issue has become the subject of such heated, occasionally apocalyptic commentary. Those who object to the President's efforts to unite families should stop hiding behind unfounded legal alarums and debate the President's actions on the merits.

That is very good advice, Mr. Speaker, and I urge defeat of this cynical and unwarranted legislation.

Mr. GOODLATTE. Mr. Speaker, at this time, it is my pleasure to yield 1½ minutes to the gentleman from South Carolina (Mr. SANFORD).

Mr. SANFORD. Mr. Speaker, I thank the chairman. I thank not only the chairman but I thank the gentleman from Florida for his hard work on this important measure because my dad used to say that at times in life it is important to call an ace an ace. And I think fundamentally what this bill does is call an ace an ace with regard to cutting off and ending unilateral actions by Presidents, whether they are Republicans or Democrats.

This is fundamentally about the balance of power in our Federal system. It is also important because it fits with what I am hearing from a lot of folks back home when they say, well, this issue of immigration reform has less to do with immigration than it has to do with the rule of law in this country and the way in which it should be applied to all folks equally. They say that it is fundamentally unfair for States to be burdened with new costs based on the unilateral action by a President. They say it is fundamentally unfair for our Federal entitlement system to be that much more wobbly based on a unilateral action by a President. And they say it is fundamentally unconstitutional for the President to take action in the pattern that he has, whether it is with the Affordable Care Act, whether it is with the Federal contracts, whether it is with war in the Middle East, or now immigration.

So is this enough ultimately? No. I think we ultimately need to defund the President's ability to move forward. But it is an important first step in that basic notion that my dad prescribed of calling an ace an ace.

Mr. CONYERS. Mr. Speaker, I am now pleased to yield 2 minutes to the gentleman from Texas, AL GREEN.

Mr. AL GREEN of Texas. Mr. Speaker, I cannot support this legislation, and I hope nobody expects me to.

Mr. Speaker, I am the beneficiary of the greatest executive order ever written, the Emancipation Proclamation. In 1863, when Lincoln signed the Emancipation Proclamation, the country was at war, it was being torn apart, and yet he signed that proclamation. While it did not liberate the slaves, it did lead to the passage of the 13th Amendment in 1865.

I can't agree with this legislation because Truman in 1948 signed an executive order integrating the military, and it went on to integrate the broader society because it was a part of the avant-garde effort. And I would note that at the time he did it, the Dixiecrats were formed. They split from the Democratic Party.

We have always had times of strife in this country, but great Presidents have always stepped forward, and they have done the right thing.

Now let me address something quickly that has to be addressed: the question of this is a magnet, that it attracts a lot of people to the country. You can't be serious about this. If you

were serious about the magnetic approach, you would have done something about wet-foot, dry-foot. Wet-foot, dry-foot allows any person who is from Cuba who gets one foot on American soil to come right on in and get into a pathway to legalization, just by getting one foot on. Have the other foot in the water, one on land? Come on in. And that is the policy of the United States Government. You would end that if you were serious. That is a magnet. But you don't see magnets until it comes to certain people, it seems.

Mr. President, I salute you for what you have done. I commend you, I stand with you on this issue, but more importantly, I stand with bringing people out of the shadows of life into the sunshine of a new life.

God bless you.

The SPEAKER pro tempore. The Chair would once again remind Members to address their remarks to the Chair.

Mr. GOODLATTE. Mr. Speaker, at this time, it is my pleasure to yield 2 minutes to the gentleman from Georgia (Mr. COLLINS), a member of the Judiciary Committee.

Mr. COLLINS of Georgia. Thank you, Mr. Chairman.

Mr. Speaker, it is amazing again to come down to this House floor to discuss issues and to be a part of this debate. I think one of the issues that really has to come to light here is when it is being said that what we are doing is trivial, what we are doing doesn't matter, then, frankly, what does matter? Does the Constitution matter? Does the rule of law matter? What is amazing to me, and I sat through a whole 5½-hour hearing the other day in dealing with this, we used letters that were not probably used for the right context, we used other examinations, and it always came back to, well, in the end, if it just helps somebody, it is okay.

The problem I am having here with this is this problem: the ones who are coming into our country, many of them whom I have spoken with in my time as a pastor and other times dealing with missionary work, they are coming from places where rule of law is not followed and where rule of law is broken. So now what do we do? They come to a country in which rule of law is being put aside and is being expanded just to help just a little bit.

Mr. Speaker, I applaud the gentleman from Florida. I applaud everyone from here who is saying it doesn't matter if it is a Democrat or a Republican, what is right is what is right, and that is what matters on the floor of this House. When we understand that, then we can get back to what really matters, and that is saying that it is a time for debate. It is not a time for exercising further outside the lines. It is a time in which we, as a group, come together and say, let's solve problems, let's not poison the well so we cannot have conversations, and we don't have the dignity which we have for those who truly want to come to our country, who have done it legally and have done it right. Why would we do that?

That is what is wrong with this debate. The problem that we are having right now is we are just simply saying, Mr. President, there are three branches of government, and you can do whatever you want to within your side, but the Congress has to do it on its side, and it listens to the people as well. I think they spoke pretty loud and clear 3 weeks ago.

Mr. CONYERS. Mr. Speaker, I am pleased now to yield 3 minutes to the distinguished gentleman from Illinois, LUIS GUTIÉRREZ.

Mr. GUTIÉRREZ. Mr. Speaker, I have spent the past year speaking every year in this Chamber about the damaging effects of our broken immigration system on our security, our economy, our families, and communities. We started with such great hope at the beginning of this Congress. But here we are in the final hours of the 113th Congress, and instead of moving a piece of legislation that the majority would put forward to address the underlying problems with our immigration system, we have before us another symbolic, superficial vote that will fix absolutely nothing.

Mr. Speaker, this bill will not strengthen security at our borders, including the most important gateways that are rarely mentioned, at LAX, Chicago O'Hare, or JFK. This bill will not address the labor needs of our agricultural industry or tech industry. This bill will not protect American workers by implementing E-Verify across the board to make sure there is one legal labor force in America, paying their fair share of taxes and fully protected by American labor laws. This bill does not do that.

This bill will not answer the pleas of U.S. American citizens who have a parent or a spouse who wants to get right with the law, is willing to submit to a thorough background check at their own expense and prove to the American people that they are not a threat and able to work, pay taxes, and contribute to the success of this country.

Instead of moving forward, instead of legislating actual solutions to difficult public policy issues, instead of putting the emphasis on doing what needs to be done to improve the economy, the security, and the basic human decency of our laws, we are left with a tired and unfortunate partisan battle. It is a partisan fight based on pure fantasy, not just the fantasy that the U.S. Congress will ever appropriate enough money to jail, expel, and deport 11 million people and their families, but also the fantasy that what your side votes on today will ever become law. You know it. I know it. Apparently the majority prefers to take symbolic votes instead of legislating real and lasting solutions.

Mr. Speaker, they didn't call Ronald Reagan a tyrant. They didn't call him lawless. Yet he said, ''I will protect 1½ million undocumented people that you call illegal.'' He protected them. When the Congress expressly said they would not be included for any benefit under the 1986 Immigration Reform and Control Act, he protected them. He used his Presidential power to do that. And he wasn't called a tyrant, and he wasn't called lawless. He was doing the right thing: protecting the siblings and spouses of those that would be granted legalization under that law that Congress expressly excluded.

And do you want to know something? I am happy that President Barack Obama is following in that great and proud tradition set forth by President Ronald Reagan that he would rather put family first, the demagoguery and any anti-immigrant policy always last.

□ 1330

Mr. GOODLATTE. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, it is always a pleasure to me to see former President Ronald Reagan, especially here in the House Chamber. I, in fact, voted for President Reagan twice and was proud to support him.

One of the things that I remember most about President Reagan was that great debate with his opponent in one of the Presidential debates in which he said, ''There he goes again,'' pointing out when his opponent said something inaccurate about him.

Well, there they go again because what we have today is something that is very, very different than what President Reagan did. President Reagan signed a law—a bill passed by the Congress and signed it into law, and then he found some things that he didn't think were correct, so he then took action.

In today's Washington Post, which I would cite for the gentleman from Illinois, its headline, The Washington Post editorial today, ''An action without precedent,'' so when he cites President Reagan as a precedent here, The Washington Post clearly refutes that by pointing out how small that was and how it was done in response to a specific, identifiable concern about legislation that had been passed. Guess what? The Congress then subsequently fixed it as well.

That is not what is occurring here today, and as The Washington Post notes, it is plain that the White House's numbers—the 1.5 million claim—are indefensible, and it is similarly plain that the scale of Mr. Obama's move goes far beyond anything his predecessors attempted and without legislation that had been passed to found it upon.

No, this is power grab of enormous proportion. It is unconstitutional. It is clearly what he said he was going to do when he came to this body.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. GOODLATTE. I yield myself an additional 1 minute.

When he came to this body almost 3 years ago with his list of things that he wanted done, he said, ''If you don't do it, I will.'' On that occasion, some Members on that side of the aisle stood up and applauded.

Guess what? Since then, in health care reform, in the environment, in enforcement of our drug laws and in a whole host of other things, that is exactly what he has done, and he said he was going to do it. He said, ''I have my pen and my phone, and I will do it myself.''

Well, in this case, he has, on more than 20 occasions, said he did not have the authority to do it. Now, the folks on the other side of the aisle are saying, ''Oh, he didn't change the law.''

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. GOODLATTE. I yield myself an additional 30 seconds.

He didn't have the authority to change the law, but guess what? When he signed the order, here is what he said:

What you are not paying attention to is that I just took action to change the law.

To change the law. Article I of the Constitution says the law is only changed by the United States Congress. Article III says the President shall faithfully execute the law. His actions are unconstitutional and they are unprecedented.

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

Mr. CONYERS. Mr. Speaker, I am pleased now to yield 1½ minutes to the gentlewoman from California (Ms. LOFGREN).

Ms. LOFGREN. Mr. Speaker, I, in my opening remarks, did note the uncanny similarity between the action that President Reagan and the first President Bush took and the action that President Obama has now taken.

I would note that I used the official record as a source of information instead of chat and articles, and I submitted for the record the internal decision memorandum in the INS, dated February 8, 1990, indicating that 1.5 million, 40 percent of the undocumented population, in contravention to the orders of Congress, were going to be given deferred action.

The Commissioner of the INS testified that 40 percent of the undocumented population were going to be given, in contradiction to the Congress' explicit decision, were going to be given deferred action. I also have the draft processing plan that says millions of people would be given, in contravention to the act of Congress, deferred action. They even have the amount of money that they were going to make off the estimated filing fees.

I would recommend that people take a look at the documents, and they will see that what President Reagan did is almost exactly the same as what President Obama did—40 percent of the population.

I don't think that President Reagan could get the Republican nomination today, but that does not diminish the validity of his action at that time.

Mr. GOODLATTE. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from Georgia (Mr. KINGSTON).

Mr. KINGSTON. Mr. Speaker, we are hearing a lot of feigned outrage from the other side, but I want to point out a few things.

Number one, it was the President himself who said, over 20 times, why this action is illegal. I would invite the Democrats to read his remarks. There are over 20 different instances of it.

Number two, they talk about prosecutorial discretion, and this is okay, but as I understand it, you have that discretion when you run out of money and maybe you can't implement a finer point of a law, something that you are prosecuting. It doesn't mean you change the law.

I would invite the Democrats who think that we disproportionately pick on this President, I would invite them to look at the 1950s case during the Truman administration in which President Truman nationalized the steel business by executive order in order to avoid a strike.

It went to the Supreme Court. The Supreme Court found on a 6–3 vote that you could not change the law of such magnitude by executive order, and that was not a case of picking on poor little old Harry Truman. It was a case of standing up for the United States Constitution.

I would also like to invite the Democrats to look at the lawsuit that 17 States have now joined in saying that the President has violated article II, section 3, the part of the Constitution that talks about taking care to execute the laws, which this President seems to think is a pick-and-choose operation run out of his political office.

I would also invite the Democrats to go to Central America and talk to so many of the immigrants that I have. I have been to Honduras. I have been to El Salvador. I have been to Guatemala. I have talked to people, and one of our earlier speakers said that, ''You think there is some sort of magnet, that they come here because we changed the law, you are out of your mind.''

I would say go to Central America and talk to the folks. That is exactly why they come: because they get the word that it is easier to come here under those circumstances.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. GOODLATTE. I yield an additional 30 seconds to the gentleman.

Mr. KINGSTON. For those who think that relaxing our laws does not create a magnet, they need to go to Central America and talk to the people who would be taking advantage of this.

Finally, let me say this about leadership: in split government with three branches, equal branches, you don't get what you want. Leadership is pulling together the coalitions to talk to people and ask: ''What part of this law can we agree on? And what can we do about it?''

That is what leadership is about. The President has that opportunity to show leadership now that he is going to have a new Congress and a new Senate to work with. The way to get things done is to reach out and work with people and not to be in your face against them.

Mr. CONYERS. Mr. Speaker, I am pleased to yield 2 minutes to the distinguished gentleman from California (Mr. BECERRA).

Mr. BECERRA. Mr. Speaker, I thank the ranking member for yielding me this time.

I don't hear anyone disagreeing that our immigration system is broken. It is broken for our commerce as businesses try to figure out how to do the best business across the border, as they try to figure out who they can employ and not employ. It is broken. I don't think anyone contests that.

We need to have as much security here at home as we can because we know, abroad, there are folks who would like to hurt us. If we don't have a Department of Homeland Security with laws that work well, our security is broken.

Certainly, the whole discussion here makes it very clear that American families—American families—are being disrupted, separated day after day. No one wants to see that done to an American family, certainly not to a whole bunch of American citizens who want to have opportunities in the future. Our immigration system is broken. Let's just all agree on that.

So what do we do? Well, we can fix the broken immigration system, or we can put message bills on the floor of the House that are never going to get signed and become law and leave in 5 more days and end the year 2014 without having done anything and watch as we have gone more than two to three decades without fixing a broken immigration system.

Or we could finally take the bill that has been sitting here in the House for 525 days that passed in the Senate on a bipartisan vote, 68 out of 100 Senators, Republicans and Democrats, voted to fix the broken immigration system. That has been sitting here waiting for a vote for 525 days.

We have 5 days left in this session. Within 5 days, we could fix the broken immigration system for our economy, for our families, and for our national security; or we could do a message bill as we have on the floor, which will not pass the Senate, which will not be signed by the President, which means that we leave 2014 having done nothing.

The President said in January, during his State of the Union, ''Congress, let's get this done together, but if you can't do something, then I will do what I can under my executive authority.''

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. CONYERS. I yield an additional 30 seconds to the gentleman.

Mr. BECERRA. The President said in his State of the Union, ''If you can't do

something, I will do what I can under my executive authority under the Constitution.'' And so he did.

Now, it is a matter of trying to make things work better and smarter, given that we have a broken immigration system. Now is not the time to double down with these social agenda matters that go nowhere. We could get this done, but we all have to be accountable. Just as we demand those immigrant families to be accountable, Congress has to be accountable.

Let's get this done. The American people have been telling us that for years. Get this done. You know the solution. Let's act. There are 5 days to go. Let's get this done. Put the Senate bipartisan bill on the floor, and we will get this done.

Mr. GOODLATTE. Mr. Speaker, may I inquire how much time is remaining?

The SPEAKER pro tempore. The gentleman from Virginia has 2 minutes remaining. The gentleman from Michigan has 1½ minutes remaining.

Mr. GOODLATTE. Mr. Speaker, I have one speaker remaining, and so I reserve the balance of my time to close.

Mr. CONYERS. Mr. Speaker, it is my pleasure to yield 1½ minutes to the gentleman from New York (Mr. NADLER), a senior member on the Judiciary Committee, to close out our side.

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

Mr. Speaker, the President is not changing the law, he is exercising Presidential prosecutorial choice. The very fact that only 400,000 people a year can be deported when there are admittedly 11 million undocumented people in this country says you have to make choices.

I didn't see anyone on that side of the aisle demand that President Bush—or President Obama, for that matter—deport all 11 million people and propose the appropriation to enable that to be done. Failing that, there must be choices. The President must choose.

I will not repeat all of the legal arguments that we have heard over the last hour that the President has it well within his power to make these choices. Discretion happens—400,000 against 11 million—discretion happens.

Making that discretion systematic and sensible, prioritizing it, doesn't change the law. The Republicans admit the law is broken, but they haven't brought any bills to this floor in 4 years, and they have ignored the bipartisan Senate bill, so the President must act and that he acts within his power is good.

Finally, I must comment on the remarks of Mr. BARLETTA who says—and I have heard other people say it—that the undocumented aliens—or the documented aliens, for that matter—pose a threat to American jobs.

The fact is they do jobs that other people don't want, and more to the point, what poses a threat to American living standards is the fact that they can't enforce standards. The fact that an undocumented alien can't complain to an enforcement agency when he is paid below minimum wage or when he is exploited, that reduces wage levels for everyone.

If you want to help wage levels for American workers, let the undocumented people who are here and who are going to stay here, let them come out of the shadows, pass a comprehensive bill, let them work legally, and enforce the minimum wage law. It will benefit all American workers.

Mr. CONYERS. Mr. Speaker, I yield back the balance of my time.

Mr. GOODLATTE. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, it has been said repeatedly that we need to do immigration reform, and I certainly don't disagree with that, but the United States Constitution says that immigration reform must be done by the United States Congress, and the President doesn't say, nor does the Constitution say, ''Hey, if the Congress doesn't do it or doesn't do it the way I like it, then I get the opportunity to do it myself.'' That is not what the Constitution says. It says the President shall faithfully execute the laws.

Now, the gentleman from New York, in talking about the impact of the President's executive action here says, ''Oh, the people who are here illegally and are taking jobs, they are taking jobs that Americans don't want.''

Well, maybe there is some truth to that, maybe some of them are not, but the fact of the matter is the President has unilaterally taken an executive order that would give every single one of the 4 million to 5 million undocumented people in the United States who take jobs, to take any job in the country they want to, as good a job, as high-paying a job as they want.

□ 1345

So, yes, we need to do immigration reform. The American people want us to do immigration reform, but they want us to start with enforcement first.

Instead, what the President has done, he has taken the law into his own hands. That is the real issue in this case and the real matter before the Congress and the real import of this legislation. It is not about where you are on immigration reform; it is about where you are on protecting the United States Constitution. Because this President's actions are unprecedented; this President's actions are beyond the pale; this President's actions are unconstitutional.

This legislation offered by the gentleman from Florida (Mr. YOHO) stops that. That is why every Member of the House should support this good legislation and make sure that we preserve what we are sworn under an oath to preserve, and that is the Constitution of the United States.

Ladies and gentlemen, I urge adoption of this legislation, and I yield back the balance of my time.

Ms. ROYBAL-ALLARD. Mr. Speaker, I rise in strong opposition to H.R. 5759.

Almost three quarters of all undocumented immigrants in America are women and children.

Before President Obama took action to adjust the status of certain long-term U.S. residents, these women were trapped in the shadows.

They lived in fear of being deported and permanently separated from their kids.

Many remained in violent relationships because their abusers threatened to expose their immigration status.

Others were forced to work in unsafe and unsanitary conditions, unable to report their exploitative employers.

What message is this dangerous bill sending to these women and their families?

Go back to the shadows.

Stay at your dangerous job.

Continue to live in fear of losing your children.

Mr. Speaker, these women deserve better and so does our country.

The messages issued by this body should always be rooted in hope and empowerment, not fear.

Instead of playing political games with the lives of vulnerable immigrants, we should be working together to build on the President's actions by passing comprehensive immigration reform.

H.R. 5759 would have devastating consequences for millions of families with deep ties to their communities. As the Republican Leadership is well aware, this bill has no chance of being signed into law. Let's reject this callous political gimmick and finally get to work fixing our broken immigration system.

Ms. LEE of California. Mr. Speaker, I rise in strong opposition to H.R. 5759, the so-called Executive Amnesty Prevention Act of 2014.

Let me start by saying that I applaud our President for taking bold action to keep families together.

He acted where this Congress has failed to act.

A bipartisan, comprehensive immigration reform bill was passed in the Senate more than 500 days ago. Yet Republican leadership in the House failed to bring the bill up for a vote in the House.

And so as a result, our President took responsibility to stop the suffering of millions of mixed-status families who have lived for years in fear and uncertainty. He did so with full legal authority, just as every President—Democrat and Republican—has done since Dwight D. Eisenhower.

Of course, the Executive Order is not perfect, and does not relieve uncertainty for every deserving family.

But I am pleased that some 5 million people will be able to step out of the shadows, contribute to our economy, and pursue the American dream. This Congress still needs to pass a comprehensive bill to truly fix our broken immigration system.

Instead of voting on this misguided and cruel bill, we should be having a vote on the comprehensive plan that we know would pass this House.

Ms. JACKSON LEE. Mr. Speaker, I rise in opposition to the rule governing debate of H.R. 5759, the so-called ''Preventing Executive Overreach On Immigration Act,'' and the underlying bill.

I oppose the rule and the underlying bill because it is nothing more than the Republican majority's latest partisan attack on the President and another diversionary tactic to avoid addressing the challenge posed by the nation's broken immigration system.

Mr. Speaker, H.R. 5759, which by all appearances was hastily introduced on November 20, 2014, without evident deliberation for the ostensible purpose of establishing a retroactive ''rule of construction clarifying the limitations on executive authority to provide certain forms of immigration relief.''

As originally drafted and introduced the bill provided:

No provision of the United States Constitution, the Immigration and Nationality Act, or other Federal law shall be interpreted or applied to authorize the executive branch of the Government to exempt, by Executive order, regulation, or any other means, categories of persons unlawfully present in the United States from removal under the immigration laws (as such term is defined in section 101 of the Immigration and Nationality Act).

Any action by the executive branch with the purpose of circumventing the objectives of this statute shall be null and void and without legal effect.

Although the bill was referred to the Committee on the Judiciary, upon which I have served throughout my ten terms in Congress, no hearing or markup of the bill was ever held. And it shows.

The most obvious and fatal flaw in the bill as introduced and considered by the Rules Committee is its attempt to dictate to the federal judiciary how the Constitution is to be interpreted—''No provision of the United States Constitution . . . shall be interpreted or applied to authorize the executive branch . . .''

Mr. Speaker, it has been settled law for 211 years, since 1803, when the Supreme Court decided the landmark case of Marbury v. Madison that the federal courts, and ultimately, the Supreme Court are the arbiters when it comes to interpreting the Constitution and the laws. As Chief Justice John Marshall stated in Marbury:

It is emphatically the province and duty of the judicial department to say what the law is. Those who apply the rule to particular cases, must of necessity expound and interpret that rule. If two laws conflict with each other, the courts must decide on the operation of each.

Had regular order been followed and this ill-conceived bill been subject to hearing and markup this fatal deficiency would have been revealed and made plain and the bill likely would have died a quiet death.

Mr. Speaker, because H.R. 5759 was so poorly conceived and drafted, it would have embarrassed the Republican leadership to bring the bill to floor in its original form so the bill was amended in the Rules Committee, which made in order an Amendment in the Nature of a Substitute (ANS) that tries—but does not succeed—in remedying the many deficiencies of the original bill.

As amended and reported by the Rules Committee, H.R. 5759 seeks to prohibit the executive branch from exempting or deferring from deportation any immigrants considered to be unlawfully present in the United States under U.S. immigration law, and to prohibit the administration from treating those immigrants as if they were lawfully present or had lawful immigration status.

The amended bill now includes three exceptions to this prohibition:

1. ''to the extent prohibited by the Constitution;''

2. ''upon the request of Federal, State, or local law enforcement agencies, for purposes of maintaining aliens in the United States to be tried for crimes or to be witnesses at trial''; and

3. ''for humanitarian purposes where the aliens are at imminent risk of serious bodily harm or death.''

The amended bill seeks to make November 20, 2014 the effective date of these prohibitions—thereby retroactively blocking the executive actions taken on that date by President Obama to address our broken immigration system by providing smarter enforcement at the border, prioritize deporting felons—not families—and allowing certain undocumented immigrants, including the parents of U.S. citizens and lawful residents, who pass a criminal background check and pay taxes to temporarily stay in the U.S. without fear of deportation.

Mr. Speaker, let me briefly discuss why the executive actions taken by President Obama are reasonable, responsible, and within his constitutional authority.

Under Article II, Section 3 of the Constitution, the President, the nation's Chief Executive, ''shall take Care that the Laws be faithfully executed.''

In addition to establishing the President's obligation to execute the law, the Supreme Court has consistently interpreted the Take Care Clause as ensuring presidential control over those who execute and enforce the law and the authority to decide how best to enforce the laws. See, e.g., Arizona v. United States; Bowsher v. Synar; Buckley v. Valeo; Printz v. United States; Free Enterprise Fund v. PCAOB.

Every law enforcement agency, including the agencies that enforce immigration laws, has ''prosecutorial discretion''—the power to decide whom to investigate, arrest, detain, charge, and prosecute.

Agencies, including the U.S. Department of Homeland Security (DHS), may develop discretionary policies specific to the laws they are charged with enforcing, the population they serve, and the problems they face so that they can prioritize resources to meet mission critical enforcement goals.

Executive authority to take action is thus ''fairly wide,'' indeed the federal government's discretion is extremely ''broad'' as the Supreme Court held in the recent case of Arizona V. United States, 132 S. Ct. 2492, 2499 (2012), an opinion written Justice Kennedy and joined by Chief Justice Roberts:

Congress has specified which aliens may be removed from the United States and the procedures for doing so. Aliens may be removed if they were inadmissible at the time of entry, have been convicted of certain crimes, or meet other criteria set by federal law. Removal is a civil, not criminal, matter. A principal feature of the removal system is the broad discretion exercised by immigration officials. Federal officials, as an initial matter, must decide whether it makes sense to pursue removal at all. If removal proceedings commence, aliens may seek asylum and other discretionary relief allowing them to remain in the country or at least to leave without formal removal. (emphasis added) (citations omitted).

The Court's decision in Arizona v. United States, also strongly suggests that the executive branch's discretion in matters of deportation may be exercised on an individual basis, or it may be used to protect entire classes of individuals such as ''[u]nauthorized workers trying to support their families'' or immigrants who originate from countries torn apart by internal conflicts:

Discretion in the enforcement of immigration law embraces immediate human concerns. Unauthorized workers trying to support their families, for example, likely pose less danger than alien smugglers or aliens who commit a serious crime. The equities of an individual case may turn on many factors, including whether the alien has children born in the United States, long ties to the community, or a record of distinguished military service.

Some discretionary decisions involve policy choices that bear on this Nation's international relations. Returning an alien to his own country may be deemed inappropriate even where he has committed a removable offense or fails to meet the criteria for admission. The foreign state may be mired in civil war, complicit in political persecution, or enduring conditions that create a real risk that the alien or his family will be harmed upon return.

The dynamic nature of relations with other countries requires the Executive Branch to ensure that enforcement policies are consistent with this Nation's foreign policy with respect to these and other realities.

Mr. Speaker, in exercising his broad discretion in the area of removal proceedings, President Obama has acted responsibly and reasonably in determining the circumstances in which it makes sense to pursue removal and when it does not.

In exercising this broad discretion, President Obama has not done anything that is novel or unprecedented.

Here are a just a few examples of executive action taken by several presidents, both Republican and Democratic, on issues affecting immigrants over the past 35 years:

1. In 1980, President Jimmy Carter exercised parole authority to allow Cubans to enter the U.S., and about 123,000 ''Mariel Cubans'' were paroled into the U.S. by 1981.

2. In 1987, President Ronald Reagan used executive action in 1987 to allow 200,000 Nicaraguans facing deportation to apply for relief from expulsion and work authorization.

3. In 1990, President George H.W. Bush issued an executive order that granted Deferred Enforced Departure (DED) to certain nationals of the People's Republic of China who were in the United States.

4. In 1992, the Bush administration granted DED to certain nationals of El Salvador.

5. In 1997, President Bill Clinton issued an executive order granting DED to certain Haitians who had arrived in the United States before Dec. 31, 1995.

6. In 2010 the Obama administration began a policy of granting parole to the spouses, parents, and children of military members.

Mr. Speaker, because of the President's leadership and far-sighted executive action, 594,000 undocumented immigrants in my home state of Texas are eligible for deferred action.

If these immigrants are able to remain united with their families and receive a temporary work permit, it would lead to a $338 million increase in tax revenues, over five years.

Mr. Speaker, the President's laudable executive actions are a welcome development but

not a substitute modernizing the nation's immigration laws. Only Congress can do that.

America's borders are dynamic, with constantly evolving security challenges. Border security must be undertaken in a manner that allows actors to use pragmatism and common sense.

And as shown by the success of H.R. 17, the bipartisan ''Border Security Results Act, which I helped to write and introduced along with the senior leaders of the House Homeland Security Committee, we can do this without putting the nation at risk or rejecting our national heritage as a welcoming and generous nation.

This legislation has been incorporated in H.R. 15, the bipartisan ''Border Security, Economic Opportunity, and Immigration Modernization Act,'' legislation which reflects nearly all of the core principles announced earlier this year by House Republicans.

As a nation of immigrants, the United States has set the example for the world as to what can be achieved when people of diverse backgrounds, cultures, and experiences come together.

It is now time to open the golden symbolized by Lady Liberty's lamp to the immigrant community of today so they can participate fully in the American Dream.

These loyal and law-abiding persons have been waiting patiently for far too long for their chance.

We can and should seize this historic opportunity pass legislation to ensure that we have in place adequate systems and resources to secure our borders while at the same time preserving America's character as the most open and welcoming country in the history of the world and to reap the hundreds of billions of dollars in economic productivity that will result from comprehensive immigration reform.

President Obama has acted boldly, responsibly, and compassionately in exercising his constitutional authority to enforce the immigration laws in an effective and humane manner.

If congressional Republicans, who have refused to debate comprehensive immigration reform legislation for more than 500 days, disapprove of the lawful actions taken by the President, an alternative course of action is readily available to them: pass a bill and send it to the President for signature.

The President has shown responsible leadership. The next step is up to congressional Republicans.

I urge all Members to join me in opposing the rule and the underlying bill.

The SPEAKER pro tempore. All time for debate has expired.

Pursuant to House Resolution 770, 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.

MOTION TO RECOMMIT

Mr. MURPHY of Florida. Mr. Speaker, I have a motion to recommit at the desk.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. MURPHY of Florida. I am opposed in its current form.

Mr. GOODLATTE. Mr. Speaker, I reserve a point of order against the motion to recommit.

The SPEAKER pro tempore. A point of order is reserved.

The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. Murphy of Florida moves to recommit the bill, H.R. 5759, to the Committee on the Judiciary with instructions to report the same back to the House forthwith with the following amendment:

Subsection (b) of section 3 of the bill is amended in the matter preceding paragraph (1), by striking ''Subsection (a)'' and inserting ''In accordance with this subsection and subsection (e), subsection (a)''.

Add, at the end of the bill, the following:

(e) PROTECTING MILITARY FAMILIES, VICTIMS OF HUMAN TRAFFICKING, AND CUBAN NATIONALS.—The provisions of this Act shall not apply to exemptions, deferrals, or other actions that—

(1) provide relief to parents, spouses and children of U.S. citizens who are current members or veterans of the U.S. Armed Forces, the Selected Reserve of the Ready Reserve, or who seek to enlist in the Armed Forces;

(2) protect victims of domestic violence who have successfully petitioned for relief under the Violence Against Women Act; and victims of crimes and serious forms of human trafficking from further abuse; and

(3) protect Cuban nationals in the United States, or that arrive at or between a port of entry into the United States, or any persons of other nationality deserving of similar protections.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida is recognized for 5 minutes in support of his motion.

Mr. MURPHY of Florida. Mr. Speaker, this is the final amendment, which will not kill the bill or send it back to committee. If adopted, the amended bill will immediately proceed to final passage.

Mr. Speaker, my amendment would shield the unintentional victims of the bill before us, namely, military families, survivors of domestic violence and exploitation, and the Cuban people fleeing the brutal communist regime of the Castros.

First, the amendment would preserve the government's policy of protecting undocumented parents, spouses, and children of military personnel from deportation. After the Pentagon heard from many servicemembers who feared for the safety of their families back home, U.S. Citizenship and Immigration Services instituted a parole in place policy for respecting military families, supporting military readiness, and honoring our commitment to those who serve our Nation so bravely.

Mr. Speaker, is parole in place for military families such an abuse of power?

Surely, the majority of this House wants our brave men and women serving on the battlefield to be able to focus on the mission and not fear that their families will be taken from them. The slogan ''support our troops'' must at least mean that.

Next, my amendment would protect the victims of domestic violence, abuse, and severe human trafficking. We know a willingness to come forward and cooperate with law enforcement can break the cycle of violence and make justice possible for the real criminals. USCIS developed a program to give victims of incredible violence temporary U visas for abuse and T visas for trafficking. In 2010 alone, nearly 12,000 of these visas were given out so victims can come out of the shadows.

What is it about visas for abuse victims that so enrage some in this Chamber?

American women deserve better than a policy that threatens to deport the victim while their abuser simply walks free. That is why the National Task Force to End Sexual and Domestic Violence Against Women wrote that this bill ''broadly sweeps large numbers of victims into its scope and ignores the best interests of victims and their children.''

Finally, this motion would preserve our country's longstanding practice of granting parole and, ultimately, green cards to Cuban nationals. Those who escape the clutches of the nearly 56-year-old communist dictatorship yearn for the freedom they are so brutally denied just 90 miles from our shore.

To this day, Cuban democracy activists, including Las Damas de Blanco, remain subject to arbitrary arrest, beatings, and imprisonment. Without the protection spelled out in my amendment, fleeing survivors of the Castro regime are denied a chance at freedom and deported.

Is that what we want?

Growing up in south Florida, I can tell you that the cultural richness of the great State of Florida does not exist without Cuban American immigrants, many of whom escaped with nothing more than their lives.

To my friends across the aisle who call this a ''process'' argument, let me say, if this House had done its job, we wouldn't face a process question in the first place. You want a better process? Pass a bill. Dispense of this measure before us and bring up H.R. 15, a real immigration bill from the gentleman from Florida (Mr. GARCIA). It will reform our broken system, secure the border, create hundreds of thousands of jobs, and reduce the deficit by nearly $1 trillion. It has got the votes. We can make it the law by Christmas.

The American people asked for immigration reform, and this body voted to half secure the border and deport DREAMers. Now we are looking at ripping apart military families, prosecuting the victims of domestic violence and human trafficking, and sending Cuban refugees back to the brutal hands of the Castros.

I urge my colleagues, don't let this be the story of the 113th Congress. Pass this motion to recommit and defeat this mean-spirited bill before us.

I yield back the balance of my time.

Mr. GOODLATTE. Mr. Speaker, I withdraw my reservation of a point of order, and I claim the time in opposition to the gentleman's motion.

The SPEAKER pro tempore. The reservation of the point of order is withdrawn.

The gentleman from Virginia is recognized for 5 minutes.

Mr. GOODLATTE. Mr. Speaker, first, I want to thank the gentleman from Florida (Mr. YOHO), also the gentleman from Idaho (Mr. LABRADOR) for the contribution he made to the language that is in this important bill to stop the President's unilateral action that is unconstitutional.

The gentleman offering the motion to recommit should note that the bill takes effect as if enacted on November 20, 2014. It nullifies the President's unlawful, unconstitutional executive order. It does not change all immigration law that provides already considerable statutory protection for our members of the Armed Forces of the United States and their families. It protects victims of domestic violence who successfully petition for relief; and Cuban nationals, as has been noted during the debate here, are already protected under the law, and this bill in no way, shape, or form harms any of those protections under the law.

I would urge my colleagues to oppose this motion to recommit and support the underlying legislation, which is needed to stop the unconstitutional actions of the President of the United States in writing an executive order that is unprecedented in its scope.

I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. MURPHY of Florida. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 9 of rule XX and the order of the House of today, this 15-minute vote on the motion to recommit will be followed by 5-minute votes on passage of the bill, if ordered, and the motion to concur in the Senate amendment to H.R. 3979 with an amendment.

The vote was taken by electronic device, and there were—yeas 194, nays 225, not voting 15, as follows:

[Roll No. 549]

YEAS—194

Adams
Barber
Barrow (GA)
Beatty
Becerra
Bera (CA)
Bishop (GA)
Bishop (NY)
Blumenauer
Bonamici
Brady (PA)
Braley (IA)
Brown (FL)
Brownley (CA)
Bustos
Butterfield
Capps
Cárdenas
Carney
Carson (IN)
Cartwright
Castor (FL)
Castro (TX)
Chu
Cicilline
Clark (MA)
Clarke (NY)
Clay
Cleaver
Clyburn
Cohen
Connolly
Conyers
Cooper
Costa
Courtney
Crowley
Cuellar
Cummings
Davis (CA)
Davis, Danny
DeFazio
DeGette
Delaney
DeLauro
DelBene
Deutch
Dingell
Doggett
Edwards
Ellison
Engel
Enyart
Eshoo
Esty
Farr
Fattah
Foster
Frankel (FL)
Fudge
Gabbard
Garamendi
Garcia
Grayson
Green, Al
Green, Gene
Grijalva
Gutiérrez
Hahn
Hanabusa
Hastings (FL)
Heck (WA)
Higgins
Himes
Hinojosa
Holt
Honda
Horsford
Hoyer
Huffman
Israel
Jackson Lee
Jeffries
Johnson (GA)
Johnson, E. B.
Kaptur
Keating
Kelly (IL)
Kennedy
Kildee
Kilmer
Kind
Kirkpatrick
Kuster
Langevin
Larsen (WA)
Larson (CT)
Lee (CA)
Levin
Lewis
Lipinski
Loebsack
Lofgren
Lowenthal
Lowey
Lujan Grisham (NM)
Luján, Ben Ray (NM)
Lynch
Maffei
Maloney, Carolyn
Maloney, Sean
Matheson
Matsui
McCollum
McDermott
McGovern
McIntyre
McNerney
Meeks
Meng
Michaud
Miller, George
Moore
Moran
Murphy (FL)
Nadler
Napolitano
Neal
Nolan
Norcross
O'Rourke
Owens
Pallone
Pascrell
Pastor (AZ)
Payne
Pelosi
Perlmutter
Peters (CA)
Peters (MI)
Peterson
Pingree (ME)
Pocan
Polis
Price (NC)
Quigley
Rahall
Rangel
Richmond
Roybal-Allard
Ruiz
Ruppersberger
Rush
Ryan (OH)
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Schakowsky
Schiff
Schneider
Schrader
Schwartz
Scott (VA)
Scott, David
Serrano
Sewell (AL)
Shea-Porter
Sherman
Sinema
Sires
Slaughter
Smith (WA)
Speier
Swalwell (CA)
Takano
Thompson (CA)
Thompson (MS)
Tierney
Titus
Tonko
Tsongas
Van Hollen
Vargas
Veasey
Vela
Velázquez
Visclosky
Walz
Wasserman Schultz
Waters
Waxman
Welch
Wilson (FL)
Yarmuth

NAYS—225

Amash
Amodei
Bachus
Barletta
Barr
Barton
Benishek
Bentivolio
Bilirakis
Black
Blackburn
Boustany
Brady (TX)
Brat
Bridenstine
Brooks (AL)
Brooks (IN)
Broun (GA)
Buchanan
Bucshon
Burgess
Byrne
Calvert
Camp
Campbell
Capito
Carter
Cassidy
Chabot
Chaffetz
Clawson (FL)
Coffman
Cole
Collins (GA)
Conaway
Cook
Cotton
Cramer
Crenshaw
Culberson
Daines
Davis, Rodney
Denham
Dent
DeSantis
DesJarlais
Diaz-Balart
Duffy
Duncan (SC)
Duncan (TN)
Ellmers
Farenthold
Fincher
Fitzpatrick
Fleischmann
Fleming
Flores
Forbes
Fortenberry
Foxx
Franks (AZ)
Frelinghuysen
Gardner
Garrett
Gerlach
Gibbs
Gibson
Gingrey (GA)
Gohmert
Goodlatte
Gosar
Gowdy
Granger
Graves (GA)
Graves (MO)
Griffin (AR)
Griffith (VA)
Grimm
Guthrie
Hanna
Harper
Harris
Hartzler
Hastings (WA)
Heck (NV)
Hensarling
Herrera Beutler
Holding
Hudson
Huelskamp
Huizenga (MI)
Hultgren
Hunter
Hurt
Issa
Jenkins
Johnson (OH)
Johnson, Sam
Jolly
Jones
Jordan
Joyce
Kelly (PA)
King (IA)
King (NY)
Kingston
Kinzinger (IL)
Kline
Labrador
LaMalfa
Lamborn
Lance
Lankford
Latham
Latta
LoBiondo
Long
Lucas
Luetkemeyer
Lummis
Marchant
Marino
Massie
McAllister
McCarthy (CA)
McCaul
McClintock
McHenry
McKeon
McKinley
McMorris Rodgers
Meadows
Meehan
Messer
Mica
Miller (FL)
Miller (MI)
Mullin
Mulvaney
Murphy (PA)
Neugebauer
Noem
Nugent
Nunes
Nunnelee
Olson
Palazzo
Paulsen
Pearce
Perry
Petri
Pittenger
Pitts
Poe (TX)
Pompeo
Posey
Price (GA)
Reed
Reichert
Renacci
Ribble
Rice (SC)
Rigell
Roby
Roe (TN)
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Rokita
Rooney
Ros-Lehtinen
Roskam
Ross
Rothfus
Royce
Runyan
Ryan (WI)
Salmon
Sanford
Scalise
Schock
Schweikert
Scott, Austin
Sensenbrenner
Sessions
Shimkus
Shuster
Simpson
Smith (MO)
Smith (NE)
Smith (NJ)
Smith (TX)
Southerland
Stewart
Stivers
Stockman
Stutzman
Terry
Thompson (PA)
Thornberry
Tiberi
Tipton
Turner
Upton
Valadao
Wagner
Walberg
Walden
Walorski
Weber (TX)
Webster (FL)
Wenstrup
Westmoreland
Whitfield
Williams
Wilson (SC)
Wittman
Wolf
Womack
Woodall
Yoder
Yoho
Young (AK)
Young (IN)

NOT VOTING—15

Aderholt
Bachmann
Bass
Bishop (UT)
Capuano
Coble
Collins (NY)
Crawford
Doyle
Duckworth
Gallego
Hall
McCarthy (NY)
Miller, Gary
Negrete McLeod

□ 1419

Messrs. FORBES, HURT, ROGERS of Alabama, ROTHFUS, POSEY, and STIVERS changed their vote from ''yea'' to ''nay.''

Messrs. SEAN PATRICK MALONEY of New York, ENGEL, KEATING, CÁRDENAS, RUSH, and JOHNSON of Georgia changed their vote from ''nay'' to ''yea.''

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

Stated for:

Mr. GALLEGO. Mr. Speaker, on rollcall No. 549, had I been present, I would have voted "yes."

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.

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

The yeas and nays were ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 219, nays 197, answered ''present'' 3, not voting 15, as follows:

[Roll No. 550]

YEAS—219

Amash
Amodei
Bachus
Barletta
Barr
Barrow (GA)
Barton
Benishek
Bentivolio
Bilirakis
Black
Blackburn
Boustany
Brady (TX)
Brat
Bridenstine
Brooks (AL)
Brooks (IN)
Broun (GA)
Buchanan
Bucshon
Burgess
Byrne
Calvert
Camp
Campbell
Capito
Carter
Cassidy
Chabot
Chaffetz
Clawson (FL)
Cole
Collins (GA)
Collins (NY)
Conaway
Cook
Cotton
Cramer
Crenshaw
Culberson
Daines
Davis, Rodney
Dent
DeSantis
DesJarlais
Duffy
Duncan (SC)
Duncan (TN)
Ellmers
Farenthold
Fincher
Fitzpatrick
Fleischmann
Fleming
Flores
Forbes

Fortenberry
Foxx
Franks (AZ)
Frelinghuysen
Gardner
Garrett
Gerlach
Gibbs
Gibson
Gingrey (GA)
Goodlatte
Gowdy
Granger
Graves (GA)
Graves (MO)
Griffin (AR)
Griffith (VA)
Grimm
Guthrie
Hanna
Harper
Harris
Hartzler
Hastings (WA)
Heck (NV)
Hensarling
Herrera Beutler
Holding
Hudson
Huelskamp
Huizenga (MI)
Hultgren
Hunter
Hurt
Issa
Jenkins
Johnson (OH)
Johnson, Sam
Jolly
Jones
Jordan
Joyce
Kelly (PA)
King (NY)
Kingston
Kinzinger (IL)
Kline
LaMalfa
Lamborn
Lance
Lankford
Latham
Latta
LoBiondo
Long
Lucas
Luetkemeyer
Lummis
Marchant
Marino
Massie
McAllister
McCarthy (CA)
McCaul
McClintock
McHenry
McIntyre
McKeon
McKinley
McMorris Rodgers
Meadows
Meehan
Messer
Mica
Miller (FL)
Miller (MI)
Mullin
Mulvaney
Murphy (PA)
Neugebauer
Noem
Nugent
Nunes
Nunnelee
Olson
Palazzo
Paulsen
Pearce
Perry
Peterson
Petri
Pittenger
Pitts
Poe (TX)
Pompeo
Posey
Price (GA)
Reed
Reichert
Renacci
Ribble
Rice (SC)
Rigell
Roby
Roe (TN)
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Rokita
Rooney
Roskam
Ross
Rothfus
Royce
Runyan
Ryan (WI)
Salmon
Sanford
Scalise
Schock
Schweikert
Scott, Austin
Sensenbrenner
Sessions
Shimkus
Shuster
Simpson
Smith (MO)
Smith (NE)
Smith (NJ)
Smith (TX)
Southerland
Stewart
Stivers
Stockman
Terry
Thompson (PA)
Thornberry
Tiberi
Tipton
Turner
Upton
Wagner
Walberg
Walden
Walorski
Weber (TX)
Webster (FL)
Wenstrup
Westmoreland
Whitfield
Williams
Wilson (SC)
Wittman
Wolf
Womack
Woodall
Yoder
Yoho
Young (AK)
Young (IN)

NAYS—197

Adams
Barber
Bass
Beatty
Becerra
Bera (CA)
Bishop (GA)
Bishop (NY)
Blumenauer
Bonamici
Brady (PA)
Braley (IA)
Brown (FL)
Brownley (CA)
Bustos
Butterfield
Capps
Cárdenas
Carney
Carson (IN)
Cartwright
Castor (FL)
Castro (TX)
Chu
Cicilline
Clark (MA)
Clarke (NY)
Clay
Cleaver
Clyburn
Coffman
Cohen
Connolly
Conyers
Cooper
Costa
Courtney
Crowley
Cuellar
Cummings
Davis (CA)
Davis, Danny
DeFazio
DeGette
Delaney
DeLauro
DelBene
Denham
Deutch
Diaz-Balart
Dingell
Doggett
Edwards
Ellison
Engel
Enyart
Eshoo
Esty
Farr
Fattah
Foster
Frankel (FL)
Fudge
Gabbard
Gallego
Garamendi
Garcia
Gohmert
Grayson
Green, Al
Green, Gene
Grijalva
Gutiérrez
Hahn
Hanabusa
Hastings (FL)
Heck (WA)
Higgins
Himes
Hinojosa
Holt
Honda
Horsford
Hoyer
Huffman
Israel
Jackson Lee
Jeffries
Johnson (GA)
Kaptur
Keating
Kelly (IL)
Kennedy
Kildee
Kilmer
Kind
Kirkpatrick
Kuster
Langevin
Larsen (WA)
Lee (CA)
Levin
Lewis
Lipinski
Loebsack
Lofgren
Lowenthal
Lowey
Lujan Grisham (NM)
Luján, Ben Ray (NM)
Lynch
Maffei
Maloney, Carolyn
Maloney, Sean
Matheson
Matsui
McCollum
McDermott
McGovern
McNerney
Meng
Michaud
Miller, George
Moore
Moran
Murphy (FL)
Nadler
Napolitano
Neal
Nolan
Norcross
O'Rourke
Owens
Pallone
Pascrell
Pastor (AZ)
Payne
Pelosi
Perlmutter
Peters (CA)
Peters (MI)
Pingree (ME)
Pocan
Polis
Price (NC)
Quigley
Rahall
Rangel
Richmond
Ros-Lehtinen
Roybal-Allard
Ruiz
Ruppersberger
Rush
Ryan (OH)
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Schakowsky
Schiff
Schneider
Schrader
Schwartz
Scott (VA)
Scott, David
Serrano
Sewell (AL)
Shea-Porter
Sherman
Sinema
Sires
Slaughter
Smith (WA)
Speier
Stutzman
Swalwell (CA)
Takano
Thompson (CA)
Thompson (MS)
Tierney
Titus
Tonko
Tsongas
Valadao
Van Hollen
Vargas
Veasey
Vela
Velázquez
Visclosky
Walz
Wasserman Schultz
Waters
Waxman
Welch
Wilson (FL)
Yarmuth

ANSWERED ''PRESENT''—3

Gosar
King (IA)
Labrador

NOT VOTING—15

Aderholt
Bachmann
Bishop (UT)
Capuano
Coble
Crawford
Doyle
Duckworth
Hall
Johnson, E. B.
Larson (CT)
McCarthy (NY)
Meeks
Miller, Gary
Negrete McLeod

□ 1428

Mr. GARAMENDI changed his vote from ''yea'' to ''nay.''

So 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.

PROTECTING VOLUNTEER FIREFIGHTERS AND EMERGENCY RESPONDERS ACT OF 2014

The SPEAKER pro tempore. The unfinished business is the vote on the motion to concur in the Senate amendment to the bill (H.R. 3979) to amend the Internal Revenue Code of 1986 to ensure that emergency services volunteers are not taken into account as employees under the shared responsibility requirements contained in the Patient Protection and Affordable Care Act offered by the gentleman from California (Mr. MCKEON), on which the yeas and nays were ordered.

The Clerk will redesignate the motion.

The Clerk redesignated the motion

The SPEAKER pro tempore. The question is on the motion to concur.

This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 300, nays 119, not voting 15, as follows:

[Roll No. 551]

YEAS—300

Adams
Amodei
Bachus
Barber
Barletta
Barr
Barrow (GA)
Barton
Beatty
Benishek
Bentivolio
Bera (CA)
Bilirakis
Bishop (GA)
Bishop (NY)
Black
Blackburn
Boustany
Brady (PA)
Brady (TX)
Bridenstine
Brooks (AL)
Brooks (IN)
Brown (FL)
Brownley (CA)
Buchanan
Bucshon
Burgess
Bustos
Butterfield
Byrne
Calvert
Camp
Campbell
Capito
Carney
Carson (IN)
Carter
Cartwright
Cassidy
Castor (FL)
Chabot
Chaffetz
Cleaver
Clyburn
Coffman
Cole
Collins (GA)
Collins (NY)
Conaway
Connolly
Cook
Cooper
Costa
Cotton
Courtney
Cramer
Crenshaw
Cuellar
Culberson
Daines
Davis (CA)
Davis, Rodney
Delaney
DelBene
Denham
Dent
DeSantis
Deutch
Diaz-Balart
Dingell
Duffy
Ellmers
Engel
Enyart
Esty
Farenthold
Fattah
Fincher
Fitzpatrick
Fleischmann
Fleming
Flores
Forbes
Fortenberry
Foster
Foxx
Franks (AZ)
Frelinghuysen
Gallego
Garamendi
Garcia
Gardner
Garrett
Gerlach
Gibbs
Gingrey (GA)
Goodlatte
Gosar
Granger
Graves (GA)
Graves (MO)
Green, Al
Griffin (AR)
Grimm
Guthrie
Hanabusa
Hanna
Harper
Harris
Hartzler
Hastings (WA)
Heck (NV)
Heck (WA)
Hensarling
Herrera Beutler
Higgins
Himes
Hinojosa
Holding
Horsford
Hoyer
Hudson
Huizenga (MI)
Hultgren
Hunter
Hurt
Israel
Issa
Jeffries
Jenkins
Johnson (GA)
Johnson (OH)
Johnson, Sam
Jordan
Joyce
Kaptur
Kelly (PA)
Kilmer
King (IA)
King (NY)
Kingston
Kinzinger (IL)
Kirkpatrick
Kline
Kuster
LaMalfa
Lamborn
Lance
Langevin
Lankford
Larsen (WA)
Larson (CT)
Latham
Latta
Levin
Lipinski
LoBiondo
Loebsack
Long
Lowey
Lucas
Luetkemeyer
Lujan Grisham (NM)
Luján, Ben Ray (NM)
Lummis
Lynch
Maffei
Maloney, Sean
Marino
Matheson
McAllister
McCarthy (CA)
McCaul
McHenry
McIntyre
McKeon
McKinley
McMorris Rodgers
McNerney
Meadows
Meehan
Meeks
Messer
Mica
Michaud
Miller (FL)
Miller (MI)
Miller, George
Moran
Mullin
Murphy (FL)
Murphy (PA)
Neugebauer
Noem
Nolan
Norcross
Nunes
Nunnelee
Olson
Owens
Palazzo
Pascrell
Pastor (AZ)
Paulsen
Pelosi
Perlmutter
Perry
Peters (CA)
Peters (MI)
Peterson
Petri
Pittenger
Pitts
Poe (TX)
Pompeo
Price (GA)
Price (NC)
Rahall
Reed
Reichert
Renacci
Ribble
Rice (SC)
Rigell
Roby
Roe (TN)
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rokita
Rooney
Ros-Lehtinen
Roskam
Rothfus
Royce
Ruiz
Runyan
Ruppersberger
Ryan (OH)
Ryan (WI)
Salmon
Sánchez, Linda T.
Sanchez, Loretta
Scalise
Schneider
Schock
Schwartz
Schweikert
Scott (VA)
Scott, Austin
Scott, David
Sessions
Sewell (AL)
Sherman
Shimkus
Shuster
Sinema
Sires
Smith (MO)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (WA)
Southerland
Speier
Stewart
Stivers
Stutzman
Terry
Thornberry
Tiberi
Tipton
Titus
Tsongas
Turner
Upton
Valadao
Vargas
Veasey
Vela
Visclosky
Wagner
Walberg
Walden
Walorski
Walz
Wasserman Schultz
Webster (FL)
Wenstrup
Whitfield
Williams
Wilson (SC)
Wittman
Wolf
Womack
Woodall
Yoder
Young (AK)
Young (IN)

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Amash
Bass
Becerra
Blumenauer
Bonamici
Braley (IA)
Brat
Broun (GA)
Capps
Cárdenas
Castro (TX)
Chu
Cicilline
Clark (MA)
Clarke (NY)
Clawson (FL)
Clay
Cohen
Conyers
Crowley
Cummings
Davis, Danny
DeFazio
DeGette
Poe (TX)
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