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Senate

The Senate met at 9:30 a.m. and was called to order by the President pro tempore (Mr. STEVENS).

PRAYER

The PRESIDENT pro tempore. This morning, we have the privilege of being led in prayer by our guest Chaplain, Rabbi Shmuel Butman from the Lubavitch Youth Organization of New York City.

The guest Chaplain offered the following prayer:

Ovinu Shebashomayim, our Heavenly Father.

We pray to You today, 3 days before the 104th birthday of the Lubacitcher Rebbe, Rabbi Manachem M Schneerson. The Rebbe reached out to all people and inspired all people throughout the world, regardless of race, religion, color, and creed, to reach a greater level of observance and service. The Rebbe said that this is the last generation of exile and the first generation of redemption and that each one of us can bring the redemption even closer by doing more deeds of goodness and kindness. The Rebbe also encouraged the observance of the Seven Noahide Laws, or the Seven Universal Laws, which are the basis of any decent and civilized society.

In the merit of the Rebbe, we ask You, Almighty God, to bestow Your blessings on the Members of the Senate and their families and through them on all the people in the United States of America for peace, contentment, and fulfillment in all their endeavors, in joy, in happiness, and in gladness of heart.

In honor of the Rebbe, I want to do an act of goodness and kindness. I want to put a dollar in a pishky, in the charity box. May God bless you, all of you. Thank you.

PLEDGE OF ALLEGIANCE

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

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

RESERVATION OF LEADER TIME

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

SECURING AMERICA'S BORDERS ACT

The PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of S. 2454, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 2454) to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes.

Pending:

Specter/Leahy amendment No. 3192, in the nature of a substitute.

Kyl/Cornyn amendment No. 3206 (to amendment No. 3192), to make certain aliens ineligible for conditional nonimmigrant work authorization and status.

Cornyn amendment No. 3207 (to amendment No. 3206), to establish an enactment date.

Isakson amendment No. 3215 (to amendment No. 3192), to demonstrate respect for legal immigration by prohibiting the implementation of a new alien guest worker program until the Secretary of Homeland Security certifies to the President and the Congress that the borders of the United States are reasonably sealed and secured.

Dorgan amendment No. 3223 (to amendment No. 3192), to allow United States citizens under 18 years of age to travel to Canada without a passport, to develop a system to enable United States citizens to take 24-hour excursions to Canada without a passport, and to limit the cost of passport cards or similar alternatives to passports to $20.

Mikulski/Warner amendment No. 3217 (to amendment No. 3192), to extend the termination date for the exemption of returning workers from the numerical limitations for temporary workers.

Santorum/Mikulski amendment No. 3214 (to amendment No. 3192), to designate Poland as a program country under the visa waiver program established under section 217 of the Immigration and Nationality Act.

Nelson (FL) amendment No. 3220 (to amendment No. 3192), to use surveillance technology to protect the borders of the United States.

Sessions amendment No. 3420 (to the language proposed to be stricken by amendment No. 3192), of a perfecting nature.

Nelson (NE) amendment No. 3421 (to amendment No. 3420), of a perfecting nature.

The PRESIDENT pro tempore. Under the previous order, the time between 9:30 and 10:30 will be equally divided between the managers or their designee.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, this morning, the time until 10:30 will be equally divided for debate prior to the vote on invoking cloture on the Specter substitute to the border security bill. I now ask unanimous consent that the final 20 minutes before the vote be divided so that the Democratic leader has 10 minutes, to be followed by the majority leader for the final 10 minutes.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. FRIST. Mr. President, I don't believe that cloture will be invoked today on the chairman's substitute. Therefore, we have two additional cloture motions pending to the border security bill. There is a cloture motion to the Hagel-Martinez language that was offered yesterday and a cloture motion to the underlying border security bill. We will announce the exact timing of those votes a little later as we go through the morning and see how we progress. It is unfortunate that we had to set up these procedural challenges, but given the lack of progress and cooperation on getting amendments up and voted on, it was the only way to move ahead.

We have very important Department of Defense nominations that have been pending on the calendar since last

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

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year. I have consulted with the Democratic leader, and I have scheduled cloture votes on those nominations this week to allow the Senate to vote on these important Department of Defense nominees.

Needless to say, we have a lot to do before the Easter-Passover adjournment.

RECOGNITION OF THE MINORITY LEADER

The PRESIDENT pro tempore. The Senator from Nevada is recognized.

ORDER OF PROCEDURE

Mr. REID. Mr. President, I am going to suggest the absence of a quorum so the leader and I may speak for a couple minutes before the debate starts.

I ask unanimous consent that the time on our side be divided between Senators DURBIN, LEAHY, and KENNEDY, each 8 minutes; Senators SALAZAR and MENENDEZ, each 3 minutes.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. REID. It has already been suggested by the Republican leader that our time would follow the hour time that is allotted under the rule, a half hour on each side, and then I would speak, and then the distinguished Republican leader would end the debate. Is that appropriate?

The PRESIDENT pro tempore. The Chair is informed that the Senator from Nevada, the distinguished Democratic leader, has suggested more time than is available to the Senator.

Mr. REID. Mr. President, I ask unanimous consent that the 10 minutes for me and the 10 minutes for the majority leader be under leader time.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. REID. And I ask unanimous consent that the time not start running until we finish our personal colloquy.

I suggest the absence of a quorum.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDENT pro tempore. Without objection, it is so ordered.

There is now 60 minutes equally divided. Who yields time?

The Senator from New Jersey is recognized.

Mr. MENENDEZ. Mr. President, today the Senate has a historic opportunity with this cloture vote to move forward with tough, smart, and comprehensive immigration reform that secures our Nation's borders or to maintain the status quo of failed laws and a broken immigration system that is weak on enforcement and leaves our borders and our citizens unsecured.

A vote for invoking cloture is a vote for an increase of 1,250 Customs and Border Protection officers, 2,500 port-of-entry inspectors, 1,000 personnel dedicated to the investigation of alien smuggling, 25,000 investigators, 12,000 new Border Patrol agents, 10,000 worksite enforcement agents, 5,000 fraud detection agents, and the acquisition of 20 new detention facilities to accommodate at least 10,000 detainees to ensure that we have tightened our border security and workplace enforcement.

A vote for invoking cloture is a vote to create an equal playing field and ensure that American workers' wages, benefits and health and safety standards are not undercut.

A vote for invoking cloture is also a vote to realize the economic realities in our society in which undocumented workers are bending their backs every day, picking the fruits and vegetables that end up on our kitchen tables, digging the ditches that lay the infrastructure for the future, cleaning the hotel and motel rooms for our travelers, plucking the chicken or deboning the meat that we had for dinner last night, and helping the aged, the sick and disabled meet their daily needs.

This vote ensures that they are brought out of the darkness and into the light of America's promise. A vote for invoking cloture is a vote to create the possibility for those who contribute to our country a pathway to earn legalization—but only after they pay thousands of dollars in fines and fees, pass a criminal background check, go to the back of the line behind all applicants waiting for green cards, pay any and all back taxes, remain continuously employed going forward, pass a medical exam, and learn English and U.S. History and Government.

A vote for cloture gives us greater security. But unlike the House bill, it doesn't criminalize innocent U.S. citizens—those, for example, like Catholic Charities—who give advice to immigrants, like those who give help to a rape victim or a battered woman. That is why I urge our colleagues to vote to invoke cloture on the Judiciary Committee bill.

The PRESIDENT pro tempore. The Senator's time has expired. Who yields time? If no Senator seeks time, the time is charged against each side equally.

Mr. FRIST. Mr. President, I ask unanimous consent that the time during the quorum call be equally divided, and I suggest the absence of a quorum.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. SALAZAR. Mr. President, I rise today to urge my colleagues to invoke cloture on the Specter substitute amendment. I do so because of several key reasons. First, the legislation that came out of the Judiciary Committee had broad bipartisan support. I think when you have that kind of bipartisan support, it speaks to what we can do as a Senate when we reach across the aisle to try to find common ground. I think the Judiciary Committee found that common ground.

Second, the bill addresses the key issues we should be addressing in the Senate today. It addresses border security, which is critically important to us, that we deal with trying to strengthen our homeland defenses and our national security. It addresses the issue of enforcement of immigration laws in our country. It also addresses the economic and human realities of undocumented workers that we have in America today.

It is a good bill from that perspective. It is a law and order bill. For those on the other side who say this is amnesty, I reject that labeling. It has penalties and registration that go along with the requirement for those people who are undocumented and working in the United States.

Finally, no matter how this cloture vote goes—and I intend to vote for cloture because it is a good bill, and I urge my colleagues to vote for cloture—we need to continue to work on this issue because it is so important to the future of America. We have a reality in our country today; where we have broken borders and lawlessness, we need to restore some order and regularity to our immigration system. This issue is too important for us to simply walk away.

I hope we will continue to work through this issue and come up with the kind of wisdom that Solomon would bring to a very important national issue, so we can get some kind of resolution that addresses the concerns of all of those who are so affected by our immigration laws.

I yield the floor.

The PRESIDENT pro tempore. The Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, I began this debate by praising the bipartisanship of the Judiciary Committee for reporting a comprehensive and realistic immigration bill to the Senate. I have said from the outset that Democratic Senators could not pass a good immigration bill on our own. With fewer than 50 Democratic Senators, we will need the support of Republican Senators if the Senate is to make progress on this important matter today.

With all the dramatic stagecraft of the last few days and the protestations from the other side of the aisle it may seem surprising, but the truth is that by invoking cloture on this bill, we move to consideration of germane amendments. If the Kyl amendment is germane and pending, it would be in line for a vote. So much for all the bluster and false claims of Democratic obstruction we have heard. If Republicans want to move forward on this debate, and get one step closer to a vote on tough but fair immigration reform, they should support cloture. For the past few days, I have offered, and our leadership has offered, to take up a number of bipartisan amendments for debate and votes that would have easily won the support of the Senate. It

was Senator KYL who objected to that progress.

Late last night, the Republican leader came to the floor to file a motion that would require the Senate to send the immigration bill back to the committee. He immediately acted to ''fill the tree,'' a parliamentary procedure that means that none of us could offer amendments, and he filed an immediate cloture motion.

So before any of us even saw the amendment, the Republican leader made sure to prevent any Senator in this body from offering an amendment of his or her own. It is somewhat ironic, after all of the posturing by Republicans over the past 2 days about the right of Senators to offer amendments and be heard, that the Republican Party has returned full force to its standard practice of shutting out those who might disagree. That is too bad, especially on a matter this important. We began with a high level of demonstrated bipartisanship. Senator SPECTER and I worked together to get a bill out that had a two-thirds majority of the Judiciary Committee, Republicans and Democrats, voting for it.

The majority leader had set March 27 as the deadline for Judiciary Committee action, and we met his deadline. I always understood that the majority leader had committed to turn to the committee bill if we were able to meet his deadline. That is what I heard the Judiciary Committee chairman reiterate as we concluded our markup and heard him say, again, as the Senate debate began. The Democratic leader noted that we had agreed to proceed based on the assurances he had received that ''the foundation of the Senate's upcoming debate on immigration policy will be the bipartisan Committee bill.''

The majority leader had often spoken of allowing two full weeks for Senate debate of this important matter. Regrettably, what the majority leader said and what happened are not the same. The Senate did not complete work on the lobbying reform bill on schedule and that cut into time for this debate. When the majority leader decided to begin the debate with a day of discussion of the Frist bill, we lost more time. We were left then with 1 week, not 2. We have lost time that could have been spent debating and adopting amendments when some Republicans withheld consent from utilizing our usual procedures over the last days. When the false and partisan charges of obstruction came from the other side, the Democratic leader filed a petition for cloture that I hope will bring successful action on a comprehensive, realistic and fair immigration bill.

So I regret that now, when we have a bill with strong bipartisan support, some would try to make this into a partisan fight. I fear that they have succeeded in making a partisan fight over a bill that began as a bipartisan bill. I urge all Senators, Republicans, Democrats and the Senate's Independent, to vote for cloture on the bipartisan committee bill and bring this debate to a successful conclusion so that we can have a bill passed by the Senate by the end of this week.

This is an historic vote. It asks us whether the Senate is committed to forging real immigration reform. I urge all Senators to vote for reform by supporting this cloture motion on what is a bipartisan bill that balances tough enforcement with human dignity.

Now, the Republican manager of the bill was right to take on the smear campaign against the committee bill from opponents who falsely labeled it amnesty. The committee bill is not an amnesty bill. President Reagan signed an amnesty bill in 1986. This is not. This is a tough bill with a realistic way to strengthen our security and border enforcement, while bringing people out of the shadows to earn citizenship—not immediate citizenship; it still takes 11 years. They have to pay fines, work, pay taxes, they have to learn English, and then they have to swear allegiance to the United States. That is a long way from amnesty.

As the New York Times noted in an editorial, responding to those who falsely smeared this as an amnesty bill, painting the word ''deer'' on a cow and taking it into the woods does not make the cow into a deer. This is something every deer hunter in Vermont knows.

It is most ironic to hear those in the Republican Congress talk about amnesty and lack of responsibility. Their record over the last 6 years is a failure to require responsibility and accountability, or to serve as a check and balance. They are experts in amnesty, so they should know this bill is not amnesty.

I was glad to hear the Republican leader begin to change his tune over this week and acknowledge that providing hard-working neighbors with a path to citizenship is not amnesty. I have not had an opportunity to see, let alone review, the Republican instructions in the motion filed late last night. I am advised that they now have a proposal to establish a path for citizenship for some of the undocumented. I guess other Republicans will falsely label that effort as ''amnesty for some.''

Tragically, however, the opponents of tough and smart comprehensive immigration reform will not stop with smearing the bill. Some who have opposed it have used ethnic slurs with respect to outstanding Members of the Senate. I spoke about this yesterday, when I praised Senator SALAZAR. His family's is a distinguished record that should not need my defense. I deplore the all-too-typical tactics of McCarthyism and division to which our opponents have resorted, again. This is an issue that goes to the heart and soul and conscience of the Senate. When people who disagree with Members of this body resort to ethnic or religious slurs, we all ought to stand up and condemn it. I did so on the floor of the Senate yesterday.

I recall the wisdom of Senator Ralph Flanders, the first one to have the courage to stand up to Joseph McCarthy. We are now facing in this country a religious and ethnic McCarthyism. I wish one Republican would stand up—just one—and say they agree that we should not have such religious and ethnic slurs on Members of the Senate just because of disagreement with a position they have taken on the bill. Regrettably, no one did. It is beneath the dignity and honor of this great body and beneath the dignity and honor of any Member of the body. I, again, thank Senator SALAZAR, Senator MENENDEZ, Senator OBAMA, and Senator MARTINEZ for their support of the committee bill and their participation in this debate.

The Specter-Leahy-Hagel substitute amendment that mirrors the Judiciary Committee bill confronts the challenging problem of how to fix our broken immigration system head on. It is strong on enforcement—stronger than the majority leader's bill. In some ways it is stronger than the bill passed by the House. It includes provisions added by Senator FEINSTEIN to make tunneling under our borders a federal crime and increases the number of enforcement agents. It is tough on employer enforcement and tough on traffickers. But it is also comprehensive and balanced. I have called it enforcement ''plus'' because it confronts the problem of the millions of undocumented who live in the shadows. It values work and respects human dignity. It includes guest worker provisions supported by business and labor and a fair path to earned citizenship over 11 years through fines, the payment of taxes, hard work and learning English that has the support of religious and leading Hispanic organizations. It includes the AgJOBS bill and the DREAM Act, the Frist amendment, the Bingaman enforcement amendment, and the Alexander citizenship amendment.

Wisely, we have rejected the controversial provisions that would have exposed those who provide humanitarian relief, medical care, shelter, counseling and other basic services to the undocumented to possible prosecution under felony alien smuggling provisions of the criminal law. And we have rejected the proposal to criminalize mere presence in an undocumented status in the United States, which would trap people in a permanent underclass. Those provisions of the bill supported by congressional Republicans have understandably sparked nationwide protests because they are viewed as anti-Hispanic and anti-immigrant and are inconsistent with American values.

Our work on immigration reform has been called a defining moment in our history. The Senate, in its best moments, has been able to rise to the occasion and act as the conscience to the

Nation, in the best true interests of our Nation.

I hope that the Senate's work on immigration reform will be in keeping with the best the Senate can offer the Nation. I hope that our work will be something that would make not only my immigrant grandparents proud—and I stand only one generation from my immigrant grandparents—but a product that will make our children and grandchildren proud as they look back on this debate. Now is the time and this is the moment for the Senate to come together to do its part and reject the calls to partisanship.

Now is the time to move forward with the bipartisan committee bill as our framework so that we can bring millions of people out of the shadows and end the permanent underclass status of so many who have contributed so much. By voting for cloture, we will take a giant step toward better protecting our security and borders and allowing the American dream to become a reality for our hard-working neighbors. History will judge. The time is now.

Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be equally divided.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. LEAHY). Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I asked Senator LEAHY to take my place in the chair because I want to show that a Republican agrees with him, in part. I do support the statements made by the Senator from Vermont concerning the derogatory statements that may have been made concerning any racial connections with this bill.

However, I cannot support cloture on the bill because it still contains the provisions with regard to felons. The amendment we tried to vote on the other day, I am informed, is probably not possible to consider if we vote cloture on this bill at this time. So I regret that I cannot support cloture. I stated that I would vote for cloture on the bill as it came from the Judiciary Committee. Under the circumstances, once it was discovered, with the provisions with regard to prior convictions for felonies, I supported that amendment the other day by voting not to table it. I believe that amendment should be considered before we vote cloture on this bill.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Ms. MURKOWSKI). Without objection, it is so ordered.

Mr. KENNEDY. Madam President, I believe time has been allocated.

The PRESIDING OFFICER. The Senator from Massachusetts has 8 minutes.

Mr. KENNEDY. Will the Chair remind me when there is 2 minutes remaining?

Madam President, the Senate Judiciary Committee passed a strong bipartisan, comprehensive reform bill last week, and Members on this side of the aisle believe it deserves an up-or-down vote on its own terms. Unfortunately, we have gotten bogged down instead on procedural issues. But the vote we cast this morning for or against cloture is not just a procedural vote; the vote we cast today is a vote on how to reconcile America's history and its heritage as a nation of immigrants with today's crisis of undocumented immigration.

It has been said many times—and it bears repeating—all in this room are descended from immigrants. Immigrants signed the Declaration of Independence and they wrote the Constitution of these United States. Immigrants settled our frontiers, they built our great cities, and they fueled our industrial revolution.

Our history is a nation of immigrants, but that history has a dark side as well. Millions of Africans were brought here in chains, immigrants in a technical sense, but forced for generations to labor as slaves, our great national shame. Millions of other immigrants fared only slightly better: the Chinese coolies, who worked 18 to 20 hours a day to build our railroads under deplorable conditions; the Mexican braceros, who were actively recruited by the United States Government to labor in our fields but were systematically denied fair payment for their work; and today the undocumented immigrants who are exploited at the workplace and live with their families in constant fear of detection and deportation.

For decades, this country has turned a blind eye to the plight of the stranger in our midst and looked away in indifference from this grotesque system. But a nation of immigrants rejects its history and its heritage when millions of immigrants are confined forever to second-class status.

All Americans are debased by such a two-tier system. The vote we cast today is on whether the time has come to right these historic wrongs, and we will have that opportunity to do so with the underlying bill.

Over these past days, it has become apparent to Senator MCCAIN, myself, and the others who are in active support of this legislation that adjustments are going to have to be made in that legislation to gain strong bipartisan support that will reflect greater than 60 votes in the Senate. I am convinced a majority in the Senate supports our particular proposal.

As I have spoken on other occasions, this is a composite of different actions that is in the interest of our national security, our economic progress, and our sense of humanity. But we understand adjustments have to be made, and over the last few days, Democrats and Republicans in the leadership have been coming together to try and find common ground.

There are those who believe we ought to treat undocumented aliens as a particular group and treat them all the same. There are others who say those who have just arrived here should be treated differently and under different circumstances. We have been attempting to adjust those different views, and I believe we have made important progress in a way that will maintain the integrity of the legislation but also will mean perhaps a somewhat longer period of time for adjusting of status or earning citizenship for those who have more recently arrived.

There has been a strong, good-faith effort on both sides to try and find this common ground. I am very grateful for the leadership our leaders have provided on our side—Senator REID, Senator LEAHY, and others who have worked in this endeavor. I thank my friend and colleague Senator MCCAIN and a number of his associates—MEL MARTINEZ and a number of others—who have worked to try and move this process forward.

I hope the vote on cloture will be successful, but I recognize fully that if we are not successful, it is going to open up a new opportunity for us to finally realize the legislation which will essentially preserve the fundamental integrity of the approach Senator MCCAIN and I have taken. It will provide some differences, and out of accommodation and in the desire and interest to achieve the underlying thrust of this legislation, I urge our colleagues to support those compromises. It is in our best interest. Then I am confident that we can, before the end of this week, report out legislation that will be comprehensive and will meet the challenges of our time.

Finally, we have come together—Republicans and Democrats—in other major civil rights times. We came together in the 1960s with the 1964 Civil Rights Act, 1965 and 1968 Civil Rights Act. We all came together on the Medicare and Medicaid proposals. We came together, as well, on higher education legislation that made such a difference. And we came together on the Americans with Disabilities Act. We haven't had that kind of coming together in this body on a matter of national importance and international importance. We may very well be at that moment in the Senate. I am prayerful that will be the outcome and that we will have that kind of achievement. We still have some hurdles to work through, but I hope that will be the final and ultimate outcome.

The PRESIDING OFFICER. The Senator has 2 minutes remaining.

Mr. KENNEDY. Madam President, I yield back the remainder of my time.

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

Mr. SPECTER. Madam President, how much time remains?

The PRESIDING OFFICER. The Senator has 25 minutes remaining.

Mr. SPECTER. Madam President, I might say to my colleagues who would like some time, we have 25 minutes. They are invited to come to the floor and speak. I think we will have time to extend to a number of Members.

I am pleased to note we have made some significant progress, although we do not have the bill in a position yet where we know precisely where we are heading, but it now appears we will be successful with the addition of the ideas which have been injected into the process by Senator HAGEL and Senator MARTINEZ.

We will be coming up on a cloture vote on the committee bill shortly. I would very much like to see the committee bill move forward, but I do not think it is fair to have cloture on the committee bill without giving Senators an opportunity to offer amendments.

We have been on this measure since last Wednesday, and we have had very few amendments offered. The Senators—principally Republican Senators—who have come to the floor to offer amendments have been prevented from doing so by parliamentary rules. I acknowledge that those who have stopped us from offering amendments are operating within the rules, but I do not think within the spirit of the Senate, which is to have a committee bill, have it open for amendments, have the amendments debated, and have the amendments voted on—that is the way the Senate works, but that has not been the result here.

Had that been the case, had Senators been permitted to offer their amendments in due course and have an opportunity to follow the customary procedure, then I would have been an advocate of cloture to move the process along. But that has not been the case.

Unusual as it may seem for the chairman of the committee bill to oppose cloture on that bill, that is the position I am taking because there has not been an opportunity to vote on amendments.

We have, in any event, progressed beyond this point so that we now have another bill which has been committed to the committee, and we are having a cloture vote in due course scheduled for tomorrow. Perhaps that cloture vote could occur today; I don't know. But if we can see where we are heading, it would obviously be desirable to move the process along as promptly as possible.

The ideas advanced by Senator HAGEL and Senator MARTINEZ make changes in the committee bill by having a distinction between those who have been here for more than 5 years, where they will work for 6 years and be entitled to a green card, contrasted with those who have been here for less than 5 years but more than 2 years from the date of January 7, 2004, which is the date established by the date President Bush made a major speech on advancing ideas on immigration reform. Those who have been in the country prior to January 7, 2004, but for less than 5 years, will be on a slightly different track, where they can be here for 6 years and have 1-year extensions, and their ability for green cards will depend upon the cap not having been reached so that they are at the end of the line, in any event, from those who have had their applications pending. Some of the nurse applications for visas from the Philippines go back to 1983, and one of the additions made in the committee mark was to see to it that those 11 million undocumented aliens would not come ahead of people who have been following the law and who have been in line.

There is another modification on the temporary workers—if the green cards are reduced from 400,000 to 325,000, with an effort being made not to take away jobs from Americans, to limit that number to try to reflect the need for immigrant workers but to reduce it to that extent. We are still working on some refinements so that if the unemployment rate is high in certain cities, the number of green cards may be reduced there; again, so that employers cannot bring in immigrant workers where American workers are involved.

We have, obviously, a very complicated system, but the work has been prodigious. There have been quite a number of Democrats who have met with quite a number of Republicans. My own view has been to try to be flexible. If I had my choice, I would have the original chairman's mark, the mark that I put down as chairman. But that was modified significantly in the committee, taking up other provisions of the McCain-Kennedy bill, and other amendments which were offered. As chairman, I tried to structure an accommodation among all of the bills: the Hagel bill, the McCain-Kennedy bill, the Kyl-Cornyn bill. We came very close in the markup a week ago Monday to an accommodation somewhat similar to what we have reached now, but we couldn't make it in committee, so we have come forward with the committee bill. If I had my choice, to repeat, I would want the chairman's mark. My second choice is the committee bill. I am not wildly enthusiastic about the changes made in Hagel-Martinez. But where we are with the changes made by Senator HAGEL and Senator MARTINEZ is better than where we are now; it is better than no bill.

What we are dealing with here, as we inevitably and invariably do on legislation, is finding the best compromise we can pass. The issue is whether that bill is better than no bill. I think, for me, that bill is decisively better than no bill.

Mr. CRAIG. Madam President, would the chairman yield for a question?

Mr. SPECTER. I will.

Mr. CRAIG. Let me first thank the chairman for his due diligence. There is no question that he has focused on this for a good many months and has tried to work us through a process of time and issue. The Senator is so right in talking about all of the complications involved: the types of labor, qualifications, and all that is necessary to deal with this in a responsible way, and to contain our borders and to control them. And without that, no orderly process will ever happen effectively.

As the chairman knows, I have spent a good deal of time on this issue, somewhat focused on a segment of our economy in agriculture. To your knowledge, as it relates to the compromise you are talking about that may be struck and has taken form here in the last 24 hours, is the agricultural provisions that we—myself, working with a member of your committee, Senator FEINSTEIN—worked to put in the bill that came out of committee, is that still the provision that is in place as we know it and as we would vote on it?

Mr. SPECTER. Madam President, I respond to the distinguished Senator from Idaho in the affirmative. It is intact. The reduction in green cards and visas from 400,000 to 325,000 may impact on that to some extent. But the amendment which was offered by Senator FEINSTEIN, who is on the committee and on which you were a collaborator—and I again congratulate you on that, as I did in committee when we accepted the amendment—is intact. It is a very important amendment, worked out very carefully. You have been working on this for years—you can say how many years—but it has been a very long haul.

Mr. CRAIG. I thank the chairman for that response. Every employment sector is unique, and what we have found, and I think what the committee has found, is that agriculture, because of the type of labor involved, is kind of the entry door many of our migrant laborers come through, legal and illegal, and from that, if you will, learn and move to other segments of the economy.

So we tried to reflect that in the structure of the Feinstein amendment to the bill, recognizing that other portions of the bill would be different, and that the compromise that is being talked about, in my opinion, makes some sense as it relates to seniority and time and place to work in a fair and responsible way. At the same time, it makes sure that we don't effectively damage these segments of the economy Americans will not work in, choose not to work in, and that we find foreign nationals can and will and are very effective in their work there.

I thank the Senator very much.

Mr. SPECTER. Madam President, how much time remains on this side?

The PRESIDING OFFICER. There is 14 minutes on the Republican side.

Mr. SPECTER. Again, I invite my colleagues if they wish to comment to come to the floor. There is time.

I yield the floor.

Mr. DURBIN. Madam President, this is a historic moment in the Senate. These who are witnessing this debate may think it is just another debate on another bill, but it is not. This is a debate that has been in the brewing—at least in the making, I should say—for decades. Senator KENNEDY of Massachusetts has been speaking out about meaningful immigration reform for decades. It has eluded us. There are times when we have done temporary things of some value, but we have never come to grips with the fact that the immigration laws in America have broken down. We are in virtual chaos. Borders are out of control, employers are hiring people without adequate enforcement, and there are 11 million or 12 million amongst us who are in undocumented or illegal status, uncertain of their future.

This is controversial. We have to come to grips with it. But it is rare in the history of the Senate that we consider a bill that touches so many hearts and changes so many lives in America as this immigration reform. We are literally going to define America's future with this bill. We are going to make it clear whether we are going to hold to the values that have made us a great and diverse nation.

There are people amongst us, some you may see and not know—people you sit next to in church; families who bring their children to school with your children; the worker at the daycare center where you leave your precious kids every morning; the practical nurse who is working at a nursing home caring for your aging parent; the people who cooked your breakfast this morning at the restaurant, who cleared the table; those who will straighten your room after you leave the hotel—many of them you may not know, but look closely. Many of them will be directly affected by what we do in this Senate Chamber. What we do will change their lives. What we do will give them a chance to come out of the shadows, to emerge from the fear of detection, to finally have a chance to be part of America. We don't make it easy for them. It is a long, hard process to move from where they are today to legal status tomorrow, but at least we are addressing it and doing it in an honest fashion.

This morning's vote on cloture is on a bill which I think is the best approach. That is why I will vote for cloture. Some will disagree. But we know, even as I stand here, there is another agreement underway. It is promising. It embodies the basic principles of the bill that emerged from the Senate Judiciary Committee. That bill included the Kennedy-McCain substitute, an approach which offers a pathway to legalization for the millions who are here in America.

I salute Senator SPECTER who spoke before me. He was one of the four Republicans who stood with eight Democrats to bring that bill out. It was not a popular position on his side of the table. The majority of Republicans on the Senate Judiciary Committee oppose this bill. When it came to the floor, the leaders on the Republican side of the Senate condemned the bill. Yet today we find ourselves in a much different place.

I give special credit to my leader, Senator HARRY REID of Nevada. In the beginning of this week he said, We are going to stand fast for the values and principles of this bipartisan bill. He has taken a lot of heat on the floor of the Senate and outside, resisting amendments that would cripple and destroy this process and derail our efforts to finally have comprehensive immigration reform. Were it not for Senator HARRY REID on the Democratic side of this aisle standing fast, I don't know that we could have reached the point we have reached today. But we have reached it, and it tells me that we finally have come together in a bipartisan fashion to deal with an issue that affects so many millions across this country.

It is not over. Even if the cloture vote, as we call it in the Senate, passes tomorrow on the compromise, this can still be derailed. There are still Senators, primarily on the other side of the aisle, determined to derail this agreement. They will offer crippling, devastating amendments. We need to stand fast on a bipartisan basis to resist those amendments. Those who pledge their fealty to this bill can prove it with their votes. Don't say you are for it today and vote for a devastating amendment tomorrow.

Secondly, what we decide here will go to a conference with the House. The House approach is so different and it is so wrong. The House Republican immigration bill by Chairman SENSENBRENNER does not reflect American values. To say that 12 million amongst us will be branded as felons under the Federal law, to say that Good Samaritans, nurses and teachers and volunteers and people of faith, will be charged as criminals under the Federal law is unthinkable and unacceptable and is not consistent with American values. We will walk into a conference with that point of view among the House Republicans. If we do not hold fast to our belief that we need a bill that is fair, a bill that is honest and tough, a bill that is consistent with American values, we will come back with a terrible outcome.

We need a commitment from the Republican majority in the Senate that we will not even consider a conference report that moves in the direction of the Sensenbrenner bill in the House. That is unacceptable. It is unacceptable for us to criminalize millions of people.

With that commitment, and if we stand true to the values of McCain-Kennedy and the bill produced by the Senate Judiciary Committee, we will finally bring our neighbors and those who live amongst us out of the shadows.

I yield the floor.

Mr. CRAIG. Madam President, I yield 5 minutes to the Senator from Texas, Senator CORNYN.

Mr. CORNYN. Madam President, I rise to speak in opposition to closing off debate on the underlying bill. We have heard at great length how the opportunity to file and argue and have votes on amendments has been effectively denied by the Democratic leader. It would be a travesty and, indeed, it would be a farce for the Senate to close off debate before we have even had that debate on the substance of this bill.

Why it is that the Democratic leader and others who might vote to close off debate would want to deny the Senate an opportunity to exclude felons from the scope of the amnesty provided by this bill is beyond me. Why it is that there could be those who would want to deny American workers the protection of a fluctuating cap on temporary work permits such that American citizens would not be put out of work because those who have come to the country in violation of our immigration laws and would be given a guaranteed path to American citizenship is beyond me. Why it is we would want to deny countries such as Mexico and the Central American countries the opportunity to develop their own economies and to provide opportunities for their own citizens so that fewer and fewer of them would have to engage in part of the mass exodus from those countries to the United States, leaving those countries hollowed out and unable to economically sustain themselves and create opportunities for their own citizens, is beyond me.

I understand there are those, on both sides of the aisle, who happen to like the Judiciary Committee bill that is the subject of this cloture motion. While there are portions of the bill I like very much, particularly those which have to do with border security, we know that the bill as yet still does not have a worksite verification provision, to my knowledge. My understanding is, because of jurisdictional conflicts, the Judiciary Committee could not complete work on that portion of the bill, and that is within the exclusive jurisdiction of the Finance Committee. We are still waiting for that title III to this bill to come to the floor and be offered as an amendment and be made part of this legislation. Without a worksite verification requirement, this bill will not work, notwithstanding how much we do at our borders, which is very important.

This bill will not work unless we make sure that only people who come forward and submit themselves to background checks and we know are not criminals or terrorists and we know in fact they are qualified and eligible workers—unless we have a system

in place to make sure of that, this will not work and we will not have done everything we can and should do to make sure this bill will work.

Indeed, in 1986, as part of the amnesty that was signed in that year, the quid pro quo for the amnesty of some 3 million people was an effective worksite verification program and employer sanctions for those employers who cheat and hire people on the black market of human labor.

We know, because the Federal Government failed to provide that effective Federal Government worksite verification program, that now we are dealing with approximately 12 million people who have come here in violation of our immigration laws, and we are confronted with the monumental challenge of how to address those 12 million in a way that both respects our legacy as a nation that believes in the rule of law while we continue to celebrate our heritage as a nation that believes we are indeed a nation of immigrants and better for it.

This is not the Senate working according to its finest traditions. The only way the Senate works is if each Senator has an opportunity to debate and to argue and to offer amendments. We understand not all of the amendments will be accepted. I am happy—maybe not happy, but I am willing to accept the fact that there may be amendments I will offer that will not be successful. But that is the way the committee process worked under Chairman SPECTER in the Judiciary Committee. Each of us had a chance to have our say, to offer amendments, and to have a vote. That is the way democracy works. But the idea that we will somehow try to jam this bill through here without Senators having a chance to debate and vote on amendments is a farce. I hope my colleagues will not support it and that they will vote against cloture so we may offer those amendments and have the kind of debate and process that represents the finest traditions of the Senate.

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

The Senator from Idaho.

Mr. CRAIG. Madam President, I would like to take a minute only. I would like the record to reflect I am speaking as in morning business for that minute.

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

(The remarks of Mr. CRAIG are printed in today's RECORD under ''Morning Business.'')

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Madam President, in the absence of any other Republican Senator who seeks time to speak on the pending issue, I yield to myself 5 minutes as in morning business to talk about two Judiciary Committee bills.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Pennsylvania is recognized.

(The remarks of Mr. SPECTER pertaining to the introduction of S. 2557 and S. 2560 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. LEAHY. Madam President, I began this debate by praising the bipartisanship of the Judiciary Committee for reporting a comprehensive and realistic immigration bill to the Senate. I have said from the outset that Democratic Senators could not pass a good immigration bill on our own. With fewer than 50 Democratic Senators, we will need the support of Republican Senators if the Senate is to make progress on this important matter today.

With all the dramatic stagecraft of the last few days, and the protestations from the other side of the aisle, it may seem surprising, but the truth is that by invoking cloture on this bill we move to consideration of germane amendments. If the Kyl amendment is germane and pending, it would be in line for a vote. So much for all the bluster and false claims of Democratic obstruction we have heard. If Republicans want to move forward on this debate and get one step closer to a vote on tough but fair immigration reform, they should support cloture. For the past few days, I have offered and our leadership has offered to take up a number of bipartisan amendments for debate and votes that would have easily won the support of the Senate. It was Senator KYL who objected to that progress.

Late last night, the Republican leader came to the floor to file a motion that would require the Senate to send the immigration bill back to the committee. He immediately acted to ''fill the tree'' with a series of amendments and filed an immediate cloture motion. So before any of us even saw the amendment, the Republican leader made sure to stop every other Senator from offering any amendment. How ironic, after all the posturing by Republicans over the last 2 days about the rights of Senators to offer amendments and be heard, the majority party has returned full force to its standard practices. That is too bad, especially on a matter this important and on which we began with such a high level of demonstrated bipartisanship.

The majority leader had set March 27 as the deadline for Judiciary Committee action, and we met his deadline. I always understood that the majority leader had committed to turn to the committee bill if we were able to meet his deadline. That is what I heard the Judiciary Chairman reiterate as we concluded our markup and heard him say, again, as the Senate debate began. The Democratic leader noted that we had agreed to proceed based on the assurances he had received that ''the foundation of the Senate's upcoming debate on immigration policy will be the bipartisan committee bill.''

The majority leader had often spoken of allowing 2 full weeks for Senate debate of this important matter. Regrettably, what the majority leader said and what happened are not the same. The Senate did not complete work on the lobbying reform bill on schedule and cut into time for this debate. When the majority leader decided to begin the debate with a day of discussion of the Frist bill, we lost more time. We were left then with 1 week, not 2. We have lost time that could have been spent debating and adopting amendments when some Republicans withheld consent from utilizing our usual procedures over the last days. When the false and partisan charges of obstruction came from the other side, the Democratic leader filed a petition for cloture that I hope will bring successful action on a comprehensive, realistic, and fair immigration bill.

I regret that over the last 3 days some tried to make this into a partisan fight. I fear they have succeeded. I urge all Senators, Republicans and Democrats, and the Senate's Independent, to vote for cloture on the bipartisan committee bill, to bring this debate to a head and a successful conclusion, in the time and on the terms set by the majority leader. If we are to pass a bipartisan bill by the end of this week, we will need to join together to support cloture on the bipartisan committee bill, proceed to work our way through the remaining amendments and pass the bill.

This is a historic vote on whether the Senate is committed to making real immigration reform. I urge all Senators to vote for reform by supporting this cloture motion on the bipartisan bill that balances tough enforcement with human dignity.

The Republican manager of the bill was right to take on the smear campaign against the committee bill from opponents who falsely labeled it amnesty. The committee bill on which cloture is being sought is not an amnesty bill but a tough bill with a realistic way to strengthen our security and border enforcement while bringing people out of the shadows to have them earn citizenship over the course of 11 years through fines and work and paying taxes and learning English and swearing allegiance to the United States. As The New York Times noted in a recent editorial, painting the word ''deer'' on a cow and taking it into the woods does not make the cow into a deer.

It is most ironic to hear those in the majority of the Republican Congress talk about amnesty and lack of accountability. Their record over the last 6 years is a failure to require responsibility and accountability or to serve as a check or balance. They are experts in amnesty and should know that this bill is not amnesty.

I was glad to hear the Republican leader begin to change his tune this weekend and to acknowledge that providing hardworking neighbors with a path to citizenship is not amnesty. I have not had an opportunity to see, let alone review, the Republican instructions in the motion filed late last

night. I am advised that they would establish a path to citizenship for a segment of the undocumented. I guess other Republicans will falsely label that effort as ''amnesty for some.''

Tragically, however, the opponents of tough and smart comprehensive immigration reform do not stop with smearing the bill. They have also used ethnic slurs with respect to outstanding Members of this Senate. I spoke yesterday to praise Senator SALAZAR. His family has a distinguished record that should not need my defense. I deplore the all-too-typical tactics of McCarthyism and division to which our opponents have resorted, again. I wish someone on the other side of the aisle had shown the wisdom of Ralph Flanders and joined with me in criticism of such tactics. Regrettably, no one did. I, again, thank Senator SALAZAR, Senator MENENDEZ, Senator OBAMA, and Senator MARTINEZ for their support of the committee bill and their participation in this debate.

The Specter-Leahy-Hagel substitute amendment that mirrors the Judiciary Committee bill confronts the challenging problem of how to fix our broken immigration system head on. It is strong on enforcement—stronger than the majority leader's bill. In some ways it is stronger than the bill passed by the House. It includes provisions added by Senator FEINSTEIN to make tunneling under our borders a Federal crime and increases the number of enforcement agents. It is tough on employer enforcement and tough on traffickers. But it is also comprehensive and balanced. I have called it enforcement ''plus'' because it confronts the problem of the millions of undocumented who live in the shadows. It values work and respects human dignity. It includes guest worker provisions supported by business and labor and a fair path to earned citizenship over 11 years through fines, the payment of taxes, hard work, and learning English that has the support of religious and leading Hispanic organizations. It includes the Ag JOBS bill and the DREAM Act, the Frist amendment, the Bingaman enforcement amendment, and the Alexander citizenship amendment.

Wisely, we have rejected the controversial provisions that would have exposed those who provide humanitarian relief, medical care, shelter, counseling, and other basic services to the undocumented to possible prosecution under felony alien smuggling provisions of the criminal law. And we have rejected the proposal to criminalize mere presence in an undocumented status in the United States, which would trap people in a permanent underclass. Those provisions of the bills supported by congressional Republicans have understandably sparked nationwide protests being viewed as anti-Hispanic and anti-immigrant and are inconsistent with American values.

Our work on immigration reform has accurately been called a defining moment in our history. The Senate, in its best moments, has been able to rise to the occasion and act as the conscience of the Nation, in the best true interests of our Nation. I hope that the Senate's work on immigration reform will be in keeping with the best the Senate can offer the Nation. I hope that our work will be something that would make my immigrant grandparents proud, and a product that will make our children and grandchildren proud as they look back on this debate.

Now is the time and this is the moment for the Senate to come together to do its part and to reject the calls to partisanship. Now is the time to move forward with the committee bill as our framework so that we can bring millions of people out of the shadows and end the permanent underclass status of so many who have contributed so much. By voting for cloture we will take a giant step toward better protecting our security and borders and allowing the American dream to become a reality for our hard-working neighbors. History will judge, and the time is now.

Mr. FEINGOLD. Madam President, I will vote in favor of cloture on the Judiciary Committee substitute to S. 2454, the immigration bill that is pending. This substitute is not a perfect bill, but it is a good bill, and I urge my colleagues to support it.

This is a defining moment for America. Our immigration system is broken, and it is up to us to fix it.

Congress can choose from several paths. We can build a wall around our country and make felons of millions of people who are undocumented or who have provided humanitarian assistance to the undocumented. That is the path the House bill would take, and I believe it is a path that is fundamentally inconsistent with our Nation's history and values.

But we have another option, a better option. We can recognize that we need a comprehensive, pragmatic approach that strengthens border security but also brings people out of the shadows and ensures that our Government knows who is entering this country for legitimate reasons, so we can focus our efforts on finding those who want to do us harm. That is the Judiciary Committee substitute, and that is the path I believe we must choose.

First of all, we can and must bolster our efforts at the borders and prevent terrorists from entering our country. We absolutely must work to curb illegal immigration, and I am pleased that the Judiciary Committee substitute contains strong provisions in this area. But it would be fiscally irresponsible to devote more and more Federal dollars to border security without also creating a realistic immigration system to allow people who legitimately want to come to this country to go through legal channels to do so.

Right now, there are roughly 11 million to 12 million individuals here illegally. The United States issues only 5,000 employment-based immigrant visas each year for nonseasonal, low-skilled jobs. This is nowhere near the number of jobs that are available but not filled by American workers. More than anything else, this lack of available visas explains why we face such an influx of undocumented workers. These are the facts, and our immigration policy must deal with them.

Improving our border security alone will not stem the tide of people who are willing to risk everything, even their lives, in order to enter this country. According to a recent Cato Institute report, the probability of catching an illegal immigrant has fallen over the past two decades from 33 percent to 5 percent, despite the fact that we have tripled the number of border agents and increased the enforcement budget tenfold. If we focus exclusively on enforcement, our immigration system will remain broken, and I fear we will have wasted Federal dollars.

We need a new solution. We need to improve security at our borders and create a system that allows law-abiding noncitizens to enter the country legally to work when there is truly a need for their labor and that deals with the ''shadow population'' of illegal immigrants who are already here. And that is why business groups, labor unions and immigrant's rights groups have all come together to demand comprehensive immigration reform.

There has been a lot of talk in this debate about ''amnesty.'' Let's be perfectly clear: Not one Senator who supports this committee substitute has suggested giving undocumented aliens blanket amnesty. The committee substitute would require undocumented aliens to show work history, satisfy background checks, pay fines, fulfill English language and civics requirements, and wait at the back of the line in order to obtain permanent status. In other words, people who come forward and play by the rules would be able to earn—not automatically receive but earn—a path to permanent status.

It is easy to argue that those who came here illegally should be sent back to their home countries and that to do otherwise would be an affront to the rule of law. But even Homeland Security Secretary Michael Chertoff acknowledged to the Judiciary Committee last fall that it is impractical, not to mention astronomically expensive, to suggest that we just deport 11 million or 12 million people. We have to grapple with the complex reality in which we find ourselves, and it is not realistic or productive to suggest that mass deportations are a solution.

Another provision of this substitute creates a guest worker program that allows employers in the future to turn to foreign labor but only when they cannot find American workers to do the job. This will help avoid a future flow of undocumented workers. Our laws must acknowledge the reality that American businesses need access to foreign workers for jobs they cannot

fill with American workers. In my home State, I have heard from many business owners, including a number whose businesses go back for generations, about the need for Congress to fix our broken immigration system because they cannot find American workers. These hard-working American business owners desperately want to follow the rules and cannot fathom why Congress has dragged its feet on this issue for so long. Whether it is tourism or farming or landscaping, our businesses will continue to suffer if we fail to enact meaningful, comprehensive, long-term immigration reform. But once we do, we also need to do a better job of enforcing our immigration laws in the workplace.

While the committee substitute recognizes the need for foreign workers, the new guest worker program also includes strong labor protections to ensure that foreign labor does not adversely affect wages and working conditions for U.S. workers. We must not create a second class of workers subject to lower wages and fewer workplace protections. That would hurt all workers because it drives down wages for everyone. Foreign workers who have paid their dues should be treated fairly and deserve the protections of all working Americans.

For all of these reasons, I support the core immigration reform provisions of the committee substitute. I also want to mention two pieces of legislation included in the committee substitute that I strongly support.

The first is the DREAM Act. Regardless of what you might think about other aspects of immigration reform, we have to recognize that there are people affected by this debate with little say in the decisions that affect their lives—undocumented children. Many of these children have lived in this country for most of their lives and have worked hard in school. Yet due to their undocumented status, their long-term options are greatly limited. These children live with the threat of deportation and without access to crucial financial resources, making it virtually impossible to pursue the college education that would enable them to contribute more fully to our society. We should not punish children for their parent's actions, and we should not deny children who have worked hard the opportunity to live up to their potential. That is why I am a longtime supporter of the DREAM Act and why I am so pleased it was accepted as an amendment during the Judiciary Committee proceedings on this bill. This provision will allow children who are long-term U.S. residents, who have graduated high school, who have good moral character, and who simply want to further their contribution to our society, to pursue a higher education or enlist in the military. Under this provision, States could grant instate tuition to such students, and it would also establish an earned adjustment mechanism by which these young people could adjust to a legal status.

I am also pleased that the AgJOBS legislation is included in this substitute. It is a tribute to Senator CRAIG, Senator FEINSTEIN, and Senator KENNEDY that we were able to reach a compromise on AgJOBS that the committee voted to include. This crucial legislation will enable undocumented agricultural workers to legalize their status and would reform the H2–A agricultural worker visa program so that in the future, growers and workers will not continue to rely on illegal channels.

I wish to mention that I was pleased the Judiciary Committee accepted an amendment that I offered, to ensure that people whose naturalization petitions are denied by U.S. Citizenship and Immigration Services can seek judicial review. Citizenship decisions have historically been a judicial function, and it would have been a real disservice to our Nation's traditions to prevent individuals who have worked hard to become U.S. citizens to be denied that most central privilege without a judge's review of the decision.

Of course, this bill is not perfect. It contains some very troubling provisions. I do not think that the National Crime Information Center database, which is the central criminal database used by local, State and Federal agencies around the country, should include civil immigration violations, and the International Association of Chiefs of Police has also expressed concerns about this. I also have concerns about other provisions in title II of the bill that require excessive deference to executive agency decisionmaking in immigration cases and that expand the categories of individuals subject to the most draconian immigration consequences.

But overall, this is a good bill. I believe that if the Senate invokes cloture on, and ultimately passes, the Judiciary Committee substitute or something similar to it, we will be well on our way to fixing our broken immigration system. We will have chosen the right path.

Mr. SPECTER. Madam President, how much more time remains on our side?

The PRESIDING OFFICER. There remains 1 minute 40 seconds.

Mr. SPECTER. I reserve the remainder of the time and yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. REID. Madam President, baseball season is upon us. Tomorrow, my friend, Hall of Fame to be pitcher Greg Maddux will pitch. With 11 more victories, he will be in the top 10 of all baseball players who have ever pitched in the Major Leagues. He needs to win 11 more games this year.

The reason I mention this is what we are doing here in the Senate is not a baseball game but, in spite of that, the American people are looking for a win. There is no question to this point the Senate has not pitched a perfect game, but I will say that the Senate Judiciary Committee has done a great deal. They have, in effect, loaded the bases. The Senate Judiciary Committee has loaded the bases. We have the bases loaded, and now the Senate is up to bat. We need to get a hit. If we get a hit, we drive in a run, it is over, and the American people have won.

We have to remember what we are voting on. We are voting to keep moving forward on a good, strong, bipartisan bill that will secure our borders. No matter how many people come and talk, how many speeches they give, the fact is that is what it is all about. We, the minority, believe we owe it to the American people to keep moving forward on legislation that will keep us safe.

Some Republicans disagree with that. It is very clear from the debate that has taken place. I can only guess they intend to kill this immigration debate and move on to other matters. That is unfortunate. If that happens, the Senate's inability to secure our borders and fix our immigration system will be the Republican's burden to bear.

The one question I ask throughout all this: Where is President Bush? On an issue which is this important, I haven't seen his congressional liaison working the halls the way they do on the budget matters or they will later today or early when we come back after a break on reconciliation. I haven't seen them here. I haven't seen the Vice President over in his little office here, calling people in, saying this is what we need to do for the country. On immigration, the President has been silent.

After this vote, which will take place in just a few minutes, I hope the President will become engaged in what is going on here and join in the move to pass important immigration legislation.

Everyone says that they support immigration reform. In a matter of minutes, we are going to vote, and we have been told that all the majority is going to vote against cloture. That is too bad because the bill before us is, as I indicated, a good bill. This legislation is important. It will be a blow to America if this vote is blocked.

For the last 2 weeks, we have enjoyed some rare bipartisan moments in the Senate. We have seen Democrats and Republicans on the Judiciary Committee work together on one of the greatest national security issues we have ever faced. The bipartisan spirit has resulted in a strong bill that was supported by half the Republicans and all the Democrats on the Judiciary Committee.

This bill isn't perfect, but it takes a comprehensive approach to immigration reform that this Nation needs. It

will secure our borders. It cracks down on employers who break the law. It will allow us to find out who is living here, whether it is 11 million or 12 million. We will find out. We want the people who are living in the shadows to come forward, to be fluent in English. We do not want people who have committed crimes. We want them to pay taxes and have jobs. Even with that, they go to the back of the line.

It is true that there will be additional immigration votes tomorrow—maybe even late tonight if something can be worked out this afternoon. People have been working on the Martinez amendment for the last several days, and they haven't completed it yet, but they are very close. I compliment the Senator from Florida for the work he has done. Maybe it can be improved. I hope it becomes something for which I can vote.

There has been tremendous movement during the night. I think that is very fortunate. We don't need to wait until tomorrow to register support for a strong bipartisan immigration reform bill; we can do it right now by voting for the committee bill.

I have heard the arguments against voting for cloture but, frankly, they do not make a lot of sense.

The first argument you hear is that by invoking cloture, you are shutting down debate.

It was interesting. Late last night, Senator FRIST offered an amendment. Do you know what he did? He filled the tree. He filled it up so no more amendments could be offered.

I said last night to the Presiding Officer: Can I offer an amendment?

He said no.

But I have to say that the majority leader, in rare form, said: I got the point.

That happens all the time here. It happens that people are not allowed to offer amendments. It is very frustrating to me—I wanted to offer a lot of amendments—and I am sure it is frustrating to others, but that is the way it is.

The other argument is that we shouldn't vote for cloture because the cloture motion was filed by the minority and not by the majority. If it is important to end the debate, it doesn't matter who files a cloture motion.

I don't know how easy it is for someone who has voted for this committee bill to vote against cloture. I don't understand how you could do that logically. But, in effect, that is what is going to happen. I think voting against cloture is a disservice to our country.

I have great hope that when we complete this vote here today, we will come back, the bases will still be loaded, and we will have a pitcher there ready to throw something, and what will be thrown is the Martinez amendment. It is something we can all take a swing at and drive in a run. What would that run be? It would be a run that would give the American people a victory—a victory for border security, a victory for people who want to work. It would be a very important provision of this guest worker program, supported by wide-ranging groups of people.

The third important aspect of this legislation, if we can get the hit this afternoon, would be to make sure that the 12 million people have a path to legalization—not an easy path but mountains to climb, some washes to move up, maybe even a tree or two to cut down, but it gives people hope that they can come out of the shadows and be part of our great American culture. I hope that will happen.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. FRIST. Madam President, in a few moments, we will be voting on this cloture motion.

We find ourselves this morning at an interesting moment in time based on what we had to do yesterday and last night. The procedure has been complex. Indeed, some have tried to play politics or use parliamentary rules to slow things down, speed them up, cherry-pick amendments that we address.

I believe many of our colleagues have been unfairly treated in the sense that, in a very important debate, when they have amendments we know will advance the discussion and improve the underlying bill they have been denied the opportunity to come forward and even introduce their amendments, debate them, and have them voted on.

In a few moments, we will have a vote on a motion presented by the Democratic leader that everyone knows will fail, and I think it is a real shame that some have felt it was more important to play these games to get to this point, but we are here and we are going to have a vote.

On the other hand, I am very optimistic by a lot of the events that have occurred over the last 14, 18 hours in terms of making real progress. After this vote in 30 or 45 minutes, I think the decks will essentially be cleared in the sense that we can optimistically look at where we are going to go over the next 12 or 24 hours.

I believe the Hagel-Martinez proposal introduced yesterday, which all of our colleagues have looked at over the course of this morning, gives us an opportunity to make a major step forward on the underlying bill. It gives a fair approach, a balanced approach. It gives priority to the security concerns about our national security interests that are always at the top of our list. It pays attention to the 9/11 recommendations. It respects the rule of law as well as that rich contribution and heritage provided by our immigrant population.

It was last October that I met with Senators CORNYN and MCCAIN and many others to discuss our intentions to take a 2-week block of time and focus on it here on the floor of the Senate. Publicly, at that point in time—again, it was October—I laid out a strategy, a plan to start with border security, where we have in this broad body agreement, and then build out by consensus a comprehensive plan that would include the two other very important components—border security; second, interior enforcement, enforcement of the workplace—and, third, a comprehensive immigration temporary worker plan that would address what has become the most challenging aspect of this discussion: the 11 million, 12 million, or 13 million illegal immigrants or undocumented people who are here. That is where we will find ourselves after this cloture vote.

Shortly thereafter, I asked the Judiciary Committee, ably led by ARLEN SPECTER and Senator LEAHY, to produce a bill, to have the necessary hearings and markup, and consider legislation. Indeed, after six markup periods of designing and writing that bill, they did just that. I commend them. I thank the chairman. I know many Members were involved and participated, and I think they did a very good job.

We began the debate last week. We started with border control, just as we laid out. We extended that to interior control enforcement and workplace enforcement and then comprehensive immigration reform including the temporary worker program. The American people expect it. To allow 2,000 or 3,000 illegal people to come across the border in the middle of the night, not knowing who they are or where they are going, is wrong. We can fix that, as well as comprehensive reform.

I am optimistic that after today's vote, after we do that, if we stay focused, if we come together, if everyone takes a very careful look at the Hagel-Martinez proposal, we will finish with a bill which will make America safer, protect the rule of law, and recognize our interest in legal immigration.

As I have said all along, I believe we cannot support amnesty. Amnesty, as I said before, is to give people who have broken the law a specialized, unique track to citizenship. But we do have 12 million people here today. We have to be practical. With the Hagel-Martinez approach, we will recognize and discuss the fact that these 12 million people are not a monolithic group. It is a group that can be addressed in different ways depending on where one falls within that group.

I support a strong temporary worker program that allows people to fill what employment needs we have, to come here and to learn a skill, send money back home, and then return to their hometowns to build and contribute to their local community.

I believe we need this three-pronged approach because only a comprehensive approach is going to fix this badly broken system we have today. For all we do on the border, at the worksites, we need to fix the immigration system and also to give us the real border security that so many know we need.

Over the course of the day, people can study the approach which was put

on the table by Senators HAGEL and MARTINEZ. It deserves discussion and focus. I believe it will be the turning point in the debate because it is time for us to act and not talk. It is time for us to no longer delay, no longer postpone. It is time for us to give our colleagues the opportunity to offer their amendments.

So talk, yes; debate, yes. But then let us vote—let us vote in our States' interests, vote for what is in our country's interest but; above all, let us give people the opportunity to vote.

I will close by saying again that I am very optimistic that by working together and applying a little common sense, we will come up with a plan that gets the job done and which makes America safer and more secure.

I encourage our colleagues to vote no on cloture now, and then the Senate will really get to work.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, the clerk will report the motion to invoke cloture.

The bill clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the Specter substitute amendment No. 3192.

Patrick J. Leahy, Edward M. Kennedy, Robert Menendez, Frank R. Lautenberg, Joseph I. Lieberman, Carl Levin, Maria Cantwell, Barack Obama, Tom Harkin, Hillary Rodham Clinton, John F. Kerry, Dianne Feinstein, Richard Durbin, Charles E. Schumer, Harry Reid, Daniel K. Akaka.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call is waived.

The question is, Is it the sense of the Senate that debate on amendment No. 3192 to S. 2454, a bill to amend the Immigration and Nationality Act, to provide for comprehensive reform, and for other purposes, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. ROCKEFELLER) is necessarily absent.

The PRESIDING OFFICER (Mr. ENSIGN). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 39, nays 60, as follows:

[Rollcall Vote No. 88 Leg.]

YEAS—39

Akaka	Feinstein	Lincoln
Baucus	Harkin	Menendez
Bayh	Inouye	Mikulski
Biden	Jeffords	Murray
Bingaman	Johnson	Obama
Boxer	Kennedy	Pryor
Cantwell	Kerry	Reed
Carper	Kohl	Reid
Clinton	Landrieu	Salazar
Dayton	Lautenberg	Sarbanes
Dodd	Leahy	Schumer
Durbin	Levin	Stabenow
Feingold	Lieberman	Wyden

NAYS—60

Alexander	DeMint	McCain
Allard	DeWine	McConnell
Allen	Dole	Murkowski
Bennett	Domenici	Nelson (FL)
Bond	Dorgan	Nelson (NE)
Brownback	Ensign	Roberts
Bunning	Enzi	Santorum
Burns	Frist	Sessions
Burr	Graham	Shelby
Byrd	Grassley	Smith
Chafee	Gregg	Snowe
Chambliss	Hagel	Specter
Coburn	Hatch	Stevens
Cochran	Hutchison	Sununu
Coleman	Inhofe	Talent
Collins	Isakson	Thomas
Conrad	Kyl	Thune
Cornyn	Lott	Vitter
Craig	Lugar	Voinovich
Crapo	Martinez	Warner

NOT VOTING—1

Rockefeller

The PRESIDING OFFICER. On this vote, the yeas are 39, the nays are 60. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mr. THOMAS. I move to reconsider the vote and to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEVIN. Mr. President, over the past few weeks, the Senate has engaged in an important debate that is long overdue. Our current immigration system is broken and has been broken for many years. Although this problem is complex, the need for reform is clear, and I am pleased that the Senate is moving forward on the issue.

We need to make comprehensive, responsible, and commonsense reforms that will stem the tide of illegal immigrants, will be fair to those who are here legally, and will deal realistically with the millions of illegal immigrants already here. I believe U.S. immigration policy should establish clear procedures for determining who can enter this country legally. And it must provide the tools for apprehending those who enter the United States illegally and to punish those who hire them at the same time. We must honor our traditions as both a nation of laws and a nation of immigrants, enriched by the diversity of newcomers.

The Senate Judiciary Committee worked hard to create a bipartisan package that would accomplish many of those goals. The bill before us today would strengthen security at our borders through advanced technology, increased border patrol, and heavier fines. It would create a sustainable temporary worker program to help fill the lowest wage jobs, which pay little and are short of American takers. And it would provide a path to citizenship that does not bump anybody who is here legally but would allow law-abiding, hard-working undocumented immigrants to go to the end of the line.

I am pleased by the inclusion of the AgJOBS bill in the Specter substitute amendment. The agriculture industry is the second largest industry in Michigan, behind manufacturing, and it depends upon the work of immigrants. The AgJOBS provision would provide protections for both the immigrant and American workers. It is estimated that without a guest worker program that allow for agricultural workers, the State of Michigan would lose hundreds of millions of dollars. In short, the AgJOBS provision is vital to the economic health of Michigan.

The security provisions in this bill are also important for Michigan and for the Nation. As the 9/11 Commission pointed out in its final report, the northern border has traditionally received dramatically less attention and resources from the Federal Government. I am pleased that the language passed by the Senate Judiciary Committee and included in the Specter substitute amendment authorizes an additional 12,000 Border Patrol agents over the next 5 years, and requires that at least 20 percent of these agents be stationed along our northern border.

I was also pleased that Senator COLLINS is joining me in an amendment to help ensure our Border Patrol agents and other Federal officials involved in border security—including police officers, National Guard personnel, and emergency response providers—have the capability to communicate with each other and with their Canadian and Mexican counterparts.

The Levin-Collins amendment would direct the Secretary of Homeland Security to establish demonstration projects on the northern and southern borders to address the interoperable communications needs of those who have border security responsibilities. These projects would identify common frequencies for communications equipment between United States and Canada and the United States and Mexico and provides training and equipment to relevant personnel.

Overall, this legislation would be a step forward on a challenging and pressing issue. It contains important bipartisan provisions that will enhance our security and our prosperity while being fair.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. GRAHAM). Without objection, it is so ordered.

Mr. KERRY. Mr. President, I ask unanimous consent I be permitted to proceed as in morning business.

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

(The remarks of Mr. KERRY pertaining to the introduction of S.J. Res. 33 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER (Mr. DEMINT). The Senator from Idaho is recognized.

(Mr. DEMINT assumed the Chair.)

Mr. CRAIG. Mr. President, let me talk about the business at hand, and that is the most important debate that I think this Senate has held in a good many months, on S. 2454, the comprehensive national immigration bill. In this immigration reform discussion, I have stood here to emphasize our imperative duty to guard our borders and strengthen our national security. I have spoken about the provisions within S. 2454 that deal particularly with the agricultural economy that I have focused on now for a good many years. I presented my colleagues with alternatives and approaches toward resolving the issue of illegal foreign nationals working in the agricultural economy.

Today I want to talk about another component of the immigration debate. I am concerned about some of the comments being flung around as we address this critical issue. Certainly, this is a topic that awakens America's emotions, but I cannot help but reflect on what those comments reveal about us as a Nation. It is as though America doesn't want to face the mirror and look at herself. She doesn't want to see what she is and what that means. But for her own good, she has to. She must look in her mirror. She is a blend. She is a wonderful mosaic. She is English. She is German. She is Italian. She is Polish. She is Irish. She is Asian. She is African. And, yes, she is Hispanic. She is multiracial, multiethnic, and diverse in every aspect of her national life. That is why she is admirable. That is why she has prospered, and that is why she is strong.

What is true in science is true in sociology. Mixing results in achievement and strength—we ought to think about that. We ought to evaluate some of the conceptions we have regarding immigrants and measure them against the realities to see if they hold true.

Immigration is a phenomenal national challenge. It always has been. But immigration is a challenge, it is not a threat. Quite honestly, immigrants represent solutions to many of our Nation's problems, both currently and in the future.

(Mr. VITTER assumed the chair.)

Mr. CRAIG. Mr. President, the U.S. Bureau of Labor Statistics projects a shortfall of 10 million workers in this country by 2010. The reason is quite simple: Our workforce is growing older, and as it grows older, it shrinks.

That is true in Japan, a great Nation 30 years ago, 20 years ago, suggested to be the economic force of the world, and 12 years ago, it quit growing and began to die. Why? Because her workforce grew older.

On the other hand, immigrant labor is behind the significant economic growth this country has experienced in different areas in recent years. These are the economic necessities of today in a growing economy. Can we recognize this? Do we see that foreign nationals are cleaning up New Orleans and binding her wounds? Do we know that the Pentagon was rebuilt by Hispanic muscle?

Immigrants are sweating it out across our country. They consistently have done it literally for centuries. In my home State, Hispanics were digging the mines in the 1860s. Mexican cowboys and ranchers were solid members of the pioneer communities even before my State became a State. Hispanics were mule packers in the 1880s, the mule trains that moved across the great West. They and the Chinese were building and maintaining the railroad systems of the American West throughout the 19th and 20th centuries. Today, they are harvesting apples in Washington, peaches in Georgia, and oranges in Florida. They are gathering grapes in California, slashing sugarcane in Louisiana, harvesting potatoes in Idaho, and picking corn in Iowa. Their footprints are in agricultural fields across America.

Immigrants are hard workers. They work hard because they are grateful people and feel a sense of debt for the opportunity this country has given them. Contrary to what some believe, immigrants who have entered legally and illegally are not here to siphon services but to produce and to contribute. They are working hard and, in most instances, giving back.

The Idaho commerce and labor department reports that between 1990 and 2005, Hispanic buying power in Idaho rose more than twice as fast as total buying power across our State. Nationwide, the purchasing power of Hispanics will reach $1 trillion—that is trillion with a ''t''—in 4 years. Beyond their role in sustaining the country's labor force, immigrants make a net fiscal contribution to the U.S. economy.

The President's 2005 Economic Report, which uses figures that are most authoritative in analyzing to date the economic impact of immigrants, says:

> The average immigrant pays nearly $1,800 more in taxes than he or she costs—

The economy. Undocumented immigrants are believed to contribute billions of dollars to our Social Security system, billions of dollars they will not benefit from.

According to the President's report, the administration's earnings suspense file—that is a file within Social Security made up of taxes paid by workers with invalid or mismatched Social Security numbers—totaled $463 billion in 2002.

While other nations of the developed world are aging, America still sees a youthful face reflected in that mirror in which she looks. Immigration renews the United States, and it keeps us young, while countries such as Japan, as I mentioned earlier, and Russia and Spain are facing problems because their populations are decreasing. America has the necessary arms to support its pension and its social programs. Therefore, a comprehensive immigration reform is in America's best self-interest.

Yes, we must contain our borders. Yes, we must, in any immigration program, make sure that it is controlled and managed so that those who come to America can, in fact, become Americans.

Understanding these realities erases some of the misconceptions bouncing around this Chamber and bouncing around America, misconceptions that sometimes smack of prejudice. Previous immigration waves have experienced it to some extent, but I believe that we, as a nation, are greater than that. When every one of us, except Native Americans, belong to a family that came from somewhere else, we should be careful not to erect mental borders, the type that keep people who are different from us at arm's length.

We are a nation that encourages new thinking and benefits from the growth that results from that new thinking. The American poet, Oliver Wendell Holmes, said it best when he said:

> A mind stretched by a new idea never returns to its original shape.

It expands. It grows. It broadens. Immigration is a source of new ideas of entrepreneurship and vitality. The meeting of cultures simply does not happen in a one-way street but in a bridge, where both sides give and receive.

When America looks at herself in her mirror, what will she see? She will see the very multicultural character she has always been. She will see that characteristic is her greatest asset.

So the debate on the floor of the Senate today is worthy of this Senate. It is worthy of all of us to make sure that a program that is broken, a national immigration program that has not had a caretaker for over two decades, now be given that responsibility, to be redesigned, to be shaped, to be brought under control, that our borders be secure and that America's multinational or multiethnicity continue to grow and prosper and bring the kind of strength and viability to our culture that it has always given us.

America will be greater because of what we do here, if we do it right; it will not be lessened by our actions.

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

The PRESIDING OFFICER (Mr. ALEXANDER). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. OBAMA. Mr. President, I rise today to speak about the compromise that we have reached around a comprehensive immigration bill.

A group of Members led by Senators HAGEL, MARTINEZ, SALAZAR, MCCAIN, KENNEDY, DURBIN, LIEBERMAN, GRAHAM, and others, have agreed to move this debate to a sensible center. In doing so, they have bridged a wide divide and demonstrated what the U.S.

Senate is capable of when it comes together to work on an important problem affecting the lives of all Americans. So I commend this group that I have had the honor of being a part of for moving closer to an agreement that serves the twin purposes of securing our borders and bringing undocumented workers out of the shadows.

To assess our progress on this issue, we need only look back on where we were when this debate started last week. Many Members on the other side of the aisle opposed any plan that would provide a path to citizenship for undocumented workers who are living in the United States. I think the fact that, a little over a week later, we are now at a point where it is recognized that a path to citizenship should be part of a comprehensive package; that it will, in fact, improve our ability to monitor these workers and to make sure they are not depressing the wages of American workers; and that the undocumented population should have the opportunity to live out the immigrant dream over the long term is a positive step forward. I am especially pleased that the compromise includes changes to the guestworker program, first proposed by Senator FEINSTEIN and me, to protect American wages and ensure that Americans get a first shot and a fair shot at jobs before they go to guestworkers.

Everyone in the Senate who has introduced a comprehensive immigration bill, including the Administration, has called for a new guestworker program. I have to say that there are some concerns I have with a guestworker program. Clearly, there is a consensus among employers and the Chamber of Commerce that they need greater access to legal foreign workers in order to avoid the disconnect between supply and demand. In recognition of that consensus, the Judiciary Committee bill created a new temporary worker program. But many experts have expressed concerns about the size of that guestworker program and the effect it could have on American workers' wages and job opportunities. I think many of those concerns are legitimate.

The Judiciary Committee bill would have allowed 400,000 new temporary ''essential'' workers per year, adjusted up or down by market triggers. It would have created a 3-year visa, renewable for 3 years, with portability to allow guestworkers to move from employer to employer. It would have required that employers first seek out U.S. workers, and that guestworkers be granted labor protections and market wage requirements.

Under the Judiciary Committee proposal, the guestworker could apply for permanent status within the new employment-based cap if his employer sponsored him, or the guestworker could self-petition to stay if he worked for 4 years.

In order for any guestworker system to work, it has to be properly structured to turn people who would otherwise be illegal immigrants into legal guestworkers. And it has to provide protections for American workers who perceive their jobs to be at stake.

Unfortunately, I believe the Judiciary Committee did not quite strike the right balance. But we can do better. We can ensure that guestworkers are not just unfair competition for American workers; rather, that they are a legitimate source of critical workers.

To that end, Senator FEINSTEIN and I offered an amendment to retain the underlying structure of the program presented in the Judiciary bill, but to address some legitimate concerns that have been brought to our attention.

Let me discuss some of the key provisions in this amendment.

First, Senator FEINSTEIN and I originally sought to lower the cap on guestworkers from 400,000 to 300,000. The compromise bill lowers the cap to 325,000 workers. That's a significant decrease that should give some comfort to American workers.

Second, our amendment ensures that localities with an unemployment rate for low-skilled workers of 9 percent or higher do not see an inflow of guestworkers under any circumstances.

Third, our amendment ensures that guestworkers receive a prevailing wage, whether or not they are covered by a collective bargaining agreement.

Finally, we guarantee that any job offered to a guestworker is first advertised to Americans at a fair wage.

These are fair, commonsense changes. Our amendment recognizes that American workers will be better off if we replace the uncontrolled stream of undocumented workers with a regulated stream of guestworkers who enter the country legally and have full access to labor rights. Replacing an illegal workforce with legal guestworkers who can defend themselves will raise wages and working conditions for everyone.

I think the amendment Senator FEINSTEIN and I have offered will ensure that an employer seeks a temporary worker only as a last resort, and only after making a good-faith and fair offer to American workers, which is why this amendment has been endorsed by the Laborers' International Union, the United Brotherhood of Carpenters, SEIU, and the United Food and Commercial Workers Union.

I am pleased at the work that has been done. My understanding is that the compromise Hagel-Martinez legislation that is being prepared will provide for these terms. However, I remain concerned. We have to make absolutely certain—given the delicate balance between security, border protection, and treating all workers fairly—that we do not end up having a series of amendments that effectively gut this legislation. We also have to make sure that, if this bill is negotiated with the House in a conference committee, we do not end up with a program that creates a second-tier class of workers who cannot be citizens, and can be exploited by their employers.

I am pleased at the progress that we have made since last week. I hope we continue it. I am looking forward, on a bipartisan basis, to addressing these concerns in the debate that follows over the next several days.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. COLEMAN). Without objection, it is so ordered.

Mr. GRASSLEY. Mr. President, I ask unanimous consent to speak for 15 minutes as in morning business.

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

DOHA ROUND

Mr. GRASSLEY. Mr. President, as chairman of the Senate Committee on Finance, I chair a committee that has jurisdiction over international trade. We find ourselves being both a participant and an observer of Doha Round negotiations under the World Trade Organization. Those negotiations are in a very determinative state; success will be made, I believe, during the month of April or the Doha Round, for all practical purposes, would end—not in the minds of the WTO or in the minds of the 148 nations other than the United States but as a practical matter. If things are not done by the end of 2006 and the President's authority for trade promotion running out in July of 2007, there will not be time for us to get something done before trade promotion authority runs out.

I would like to have trade promotion authority for the President continued beyond July 2007. I would try to promote that, but we saw very close votes on CAFTA and other trade agreements; there is a protectionist trend in the Congress—maybe not in the Nation as a whole but at least in Congress—that might keep us from getting trade promotion authority reauthorized.

I comment in these few minutes on where we are on the Doha Round and what I expect to happen and leave the message, if it does not happen very soon, this round could be dead.

As we enter the final months of the WTO Doha negotiations, I am very concerned the bright promise of a world far less burdened with often crippling, market-distorting trade barriers may be slipping from our grasp. In particular, I am very troubled by the fact that nearly 5 years after WTO members adopted the Doha ministerial declaration that launched this round of global trade talks, some of our WTO negotiating partners still seem willing to forgo this very historic opportunity that Doha represents to open highly protected agricultural markets.

We now have less than 4 weeks to go to meet the WTO's new April 30 deadline to reach agreement on what is referred to as modalities or, another way

to put it, a roadmap for how we will achieve our specific market-opening objectives in the agricultural negotiations. This deadline, similar to most of the others, also appears to be elusive.

The Doha Round is a historic opportunity because global trade rounds are relatively rare events. We have had only nine of them since the creation of the global trading regime back in 1947, what we then called the General Agreement on Tariffs and Trade, or GATT.

Agriculture, which was ignored for almost the first 40 years of GATT, was only first addressed at all during the last round, which was the eighth round, which was called the Uruguay Round because it started in Montevideo and finished and passed by Congress in 1993.

So here we are, 13 years later, trying to make some progress—but not making very much progress—toward what we would hope would be a 10th successful round since the regime started in 1947. Because many trade-distorting barriers were untouched or minimally reduced at the end of the Uruguay Round in 1993, much was left to be done, particularly in agriculture, but we are negotiating manufacturing, we are negotiating services, so a lot needs to be done.

In light of the lack of progress in the World Trade Organization, I briefly address a few points. First, as chairman of this Senate Committee on Finance, I reaffirm, as strongly as I can, the basic elements of the Trade Act of 2002, especially the legislation crafted by this committee that renewed the President's trade promotion authority in 2002, after it had lapsed for about 7 years.

The underlying premise of our trade promotion authority legislation, which gives Congress enhanced oversight authority over trade negotiations conducted under that act, is that the United States will pursue a very ambitious, very comprehensive trade negotiation, particularly in agriculture. This was the cornerstone of the Doha Round—ambitious, comprehensive negotiations and nothing less.

The reason I fought so hard for trade promotion authority is simple. The benefits from ending decades of trade-distorting practices in the global agricultural trade are overwhelming. The U.S. Department of Agriculture has estimated getting rid of market-disrupting agricultural protection could increase the value of U.S. agricultural exports by at least 19 percent. In addition, the Department of Agriculture study also concludes that agricultural liberalization would increase global economic welfare by $56 billion each year.

I know well how vital trade is to farming families anyplace in America, but I am particularly knowledgeable about my State of Iowa because I happen to be a family farmer, farming jointly with my son Robin. Our farmers and agricultural producers sold over $3.6 billion in agricultural exports in overseas markets last year. Although importers and consumers from all over the world seek out Iowa's agricultural products, this is also true of American agriculture generally.

Moreover, more than $3 trillion of economic activity in our $12 trillion economy is derived from trade. Think of that: More than 25 percent of our economy is based upon international trade. That is why an ambitious, comprehensive result in the Doha negotiations is the only kind of result that makes sense, both for my State of Iowa and the United States.

President Bush and Ambassador Portman have done a very good job—in fact, a remarkable job, in my view,—of pursuing an ambitious, comprehensive agricultural deal, especially in the difficult period prior to and during the Hong Kong Ministerial Conference last December.

Nevertheless, some World Trade Organization members, principally the European Union, now apparently want to stop short of that ambitious, comprehensive, result-seeking agreement that was previously reached in opening Doha Round, and they particularly want to shortchange the negotiations in the area of agricultural market access. That is why, when pressed by the United States and other World Trade Organization members, the European Union appears to be changing the subject away from ambitious market access to secondary issues such as food aid, on which we are now having protracted discussions.

I am not even sure our own negotiators should be participating in something as fringe as food aid as compared to the massive discussions and decisions that need to be made in trade-distorting export subsidies by the European Union or by, in the case of the United States, production-related subsidies that we do for American agriculture, not subsidies for agriculture generally but those which are trade distorted. We find our American negotiators getting all nervous about food aid as somehow being a major item. No. What it is is an effort on the part of the European Union to detract attention from the really big export subsidies and production-oriented subsidies.

Perhaps that is because of the intense political pressure European trade and agricultural officials think they face at home. It seems to me that the European Trade Minister wants to open up and do really good trade negotiations. It seems like there is a hangup by the European Agricultural Minister. And it seems to be really a hangup by French farmers. According to one account by former European Commission officials, European farm groups described one compromise agricultural agreement as a death warrant for European farmers. However, that was in 1992, connected with the Uruguay Round negotiations, and the agricultural agreement that drew so much protest in Europe was back then, not today, when that description was made. Ultimately, of course, Europe accepted the Uruguay agreement in 1993. Now the European Union is right back where they were 13 years ago, citing that same agreement as a model for the type of agreement they would like to see today, at least in terms of linear tariff reductions.

So we have seen this type of reaction from Europe before.

Today, once again, the European Union thinks that ambitious market access too politically painful to achieve or to even thoroughly negotiate, but they got over that hurdle in Uruguay. Why can't they get over that hurdle in Doha? So we are back at the European tactic. It appears that what they are really trying to do is a minimal deal somehow being seen as a good deal. Apparently, they think it is a good result if they can get something that is marginally better than the status quo, end negotiations, declare victory, and go home.

Other WTO Members such as Brazil appear reluctant to agree to an ambitious outcome in agricultural market access because they may believe that they can achieve their objectives through other means, such as litigation. You know about the cotton case. Brazil recently was successful in that case. So it may give them false hopes that they can achieve, through legal briefs in Geneva, what they do not appear to win at the negotiating table of the Doha Round.

I would like to say a word about both of those situations.

First, a minimal deal in the Doha agricultural negotiations is not something that can be considered a victory in any sense of the term, even in a political sense. What do I mean by a minimal deal? A deal that goes just beyond the 36-percent average tariff reduction of the Uruguay Round, a deal that leaves tariff peaks in place, or a deal that undermines market access by long lists of special exemptions.

I will not try, as chairman of the Finance Committee, to spin some minimalist deal into some sort of political victory. In fact, I will not even allow it to be brought up for consideration in the Finance Committee or, if I was overruled by my own committee, I would fight it on the floor, if it ever got that far.

So let me make that as clear as I can. A bad deal for agriculture in Doha negotiations is worse than no deal. That was my position at the start of these negotiations, and that is my position now. All those people spending all their time negotiating on food aid when they ought to be negotiating on export subsidies, when they ought to be negotiating on subsidies encouraging overproduction, that is not going to take my eye off the ball.

A minimalist outcome in the Doha negotiations, after years of effort and high-level political engagement, would send a terrible message that real reform in agriculture is too hard to achieve and may set us back for decades.

It would make meaningless a key element of the agricultural component of the Doha Ministerial Declaration where WTO member countries committed themselves to ''comprehensive negotiations aimed at substantial improvement in market access.'' That is what U.S. agriculture demands for giving up our subsidies connected to production. Farmers want their income from the marketplace, not from the Federal Treasury. But we cannot do that without market access, where there are 62 percent average tariffs around the world on agriculture compared to our 12 percent. If that happened, it would reward countries such as the European Union that have big farm spending, highly inefficient production——

The PRESIDING OFFICER. The Senator has used his time in morning business.

Mr. GRASSLEY. I ask unanimous consent for 4 more minutes.

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

Mr. GRASSLEY. If we went this route, it would reward countries such as the European Union that have big farm spending, highly inefficient production, and use nontariff barriers to thwart trade. And even though this round is known as the Doha Development Round because it is supposed to help poor countries, a bad deal that keeps high trade barriers in place would tell developing countries that they can forget about seeing fair opportunity to export their products.

As for World Trade Organization members that see litigation in dispute settlement—as Brazil did in the cotton case—as a practical alternative to negotiations, I would remind those who are tempted to adopt this position that litigation, even under the new, improved WTO rules, is unpredictable, costly, time-consuming, and not the way to resolve unfair trade.

Moreover, litigation is not always the most effective way to open markets and eliminate trade barriers, especially over the long haul. Historically, we have also depended on negotiations and the everyday management of trade and commercial relations as much better ways to achieve and maintain open markets.

Make no mistake, we can and will defend our interests through dispute settlement when it is necessary to do so, and we have done so as the United States in the World Trade Organization quite successfully. But substituting litigation for negotiations or for management of our commercial relations is neither practical nor desirable, nor is it the way to bolster confidence in the World Trade Organization as an effective negotiating forum.

I began by saying that this round of trade negotiations is a historic opportunity. It can be historic in the sense that we achieve a result that truly benefits the global community by increasing global prosperity, and it can be historic in the sense that we miss a great opportunity to promote prosperity and open markets throughout the world.

Unfortunately, we have made enormous mistakes before when we missed important opportunities to fight for comprehensive global trade liberalization. In the early years of the General Agreement on Tariffs and Trade, going as far back as 1947, it was the developed nations, particularly the United States, that created exceptions for agriculture, that exempted it from liberalization under the GATT regime. It has taken us decades to shift gears to try to bring agriculture under the discipline of global trade rules. That is why it is so important for us to continue to make real progress in this round of global trade talks.

Achieving real, meaningful results in these talks is something I am as strongly committed to now as ever before. It is also why I will continue to oppose any outcome in the WTO that, in my judgment, fails to accomplish these goals, even if it is a minimalist approach. Don't expect me to bring such an agreement before the Senate as chairman of the Finance Committee.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. BUNNING. Mr. President, I rise to talk about immigration reform. Over the past week, I have heard many of my colleagues describe the important contributions immigrants have made to American society and culture. Like my colleagues, I agree that the United States has a long and proud tradition of immigration. Immigrants have contributed in many ways to our Nation since its birth. Many Americans are descendants of immigrants who came to America seeking a better life. Unfortunately, today we have a huge illegal immigration problem that threatens our Nation's security and our economic security.

I was recently contacted about this issue by a constituent of mine. She is a young Irish-American woman whose parents emigrated from the Republic of Ireland to the Commonwealth of Kentucky over 20 years ago. When talking about her experience of immigration to the United States, this young woman stressed to me what a privilege immigration to our country truly is. She is right. Immigration is a privilege and not an entitlement. This distinct privilege of immigration is one which is unique to our great Nation and one which is currently being threatened by the flow of illegal immigrants into our society.

Like so many of my colleagues, I would like to see this country's traditions of immigration preserved. But it must be done in a way that does not reward those who broke our laws and came to this country illegally. Looking at immigration reform, I believe we must start with securing our borders, to stop those who illegally try to enter the United States.

Border security is the foundation on which we must build immigration reform. It is essential to our national security that we make it our No. 1 priority. We need to keep a close eye on who the people are who are entering this country and the purpose they have for coming here. The only way to do that is to make sure our Border Patrol agents and other law enforcement officials responsible for stopping illegal immigrants have the resources they need to protect our borders.

Right now, our Border Patrol agents do not have enough funds to secure our borders effectively. Often, people have the ability to just walk across the unguarded border without question.

We need to provide the Border Patrol agents with the best resources, the most up-to-date technology, and, most importantly, the manpower they need to successfully do their job.

Just this past week, the FBI busted a smuggling ring organized by the terrorist group Hezbollah. They had some of their members cross the Mexican border to carry out possible terrorist attacks inside the United States. Securing our borders is no longer an option, it is a necessity. It is essential to securing our national safety, the safety of our citizens, and the safety of future American citizens.

We must also find a commonsense solution to dealing with those individuals who are already here illegally. While there currently are several options on the table, I believe amnesty in any form is not an option. I was disappointed to see this in the Specter amendment. We must find a solution that meets the needs of employers, while also protecting American jobs.

I think this could be done through some kind of program that would require illegal immigrants to return home to their country of origin after a set period of time. Once home, these workers could then apply to get on the path to come back as a temporary resident and maybe even apply for citizenship. But in no way should amnesty for illegal immigrants be an option. If these folks want to come back as citizens, they need to go back to their country and get in line behind the almost 3 million people who have already begun following the law and waiting patiently to enter the United States legally. No one should be allowed to cut in line.

As many of you know, Kentucky has a very proud and rich history in agriculture. From our tobacco farms, to our dairy farms, Kentucky's economy relies on its agricultural industries. As someone who is from an agricultural State, I understand the need for temporary workers. Any guest worker program needs to be simple to use for both the employer and the employee. Employers must be provided with the proper tools to verify the immigration status of their employees. Those tools need to be easy for our Nation's employers to access and to use. This is essential to any type of immigration reform and to our national security. We need to know who is being employed,

where they came from, and how long they are allowed to stay.

Congress must act on immigration reform. I hope partisan politics does not prevent action on an issue that is so important to our Nation. I would like to once again reflect back on the words of my Irish-American constituent and urge my colleagues, this week, to help keep immigration a privilege of our great Nation.

I urge my colleagues to help put integrity back into the immigration process. While our country does have a rich tradition of immigration, we do not have a rich tradition of rewarding those who break our laws. I call on my colleagues on both sides of the aisle, both Democrats and Republicans, to remember the principles upon which our great Nation was founded. While we always have been and still are a land of opportunity, we also are a land of laws.

Mr. President, I thank the Chair, and I hope this big problem that we have facing our Nation is given a chance to be solved on the floor of the Senate this week.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

SUPPORT FOR THE PRESIDENT'S PLAN FOR IRAQ

Mr. ALLARD. Mr. President, I come to the floor to respond to some of the comments that were just made by my colleague from Massachusetts. I want to start off by saying that I have been very supportive of the President on the war in Iraq because he has had a plan and he has stayed the course. That is what gives me confidence in the President. I think it is what gives confidence to many American people. They understand that he has made a strong commitment in Iraq to stick with the Iraqi people, and he has confidence in those people. Even though the political winds are twirling around, he has been able to ignore those and move forward. He is showing success. Sometimes it is not as great as we would like to see or as dramatic, but I think what we see today in the criticism of the President is individuals who are being spun in the political winds, unlike the President.

When my colleague from Massachusetts calls the strategy of today counterproductive and says we ought to pull out our forces immediately from Iraq, that is a catastrophic suggestion. It is not anything that we should consider very seriously. It wasn't that long ago when my colleague from Massachusetts was saying that it would be a disaster and a disgraceful betrayal of principle to speed up the process and simply lay the groundwork for expedient withdrawal of American troops, which would risk the hijacking of Iraq by former terrorist groups and former Baathists. This quote was in the runup to the 2004 election.

So we see some being spun in the political winds, while the President remains strong, forceful. The President truly is a leader in a very difficult situation in Iraq. That is why I feel so very committed to supporting the President. You cannot deny the fact that this President truly wants to see democracy survive in Iraq, and he truly believes in the Iraqi people.

Contrary to criticism coming from the other side of the aisle, he does have a plan, and he is sticking to that plan.

As we move through various phases of the President's plan, we have seen that criticism has changed from the other side. I think they criticize just for the sake of criticism, trying to get the President off course. But to his credit, he has stayed the course. I think that is commendable. That is what helps make him a strong and effective President.

I want to make this point: Al-Qaida is still a threat in Iraq, but we are making significant advances there. I have to base that on discussions I have had with troops that have come freshly out of Iraq. They all believe they are indeed improving our situation in Iraq. They think they are making a difference in Iraqi lives, and they truly believe the Iraqi people they associate with appreciate what is happening and appreciate their efforts.

There is a statewide elected official in Colorado, Mike Coffman, who has returned from Iraq. His mission was to help set up local governments throughout Iraq. We found in our military forces that we didn't have that expertise. And Mike, who is in the Reserves, could make a difference in Iraq. The military said: We need you, Mike Coffman, to help set up these local governments. He spent almost a year in Iraq helping set up local governments and the story he has to tell is one of progress in Iraq, that the people in Iraq are truly moving forward and trying to set up their local governments. He thinks that our soldiers are making a difference.

Not for one moment has he expressed any regrets in having taken a year out of his political life in Colorado to go to Iraq and make a difference in Iraqi lives and help support the President and the plan he has for stabilizing Iraq and a gradual withdrawal.

This is the point: my colleague from Massachusetts seemed to have learned the lessons of 9/11 when he warned against a precipitous withdrawal from Iraq in the past, but as the political winds have changed, he seems to have forgotten those lessons anew. Republicans will never forget the lessons of 9/11 and will continue to support the President's efforts to bring peace and stability to Iraq.

I am supporting the President because he is staying the course. He has a plan in Iraq. He is putting the plan to work. I think that in the long run he is going to make a difference. We are going to have a better world because of his efforts. We are going to have a more stable Middle East, and this President will truly go down in history as a great leader.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. THOMAS. Mr. President, I would like to speak for a few minutes with respect to the amendment that has already been filed.

The PRESIDING OFFICER. The Senator is recognized.

Mr. THOMAS. Mr. President, I have come to the floor to talk about an amendment that I filed, that I hope soon we might be able to consider, on this important bill with respect to immigration and with respect to Federal land border security, which are integrated.

First, let me say that I am hopeful we can move forward with this bill. It is a very important bill. Obviously, all of us agree with the fact that there are problems that need to be resolved, and they need to be resolved soon so they don't continue to become more difficult.

We also recognize that there are aspects of this bill that are controversial and difficult. I am not certain where we are in the process, but I am hopeful the discussions we have had will continue to be useful and that we can come to, whether this week or later, completion of this issue.

As far as I can tell, everyone has agreed we need to do something about the border, that the border needs to be secure, whatever it takes to do that. Some of us don't think it takes 700 miles of fence, but it will probably take some fence and take some other new technologies, as well as dollars and people, to have a secure border.

I don't think there is any question but that that needs to be done and needs to be done soon so that the problem that exists because of having a porous border doesn't continue to exist in the future. There is general agreement that over time, as immigrants come here for jobs, employers will need to report as to the citizenship status of the people they employ. There needs to be a system to do that so it can be part of the way of enforcing lawful immigration into this country.

Further, I think most people don't disagree with the idea of immigration. The question, at least in my view, is illegal immigration. I am opposed to illegal immigration, and I think we have to do something to see that it doesn't continue to happen. The challenge is: How do we handle those folks who are here, whether it is 12 million or whatever the number is? I think that is where we are in the controversy, and I understand that.

Personally, I don't think anyone should be given amnesty, nor should

they be given any particular advantages for citizenship if they came here illegally, and we need to find a way to deal with it. On the other hand, I am very much in favor of having legal workers come here and fill the jobs that are necessary. But they ought to have legal work permits, and they should have to go back if it is a work permit, and if they are citizens, they need to go through a citizen entry system.

The other part of the debate and what I came to talk about is the aspect of our borders and security. That is one of the reasons—not only for immigration, but for security—we need to secure our borders. Many of our national treasures and resources are on the front line of border security. Thirty-nine percent of the southern border of the United States is under the jurisdiction of the Department of the Interior. Arizona's Organ Pipe Cactus National Monument and other federally owned resources have become a hotspot for illegal border crossings. I visited Oregon Pipe last year. I am the chairman of the Parks Subcommittee. Frankly, they are using almost all of their resources not to take care of the park, not to do the things park people normally do, but to protect against illegal immigration movement across the border that is the park boundary border on the national park border.

Over the last 2 years, park rangers have arrested 385 felony smugglers, seized 40,000 pounds of marijuana, and interdicted 3,800 illegal immigrants. These are national park rangers. So it has become a very important part of border security.

Border security activities play, as you might imagine, a very significant role in park operation funding and in park operation staff. Customs and border protection agents are not always available to patrol the Federal lands along the border. As you can see here, there are a number of things that are there. The Bureau of Indian Affairs, for instance, right here, is a very large aspect of the Arizona border. Here is the Organ Pipe park we mentioned. The Bureau of Reclamation has a number of these yellow spots along here. We don't have Texas and New Mexico on the map, but there are also a great many more Federal lands that are there.

We have to make sure these agencies are given the assistance they need to provide the border security that is necessary, to provide for park researchers and others who are there doing their work or to pursue smugglers crossing the border. We never think about that particularly. All of a sudden there are cars parked there and people who have driven across, left the cars and walked on through, and so on. It is quite a problem. I understand that the Park Service law enforcement will inevitably play a role in border security, but we need to keep their jobs focused on protecting the park and not having to spend all their time on international borders—which is the responsibility of the Border Patrol—and other activities, or at least provide additional funding.

This amendment will ultimately do two things: Protect our borders and protect our national treasures.

We direct the Director of Homeland Security to increase Customs and border protection personnel to secure Federal lands and Federal parks along the border, which is I think a reasonable thing to do.

It requires Federal land resources training for Customs and Border Patrol agents who will be dedicated to Federal land border security to minimize the impact on the natural resources. After all, that is why we have Federal lands.

That is why we have parks, to make sure the resources are protected. Quite frankly, if you have illegals crossing, they have no interest in protecting those resources.

It provides unmanned aerial vehicles, aerial assets, and remote video surveillance camera systems and sensors. Those are the things we need as opposed to big walls.

It requires the Secretary of the Interior to conduct an inventory of the costs incurred by the National Park Service relating to the border security activities and submit those recommendations to Congress.

I realize this is only one rather small element of this whole issue we are talking about but, nevertheless, it is a unique issue, it is an important issue, and as we move through dealing with border security and dealing with Federal land borders and protecting these things, I hope we keep in mind this unusual but important exposure we have to our Federal lands.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. CONRAD. I thank the Chair.

(The remarks of Mr. CONRAD and Mr. ALEXANDER pertaining to the introduction of S. 2571 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER (Mr. CHAFEE). The Senator from Massachusetts.

Mr. KERRY. Mr. President, what is the parliamentary situation?

The PRESIDING OFFICER. The pending legislation is the Frist second-degree amendment to the motion to commit.

Mr. KERRY. Mr. President, I ask unanimous consent to speak as if in morning business.

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

IRAQ

Mr. KERRY. Mr. President, a little while ago—I was not here, I was at a hearing of the Finance Committee—I am informed that the Senator from Colorado, Mr. ALLARD, came to the floor to attack my position on Iraq, which is fine by me, but also I think somewhat questionable with respect to the rules and the ethics of the Senate to attack me personally about my motives with respect to a position I have taken. The Senator from Colorado suggested that "we see an individual who is being spun in the political winds."

Let me make it clear to the Senator from Colorado, and anybody else who wants to debate Iraq, that when it comes to issues of war and peace and of young Americans dying, nobody spins me, period.

I am not going to listen to the Senator from Colorado or anyone else question my motives when young Americans are dying on a daily basis or losing their limbs because Iraqi politicians won't form a government from an election that they held in December. That is inexcusable.

Let me ask the Senator from Colorado: Is it OK by him that young Americans are dying right now while politicians in Baghdad are frittering away their time and squandering the opportunity our soldiers fought to give them? Does he think that is a plan that is working? Does he think that is serving the needs of the American military?

Indeed, a year and a half ago or 2 years ago, I suggested, as did many other people, that it would be inappropriate to set a timetable for American troops to withdraw because we had not had elections and because most people assumed what we were fighting then was al-Qaida and terrorists who were foreign terrorists. But the fact is since then we have trained forces, we have trained police. We listened to this administration consistently come and tell us how great the training is, how many people are up and trained, how much they have been able to make progress, how 70 percent of the country is indeed peaceful.

If that is true, then there shouldn't be a great threat to reducing American forces on a schedule that is also tied to our ability to resolve other issues with respect to Iraq.

I ask the Senator from Colorado: Let us have a real debate about this issue.

Does he ignore what our own generals tell us? He says the President has a plan. Our generals tell us—General Casey—that the large presence of American forces in fact is adding to the occupation in the sense of an occupation and it derails the Iraqis standing up on their own.

I am listening to General Casey—not to the Senator from Colorado. If General Casey tells me the Iraqis would stand up faster if there were less Americans there, I believe him. Our troops have done the job.

Don't come to the floor of the Senate and try to suggest to me that somehow when we come up with a plan to protect our troops and to make America stronger we are somehow making their life more miserable. Ask the troops. Seventy percent of the troops who were polled in Iraq said they thought next year we ought to be able to withdraw. Those are our troops talking to us.

The notion that we are going to try to make this into one of those political

squabbles—let us have a real debate about the policy in Iraq. Anybody who wants to come to the floor and pretend it is working today is living in fantasyland.

Anybody who wants to suggest our soldiers ought to be dying so a bunch of folks over there can squabble over issues we haven't even brought to the diplomatic table adequately has a false sense of what protecting the troops means and of what their interests are. The fact is they only respond to deadlines.

Talk to people who have been in the region. It took a deadline to get them to have a transfer of the provisional government. It took a deadline to be able to get the elections in place. It took a deadline to be able to get the Constitution in place. It took a deadline to be able to have the election that we held in December.

The fact is it ought to take a deadline now to tell them to put a government together, stop messing around, and don't put our kids' lives at stake and waste the billions of dollars of American taxpayers. Get your government together. You owe that much to the American people. You owe that much to yourself. You owe that much to the Iraqis. You owe that much to the world, which is waiting for leadership, for some kind of adult behavior.

I don't think the American people believe what the Senator from Colorado said—that they believe there is a good plan in place. Everything we have been told about Iraq has turned out to be false, from almost day one. This is the third war we are fighting in Iraq in as many years. The first war, I remind Americans, was the war to get Saddam Hussein and weapons of mass destruction. Then when there were not any weapons of mass destruction, it became regime change.

If the President of the United States had come to the Congress and said I want authorization to go to Iraq for regime change, he wouldn't have received it.

Then after it was regime change, it transformed into, oh, we have to fight them over here rather than fight them over there—fight them over there rather than here in the United States of America. That sounded good for a while because all of us want to fight al-Qaida and want to fight terrorists. But, lo and behold, we found there were, according to most of the estimates, 700 to 1,000 or so hardcore jihadists from other countries over there.

The insurgency grew day by day to be an insurgency that is now a low-grade civil war. Prime Minister Allawi called it a civil war. Does the Senator from Colorado believe he knows better than Prime Minister Allawi what to call it? The fact is it is now a civil war, and our troops can't resolve a civil war, no matter how valiant—and they have been—no matter how courageous—and they have been—and no matter how skilled—and they have been. This is the best military I have ever seen. These are the best young men and women I have ever met, and it has been a privilege to go to Iraq and meet them. And they are making progress in certain areas. But their progress is set back by the unwillingness of Iraqis to pick up the baton of democracy.

You have to compromise. The whole reason they think they can sit there and not compromise is because the President's policy is stay the course, stay the course, stay the course. And we have an occasional visit by the Secretary of State or somebody to suggest they ought to do more.

Ambassador Khalilzad is a terrific person. He is skilled, and he is doing a great job. But he can't do this alone.

I believe we ought to have a real debate about their policy—a policy where they told us it would cost $20 billion to $30 billion. Remember that, colleagues? Remember Mr. Wolfowitz in front of the committees telling us, Oh, the Iraqi oil is going to pay for the war? Remember them telling us that the soldiers were going to be received like conquering heroes with flowers all across Iraq?

Then when looting broke out, remember Mr. Rumsfeld standing up and saying that Washington is safer than Baghdad, and looting happens? Remember how they didn't even guard the ammo dumps and our kids started to get blown up with the ammo they could have guarded? No plan was put in place.

If anybody wants to read about Iraq, read the book ''Cobra 2.'' You can read the astounding story of negligence and malfeasance with respect to this war, about companies overbilling us, Halliburton by billions of dollars.

Do you want to run down the list of things that are egregious with respect to this war? I will tell you one thing that I know well, and I will remind the Senator from Colorado that half the names on the wall of that Vietnam Memorial—half the names on that wall—became names of the dead after our leaders knew our policy wouldn't work.

Our policy isn't working today, and I am not going to be a Senator who adds to the next wall, wherever it may be, that honors those who served in Iraq so that once again people can point to a bunch of names that are added after we knew something was wrong. We have a bigger responsibility than that.

The absence of legitimate diplomacy in this is absolutely astounding to me. When you look at what former Secretary of State Henry Kissinger did night after night, day after day, flying back and forth on an airplane, struggling to be able to get people to come to agreement around the table; when you look at what former Secretary Jim Baker did, traveling all over the world, working with countries, pulling people together around the idea—I don't even see deputy assistant secretaries or other people out there at that level working with other countries to try to find a resolution to this.

There are Sunni neighbors all around who could play a more significant role. The Arab League could play a more significant role. The United Nations could play a more significant role. What are we doing? Drifting day after day after day.

Do we want to go back and talk about the armor our troops didn't have? Do we want to go back and talk about the humvees that weren't uparmored? How many kids have lost their arms or legs because of the lack of adequacy of the equipment they were given? How many parents had to go out and buy armor for their kids because it wasn't provided for?

I have never in my life seen a war managed like this one where there has been zero accountability at the highest levels of civilian leadership and people have been able to make mistake after mistake after mistake. And people want to come to the floor and defend it as somehow justifiable that we have a plan and we are on course? We are not on course. We are on the wrong course. The plan needs to be changed.

Somebody ought to tell the Iraqi leadership that American citizens are not going to put their money and the treasury of their young into a kind of noneffort to compromise and show statesmanship and leadership that puts a government together. When they put that government together, then we can talk about how we are going to move forward. But right now, this is adrift. It is a policy without leadership, and the American people understand that. What we need now is civilian leadership that is equal to the sacrifice of our soldiers.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

POLICE CHIEF TERRY GAINER

Mr. DURBIN. Mr. President, today is the day before the departure of Capitol Hill Chief of Police Terry Gainer, a man who has served us so well.

I have known Terry Gainer for almost 20 years. He served as superintendent of the Illinois State Police and left that position to become one of the leading officers in the District of Columbia Police Force. He was then asked to become chief of the Capitol Police Force. I knew that the people making that decision had made a very fine choice. Chief Gainer proved me right.

Terry Gainer grew up in Illinois, served his country in Vietnam, returned from that war a decorated veteran. His service did not end when he left the military. Prior to his position with the Illinois State Police, he spent 16 years with the Chicago Police Department. With his extensive experience at the highest levels of police work, his reputation for professionalism and his tireless commitment

to the security of our Nation's most honored building and those who visit and work within it, Terry Gainer brought the Capitol Police Force to a new level of professionalism.

In the words of one of their officers, Chief Gainer transformed the Capitol Police Force from an inside operation, where the officers were often viewed many times as security guards, to a well-known, highly visible, professional law enforcement team. That change took place at a critical moment in our Nation's history. The threat of terrorism became very real and the vulnerability of the building in which I speak became very obvious. Today, the well-trained group of men and women protecting our security today in this hallowed building are among the finest in the Nation, and we are extremely fortunate to have them.

As a Member of the Senate whose life was made safer because of Chief Terry Gainer's leadership, I am indebted to him for his singular service to Congress and to our country. The Gainer legacy on Capitol Hill is written in a police force proud of its mission and committed to serve and protect. Chief Gainer deserves the gratitude of the Capitol family for his fine service. He will be missed.

(The remarks of Mr. DURBIN pertaining to the introduction of S. 2573 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

SCOOTER LIBBY

Mr. DURBIN. Mr. President, the last item I would like to speak to is one that is now in the news for the last several hours. It has been noted that in the court papers filed by Lewis Scooter Libby before the Federal court that he has made some amazing disclosures. You will remember that Mr. Libby was Vice President CHENEY's chief of staff who was indicted recently over the Valeri Plame incident. The Valeri Plame incident involved a situation where someone told Robert Novak, a columnist, about the identity of a woman who was working undercover to protect the United States. That disclosure was made through White House sources which Mr. Novak attributed them to and has been investigated since by Patrick Fitzgerald, who is a special prosecutor on this case and the U.S. attorney for the northern district of Illinois.

As a result of his investigation to date, Mr. Libby, Vice President CHENEY's chief of staff, has been indicted. Now today there are disclosures that in his court papers he has made some statements which are troubling. Before his indictment, according to CNN.com, Lewis Libby testified to the grand jury investigating the CIA leak that Vice President CHENEY told him to pass on the information and that it was President Bush who authorized the disclosure.

According to the documents, the authorization led to a July 8, 2003, conversation between Mr. Libby and New York Times reporter Judith Miller. There was no indication in this court filing that either President Bush or Vice President CHENEY authorized Mr. Libby to disclose Valeri Plame's CIA identity, but the disclosure in documents filed Wednesday means that the President of the United States and the Vice President put Lewis Libby in play as a secret provider of information to reporters about prewar intelligence on Iraq.

The authorization came as the Bush administration faced mounting criticism about its failure to find weapons of mass destruction, the main reason the President gave for the invasion of Iraq.

Mr. Libby's participation in a critical conversation with New York Times reporter Judith Miller on July 8, 2003, occurred only after the Vice President advised the defendant, Mr. Libby, that the President of the United States specifically had authorized Mr. Libby to disclose certain information in the National Intelligence Estimate. That is what is in the court records. That is what was disclosed today.

At the time the National Intelligence Estimate was prepared, I was a member of the Senate Intelligence Committee. I recall it very well because as we were preparing for the invasion of Iraq, one of the senior staff people on the committee came to me and said: Senator, something is unusual here. We never make an important decision, let alone an invasion of a country, without what is known as a National Intelligence Estimate. We bring together all the intelligence agencies of our Federal Government, ask them to compare notes, and reach a conclusion as to what we are likely to find if we move forward. It has not been done.

This was in September. The vote on authorizing the invasion of Iraq was weeks away, and we still hadn't brought together the best minds of our intelligence community to determine what we were likely to find once there. So I wrote a letter to George Tenet, head of the Central Intelligence Agency, requesting this National Intelligence Estimate, as well as Senator Robert Graham, who joined me, as chairman of the committee, in making the same request. Within a few weeks, the National Intelligence Estimate was prepared and given to us.

There has been a lot of review of that estimate ever since. Some people say it was a shoddy job. It was slapped together. It had footnotes that didn't make sense. It was the basis of our intelligence for going to war. But the one thing I can tell you is, the minute it was handed to me in the Intelligence Committee, I was told: This is top secret. This is classified. You disclose this at your own peril. You will be subject to criminal prosecution if you do. It is one of the burdens of serving on that committee. You are reminded of that constantly, that no matter what information you absorb, you cannot speak to that information when you leave that closed room.

Now we learn that according to Mr. Libby, now under indictment, he was authorized by not only Vice President CHENEY but President Bush to disclose information in the National Intelligence Estimate to the press. The allegations that are contained here suggest that information was being disclosed in order to overcome criticism that the American people had been misled about weapons of mass destruction.

I have to tell you, as a member of that committee, we looked at the preparation of this intelligence leading up to the war, and we were disappointed. Our intelligence agencies did not do the professional job we expected of them. I can't explain to you exactly why. Some of it has to do with lack of technology, lack of sharing information. Some of it, they were just plain wrong.

Their guess and best estimate as to what we would find in Iraq was plain wrong. Despite all of the hyperbole about weapons of mass destruction, still today, not a single weapon has been found. Despite all of the suggestions that somehow Saddam Hussein was part of the tragedy and disaster of 9/11, absolutely no connection has been established. Despite all of the threats of mushroom clouds from Condoleezza Rice and others, it turns out there was no evidence of nuclear weapons in Iraq.

That information was wrong. The American people were told that we have to go to war, we have to risk the lives of American servicemen because of a threat that didn't exist. Where are we today? We are still there, and 130,000 American soldiers, as I stand here safely, are risking their lives for America in Iraq. As of this morning, 2,346 American soldiers have died in service to their country. We stand in awe of their patriotism and courage, but we have to ask some hard questions.

The hard questions go to this point: How and when will this war end? When will the Iraqis reach the point where they accept responsibility for their own country? We can no longer afford to be misled about the threat to the United States and what lies ahead in Iraq. The people I spoke to on my recent trip to southern Illinois got it right. One of them said: Why aren't we going to the Iraqi Government and saying that over 3 years ago we sent in our soldiers to depose your dictator, a man whom no one respected; we deposed him so that you could take control of your own country. We put American lives on the line so you could hold free elections. We gave you a chance to start your own government. When are the Iraqis going to stand up for themselves, their own country, and their own defense? How many years have we been promised that we are so close to the day when the Iraqi Army will be able to take the place of the U.S. Army? I will believe it when the first American soldier comes home and is replaced by an Iraqi soldier ready to stand and die for Iraq, as our soldiers do every single day.

Sadly, we don't know when that day might come. The President comes before the American people several weeks ago and what does he say? ''Be patient.'' Be patient as more American soldiers are endangered and lose their lives. Be patient as we face a situation with no end in sight. It is hard to counsel patience. When asked directly when will the American soldiers be coming home, what did the President say? That will be up to the next President—the next President.

The Iraq war has lasted almost as long as World War II. If we have to wait 2½ more years for American soldiers to come home, it will be one of the longest conflicts in our history. Is this what we bargained for when we invaded Iraq? We know now that the so-called coalition of the willing involved a lot of countries, but primarily it involved American lives. It is American soldiers who are standing and fighting in vastly greater numbers than any other country that is involved.

Let me tell you that the families who wait at home anxiously want to know the same answer to the question I pose: When, Mr. President, is this war going to end? When are we going to turn over the responsibility to the Iraqis?

When will we replace American soldiers with Iraqis who will stand and fight for Iraq? This last week I was in Illinois and visiting with friends of mine who work in railroad unions. I talked about this issue, and a fellow followed me out of the room and said: My son is headed over there next week. He started crying. This strong fellow who worked for the railroad all his life was a father whose heart was broken knowing his son was going into this danger. How many families have had to watch that happen and waited anxiously and expectantly at home for the letters and e-mails and phone calls? How many, sadly, have received the tragic news that they were one of the 2,346 families who lost someone they loved very much in that country?

Mr. President, as I read the allegations in the newspapers from Mr. Libby, former Chief of Staff to Vice President CHENEY, they were disclosing secret, classified information from a national intelligence estimate to the press in the hopes of bolstering the President's popularity. It is a grave disappointment. We can do nothing less than to investigate this. We need to find out if this did occur. If it did occur, the President and Vice President must be held accountable—accountable for misleading the American people and for disclosure of classified information for political purposes. That is as serious as it gets in this democracy.

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

The PRESIDING OFFICER (Mr. CORNYN). The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. ALLARD. Mr. President, I ask unanimous consent to speak as in morning business.

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

OPERATION IRAQI FREEDOM: THREE YEARS LATER

Mr. ALLARD. Mr. President, in light of the fact that we have those who are calling for the immediate withdrawal from Iraq, I think we ought to sit back and look at what has happened in Operation Iraqi Freedom for the last 3 years. We have made remarkable progress in Iraq in the last 3 years.

On March 19, 2003, the United States and coalition forces launched Operation Iraqi Freedom. At that time, life in Iraq, under Saddam Hussein, was marked by brutality and fear and terror. Iraqis had no voice in their country or their lives. Saddam devastated Iraq, wrecked its economy, ruined and plundered its infrastructure, and destroyed its human capital.

Let's look at what is happening today. Iraq has a democratically elected government. The reign of a dictator has been replaced by a democratically elected government, operating under one of the most progressive constitutions in the Arab world. Millions of Iraqis have joined the political process over the past year alone. Today, Saddam Hussein is facing justice in an Iraqi court.

The Iraqi people are holding Saddam accountable for his crimes and atrocities. I believe the next year will bring a consolidation of these gains, helping a new government stabilize and build a solid foundation for democracy and increased economic growth.

Iraq's elected leaders are diligently working to form a government that will represent all the Iraqi people. As the Iraqi Government comes together and Iraqi security forces improve their readiness, efforts to stabilize the nation will increasingly be Iraqi-led.

I point out that securing a lasting victory in Iraq will make America safer, more secure, and stronger—make it safer by depriving terrorists of a safe haven from which they can plan and launch attacks against the United States and American interests overseas; more secure by facilitating reform in a region that has been a source of violence and depriving terrorist control over a hub of the world's economy; stronger by demonstrating to our friends and enemies the reliability of U.S. power, the strength of our commitment to our friends, and the tenacity of resolve against our enemies.

Despite progress, the situation on the ground is tense. As al-Qaida's actions show, terrorists want to impose a dictatorial government on the Iraqi people. The coalition is united in support of the Iraqi people in helping them win their struggle for freedom. The terrorists know they lack the military strength to challenge Iraqi and coalition forces directly, so their only hope is to try to provoke a civil war and create despair.

The President's national security for victory in Iraq has three tracks. I would like to go over those briefly. They are a political track, a security track, and an economic track, and I would add that all three tracks are progressing.

On the political track, many are participating in Iraq's political process. Iraqis completed two successful nationwide elections and a national constitutional referendum in 2005. Each successive election experienced less violence, bigger voter turnout, and broader political participation. On December 15, more than 75 percent of the Iraqi voting-age population participated in the election for a new government—an increase of more than 3 million voters over the January election.

I will talk a little bit about the security track.

Iraqi security forces are increasingly in the lead. Three years ago, under Saddam Hussein's rule, the Iraqi Army was an instrument of repression. Today, an all-volunteer Iraqi security force is taking increasing responsibility for protecting the Iraqi people.

Iraqi security forces are growing in number and assuming a larger role. More than 240,000 Iraqi security forces have been trained and equipped. Over 112,000 Iraqi soldiers, sailors, and airmen have now been trained and equipped. More than 87,000 police have been trained and equipped. These police work alongside over 40,000 other Ministry of Interior forces.

Additional Iraqi battalions are conducting operations. Last fall, there were over 120 Iraqi Army and police combat battalions in the fight against the enemy, and 40 of those were taking the lead in the fight. Today, the number of battalions in the fight has increased to more than 130, with more than 60 taking the lead.

Let's briefly look at the economic track.

Iraq's economy is recovering, and the Iraqi people have better access to essential services. In 2005, the Iraqi economy grew an estimated 2.6 percent in real terms, and the International Monetary Fund has estimated it will grow by more than 10 percent in 2006.

Mr. President, 3.1 million Iraqis enjoy improved access to clean water, and 5.1 million have improved access to sewage treatment. More than 30 percent of Iraq's schools have been rehabilitated, and more than 36,000 teachers have been trained.

This is what our American soldiers in Iraq have helped accomplish for the Iraqi people and for America. We should be proud and thankful for their willingness to step forward for freedom. Freedom does work. It works for America, and I believe it will work for Iraq. The solution is not a hasty retreat; the solution is to carry on with the President's plan for victory.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. CRAIG). Without objection, it is so ordered.

Mr. CORNYN. Mr. President, as we all know, there has been an announcement of a resolution or a settlement among a group of Senators relating to the border security and immigration reform bill that is pending before the Senate, although I would note that the entire Senate has yet to sign off on that agreement. I, for one, want to talk for a few minutes about my concerns regarding the proposal.

Last night we were told at approximately 10 o'clock that this agreement was struck with a group of Senators. It consists of 525 pages and I dare say not many people have read it yet. But my review of the agreement causes me some serious concerns about whether it represents something that reflects good policy or something that would warrant my support.

First, I believe there is a grave risk that the proposal would represent a repetition of the mistake of 1986 when the Congress passed major immigration legislation. My colleagues will recall that it was that year Ronald Reagan signed a bill that was acknowledged to be now, in retrospect, two different things. The first is it was an amnesty for 3 million people who entered our country in violation of our immigration laws. The second thing we have come to realize in retrospect is it was a complete and total failure when it came to securing our borders and enforcing our immigration laws.

Some have speculated it was the Federal Government's failure to provide employers a means to verify the eligibility of prospective employees that they could work legally in the country, and certainly the failure on the Federal Government's part is a large part of what is to blame. The corollary of that is the lack of employer sanctions for hiring an illegal workforce. In the past year, we have seen only three sanctions filed against employers for hiring illegal aliens to work in the United States.

Some have said the reason that bill failed is because it didn't have any provision for a legal workforce. I am somewhat sympathetic to that argument because I do support comprehensive immigration legislation, but starting first with border security. We know our inability to control our borders is not only resulting in massive waves of illegal immigration, but we also know it is a national security risk because anyone who has the money to pay a human smuggler or has their wits about them enough to make it over here on their own could literally walk or swim or drive across our border because it is wholly unprotected between the authorized ports of entry. We know our Border Patrol is sorely undermanned with only about 11,000 Border Patrol agents for a 2,000-mile southern border, and contrast that with 39,000 police officers in the city of New York alone.

So we can see the Border Patrol has been vastly out manned and outnumbered when it comes to the number of people coming across. There were 1.1 million illegal aliens apprehended last year alone.

The problem with the 1986 amnesty is that it led to additional illegal immigration, and we now have approximately 12 million undocumented immigrants—people who have come to this country in violation of our immigration laws. And we have come to learn that our booming economy is a vast magnet for people who want a better life. While we can all understand that on a very basic human level, we also know the U.S. Government and the people of this country cannot accept anyone and everyone who wants to come into this country in violation of our immigration laws. Thus, we have a right, as every sovereign nation has, to regulate the flow of people across our borders in our Nation's best interests.

I worry that the legislation that is now pending before this body, the so-called Hagel-Martinez compromise, would actually result in a further magnet for illegal immigration because it, in part, rewards people for coming into the country in violation of our immigration laws.

It causes me great concerns in other respects as well. For example, the proposal would not be closed to felons and serial criminal offenders. Nor would it be closed to people who had their day in court but failed to comply with the deportation order, showing tremendous disrespect not only for our laws but for the safety and welfare of the American people.

We also know the current bill that is pending before us prevents information sharing by the Department of Homeland Security to root out fraud, which is another problem with the 1986 amnesty because people were able to generate fraudulent documents to qualify for that amnesty. We know that false documents are a tremendous vulnerability of the American people to terrorists and criminals and others who want to come across our borders, and this bill does not do enough to allow us to protect ourselves by investigating and prosecuting that kind of fraud, by sharing information, and that is why we need some amendments to be argued and voted on by the Senate to fix the serious gaps in this bill.

But perhaps one of the gravest concerns I have is this proposed compromise does not protect American workers. Indeed, under this bill, up to 12 million people will be able to get green cards. In other words, they will gain the status of a legal permanent resident and a path to American citizenship. This is without regard to whether our economy is in a boom status as it is now, with about 4.8 percent unemployment, or whether our economy is in a recession, where Americans are more likely to be out of work and competing with these 12 million new green card holders for employment. So I believe we need a provision in this bill that provides for a true temporary worker program that can reflect the ups and downs of the economy.

Under this bill there will be a massive one-way migration of people from countries in Central America and Mexico and South America into the United States, and no incentives for their return and for maintaining their ties to their family and their culture and their country in a way that ultimately benefits their country as well. No country on Earth can sustain an economic body blow of a permanent migration of its work force out of that country. But this proposal this creates a temporary worker category that is not temporary, but is instead an alternative path to citizenship. So even though there are some who have talked about a guest worker program or a temporary worker program, this is neither. This is an alternative path to citizenship for 12 million people, permanent status in the United States, regardless of whether our economy is good or our economy is bad. And when it is bad, these individuals will prove stiff competition indeed for America and people born in these United States, or legal immigrants.

There is also no provision in this bill—and this is another concern I have for the American worker—that there be a willing employer and a willing employee. In other words, under this bill individuals can come into the country and self petition for green cards or legal permanent residency. Thus, here again, another important protection for the American worker is totally ignored under this bill.

Another grave concern I have, and this goes back to 1986, is there is absolutely no provision made for employer verification of the eligibility of prospective employees. As some have said, this is deja vu all over again because the Judiciary Committee, as you know, Mr. President, and as the distinguished ranking member knows, did not have jurisdiction over that provision of the bill, so it had to be drafted by the Finance Committee. Yet there is absolutely no amendment pending. I don't know of any plans—maybe there are plans that I am just unaware of—that would provide employers the means to verify that individuals are indeed eligible to work in the United States and discourage, if not eliminate, the use of fraudulent documents to claim that authority to work in the United States. Without that, without border security, without interior enforcement, and without employer verification and sanctions for those who do not play by the rules, this bill provides another invitation to massive illegal immigration and constitutes a reward to those who have come into our country in violation of our laws.

My ultimate concern is we will have a vote on a motion to close off debate on this compromise tomorrow morning. There are a number of pending amendments that I intend to offer. Of course we know the Senate largely operates by unanimous consent. There is also a desire by Senators right before any recess to get on to their homes and their families and back to their States. But this is an extremely important bill, I would say, even more than most of the issues we consider here because it is a matter of national security. It is a matter of maintaining the confidence of the American people because, frankly, the American people believe we let them down in 1986. They believe the Senate is not serious about border security, is not serious about workplace enforcement, and the only way we are going to be able to demonstrate that we are serious is to have a full and fair debate, to allow amendments and votes on those amendments on the floor. So far, all we have been met with is obstructionism because we have been denied the opportunity to have an up-or-down vote on essential amendments that are necessary to improve this bill.

I know we will have a vote tomorrow morning. Unless there is some good-faith attempt to reach some accommodation to allow Senators to offer those amendments that would improve the bill in the respects I have pointed out, then I expect that we will have a long weekend, and perhaps beyond, so there will be an opportunity for us to have the kind of debate that is reflective of the world's greatest deliberative body and which discharges the responsibility we have to protect the American people, to secure our borders, to make sure we are absolutely serious about enforcing our laws, while at the same time we enact comprehensive border security and immigration reform.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I ask unanimous consent to proceed as in morning business.

The PRESIDING OFFICER (Mr. CORNYN). Without objection, it is so ordered.

DARFUR

Mr. LEAHY. Mr. President, I will not speak for long. I do this because I wish to speak about the severe humanitarian crisis in Darfur, Sudan.

It has been almost 2 years since the Congress, in a bipartisan effort of both the House and Senate, declared the atrocities in Darfur, Sudan, to be genocide. That is a word not passed around easily in these halls.

Then, about a year and a half ago, the administration publicly reached the same conclusion. I know there was debate within the administration whether they would use that word. I commend President Bush for reaching the same conclusion.

What worries me, here is a case where the Senate, the House of Representatives, and the President of the United States, all came together to call the atrocities in Darfur, in our day and our age, genocide. But since those declarations, the United States and other nations have failed to devise an effective strategy to bring peace to the desperate people of that remote, war-ravaged region. The human cost of this failure has been unimaginable. It is staggering.

Earlier this month, President Bush celebrated International Women's Day. There is no cause for celebration for the women of Darfur, thousands of whom have been the victims of rape and other acts of sexual violence inflicted by Government security forces and the militias they support. They use rape as a method of terror.

There have been systematic massacres, rape, torture and the burning of hundreds of villages, homes—often with the families inside. Darfur has been pillaged and the lives of its people destroyed.

The Government of Sudan has repeatedly attempted to disguise its role in the violence so it has been impossible to ascertain an accurate death toll, but somewhere between 200,000 and 300,000 people have died of murder or starvation.

Many thousands more have ended up in squalid refugee camps after their homes have been reduced to ashes by the Government-sponsored jinjaweit militias.

At the same time this is happening, we see Sudan's President, Omar Hassan al-Bashir, squander $4.5 million, in this desperately poor country, to purchase a 118-foot, 172-ton Presidential yacht so he can entertain foreign dignitaries and create a perverse façade of Sudanese progress and sophistication.

This is progress and sophistication, or a reflection of the ego of a leader? Is it progress and sophistication, that children have been murdered and members of the family murdered in front of other members of the family?

Then, to make this even worse, the President of Sudan, in order to transport it by land from Port Sudan to Khartoum, required severing 132 electric lines, plunging neighborhood after neighborhood into temporary darkness.

It is difficult to conceive of the level of greed, arrogance, and twisted logic that would cause the leader of a desperately impoverished country to waste millions of dollars on a ridiculously ostentatious yacht to cruise the Nile River while thousands of the Sudanese children he is supposed to be protecting have fallen victim to the jinjaweit's brutality.

Tens of thousands more are at serious risk of death by starvation, malnutrition, disease, and mayhem. Under Secretary General for Humanitarian Affairs, Jan Egeland, recently stated that Darfur has returned to ''the abyss'' of early 2004 when the region was ''the killing fields of this world.''

The scale of atrocities occurring in Darfur is appalling. For too long the international community has been doing too little, hoping against reality that somehow the situation would improve.

Instead, in recent weeks we have seen the violence spread across the border into Chad. The Government of Sudan is actively exporting the Darfur crisis to its neighbor by providing arms to the jinjaweit and allowing them to attack Chadian refugees and villagers, seizing their livestock and killing anyone who resists.

As a result, 200,000 of the residents of Chad have been forced from their homes. They have become displaced people in their own country.

Earlier this month, the Senate, and rightly so, unanimously passed S. Res. 383. It calls on our President to take immediate steps to help improve security in Darfur. The resolution proposed a no-fly zone over Darfur and the deployment of NATO troops to support the African Union forces currently on the ground.

The African Union has done its best, but with only 7,000 troops, inadequate resources, and a weak mandate to patrol this vast area, it has been unable to prevent the militias from continuing to attack civilians with impunity.

I strongly support a role for NATO to bolster the African Union's mission, until the U.N. peacekeeping mission can be fully deployed, which could take a year or more.

Only a few nations have the trained troops to contribute and their numbers are stretched thin among many of the U.N. missions around the world. But NATO troops on the ground could reinforce the African Union force with their superior command and control and intelligence-gathering capabilities.

Until recently, the Bush administration refused to support additional troops. However, in the last several weeks, President Bush has shown a renewed interest in Darfur. On March 9, in a hearing before the Senate Appropriations Committee, Secretary of State Condoleezza Rice testified the administration is committed to the deployment of a larger peacekeeping force, and I agree with her on that.

Despite the encouraging rhetoric, the administration continues to underfund the African Union mission. The $161 million requested in the Fiscal Year 2006 supplemental request for peacekeeping in Darfur will only cover the U.S. share to sustain the current number of troops.

It will not do anything to pay for the additional troops that President Bush has finally acknowledged that we need. With people dying needlessly every week, the President must address the Darfur crisis more urgently.

Earlier this week, I was pleased to cosponsor an amendment, which was accepted, to the FY 2006 Emergency Supplemental Appropriations bill to add $50 million in peacekeeping funds for Darfur.

The funds in the supplemental bill for peacekeeping in Darfur were barely adequate to support the current African Union mission through the rest of

this fiscal year. The additional $50 million will go to training and equipping the African Union force that has done its best despite scarce training and too little heavy equipment.

There is no question the Government of Sudan bears a great deal of responsibility for the crimes against humanity that have occurred and continue to occur within its borders, and now in eastern Chad.

It has sponsored brutal militias, hampered the African Union peacekeepers, and impeded the work of the international relief organization.

Most recently, it has opposed reconstituting the African Union force as a U.N. force, presumably fearing that the United Nations could pose a challenge to its own ability to act with impunity in a part of the world that is often beyond the spotlight of public scrutiny.

But we in this country, the richest, most powerful Nation on Earth, a country blessed with so many advantages, have done too little to stop the genocide in Sudan. Many more lives could have been saved if we and other nations had shown stronger leadership.

This is not just an economic or military issue; this is a moral issue. With all the blessings this country receives, we have a moral responsibility to stop genocide.

In our history, we have known what has happened when we have moved too slowly when we had a chance to stop genocide. We either moved too slowly or we did not move at all when genocide occurred.

Let us match the rhetoric with resources to support the number of troops needed to do the job. Let us set an example by our own leadership to the rest of the world that we will put an end to the violence. This is something on which I believe all Americans—Republicans and Democrats—would agree. It is something that, if we believe in a higher calling, we will do.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SESSIONS. Mr. President, I thank Senator LEAHY, ranking member on the Judiciary Committee.

I have received just this afternoon in my office some disturbing news in the form of correspondence from the Congressional Budget Office. It suggests a number of areas where the amendment we are talking about here today, No. 3424, the immigration so-called compromise, violates our budget and the rules of the Senate.

Let me read from the correspondence we have received. This is something, as you know, Mr. President, as a member of the Judiciary Committee, that we never discussed at all. It is not a matter we spent any time at all discussing as we moved forward with legislation which ultimately cleared that committee and came to the floor—legislation which I thought was not good legislation and which I opposed, and so did the Senator from Texas, who just relinquished the Chair. We didn't discuss the financial impact of the legislation before us.

One of the things our rules of the Senate require is that if a bill is on the floor that is in violation of a budget we have adopted, it is subject to a budget point of order. I am not going to make that budget point of order now because I am sure someone here would want to move to waive that budget point of order, but I am giving the heads up to those who are supporting this bill that it is a budget buster.

We have not yet begun to figure out how much this legislation will cost. I will be quoting from the Congressional Budget Office, which is the authoritative department to determine these matters. They have given us a preliminary report.

Let me read from the correspondence they have given and which I have just received.

> CBO has estimated the cost of some—but not all—of the provisions of the proposed Hagel-Martinez amendment to the immigration bill. The version we are working with is labeled O:/MDM/MDM06671 and was provided to us this morning.

One reason they got this this morning was that this so-called compromise which was hatched yesterday was not even printed until 10 o'clock last night.

We have been talking about these problems for weeks and we produced the bill that came out of committee—I don't know what name to put on it; the Specter-Kennedy-McCain amendment, the bill that came out of committee—and it was crushed on the floor of the Senate, with 60 people refusing to move to a final up-or-down vote on it, 60 to 39.

We have now the compromise desperately put together by people—well meaning, no doubt, but none of whom bring any particular experience, knowledge to the problem facing us. And I assure you, if in the 5 days of markup in Judiciary Committee we didn't discuss the actual cost of this program, I am sure, as they worked feverishly into the night last night, they didn't consider it either. They had no idea. But this was a political discussion about how to put a bill together that politically might pass around here regardless of the details of it.

Frankly, we are going to have to deal with the specifics of illegal immigration. It is too important to treat it at a superficial level.

There are bills which, when we come up to a recess, the leader has to push, and you always try to do those things, and people make compromises, and they pass. But this is not a normal bill at all. The American people care about it, and we owe them some things.

I don't think there are any Senators here who haven't been back to their States and made some commitments and stated some principles that they thought are critical to a good immigration bill, and I want them to be aware of what we are talking about.

The bill number which the Congressional Budget Office referenced is the pending amendment, No. 3424, to the Frist motion to commit.

Let me continue now with what we received from the Congressional Budget Office:

> The figures in this e-mail do NOT include costs associated with the conditional non-immigrant provisions, which we are still working on. They also do NOT include revenue losses and outlays for the Earned Income Tax Credit, which we will be getting from the Joint Tax Committee and which results largely from the conditional non-immigrant provisions. Those revenue losses and Earned Income Tax Credit outlays may be significant.

I will talk about the average salary of most of the workers who are here illegally today and those workers who will be regularized, placed on permanent resident status, given a green card, and placed on a pathway to citizenship. As you look at those salaries, you will see that they fall in the classic earned income tax credit range.

I have had occasion for some time to wrestle with the earned income tax credit. A lot of people oppose it entirely. You file your tax return, and if you don't owe any taxes and you have a lower income, you get a tax rebate from the Government. You don't pay taxes; they give you an average rebate. I submit that salaries for these workers are going to be pretty close to the average recipient of the earned income tax credit benefit. The average recipient gets $2,400 a year by way of a tax credit. Persons who are working here illegally today are not currently getting the earned income tax credit, but if we regularize them and make them permanent residents, they will. That will cost us a lot of money.

The Congressional Budget Office is saying they haven't considered those numbers yet in the cost of this bill, but they are real and significant, as I say they, indeed, are.

They go on to say this:

> With those important caveats, estimated outlays are about $2 billion for the first 5 years—2007–2011—and $12 billion for the first 10 years—2007–2016. The final figures will be bigger than those. Most of those costs are for Medicaid and Food Stamp programs.

They say those are not the final figures. The final figures will be bigger. It didn't include the earned income tax credit.

They go on to say this:

> Outlays in the succeeding 10 years will be greater. The bill would impose mandates on State and local governments with costs that would exceed the threshold established in the Unfunded Mandates Reform Act in at least 1 of the first 5 years after they would take effect.

I ask unanimous consent that this message from the Congressional Budget Office be printed in the RECORD so that my colleagues can begin to look at it and begin to understand that we have a budget problem with this bill, among other things.

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

From: Paul Cullinan.
Sent: April 6, 2006.
To: Ed Corrigan.
Subject: Partial cost estimate for immigration amendment.

CBO has estimated the cost of some—but not all—of the provisions of the proposed Hagel-Martinez amendment to the immigration bill. The version we are working with is labeled O: MDM MDM 06671 and was provided to us this morning.

The figures in this e-mail do NOT include costs associated with the conditional non-immigrant provisions, which we're still working on. They also do NOT include revenue losses and outlays for the Earned Income Tax Credit, which we will be getting from the Joint Tax Committee and which result largely from the conditional non-immigrant provisions. Those revenue losses and EITC outlays may be significant.

With those important caveats, estimated outlays are about $2 billion for the first five years (2007–2011) and $12 billion for the first ten years (2007–2016). The final figures will be bigger than those. Most of those costs are for the Medicaid and Food Stamp programs.

Outlays in the succeeding 10 years will be greater. The bill would impose mandates on State and local governments with costs that would exceed the threshold established in the Unfunded Mandates Reform Act in at least one of the first five years after they would take effect.

If you have any questions, please call Paul Cullinan, Eric Rollins, or myself.

BOB SUNSHINE,
Assistant Director for Budget Analysis.

Mr. SESSIONS. Mr. President, the Senate Judiciary Committee, under the 2006 budget resolution, has only $6 million remaining. We are talking about a minimum of $2 billion in costs, according to the Congressional Budget Office, under the first 5 years of this immigration bill which is before us today, but the Judiciary Committee, under our budget resolution, has only $6 million remaining in its direct spending allocation for the next 5 years.

CBO's preliminary estimate, according to the Congressional Budget Office letter I just read, is that amendment No. 3224 will spend at least $2 billion during that period and likely much more over that period and the next 5 years. This far exceeds the $6 million—it might sound large to you, but in the scheme of things we discuss today, it is a paltry sum—allocated to the committee under the budget.

On this basis, we need to review what we should do as a Senate. I think it is appropriate and the right thing that the Senate confront the question and make a decision as to whether we should waive that point of order and go forward with this legislation or not waive it, in which case the bill would be subject to failure.

I note that the Budget Committee has responsibilities in this, and every aspect of that has not been completed to date, and it may be premature to move to make such a motion at this time. I am sharing this with everyone so they can be prepared to think through the consequences of this cost, which has not been discussed whatsoever. In fact, if you listen to some of the proponents of the legislation before us, if we just pass this bill, it is going to make us all rich, everybody is going to do better, for the first time people are going to pay taxes, the economy is going to improve, and the average guy is going to be fine. The reality is, that did not happen in 1986 and it is not going to happen this time because many of these benefits are such that they are not available to people here illegally. Under this law they will become legal.

We are going to see a rise in costs to our Government beyond that which is permitted by the budget we all voted on, we all agreed to, and we all said we need to stand by. I should not say ''all,'' but enough voted to pass the budget. The budget is a very significant and important document. Many of us take very seriously this cap we agreed to place on spending and agreed not to pass legislation that would break those caps, even if we like the underlying amendment or bill that would spend money. That violates the budget. On many occasions I have felt it my duty to vote ''no'' because I agreed to a budget number. This Congress and this Senate has agreed to budget caps. The very significant factor is that today we now know the Hagel-Martinez amendment violates that Budget Act. I am sure the committee bill also did, but it would appear this may be further along.

We have seen amnesty before in our country, in 1986, and the record is clear that American taxpayers did pay the cost of the fiscal deficit created by the 3 million beneficiaries under the 1986 amnesty. Of course, the original estimates were that 1 million, 1.5 million people would qualify for amnesty in 1986. Now they are estimating 12 million. But, in fact, 3 million showed up in 1986 and claimed the benefits of amnesty, many using documents that were dubious.

A 1997 study conducted by the Center for Immigration Studies estimated that the 3 million newly legalized aliens in the 1986 amnesty had generated a net fiscal deficit of $24 billion in the short decade that passed since their arrival. The 3 million cost the Government $24 billion. That is a very large sum of money.

Incidentally, when Congress passed the 1986 amnesty bill, it estimated only 1 million illegal aliens would qualify for that amnesty law and draw upon the Treasury. That is how the numbers were out of sync.

There is no doubt about it, American taxpayers will pay if this legislation passes. If this, what I consider to be fairly described as amnesty, passes, the American taxpayers will pay the cost of this amnesty and it will be a drain on our programs that are designed to provide health care and assistance to American citizens and those who came here lawfully to achieve legal permanent status.

According to the Pew Hispanic Center report from last year, the average family income in 2003 for unauthorized migrants in the country for less than 10 years was $25,700, while those who had been in the country a decade or more earned $29,000.

Given that the average family income for illegal immigrants is just above the 2006 Federal poverty line of $20,000, it is not surprising that many of these families will likely rely on social service programs to meet their basic needs. That is what we know will occur.

Though the exact cost of this new amnesty is impossible to absolutely determine, certainly CBO is providing a low figure that they can verify as of this date. We can learn a lot by looking at existing studies that give us a glimpse at the cost of illegal immigration to our social program. For example, the Center for Immigration Studies estimated that in 2001, 31 percent of illegal households used at least one of four major welfare programs: Medicaid, SSI, TANF, which is temporary assistance for needy families, which is a basic welfare program, or food stamps. That is a very large number. It is not improbable considering the other numbers about the average income, knowing that there are so many below the poverty line.

The Urban Institute estimates in 2000, 47,000 families in the United States headed by one or two illegal aliens received TANF, the temporary assistance for needy families, on behalf of their children—47,000 is a pretty dramatic number.

Further, if each of these families received greater than $1,000 a year, the amount spent for a TANF household by illegal aliens could easily reach tens of millions of dollars.

I see others who wish to speak and I will follow up on this later. I am saying we have to deal with the reality. Unfortunately, we have not spent a lot of time thinking through the full consequences of our actions. We have not had economists, we have not had experts, we have not had Government officials, we have not had professors and scientists discuss with us the impact of this legislation and how we can pass legislation that would best help those who come here, and how we can do so in a way that does not adversely impact the Treasury of the United States.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. CHAFEE). Without objection, it is so ordered.

Mr. WYDEN. Mr. President, I ask unanimous consent to speak as in morning business so I can engage the distinguished chairman of the Senate Intelligence Committee in a colloquy.

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

JOINT INQUIRY

Mr. WYDEN. Mr. President, in the aftermath of the terrorist attacks of September 11, 2001, Congress convened a bipartisan, bicameral joint inquiry into the activities of the intelligence community before and after the attacks. I had the opportunity to serve on the joint inquiry and I am proud of the work that was accomplished there.

In December of 2002, a report was issued in which we stated that the inspector general of the CIA should ''conduct investigations and reviews as necessary to determine whether and to what extent personnel at all levels should be held accountable for any omission, commission, or failure to meet professional standards in regards to the identification, prevention, or disruption of terrorist attacks.''

The report went on to state that the Director of the CIA should take appropriate action in response to the inspector general's review.

The CIA Inspector General completed his report in June 2005. I was surprised that the report took so long to complete, but I am impressed with its quality. After the report of the 9/11 Commission and the joint inquiry itself, it is one of the most thorough examinations of the intelligence community activity before September 11. It provides a unique perspective and makes a number of findings that in my view should be available to the American people as part of the historical record. It also makes a number of recommendations that should be carefully considered.

The public has a right to see these recommendations consistent with the protection of our national security. The American people should be able to read the report and decide for themselves whether the recommendations of the CIA inspector general have been carried out in a satisfactory manner. Both the chairman and the vice chairman of the Senate Intelligence Committee have supported the release of this report.

As Chairman ROBERTS has put it, ''The deaths of nearly 3,000 citizens on September 11, 2001, gives the American people a strong interest in knowing what the [inspector general] found and whether those whose performance was lacking will be held accountable.''

Despite the chairman's request, the CIA has decided not to act on the inspector general's recommendations at all. Not to act at all. It is important to note that the inspector general did not recommend that certain individuals be held accountable. The inspector general merely recommended that the action or inaction of certain individuals be examined to determine whether they should be held accountable. CIA Director Porter Goss has refused to allow even this initial examination.

Two months ago I wrote to the Director of the CIA, Mr. Goss, asking this report be declassified and released as soon as possible. I notified Director Goss if I did not see any progress within 60 days I would take action to release this report to the public. It has been over 60 days and still the CIA has not responded.

In the interest of making this report public and available to the American people, I ask now unanimous consent the Senate direct the Senate Select Committee on Intelligence to make this report available to the American people as soon as possible.

Mr. ROBERTS. Mr. President, reserving the right to object, I agree with the Senator from Oregon that this is a very important report. We were, as everyone knows, viciously attacked on September 11 and in the aftermath of those attacks we wanted answers. Many of those answers have been found during the last 4 years and some of those answers are contained in the report. But the families of the victims of September 11 have a right to these answers and the American people have a right to these answers.

At the same time, I tell my colleague, we need to be sensitive to the fact that there is properly classified national security information that is included in this report, and this information needs to be protected.

While the Senator is correct that the CIA has not been adequately responsible to him or to me, I suggest that rather than release the report immediately in unredacted form, we instead sit down with the inspector general and work to redact any information that needs to remain classified in the interest of national security.

So I object to the Senator's request and suggest instead that we work with the inspector general to review this report and determine what can be appropriately released to the public.

The PRESIDING OFFICER. Objection is heard.

Mr. WYDEN. Mr. President, I want to express my appreciation to the chairman of the Intelligence Committee for his willingness to work with me and for the suggestions and discussions that we have had. I would like to suggest that we bring this issue to the inspector general immediately and ask the inspector general to release this report within 30 days. If the Senator agrees to bring this issue to the inspector general immediately so that staff can begin working with the inspector general's office over the upcoming 2-week recess, and the chairman and I can review their progress when we return, then I would be willing to withdraw my unanimous consent request that this report be made public immediately at this time.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. ROBERTS. Mr. President, I thank the Senator from Oregon for his willingness to cooperate on this issue. It is an important one, and I look forward to working with him on it. This certainly sounds reasonable to me. So I think he is absolutely correct in his suggestion. I will be happy to work with him.

Mr. WYDEN. Mr. President, because we are going to work together cooperatively to turn this around in the next 30 days, I withdraw my unanimous consent request at this time and express my appreciation to chairman of the Senate Intelligence Committee, Senator ROBERTS.

The PRESIDING OFFICER. The request is withdrawn.

The Senator from Alaska.

EXCUSED FROM VOTING

Mr. STEVENS. Mr. President, I ask unanimous consent that I be excused from voting until the first vote that occurs on April 24.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. ALLEN). Without objection, it is so ordered.

Mr. SESSIONS. Mr. President, at 10:30 this morning, the proponents of what I would have to say is amnesty in the bill that came out of the committee, the Kennedy-McCain-Specter bill, or whatever name you want to give it, that bill was crushed in this body with 39 votes for and 60 votes against. It was pulled and removed from the docket and sent back to Committee. Then we had a group get together yesterday in an effort to develop what they call a compromise. They could see that there was a vote coming, and they thought they could put something together, and I don't blame them. It has been referred to as the Hagel compromise. But we have looked at the bill, and I have to tell my colleagues, if you voted against the Kennedy bill this morning, you need not support the Hagel compromise because it is fundamentally the same thing. I am going to talk about it and explain how it is essentially the same bill.

I wish it weren't the same thing. I wish it was something we could support. I would like to support good legislation. We have an opportunity—a real opportunity—to fix the problem with security and immigration in our country. Our Nation is at risk. Our borders are not under control. However, we have the capacity to do it. It is not that hard. I have said it before, and I have explained how we can do it.

T.J. Bonner, the head of the National Border Patrol Council said: It is real simple. You simply fix up the border. You remove the magnet of a job by having real workplace enforcement and, all of a sudden, things can go in the right direction.

This bill does none of that. It rewards bad behavior, it would encourage illegal behavior in the future, and we should not pass it. It is against what so many of us promised that we would

vote for and we don't have a lot of time. That bill was hatched yesterday after a few Senators met somewhere and thought they could waltz in and just fix it. They expected all of us to line up and vote for it. I don't believe people are going to line up and vote for it.

They produced this compromise and introduced it, and we didn't get a copy until 10 o'clock last night. This compromise that we got late last night is 525 pages long. What is in it? Ninety-five percent of what is in it, I have to tell you, is just what you voted against and rejected this morning. We rejected it because it was not a good piece of legislation. It did not do what we promised the American people we were going to do as individual Senators. If you look at the expressions of Senators as a group, time and again they say things that they believe are legitimate principles. These bills do not reflect those principles.

The President has said he is against an automatic path to citizenship, and he is against amnesty, both of which are in this bill. The President needs to read it. When you go out and campaign and tell people what you are going to do, you need to honor that commitment.

Let me tell you some of the things that are in this Hagel compromise. It triples—triples—the number of employment-based green cards available each year. This is not a committee that met yesterday. This is a group of people, ad hoc Senators got together and huddled. The Senator in the chair there, he has been in a huddle, Quarterback GEORGE ALLEN. They got in a huddle, and with very little time and effort to study the issues, they came up with this legislation. Ninety-five percent of it was what was in the bill we rejected just this morning. What does it do? One of the most significant things that we have given very little thought to is it triples the number of employment-based green cards available each year. It triples the number.

Currently, there are 140,000 available. Currently, spouses and children, if they come in, they count against the 140,000 cap. Under the Kennedy bill that we voted down this morning they jumped that number to 400,000, and spouses and children didn't count against the cap. This bill raises it to 450,000 annually, and spouses and children—we estimate about 540,000 more, family members—can come with them, and they do not count against the cap. That is pushing a million a year. That is a huge change.

I, personally, am of the view that if we can make our system lawful and have it work correctly, we can and will want to increase the number. But triple the number, and then increase that number again, by allowing spouses and children to come and not count against the cap? That is a sixfold increase. Without any hearings? Without any economists? Without listening to the labor unions? Without listening to business people tell us how many people we really need? Without any professors or scientists who understand the impact this kind of huge numbers would have? They propose we accept this compromise, and it goes beyond the Kennedy proposal that was rejected this morning.

It changes the amnesty process for the current number of people. These 450,000 plus family members are, for the most part people who live outside the country. They apply and can come in. So the total number who come in with a green card—which means you are a permanent resident citizen and you are on an automatic path to citizenship—this is supposed to be for those people.

The message is we want a guest worker program. That is what they said. We want a guest worker program. What does that sound like, if you are an American citizen trying to evaluate what your legislators are doing up here? I hope those American people who are watching are following this closely because these are not guest workers.

Somebody said let's not call it guest workers anymore, let's call it temporary workers. But they are not temporary workers either. They get a green card. They come in under this new H–2C program, and they are able then, on the petition of an employer, to get a green card within 1 year. If they don't have an employer petition for them, they can self-petition, which is not the rule now. Now these are supposed to be based on employment that is needed.

President Bush says a company that needs workers certifies they need you. Now you can self-certify and within 5 years you can be placed on an automatic path to citizenship. They never have to return home. That is all I am saying. Anybody who says this is a temporary worker program or guest worker program is not correct the way this language is in the bill.

These numbers do not include all that is in the bill. The AgJOBS bill came up on the floor a little over a year ago and was debated and blocked. Senator SAXBY CHAMBLISS, who chairs the Agriculture Committee, and a number of us raised objections to that bill. We blocked it. It did not go forward. It did not pass.

They blithely added the whole AgJOBS bill to the committee bill and it has now been made part of this compromise. There are 1.5 million who can come in under the AgJOBS bill.

People say we need the talented people. We still have limits on talented people who come into the country with high education levels, but there is virtually no limit on the number of unskilled workers who come into our country. That is not good public policy, I submit. That is probably not what you said when you have been out campaigning and talking to your constituents around the country.

Under the current law, before new legislation passes, the United States issues 1.1 million green cards a year. That is what we do today, and 140,000 of those green cards are available to aliens who are sponsored by employers. That is the working group. Under the Hagel-Martinez compromise bill, the United States would now issue between 2.2 million and 2.5 million green cards each year, 450,000 of which will be employment-based green cards during the years 2007 and 2016. That is triple the number of employment-based green cards we currently issue on an annual basis, triple the number we currently issue. Although the number would be curtailed after a few years, it is still 150,000 more than currently issued. After 2016, the number of green cards for employer-sponsored aliens would go back to double the current level, at 290,000.

They have also increased the employment-based green card cap—that is the total limit, over and above the 450,000 that would now be available each year under the compromise—by exempting spouses and children from counting against the cap. Spouses and children count against the cap today. So we triple the number, and we don't count spouses and children. Because an average of 1.2 family members accompany employment-based green card holders, we estimate that about 540,000 family members will also get employment-based green cards without counting against this cap. That is contrary to what we do today. It is contrary to our policy. This is a huge change is all I am saying.

Maybe after thorough debate we might want to go that far. I doubt it. I think we want to increase the number of legal workers who come to our country but surge these numbers this much without any discussion whatsoever? This means next year we could have 990,000—that is almost a million—employment-based green cards issued: 550,000 for the workers, 540,000 for the family members. That is equal to the total number of green cards we handed out this year for all categories, including employment-based, family-based, asylum, refugees, cancellation of removal, and so forth.

Using the estimate from our population chart, based on the CRS data and the Pew Hispanic data, the way the new amnesty categories would work is as follows. This is what is in the compromise.

If you are here for 5 or more years—and that includes 8.85 million of the 11.5 to 12 million people who are estimated to be here, or 75 percent of those who are estimated to be here today—what happens to you? You are treated just like you were under the Kennedy bill that was rejected this morning. You get to stay, work, apply for a green card from inside the United States.

Again, what does green card mean? It means you are a permanent resident, eligible for all the social welfare benefits that belong to American citizens, No. 1. No. 2, it puts you on a guaranteed path to citizenship. This is your

reward for violating the law by coming in illegally.

Under this bill, 75 percent of them, 8.85 million would get to stay and apply for green cards from inside the United States, just like the rejected bill earlier today provided for. And in addition, spouses and children would get those green cards as well. And they, spouses and children, would get green cards even if they are not in the United States.

So if the person came here to work temporarily, planned to go back to his family, didn't have a plan to stay here permanently and intended to go back to his country of origin, make a little extra money to help out the family, now we have encouraged them to go ahead and bring their family here. That would be a large number. That will impact more than the 1.1 million who are covered by the bill, according to the estimates.

They do not count against any family or employment caps or green cards. We do currently have a limit. We are supposed to have a limit on the total number who can come in as permanent workers on the path to citizenship so none of these would count against the caps, out of the 11 to 12 million.

So 75 percent of the 11.5 million are like that. What about those in the compromise? They say we are going to be a little different than the Kennedy bill for those 1.4 million people who have been here from 2 to 5 years. What happens to those that have only been here illegally for 2 to 5 years? You get to stay legally, and you are able to continue to work in the United States while you apply for a work visa if, within 3 years, at any time during that 3 years, you go across the border through a consular office and pick up a nonimmigrant visa that you can apply for from the United States. Although the Department of Homeland Security Secretary may waive the departure requirement. So you can go across the border, go to the office, pick up the thing and come right back the same day.

Spouses and children get the same status. If they came here illegally, they get the same green card status, but they don't have to go across the border to pick it up, they can get it right here at home. If they apply for the H–2C, a new work visa created under title IV, the employer can sponsor them for a green card the day they come back into the United States.

The employer can petition that day to get them a green card. Once you get that green card, you are a legal, permanent resident, entitled to the welfare and governmental benefits of our country.

What about those who are here for less than 2 years? That is not directly addressed in this compromise bill that we now have before us that is supposed to solve all of our problems. Unfortunately, it doesn't solve them.

The compromise sponsors will tell you that the people who have been here less than 2 years—that is about 1.2 to 1.7 million—will have to leave immediately or be deported.

First, let me ask how many people are being apprehended and deported today? Who is going to apprehend and deport these people who are here illegally in the last year?

I raise that as a practical question.

But under the bill language, you can qualify for the new H–2C worker program, even if you are unlawfully present in the United States.

My legal counsel is a smart reader of the law.

This is the way the bill explains it. It doesn't say that plainly. It says:

> In determining the alien's admissibility as an H–2C nonimmigrant. . . . paragraphs (5), (6)(A), (7), (9)(B) and (9)(C) of section 212(a) may be waived for conduct that occurred before the effective date.

What does all that mean?

If you do not have time to put aside the statute, the compromise bill, and go back and read the underlying statute, you don't know what it means, but if you do that, as my counsel did, you will see that is a pretty sneaky maneuver. As I noted, under the new H–2C program, 400,000 per year can get green cards as workers, and these people will qualify for that because those code sections refer to aliens who came here illegally and those who have been ordered removed but have come illegally will go back into the United States.

The last bunch, the 1.2 million that have been here less than 2 years, they are not going to leave this country.

First of all, nobody is going to come and get them. They are going to apply under the new visa program, the H–2C worker program that has these huge numbers that we have triple the numbers for. And it specifically says in the statute that they will qualify, even if they came here illegally or have been apprehended here illegally or removed—and removed from the United States—and they have come back illegally, they still get to qualify and stay here.

We don't need to vote for a bill such as that.

By the way, in reading the bill carefully, my fine staff discovered—it is kind of hard to do all this when you get a bill last night at 10 p.m. which is 325 pages—that those here illegally, whom I just mentioned, in the last 2 years or have been removed and come back illegally, they do not even count against the cap. Why would we want to do that?

I say to you that whoever drafted the bill—I don't really say this to the sponsors because the sponsors of the compromise who met for a few hours and put this thing together didn't realize who all had worked on it. I guess it is the forces who believe that no illegal alien should be left behind. So everybody who is here illegally gets to stay in the country, and they don't even count against the cap for the green card.

I don't think we ought to welcome back into this country someone who has been apprehended, deported and removed from the country and they come back again illegally. They ought not to be allowed to stay, period, much less be given a permanent status and much less be put on a path to citizenship, which this compromise legislation will do.

We think somebody had to have intended this. Somebody who was involved in the writing of this knew what they were doing and definitely wanted to include everybody to make sure that they could say publicly: Well, if it is 5 years, you know you can stay, but if is less than 5 years, you could be removed. None will be removed unless they are convicted of a felony or three misdemeanors.

They basically said you wouldn't be eligible for citizenship if you came here after January of 2004. That is not true. The bill covers everybody. That is part of the compromise legislation and still part of it. It is part of the Kennedy bill that we roundly rejected this morning, and it is part of the compromise that is before us now.

Let me take a few minutes to run over some of the provisions in that 95 percent of the Kennedy bill that was rejected this morning that remains in the Hagel compromise.

Here are some of the difficulties with it.

Let us take loophole No. 1: Absconders and some individuals with felonies or 3 misdemeanors are not barred from getting amnesty.

An absconder is somebody who was apprehended by Border Patrol people, detained, they did not have time to take him or her out of the country, they were busy, they did not have jail space, detention space for them, so they release them on bail. That is what they do all over the country because we don't take this seriously, and they don't show up when they are supposed to be deported. Surprise. They abscond.

Absconders and some individuals with felonies or three misdemeanors are not barred from getting amnesty.

Under the Immigration and Nationality Act, different crimes make aliens ''inadmissible,'' ''deportable,'' or ''ineligible'' for specific benefits.

As written, the Specter substitute—it is included in this bill—only requires an alien to show they are not ''inadmissible'' to qualify for the amnesty contained in the bill. However, some felonies make an alien ''inadmissible,'' but some do not.

Absconders—aliens with final orders of removal who are currently watched by ICE immigration officers—should not be eligible for amnesty. They remain eligible for this amnesty. The Kyl-Cornyn amendment that was blocked by the other side so we couldn't get a vote on it, was designed to fix this loophole. It would keep aliens with felony convictions or three misdemeanors from being eligible for the new amnesty program. Surely, we agree on that. If we had a vote on it, I am sure it would pass.

But the leader on the other side has managed to block us from getting a vote.

Loophole No. 2: Aliens specifically barred from receiving immigration benefits for life because they filed a frivolous asylum application will also be able to receive amnesty. Under INA, section 208(d)(6), if the Attorney General determines that an alien knowingly filed a frivolous asylum application, the alien will be permanently ineligible for any benefits under the INA. This bill changes that. On page 333, it says: ''Notwithstanding any other provision of law, the Secretary shall adjust . . . '' an alien who meets the requirement of INN 245B. There is no provision that states that the alien is eligible for amnesty if they file a frivolous asylum application. It, therefore, gives benefits to aliens previously barred from all immigration benefits.

Loophole No. 3: All aliens who are subject to a final order of removal—for some reason you are brought up and the court has ordered you removed from the country—who failed to leave pursuant to a voluntary departure agreement, they entered into those agreements and oftentimes people promise to leave and never leave—or who are subject to the reinstatement of a final order of removal because they illegally reentered after being ordered removed from the United States are also eligible for amnesty.

I call on my colleagues to look at the bill. On page 353, line 3, the bill clearly states that any alien with a final order of removal can apply for amnesty. This means that the aliens who have already received their day in court have had their case fully litigated, and they have been ordered removed and have failed to depart will now be rewarded for not following the law and leaving like they were ordered to do. They will qualify for this amnesty.

This will include many of the 37,000 Chinese nationals that China has refused to take back. I understand maybe they have agreed to take them back in the last day or so, but they have been pretty recalcitrant on it. I will be surprised if they are all approved for repatriation.

But do you see how important this could be.

Loophole No. 4: Aliens who illegally entered the country multiple times are also eligible for amnesty. Page 334, line 8 requires continuous physical presence and states than an alien must not have departed from the United States before April 5, 2006, except for brief, casual or innocent departures. Every time the alien reenters the United States illegally, they are committing a criminal offense. But this bill rewards those aliens with amnesty also.

Loophole No. 5: This bill allows aliens who have persecuted anyone on account of race, religion, nationality, membership in a particular social group or political opinion get amnesty. It fails to make persecutors ineligible for amnesty.

I would have thought that was an oversight until I noticed on page 363, line 22, that the bill makes those heinous acts bar aliens here between 2 and 5 years from amnesty but not those who have been here longer. The same bar left out for the 8.8 million who have been here for more than 5 years. This will be interpreted as an intentional decision of Congress when we pass this bill.

That is not inadvertent. I don't know why they did that.

Loophole No. 6: There is no continuous presence or continuous work requirement for amnesty. To be eligible to adjust from illegal to legal statutes under the bill, the alien must simply have been ''physically present in the United States on April 5, 2001,'' and have been ''employed continuously in the United States'' for 3 of the 5 years ''since that date.''

The bill does not say ''employed continuously in the United States since that date,'' as some have said. It does not require that employment be full time. Which means that it will be interpreted by any fair court following the law to mean that the alien will be eligible for amnesty if they have been employed in the United States either full time, part time, seasonally, or self-employed.

The bill also allows the time of employment be shortened if the alien has attendance in a school. The employment requirement under the language, as written, is as broad as possible. Essentially, any alien who worked in the United States for 3 out of 5 years any time prior to April 5, 2006, will fulfill the eligibility requirements.

Loophole No. 7: The bill tells the Department of Homeland Security to accept ''just and reasonable inferences'' from day labor centers as evidence of an alien meeting the bill's work requirements.

Day labor centers—I am not sure how reliable those can be to make major decisions. Some of these are openly and notoriously promoting illegal workers.

Under the bill, an alien can ''conclusively establish'' that he was employed in the United States, and it can be either full time, part time, seasonally, or self-employed by presenting documents from Social Security, the Internal Revenue Service or an employer related to employment. The alien meets ''the burden of proving by a preponderance of the evidence that the alien has satisfied the requirements'' if the alien can demonstrate ''such employment as a matter of just reasonable inference.''

If you can just have a reasonable inference that you have worked, get a document from a day labor center, you meet the work requirements. Everybody will meet it. No illegal alien will be left behind.

The bill then states:

> . . . it is the intent of Congress that the [work] requirement . . . be interpreted and implemented in a manner that recognizes and takes into account the difficulties encountered by aliens in obtaining evidence of employment due to the undocumented status of the alien.

The invitation is there to abuse the system. The invitation for fraud is clear.

Congress is telling the Department of Homeland Security to accept pretty much anything as proof of work, and if they don't take it, they will be sued and they will win in court because the bill we have written says anything goes as valid proof of work.

Loophole 8: The bill benefits only those who broke the law, not those who followed it and got work visas to come to the United States. That is a plain fact. If you were here legally on or before April 5, 2001, you will not get the benefit of this amnesty. This amnesty benefits you only if you came here illegally.

Loophole 9: The essential worker permanent immigration program for nonagriculture low-skilled workers leaves no illegal alien out. It is not limited to people outside the United States who want to come here to work in the future but includes illegal aliens currently present in the United States who do not qualify for the amnesty program in title VI, including aliens here for less than 2 years. Under the bill language, you can qualify for this new program to work as a low-skilled permanent immigrant even if you are unlawfully present in the United States.

The bill specifically states:

> In determining the alien's admissibility as an H–2C . . .

The program is specifically intended to apply to absconders. There are 400,000 absconders out there now that we are trying to apprehend and trying to deport. They have been ordered deported yet they absconded; illegal aliens who were in removal proceedings and signed a voluntary departure agreement but never left, many of them did that, and illegal aliens already removed from the United States but who have come back.

Loophole No. 10: The annual numerical cap on this program is a completely artificial cap. If the 400,000 cap per year is reached, what happens then? The cap immediately adjusts itself to make more room under the cap. I kid you not. If the cap is reached, an additional 80,000 visas can be given out that year and the cap will go up automatically the next year as much as 20 percent. Even if the cap stays at 400,000 per year, we will have a minimum of 2.4 million low-skilled permanent—not part-time—immigrants in the first 6 years, the length of the H–2C visa if the individual did not file for a green card.

I see the Democratic leader. I have been going over some of the things in the bill that I think the American people and maybe our colleagues are not aware of. It is a breathtaking piece of legislation. It is something that jeopardizes our ability to be successful in the Senate in passing good legislation. The compromise will not deal with the problems I mentioned today. I am very disappointed.

I urge my colleagues, if you said you would not vote for amnesty, you should not vote for this compromise. If you voted against the Kennedy-Specter-McCain committee bill that came out today—and the vote was 60–39 against it—you should not vote for this bill. It is essentially the same thing.

Mr. REID. Mr. President, I so appreciate the courtesy of my friend from Alabama.

The PRESIDING OFFICER. The Democratic leader.

Mr. REID. I appreciate your courtesy so very much.

Mr. President, the Democrats continue to fight for strong border enforcement and comprehensive immigration reform. This compromise is the second bipartisan plan we have supported, this Martinez amendment which is now before the Senate. We are happy to welcome Senator FRIST. He has been very cooperative in working to get this bill where it is now, to the Senate, at this time. It is a comprehensive, tough, smart approach that we have advocated all along.

Unfortunately, other Republicans seem intent on delaying and defeating this compromise. We are ready to move forward, but a group of Republican Senators want to slow this matter down, it appears. If not for them, this legislation could move forward. We would head into the recess with a bipartisan victory for the American people.

Although this compromise is not perfect, it still is the right comprehensive approach. It is ''enforcement plus,'' tough reforms to protect our border and crack down on employers who hire illegally plus it will bring the millions of undocumented immigrants out of the shadows.

The Republicans are divided, obviously, on this issue. We must protect this fragile compromise and those bent on gutting this bill with hostile amendments. We still must ensure that this comprehensive approach is not lost when the bill reaches conference with the House of Representatives.

Therefore, I have suggested to the distinguished majority leader that the conferees on this be the Judiciary Committee. There would still be the two-vote majority that we have on all conference committees. These men and women who make up the Judiciary Committee fully understand this legislation. I believe they would make sure the Senate's position was protected.

I have also said in addition to that we should have a limited number of amendments. I have made that proposal to the distinguished majority leader.

I believe it is a test of leadership for President Bush to see what he can do to help bring everyone into this program. We do not need this matter derailed.

I will meet with Senator FRIST at approximately 8:30 again tonight and see if there is something we can work out. Here he is. So I hope there is something we can do.

I have, as I indicated, suggested that the Judiciary Committee members be conferees and we have a limited number of amendments. It sounds fair. It sounds reasonable, to me. I hope President Bush, who has talked about immigration reform, would get involved and help us reach the finish line.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Mr. President, I said this earlier this morning: we find ourselves at an interesting moment. This morning we had a cloture vote which gave us the opportunity to start afresh. We started in a very positive way in that we had a strong bipartisan show of support for an amendment, the Martinez-Hagel amendment. That is a good alternative. That is what we will be voting on tomorrow morning.

We left that meeting with the understanding that we would be able to debate amendments and bring up amendments and discuss amendments to this issue of immigration given the fact that it is a complex issue. And I think this Senate has come to the real point where we agree it is going to take a comprehensive approach to address the illegal and undocumented people coming into this country across our borders. That is real progress over the last week.

However, the problem we have, we have not been given the opportunity to treat each of these colleagues in this room fairly, allowing them to come forward and offer their amendments and to have them debated, to improve, to modify, to probably win some and to lose some, but to help shape legislation as we did on other bills, including the transportation bill, highway bill, other large, complex bills in this Senate.

Over the course of the day it was my expectation as we set out this morning, we take a step forward in terms of debating an amendment and looking at the overall immigration bill and offering amendments on that immigration bill to improve it. Yet here we are, 10 hours later, and we have made absolutely no progress.

The amendments that were first offered on this bill were a week ago, Wednesday of last week, the Kyl amendment. To this day, we have not been able to have a vote on that Kyl amendment, the Dorgan amendment, or the Isakson amendment, all of which have been on the table and discussed, but we are not allowed to vote on them. It takes unanimous consent, all of us working together to do that.

The problem is, unless the Senate is able to work its will, we are not ever going to be able to finish a bill and all the good we want to do in addressing immigration will come to naught today or tomorrow and in the near future. That is the tragedy.

I still think we have an opportunity to reverse that. What I recommend, and I will talk to the Democratic leader shortly, is that we proceed and take up the Kyl amendment and that we debate it, and we already have had sufficient debate. We can vote on it and dispose of that and take that next amendment, the Dorgan amendment, and vote on that, dispose of that, and take up the Isakson amendment, and vote on that, and then develop some good will.

I think, again, most everyone in this Senate wants to move this bill forward, see where we are, and then continue through the evening and the night in order to consider other amendments. That would be the normal process and the process I would expect.

I will be talking to the Democratic leader and I hope we can make progress and do just that.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I am a little puzzled as to why the distinguished Democratic leader needed to come to the Senate at this time because, as he said, there is going to be a conversation between him and the majority leader in 15 minutes.

We all know where we are. We all know the obstacles we face. But we also know that people of good will need to sit down together and implement the bipartisan agreement made after a lot of labor and hard work.

All I can say is I am a little puzzled, but I still hope in 15 minutes the conversation between two individuals of good will would agree to move forward with a process. That is, obviously, the will of the majority of this Senate.

I am puzzled, but I hope the conversation that takes place in about 15 minutes between the two leaders would bear fruit and the details of what that agreement would be would, obviously, be between the two leaders.

I yield the floor.

The PRESIDING OFFICER. The assistant Democratic leader.

Mr. DURBIN. Mr. President, let me salute those on the floor who have been so instrumental in bringing us to this point.

I look over and see Senator MARTINEZ, who has worked very hard to find a bipartisan compromise which I now support. I thank him for that leadership.

I say the same of Senator MCCAIN and Senator GRAHAM and so many others who have gathered here today. They are people of good will who generally want to pass a bill, as I do. The same can be said for many on our side of the aisle who have spent an extraordinary amount of time trying to find this common ground.

But let's be very blunt about where we are at the moment. It is 8:15 on Thursday night. Tomorrow is the last day of the session before a 2-week recess.

Clearly, if we don't reach some agreement as to how we are going to deal with this bill when we return after the Easter recess, it really is a troubling situation. I hope it is not a situation that would jeopardize the bill. We are trying to come up with a reasonable number of amendments. Yesterday, we

calculated there were 228 amendments filed to the pending bill. It is physically impossible to deal with that number of amendments. We know that. As the whip on this side, I have faced 100 or more amendments and had to try to talk Members out of them. At this point, we are trying to reach a reasonable number.

We have been given a list of potential amendments on the Republican side. I will tell you that almost without exception, they are authored by Senators who have expressly stated on the floor they want to defeat this bill. So at some point, we have to acknowledge the obvious. Senators should have the opportunity, I suppose, to express themselves, but if the purpose of the amendments is just to drag this out once we return to the point where it never passes, we have done a great disservice.

It was not that long ago that we gathered on the floor of the third floor of this Capitol in the press room congratulating ourselves on what we had achieved on a bipartisan basis. Supposedly there was a bipartisan will to move forward. We need the same thing now. And we need to acknowledge that every Senator who wants to offer every amendment cannot be allowed to do so, if we are ever going to complete action on the bill. Both sides have to be reasonable in the amount of amendments that will be offered or nothing will happen.

The final point the Democratic leader, Senator REID, made, is equally important. We want the conference committee to be a working committee that understands the bill. The clearest way to achieve that is to have the Senate Judiciary Committee, with 10 Republicans and 8 Democrats, represent our interests, if the bill ever passes in the Senate. We think it is going to be an arduous process facing a House where the chairman of the House Judiciary Committee has passed a bill far different than the one we are considering in the Senate today. I don't think that is an unreasonable request by the Senator from Nevada. It reflects a two-vote plurality for the Republicans, as is usually the case, and brings the people to this conference committee who have worked on this bill the longest and the hardest. That is what we put on the table.

I sincerely hope that before we adjourn this evening we can announce an agreement to move forward. If we don't, I fear that tomorrow there will be a race for the airports without this resolved, and we will wait for 2 weeks in the hopes that when we return we will have the same spirit of bipartisan cooperation. We may and we may not. We shouldn't miss this chance, this historic opportunity to seize this moment and to pass comprehensive immigration reform which starts with enforcement of our borders, enforcement against employers who are misusing those who are undocumented, and a legal pathway so that those who have lived in the shadows and in fear for so long finally have a chance to prove themselves, in a long and difficult process, that they are in a position to be legal participants as part of our great democracy.

Tonight may be the test as to whether we can achieve that. I hope before we close down the session tonight, it is with the good news that we have reached a bipartisan agreement; otherwise, I am very concerned about the fate of this legislation.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I thank the Senator from Illinois. He has been involved in many, probably too many, conversations we have had on this issue and meetings and gatherings. It is very interesting. Everybody is expressing the same desire, yet we can't quite get there. That is hard to understand.

I would like to make one comment to my friend from Illinois about conferees. One, I am confident it will be a fair conference. Obviously, in my personal view, the Judiciary Committee will be the appropriate conference. But that is a privilege and a right and a responsibility of the majority leader. We know the way it works around here. The majority leader appoints conferees. The majority leader wants to resolve this. He doesn't want the legislation gutted or destroyed in conference. We have worked too hard to get where we are. We have to proceed, at least a little bit, in good faith, recognizing if at some point as we are moving along that confidence is not there, you can derail it at any time. You can start the procedure that we have been in for the last 9 or 10 days. That seems to me the right thing to do, and I hope the discussion between the two leaders in 10 minutes will yield us an agreement to move forward.

The Kyl-Cornyn amendment has been pending for 10 days. We have on your side Senator DORGAN who feels strongly about his amendment, and so does the Senator from Georgia, Mr. ISAKSON. Those are issues we could work through and then see the end of the tunnel. We all know what happens. I think we are down to something like 20 amendments on our side, and it would probably be less than that. But there are only so many major issues associated with this bill.

I thank the Senator from Illinois for his cooperation and his efforts to bring this process forward. I think any objective observer would argue that it is time we move forward with the process. As the Senator from Illinois said, it is almost too late.

I yield the floor.

The PRESIDING OFFICER. The majority whip.

Mr. MCCONNELL. Mr. President, if I may echo the comments of the Senator from Arizona, had we followed a normal procedure in the Senate over the last week or 10 days, we would have probably had way more votes than Senators on this side of the aisle are requesting. A modest number of amendments, as Senator MCCAIN indicated, roughly 20 amendments, is an incredibly small number of amendments when you consider the magnitude of the bill that is before us and the length of time that it has been before us. We could have been to the end of the process if we had had the kind of procedure that is typically followed in this body. I am hoping that we can get to that point. I am optimistic that the meeting between the two leaders may produce an agreement to get started. We have a group of amendments that are the logical place to start. I hope before the evening is over, we will have an opportunity to lock those in and to move forward, as we do on every other piece of legislation that we handle in this body.

I yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. GRAHAM. Mr. President, I have been involved, along with many other people, trying to work hard. And if this were an easy problem, we would have solved it many years ago. As a nation, in 1986, we offered amnesty under Ronald Reagan, and 3 million people have turned into 11 million people. We can argue rightfully about what is punishment, what is amnesty. But what we can't afford is to take broken borders and combine them with a broken Senate.

America needs something to work around here on immigration. The House has spoken. I don't agree with their conclusion, but at least they spoke. The President is speaking. The Senate is trying to speak. We have reached a bipartisan compromise that enjoys support on both sides but also enjoys fair criticism. If it begins to be the rule that you can't offer an amendment if you oppose a bill, that is probably not a good policy for our friends in the minority.

We want to be able to tell America why we differ with each other and in some constructive way vote on what our differences are. Three amendments on a bill this important is unfair to our colleagues who disagree with what we are trying to do. Some of them are trying to make the compromise better. I was in the Judiciary Committee. It has been a heck of a place to reside. If I had known going in what it was about, I don't know if I would have accepted the job. But I have thoroughly enjoyed it in this sense: We have taken very important issues, and we talked about them and we voted. We spent days on this bill. We had dozens of votes, Senator SESSIONS. Nobody said you couldn't vote. We worked through it, and we came out with a bill that some like and some don't. Now we are on the Senate floor.

Everybody who is not on Judiciary deserves at least a shot to have a say about this bill. As much as I like being on the Judiciary Committee, I don't

think we should take over the whole Senate. So what we are trying to do is give people on the committee and not on the committee a chance to revisit this legislation in some orderly process.

Here is what we propose. It really is about who to trust, and trust is pretty low around here. The country has lots of problems, but we have to be able to prove to each other we mean what we say. I hope I have proven this. I mean it when I say I am for a comprehensive bill. I have taken some votes that are not that popular at home. But I believe it is best for the country and the people of South Carolina to realistically solve this problem. Senator ISAKSON has a good amendment. Senator KYL and Senator CORNYN, there are a bunch of good amendments out there. Some of them I will vote against, but they deserve the right to be voted on.

What do we do in conference? Senator FRIST has been a very good leader this week. He has taken a majority of his conference in a way they really didn't want to go, but they are now understanding it is better to get something done than nothing. And to get to the end of the tunnel, we are going to have to trust each other a little bit.

Senator DURBIN has been terrific. You have been in every meeting I have been in, and I believe in your heart you believe it is good for the country to solve this problem. The only way we are going to get there from here is to have a little bit of faith. If at the end of the day this bill blows up, I don't expect you to accept that result, nor will I. But I am willing to give the process an opportunity to prove to each other that we can do what we said we can do.

I think we can deliver a bill with Republicans and Democrats that would honor the compromise we reached today, but we can't do it shutting out our colleagues. I know if we give this a shot, we will make it. But those who want to kill it, you need to be on notice. As long as I am in the Senate, we are going to be talking about this kind of problem. Every day we talk, people come across our border, and we don't know who they are. Some are doing good and some may not. We need to fix this problem.

To my colleague from Illinois, I know where your heart is, and I appreciate what you have done. But we need to move forward. America needs a better legal system when it comes to immigration. America needs secure borders. America needs to treat with dignity 11 million people who have committed a wrong but could be of great value to us in the future. But more than anything else, America needs a Senate that can work.

I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. CRAIG. Mr. President, I will be brief. Obviously, Senator SESSIONS is on the committee and had been speaking prior to this interlude with our leaders.

I have worked 5 years to get a piece of this bill, and I have a piece of the bill that is currently before us. At the same time, I have voted consistently to allow my colleagues who disagree to have a vote on their issues. Senator SESSIONS and I rarely disagree on issues. On this we disagree.

He is very artful in casting certain provisions of it one way. I could argue it the opposite way. I suspect my arguments would sound nearly as logical as his. But what is important here is the final shaping of a very important piece of legislation.

Controlling our borders is an absolute must that we have denied ourselves for now two decades. Everybody talks about the 1986 act. It didn't work. No, it didn't work. It didn't work because we didn't realize, at least some didn't, that we were sending a signal out that if you could get here and wait your time, some day you might become legal. You might become a citizen. We didn't realize that we put a megaphone to the world and said: Come one, come all.

We also had an economy and job-creating environment in which there were jobs to be had. We didn't control the border. Again in 1996, a decade later, we attempted to tackle it again. Numbers had grown. We didn't control the border.

In 1999, I began to work on the agricultural issue. I worked a compromise over a period of 5 years now with a lot of different people. But in the heart of what I have done is a very important key: it is controlling the border. No matter how we write this legislation, if you cannot define the number and control the number, it is for naught. That is an absolute fact.

It isn't by accident that the first few titles of the committee bill are all about border control. I wish we would move much faster on border control. I wish nationally we could move tomorrow because what we have offered will take a few years to implement.

We have to train more Border Patrol men, 1,500 a year, and go on and on with beds of detention and all that. That is important and part of the control. We have to find the resources to do it. So all of that has to fit together.

At the same time, Americans are phenomenally frustrated about what we are doing and where we are. They know why we need to do something, and they know our borders ought to be controlled. Well, I am going to stand here and defend the right of my colleagues to offer amendments. I would like to think that on the issues I am passionate about, my arguments are more persuasive to a majority and I can defeat any amendment that might be proposed to change certain provisions. I don't know, but I am willing to take that risk because I have to guarantee this process.

The attitude of shut out and deny has never worked in this Senate. We always shape it a little bit, but we never deny it. Yet for a week now it has been denied and it will not stand or the bill will fall. That would be wrong for the American people not only to see but to understand because in it are the ingredients to solve a problem, if we have the heart and the will to implement it.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SESSIONS. Mr. President, I agree with much of what Senator CRAIG said—particularly about the ineffectiveness at the border. Let's be real frank and honest about the bill we have today. The reason we are in trouble today, the reason we are not going to be able to pass this legislation is that the bill is a failure. It is a colossal failure. It is a dead horse. It has been lying out in the sun, and people have been having to look at it, and they are now able to smell it. A few amendments and a compromise is not going to revive this. It doesn't do what we want it to do. It has a huge surge in immigration.

The compromise is 95 percent of what was in the bill we just rejected this morning by a 60-vote margin—95 percent of it. And the others were supposed to make some big difference, but part of the changes in the bill increase the number of people who would come into the country, and there is not any restraint on the legislation. So the underlying bill that came out of committee was bad from the beginning.

Let me tell you what happened. We debated the bill. We spent 5 days in markup, and 4 of those days basically were on border control issues. We debated individual words. Then, all of a sudden, on the last day, when the majority leader said we had to have the bill out, about noon we got around to the amnesty for the 11 million people and what we were going to do about future immigration policies. And without any amendments—maybe no more than one or two—they were adopted in toto, without any real discussion, no expert testimony, no full understanding of the comprehensiveness of it. We just rushed it through. We passed this bill last Monday at about 6 or 7 o'clock at night. It hit the floor on Tuesday or Wednesday. The bill was not even printed until Wednesday night. We were devoting Wednesday all day to the bill, and it had not even been printed.

I ask my colleagues this: Should you not know how much the bill costs? Is anybody here prepared to stand up and say what this bill would cost, the compromise bill, if we pass it? How much will it cost? Does anybody know?

I made inquiry today and got back a letter from CBO that said it is clearly in violation of the Budget Act. Now, they said that was just a part of the cost; it was much more than that. They were still trying to run the numbers.

So within minutes, I got this e-mail from the Congressional Budget Office. It has a score on it. It says that CBO and Joint Tax estimate that direct spending outlays under this bill would total about $8 billion for the first 5

years. That is clearly in violation of the Budget Act.

What about revenues? Joint Tax and CBO—our two agencies we depend on to tell us what the cost and impact of the legislation will be—estimate that the legislation would result in an on-budget revenue loss of $5 billion from 2007 to 2011 and $2 billion over the 2007-to-2016 period, largely because of lower tax payments by businesses.

Here is discretionary spending. Assuming the appropriation of a necessary sum, CBO estimates that outlays for those purposes would total at least $16 billion from 2007 to 2011 and more than $30 billion over 2007 to 2016. And they are in a governmental mandate. The bill would impose mandates on State and local governments with costs that would exceed the threshold established by the Unfunded Mandates Act and at least 1 of the first 5 years after they take effect, totaling $29 billion over 5 years.

Well, why am I saying that? First of all, that is a lot of money. We have Social Security in trouble, Medicaid in trouble, and we are going to add $29 billion more to our costs?

What is really troubling is that it is symptomatic of the lack of thought and serious evaluation that went into writing this bill to begin with. It is not a good piece of legislation. It has good intentions. It desires to do the right thing. Unfortunately, as I have studied it, having been on the Judiciary Committee, I have come to believe it cannot be amended. And we are going to have three amendments that are going to somehow fix this bill? It fundamentally needs to be reviewed. I really think so.

I will repeat that I am optimistic about our ability to make this work. I am optimistic that, with just a commitment of will and some resources, we can create secure borders and increase the number of people who come into our country legally. We can deal humanely and fairly with the 11 million to 12 million—or maybe even 20 million—illegals who are here. We don't have to give them every single benefit we give to those who follow the law, but we can allow most to stay and work and live here, if that is what they have been doing and if that is possible. We can work out all those things. We can deal with those issues in an effective way. But this legislation doesn't do it, and it is too late to fix it.

We need to have some real hearings, get the best minds in America to tell us about this problem, and work out legislation that is not amnesty, that doesn't cost $27 billion, that creates a lawful system on our borders so people can enter and exit easily with biometric identifiers if they are lawful and those who try to come in unlawfully get apprehended. That can be done. This bill doesn't do it. The compromise legislation doesn't do it. It needs to be voted down.

I yield the floor.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. MARTINEZ. Mr. President, we have been in a stalemate over the issue of amendments for several days now on what is an issue which, as the Senator from Alabama so eloquently said, is very important to all Americans. It is a very important issue to those who support the bill and to those who might oppose the bill. It is an issue where the lives of many people in America are hanging on its outcome.

The President has spoken in the last 24 hours about the need for the Senate, with a seriousness of purpose, to move forward to try to arrive at a reasonable resolution of this issue. The fact is that, as we have over now several days endured, I am not so familiar with every nuance of Senate procedure so as to fully understand all that might be and could be done. But there is also a benefit to that, which is that I am so accustomed to what the rest of America thinks and hears and, frankly, have a view that I think is also fresh, which is to say: How do you explain to anyone in America that on something as fundamentally important as the immigration laws of this country, on a system that admittedly, while we cannot agree on much, we have to agree is a broken system, that today is not working, not serving America's need for security of the border, that is not serving America's need to know who these 12 million people are and why they are here, that today is a system that compounds and permits illegal behavior by those who cross the border illegally and those who employ them and benefit by their labor.

There is a tacit understanding that we have an illegal system and we are fine with that. In the midst of that need and in the midst of this overwhelming problem we have in our country, the Senate has a responsibility to do something about it.

So how do we explain to the people of America that 100 Senators, led by their leaders, have been hung up over the fact that they cannot agree on how many amendments they are going to have to this bill? It is that simple. We just cannot agree on the number of amendments that will be considered on the bill. Some would say it is too fragile a compromise. If it is too fragile to not have the sufficient votes to defeat amendments to the bill, why, then, it would not pass anyway. That is an indication of a lack of purpose.

Some would say: It is too broken down and cannot be fixed. Let's give it a try. I have never heard of a bill which I participated in in my short career in the Senate that came to the floor and there was not an up-or-down vote—well, sometimes they are done by unanimous consent. But on monumental, controversial legislation such as this, there are always going to be amendments. And I think about how am I going to explain to the people who are looking to me for leadership, telling me to get something done on this problem—and on both sides, people are demanding that the border be secure, and other people are asking that their status be resolved so they can move on to have a piece of the American dream—and say to both of them that the Senate has failed you and did not act; we could not act for the simple reason that we could not agree on the number of amendments. We agreed on the underlying idea—a majority of Senators, I believe, or perhaps a significant majority agreed on how we might perhaps make a contribution toward solving this problem with what now has been reached as a compromise. And we announced it with great fanfare. Then we get to the issue of how many amendments.

The bottom line is that this issue is too important—too many people are depending on it and the security of our Nation depends upon it—for us to fail this test of leadership. If we fail to act on this bill, as I seriously fear we will because of the reason that some would prefer to have the politics of this issue over the policy we could create by acting upon this issue, whatever the will of the Senate may be on it, we will have seriously failed the American people and failed the test of leadership. The President has encouraged us, told us, urged us to move forward and to act on this very important issue. We simply are dilly-dallying and failing to act on something that is fundamentally important to the people of this country.

So I say that if this issue fails to be acted upon, there will be people looking for places to hide and fingers to point as to who is to blame. I would blame all 100 of us for not getting it done. Those who agree with it can vote for it, and those who disagree with it can vote against. Those who have legitimate amendments should be able to offer them and be able to have a vote on them up or down.

Obviously, we have to limit the number of amendments. So we are back to the decision of how many amendments. You would think that grown people could decide how many amendments to have on a bill of this significance and of this importance to the Nation. If we don't agree on the question of how many amendments, I look forward to hearing suggestions on how we explain to the American people why we failed to act.

Ms. LANDRIEU. Mr. President, I would like to speak to an amendment designed to clarify existing immigration law and ease the burden on families sent abroad in service to the United States.

Under the Immigration and Nationality Act, there is normally a 3-year residence requirement for spouses of U.S. citizens to be naturalized. Section 319 (B)(3) waives that requirement for applicants whose citizen spouses are ordered abroad by our Government to keep families intact while certain members do their duty to our country, wherever in the world that may require them to go. The same law rightly places value on cohabitation between

spouses in requiring that applicants spend no more than 45 days away from their citizen spouse. The waiver provided under existing law is clearly intended to prevent our Government from splitting up families whose members are in the service of this country for the mere purpose of satisfying shortsighted antifamily regulations. Yet that is exactly what has occurred as a result of the Bureau of Citizenship and Immigration Services' overly narrow interpretation of this law.

I wish to briefly tell you a story about two constituents of mine, a husband and wife from New Orleans, who were subjected to this particular fate. Brett Schexnider has served as an Active-Duty officer in the Armed Forces for more than 20 years, and holds the rank of commander in the U.S. Navy. Commander Schexnider married his wife Gisele in March of 1999. When the Navy ordered Commander Schexnider to leave New Orleans for a foreign post over 2 years later, Gisele, who is originally from France, understandingly and dutifully accompanied her husband on his tour of duty. After 14 months, the Navy sent Commander Schexnider back home, and his wife returned with him. Four months later, she applied for naturalization. Her application was denied as a result of her having joined her husband abroad, which caused a break in the 3 years of continuous residence normally required. Relying neither on explicit regulation nor statute, USCIS determined that she was no longer entitled to a waiver of the 3-year requirement because her husband had returned to the United States by the time she filed her application. After 6 years of marriage, Gisele was told that she would have to wait another 3 years before her application could be approved. I submit to my colleagues that this unwritten policy and absurd determination is not only bureaucratically senseless but also a shameful offense to the institution of marriage.

Again, this amendment does not seek to do anything more than clarify existing law so that it may achieve its original purpose. The provision in Federal regulations requiring that duty abroad last at least 1 year would remain intact, as would the requirement that an applicant be present in the United States at the time of naturalization. My amendment would simply prevent applicants from failing residence requirements if they choose to follow their spouse to a Government-ordered post.

Our military families and the families of this Nation's public servants who are sent abroad do not deserve to be punished for their service. The laws of this Government and the agencies that execute them must not be allowed to separate families whose members stand up to answer the call of duty, and I would hope that all my colleagues could join me in protecting our Nation's families from this disgraceful practice.

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

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

At the appropriate place, insert the following:

SEC. _____. RESIDENCY REQUIREMENTS FOR CERTAIN ALIEN SPOUSES.

Notwithstanding any other provision of law, for purposes of determining eligibility for naturalization under section 319 of the Immigration and Nationality Act with respect to an alien spouse who is married to a citizen spouse who was stationed abroad on orders from the United States Government for a period of not less than 1 year and reassigned to the United States thereafter, the following rules shall apply:

(1) The citizen spouse shall be treated as regularly scheduled abroad without regard to whether the citizen spouse is reassigned to duty in the United States.

(2) Any period of time during which the alien spouse is living abroad with his or her citizen spouse shall be treated as residency within the United States for purposes of meeting the residency requirements under section 319 of the Immigration and Nationality Act, even if the citizen spouse is reassigned to duty in the United States at the time the alien spouse files an application for naturalization.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER (Mr. CHAMBLISS). Without objection, it is so ordered.

MORNING BUSINESS

Mr. FRIST. Mr. President, I ask unanimous consent that there now be a period of morning business with Senators permitted to speak for up to 10 minutes each.

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

Mr. FRIST. Mr. President, we are about to close in a few moments. We have some business to do. But I want to comment briefly on the events of today with respect to what I think is tragic in the sense that we are, in all likelihood, not going to be able to address a problem that directly affects the American people.

What the Senate does best is to identify a problem, to develop and take a solution through committee, and then bring that product to the floor of this body and allow 100 Senators—the body itself—to modify, to take away, or to add to that product and produce a bill. And it becomes especially important when you are addressing very complicated issues, tough issues, tough challenges that you produce a product that reflects the intent and the will of this entire body, the Senate.

In this particular case, when we are discussing immigration, the problem has been clearly identified. Our borders are broken. Our immigration system does not work, Our laws that are on the books are not being enforced.

Again and again, we have heard over the last 2 weeks that we are a nation of laws, a proud nation, a rich nation because of our immigrants and our history of immigrants. But with those laws not enforced, our workplace is not protected, and with employers not having the tools available to enforce those laws, with too many people living in the shadows, we have a set of problems that have to be addressed.

This body has moved in the direction of addressing that in a comprehensive way. We developed a product in the committee, we took that product to the floor, but when we came to the point where the minority, using their rights, which I would argue is abusing those privileges, caused the system of deliberation and amendment to fail, that resulted in postponement, it resulted in blocking amendments, not having votes, obstruction.

They did not allow amendments to be offered—the substantive amendments, the really important amendments—or to be voted on.

Everybody watching this debate over the last week and a half asked—we all have that telephone call or that question in town meetings: How in the world could the Senate possibly operate that way? How can a handful of Senators or a minority of Senators—fewer than 50 in this body—actually stop progress on an important bill?

The American people are baffled by it, and appropriately so. The answer lies in that the rules of the Senate allow them to do that, and if those rules are used in that manner, then things can be stopped, postponed, and blocked.

People call it tyranny of a minority. Is that an overstatement? Not really, because the tyranny means that you have something bad happening, and the strength is of the minority, and that has actually taken place. We have seen it play out over the course of the last 12 hours, almost exactly 12 hours after a vote today to oppose a bill that gives illegal immigrants, undocumented people, a direct special path to citizenship. Many thought it would be a new day and, indeed, shortly thereafter, a large number, a bipartisan group of people, rallied in support of proceeding to an amendment put forth by Senators HAGEL and MARTINEZ, broadly supported with a number of cosponsors on both sides of the aisle.

That amendment, coupled with the work that the committee had done to date, that the Senate had done, did everything pretty much in terms of tightening the borders, worksite enforcement, looking at 12 million undocumented, illegal immigrants here and saying it is not a monolithic group and has to be addressed in a certain way and developing a temporary worker program.

However, at that point, the minority, having said the amendments could be

offered, reversed course, and over the course of today we have not had any amendments offered. We have had them offered—in fact, 396 amendments are at the desk—but we are not allowed to take any of those amendments out and debate and vote on them. And we did not do any amendments today. We all know a lot of people say they will file amendments, and they do not ultimately even want to debate them, but 396 amendments reflect a lot of Members with interest, on both sides of the aisle, with an interest in modifying or attempting to modify or discussing how they might modify the underlying bill.

I have been consistent in my remarks over the last several days, actually at the end of last week, as well, that it is important we begin debate and we begin that amendment process and get votes on some of those amendments. People say, well, you had three votes. There are 396 amendments, and we did have three votes. They were fairly noncontroversial. The problem is that we have a lot more substantial amendments.

The amendment that we talked about earlier tonight, the Kyl amendment, was offered Wednesday of last week; and another amendment, the Dorgan amendment, was offered last week; and the Isakson amendment was offered last week. These are amendments we have not been allowed to vote on.

Earlier tonight, a couple of hours ago, when the Democratic leader and I were both on the floor, I suggested we go ahead and take up the Kyl amendment. Even if we could not come to all the agreements about what will happen weeks or months from now, let's go ahead and take up an amendment and maybe we could capture the good will of the Senate, show progress, and after that take up the Dorgan amendment and the Isakson amendment, and hopefully at some point—maybe it even could have been now—we could see how we could proceed with other amendments.

That proposal was refused and, thus, we are here now a couple of hours later. A lot of other proposals have gone back and forth, and without talking too much about what the Democratic leader and I have talked about, we have tried to put together packages or groups of amendments that might be considered. I have been quite open. We would like to see about 20 amendments, out of 396, about 20 be considered at some point in the future, in a package, and ultimately have passage of the bill after those amendments. How they fall is important, but voting is important. And however they fall, if we can vote on the underlying bill, I think it would pass. But the response to that, again, was ''no.''

I mention that because we have seen this flow over the course of the day, a lot of optimism earlier today, but now, since we have had no amendments over the course of today, I don't see how cloture can be invoked tomorrow morning. We will have to wait and see how the votes go, but I would think all of the people who have been denied the opportunity to offer their amendments are not going to want to proceed where, in a process, they are being shut out, totally shut out. But we have to wait and see how that vote goes tomorrow morning.

Now, where do we go from here? I always say that tomorrow is a new day, and we do not know what exactly will happen tomorrow morning. I do see little progress on this bill possible tomorrow because of the obstruction that we have run up against.

What is disheartening to me is that we do have a huge problem along our borders today. As I have said many times before, when I was last at the Rio Grande border, 400 people were caught that night. That means 400 people will probably be caught tonight in that one little sector. But in addition to those 400 people being gone, there are probably about 800 or 1,200 people who are going to get through that border tonight—just that little sector tonight—and tomorrow night and the next night and the next night because we did not act and because we are not acting and not moving forward. I think that is a disservice to the people living along those borders. It is a disservice to the people who are going in those hospitals along the borders in the border States, who have to wait hours, sometimes several hours, maybe even a whole day, because these waiting rooms are crowded with people who have come illegally across the border over the preceding days.

But we will have to see how the vote goes tomorrow morning. If cloture is not invoked—and I don't see how it can be, the way the process has proceeded—we will have a cloture vote on a strong border security bill, a bill that does deserve to be passed. If we cannot pass the comprehensive bill, because of obstruction, we will have the opportunity after that to vote on a strong border security bill that also has interior enforcement and worksite enforcement tomorrow morning as well.

I do hope we can turn the corner here at some point and address these problems which do affect the American people. We have to stay above partisanship. We have to work together and be able to debate in a civil way. I stressed that initially when we began the debate, saying we have to be civil and dignified, but then I found that we were not even really able to debate because we have not been allowed to vote on these amendments.

Mr. President, does the Democratic leader want to have any comment? If not, I will proceed on with business. I do not want to cut off anything.

Mr. REID. Mr. President, I will say a few words. I wasn't planning on saying anything, but I think I must say something.

Mr. President, no matter how many times I call this lectern a car, it does not matter, this is not a car. This is a lectern, used here in the Senate for us to put our papers on and deliver a speech. This is not a car. If I come to the Senate floor and, day after day, hour after hour, call this a car, it is not a car. It is a lectern.

If I come to this Senate floor day after day and say what the Democrats have done is unusual, unwarranted, unbelievable, it is wrong, it is as wrong as this lecturn being called a car.

Now, we are in a unique situation. The distinguished majority leader and I have really tried to work something out. I indicated that I thought it would be appropriate that we agree on who would be on the conference—the Judiciary Committee. It sounds reasonable.

I also thought we should have—not that I was rushing forward with this, but I would agree, on behalf of my caucus, to a reasonable number of amendments. Mr. President, 20 or so is not a reasonable number of amendments. That is filibuster by amendment. It appears here what they want is to filibuster. They, the Republicans, want to filibuster the Martinez bill.

So I do not know how much more reasonable we could be. We are united. We have produced votes this morning to show we are serious about legislation. We will continue to fight for strong border enforcement, comprehensive immigration reform.

What we have suggested is reasonable. It is fair. And the distinguished majority leader said we will see how the vote goes. I think that is really important, that we see how these votes go. I would hope that the night will bring the confidence that we can move forward and invoke cloture on the Martinez bill and finish this legislation. There are still votes that would be valid postcloture on that.

I also make this commitment: If cloture is not invoked—and I think that would be a terrible disservice to this country—I will continue to work on immigration reform. This is something that has to be done. It has to be done. The leader and I have gone back and forth so many times today that we are beating paths to our offices.

I hope this legislation will move forward tomorrow. I know people feel that this lecturn is a chair, but it is not. This is the Senate. This is how it works. The way to bring all this to a close is to invoke cloture. And then we can all walk out and declare victory for the American people. This isn't a question of who filed a cloture motion or who allowed amendments or didn't allow amendments. This is the Senate. That is how it has worked for almost 220 years.

I hope the night will bring what I think is common sense and we can resolve this matter. It would sure be something I would like very much.

Mr. FRIST. Mr. President, I want to, one more time, make it clear that we have tried to move to take up the Kyl amendment tonight, but the other side refused that opportunity, and the Dorgan amendment and the Isakson

amendment, to proceed with debate. The Democratic leader and I have had the discussion. I want to make it clear that not supporting cloture tomorrow is the only way we can support our right to be able to offer amendments and to debate them. It is important for everybody to understand that because it comes on the heels of broad support for the underlying amendment.

Mr. REID. If I could ask a question—pardon the interruption—that would be in addition to at least 17 other amendments at some time in the future; is that right?

Mr. FRIST. Mr. President, the intent is to start down the path of amendments and allow the debate and then to allow the votes. We have stopped short because I have said that our side, since 396 amendments have been offered, needs about 20 amendments—and this doesn't have to be right now; this could be at some point in the future—that we could put into a package and then debate the bill. With that, we have not been able to reach agreement. That is where we are. But this willingness to debate and vote, I want to make it crystal clear we have attempted again to do that. I keep mentioning it because with cloture in all likelihood not being invoked tomorrow, it is solely because we have not been given that opportunity to offer amendments to improve the bill. Some of them would win; some would lose.

Mr. DURBIN. Will the majority leader yield for a question?

Mr. FRIST. I am happy to.

Mr. DURBIN. If we fail to invoke cloture tomorrow, is the majority leader saying we then cannot amend the Martinez substitute that is before us?

Mr. FRIST. I believe that following the cloture, if cloture is not invoked on the Martinez amendment tomorrow, we will follow that immediately with a cloture vote on the bill itself, the border security bill.

Mr. DURBIN. If I might ask the majority leader, if I understand it, it is a cloture vote on the motion to commit which would make the Martinez substitute the bill before us. If that cloture vote prevails, there is ample opportunity then to amend that substitute that is before us. Why does the majority leader argue that Republicans would withhold their votes and stop the process? The process can still go forward. Amendments can still be offered at that point. We have not filed cloture on the underlying substitute. It is only on the motion to commit.

Mr. FRIST. Mr. President, the problem with tomorrow is, we will be in the exact same situation. If cloture is not invoked, we will have one amendment up. We will be exactly where we are now, with your ability to do what you have done, what the Democratic side has done, for the last week and a half, and that is not to allow amendments to come forward and continue to block and obstruct. That is the problem, that we can't come to an agreement on a package. And we have tried to bring it up with a group of amendments, say 20 amendments. We have tried to say let's take one amendment at a time. And the problem is that process is being thwarted, whatever technique we try.

I will not support cloture tomorrow and I don't think our side of the aisle will support cloture tomorrow because it denies our Members the right to offer their amendments and debate them.

Mr. REID. Parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. REID. If cloture is invoked tomorrow, there would still be an opportunity to offer amendments postcloture, germane amendments?

The PRESIDING OFFICER. If a slot were available on the amendment tree, they could be offered. Currently, there are no slots. The tree is full.

Mr. REID. Mr. President, I ask the distinguished Chair, those slots were not filled by the minority, were they?

I think the point is made.

The PRESIDING OFFICER. On the motion to commit, the amendments were offered by the majority leader.

Mr. REID. I have no further questions.

Mr. FRIST. Mr. President, the leader is aware that one amendment could be pending during that entire 30 hours. The minority could deny Members the right for votes on their germane amendments.

I guess I would ask, would the minority leader agree to allow amendments be given 30 minutes of debate, equally divided, so we can be assured that we can debate and vote on that and other important amendments?

Mr. REID. Is that postcloture?

Mr. FRIST. Yes.

Mr. REID. I would be happy to consider that. I think we would have to see what amendments were offered. But I think something such as that is within reason. I am happy to see what we can do. I cannot say until I know what the amendments are, which ones are germane or not.

My point is that there is a way we can have amendments offered postcloture. All we have to do is have cloture invoked tomorrow.

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to votes in relation to the following amendments: The Kyl amendment, the Dorgan amendment, and the Isakson amendment.

I further ask that before each vote there be 30 minutes of debate equally divided in the usual form.

Before the Chair rules, I note that two Republican amendments in this agreement have been pending for over a week.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Reserving the right to object, of course, Mr. President, until we have an agreement, as has been indicated, on what is going to happen postcloture, and we have talked about this, and a conference—these things sound very procedural in nature, but they are important to what this body does. So I object.

The PRESIDING OFFICER. Objection is heard.

MORNING BUSINESS

Mr. DURBIN. Mr. President, I rise today to urge my colleagues to support a bill which I will introduce, entitled, ''Reverse the Raid on Student Aid Act of 2006.''

Forty years ago, our country made a promise to the young men and women to make college more affordable for those who have the determination to pursue higher education regardless of their financial background. This promise was made through the enactment of the Higher Education Act of 1965.

Even before the enactment of that legislation, the National Defense Education Act in the 1950s marked the first time that Congress made a Federal commitment to help young people complete their education.

Most people do not remember the circumstances. We started giving student loans across America because we were afraid. Our fear was based on the fact that the Russians in the 1950s launched a satellite known as Sputnik. We knew they had nuclear capacity and now they were launching a satellite in the heavens. It frightened us.

In the midst of the world war, we did not know if we had a new vulnerability, but we knew where to start in America. We started in the classroom. We decided we needed a new generation of Americans with a college education—specialists, scientists, engineers—people who could prepare America to defend itself and to be competitive in years to come. And we also realized that college education in the 1950s and 1960s was not what it is today. It was really the province of the lucky few, those who were the Senators and daughters of alumni across America and those fortunate enough to be discovered and given a chance to go on to higher education.

We changed everything in the 1960s. We democratized college education in America. College education became an opportunity for many in families that had never produced a college graduate. How did these kids get to school and finish? The National Defense Education Act said: We will loan you the money.

I know a little bit about this story because I was one of those students. After graduating from high school, I borrowed money from the National Defense Education Act and went on to complete a college degree and a law degree. I never could have done it without borrowing that money. The terms now seem so simple and so easy. I was supposed to pay that money back over the next 10 years, after 1 year of grace period, but for the next 10 years after graduation, 10 percent a year at the outrageous interest rate of 3 percent. Of course, I did pay it back and look

back now as I reflect on it and realize what a great loan it was and what a great investor it was. I was one of millions who benefited.

The good news is that the number of students who enroll in higher education across America has nearly doubled over the past 35 years: 8.5 million college students in 1970 to approximately 16 million by 2005. There is some bad news to this story. Despite the importance of college education in the 21st century, many millions of young adults never make it to college.

Never has higher education been more important than it is today. Over the course of a lifetime, a college graduate will earn over $1 million more than someone without a college degree. Today, six out of every ten jobs in America require some postsecondary education or training.

In addition to the individual benefits of a college education, we know that investing and producing more college-educated Americans is vital to our Nation's future. Economists estimate that the increase in the education level of the U.S. labor force between 1915 and 1999 resulted directly in at least a 23-percent overall growth in U.S. productivity.

If you are a student of history, you come to realize how critical education is to where we are today. Why was the 20th century, from 1900 to 1999, the American century? What was it that made America different? Why did we excel when other nations stalled? I think you look back to education there as well.

Between 1890 and 1912, during that 22-year period of time, we built, on average, one new high school in America every single day. All across America, communities decided that high school education was now something worth the investment. Was it a Federal mandate? No. It was the decision of local communities that kids would not quit at the eighth grade. High school—once again, a province of the wealthy and the privileged—became customary and public and universal in America.

So with this rush of new high school graduates coming to lead America, in so many different fields—business and education and other places—the 20th century became the American century. We moved from the Model T from Ford Motor Company to launching our own rockets at Cape Canaveral. We moved forward, with the understanding that education was the key.

Recently, many reports have sounded the alarm that we may be losing our education. The world's technology is moving faster than our education. Countries such as China and India are showing dramatic progress when it comes to technology and innovation. To keep America at the economic forefront of the 21st century, we have to realize we need to continue to value education. We need to invest in it. We need to make certain that Americans are in the forefront, leading the world when it comes to educational standards. We also have to understand that many of these young college students, tomorrow's leaders, will not have a chance unless we give them a helping hand, the same kind of helping hand that this college student had many years ago.

The cost of college education is far beyond the reach of many American students, not just those from poor families but those who come from middle-income households and farm families and families of recent immigrants to our country. According to the College Board, in current dollars, the total cost for tuition fees and room and board at a 4-year public university has increased by 44 percent over the last 5 years. Federal financial assistance is not keeping pace. Twenty years ago, the maximum Pell grant for low-income and working-class families covered about 55 percent of the costs of attending a 4-year public college. Today, the maximum Pell grant of $4,050 covers about 33 percent of the cost.

More and more students find that grant is not enough. According to the U.S. Department of Education, the average student debt of $17 thousand has increased by more than 50 percent over the last decade. We know the stories, stories of students who finally get the diploma, proudly walk down the steps, pose for photographs with their parents, and then try to figure out how in the world are they going to pay back that student loan. That student loan is going to guide them in their lifetime decisions. I have met so many who said: I took this job because it paid a little more. It was not the job I wanted, it was not the thing I wanted to do, but I have to pay off a student loan. So these students, burdened with more debt, find their life choices limited and restricted.

Smart, hard-working kids deserve a chance to go as far as their talent will take them in America.

Students who are qualified to go to college, students who have the desire to go to college, students who can make valuable economic, intellectual, and cultural contributions to America by pursuing higher education should not be kept away from school because they don't have the money. These students are our future.

Let me tell you why I come to the floor and make a speech, which virtually everyone would agree with, and why I am introducing a bill today. Earlier this year, we decided to change the law when it came to college student loans. Earlier this year, the Republican leadership in Congress missed an opportunity to make an important investment in our Nation's future. A bill known as the deficit reduction bill, pushed through Congress by the Republican leadership and signed by President Bush, made $12 billion in cuts in student aid, the single largest cut in financial aid programs in history.

Democrats, on the other hand, proposed reinvesting in student benefits the savings from reducing excessive bank subsidies. We were turned aside. Our approach was rejected. Unfortunately, the Republican majority missed an opportunity to prevent higher student loan interest rates from getting out of hand and going into effect. So as of July 1 of this year, regardless of how low interest rates may be, student loan interest rates will be fixed at 6.8 percent for student borrowers and 8.5 percent for parents who borrow for their child's education. Students will no longer be able to take advantage when interest rates go down by consolidating their loans. Currently, those loan rates are about 5.3 percent for student borrowers, 6.1 for parents.

In addition, students are prohibited from consolidating loans that they might have from various sources and various schools in an effort to lower their interest rates. If we want to move ahead in the global economy, we can't succeed by saddling our newest workers with more debt. That is exactly what this bill does. Anyone who owns a home and a mortgage knows that there comes a time when you get the news that interest rates are going down, that you might consider renegotiating your mortgage and then your monthly payment will go down. You can pay off more on principle and maybe retire your mortgage sooner. It is something we do all the time, whether we are refinancing a car or a home or something else for which we borrowed.

But along come the financial institutions and special interest groups and say: There is one group in America that we will not allow to consolidate their loans and at a lower interest rate. Which group did we pick? The most vulnerable—college students. And do you know why? They are not very good lobbyists. These kids spend too darned much time on their books, and they don't buy the good lobbyists in Washington. I just don't know what is wrong with this generation that they haven't hired the fancy lobbyists, who roam our hallways with considerable retainers, to represent them. Maybe they just assumed some of the Members of the Senate might be sympathetic to college students.

Well, they were wrong. When it came to a choice between more money for the financial institutions that finance the student loans or standing up for the students to keep interest rates down, guess who won. The special interests won; the financial institutions won. The college students lost. As a consequence, they are burdened with more debt. Isn't it great that this Government, which generates so much debt every single day to be heaped on the shoulders of future generations in terms of our national debt, now decided to increase the personal debt of that same generation when it comes to college student loans?

Large educational debt changes the future for many of these students. Career plans change. Lifestyles change. Home and auto purchases are put on hold. Family plans have to be delayed to accommodate debt payments.

Let me tell you two real-life stories that illustrate the effects of these large student loan debts.

Margo Alpert is a 29-year-old Chicago public interest lawyer who is on a 30-year repayment plan, 30 years to repay her student loan. She will be in her mid 50s and thinking about her retirement by the time she has finally paid off her student loan.

Carrie Gevirtz, a 28-year-old social worker who earned her master's degree in social work last year from the University of Chicago, babysits and teaches kickboxing to supplement her $33,000 yearly income so she can pay off her $55,000 student loan. She is a social worker, for goodness' sakes. Here she is taking part-time jobs to pay off this mountain of debt which Congress, thank you, has just increased the cost of.

College graduates such as Margo and Carrie are forced to make lifestyle decisions based on their debt. But there are other lifestyle decisions that are being made as well. Are you familiar with an operation known as Sallie Mae? Sallie Mae was a quasi-governmental agency which went private about 10 years ago. Sallie Mae is a financial institution, one of the largest when it comes to financing student debt. Check it out. Google Sallie Mae. You will find one of the most profitable corporations in America. They loan money to students, and they are making a fortune.

Let me give an illustration of how good life is at Sallie Mae, the institution that is providing student loans for students across America. Sallie Mae's chairman, Albert Lord, racked in $40 million a year to oversee the student loan business and took some of the money that he made and decided to buy over 200 acres in nearby Maryland, right outside of Washington. People in the area were nervous, wondering what Mr. Lord, the chairman of Sallie Mae, was going to do with over 200 acres. They were afraid he was going to build a subdivision.

He calmed their fears: Don't worry. I am going to be building my personal, private golf course. It is just for me. So don't worry, there will be a lot of people here.

The chairman of Sallie Mae, this operation that is financing students loans, is doing pretty well, don't you think? Obviously, he is not sweating out paying back his student loan. He is worried about whether he is going to be golfing and breaking par on the next hole.

Young adults are forced to hold off on life plans such as starting a family and a home and car purchases in order to accommodate their loan payments, while Sallie Mae vice presidents, just below Mr. Lord, are making an average of $350,000 to $400,000 a year. Young people like Margo and Carrie should not face such high penalties because they had the desire and determination to pursue higher education.

High school graduates who qualify for college should not be turned away because they can't afford the cost. That is why I am introducing the Reverse the Raid on Student Aid Act of 2006. This bill would cut student loan interest rates to 3.4 percent for student borrowers, 4.25 percent for parent borrowers. Students would be allowed to consolidate loans while in school in order to lock in lower interest rates. The bill would repeal the single holder rule and allow students who want to consolidate their loans to shop around for the best deals rather than being locked in with their current lender. This is a luxury everybody enjoys. Why shouldn't students have it? The Pell Grant Program would be turned into a mandatory spending program with yearly increases.

An investment in our children's education is an investment in America's future. We must do what we can today to ensure that America remains a global leader in the future.

I recently went to a high school outside of Chicago in one of the suburbs. I wanted to meet with the math and science teachers. We have a serious challenge, not enough math and science teachers, particularly at the high school level. I sat down with a young lady who was very good and well liked by her students. I said: How did you pick this high school?

She said: Honestly, Senator, I had hoped to teach in Chicago in one of the inner-city schools. That is where I wanted to be. But this job paid me $200 more a month. I didn't have any choice. I couldn't pay off my student loan and buy a car and work in the Chicago public school system. So I took this job in the suburbs.

That was perfectly understandable. But it is a clear illustration of how this debt drives career decisions and how this young woman who might have made a significant difference in the life of some of the poorest kids in my State had to make a different choice and, having made that choice, you can understand the outcome when it comes to education in my State.

HONORING MIKE TRACY

Mr. CRAIG. Madam President, today I come to the floor to recognize the retirement from my staff of Mike Tracey, my director of communications. Mike started working for me 10 years ago. When I first met him, he said: ''Finally someone works here with less hair than me.'' Mike's head shines pretty brightly on a clear day.

Mike is always fond of saying that his job is not rocket science. It is not science, he is right. It is art—and Mike Tracey is a master at the art of communications. He is a man who finds a challenge and tackles it head-on.

His tenacity is legendary. When he heads into a battle with me, Mike is always out on the front line with the flag flying high. He is a man who loves America and is not afraid to let people know it. When you are around Mike, you cannot help but be boosted by this man's passion.

I am sad to see Mike Tracey leave my staff, but he goes on to a new challenge, and I know he will tackle that challenge with the same tenacity he approaches life and has for 10 years approached the job he does for me. I wish him the best of luck and thank him for his service to me, to the State of Idaho, and to America.

Mike Tracey, have a great life in your next job, as I know you will.

HONORING OUR ARMED FORCES

Mrs. BOXER. Mr. President, today I rise to pay tribute to 27 young Americans who have been killed in Iraq since February 1. This brings to 550 the number of soldiers who were either from California or based in California who have been killed while serving our country in Iraq. This represents 24 percent of all U.S. deaths in Iraq.

PFC Sean T. Cardelli, 20, died February 1 from enemy small arms fire while conducting combat operations near Fallujah. He was assigned to the 3rd Battalion, 5th Marine Regiment, 1st Marine Division, Camp Pendleton, CA. During Operation Iraqi Freedom, his unit was attached to the 2nd Marine Division.

PFC Caesar S. Viglienzone, 21, died February 1 in Baghdad when an improvised explosive device detonated near his Humvee. He was assigned to the Army's 1st Battalion, 502nd Infantry Regiment, 2nd Brigade Combat Team, 101st Airborne Division, Fort Campbell, KY. He was from Santa Rosa, CA.

SPC Roberto L. Martinez Salazar, 21, died February 4 in Mosul when an improvised explosive device detonated near his up-armored Humvee during patrol operations. He was assigned to Company A, 14th Engineer Battalion, 555th Maneuver Enhancement Brigade, Fort Lewis, WA. He was from Long Beach, CA.

PFC Javier Chavez, 19, died February 9 from wounds received as a result of an improvised explosive device while conducting combat operations near Fallujah. He was assigned to the 3rd Battalion, 5th Marine Regiment, 1st Marine Division, Camp Pendleton, CA. During Operation Iraqi Freedom, his unit was attached to the 2nd Marine Division. He was from Cutler, CA.

Cpl Ross A. Smith, 21, died February 9 from an improvised explosive device while conducting combat operations against enemy forces near Fallujah. He was assigned to the 3rd Battalion, 5th Marine Regiment, 1st Marine Division, Camp Pendleton, CA. During Operation Iraqi Freedom, his unit was attached to the 2nd Marine Division.

Petty Officer 3rd Class Nicholas Wilson, 25, died February 12 as a result of an improvised explosive device in Al Anbar Province. He was assigned to Explosive Ordnance Disposal Mobile Unit Three, based in San Diego, CA.

LCpl Michael S. Probst, 26, died February 14 from an improvised explosive

device while conducting combat operations near Abu Ghraib. He was assigned to 1st Tank Battalion, 1st Marine Division, Twentynine Palms, CA. During Operation Iraqi Freedom, his unit was attached to the 2nd Marine Division. He was from Irvine, CA.

Cpl Matthew D. Conley, 21, died February 18 when his vehicle was attacked with an improvised explosive device while conducting combat operations in Ar Ramadi. He was assigned to the 3rd Battalion, 7th Marine Regiment, 1st Marine Division, Twentynine Palms, CA. During Operation Iraqi Freedom, his unit was attached to the 2nd Marine Division.

SSgt Jay T. Collado, 31, died February 20 from an improvised explosive device near Baghdad. He was assigned to Marine Light/Attack Helicopter Squadron-267, 3rd Marine Aircraft Wing, Camp Pendleton, CA. During Operation Iraqi Freedom, he was attached to the U.S. Army's 4th Infantry Division.

2LT Almar L. Fitzgerald, 23, died February 21 at Landstuhl Regional Medical Center, Germany, from wounds received February 18 as a result of an improvised explosive device while conducting combat operations against enemy forces in Al Anbar Province. He was assigned to the 3rd Battalion, 7th Marine Regiment, 1st Marine Division, Twentynine Palms, CA. During Operation Iraqi Freedom, his unit was attached to the 2nd Marine Division.

LCpl Adam J. Vanalstine, 21, died February 25 from an improvised explosive device in Ar Ramadi. He was assigned to the 3rd Battalion, 7th Marine Regiment, 1st Marine Division, Twentynine Palms, CA. During Operation Iraqi Freedom, his unit was attached to the 2nd Marine Division.

LCpl John J. Thornton, 22, died February 25 of wounds received as a result of an enemy mortar attack in Ar Ramadi. He was assigned to 3rd Battalion, 7th Marine Regiment, 1st Marine Division. During Operation Iraqi Freedom, his unit was attached to the 2nd Marine Division.

SPC Clay P. Farr, 21, died February 26 in Baghdad when an improvised explosive device detonated near his Humvee during patrol operations. He was assigned to the 1st Squadron, 71st Cavalry, 1st Brigade Combat Team, 10th Mountain Division of Fort Drum, NY. He was from Bakersfield, CA.

LCpl Matthew A. Snyder, 20, died March 3 from a non-combat-related vehicle accident in Al Anbar Province. He was assigned to Combat Service Support Group-1, 1st Marine Logistics Group, Twentynine Palms, CA.

Cpl Adam O. Zanutto, 26, died March 6 at National Naval Medical Center in Bethesda, Maryland, from wounds received as a result of an improvised explosive device in Al Anbar Province on February 25. He was assigned the 3rd Battalion, 7th Marine Regiment, 1st Marine Division, Twentynine Palms, CA. He was from Caliente, CA.

LCpl Bunny Long, 22, died March 10 from a suicide, vehicle-borne, improvised explosive device in Al Anbar Province. He was assigned to Headquarters Battalion, 2nd Marine Division, Camp Lejeune, NC. He was from Modesto, CA.

LCpl Kristen K. Figaroa Marino, 20, died March 12 while conducting combat operations in the Al Anbar Province. He was assigned to the 3rd Battalion, 7th Marine Regiment, 1st Marine Division, Twentynine Palms, CA.

PFC Angelo A. Zawaydeh, 19, died March 15 in Baghdad when his traffic control point came under mortar attack during combat operations. He was assigned to the 2nd Battalion, 502nd Infantry Regiment, 2nd Brigade, 101st Airborne Division, Air Assault, Fort Campbell, KY. He was from San Bruno, CA.

SSG Ricardo Barraza, 24, died March 18 in Ar Ramadi when he came under small arms fire by enemy forces during combat operations. He was assigned to the 2nd Battalion, 75th Ranger Regiment, Fort Lewis, WA. He was from Shafter, CA.

SGT Dale G. Brehm, 23, died March 18 in Ar Ramadi when he came under small arms fire by enemy forces during combat operations. He was assigned to the 2nd Battalion, 75th Ranger Regiment, Fort Lewis, WA. He was from Turlock, CA.

Hospitalman Geovani Padillaaleman, 20, died April 2 as a result of enemy action in Al Anbar Province. He was permanently assigned to Bethesda Naval Hospital, USNS Comfort Detachment and operationally assigned to Third Battalion, 8th Marine Regiment, 2/28 Brigade Combat Team. He was from South Gate, CA.

Cpl David A. Bass, 20, died April 2 when the seven-ton truck he was riding in rolled over in a flash flood near Al Asad. He was assigned to an element of the 1st Marine Logistics Group, Camp Pendleton, CA.

LCpl Patrick J. Gallagher, 27, died April 2 when the seven-ton truck he was riding in rolled over in a flash flood near Al Asad. He was assigned to an element of the 1st Marine Logistics Group, Camp Pendleton, CA.

LCpl Felipe D. Sandoval-Flores, 20, died April 2 when the seven-ton truck he was riding in rolled over in a flash flood near Al Asad. He was assigned to an element of the 1st Marine Logistics Group, Camp Pendleton, CA. He was from Los Angeles, CA.

Cpl Brian R. St. Germain, 22, died April 2 when the seven-ton truck he was riding in rolled over in a flash flood near Al Asad. He was assigned to an element of the 1st Marine Logistics Group, Camp Pendleton, CA.

SSgt Abraham G. Twitchell, 28, died April 2 when the seven-ton truck he was riding in rolled over in a flash flood near Al Asad. He was assigned to the Combat Service Support Group-1, 1st Marine Logistics Group, Twentynine Palms, CA.

SPC Ty J. Johnson, 28, died April 4 in Kirkuk when an improvised explosive device detonated near his Humvee during combat operations. He was assigned to the 2nd Battalion, 320th Field Artillery Regiment, 1st Brigade Combat team, 101st Airborne Division, Fort Campbell, KY. He was from Elk Grove, CA.

Mr. President, 550 men and women who were either from California or based in California have been killed while serving our country in Iraq. I pray for these young Americans and their families.

I would also like to pay tribute to the two soldiers from or based in California who have died while serving our country in Operation Enduring Freedom since February 1.

SFC Chad A. Gonsalves, 31, died February 13 north of Deh Rawod, Afghanistan, when an improvised explosive device detonated near his Humvee during combat operations. He was assigned to the 3rd Battalion, 7th Special Forces Group, Fort Bragg, NC. He was from Turlock, CA.

MSG Emigdio E. Elizarraras, 37, died February 28 in Tarin Kowt, Afghanistan, when an improvised explosive device detonated near his Humvee during a reconnaissance mission. He was assigned to the 3rd Battalion, 7th Special Forces Group, Fort Bragg, NC. He was from Pico Rivera, CA.

Mr. President, 37 soldiers who were either from California or based in California have been killed while serving our country in Operation Enduring Freedom. I pray for these Americans and their families.

STAFF ARMY SPECIALIST ANTOINE J. MCKINZIE

Mr. BAYH. Mr. President, I rise today with a heavy heart and deep sense of gratitude to honor the life of a brave young man from Indianapolis. Army Specialist Antoine J. McKinzie, 25 years old, died on March 21st when his unit came under attack during a patrol of western Baghdad. With his entire life before him, Antoine risked everything to fight for the values we Americans hold close to our hearts, in a land halfway around the world.

Antoine graduated from Pike High School in 2000 and joined the Army 3 years later, after receiving his associate's degree in computer-aided drafting from ITT Technical Institute. Jerry Henson, Antoine's best friend, described him as ''one of the best guys I've ever known. I just remember his laugh. He had one helluva laugh. He had a hearty, tall-guy laugh. It is one of those things that I will miss a lot.'' In December, Antoine returned to Indiana for 3 weeks to celebrate Christmas with his family. His stepfather recounted to a local newspaper, ''He looked great. He was healthy. He was happy. He felt like he was doing an important job He was proud to serve his country.''

Antoine was killed while serving his country in Operation Iraqi Freedom. He was a member of the 4th Battalion, 27th Field Artillery Regiment, 1st Armored Division, based in Baumholder, Germany. Today, I join Antoine's family and friends in mourning his death.

While we struggle to bear our sorrow over this loss, we can also take pride in the example he set, bravely fighting to make the world a safer place. It is his courage and strength of character that people will remember when they think of Antoine, a memory that will burn brightly during these continuing days of conflict and grief.

Antoine was known for his dedication to his family and his love of country. Today and always, Antoine will be remembered by family members, friends, and fellow Hoosiers as a true American hero, and we honor the sacrifice he made while dutifully serving his country.

As I search for words to do justice in honoring Antoine's sacrifice, I am reminded of President Lincoln's remarks as he addressed the families of the fallen soldiers in Gettysburg: ''We cannot dedicate, we cannot consecrate, we cannot hallow this ground. The brave men, living and dead, who struggled here, have consecrated it, far above our poor power to add or detract. The world will little note nor long remember what we say here, but it can never forget what they did here.'' This statement is just as true today as it was nearly 150 years ago, as I am certain that the impact of Antoine's actions will live on far longer that any record of these words.

It is my sad duty to enter the name of Antoine J. McKinzie in the official record of the U.S. Senate for his service to this country and for his profound commitment to freedom, democracy, and peace. When I think about this just cause in which we are engaged, and the unfortunate pain that comes with the loss of our heroes, I hope that families like Antoine's can find comfort in the words of the prophet Isaiah who said, ''He will swallow up death in victory; and the Lord God will wipe away tears from off all faces.''

May God grant strength and peace to those who mourn, and may God be with all of you, as I know He is with Antoine.

BUDGET SCOREKEEPING REPORT

Mr. GREGG. Mr. President, I hereby submit to the Senate the budget scorekeeping report prepared by the Congressional Budget Office under section 308(b) and in aid of section 311 of the Congressional Budget Act of 1974, as amended. This report meets the requirements for Senate scorekeeping of section 5 of S. Con. Res. 32, the first concurrent resolution on the budget for 1986.

This report shows the effects of congressional action on the 2006 budget through April 4, 2006. The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of the 2006 concurrent resolution on the budget, H. Con. Res. 95. Pursuant to section 402 of that resolution, provisions designated as emergency requirements are exempt from enforcement of the budget resolution. As a result, the attached report excludes these amounts.

The estimates show that current level spending is under the budget resolution by $11.785 billion in budget authority and by $4.226 billion in outlays in 2006. Current level for revenues is $17.288 billion above the budget resolution in 2006.

This is my first report for the second session of the 109th Congress.

I ask unanimous consent that the accompanying letter and material be printed in the RECORD.

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

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, April 5, 2006.

Hon. JUDD GREGG,
Chairman, Committee on the Budget,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The enclosed tables show the effects of Congressional action on the 2006 budget and are current through April 4, 2006. This report is submitted under section 308(b) and in aid of section 311 of the Congressional Budget Act, as amended.

The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions for fiscal year 2006 that underlie H. Con. Res. 95, the Concurrent Resolution on the Budget for Fiscal Year 2006. Pursuant to section 402 of that resolution, provisions designated as emergency requirements are exempt from enforcement of the budget resolution. As a result, the enclosed current level report excludes these amounts (see footnote 2 on Table 2). This is my first report of the second session of the 109th Congress.

Sincerely,

DONALD B. MARRON,
Acting Director.

TABLE 1.—SENATE CURRENT-LEVEL REPORT FOR SPENDING AND REVENUES FOR FISCAL YEAR 2006, AS OF APRIL 4, 2006

[In billions of dollars]

	Budget resolution [1]	Current level [2]	Current level over/under (-) resolution
ON–BUDGET			
Budget Authority	2,094.4	2,082.6	−11.8
Outlays	2,099.0	2,094.8	−4.2
Revenues	1,589.9	1,607.2	17.3
OFF–BUDGET			
Social Security Outlays [3]	416.0	416.0	0
Social Security Revenues	604.8	604.8	*

[1] H. Con. Res. 95, the Concurrent Resolution on the Budget for Fiscal Year 2006, assumed $50.0 billion in budget authority and $62.4 billion in outlays in fiscal year 2006 from emergency supplemental appropriations. Such emergency amounts are exempt from the enforcement of the budget resolution. Since current level totals exclude the emergency requirements enacted in the previous session and the emergency requirements in Public Law 109–176 and Public Law 109–208 (see footnote 2 on Table 2), the budget authority and outlay totals specified in the budget resolution have also been reduced (by the amounts assumed for emergency supplemental appropriations) for purposes of comparison.

[2] Current level is the estimated effect on revenue and spending of all legislation that the Congress has enacted or sent to the President for his approval. In addition, full-year funding estimates under current law are included for entitlement and mandatory programs requiring annual appropriations even if the appropriations have not been made.

[3] Excludes administrative expenses of the Social Security Administration, which are also off-budget, but are appropriated annually.

ANote.—* = Less than $50 million.

Source: Congressional Budget Office.

TABLE 2.—SUPPORTING DETAIL FOR THE SENATE CURRENT-LEVEL REPORT FOR ON-BUDGET SPENDING AND REVENUES FOR FISCAL YEAR 2006, AS OF APRIL 4, 2006

[In millions of dollars]

	Budget authority	Outlays	Revenues
Enacted in Previous Sessions:			
Revenues	n.a.	n.a.	1,607,180
Permanents and other spending legislation [1]	1,296,134	1,248,957	n.a.
Appropriation legislation	1,333,823	1,323,802	n.a.
Offsetting receipts	−479,868	−479,868	n.a.
Total, enacted in previous sessions	2,150,089	2,092,891	1,607,180
Enacted This Session:			
Katrina Emergency Assistance Act of 2005 (P.L. 109–176)	250	250	0
An act to make available funds included in the Deficit Reduction Act for the Low-income Energy Assistance Program for 2006 (P.L. 109–204)	1,000	750	0
Total, enacted this session:	1,250	1,000	0
Entitlements and mandatories:			
Difference between enacted levels and budget resolution estimates for appropriated entitlements and other mandatory programs	−68,740	879	n.a.
Total Current Level [1 2 3 4]	2,082,599	2,094,770	1,607,180
Total Budget Resolution	2,144,384	2,161,420	1,589,892
Adjustment to budget resolution for emergency requirements [4]	−50,000	−62,424	n.a.
Adjusted Budget Resolution	2,094,384	2,098,996	n.a.
Current Level Over Adjusted Budget Resolution	n.a.	n.a.	17,288
Current Level Under Adjusted Budget Resolution	11,785	4,226	n.a.

[1] P.L. 109–171 was enacted early in this session of Congress, but is shown under ''enacted in previous sessions'' as requested by the Budget Committee. Included in current level for P.L. 109–171 are $980 million in budget authority and −$4,847 million in outlays.

[2] Pursuant to section 402 of H. Con. Res. 95, the Concurrent Resolution on the Budget for Fiscal Year 2006, provisions designated as emergency requirements are exempt from enforcement of the budget resolution. As a result, the current level totals exclude the following amounts:

	Budget authority	Outlays	Revenues
Emergency requirements enacted in previous session	74,981	112,423	−7,111
Katrina Emergency Assistance Act of 2006 (P.L. 109–176)	−250	0	0
National Flood Insurance Enhanced Borrowing Authority Act of 2006 (P.L. 109–208)	2,275	2,275	0
Total, enacted emergency requirements	77,006	114,698	−7,111

[3] Excludes administrative expenses of the Social Security Administration, which are off-budget.

[4] H. Con. Res. 95, the Concurrent Resolution on the Budget for Fiscal Year 2006, assumed $50,000 million in budget authority and $62,424 million in outlays in fiscal year 2006 from emergency supplemental appropriations. Such emergency amounts are exempt from the enforcement of the budget resolution. Since current level totals exclude the emergency requirements enacted in the previous session and the emergency requirements in Public Law 109–176 and Public Law 109–208 (see footnote 2 above), the budget authority and outlay totals specified in the budget resolution have also been reduced (by the amounts assumed for emergency supplemental appropriations) for purposes of comparison.

Notes.—n.a. = not applicable; P.L. = Public Law.

Source: Congressional Budget Office.

EXPOSING RECKLESS GUN DEALERS

Mr. LEVIN. Mr. President, in each of the last 4 years, amendments have been inserted in the Commerce, Justice,

Science, CJS, Appropriations Act by the House of Representatives which severely handicap the efforts of those working to stop the flow of guns from reckless gun dealers into the hands of criminals. These amendments prohibit the Bureau of Alcohol, Tobacco, Firearms and Explosives, ATF, from disclosing important information from the Firearms Trace System Database to local law enforcement and government officials unless it is connected to a ''bona fide criminal investigation or prosecution'' and prohibiting release for purposes of civil lawsuits.

According to published reports, these amendments have directly impacted a lawsuit by the city of New York against several gun manufacturers and distributors who it alleges have adopted sales and marketing practices which facilitate the transfer of guns to criminals. The city received ATF firearms trace data from 1998 to 2003 but has been unable to attain data from subsequent years because of the prohibition inserted in the law on its release for the purposes of civil lawsuits.

Legislation has recently been introduced in the House of Representatives which would make the restrictions on ATF firearms trace data permanent. On March 28, 2006, New York City Mayor Michael Bloomberg testified before the House Judiciary Committee against this bill and said that it ''would make it immeasurably harder to stop the flow of illegal guns to criminals, and depriv[e] local governments and their law enforcement agencies of the tools they need to hold dealers accountable. Specifically, these obstacles would take the form of severe restrictions on our use of ATF trace data, which is perhaps the most effective tool we have in combating illegal gun trafficking.''

Mayor Bloomberg also expressed concern regarding provisions in the bill and current law which limit the ATF firearms trace data available to local law enforcement officials to data regarding the local geographic data. Mayor Bloomberg testified that 82 percent of the guns used in crimes in New York City were purchased outside of New York State. As Mayor Bloomberg pointed out in his testimony, restricting the access of law enforcement officials to firearms trace data from other jurisdictions severely limits their ability to take action against reckless gun dealers in other States.

I am hopeful the House of Representatives will defeat efforts to continue restrictions on law enforcement and local government officials' access to important ATF firearms trace data. In addition, I am hopeful that the Senate will take up and pass legislation introduced last week by Senator MENENDEZ to repeal restrictions in current law. ATF firearms trace data related to reckless gun dealers should be made easily available to those who have a responsibility to protect our families and communities from the threat of gun violence.

NATIONAL AUTISM AWARENESS MONTH

Mr. LAUTENBERG. Mr. President, I rise today to commemorate National Autism Awareness Month and to urge my fellow Senators to continue to back efforts to fight this disorder and support the families affected by it.

Autism is a complex developmental disability that is the result of a neurological disorder that affects the normal functions and development of the brain, which affects social and communication skills. Autism is a spectrum disorder, making early diagnosis crucial to minimize the symptoms through specialized intervention programs.

Autism and its associated behaviors have been estimated to occur in as many as 2 to 6 in every 1,000 individuals. As many as 1.5 million Americans today are believed to have some form of autism. The Department of Education indicates that autism is growing at a rate of 10 to 17 percent per year. At these rates, the prevalence of autism could reach 4 million Americans in the next decade.

The prevalence of autism has increased astronomically in the past decade, and in certain areas of New Jersey, the rates are higher still. We know far too little about this disorder, and the work of the Centers for Disease Control, CDC, and the National Institutes of Health, NIH, is vital to our efforts to learn more about the nature and incidence of autism.

I am a proud cosponsor of S. 843, the Combating Autism Act of 2005, which authorizes $860 million over 5 years to combat autism through research, screening, intervention, and education. I urge my fellow Senators to support the passage of this bill so that we can continue efforts to eliminate autism.

Congress approved the Individuals with Disabilities Education Act, IDEA, in 1975, requiring States to provide an appropriate education to students with special needs. While it committed to providing 40 percent of the additional costs for educating such students, today the Federal Government funds only 17.8 percent of the cost. In the fiscal year 2006 Labor, Health and Human Services, and Education appropriations bill, the Federal Government cut back on its share of the cost of providing special education. This leaves State governments and local school districts to choose between paying the extra cost or cutting programs. It is vital that Congress fund IDEA at the fully authorized level. I urge my fellow Senators to support IDEA and pass S. 2185, the IDEA Full Funding Act.

Congress must remain committed to supporting efforts by medical researchers, doctors, schools, State and local governments, and families to learn more about autism and to treat it. This disorder affects too many already. We must do what we can to eliminate future cases while we treat people who currently have autism. I hope we can all join together in this important fight and recognize the importance of National Autism Awareness Month.

BOB NEWHART

Mr. LEAHY. Mr. President, recently The New York Times ran another profile of Bob Newhart. I say ''another'' because it is one of so many glowing articles written about him over the years.

Marcelle and I are fortunate to know Bob and his wife Virginia, known by everyone as Ginnie. Bob is a wonderful family person who enjoys being with his wife, children, and grandchildren, but still has time to bring joy to everyone who comes in contact with him. As many times as I have heard some of his comedy routines, I still find myself convulsed in laughter, though nothing can equal the quiet times Marcelle and I have been able to spend with the Newharts.

Bob is extraordinarily well read and well informed and brings a wry and insightful view to whatever is happening. I can think of no one who is his equal, and I ask unanimous consent that this article be printed in the RECORD.

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

[From The New York Times, Mar. 25, 2006]

THE BUTTON-DOWN COMIC, STILL STANDING UP AT 76

(By Ben Sisario)

LOS ANGELES, MARCH 24: Hidden behind a wide black gate, with a fountain in front and a big pool in back that the grandchildren love to dive into, and with the bookcases inside cluttered with the likes of David McCulloch and Joseph J. Ellis, Bob Newhart's house in Bel Air would seem a perfectly comfortable spot for a man of 76 to cocoon and write his memoirs.

But a comedian craves the sound of laughter, and Mr. Newhart, though happily deep into his golf-playing years, cannot stay away from the stand-up circuit. He does about 30 dates a year, mostly on short weekend trips. (He will perform tonight at the Brooklyn Center for the Performing Arts.)

''I can't imagine not doing it,'' he said, sitting on an overstuffed sofa in his living room, in crisp gray slacks and a fuzzy blue sweater, with his narrow reading glasses resting at a steep angle almost at the tip of his nose. ''It's something I've done for 46 years, and at 5 o'clock I'll start pacing up and down to get the adrenaline going. It's like Russian roulette—you're out there and it's working and you're saying, 'Thank God the bullet's not in the chamber.' ''

Mr. Newhart built his career on a persona that would avoid tension and thrills at all cost. He emerged in the early 1960's as a former accountant and copywriter who acted out the mundane and ridiculous details of great moments in history through brilliantly minimalistic one-sided telephone calls, like a gigglingly skeptical Englishman talking to Sir Walter Raleigh about his discovery of tobacco. (''You take a pinch of tobacco and you stuff it up your nose and it makes you sneeze? Yeah, I imagine it would, Walt!'') And on two long-running sitcoms, he played versions of the same character, a slightly grouchy pragmatist always just a breath away from losing his cool over the neurotic foibles of his supporting cast.

''The Bob Newhart Show'' ran from 1972 to 1978 and is now finding a second life on DVD; its third season is being reissued April 11.

And since his second sitcom, ''Newhart,'' ended in 1990 after eight seasons, Mr. Newhart has lent his almost-unflappable deadpan to a handful of films and television shows, most recently ''ER'' and ''Desperate Housewives.'' But his favorite activity remains simply standing in front of a crowd with a microphone.

''I'm proudest of being a stand-up,'' he explained, ''because it's harder. The degree of difficulty is 3.85 instead of 3.5.''

It was also his baptism. Sitting in his spacious living room, dressed like the frumpy innkeeper of ''Newhart'' and speaking with a strategic stammer that sets up every punch line, he is comfortingly recognizable as one of his television characters. His naturalistic technique of relying on his own personality to fill out his characters, he said, is a skill he picked up early in his stand-up career.

''You start out doing somebody else,'' he said. ''I'd watch the Sullivan show and I'd watch the Paar show, and a comedian would be on, and I'd be laughing but at the same time analyzing him. When I started, I was doing all the good comedians I'd ever seen. Then I developed my own voice. My routines are my natural way of looking at the world.''

Mr. Newhart discusses his performance like a serious method actor. He said: ''With the stand-up comic on TV, whether it's Seinfeld or Cosby or Roseanne, more important than their knowledge of how to tell a joke is their knowledge of themselves, or the persona they've created as themselves. So that when you're in a room with writers you can say, 'Guys, that's a funny line but I wouldn't say it.' ''

As a stand-up, he draws from a lifetime of routines, and for his oldest fans he always includes a few numbers from his first albums, like the conversation between Abraham Lincoln and his public relations man, who urges him not to shave his beard because it plays so well in focus groups. Reading recently about the Zacarias Moussaoui trial, his ''button-down mind'' found an angle on the 9/11 pilots, and he has been toying with it as a possible stand-up bit.

''They didn't want to learn to take off and land,'' he said. ''They just wanted to fly. Some have criticized the F.B.I. because that should have been a red flag. But I saw it as a case of—'' he studied his coffee table it as if it were a weekly planner—'' 'O.K., well, I don't have to come in Monday; I can come in late Tuesday; Wednesday and Thursday, O.K., that's flying; and then I don't have to come in Friday.' ''

His understated style has been widely influential, often in surprising ways. One of his biggest fans is Bernie Mac, who says he is but one of a generation of black comedians who were inspired by Mr. Newhart.

''A lot of people define courage as being out front and in your face,'' Mr. Mac said, ''but Bob didn't come out of his picture frame for anybody. That bland style, that plaid jacket, with the hair combed to one side over the bald spot—that was Bob. And there's nothing wrong with that. Because it takes courage to be yourself, and he showed everybody that.''

Working on his memoir, to be published in the fall by Hyperion, Mr. Newhart was reminded of the time he was on David Susskind's talk show with a panel of comedians, including Buddy Hackett and Alan King, and Mr. Susskind asked him about his background.

'' 'You went to college?' he asked,'' Mr. Newhart said. ''And I said, 'Yes, I went to Loyola University and I got a degree in accounting.' And Buddy said—'' here Mr. Newhart did a remarkable imitation of Mr. Hackett's voice—'' 'You mean you didn't have to do this?' ''

''And now I can say, 'No, Buddy, I had to do this.'

(At the request of Mr. REID, the following statement was ordered to be printed in the RECORD.)

HONORING BRAVO COMPANY OF WEIRTON, WEST VIRGINIA

• Mr. ROCKEFELLER. Mr. President, today it is my great honor to commend the soldiers of Bravo Company of the 463rd Engineering Battalion, Army Reserve Unit of Weirton, WV, as they return home. Selflessly leaving their families and communities behind during an 11-month deployment in Iraq, the 463rd served as a model of courage throughout their tour of duty.

In October 2004, more than 140 men and women of Bravo Company answered the call to service—leaving for training at Fort Bragg and in Kuwait. In doing so, they joined generations of West Virginians who have served our Nation in times of war, unselfishly putting themselves in harm's way to defend our country and protect the freedom of all Americans. I am not surprised by their actions—West Virginians, and our neighbors throughout the Ohio Valley, have always been among the first to respond to their country's call to service—but I am nevertheless grateful for their service and commitment. Thanks to the 463rd and so many other West Virginia men and women who have fought in Iraq and Afghanistan, I am proud to say that West Virginia's long tradition of patriotism is very much alive and well.

On Christmas Eve 2004, Bravo Company entered Iraq to begin its mission of rebuilding the war-torn country. Bravo Company provided engineering support for our troops, upgraded an Iraqi Air Force base, repaired a damaged bridge on the Tigris River needed for troop movements, and provided infrastructure for refueling the airplanes that provided such critical support in Operation Iraqi Freedom. Through their determined efforts, these individuals secured the safety of their fellow American men and women in uniform, simultaneously serving as the embodiment of American commitment to the people of Iraq. For that, they deserve our sincere gratitude and deepest respect.

Tragically, Bravo Company's mission was not completed without loss. On August 21, 2004, the life of Sgt. Joseph Nurre, a 22-year-old native of Wilton, CA was claimed by a roadside bomb near Samarra, Iraq. His fellow soldiers described him as an intensely dedicated soldier and a warm, engaging friend. As Bravo Company returns home, Sergeant Nurre and his family remain in our thoughts and prayers.

To all the men and women of Bravo Company, 463rd Engineering Battalion, I thank you for your service, patriotism, and commitment to our country and its defense. Your bravery and selfless sacrifice have earned you the admiration and respect of West Virginians and our Nation. God bless you all, and welcome home.•

ADDITIONAL STATEMENTS

25 YEARS DEFENDING DIGNITY AND WORTH

• Mr. CRAPO. Mr. President, 25 years ago, a community in my State found itself with some new unwelcome neighbors. North Idaho made dismaying national headlines as ''Hate's New Home.'' These headlines were a terrible distortion of the truth; the neo-Nazi organization that moved its headquarters to Hayden represented only a tiny fraction of the people who called Idaho home. Still, the damage was done, and people were left with the dreadful and mistaken impression that Idahoans were intolerant, prejudiced and hateful. And to make matters worse, like a malignant growth, some who did embrace doctrines of intolerance and bigotry were drawn to the area.

It is at crisis points that we define ourselves as either cowards or people of honor. The citizens of Kootenai County had a choice to make, and they chose to be people of honor. The Kootenai County Task Force on Human Relations was founded, giving that region a chance to speak out against human rights violations and prejudice. When the Aryan Nation decided to march down Main Street in Coeur d'Alene, rather than return hatred for hatred, businesses simply closed, giving the marchers no audience for their message of intolerance. Last year, the residents of Hayden exercised perhaps the most powerful right granted us as American citizens—our vote—sending a clear message that a leadership of hatred was absolutely unacceptable. And what didn't make the national press in recent years is the fact that according to the Southern Poverty Law Center, as of 2000, Idaho had 70 human rights groups, or one for every 18,500 people. To put this in perspective, at that time, California had one for every 358,000 people and New York had one for every 167,000 people. Now that is worthy of headlines, as far as I am concerned.

In cooperation with the task force and with a vision of established, ongoing education and leadership in human rights, the generous support of the Greg C. Carr Foundation, and dedicated leadership of Human Rights Education Institute board of directors, the Human Rights Education Institute was established, opening its doors in December 2005.

North Idaho was unexpectedly presented with a choice 25 years ago. Its citizens have not only responded with honor and justice, they, in the words of a former task force leader, ''made lemonade out of lemons.'' I commend my fellow Idahoans on their vision for dignity and worth for all people. I applaud their staunch commitment to uphold our Declaration of Independence, Constitution, and our Bill of Rights which ensure equality for all under the law.•

HONORING THE CITY OF MADISON ON ITS 150TH ANNIVERSARY

• Mr. FEINGOLD. Mr. President, today I wish to recognize and honor the city of Madison as it celebrates its 150th year. As a Wisconsinite, I take great pride in our State's Capital, which is well known for a unique mix of culture, education and natural beauty, as well as a vibrant civic and political life.

In the first part of the 19th century, James Duane Doty, who would later serve as Wisconsin's territorial governor, became enamored with a piece of land in south central Wisconsin that was nestled on an isthmus between two lakes. Doty purchased the land and named it after the fourth President, James Madison. It was this land that would become home to Wisconsin's capitol, its university, and one of the State's thriving cultural centers.

Doty had the territorial capital moved from Belmont to Madison in 1837. By the time the Village of Madison was incorporated as a city in 1856 there were nearly 7,000 residents.

Madison boasts a strong tradition of diversity. Yankees from the Eastern States came first, followed soon by German, Irish and Norwegian immigrants. After the turn of the century, Madison also became home to a growing number Italian, Greek, African-American, and Jewish residents.

The State constitution called for a university to be situated near the seat of government. In many ways, this provision could be credited with paving the way for ''the Wisconsin Idea'' that has made Wisconsin such a center for innovative public policy. Putting the capital and the university together has encouraged educators and researchers to play a central role in addressing social problems, and it has revolutionized the way that Wisconsin, and the nation, approach public policy issues.

The University of Wisconsin-Madison is also a cornerstone of Madison's rich cultural life, offering a tremendous array of concerts, plays, lectures and other activities. And UW's students bring an energy to life in the city that is one of Madison's hallmarks.

The State capitol is another defining Madison landmark, both the building itself, and how it has contributed to the city's character. Politics and public service have been a part of Madison from the very beginning, and they have made Madison home to some of the State's greatest moments, including the passage of historic progressive legislation at the turn of the last century under the leadership of then-Governor Robert M. La Follette.

Madison has also achieved a wonderful system of parks and architectural beauty in its public spaces, which complement the natural beauty of the lakes' shorelines. These areas also serve as host to outdoor concerts and countless other activities during summer months.

Having graduated from UW-Madison and served in the State senate, and as a resident of nearby Middleton, I am not only proud to represent the people of Madison, I am privileged to be a part of this community. I know Madison residents will continue to draw on their city's rich history and continue to enjoy the beautiful land that captivated James Doty so many years ago. I hope that my colleagues will join me in congratulating the city of Madison as it celebrates its sesquicentennial.•

SESQUICENTENNIAL OF MADISON, WISCONSIN

• Mr. KOHL. Mr. President, I rise today to recognize the sesquicentennial of the great city of Madison, WI. Over the next few days people from all over Wisconsin will gather in Madison for the 150-year anniversary festivities.

Madison is a city unlike all others. The vibrant people who give life to the city care about their community and appreciate the natural beauty and unique character that surrounds them. As a graduate of the University of Wisconsin, I spent 4 of the happiest years of my life in Madison and my fondness for the city is undiminished years later. Visiting the farmers' market is one of my favorite ways to spend a summer morning, even better if I can stop at Ella's Deli afterward.

Since that time, Madison has continued to grow and flourish. It is a place of great culture, home to a vast array of interests, and a center of learning. Madison is fortunate to have first-class opera, symphony, and theater. Art and history enthusiasts can find the Chazen Museum of Art, the Wisconsin Historical Museum and the Madison Museum of Contemporary Art. As the home of the University of Wisconsin, as well as Edgewood College, Madison Area Technical College and Herzing College, Madison's student population is an important part of the community and drives fresh thinking and new ideas.

As the State Capital, Madison has been the center of Wisconsin's proud progressive tradition. ''Fighting Bob'' La Follette founded his magazine, The Progressive, in 1909, and it is still published in Madison today. And we know that The Onion has its roots there, too.

Parks and trails, lectures and sporting events, fine food and nightlife make Madison a great place to live and work. Money Magazine wrote what we knew all along when it rated Madison as the best place to live in the United States.

These are just a few of the many more reasons that I am proud of the city of Madison and I congratulate them their sesquicentennial.•

RETIREMENT OF JOHN W. KEYS III

• Mr. SMITH. Mr. President, I rise today to recognize John W. Keys III, an extraordinary public servant who will be retiring on April 15, 2006, as the Commissioner of Reclamation. John is a truly dedicated Federal official who has worked tirelessly throughout his career on behalf of the Bureau of Reclamation and the water users it serves.

John has served as the Commissioner of Reclamation since July 2001. Prior to that, he spent 34 years as a career employee with the Bureau, starting as a civil and hydraulic engineer. He spent many years in my part of the country, serving as the Pacific-Northwest regional director for 12 years prior to his retirement in 1998.

John's tenure as Commissioner coincided with the worst five years of drought in the past 5 centuries. John had to deal with growing, often conflicting, demands for water in the arid West. He initiated the Water 2025 program to help States and water districts address these competing needs. He is a consensus builder who helped craft a historic agreement on the use of Colorado River water. Throughout his tenure, he made resolving water conflicts in the Klamath Basin, on the Oregon-California border, a top priority for the Bureau.

John is a commercial airline pilot and a white water enthusiast. He used to average about 300 flight hours a year, often flying for organizations like Angel Flight, Air LifeLine, and County Search and Rescue, based out of Moab, UT. He also used to officiate high school and college football games. It is my understanding that John intends to spend time with his family after he retires. John's wife Dell is a family practice physician and Airman Medical Examiner, and is also a pilot.

While I wish John well as he returns to the family and the activities he loves, I want him to know that he will be missed. His leadership and his understanding of western water issues have been invaluable over these last 5 years.

I wish John and his wife Dell well as they enjoy their family and their golden years.•

CONGRATULATING UNIVERSITY OF WISCONSIN NCAA CHAMPIONS

• Mr. KOHL. Mr. President I rise today as a proud alumnus of the University of Wisconsin to congratulate the Men's Cross Country and Women's Hockey teams on their recent NCAA National Championship victories.

On November 21, 2005, the UW Men's Cross Country team won their first NCAA Division I title since 1988. This fourth NCAA title for the Men's Cross Country program broke their 3-year streak of second place finishes. Since their first competition in 1905, the UW Men's Cross Country program has been no stranger to success. Just 5 years after UW Madison formed the team, the Badgers won the first Big Ten cross country championship in school history. Their success continued over the decades, with many more Big Ten Championship wins.

I also commend the UW Madison Women's hockey team. On March 26, 2006, the Badger Women defeated the defending champions, the University of Minnesota, to claim the 2006 NCAA National Championship. This victory represents several firsts: the first National

Championship won by the Badger women's hockey team; the first NCAA Championship for any UW women's team since 1985; and the first Division I women's hockey title won by a school outside the State of Minnesota. This accomplishment for the UW Madison Women's Hockey Team follows a record setting season in which the team recorded 36 wins.

I am proud to recognize these student-athletes and coaching staffs for all of their hard work and dedication, and I am pleased to have these two very deserving athletic teams represent our great state of Wisconsin.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations and a withdrawal which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 12:18 p.m., a message from the House of Representatives, delivered by Mr. Croatt, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 513. An act to amend the Federal Election Campaign Act of 1971 to clarify when organizations described in section 527 of the Internal Revenue Code of 1986 must register as political committees, and for other purposes.

H.R. 3127. An act to impose sanctions against individuals responsible for genocide, war crimes, and crimes against humanity, to support measures for the protection of civilians and humanitarian operations, and to support peace efforts in the Darfur region of Sudan, and for other purposes.

H.R. 4561. An act to designate the facility of the United States Postal Service located at 8624 Ferguson Road in Dallas, Texas, as the ''Francisco 'Pancho' Medrano Post Office Building''.

H.R. 4646. An act to designate the facility of the United States Postal Service located at 7320 Reseda Boulevard in Reseda, California, as the ''Coach John Wooden Post Office Building''.

H.R. 4688. An act to designate the facility of the United States Postal Service located at 1 Boyden Street in Badin, North Carolina, as the ''Mayor John Thompson 'Tom' Garrison Memorial Post Office''.

The message also announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 360. Concurrent resolution authorizing the use of the Capitol Grounds for the National Peace Officers' Memorial Service.

H. Con. Res. 370. Concurrent resolution expressing the sense of the Congress that Saudi Arabia should fully live up to its World Trade Organization commitments and end all aspects of any boycott on Israel.

H. Con. Res. 371. Concurrent resolution honoring and congratulating the Minnesota National Guard, on its 150th anniversary, for its spirit of dedication and service to the State of Minnesota and the Nation and recognizing that the role of the National Guard, the Nation's citizen-soldier based militia, which was formed before the United States Army, has been and still is extremely important to the security and freedom of the Nation.

ENROLLED JOINT RESOLUTIONS SIGNED

At 6:04 p.m., a message from the House of Representatives, delivered by Mr. Croatt, one of its reading clerks, announced that the Speaker has signed the following enrolled joint resolutions:

H.J. Res. 81. Joint resolution providing for the appointment of Phillip Frost as a citizen of the Board of Regents of the Smithsonian Institution.

H.J. Res. 82. Joint resolution providing for the reappointment of Alan G. Spoon as a citizen regent of the Board of Regents of the Smithsonian Institution.

The enrolled joint resolutions were subsequently signed by the President pro tempore (Mr. STEVENS).

At 8:06 p.m., a message from the House of Representatives, delivered by Mr. Croatt, one of its reading clerks, announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 320. Concurrent resolution calling on the Government of the Socialist Republic of Vietnam to immediately and unconditionally release Dr. Pham Hong Son and other political prisoners and prisoners of conscience, and other purposes.

H. Con. Res. 366. Concurrent resolution to congratulate the National Aeronautics and Space Administration on the 25th anniversary of the first flight of the Space Transportation System, to honor Commander John Young and the Pilot Robert Crippen, who flew Space Shuttle Columbia on April 12–14, 1981, on its first orbital test flight, and to commend the men and women of the National Aeronautics and Space Administration and all those supporting America's space program for their accomplishments and their role in inspiring the American people.

H. Con. Res. 382. Concurrent resolution providing for a conditional adjournment of the House of Representatives and a conditional recess or adjournment of the Senate.

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 3127. An act to impose sanctions against individuals responsible for genocide, war crimes, and crimes against humanity, to support measures for the protection of civilians and humanitarian operations, and to support peace efforts in the Darfur region of Sudan, and for other purposes; to the Committee on Foreign Relations.

H.R. 4561. An act to designate the facility of the United States Postal Service located at 8624 Ferguson Road in Dallas, Texas, as the ''Francisco 'Pancho' Medrano Post Office Building''; to the Committee on Homeland Security and Governmental Affairs.

H.R. 4646. An act to designate the facility of the United States Postal Service located at 7320 Reseda Boulevard in Reseda, California, as the ''Coach John Wooden Post Office Building''; to the Committee on Homeland Security and Governmental Affairs.

H.R. 4688. An act to designate the facility of the United States Postal Service located at 1 Boyden Street in Badin, North Carolina, as the ''Mayor John Thompson 'Tom' Garrison Memorial Post Office''; to the Committee on Homeland Security and Governmental Affairs.

The following concurrent resolutions were read, and referred as indicated:

H. Con. Res. 320. Concurrent resolution calling on the Government of the Socialist Republic of Vietnam to immediately and unconditionally release Dr. Pham Hong Son and other political prisoners and prisoners of conscience, and other purposes; to the Committee on Foreign Relations.

H. Con. Res. 370. Concurrent resolution expressing the sense of the Congress that Saudi Arabia should fully live up to its World Trade Organization commitments and end all aspects of any boycott on Israel; to the Committee on Finance.

MEASURES PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 513. An act to amend the Federal Election Campaign Act of 1971 to clarify when organizations described in section 527 of the Internal Revenue Code of 1986 must register as political committees, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–6302. A communication from the Administrator, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, a report concerning the Agency's Collective Bargaining Proposal to the National Air Traffic Controllers Association; to the Committee on Commerce, Science, and Transportation.

EC–6303. A communication from the Senior Vice President, Communications, Tennessee Valley Authority, transmitting, pursuant to law, the Authority's Statistical Summary for Fiscal Year 2005; to the Committee on Environment and Public Works.

EC–6304. A communication from the Assistant Secretary for Fish, Wildlife and Parks, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for the California Red-legged Frog, and Special Rule Exemption for Existing Routine Ranching Activities'' (RIN1018–AJ16) received on April 4, 2006; to the Committee on Environment and Public Works.

EC–6305. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled

''PM 2.5 De Minimis Emission Levels for General Conformity Applicability'' ((RIN2060–AN60) (FRL No. 8055–3)) received on April 4, 2006; to the Committee on Environment and Public Works.

EC–6306. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''National Emission Standards for Magnetic Tape Manufacturing Operations'' ((RIN2060–AK23) (FRL No. 8054–2)) received on April 4, 2006; to the Committee on Environment and Public Works.

EC–6307. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''National Emission Standards for Hazardous Air Pollutants: Hydrochloric Acid Production'' ((RIN2060–AM25) (FRL No. 8055–6)) received on April 4, 2006; to the Committee on Environment and Public Works.

EC–6308. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''National Emission Standards for Hazardous Air Pollutants: General Provisions'' ((RIN2060–AM89) (FRL No. 8055–5)) received on April 4, 2006; to the Committee on Environment and Public Works.

EC–6309. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Amendments to Vehicle Inspection Maintenance Program Requirements to Address the 8-Hour National Ambient Air Quality Standard for Ozone'' ((RIN2060–AM21) (FRL No. 8054–3)) received on April 4, 2006; to the Committee on Environment and Public Works.

EC–6310. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Redesignation of the Hazelwood SO2 Nonattainment and the Monongahela River Valley Unclassifiable Areas to Attainment and Approval of the Maintenance Plan; Correction'' (FRL No. 8055-8) received on April 4, 2006; to the Committee on Environment and Public Works.

EC–6311. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Ethylene Oxide Emissions Standards for Sterilization Facilities'' ((RIN2060-AK09) (FRL No. 8054-6)) received on April 4, 2006; to the Committee on Environment and Public Works.

EC–6312. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Incorporation by Reference of Approved State Hazardous Waste Management Program'' (FRL No. 8055-7) received on April 4, 2006; to the Committee on Environment and Public Works.

EC–6313. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''National Emission Standards for Gasoline Distribution Facilities (Bulk Gasoline Terminals and Pipeline Breakout Stations)'' ((RIN2060-AK10) (FRL No. 8054-5)) received on April 4, 2006; to the Committee on Environment and Public Works.

EC–6314. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''National Emission Standards for Hazardous Air Pollutants for Industrial Process Cooling Towers'' ((RIN2060-AK16) (FRL No. 8054-1)) received on April 4, 2006; to the Committee on Environment and Public Works.

EC–6315. A communication from the Director, Office of National Drug Control Policy, Executive Office of the President, transmitting, pursuant to law, a report entitled ''Office of National Drug Control Policy Strategic Plan for Fiscal Years 2006–2012''; to the Committee on the Judiciary.

EC–6316. A communication from the Regulations Coordinator, Centers for Medicare and Medicaid Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Medicare Program; Conditions for Payment of Power Mobility Devices, Including Power Wheelchairs and Power-Operated Vehicles'' (RIN0938-AM74) received on April 5, 2006; to the Committee on Finance.

EC–6317. A communication from the General Counsel, Office of General Counsel, National Credit Union Administration, transmitting, pursuant to law, the report of a rule entitled ''Share Insurance and Appendix'' (RIN3133-AD18) received on April 5 , 2006; to the Committee on Banking, Housing, and Urban Affairs.

EC–6318. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, a report entitled ''Supporting Human Rights and Democracy: The U.S. Record 2005-2006''; to the Committee on Foreign Relations .

EC–6319. A communication from the Secretary of Energy, transmitting, a report of proposed legislation entitled ''Nuclear Fuel Management and Disposal Act''; to the Committee on Energy and Natural Resources.

EC–6320. A communication from the Secretary of Energy, transmitting, pursuant to law, a report relative to the development of fusion energy; to the Committee on Energy and Natural Resources.

EC–6321. A communication from the Secretary of Energy, transmitting, the report of proposed legislation to authorize the Secretary of Energy to retain funds contributed pursuant to an agreement for international participation in the Global Threat Reduction Initiative (GTRI), and to utilize such funds without further appropriation and without fiscal year limitation; to the Committee on Armed Services.

EC–6322. A communication from the Under Secretary of Defense for Personnel and Readiness, transmitting, a report on the approved retirement of Lieutenant General Colby M. Broadwater III , United States Army, and his advancement to the grade of lieutenant general on the retired list; to the Committee on Armed Services.

EC–6323. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 16–308, ''Walter E. Washington Way Designation Act of 2006'' received on April 5, 2006; to the Committee on Homeland Security and Governmental Affairs.

EC–6324. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 16–309, ''Home of Walter Washington Way Designation Act of 2006'' received on April 5, 2006; to the Committee on Homeland Security and Governmental Affairs.

EC–6325. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 16–310, ''Terry Hairston Run Designation Act of 2006'' received on April 5, 2006; to the Committee on Homeland Security and Governmental Affairs.

EC–6326. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 16–311, ''Carolyn Llorente Memorial Designation Act of 2006'' received on April 5, 2006; to the Committee on Homeland Security and Governmental Affairs.

EC–6327. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 16–312, ''District of Columbia Bus Shelter Amendment Act of 2006'' received on April 5, 2006; to the Committee on Homeland Security and Governmental Affairs.

EC–6328. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 16–314, '' Real Property Disposition Economic Analysis Amendment Act of 2006'' received on April 5, 2006; to the Committee on Homeland Security and Governmental Affairs.

EC–6329. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 16–315, ''Lamond-Riggs Air Quality Study Temporary Act of 2006'' received on April 5, 2006; to the Committee on Homeland Security and Governmental Affairs.

EC–6330. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 16–316, ''Victims of Domestic Violence Fund Establishment Temporary Act of 2006'' received on April 5, 2006; to the Committee on Homeland Security and Governmental Affairs.

EC–6331. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 16–318, ''School Without Walls Development Project Temporary Amendment Act of 2006'' received on April 5, 2006; to the Committee on Homeland Security and Governmental Affairs.

EC–6332. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 16–319, ''Vehicle Insurance Enforcement Amendment Act of 2006'' received on April 5, 2006; to the Committee on Homeland Security and Governmental Affairs.

EC–6333. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 16–313, ''Office and Commission on African Affairs Act of 2006'' received on April 5, 2006; to the Committee on Homeland Security and Governmental Affairs.

EC–6334. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 16–335, ''Way to Work Amendment Act of 2006'' received on April 5, 2006; to the Committee on Homeland Security and Governmental Affairs.

EC–6335. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 16–336, ''Home Again Initiative Community Development Amendment Act of 2006'' received on April 5, 2006; to the Committee on Homeland Security and Governmental Affairs.

EC–6336. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 16–337, ''Contracting and Procurement Reform Task Force Membership Authorization and Qualifications Clarification Temporary Act of 2006'' received on

April 5, 2006; to the Committee on Homeland Security and Governmental Affairs.

EC–6337. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 16–338, ''Unemployment Compensation Contributions Federal Conformity Temporary Amendment Act of 2006'' received on April 5, 2006; to the Committee on Homeland Security and Governmental Affairs.

EC–6338. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 16–339, ''Procurement Practices Timely Competition Assurance and Direct Voucher Prohibition Amendment Act of 2006'' received on April 5, 2006; to the Committee on Homeland Security and Governmental Affairs.

EC–6339. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 16–340, ''White Collar Insurance Fraud Amendment Act of 2006'' received on April 5, 2006; to the Committee on Homeland Security and Governmental Affairs.

EC–6340. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 16–341, ''School Modernization Financing Act of 2006'' received on April 5, 2006; to the Committee on Homeland Security and Governmental Affairs.

EXECUTIVE REPORTS OF COMMITTEE

The following executive reports of committee were submitted:

By Mr. LUGAR, from the Committee on Foreign Relations:

[Treaty Doc. 108–27 Mutual Legal Assistance Treaty with Germany (Ex. Rept. 109–14)]

[Treaty Doc. 108–12 Mutual Legal Assistance Treaty with Japan (Ex. Rept. 109–14)] and the text of the committee-recommended resolutions of advice and consent to ratification are as follows:

108–27 MUTUAL LEGAL ASSISTANCE TREATY WITH GERMANY

Resolved (two-thirds of the Senators present concurring therein), That the Senate advises and consents to the ratification of the Treaty Between the United States of America and the Federal Republic of Germany on Mutual Legal Assistance in Criminal Matters, signed at Washington on October 14, 2003, and a related exchange of notes.

108–12 MUTUAL LEGAL ASSISTANCE TREATY WITH JAPAN

Resolved (two-thirds of the Senators present concurring therein), That the Senate advises and consents to the ratification of the Treaty Between the United States of America and Japan on Mutual Legal Assistance in Criminal Matters, signed at Washington on August 5, 2003.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. BAYH:

S. 2556. A bill to amend title 11, United States Code, with respect to reform of executive compensation in corporate bankruptcies; to the Committee on the Judiciary.

By Mr. SPECTER (for himself, Mr. KOHL, Mr. DEWINE, Mr. LEAHY, Mrs. FEINSTEIN, and Mr. DURBIN):

S. 2557. A bill to improve competition in the oil and gas industry, to strengthen antitrust enforcement with regard to industry mergers, and for other purposes; to the Committee on the Judiciary.

By Ms. STABENOW:

S. 2558. A bill to amend the Internal Revenue Code of 1986 to provide a tax credit to employers for employee catastrophic health care costs and to health insurance companies for insurer catastrophic health care costs, and for other purposes; to the Committee on Finance.

By Mr. LEAHY:

S. 2559. A bill to make it illegal for anyone to defraud and deprive the American people of the right to the honest services of a Member of Congress and to instill greater public confidence in the United States Congress; to the Committee on the Judiciary.

By Mr. SPECTER (for himself, Mr. BIDEN, Mr. HATCH, Mr. GRASSLEY, and Mr. LEVIN):

S. 2560. A bill to reauthorize the Office of National Drug Control Policy; to the Committee on the Judiciary.

By Mr. DOMENICI:

S. 2561. A bill to authorize the Secretary of the Interior to make available cost-shared grants and enter into cooperative agreements to further the goals of the Water 2025 Program by improving water conservation, efficiency, and management in the Reclamation States, and for other purposes; to the Committee on Energy and Natural Resources.

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

S. 2562. A bill to increase, effective as of December 1, 2006, the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans; to the Committee on Veterans' Affairs.

By Mr. COCHRAN (for himself, Mr. ENZI, and Mr. TALENT):

S. 2563. A bill to amend title XVIII of the Social Security Act to require prompt payment to pharmacies under part D, to restrict pharmacy co-branding on prescription drug cards issued under such part, and to provide guidelines for Medication Therapy Management Services programs offered by prescription drug plans and MA–PD plans under such part; to the Committee on Finance.

By Mr. BURR (for himself, Mr. FRIST, Mr. ENZI, Mr. GREGG, Mr. ALEXANDER, and Mrs. DOLE):

S. 2564. A bill to prepare and strengthen the biodefenses of the United States against deliberate, accidental, and natural outbreaks of illness, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. JEFFORDS (for himself and Mr. LEAHY):

S. 2565. A bill to designate certain National Forest System land in the State of Vermont for inclusion in the National Wilderness Preservation System and designate a National Recreation Area; to the Committee on Agriculture, Nutrition, and Forestry.

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

S. 2566. A bill to provide for coordination of proliferation interdiction activities and conventional arms disarmament, and for other purposes; to the Committee on Foreign Relations.

By Mrs. BOXER (for herself and Mrs. FEINSTEIN):

S. 2567. A bill to maintain the rural heritage of the Eastern Sierra and enhance the region's tourism economy by designating certain public lands as wilderness and certain rivers as wild a scenic rivers in the State of California, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. SARBANES (for himself, Mr. WARNER, Mr. ALLEN, Ms. MIKULSKI, Mr. BIDEN, and Mr. CARPER):

S. 2568. A bill to amend the National Trails System Act to designate the Captain John Smith Chesapeake National Historic Trail; to the Committee on Energy and Natural Resources.

By Mr. HATCH:

S. 2569. A bill to authorize Western States to make selections of public land within their borders in lieu of receiving five per centum of the proceeds of the sale of public land lying within said States as provided by their respective Enabling Acts; to the Committee on Energy and Natural Resources.

By Mr. DEWINE (for himself, Mr. DOMENICI, Mr. KYL, and Mr. MCCAIN):

S. 2570. A bill to authorize funds for the United States Marshals Service's Fugitive Safe Surrender Program; to the Committee on the Judiciary.

By Mr. CONRAD:

S. 2571. A bill to promote energy production and conservation, and for other purposes; to the Committee on Finance.

By Mr. BURNS (for himself and Mr. ROCKEFELLER):

S. 2572. A bill to amend the Aviation and Transportation Security Act to extend the suspended service ticket honor requirement; to the Committee on Commerce, Science, and Transportation.

By Mr. DURBIN:

S. 2573. A bill to amend the Higher Education Act of 1965 to provide interest rate reductions, to authorize and appropriate amounts for the Federal Pell Grant program, to allow for in-school consolidation, to provide the administrative account for the Federal Direct Loan Program as a mandatory program, to strike the single holder rule, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. KERRY (for himself and Mr. KENNEDY):

S. 2574. A bill to suspend temporarily the duty on certain golf club driver heads; to the Committee on Finance.

By Mr. KERRY (for himself and Mr. KENNEDY):

S. 2575. A bill to suspend temporarily the duty on certain golf club fairway heads; to the Committee on Finance.

By Mr. KERRY (for himself and Mr. KENNEDY):

S. 2576. A bill to suspend temporarily the duty on certain golf club driver heads of titanium; to the Committee on Finance.

By Mr. KERRY (for himself and Mr. KENNEDY):

S. 2577. A bill to suspend temporarily the duty on certain golf club driver heads with plasma welded face plate; to the Committee on Finance.

By Mr. KERRY (for himself and Mr. KENNEDY):

S. 2578. A bill to suspend temporarily the duty on certain golf club driver heads with rhombus shaped center face; to the Committee on Finance.

By Mr. KERRY (for himself and Mr. KENNEDY):

S. 2579. A bill to suspend temporarily the duty on certain leather basketballs; to the Committee on Finance.

By Mr. KERRY (for himself and Mr. KENNEDY):

S. 2580. A bill to suspend temporarily the duty on certain rubber basketballs; to the Committee on Finance.

By Mr. KERRY (for himself and Mr. KENNEDY):

S. 2581. A bill to suspend temporarily the duty on certain volleyballs; to the Committee on Finance.

By Mr. KERRY (for himself and Mr. KENNEDY):

S. 2582. A bill to suspend temporarily the duty on certain basketballs; to the Committee on Finance.

By Mr. KERRY (for himself and Mr. KENNEDY):

S. 2583. A bill to suspend temporarily the duty on certain synthetic basketballs; to the Committee on Finance.

By Mr. SALAZAR:

S. 2584. A bill to amend the Healthy Forests Restoration Act of 2003 to help reduce the increased risk of severe wildfires to communities in forested areas affected by infestations of bark beetles and other insects, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. SMITH (for himself and Mr. KERRY):

S. 2585. A bill to amend the Internal Revenue Code of 1986 to permit military death gratuities to be contributed to certain tax-favored accounts; to the Committee on Finance.

By Mr. KERRY:

S. 2586. A bill to establish a 2-year pilot program to develop a curriculum at historically Black colleges and universities, Tribal Colleges, and Hispanic serving institutions to foster entrepreneurship and business development in underserved minority communities; to the Committee on Small Business and Entrepreneurship.

By Mr. SCHUMER:

S. 2587. A bill to amend the Federal Fire Prevention and Control Act of 1974 to authorize the Administrator of the United States Fire Administration to provide assistance to firefighting task forces, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Ms. STABENOW (for herself, Mrs. LINCOLN, and Mr. LEVIN):

S. 2588. A bill to provide for the certification of programs to provide uninsured employees of small businesses access to health coverage, and for other purposes; to the Committee on Finance.

By Mr. DOMENICI (for himself and Mr. INHOFE) (by request):

S. 2589. A bill to enhance the management and disposal of spent nuclear fuel and high-level radioactive waste, to ensure protection of public health and safety, to ensure the territorial integrity and security of the repository at Yucca Mountain, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. COBURN (for himself, Mr. OBAMA, Mr. CARPER, and Mr. MCCAIN):

S. 2590. A bill to require full disclosure of all entities and organizations receiving Federal funds; to the Committee on Homeland Security and Governmental Affairs.

By Mr. DEWINE (for himself, Mr. GRASSLEY, Mr. HARKIN, and Mr. VOINOVICH):

S. 2591. A bill to exempt persons with disabilities from the prohibition against providing section 8 rental assistance to college students; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. HARKIN (for himself, Mr. SPECTER, Mr. BINGAMAN, Ms. MURKOWSKI, Mr. DURBIN, Mr. CHAFEE, and Mrs. CLINTON):

S. 2592. A bill to amend the Child Nutrition Act of 1966 to improve the nutrition and health of schoolchildren by updating the definition of ''food of minimal nutritional value'' to conform to current nutrition science and to protect the Federal investment in the national school lunch and breakfast programs; to the Committee on Agriculture, Nutrition, and Forestry.

By Mrs. BOXER (for herself, Mrs. FEINSTEIN, Mrs. MURRAY, Ms. MIKULSKI, Mr. LAUTENBERG, Ms. STABENOW, and Ms. CANTWELL):

S. 2593. A bill to protect, consistent with Roe v. Wade, a woman's freedom to choose to bear a child or terminate a pregnancy, and for other purposes; to the Committee on the Judiciary.

By Mr. KERRY (for himself, Mr. PRYOR, and Ms. LANDRIEU):

S. 2594. A bill to amend the Small Business Act to reauthorize the loan guarantee program under section 7(a) of that Act, and for other purposes; to the Committee on Small Business and Entrepreneurship.

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

S. 2595. A bill to amend the Small Business Investment Act of 1958 to modernize the treatment of development companies; to the Committee on Small Business and Entrepreneurship.

By Mr. KERRY:

S.J. Res. 33. A joint resolution to provide for a strategy for successfully empowering a new unity government in Iraq; to the Committee on Foreign Relations.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. SANTORUM:

S. Res. 434. A resolution designating the week of May 22, 2006, as ''National Corporate Compliance and Ethics Week.''; to the Committee on the Judiciary.

By Ms. SNOWE (for herself, Mr. KERRY, Mr. ALLEN, Mr. THUNE, Mr. BURNS, Mr. ISAKSON, Mr. BAYH, Mr. FRIST, Mr. COLEMAN, and Mr. LIEBERMAN):

S. Res. 435. A resolution honoring the entrepreneurial spirit of America's small businesses during National Small Business Week, beginning April 9, 2006; considered and agreed to.

By Mr. MCCAIN (for himself, Mr. LUGAR, Ms. COLLINS, Mr. LIEBERMAN, Mr. ENSIGN, Mr. MENENDEZ, and Mr. MARTINEZ):

S. Res. 436. A resolution urging the Federation Internationale de Football Association to prevent persons or groups representing the Islamic Republic of Iran from participating in sanctioned soccer matches; to the Committee on Foreign Relations.

By Mr. ENZI (for himself, Mr. KENNEDY, Mr. COCHRAN, Mr. JEFFORDS, Mr. COLEMAN, Mrs. BOXER, Mr. STEVENS, Mr. LAUTENBERG, Ms. MURKOWSKI, Mr. AKAKA, Mr. ISAKSON, and Mr. DODD):

S. Res. 437. A resolution supporting the goals and ideals of the Year of the Museum; considered and agreed to.

ADDITIONAL COSPONSORS

S. 493

At the request of Mr. GRASSLEY, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 493, a bill to amend title II of the Higher Education Act of 1965 to increase teacher familiarity with the educational needs of gifted and talented students, and for other purposes.

S. 635

At the request of Mr. SANTORUM, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 635, a bill to amend title XVIII of the Social Security Act to improve the benefits under the medicare program for beneficiaries with kidney disease, and for other purposes.

S. 654

At the request of Mr. LEAHY, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 654, a bill to prohibit the expulsion, return, or extradition of persons by the United States to countries engaging in torture, and for other purposes.

S. 811

At the request of Mr. DURBIN, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 811, a bill to require the Secretary of the Treasury to mint coins in commemoration of the bicentennial of the birth of Abraham Lincoln.

S. 914

At the request of Mr. ALLARD, the name of the Senator from Pennsylvania (Mr. SANTORUM) was added as a cosponsor of S. 914, a bill to amend the Public Health Service Act to establish a competitive grant program to build capacity in veterinary medical education and expand the workforce of veterinarians engaged in public health practice and biomedical research.

S. 1060

At the request of Mr. COLEMAN, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 1060, a bill to amend the Internal Revenue Code of 1986 to allow a credit against income tax for the purchase of hearing aids.

S. 1221

At the request of Mr. DAYTON, the name of the Senator from Delaware (Mr. CARPER) was added as a cosponsor of S. 1221, a bill to amend chapter 81 of title 5, United States Code, to create a presumption that a disability or death of a Federal employee in fire protection activities caused by any of certain diseases is the result of the performance of such employee's duty.

S. 1507

At the request of Mrs. LINCOLN, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 1507, a bill to protect children from Internet pornography and support law enforcement and other efforts to combat Internet and pornography-related crimes against children.

S. 1791

At the request of Mr. SMITH, the name of the Senator from Oklahoma (Mr. COBURN) was added as a cosponsor of S. 1791, a bill to amend the Internal Revenue Code of 1986 to allow a deduction for qualified timber gains.

S. 1800

At the request of Ms. SNOWE, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 1800, a bill to amend the Internal Revenue Code of 1986 to extend the new markets tax credit.

S. 1888

At the request of Mr. FEINGOLD, the names of the Senator from Minnesota

(Mr. DAYTON) and the Senator from New Jersey (Mr. LAUTENBERG) were added as cosponsors of S. 1888, a bill to provide for 2 programs to authorize the use of leave by caregivers for family members of certain individuals performing military service, and for other purposes.

S. 1948

At the request of Mrs. CLINTON, the name of the Senator from Nevada (Mr. ENSIGN) was added as a cosponsor of S. 1948, a bill to direct the Secretary of Transportation to issue regulations to reduce the incidence of child injury and death occurring inside or outside of passenger motor vehicles, and for other purposes.

S. 2025

At the request of Mr. BAYH, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 2025, a bill to promote the national security and stability of the United States economy by reducing the dependence of the United States on oil through the use of alternative fuels and new technology, and for other purposes.

S. 2140

At the request of Mr. HATCH, the name of the Senator from South Carolina (Mr. GRAHAM) was added as a cosponsor of S. 2140, a bill to enhance protection of children from sexual exploitation by strengthening section 2257 of title 18, United States Code, requiring producers of sexually explicit material to keep and permit inspection of records regarding the age of performers, and for other purposes.

S. 2201

At the request of Mr. OBAMA, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 2201, a bill to amend title 49, United States Code, to modify the mediation and implementation requirements of section 40122 regarding changes in the Federal Aviation Administration personnel management system, and for other purposes.

S. 2235

At the request of Mr. SCHUMER, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 2235, a bill to posthumously award a congressional gold medal to Constance Baker Motley.

S. 2253

At the request of Mr. DOMENICI, the name of the Senator from Nebraska (Mr. NELSON) was added as a cosponsor of S. 2253, a bill to require the Secretary of the Interior to offer the 181 Area of the Gulf of Mexico for oil and gas leasing.

S. 2370

At the request of Mr. MCCONNELL, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 2370, a bill to promote the development of democratic institutions in areas under the administrative control of the Palestinian Authority, and for other purposes.

S. 2424

At the request of Mr. ALLEN, the name of the Senator from South Carolina (Mr. DEMINT) was added as a cosponsor of S. 2424, a bill to amend the Internal Revenue Code of 1986 to increase the contribution limits for health savings accounts, and for other purposes.

S. 2429

At the request of Mr. LUGAR, the name of the Senator from Tennessee (Mr. ALEXANDER) was added as a cosponsor of S. 2429, a bill to authorize the President to waive the application of certain requirements under the Atomic Energy Act of 1954 with respect to India.

S. 2446

At the request of Mr. OBAMA, the name of the Senator from South Dakota (Mr. THUNE) was added as a cosponsor of S. 2446, a bill to promote the national security and stability of the economy of the United States by reducing the dependence of the United States on oil through the use of alternative fuels and new technology, and for other purposes.

S. 2482

At the request of Ms. LANDRIEU, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 2482, a bill to authorize funding for State-administered bridge loan programs, to increase the access of small businesses to export assistance center services in areas in which the President declared a major disaster as a result of Hurricane Katrina of 2005, Hurricane Rita of 2005, or Hurricane Wilma of 2005, to authorize additional disaster loans, to require reporting regarding the administration of the disaster loan programs, and for other purposes.

S. 2554

At the request of Mr. ENSIGN, the names of the Senator from Tennessee (Mr. FRIST) and the Senator from Oklahoma (Mr. COBURN) were added as cosponsors of S. 2554, a bill to amend the Internal Revenue Code of 1986 to expand the permissible use of health savings accounts to include premiums for non-group high deductible health plan coverage.

S. CON. RES. 46

At the request of Mr. BROWNBACK, the name of the Senator from Oklahoma (Mr. COBURN) was added as a cosponsor of S. Con. Res. 46, a concurrent resolution expressing the sense of the Congress that the Russian Federation should fully protect the freedoms of all religious communities without distinction, whether registered and unregistered, as stipulated by the Russian Constitution and international standards.

S. RES. 236

At the request of Mr. COLEMAN, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of S. Res. 236, a resolution recognizing the need to pursue research into the causes, a treatment, and an eventual cure for idiopathic pulmonary fibrosis, supporting the goals and ideals of National Idiopathic Pulmonary Fibrosis Awareness Week, and for other purposes.

AMENDMENT NO. 3214

At the request of Mr. SANTORUM, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of amendment No. 3214 proposed to S. 2454, a bill to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes.

AMENDMENT NO. 3223

At the request of Mr. DORGAN, the names of the Senator from Washington (Mrs. MURRAY), the Senator from Montana (Mr. BAUCUS) and the Senator from North Dakota (Mr. CONRAD) were added as cosponsors of amendment No. 3223 proposed to S. 2454, a bill to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes.

AMENDMENT NO. 3295

At the request of Mr. ENSIGN, the name of the Senator from South Carolina (Mr. GRAHAM) was added as a cosponsor of amendment No. 3295 intended to be proposed to S. 2454, a bill to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SPECTER (for himself, Mr. KOHL, Mr. DEWINE, Mr. LEAHY, Mrs. FEINSTEIN, and Mr. DURBIN):

S. 2557. A bill to improve competition in the oil and gas industry, to strengthen antitrust enforcement with regard to industry mergers, and for other purposes; to the Committee on the Judiciary.

Mr. SPECTER. Madam President, I am sending to the desk today legislation captioned as the ''Oil and Gas Industry Antitrust Act of 2006,'' legislation on behalf of myself and Senator DEWINE, Senator KOHL, Senator LEAHY, Senator FEINSTEIN and Senator DURBIN. The Judiciary Committee has held hearings on the escalating price of gasoline, which has risen some 25 percent in the past year, from $1.85 per gallon nationally in January of 2005 to $2.38 a gallon early this year.

We have seen rapid consolidation in the oil and gas industry, with many mergers which are specified in the written statement I will have included in the RECORD and enormous profits characterized by the profits reported by ExxonMobil, which earned over $36 billion in 2005, the largest corporate profit in U.S. history.

The legislation we are introducing will do a number of things. First, it will eliminate the judge-made doctrines that prevent OPEC's members from being sued for violating the antitrust laws. There is no doubt that they take joint action when deciding how much oil to sell, actions would normally constitute unlawful price fixing.

This legislation would make them subject to our antitrust laws.

With fewer players in the industry, anticompetitive acts, including the withholding of supply and information sharing, become easier. The bill would prohibit oil and gas companies from diverting, exporting, or refusing to sell existing supplies with the specific intention of raising prices.

The bill also requires the FTC and the Attorney General to consider whether future oil and gas mergers should receive closer scrutiny. It requires the GAO to evaluate whether the divestitures required by the antitrust agencies for past mergers were adequate to preserve competition. There is significant evidence that the concentration in the industry has been a contributing factor to increasing gasoline and oil prices. There are other factors, but it is not explained simply by the increase in the cost of crude oil. This bill takes a firm stand to protect the American consumer from enormous increases in gasoline prices and in oil prices—something very serious when we have insufficient funds in LIHEAP to take care of people who are unable to pay for the increasing costs of heating oil.

I ask unanimous consent that the full text of my prepared statement be printed in the RECORD.

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

CONSOLIDATION IN THE OIL AND GAS INDUSTRY: RAISING PRICES?

Mr. President, I have sought recognition to introduce new legislation, the Oil and Gas Industry Antitrust Act of 2005.

Average gasoline prices nationwide have risen by 25 percent in the past year alone, from $1.85 per gallon in January 2005 to $2.38 per gallon at the beginning of this year.

Prices for heating oil, other petroleum products and natural gas—products that are important to the lives of American consumers—have risen to similar heights.

While Americans are paying more for the products they use to get to work and heat their homes, the mammoth integrated oil companies that dominate the industry have earned record profits. ExxonMobil reported that it earned over $36 billion in 2,005, the largest corporate profit in U.S. history.

Although rising crude oil prices are one factor influencing gasoline prices, it is not the only factor. Increased prices simply cannot be entirely explained by higher crude oil prices.

In a hearing last month and another one next week, the Judiciary Committee is I exploring a likely cause for higher prices—the consolidation that has occurred in the industry over the past decade, and that continues today.

Over 2,600 mergers have occurred in the U.S. petroleum industry since the 1990s, including transactions involving the largest oil and gas companies in the nation.

Last summer, the FTC approved Chevron's acquisition of Unocal.

In 2002, Valero acquired Ultramar Diamond Shamrock and Phillips merged with Conoco.

The year 2000 saw the merger of British Petroleum and ARCO.

The largest transaction occurred in 1999 when Exxon merged with Mobil.

Other transactions included British Petroleum's acquisition of Amoco, Marathon's joint venture with Ashland Petroleum and another joint venture that combined the refining assets of Shell and Texaco.

Last month the Department of Justice just approved Conoco-Phillips' acquisition of Burlington Resources, a merger that creates the nation's largest natural gas company and the third largest integrated oil company.

These transactions have resulted in significantly increased concentration in the oil and gas industry, particularly in the downstream refining and wholesale gasoline markets.

Fewer competitors in a market conveys market power on remaining players, and with it, the opportunity to increase prices. As we have learned in Committee, there is some evidence that consolidation in the industry has increased wholesale gasoline prices.

Fewer competitors in a market also makes collusion easier. Recent events suggest that increased concentration may be creating a ''collusive environment'' in the industry.

A number of experts have pointed to limited refinery capacity as a cause for price spikes in recent years. No new refineries have been built in the U.S. for–30 years. While some existing refineries have expanded in recent years, other refineries have closed. From 1998 through 2004, total refinery capacity nationwide grew by less than one percent. Today, U.S. refineries routinely operate at over 90 percent of capacity. Critics have alleged that tacit collusion among industry players has restrained the growth of refinery capacity.

ExxonMobil and British Petroleum were recently sued by the Alaska Gasoline Port Authority for allegedly conspiring to withhold natural gas from customers who wished to transport the gas via pipeline to an Alaskan port. An agreement between Exxon and British Petroleum not to sell their natural gas to the Alaskan project would violate the antitrust laws.

The Judiciary Committee has held two hearings this year to consider the effects of concentration in the industry. The most recent hearing in March considered whether concentration had resulted, in increased prices for gasoline, other petroleum-based fuels and natural gas.

The witnesses at that hearing—two experienced and respected antitrust lawyers, the attorney general of Iowa, an economist from the University of California at Berkeley and the Senior Assistant Attorney General from California—all agreed that there were problems with market power in the industry.

Most of these witnesses testified that there was a serious problem with tacit coordination and information sharing in the industry made possible by having fewer players in the oil and gas industry. Such conduct unquestionably leads to higher prices.

Based on the testimony the Committee heard, it is pretty clear that increased concentration in the industry has led to higher prices. In part, the antitrust agencies need to adjust their enforcement posture to reflect existing conditions in the industry, but I believe there is a need for legislation. The Oil and Gas Industry Antitrust Act of 2006, which I am introducing today, would require the antitrust enforcement agencies, as well as the GAO, to take a close look at their past merger enforcement and whether the standard for reviewing mergers should be changed. The original draft of this legislation would have increased the standard of review for mergers in the industry, but we would like to give GAO and the enforcement agencies a chance to look at how the standard should be changed. The legislation:

Amends the Clayton Act by prohibiting oil and gas companies from diverting, exporting or refusing to sell existing supplies with the specific intention of raising prices or creating a shortage.

Requires the FTC and the Attorney General to consider whether the standard of review for mergers contained in Section 7 of the Clayton Act needs to be modified for mergers in the oil and gas industry to take into account the concentration that has already occurred in this industry.

Requires the Government Accountability Office to evaluate whether . divestitures required by the antitrust agencies in oil and gas industry mergers have been effective in restoring competition. Once the study is complete, the antitrust agencies must consider whether any additional steps are necessary to restore competition, including further divestitures or possibly unraveling some mergers.

Requires the antitrust agencies to establish a joint federal-state task force to examine information sharing and other anticompetitive results of consolidation in the oil and gas industry. Economic studies show that sharing price and production information in a concentrated market will result in increased prices. Oil companies frequently supply each other with gasoline in areas where they have no source of supply through so-called ''exchange agreements.'' Refiners also frequently share terminals and pipelines, which facilitates the exchange of information. These practices alone do not violate the antitrust laws, but parallel conduct in combination with information sharing could be enough to establish a violation of the antitrust laws.

Eliminates the judge-made doctrines that prevent OPEC members from being sued for violating the antitrust laws by conspiring to fix the price of crude oil.

It is my hope that this legislation will help reverse the trend toward less competition and higher prices. The cosponsors of this legislation—Senator KOHL, SENATOR DEWINE, Senator DURBIN, Senator LEAHY, Senator FEINSTEIN—deserve enormous credit for having the courage to take on this issue and for helping to develop this important legislation. I urge other members that are concerned about consolidation in the industry—and about the prices that consumers are paying to drive to work and heat their homes—to support this important legislation.

Mr. LEAHY. Mr. President, I am proud to join with Senators SPECTER, KOHL, DEWINE and others on a new bill, the Oil and Gas Industry Antitrust Act of 2006, which includes, as its centerpiece, our NOPEC legislation, which many of us have worked together on for years.

This measure—The No Oil Producing And Exporting Cartels Act, NOPEC—would make OPEC accountable for its anticompetitive behavior and allow the Justice Department to crack down on illegal price manipulation by oil cartels. It will allow the Federal Government to take legal action against any foreign state, including members of OPEC, for price fixing and other anticompetitive activities. The tools this bill would provide to law enforcement agencies are necessary to immediately counter OPEC's anticompetitive practices, and these tools would help reduce gasoline prices now.

The Congress should pass this measure immediately instead of waiting until the price of gasoline at the pump is $4 a gallon. OPEC has America over a barrel, and we should fight back. If OPEC were simply a foreign business engaged in this type of behavior, it

would already be subject to American antitrust law. It is wrong to let OPEC producers off the hook just because their anticompetitive practices come with the seal of approval of this cartel's member nations.

It is time for the President to join the bipartisan majority in the Senate which already said ''NO'' to OPEC by passing NOPEC and by sending it to the other body, where it was killed.

The Senate has already passed this bill, which would make OPEC subject to our antitrust laws. In fact, the Judiciary Committee has approved the NOPEC bill three times. Regrettably, even though President Bush promised in 2000 that he would ''jawbone OPEC,'' the Bush administration and its friends in the House have scuttled the NOPEC bill and the direct and daily relief it would bring to millions of Americans.

In addition, this bill makes it unlawful to divert petroleum or natural gas products from their local market to a distant market with the primary intention of increasing prices or creating a shortage in a market. This solves a real problem where products are being shipped for sale in that market but are later diverted and sold for less in another market.

We have an obligation to address these and other issues caused by oil cartels and by greedy companies who have money—that they have extracted from the American people—to burn. That is why I am also pleased that the bill includes provisions to conduct several studies that address serious competition, information sharing, and other antitrust problem areas related to the oil and natural gas industries. The American people deserve answers, and this bill also provides a path to getting those answers.

Authorizing tough legal action against illegal oil price fixing, and taking that action without delay, is one thing we can do without additional obstruction or delay.

The artificial pricing scheme enforced by OPEC affects all of us, not the least of whom are hardworking Vermont farmers. The overall increase in fuel costs for an average Vermont farmer last year was 43 percent, meaning that each farmer is estimated to pay an additional $700 in fuel surcharges in 2006 alone. Vermonters know what the terrible consequences of these high prices can be: forcing many farmers to make unfair choices between running their farms or heating their homes. No one should be forced to make these choices, certainly not our hard-working farmers.

In summary, this bill will provide law enforcement with the tools necessary to fight OPEC's anticompetitive practices immediately, and help reduce gasoline prices now. I urge my colleagues to support this bill, and to say ''NO'' to OPEC as we have done in the past.

Mr. KOHL. Mr. President, I rise today with Senator SPECTER to introduce the Oil and Gas Industry Antitrust Act of 2006. This legislation will make several important and overdue reforms to our antitrust laws to give our Federal Government more of the tools it needs to take action to combat anti-competitive conduct in the oil and gas industry. It will also direct that our antitrust enforcement agencies undertake several actions to ensure that they are enforcing our current antitrust laws properly.

We have all seen the suffering felt by consumers and our national economy resulting from rising energy prices. Gasoline prices are once again on the rise, with the national average price increasing more than thirty cents in the last month alone. Many industry experts fear, if current trends continue, that last summer's record levels of more than three dollars per gallon will be exceeded this coming summer. And prices for other crucial energy products—such as natural gas and home heating oil—have undergone similar sharp increases. These price increases are a silent tax that steals hard earned money away from American consumers every time they visit the gas pump and every time they raise their thermostat to keep their family warm.

There is much debate about the causes of these gas prices. The role of increasing worldwide demand and supply limitations obviously play a role. But our investigation in the Judiciary Committee—including two hearings in the last several months—have made plain the facts that make many of us suspect that oil and gas markets are not behaving in a truly competitive fashion. The GAO has found that there were over 2600 mergers and acquisitions in the oil industry since 1990, and that these mergers have caused the price of gasoline to increase from one to seven cents per gallon. Despite a substantial growth in demand, no new refineries have been opened in the United States in 25 years. Instead, more than half have been closed, so that overall national refining capacity declined by more than 9 percent from 1981 to 2004 while demand for gasoline rose 37 percent. Many argue that limiting refining capacity is actually in the oil companies' interest, as it enables them to gain market power over supply to raise price.

And the oil industry has unquestionably enriched itself during this period of high prices. Oil industry profits reached record high levels last year, led by Exxon Mobil's record high profits of over $36 billion. An independent study by the consumers group Public Citizen found that U.S. oil refiners increased their profits on each gallon of gasoline they refined by 79 percent in the five-year period ending in 2004. While it is true that the world price of crude oil has substantially increased, the fact that the oil companies can so easily pass along all of these price increases to consumers of gasoline and other refined products—and compound their profits along the way—demonstrates to many of us that that there is a failure of competition in our oil and gas markets.

Indeed, at our hearing last month, the chief executives of our Nation's largest oil companies admitted they had no difficulty in passing along crude oil price increases to consumers. Rex Tillerson of ExxonMobil forthrightly testified that ''[t]he high price of crude oil has been passed ultimately along to the consumer of whatever the finished product may be . . . .'' David O'Reilly of Chevron agreed.

It also seems clear that there has been a failure of our antitrust enforcement agencies to take action to restore competition to this vital industry. Vigorous antitrust enforcement is essential to restore competition to these markets, and it is now time to strengthen our antitrust laws to ensure that they are up to the job. This bill that Senator SPECTER and I are introducing today will significantly enhance our antitrust laws to ensure that the government has the necessary tools to take action to restore competition in this industry, and also direct that the government examine its enforcement policy to determine if additional changes are needed.

Our bill has five elements, each essential to strengthening antitrust enforcement in the petroleum industry. It contains two important changes to existing antitrust law. First, it will amend the Clayton Act to prohibit withholding supplies of petroleum, gasoline or any other fuel for the primary purpose of increasing prices or creating a shortage. This provision will prevent the ability of oil producers and refiners to limit supply to manipulate price. Second, it incorporates our NOPEC bill—legislation I have introduced each Congress since 2000—to make the actions of the OPEC oil cartel subject to U.S. antitrust law. This provision will, for the first time, establish clearly and plainly that when a group of competing oil producers like the OPEC nations act together to restrict supply or set prices, they are violating U.S. law. This provision will authorize the Attorney General to file suit under the antitrust laws for redress, and will remove the protections of sovereign immunity and the act of state doctrine from nations that participate in the oil cartel. Our NOPEC provision passed the Senate last year as an amendment to the energy bill, but was subsequently dropped by the House-Senate Conference Committee without explanation. It is past time to pass this much needed anti-cartel measure finally into law.

Our bill also will direct that the antitrust enforcement agencies undertake several important actions to promote competition. The first two of these measures will address the government's response to the huge wave of consolidation in the oil industry. First, the bill will direct that the Justice Department and Federal Trade Commission conduct a study and report their

findings to us in nine months, as to whether the Clayton Act needs to be amended to ensure that mergers which truly lessen competition in the petroleum industry are prohibited. Second, the bill directs a study by the GAO to be completed within six months to examine whether the consent decrees and divestitures obtained by the Justice Department or FTC in the oil industry have been effective in protecting competition. The Attorney General and FTC are directed to consider additional action be required to restore competition upon completion of this report. Finally, the bill directs that the Attorney General and FTC Chairman establish a joint Federal-State task force to investigate information sharing among companies producing, refining, or marketing petroleum, gasoline or any other refined product.

As Ranking Member on the Senate Antitrust Subcommittee, I believe that this bill is an important step to reforming our antitrust laws and restoring competition to the oil and gas industry. All of us can agree that anticompetitive conduct leading to higher prices for gasoline and other energy products simply cannot be tolerated. It is essential that we give our government the necessary tools to do the job, and I am certain our bill is a long overdue measure to do just that.

I urge my colleagues to support the Oil and Gas Industry Antitrust Act of 2006.

Mr. DEWINE. Mr. President, I am proud to join as a co-sponsor of Senator SPECTER's Oil and Gas Industry Antitrust Act. This bill should help us curb the skyrocketing energy prices that have been an increasing burden on our Nation's consumers and businesses. It also should help us figure out how we can address these problems in the future.

High fuel costs are affecting every family, whether they are driving across town or heating their homes, and we must continue our efforts to do something about it. This bill would take immediate steps to help decrease possible price manipulation by oil companies and allow government enforcement agencies to take action to prevent price-fixing by oil producing nations.

I have been working on this problem for a long time. In fact, Senator KOHL and I have worked hard in our Subcommittee on Antitrust, Competition Policy and Consumer Rights to encourage FTC monitoring of gas prices and their careful investigation of oil industry behavior. I believe that those efforts have helped limit the fuel price increases; unfortunately, we still face enormous problems in this area, and we are all paying higher and higher prices for gas and heating oil. So, we need to continue our efforts and try some different approaches, and this legislation does just that.

Specifically, this bill calls for the Government Accountability Office to undertake a thorough study of the past enforcement actions taken by the Federal Trade Commission and the Department of Justice in prior oil industry merger investigations. This study will provide much-needed information on how effective the antitrust agencies' actions have been in preventing harm to consumers from mergers within the petroleum industry. Even more important, this bill also will call on the FTC and DOJ to use the findings from that study to examine those specific mergers and determine if they need to take further enforcement action regarding those deals. In addition, the antitrust agencies will utilize this information to take a close look at the petroleum industry and to determine whether they require special antitrust rules—applicable specifically to the oil industry—to give the agencies the tools they need to promote competition in the oil industry. This would be a very significant step, of course, but it is something they will consider.

Another important provision of this legislation creates a Joint Federal and State Task Force to investigate information sharing in the oil industry that may lead to artificially high prices for gasoline, electricity, and heating oil. The Federal Government and the various States have worked very effectively in the past to look into price spikes, supply disruptions, and a host of commercial arrangements that can harm consumers, and this bill provides a valuable framework for continuing and increasing this very effective cooperation.

Moreover, this bill will put an end to certain types of activities that oil companies may use to drive up prices or create shortages for all types of fuels. Specifically, this bill makes sure that oil companies cannot manipulate prices by refusing to sell their products in particular markets or diverting oil products away from American shores to artificially create a shortage and pad their profits. I am particularly pleased that the bill includes a provision that Senator KOHL and I have pursued since 2000—a provision that would make it clear that the Antitrust Division can prosecute OPEC for its price-fixing.

I believe that some of the provisions of this bill will help right away, like limiting the ability of the oil companies to refuse to sell petroleum in markets that need it and putting OPEC on notice that they can be prosecuted if they violate our laws. These provisions should help in the short-term. And, the other provisions, which require studies and review of past enforcement actions and analysis of possible changes in the antitrust laws, may help us address this problem in the long-run.

This bill will make a difference and help consumers. I strongly encourage my colleagues to join in support of its passage.

By Mr. LEAHY:

S. 2559. A bill to make it illegal for anyone to defraud and deprive the American people of the right to the honest services of a Member of Congress and to instill greater public confidence in the United States Congress; to the Committee on the Judiciary.

Mr. LEAHY. Mr. President, I am pleased to introduce the ''Honest Services Act of 2006,''—a bill to provide new tools for Federal prosecutors to combat public corruption in our government. The purpose of this bill is to strengthen the tools available to Federal prosecutors to combat public corruption. This bill articulates more clearly for lobbyists, members of Congress, and Congressional staff the line that cannot be crossed regarding links between gifts or special favors and official acts, without incurring criminal liability.

Just recently, the Senate passed the Legislative Transparency and Accountability Act of 2006, S. 2349—the first lobbying reform bill in Congress in over a decade. I voted for the lobbying reform bill and I believe that this legislation takes an important step toward restoring the public's confidence in Congress.

I was disappointed, however, that I did not have an opportunity to offer the bill that I now propose as an amendment to the lobbying reform bill because cloture was invoked very early in the floor debate. My amendment would have offered an important and needed new dimension to the lobbying reform bill by strengthening our criminal public corruption laws.

Although it is certainly important to have high ethical standards within Congress and more transparency in the lobbying process, vigorous enforcement of our Federal public corruption laws is also an important component of this effort to restore public confidence in government. Indeed, it was only with the indictments of Jack Abramoff, Michael Scanlon, and Randy ''Duke'' Cunningham that Congress took note of the serious ethics scandals that have grown over the last years. If we are serious about restoring public confidence in Congress, we need to do more than just reform the lobbying disclosure laws and ethics rules. Congress must send a signal that it will not tolerate this type of public corruption by providing better tools Federal prosecutors to combat it.

This bill will do exactly that. The bill creates a better legal framework for combating public corruption than currently exists under our criminal laws. It specifies the crime of Honest Services Fraud Involving Members of Congress and prohibits defrauding or depriving the American people of the honest services of their elected representatives.

Under this bill, lobbyists who improperly seek to influence legislation and other official matters by giving expensive gifts, lavish entertainment and travel, and inside advice on investments to Members of Congress and their staff would be held criminally liable for their actions. The law also prohibits Members of Congress and their

staff from accepting these types of gifts and favors, or holding hidden financial interests, in return for being influenced in carrying out their official duties. Violators are subject to a criminal fine and up to 20 years imprisonment, or both.

This legislation strengthens the tools available to Federal prosecutors to combat public corruption, by removing some of the legal hurdles to public corruption prosecutions. Under current law, Federal prosecutors often have great difficulty bringing public corruption cases because it is difficult to prove a specific quid pro quo under the Federal bribery statute. In addition, the current honest services fraud statute—18 U.S.C. 1346—requires that prosecutors must also show that misconduct occurred via the mail or wire, even when there is clear evidence of an improper link between gifts and an official act. My bill makes it possible for Federal prosecutors to bring public corruption cases without having to first overcome these hurdles.

The bill also provides lobbyists, Members of Congress, and other individuals with much-needed notice and clarification as to what kind of conduct triggers this criminal offense. For much of the 20th Century, honest services fraud was a common law offense which courts read into the federal mail and wire fraud statutes. In 1987, the Supreme Court invalidated this common law concept in the case of McNally v. United States. In response to the McNally case, Congress subsequently added an honest services mail and wire fraud statute—18 U.S.C. 1346—to the Federal criminal code. Section 1346 has been regularly relied upon by prosecutors in public corruption cases ever since. However, that provision is often criticized for being too vague or for failing to give public officials sufficient notice about what type of conduct is covered by the statute. Courts have also disagreed about exactly what this statute means. My bill will help to resolve the confusion about honest services fraud in the legislative context, by setting out a well-defined honest services fraud offense for violations involving Members of Congress. In addition, the bill's intent requirements ensure that corrupt conduct can be appropriately prosecuted, but that innocuous actions will not be inappropriately targeted.

Lastly, my bill authorizes $25 million in additional federal funds over each of the next four years to give federal prosecutors needed resources to investigate public corruption. According to the FBI's 2004–2009 Strategic Plan, reducing public corruption in our country's Federal, State, and local governments is one of the FBI's top investigative priorities—behind only terrorism, espionage, and cyber crimes. However, an August 2005 report by the Department of Justice's Inspector General, found that, since 2000, there has been an overall reduction in the number of public corruption matters investigated by the FBI. That report noted that, in 2004, the FBI referred 63 fewer public corruption cases to the United States Attorney's offices across the Nation than it referred in 2000. My bill will give the FBI and the Public Integrity Section within the Department of Justice new resources to hire additional public corruption investigators and public corruption prosecutors.

If we are serious about addressing the egregious misconduct that we have recently witnessed, Congress must enact meaningful legislation to strengthen our public corruption laws and give investigators and prosecutors the resources they need to enforce these laws.

The unfolding public corruption investigations involving lobbyist Jack Abramoff and former Representative Randy ''Duke'' Cunningham demonstrate that unethical conduct by public officials has broad ranging impact. Just last month, the Washington Post reported that, as an outgrowth of the Cunningham investigation, federal investigators and the Pentagon are now looking into contracts awarded by the Pentagon's new intelligence agency—the Counterintelligence Field Activity—to MZM, Inc., a company run by Mitchell J. Wade, who recently pleaded guilty to conspiring to bribe Mr. Cunningham. The Cunningham case demonstrates that our democracy and national security depend upon a healthy, efficient, and ethical government.

The American people expect—and deserve—to be confident that their representatives in Congress perform their legislative duties in a manner that is beyond reproach and that is in the public interest.

Because I strongly believe that Congress must do more to restore the public's trust in their Congress, I urge all Senators to support this bill.

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

S. 2559

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 ''Honest Services Act of 2006''.

SEC. 2. HONEST SERVICES FRAUD INVOLVING MEMBERS OF CONGRESS.

(a) IN GENERAL.—Chapter 63 of title 18, United States Code, is amended by adding at the end the following:

''§ 1351. Honest services fraud involving members of Congress

''(a) IN GENERAL.—Whoever knowingly and willfully executes, or attempts to execute, a scheme or artifice to defraud and deprive the United States, the Congress, or the constituents of a Member of Congress, of the right to the honest services of a Member of Congress by—

''(1) offering and providing to a Member of Congress, or an employee of a Member of Congress, anything of value or a series of things of value, with the intent to influence the performance an official act or series of official acts; or

''(2) being a Member of Congress, or an employee of a Member of Congress, accepting anything of value or a series of things of value or holding an undisclosed financial interest, with the intent to be influenced in performing an official act or series of official acts;

shall be fined under this title or imprisoned not more than 20 years, or both.

''(b) DEFINITIONS.—In this section:

''(1) HONEST SERVICES.—The term 'honest services' includes the right to conscientious, loyal, faithful, disinterested, and unbiased service, to be performed free of deceit, undue influence, conflict of interest, self-enrichment, self-dealing, concealment, bribery, fraud, and corruption.

''(2) OFFICIAL ACT.—The term 'official act'—

''(A) has the meaning given that term in section 201(a)(3) of this title; and

''(B) includes supporting and passing legislation, placing a statement in the Congressional Record, participating in a meeting, conducting hearings, or advancing or advocating for an application to obtain a contract with the United States Government.

''(3) UNDISCLOSED FINANCIAL INTEREST.—The term 'undisclosed financial interest' includes any financial interest not disclosed as required by statute or by the Standing Rules of the Senate.

''(c) NO INFERENCE AND SCOPE.—Nothing in this section shall be construed to—

''(1) create any inference with respect to whether the conduct described in section 1351 of this title was already a criminal or civil offense prior to the enactment of this section; or

''(2) limit the scope of any existing criminal or civil offense.''.

(b) CHAPTER ANALYSIS.—The chapter analysis for chapter 63 of title 18, United States Code is amended by adding at the end, the following:

''1351. Honest services fraud involving Members of Congress.''.

SEC. 3. AUTHORIZATION FOR ADDITIONAL PERSONNEL TO INVESTIGATE AND PROSECUTE HONEST SERVICES FRAUD, BRIBERY, GRAFT, AND CONFLICTS OF INTEREST OFFENSES.

There are authorized to be appropriated to the Department of Justice, including the Public Integrity Section of the Criminal Division, and the Federal Bureau of Investigations, $25,000,000 for each of the fiscal years 2007, 2008, 2009, and 2010, to increase the number of personnel to investigate and prosecute violations of section 1351 and sections 201, 203 through 209, 1001, 1341, 1343, and 1346 of title 18, United States Code, as amended by this Act.

By Mr. SPECTER (for himself, Mr. BIDEN, Mr. HATCH, Mr. GRASSLEY, and Mr. LEVIN):

S. 2560. A bill to reauthorize the Office of National Drug Control Policy; to the Committee on the Judiciary.

Mr. SPECTER. Madam President, I further introduce the reauthorization for the Office of National Drug Control Policy Act of 2006. Senators HATCH, BIDEN, and GRASSLEY have worked with me on this issue. This is the office to establish our drug policy. Since 2001, according to the ONDCP—the Office of National Drug Control Policy—the combined use of illicit drugs by 8th, 10th, and 12th graders has decreased by some 19 percent. We have seen a serious problem with methamphetamine. This agency is very important to carry out the administration's policy to try to reduce drug usage.

I ask unanimous consent that the full text of my prepared statement be printed in the RECORD.

INTRODUCTORY STATEMENT—''OFFICE OF NATIONAL DRUG CONTROL POLICY REAUTHORIZATION ACT OF 2006''

Mr. President, to reiterate I seek recognition today to introduce the ''Office of National Drug Control Policy Reauthorization Act of 2006'' and ask for the support of my colleagues for this important legislation concerning the war on illegal drugs.

This bill re-authorizes the Office of National Drug Control Policy—(''ONDCP'')—the Administration's office responsible for establishing policy and objectives to reduce illicit drug use, manufacturing, and trafficking, drug-related crime and violence, and drug-related health consequences. Senators BIDEN, HATCH and GRASSLEY have worked diligently with me in crafting this bill to provide authorization for ONDCP and its programs, and maintain a high level of Congressional oversight. I appreciate their consistent leadership.

Since 2001, according to ONDCP, the combined use of illicit drugs by 8th, 10th, and 12th graders has decreased 19 percent. This amounts to roughly 700,000 students who are not using drugs. ONDCP has prepared a National Drug Control Strategy that seeks to build on this progress and attain the President's goal of a 25 percent reduction in 5 years. I want to see the President's 25 percent reduction goal become a reality, and this bill will assist the Administration meet this objective.

Drug use and abuse—particularly among our youth—has a profoundly negative impact that spreads among our society like ripples made in water. Drug use leads to increased crime and violence, lowers educational standards, and has a destructive impact on the family unit. We need to take affirmative steps to provide the Executive Branch with the tools it needs to confront the problem of drugs and the negative consequences that follow from their abuse. This bill seeks to do just that.

We have seen over the last few years an epidemic involving the abuse of methamphetamine—a highly addictive drug that has been particularly damaging to our youth. This is a drug that can be cooked in low-tech labs with ingredients that can be purchased at most convenience stores. As a result, we included in the USA Patriot Act—which was recently signed into law—provisions that: (1) restrict the sale and distribution of chemical ingredients that make methamphetamine; (2) provides critical resources to state and local law enforcement; and (3) enhances international law enforcement of methamphetamine trafficking. Congress affirmatively responded to this problem and acted by passing the Combat Meth Act. We seek to continue these efforts with this legislation.

Once again, the President's 2007 budget seeks to shift funding of High Intensity Drug Trafficking Areas (HIDTA's) from ONDCP to the Department of Justice as a separate entity within the Organized Crime Drug Enforcement Task Force—(OCDETF). The HIDTA program was created by Congress to exist within ONDCP, and has successfully grown from 5 HIDTA's in 1990 to 28 HIDTA's that currently exist across the United States. HIDTA's enhance and coordinate drug control efforts among local, state, and federal law enforcement agencies, and provides agencies with equipment, technology, and additional resources to combat drug trafficking and their harmful consequences in critical regions of the United States. This bill keeps the HIDTA program within ONDCP where Congress intended it to remain.

I am hopeful the provisions in this bill meet the goals set by the President and reduce the overall use and abuse of illegal drugs in our country.

By Mr. DOMENICI:

S. 2561. A bill to authorize the Secretary of the Interior to make available cost-shared grants and enter into cooperative agreements to further the goals of the Water 2025 Program by improving water conservation, efficiency, and management in the Reclamation States, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. DOMENICI. Mr. President, an excerpt from John Steinbeck's classic The Grapes of Wrath recounting the conditions preceding the great Dust Bowl is eerily similar to the conditions currently faced by the Southwestern United States. ''The sky grew pale and the clouds that had hung in high puffs for so long in the spring were dissipated. The sun flared down on the growing corn each day until a line of brown spread along the edge of each green bayonet. The clouds appeared, and went away, and in a while they did not try any more. The weeds grew darker green to protect themselves, and they did not spread any more. The surface of the earth crusted, a thin hard crust, and as the sky became pale, so the earth became pale, pink in the red country and white in the gray country . . . Every moving thing lifted the dust into the air. . . . The dust was long in settling back again.''

As of April 5, 2006, statistics provided by the Natural Resources Conservation Service (NRCS) of the United States Department of Agriculture indicate that my home State of New Mexico is facing one of the worst droughts in the past 100 years. Historic snow pack data indicates the 2005–2006 snow season is the worst in more than 50 years. Several river basins in New Mexico, including the Rio Hondo and Mimbres river basins currently have no snow pack. This fact is particularly troubling when one considers that we rely on spring run-off for our surface water. Moreover, lack of snow pack indicates that our reservoirs, already depleted after years of drought, will remain at alarmingly low levels. According to the NRCS, ''Record low snow packs in several of the major basins have water managers scratching their heads, wondering how best to manage the water resource, with no real hopes of realizing any significant runoff to refill the reservoirs.'' These facts, taken together, are particularly ominous.

Unseasonably warm temperatures in New Mexico have resulted in the start of the runoff season in early March, something that usually starts in middle to late April. The early beginning of the run-off season will be particularly damaging to the agriculture industry which relies on spring run-off for irrigation during the early growing season. The lack of precipitation will also be devastating to our ranchers and dairymen. Because drought has hindered local production of hay, it has to be hauled from great distances. As a result, hay is approximately twice as expensive as usual, placing a great economic strain on the ranching and dairy industries. I fully anticipate that the drought will interrupt municipal water service. Although early in the year, the Village of Ruidoso, New Mexico has contacted my office seeking emergency Federal assistance to address looming water shortages. In addition, numerous New Mexico communities are under severe water restrictions.

The current drought illustrates how perilously close we are coming to having serious and widespread water shortages and the need to make more efficient use of the water we do have. The competing demands of agriculture, industry, municipalities and environmental needs have placed an enormous strain on available supplies of water. This is particularly true with respect to our interstate rivers that are governed by compacts. These interstate agreements require that a certain amount of water be delivered to downstream States. Meanwhile, enormous amounts of water are lost because of antiquated water infrastructure. In many instances, relatively cheap water infrastructure upgrades can minimize water losses. For example, by lining dirt canals, large amount of water can be saved that otherwise would have been lost to seepage. For the past 3 years, Congress has made available efficiency and conservation grants through the Administration's Water 2025 program. The goal of this program is to make more water available in water-short river systems through infrastructure conservation and efficiency upgrades. The bill I introduce today would authorize the Water 2025 program. While not a panacea to our water woes, I believe that this legislation will help us maximize the water available to us during times of drought.

I would like to thank Representative HEATHER WILSON, our Congresswoman from the First Congressional District of New Mexico for introducing the House companion to this measure. She fully appreciates the breadth of this problem and I look forward to working with her on this critically important issue.

Ensuring adequate water supplies for the Southwestern United States is as important a matter as any I can contemplate. As Chairman of the Energy and Natural Resources Committee, which has jurisdiction over this legislation, I assure it will receive prompt Committee consideration.

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

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

S. 2561

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 ''Bureau of Reclamation Water Conservation, Efficiency, and Management Improvement Act''.

SEC. 2. DEFINITIONS.

In this Act:

(1) NON-FEDERAL ENTITY.—The term ''non-Federal entity'' means a State, Indian tribe, irrigation district, water district, or any other organization with water delivery authority.

(2) RECLAMATION STATE.—The term ''Reclamation State'' means each of the States of Arizona, California, Colorado, Idaho, Kansas, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, and Wyoming.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior, acting through the Commissioner of Reclamation.

SEC. 3. AUTHORIZATION OF GRANTS AND COOPERATIVE AGREEMENTS.

(a) IN GENERAL.—The Secretary may, in accordance with the criteria published under subsection (b), provide grants to, and enter into cooperative agreements with non-Federal entities to pay the Federal share of the cost of a project to plan, design, construct, or otherwise implement improvements to conserve water, increase water use efficiency, facilitate water markets, enhance water management, or implement other actions to prevent water-related crises or conflicts in watersheds that have a nexus to Federal water projects within the Reclamation States.

(b) ELIGIBILITY CRITERIA.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall, consistent with this Act, publish in the Federal Register criteria developed by the Secretary for—

(A) determining the eligibility of a non-Federal entity for assistance under subsection (a); and

(B) prioritizing requests for assistance under subsection (a).

(2) FACTORS.—The criteria developed under paragraph (1) shall take into account such factors as—

(A) the extent to which a project under subsection (a) would reduce conflict over water;

(B) the extent to which a project under subsection (a) would—

(i) increase water use efficiency; or

(ii) enhance water management;

(C) the extent to which unallocated water is available in the area in which a project under subsection (a) is proposed to be conducted;

(D) the extent to which a project under subsection (a) involves water marketing;

(E) the likelihood that the benefit of a project under subsection (a) would be attained;

(F) whether the non-Federal entity has demonstrated the ability of the non-Federal entity to pay the non-Federal share;

(G) the extent to which the assistance provided under subsection (a) is reasonable for the work proposed under the project;

(H) the involvement of the non-Federal entity and stakeholders in a project under subsection (a);

(I) whether a project under subsection (a) is related to a Bureau of Reclamation project or facility; and

(J) the extent to which a project under subsection (a) would conserve water.

(c) FEDERAL FACILITIES.—If a grant or cooperative agreement under subsection (a) provides for improvements to a Federal facility—

(1) the Federal funds provided under the grant or cooperative agreement may be—

(A) provided on a nonreimbursable basis to an entity operating affected transferred works; or

(B) determined to be nonreimbursable for non-transferred works; and

(2) title to the improvements to the Federal facility shall be held by the United States.

(d) COST-SHARING REQUIREMENT.—

(1) FEDERAL SHARE.—The Federal share of the cost of carrying out a project assisted under subsection (a) shall be not more than 50 percent.

(2) NON-FEDERAL SHARE.—In calculating the non-Federal share of the cost of carrying out a project under subsection (a), the Secretary—

(A) may include any in-kind contributions that the Secretary determines would materially contribute to the completion of proposed project; and

(B) shall exclude any funds received from other Federal agencies.

(e) OPERATION AND MAINTENANCE COSTS.—The non-Federal share of the cost of operating and maintaining improvements assisted under subsection (a) shall be 100 percent.

(f) MUTUAL BENEFIT.—Grants or cooperative agreements made under this section or section 4 may be for the mutual benefit of the United States and the entity that is provided the grant or enters into the cooperative agreement.

(g) LIABILITY.—

(1) IN GENERAL.—Except as provided in paragraph (2), the United States shall not be liable under Federal or State law for monetary damages of any kind arising out of any act, omission, or occurrence relating to any non-Federal facility constructed or improved under this Act.

(2) EXCEPTION.—Notwithstanding paragraph (1), the United States may be held liable for damages to non-Federal facilities caused by acts of negligence committed by the United States or by an employee or agent of the United States.

(3) NO ADDITIONAL LIABILITY.—Nothing in this section increases the liability of the United States beyond that provided in chapter 171 of title 28, United States Code (commonly known as the ''Federal Torts Claim Act'').

SEC. 4. RESEARCH AGREEMENTS.

The Secretary may enter into cooperative agreements with institutions of higher education, nonprofit research institutions, or organizations with water or power delivery authority to fund research to conserve water, increase water use efficiency, or enhance water management under such terms and conditions as the Secretary determines to be appropriate.

SEC. 5. EFFECT.

Nothing in this Act—

(1) affects any existing project-specific funding authority; or

(2) invalidates, preempts, or creates any exception to State water law, State water rights, or any interstate compact governing water.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this Act $25,000,000 for each of fiscal years 2007 through 2016.

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

S. 2562. A bill to increase, effective as of December 1, 2006, the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans; to the Committee on Veterans' Affairs.

Mr. CRAIG. Mr. President, today I join Senator AKAKA in introducing legislation that would provide a cost-of-living adjustment to the rates of disability compensation provided to our Nation's disabled veterans and to the compensation provided to survivors of veterans and servicemembers who died, or who will die, as a result of military service. Every year since 1976 Congress has enacted an annual COLA adjustment for veterans with disabilities and survivors. The regularity of Congress's action on COLA legislation underscores its importance. Without it, inflation would erode the purchasing power of millions of beneficiaries.

According to its fiscal year 2007 budget, VA estimates that it will provide disability compensation to 2,867,013 veterans with service-connected disabilities in the upcoming fiscal year. Among the veterans estimated to receive such compensation are 5 World War I veterans; 335,180 World War II veterans; 160,889 Korean-conflict veterans; 992,360 Vietnam-era veterans; and 762,230 veterans of the Persian Gulf war era. The COLA legislation will also benefit an estimated 348,479 survivors.

The Congressional Budget Office, CBO, estimates that inflation, at the close of this fiscal year, will be at 2.2 percent as measured by the consumer price index published by the Department of Labor's Bureau of Labor Statistics. Once the actual inflation level is known, this legislation would adjust payment rates in effect on November 30, 2006, and be applied to payments made to veterans and survivors effective December 1, 2006. CBO also estimates that the legislation will increase direct spending by $530 million in fiscal year 2007. Again, because of the importance accorded to annual COLA legislation, all of this spending is assumed in the budget baseline and, thus, requires no offset.

In summary, this legislation is critical to the lives of over 3 million beneficiaries who have served our country well and faithfully. I ask my colleagues for their continued support for our nation's veterans. And I ask for their support of the Veterans' Compensation Cost-of-Living Adjustment Act of 2006.

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

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

S. 2562

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 ''Veterans' Compensation Cost-of-Living Adjustment Act of 2006''.

SEC. 2. INCREASE IN RATES OF DISABILITY COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION.

(a) RATE ADJUSTMENT.—Effective on December 1, 2006, the Secretary of Veterans Affairs shall increase, in accordance with subsection (c), the dollar amounts in effect on

November 30, 2006, for the payment of disability compensation and dependency and indemnity compensation under the provisions specified in subsection (b).

(b) AMOUNTS TO BE INCREASED.—The dollar amounts to be increased pursuant to subsection (a) are the following:

(1) WARTIME DISABILITY COMPENSATION.—Each of the dollar amounts under section 1114 of title 38, United States Code.

(2) ADDITIONAL COMPENSATION FOR DEPENDENTS.—Each of the dollar amounts under sections 1115(1) of such title.

(3) CLOTHING ALLOWANCE.—The dollar amount under section 1162 of such title.

(4) DEPENDENCY AND INDEMNITY COMPENSATION TO SURVIVING SPOUSE.—Each of the dollar amounts under subsections (a) through (d) of section 1311 of such title.

(5) DEPENDENCY AND INDEMNITY COMPENSATION TO CHILDREN.—Each of the dollar amounts under sections 1313(a) and 1314 of such title.

(c) DETERMINATION OF INCREASE.—

(1) PERCENTAGE.—Except as provided in paragraph (2), each dollar amount described in subsection (b) shall be increased by the same percentage as the percentage by which benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) are increased effective December 1, 2006, as a result of a determination under section 215(i) of such Act (42 U.S.C. 415(i)).

(2) ROUNDING.—Each dollar amount increased under paragraph (1), if not a whole dollar amount, shall be rounded to the next lower whole dollar amount.

(d) SPECIAL RULE.—The Secretary of Veterans Affairs may adjust administratively, consistent with the increases made under subsection (a), the rates of disability compensation payable to persons under section 10 of Public Law 85–857 (72 Stat. 1263) who have not received compensation under chapter 11 of title 38, United States Code.

SEC. 3. PUBLICATION OF ADJUSTED RATES.

The Secretary of Veterans Affairs shall publish in the Federal Register the amounts specified in section 2(b), as increased under that section, not later than the date on which the matters specified in section 215(i)(2)(D) of the Social Security Act (42 U.S.C. 415(i)(2)(D)) are required to be published by reason of a determination made under section 215(i) of such Act during fiscal year 2007.

By Mr. COCHRAN (for himself, Mr. ENZI, and Mr. TALENT):

S. 2563. A bill to amend title XVIII of the Social Security Act to require prompt payment to pharmacies under part D, to restrict pharmacy co-branding on prescription drug cards issued under such part, and to provide guidelines for Medication Therapy Management Services programs offered by prescription drug plans and MA–PD plans under such part; to the Committee on Finance.

Mr. COCHRAN. Mr. President, The Medicare prescription drug plan is a tremendous success with more than 27 million Medicare beneficiaries now enrolled in the program. Seniors are realizing significant decreases in the cost of their prescription drugs and the savings are even greater than expected. The Centers for Medicare and Medicaid Services (CMS) and health care providers worked together to plan and implement this program. In particular, community pharmacists played an important role in making this benefit successful. Prior to the January 1 start of the program, pharmacists assisted their Medicare patients in the selection and enrollment process. This process was new and challenging, but pharmacists were diligent in serving their patients and providing much-needed medications while the program became functional.

We are introducing a bill today to assist pharmacists as they continue to serve their patients and as they help to continue the success of the Medicare drug benefit. This bill will allow pharmacists to achieve efficiencies in reimbursement for the products they have provided to new beneficiaries. This is especially needed by small, rural independent pharmacies. This legislation will also provide incentives for pharmacists and other providers to help beneficiaries better utilize their medications, adhere to their drug regimens, and utilize cost saving medication therapy management programs.

I am pleased to offer this legislation that will help continue the success of the Medicare prescription drug benefit.

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

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

S. 2563

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 ''Pharmacist Access and Recognition in Medicare (PhARM) Act of 2006''.

SEC. 2. PROMPT PAYMENT BY PRESCRIPTION DRUG PLANS AND MA–PD PLANS UNDER PART D.

(a) PROMPT PAYMENT BY PRESCRIPTION DRUG PLANS.—Section 1860D–12(b) of the Social Security Act (42 U.S.C. 1395w–112(b)) is amended by adding at the end the following new paragraph:

''(4) PROMPT PAYMENT OF CLEAN CLAIMS.—

''(A) PROMPT PAYMENT.—

''(i) IN GENERAL.—Each contract entered into with a PDP sponsor under this section with respect to a prescription drug plan offered by such sponsor shall provide that payment shall be issued, mailed, or otherwise transmitted with respect to all clean claims submitted under this part within the applicable number of calendar days after the date on which the claim is received.

''(ii) CLEAN CLAIM DEFINED.—In this paragraph, the term 'clean claim' means a claim that has no apparent defect or impropriety (including any lack of any required substantiating documentation) or particular circumstance requiring special treatment that prevents timely payment from being made on the claim under this part.

''(B) APPLICABLE NUMBER OF CALENDAR DAYS DEFINED.—In this paragraph, the term 'applicable number of calendar days' means—

''(i) with respect to claims submitted electronically, 14 days; and

''(ii) with respect to claims submitted otherwise, 30 days.

''(C) INTEREST PAYMENT.—If payment is not issued, mailed, or otherwise transmitted within the applicable number of calendar days (as defined in subparagraph (B)) after a clean claim is received, interest shall be paid at a rate used for purposes of section 3902(a) of title 31, United States Code (relating to interest penalties for failure to make prompt payments), for the period beginning on the day after the required payment date and ending on the date on which payment is made.

''(D) PROCEDURES INVOLVING CLAIMS.—

''(i) IN GENERAL.—A contract entered into with a PDP sponsor under this section with respect to a prescription drug plan offered by such sponsor shall provide that, not later than 10 days after the date on which a clean claim is submitted, the PDP sponsor shall provide the claimant with a notice that acknowledges receipt of the claim by such sponsor. Such notice shall be considered to have been provided on the date on which the notice is mailed or electronically transferred.

''(ii) CLAIM DEEMED TO BE CLEAN.—A claim is deemed to be a clean claim if the PDP sponsor involved does not provide notice to the claimant of any deficiency in the claim within 10 days of the date on which the claim is submitted.

''(iii) CLAIM DETERMINED TO NOT BE A CLEAN CLAIM.—

''(I) IN GENERAL.—If a PDP sponsor determines that a submitted claim is not a clean claim, the PDP sponsor shall, not later than the end of the period described in clause (ii), notify the claimant of such determination. Such notification shall specify all defects or improprieties in the claim and shall list all additional information or documents necessary for the proper processing and payment of the claim.

''(II) DETERMINATION AFTER SUBMISSION OF ADDITIONAL INFORMATION.—A claim is deemed to be a clean claim under this paragraph if the PDP sponsor involved does not provide notice to the claimant of any defect or impropriety in the claim within 10 days of the date on which additional information is received under subclause (I).

''(III) PAYMENT OF CLEAN PORTION OF A CLAIM.—A PDP sponsor shall pay any portion of a claim that would be a clean claim but for a defect or impropriety in a separate portion of the claim in accordance with subparagraph (A).

''(iv) OBLIGATION TO PAY.—A claim submitted to a PDP sponsor that is not paid or contested by the provider within the applicable number of days (as defined in subparagraph (B)) shall be deemed to be a clean claim and shall be paid by the PDP sponsor in accordance with subparagraph (A).

''(v) DATE OF PAYMENT OF CLAIM.—Payment of a clean claim under such subparagraph is considered to have been made on the date on which full payment is received by the provider.

''(E) ELECTRONIC TRANSFER OF FUNDS.—A PDP sponsor shall pay all clean claims submitted electronically by electronic transfer of funds.''.

(b) PROMPT PAYMENT BY MA-PD PLANS.—Section 1857(f) of the Social Security Act (42 U.S.C. 1395w–27(f)) is amended by adding at the end the following new paragraph:

''(3) INCORPORATION OF CERTAIN PRESCRIPTION DRUG PLAN CONTRACT REQUIREMENTS.—The provisions of section 1860D–12(b)(4) shall apply to contracts with a Medicare Advantage organization in the same manner as they apply to contracts with a PDP sponsor offering a prescription drug plan under part D.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to contracts entered into or renewed on or after the date that is 90 days after the date of the enactment of this Act.

SEC. 3. RESTRICTION ON PHARMACY CO-BRANDING ON MEDICARE PRESCRIPTION DRUG CARDS ISSUED BY PRESCRIPTION DRUG PLANS AND MA–PD PLANS.

(a) IN GENERAL.—Section 1860D–4 of the Social Security Act (42 U.S.C. 1395w–104) is amended—

(1) in subsection (b)(2)(A), by striking ''The PDP sponsor'' and inserting ''Subject to subsection (l), the PDP sponsor''; and

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

''(l) CO-BRANDING PROHIBITED.—A card that is issued under subsection (b)(2)(A) for use under a prescription drug plan offered by a PDP sponsor shall not display the name, brand, or trademark of any pharmacy.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to cards distributed on or after the date that is 90 days after the date of enactment of this Act.

SEC. 4. PROVISION OF MEDICATION THERAPY MANAGEMENT SERVICES UNDER PART D.

(a) PROVISION OF MEDICATION THERAPY MANAGEMENT SERVICES UNDER PART D.—

(1) IN GENERAL.—Section 1860D–4(c)(2) of the Social Security Act (42 U.S.C.1395w–104(c)(2)) is amended—

(A) in subparagraph (A)—

(i) in clause (i)—

(I) by inserting ''or other health care provider with advanced training in medication management'' after ''furnished by a pharmacist''; and

(II) by striking ''targeted beneficiaries described in clause (ii)'' and inserting ''targeted beneficiaries specified under clause (ii)''

(ii) by striking clause (ii) and inserting the following:

''(ii) TARGETED BENEFICIARIES.—The Secretary shall specify the population of part D eligible individuals appropriate for services under a medication therapy management program based on the following characteristics:

''(I) Having a disease state in which evidence-based medicine has demonstrated the benefit of medication therapy management intervention based on objective outcome measures.

''(II) Taking multiple covered part D drugs or having a disease state in which a complex combination medication regimen is utilized.

''(III) Being identified as likely to incur annual costs for covered part D drugs that exceed a level specified by the Secretary or where acute or chronic decompensation of disease would likely increase expenditures under the Federal Hospital Insurance Trust Fund or the Federal Supplementary Medical Insurance Trust Fund under sections 1817 and 1841, respectively, such as through the requirement of emergency care or acute hospitalization.'';

(B) by striking subparagraph (B) and inserting the following:

''(B) ELEMENTS.—

''(i) MINIMUM DEFINED PACKAGE OF SERVICES.—The Secretary shall specify a minimum defined package of medication therapy management services that shall be provided to each enrollee. Such package shall be based on the following considerations:

''(I) Performing necessary assessments of the health status of each enrollee.

''(II) Providing medication therapy review to identify, resolve, and prevent medication-related problems, including adverse events.

''(III) Increasing enrollee understanding to promote the appropriate use of medications by enrollees and to reduce the risk of potential adverse events associated with medications, through beneficiary and family education, counseling, and other appropriate means.

''(IV) Increasing enrollee adherence with prescription medication regimens through medication refill reminders, special packaging, and other compliance programs and other appropriate means.

''(V) Promoting detection of adverse drug events and patterns of overuse and underuse of prescription drugs.

''(VI) Developing a medication action plan which may alter the medication regimen, when permitted by the State licensing authority. This information should be provided to, or accessible by, the primary health care provider of the enrollee.

''(VII) Monitoring and evaluating the response to therapy and evaluating the safety and effectiveness of the therapy, which may include laboratory assessment.

''(VIII) Providing disease-specific medication therapy management services when appropriate.

''(IX) Coordinating and integrating medication therapy management services within the broader scope of health care management services being provided to each enrollee.

''(ii) DELIVERY OF SERVICES.—

''(I) PERSONAL DELIVERY.—To the extent feasible, face-to-face interaction shall be the preferred method of delivery of medication therapy management services.

''(II) INDIVIDUALIZED.—Such services shall be patient-specific and individualized and shall be provided directly to the patient by a pharmacist or other health care provider with advanced training in medication management.

''(III) DISTINCT FROM OTHER ACTIVITIES.—Such services shall be distinct from any activities related to formulary development and use, generalized patient education and information activities, and any population-focused quality assurance measures for medication use.

''(iii) OPPORTUNITY TO IDENTIFY PATIENTS IN NEED OF MEDICATION THERAPY MANAGEMENT SERVICES.—The program shall provide opportunities for health care providers to identify patients who should receive medication therapy management services.'';

(C) by striking subparagraph (E) and inserting the following:

''(E) PHARMACY FEES.—

''(i) IN GENERAL.—The PDP sponsor of a prescription drug plan shall pay pharmacists and others providing services under the medication therapy management program under this paragraph based on the time and intensity of services provided to enrollees.

''(ii) SUBMISSION ALONG WITH PLAN INFORMATION.—Each such sponsor shall disclose to the Secretary upon request the amount of any such payments and shall submit a description of how such payments are calculated along with the information submitted under section 1860D–11(b). Such description shall be submitted at the same time and in a similar manner to the manner in which the information described in paragraph (2) of such section is submitted.''; and

(D) by adding at the end the following new subparagraph:

''(F) PHARMACY ACCESS REQUIREMENTS.—The PDP sponsor of a prescription drug plan shall secure the participation in its network of a sufficient number of retail pharmacies to assure that enrollees have the option of obtaining services under the medication therapy management program under this paragraph directly from community-based retail pharmacies.''.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to medication therapy management services provided on or after January 1, 2008.

(b) MEDICATION THERAPY MANAGEMENT DEMONSTRATION PROGRAM.—Section 1860D–4(c) of the Social Security Act (42 U.S.C.1395w–104(c)) is amended by adding at the end the following new paragraph:

''(3) COMMUNITY-BASED MEDICATION THERAPY MANAGEMENT DEMONSTRATION PROGRAM.—

''(A) ESTABLISHMENT.—

''(i) IN GENERAL.—By not later than January 1, 2008, the Secretary shall establish a 2-year demonstration program, based on the recommendations of the Best Practices Commission established under subparagraph (B), with both PDP sponsors of prescription drug plans and Medicare Advantage Organizations offering MA–PD plans, to examine the impact of medication therapy management furnished by a pharmacist in a community-based or ambulatory-based setting on quality of care, spending under this part, and patient health.

''(ii) SITES.—

''(I) IN GENERAL.—Subject to subclause (II), the Secretary shall designate not less than 10 PDP sponsors of prescription drug plans or Medicare Advantage Organizations offering MA–PD plans, none of which provide prescription drug coverage under such plans in the same PDP or MA region, respectively, to conduct the demonstration program under this paragraph.

''(II) DESIGNATION CONSISTENT WITH RECOMMENDATIONS OF BEST PRACTICES COMMISSION.—The Secretary shall ensure that the designation of sites under subclause (I) is consistent with the recommendations of the Best Practices Commission under subparagraph (B)(ii).

''(B) BEST PRACTICES COMMISSION.—

''(i) ESTABLISHMENT.—The Secretary shall establish a Best Practices Commission composed of representatives from pharmacy organizations, health care organizations, beneficiary advocates, chronic disease groups, and other stakeholders (as determined appropriate by the Secretary) for the purpose of developing a best practices model for medication therapy management.

''(ii) RECOMMENDATIONS.—The Commission shall submit to the Secretary recommendations on the following:

''(I) The minimum number of enrollees that should be included in the demonstration program, and at each demonstration program site, to determine the impact of medication therapy management furnished by a pharmacist in a community-based setting on quality of care, spending under this part, and patient health.

''(II) The number of urban and rural sites that should be included in the demonstration program to ensure that prescription drug plans and MA–PD plans offered in urban and rural areas are adequately represented.

''(III) A best practices model for medication therapy management to be implemented under the demonstration program under this paragraph.

''(C) REPORTS.—

''(i) INTERIM REPORT.—Not later than 1 year after the commencement of the demonstration program, the Secretary shall submit to Congress an interim report on such program.

''(ii) FINAL REPORT.—Not later than 6 months after the completion of the demonstration program, the Secretary shall submit to Congress a final report on such program, together with recommendations for such legislation and administrative action as the Secretary determines appropriate.

''(D) WAIVER AUTHORITY.—The Secretary may waive such requirements of titles XI and XVIII as may be necessary for the purpose of carrying out the demonstration program under this paragraph.''.

Mr. ENZI. Mr. President, I rise to introduce the Pharmacist Access and Recognition in Medicare Act. I have enjoyed working closely with Chairman COCHRAN and Senator TALENT on

this bill that will help protect the valuable role that pharmacists play in our communities.

I have spent a lot of time over the past few months traveling around my home State of Wyoming talking to seniors about the new Medicare prescription drug benefit. This new voluntary benefit represents the most significant improvement to Medicare since its inception in 1965. Because of this new benefit, more seniors have prescription drug coverage and are able to purchase the medicines they need. Since the benefit took effect on January 1, 2006, 17,700 beneficiaries in Wyoming have signed up for prescription drug coverage and 27 million beneficiaries nationwide have drug coverage. I encourage all beneficiaries to enroll in a prescription drug plan before May 15, 2006.

I strongly support our community pharmacists. The changeover to Medicare Part D hasn't been easy and has produced several obstacles they have had to deal with as they have worked to serve Medicare beneficiaries. In traveling around my State over the past few months, I have talked to a few pharmacists who mentioned a few key problems they are facing with this new Medicare program that I believe we should address.

The first is an issue of cash flow management. As the only accountant in the United States Senate, I understand this problem. Most pharmacists have to pay their wholesalers like clockwork two times a month, but they are not receiving their reimbursement from the prescription drug plans in a similar timely fashion. This bill changes that. The bill states that plans have to reimburse all ''clean claims'' every 14 days. The bill also facilitates a quicker reimbursement by specifying that claims submitted electronically shall be paid by electronic transfer of funds. This is a small change in the law that I believe will play a large role in helping ease the transition to the new program for our local and community pharmacists.

The second issue I have heard about is called co-branding. Some of the prescription drug plans have partnered with some of the larger pharmacies and the plans are putting pharmacy logos on the benefit cards the beneficiaries use to get their prescriptions filled. Some people have told me that this is very confusing, because beneficiaries think that they must go to the pharmacy listed on the card. My bill says that co-branding is no longer allowed and all newly issued cards will not have pharmacy logos on them.

The final thing this bill does is expand upon what was in the Medicare bill that passed in 2003 regarding medication therapy management programs. I am pleased to say that Wyoming is ahead of the curve in this area. A few years ago, the Wyoming Department of Health partnered with the University of Wyoming to provide a service called Wyoming PharmAssist, which directly connects patients with registered pharmacists to review their medications for possible drug interactions and duplications. I was pleased to learn that this service is more advanced than systems in other States, providing patients with ways to reduce their monthly medication costs while improving safety. The Wyoming PharmAssist program can save clients $152 per month and $1,844 a year. Wyoming Pharm-Assist pays registered pharmacists for these unique services and is a model for the Nation. My bill tries to make the Federal program more like the very successful program in Wyoming.

I commend all the pharmacists across the country who are working so hard to make this new Medicare program work. They are getting life saving drugs to seniors who may not have been able to afford them before. I am proud to say I voted for this program back in 2003 and I am pleased with all the progress we are making.

I believe the Senate operates under what I call the 80/20 rule. 80 percent of the things that get done around here are non-contentious issues with support from both parties. The other 20 percent are the contentious issues that we seem to spend all our time talking about. I think this bill falls into the 80 percent category. This is a small bill that will do a lot of good for our pharmacists. It has wide support and I look forward to working with Chairman GRASSLEY to help move this bill through his Committee.

I invite my colleagues to join me and Senators COCHRAN and TALENT as sponsors of this bill to allow pharmacists to continue to provide the best quality care for seniors and the disabled who rely on them for their medications.

I ask that the text of the bill following my statement be placed in the RECORD.

By Mr. BURR (for himself, Mr. FRIST, Mr. ENZI, Mr. GREGG, Mr. ALEXANDER, and Mrs. DOLE):

S. 2564. A bill to prepare and strengthen the biodefenses of the United States against deliberate, accidental, and natural outbreaks of illness, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

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

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

S. 2564

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 ''Biodefense and Pandemic Vaccine and Drug Development Act of 2006''.

SEC. 2. TABLE OF CONTENTS.

The table of contents of this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.
Sec. 3. Biomedical Advanced Research and Development Authority; National Biodefense Science Board.
Sec. 4. Clarification of countermeasures covered by Project BioShield.
Sec. 5. Orphan drug market exclusivity for countermeasure products.
Sec. 6. Technical assistance.
Sec. 7. Collaboration and coordination.
Sec. 8. Procurement.
Sec. 9. Rule of construction.

SEC. 3. BIOMEDICAL ADVANCED RESEARCH AND DEVELOPMENT AUTHORITY; NATIONAL BIODEFENSE SCIENCE BOARD.

(a) IN GENERAL.—Title III of the Public Health Service Act (42 U.S.C. 241 et seq.) is amended by inserting after section 319K the following:

''SEC. 319L. BIOMEDICAL ADVANCED RESEARCH AND DEVELOPMENT AUTHORITY.

''(a) DEFINITIONS.—In this section:

''(1) BARDA.—The term 'BARDA' means the Biomedical Advanced Research and Development Authority.

''(2) FUND.—The term 'Fund' means the Biodefense Medical Countermeasure Development Fund established under subsection (d).

''(3) OTHER TRANSACTIONS.—The term 'other transactions' means transactions, other than procurement contracts, grants, and cooperative agreements, such as the Secretary of Defense may enter into under section 2371 of title 10, United States Code.

''(4) QUALIFIED COUNTERMEASURE.—The term 'qualified countermeasure' has the meaning given such term in section 319F–1.

''(5) QUALIFIED PANDEMIC OR EPIDEMIC PRODUCT.—The term 'qualified pandemic or epidemic product' has the meaning given the term in section 319F–3.

''(6) ADVANCED RESEARCH AND DEVELOPMENT.—

''(A) IN GENERAL.—The term 'advanced research and development' means, with respect to a product that is or may become a qualified countermeasure or a qualified pandemic or epidemic product, activities that predominantly—

''(i) are conducted after basic research and preclinical development of the product; and

''(ii) are related to manufacturing the product on a commercial scale and in a form that satisfies the regulatory requirements under the Federal Food, Drug, and Cosmetic Act or under section 351 of this Act.

''(B) ACTIVITIES INCLUDED.—The term under subparagraph (A) includes—

''(i) testing of the product to determine whether the product may be approved, cleared, or licensed under the Federal Food, Drug, and Cosmetic Act or under section 351 of this Act for a use that is or may be the basis for such product becoming a qualified countermeasure or qualified pandemic or epidemic product, or to help obtain such approval, clearance, or license;

''(ii) design and development of tests or models, including animal models, for such testing;

''(iii) activities to facilitate manufacture of the product on a commercial scale with consistently high quality, as well as to improve and make available new technologies to increase manufacturing surge capacity;

''(iv) activities to improve the shelf-life of the product or technologies for administering the product; and

''(v) such other activities as are part of the advanced stages of testing, refinement, improvement, or preparation of the product for such use and as are specified by the Secretary.

''(7) SECURITY COUNTERMEASURE.—The term 'security countermeasure' has the meaning given such term in section 319F–2.

''(8) RESEARCH TOOL.—The term 'research tool' means a device, technology, biological material (including a cell line or an antibody), reagent, animal model, computer system, computer software, or analytical technique that is developed to assist in the discovery, development, or manufacture of qualified countermeasures or qualified pandemic or epidemic products.

''(9) PROGRAM MANAGER.—The term 'program manager' means an individual appointed to carry out functions under this section and authorized to provide project oversight and management of strategic initiatives.

''(10) PERSON.—The term 'person' includes an individual, partnership, corporation, association, entity, or public or private corporation, and a Federal, State, or local government agency or department.

''(b) STRATEGIC PLAN FOR COUNTERMEASURE RESEARCH, DEVELOPMENT, AND PROCUREMENT.—

''(1) IN GENERAL.—Not later than 6 months after the date of enactment of the Biodefense and Pandemic Vaccine and Drug Development Act of 2006, the Secretary shall develop and make public a strategic plan to integrate biodefense and emerging infectious disease requirements with the advanced research and development, strategic initiatives for innovation, and the procurement of qualified countermeasures and qualified pandemic or epidemic products.

''(2) CONTENT.—The strategic plan under paragraph (1) shall guide—

''(A) research and development, conducted or supported by the Department of Health and Human Services, of qualified countermeasures and qualified pandemic or epidemic products against possible biological, chemical, radiological, and nuclear agents and to emerging infectious diseases;

''(B) innovation in technologies that may assist advanced research and development of qualified countermeasures and qualified pandemic or epidemic products (such research and development referred to in this section as 'countermeasure and product advanced research and development'); and

''(C) procurement of such qualified countermeasures and qualified pandemic or epidemic products by such Department.

''(c) BIOMEDICAL ADVANCED RESEARCH AND DEVELOPMENT AUTHORITY.—

''(1) ESTABLISHMENT.—There is established within the Department of Health and Human Services the Biomedical Advanced Research and Development Authority.

''(2) IN GENERAL.—Based upon the strategic plan described in subsection (b), the Secretary shall coordinate and oversee the acceleration of countermeasure and product advanced research and development by—

''(A) facilitating collaboration among the Department of Health and Human Services, other Federal agencies, relevant industries, academia, and other persons, with respect to such advanced research and development;

''(B) promoting countermeasure and product advanced research and development;

''(C) facilitating contacts between interested persons and the offices or employees authorized by the Secretary to advise such persons regarding requirements under the Federal Food, Drug, and Cosmetic Act and under section 351 of this Act; and

''(D) promoting innovation to reduce the time and cost of countermeasure and product advanced research and development.

''(3) DIRECTOR.—The BARDA shall be headed by a Director (referred to in this section as the 'Director') who shall be appointed by the Secretary and to whom the Secretary shall delegate such functions and authorities as necessary to implement this section.

''(4) DUTIES.—

''(A) COLLABORATION.—To carry out the purpose described in paragraph (2)(A), the Secretary shall—

''(i) facilitate and increase the expeditious and direct communication between the Department of Health and Human Services and relevant persons with respect to countermeasure and product advanced research and development, including by—

''(I) facilitating such communication regarding the processes for procuring such advanced research and development with respect to qualified countermeasures and qualified pandemic or epidemic products of interest; and

''(II) soliciting information about and data from research on potential qualified countermeasures and qualified pandemic or epidemic products and related technologies;

''(ii) at least annually—

''(I) convene meetings with representatives from relevant industries, academia, other Federal agencies, international agencies as appropriate, and other interested persons;

''(II) sponsor opportunities to demonstrate the operation and effectiveness of relevant biodefense countermeasure technologies; and

''(III) convene such working groups on countermeasure and product advanced research and development as the Secretary may determine are necessary to carry out this section; and

''(iii) carry out the activities described in section 7 of the Biodefense and Pandemic Vaccine and Drug Development Act of 2006.

''(B) SUPPORT ADVANCED RESEARCH AND DEVELOPMENT.—To carry out the purpose described in paragraph (2)(B), the Secretary shall—

''(i) conduct ongoing searches for, and support calls for, potential qualified countermeasures and qualified pandemic or epidemic products;

''(ii) direct and coordinate the countermeasure and product advanced research and development activities of the Department of Health and Human Services;

''(iii) establish strategic initiatives to accelerate countermeasure and product advanced research and development and innovation in such areas as the Secretary may identify as priority unmet need areas; and

''(iv) award contracts, grants, cooperative agreements, and enter into other transactions, for countermeasure and product advanced research and development.

''(C) FACILITATING ADVICE.—To carry out the purpose described in paragraph (2)(C) the Secretary shall—

''(i) connect interested persons with the offices or employees authorized by the Secretary to advise such persons regarding the regulatory requirements under the Federal Food, Drug, and Cosmetic Act and under section 351 of this Act related to the approval, clearance, or licensure of qualified countermeasures or qualified pandemic or epidemic products; and

''(ii) ensure that, with respect to persons performing countermeasure and product advanced research and development funded under this section, such offices or employees provide such advice in a manner that is ongoing and that is otherwise designated to facilitate expeditious development of qualified countermeasures and qualified pandemic or epidemic products that may achieve such approval, clearance, or licensure.

''(D) SUPPORTING INNOVATION.—To carry out the purpose described in paragraph (2)(D), the Secretary may award contracts, grants, and cooperative agreements, or enter into other transactions, such as prize payments, to promote—

''(i) innovation in technologies that may assist countermeasure and product advanced research and development;

''(ii) research on and development of research tools and other devices and technologies; and

''(iii) research to promote strategic initiatives, such as rapid diagnostics, broad spectrum antimicrobials, and vaccine manufacturing technologies.

''(5) TRANSACTION AUTHORITIES.—

''(A) OTHER TRANSACTIONS.—In carrying out the functions under subparagraph (B) or (D) of paragraph (4), the Secretary shall have authority to enter into other transactions for countermeasure and product advanced research and development.

''(B) EXPEDITED AUTHORITIES.—

''(i) IN GENERAL.—In awarding contracts, grants, and cooperative agreements, and in entering into other transactions under subparagraph (B) or (D) of paragraph (4), the Secretary shall have the expedited procurement authorities, the authority to expedite peer review, and the authority for personal services contracts, supplied by subsections (b), (c), and (d) of section 319F-1.

''(ii) APPLICATION OF PROVISIONS.—Provisions in such section 319F-1 that apply to such authorities and that require institution of internal controls, limit review, provide for Federal Tort Claims Act coverage of personal services contractors, and commit decisions to the discretion of the Secretary shall apply to the authorities as exercised pursuant to this paragraph.

''(iii) AUTHORITY TO LIMIT COMPETITION.—For purposes of applying section 319F–1(b)(1)(D) to this paragraph, the phrase 'BioShield Program under the Project BioShield Act of 2004' shall be deemed to mean the countermeasure and product advanced research and development program under this section.

''(iv) AVAILABILITY OF DATA.—The Secretary shall require that, as a condition of being awarded a contract, grant, cooperative agreement, or other transaction under subparagraph (B) or (D) of paragraph (4), a person make available to the Secretary on an ongoing basis, and submit upon request to the Secretary, all data related to or resulting from countermeasure and product advanced research and development carried out pursuant to this section.

''(C) ADVANCE PAYMENTS; ADVERTISING.—The authority of the Secretary to enter into contracts under this section shall not be limited by section 3324(a) of title 31, United States Code, or by section 3709 of the Revised Statutes of the United States (41 U.S.C. 5).

''(D) MILESTONE-BASED PAYMENTS ALLOWED.—In awarding contracts, grants, and cooperative agreements, and in entering into other transactions, under this section, the Secretary may use milestone-based awards and payments.

''(E) FOREIGN NATIONALS ELIGIBLE.—The Secretary may under this section award contracts, grants, and cooperative agreements to, and may enter into other transactions with, highly qualified foreign national persons outside the United States, alone or in collaboration with American participants, when such transactions may inure to the benefit of the American people.

''(F) ESTABLISHMENT OF RESEARCH CENTERS.—The Secretary may establish one or more federally-funded research and development centers, or university-affiliated research centers in accordance with section 303(c)(3) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(c)(3)).

''(6) VULNERABLE POPULATIONS.—In carrying out the functions under this section, the Secretary may give priority to the advanced research and development of qualified countermeasures and qualified pandemic or epidemic products that are likely to be safe and effective with respect to children,

pregnant women, and other vulnerable populations.

''(7) PERSONNEL AUTHORITIES.—

''(A) SPECIALLY QUALIFIED SCIENTIFIC AND PROFESSIONAL PERSONNEL.—In addition to any other personnel authorities, the Secretary may—

''(i) without regard to those provisions of title 5, United States Code, governing appointments in the competitive service, appoint highly qualified individuals to scientific or professional positions in BARDA, such as program managers, to carry out this section; and

''(ii) compensate them in the same manner in which individuals appointed under section 9903 of such title are compensated, without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

''(B) SPECIAL CONSULTANTS.—In carrying out this section, the Secretary may—

''(i) appoint special consultants pursuant to section 207(f); and

''(ii) accept voluntary and uncompensated services.

''(d) FUND.—

''(1) ESTABLISHMENT.—There is established the Biodefense Medical Countermeasure Development Fund, which shall be available to carry out this section.

''(2) FUNDS.—

''(A) FIRST FISCAL YEAR.—

''(i) AUTHORIZATION AND APPROPRIATION.—There are authorized to be appropriated and there are appropriated to the Fund $340,000,000 to carry out this section for fiscal year 2007. Such funds shall remain available until expended.

''(ii) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated, in addition to the amounts appropriated under clause (i), $160,000,000 to carry out this section for fiscal year 2007. Such funds shall remain available until expended.

''(B) SUBSEQUENT FISCAL YEARS.—

''(i) IN GENERAL.—There are authorized to be appropriated to carry out this section—

''(I) $500,000,000 for fiscal year 2008; and

''(II) such sums as may be necessary for fiscal years 2009 through 2012.

''(ii) AVAILABILITY OF FUNDS.—Such sums authorized under clause (i) shall remain available until expended.

''(e) INAPPLICABILITY OF CERTAIN PROVISIONS.—

''(1) DISCLOSURE.—

''(A) IN GENERAL.—The Secretary shall withhold from disclosure under section 552 of title 5, United States Code, specific technical data or scientific information that is created or obtained during the countermeasure and product advanced research and development funded by the Secretary that reveal vulnerabilities of existing medical or public health defenses against biological, chemical, nuclear, or radiological threats. Such information shall be deemed to be information described in section 552(b)(3) of title 5, United States Code.

''(B) OVERSIGHT.—Information subject to nondisclosure under subparagraph (A) shall be reviewed by the Secretary every 5 years to determine the relevance or necessity of continued nondisclosure.

''(2) FEDERAL ADVISORY COMMITTEE ACT.—Section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to a working group of BARDA or to the National Biodefense Science Board under section 319M.

''SEC. 319M. NATIONAL BIODEFENSE SCIENCE BOARD AND WORKING GROUPS.

''(a) IN GENERAL.—

''(1) ESTABLISHMENT AND FUNCTION.—The Secretary shall establish the National Biodefense Science Board (referred to in this section as the 'Board') to provide expert advice and guidance to the Secretary on scientific, technical and other matters of special interest to the Department of Health and Human Services regarding current and future chemical, biological, nuclear, and radiological agents, whether naturally occurring, accidental, or deliberate.

''(2) MEMBERSHIP.—The membership of the Board shall be comprised of individuals who represent the Nation's preeminent scientific, public health, and medical experts, as follows—

''(A) such Federal officials as the Secretary may determine are necessary to support the functions of the Board;

''(B) four individuals representing the pharmaceutical, biotechnology, and device industries;

''(C) four individuals representing academia; and

''(D) five other members as determined appropriate by the Secretary.

''(3) TERM OF APPOINTMENT.—A member of the Board described in subparagraph (B), (C), or (D) of paragraph (2) shall serve for a term of 3 years, except that the Secretary may adjust the terms of the initial Board appointees in order to provide for a staggered term of appointment for all members.

''(4) CONSECUTIVE APPOINTMENTS; MAXIMUM TERMS.—A member may be appointed to serve not more than 3 terms on the Board and may serve not more than 2 consecutive terms.

''(5) DUTIES.—The Board shall—

''(A) advise the Secretary on current and future trends, challenges, and opportunities presented by advances in biological and life sciences, biotechnology, and genetic engineering with respect to threats posed by naturally occurring infectious diseases and chemical, biological, radiological, and nuclear agents;

''(B) at the request of the Secretary, review and consider any information and findings received from the working groups established under subsection (b); and

''(C) at the request of the Secretary, provide recommendations and findings for expanded, intensified, and coordinated biodefense research and development activities.

''(6) MEETINGS.—

''(A) INITIAL MEETING.—Not later than one year after the date of enactment of the Biodefense and Pandemic Vaccine and Drug Development Act of 2006, the Secretary shall hold the first meeting of the Board.

''(B) SUBSEQUENT MEETINGS.—The Board shall meet at the call of the Secretary, but in no case less than twice annually.

''(7) VACANCIES.—Any vacancy in the Board shall not affect its powers, but shall be filled in the same manner as the original appointment.

''(8) CHAIRPERSON.—The Secretary shall appoint a chairperson from among the members of the Board.

''(9) POWERS.—

''(A) HEARINGS.—The Board may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Board considers advisable to carry out this subsection.

''(B) POSTAL SERVICES.—The Board may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

''(10) PERSONNEL.—

''(A) EMPLOYEES OF THE FEDERAL GOVERNMENT.—A member of the Board that is an employee of the Federal Government may not receive additional pay, allowances, or benefits by reason of the member's service on the Board.

''(B) OTHER MEMBERS.—A member of the Board that is not an employee of the Federal Government may be compensated at a rate not to exceed the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the actual performance of duties as a member of the Board.

''(C) TRAVEL EXPENSES.—Each member of the Board shall receive travel expenses, including per diem in lieu of subsistence, in accordance with applicable provisions under subchapter I of chapter 57 of title 5, United States Code.

''(D) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Board with the approval for the contributing agency without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

''(b) OTHER WORKING GROUPS.—The Secretary may establish a working group of experts, or may use an existing working group or advisory committee, to—

''(1) identify innovative research with the potential to be developed as a qualified countermeasure or a qualified pandemic or epidemic product;

''(2) identify accepted animal models for particular diseases and conditions associated with any biological, chemical, radiological, or nuclear agent, any toxin, or any potential pandemic infectious disease, and identify strategies to accelerate animal model and research tool development and validation; and

''(3) obtain advice regarding supporting and facilitating advanced research and development related to qualified countermeasures and qualified pandemic or epidemic products that are likely to be safe and effective with respect to children, pregnant women, and other vulnerable populations, and other issues regarding activities under this section that affect such populations.

''(c) DEFINITIONS.—Any term that is defined in section 319L and that is used in this section shall have the same meaning in this section as such term is given in section 319L.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $1,000,000 to carry out this section for fiscal year 2007 and each fiscal year thereafter.''.

(b) OFFSET OF FUNDING.—The amount appropriated under the subheading ''Biodefense Countermeasures'' under the heading ''Emergency Preparedness and Response'' in title III of the Department of Homeland Security Appropriations Act, 2004 (Public Law 108-90) shall be decreased by $340,000,000.

SEC. 4. CLARIFICATION OF COUNTERMEASURES COVERED BY PROJECT BIOSHIELD.

(a) QUALIFIED COUNTERMEASURE.—Section 319F–1(a) of the Public Health Service Act (42 U.S.C. 247d–6a(a)) is amended by striking paragraph (2) and inserting the following:

''(2) DEFINITIONS.—In this section:

''(A) QUALIFIED COUNTERMEASURE.—The term 'qualified countermeasure' means a drug (as that term is defined by section 201(g)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(g)(1))), biological product (as that term is defined by section 351(i) of this Act (42 U.S.C. 262(i))), or device (as that term is defined by section 201(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(h))), that the Secretary determines to be a priority (consistent with sections 302(2) and 304(a) of the Homeland Security Act of 2002) to—

''(i) diagnose, mitigate, prevent, or treat harm from any biological agent (including organisms that cause an infectious disease) or toxin, chemical, radiological, or nuclear agent that may cause a public health emergency affecting national security; or

''(ii) diagnose, mitigate, prevent, or treat harm from a condition that may result in adverse health consequences or death and may be caused by administering a drug, biological product, or device that is used as described in this subparagraph.

''(B) INFECTIOUS DISEASE.—The term 'infectious disease' means a disease potentially caused by a pathogenic organism (including a bacteria, virus, fungus, or parasite) that is acquired by a person and that reproduces in that person.''.

(b) SECURITY COUNTERMEASURE.—Section 319F–2(c)(1)(B) is amended by striking ''treat, identify, or prevent'' each place it appears and inserting ''diagnose, mitigate, prevent, or treat''.

(c) LIMITATION ON USE OF FUNDS.—Section 510(a) of the Homeland Security Act of 2002 (6 U.S.C. 320(a)) is amended by adding at the end the following: ''None of the funds made available under this subsection shall be used to procure countermeasures to diagnose, mitigate, prevent, or treat harm resulting from any naturally occurring infectious disease.''.

SEC. 5. ORPHAN DRUG MARKET EXCLUSIVITY FOR COUNTERMEASURE PRODUCTS.

(a) IN GENERAL.—Section 527 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360cc) is amended by adding at the end the following:

''(c) MARKET EXCLUSIVITIES FOR COUNTERMEASURES, ANTIBIOTICS, AND ANTIINFECTIVES.—

''(1) IN GENERAL.—Except as provided in paragraph (2), with respect to a drug that is designated under section 526 for a rare disease or condition, the period referred to in this section is deemed to be 10 years in lieu of 7 years if—

''(A) such rare disease or condition is directly caused by a—

''(i)(I) biological agent (including an organism that causes infectious disease);

''(II) toxin; or

''(III) chemical, radiological, or nuclear agent; and

''(ii) such biological agent (including an organism that causes an infectious disease), toxin, or chemical, radiological or nuclear agent, is identified as a material threat under subsection (c)(2)(A)(ii) of section 319F-2 of the Public Health Service Act;

''(B) such drug is determined by the Secretary to be a security countermeasure under subsection (c)(1)(B) of such section 319F-2 with respect to such agent or toxin;

''(C) no active ingredient (including a salt or ester of the active ingredient) of the drug has been approved under an application under section 505(b) prior to the submission of the request for designation of the new drug under section 526; and

''(D) notice respecting the designation of a drug under section 526 has been made available to the public.

''(2) APPLICATION OF PROVISION.—Paragraph (1) shall apply with respect to an antibiotic drug or antiinfective drug designated under section 526 only if—

''(A) no active ingredient (including a salt or ester of the active ingredient) of such drug has been approved as a feed or water additive for an animal in the absence of any clinical sign of disease in the animal for growth promotion, feed efficiency, weight gain, routine disease prevention, or other routine purpose;

''(B) no active ingredient (including a salt or ester of the active ingredient) of such drug has been approved for use in humans under section 505 or approved for human use under section 507 (as in effect prior to November 21, 1997) prior to the submission of the request for designation of the new drug under section 526;

''(C) the Secretary has made a determination that—

''(i) such drug is not a member of a class of antibiotics that is particularly prone to creating antibiotic resistance;

''(ii) sufficient antibiotics do not already exist in the same class;

''(iii) such drug represents a significant clinical improvement over other antibiotic drugs;

''(iv) such drug is for a serious or life-threatening disease or conditions; and

''(v) such drug is for a countermeasure use; and

''(D) notice respecting the designation of a drug under section 526 has been made available to the public.

''(3) RULE OF CONSTRUCTION.—With respect to a drug to which this subsection applies, and which is also approved for additional uses to which this subsection does not apply, nothing in section 505(b)(2) or 505(j) shall prohibit the Secretary from approving a drug under section 505(b)(2) or 505(j) with different or additional labeling for the drug as the Secretary deems necessary to ensure that the drug is safe and effective for the uses to which this subsection does not apply.

''(4) STUDY AND REPORT.—Not later than January 1, 2011, the Comptroller General of the United States shall conduct a study and submit to Congress a report concerning the effect of and activities under this subsection. Such study and report shall examine all relevant issues including—

''(A) the effectiveness of this subsection in improving the availability of novel countermeasures for procurement under section 319F-2 of the Public Health Service Act;

''(B) the effectiveness of this subsection in improving the availability of drugs that treat serious or life threatening diseases or conditions and offer significant clinical improvements;

''(C) the continued need for additional incentives to create more antibiotics and antiinfectives;

''(D) the economic impact of the section on taxpayers and consumers, including—

''(i) the economic value of additional drugs provided for under this subsection, including the impact of improved health care and hospitalization times associated with treatment of nosocomial infections; and

''(ii) the economic cost of any delay in the availability of lower cost generic drugs on patients, the insured, and Federal and private health plans;

''(E) the adequacy of limits under subparagraphs (A) and (B) of paragraph (2) to maximize the useful period during which antibiotic drugs or antiinfective drugs remain therapeutically useful treatments; and

''(F) any recommendations for modifications to this subsection that the Comptroller determines to be appropriate.

''(5) EFFECTIVE DATE.—This subsection shall apply only to products for which an applicant has applied for designation under section 526 after the date of enactment of the Biodefense and Pandemic Vaccine and Drug Development Act of 2006.

''(6) SUNSET.—This subsection shall not apply with respect to any designation of a drug under section 526 made by the Secretary on or after October 1, 2011.''.

SEC. 6. TECHNICAL ASSISTANCE.

Subchapter E of chapter V of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360bbb et seq.) is amended by adding at the end the following:

''SEC. 565. TECHNICAL ASSISTANCE.

''The Secretary, in consultation with the Commissioner of Food and Drugs, shall establish within the Food and Drug Administration a team of experts on manufacturing and regulatory activities (including compliance with current Good Manufacturing Practice) to provide both off-site and on-site technical assistance to the manufacturers of qualified countermeasures (as defined in section 319F–1 of the Public Health Service Act), security countermeasures (as defined in section 319F–2 of such Act), or vaccines, at the request of such a manufacturer and at the discretion of the Secretary, if the Secretary determines that a shortage or potential shortage may occur in the United States in the supply of such vaccines or countermeasures and that the provision of such assistance would be beneficial in helping alleviate or avert such shortage.''.

SEC. 7. COLLABORATION AND COORDINATION.

(a) LIMITED ANTITRUST EXEMPTION.—

(1) MEETINGS AND CONSULTATIONS TO DISCUSS SECURITY COUNTERMEASURES, QUALIFIED COUNTERMEASURES, OR QUALIFIED PANDEMIC OR EPIDEMIC PRODUCT DEVELOPMENT.—

(A) AUTHORITY TO CONDUCT MEETINGS AND CONSULTATIONS.—The Secretary of Health and Human Services (referred to in this subsection as the ''Secretary''), in coordination with the Attorney General and the Secretary of Homeland Security, may conduct meetings and consultations with persons engaged in the development of a security countermeasure (as defined in section 319F–2 of the Public Health Service Act (42 U.S.C. 247d–6b)) (as amended by this Act), a qualified countermeasure (as defined in section 319F–1 of the Public Health Service Act (42 U.S.C. 247d–6a))) (as amended by this Act), or a qualified pandemic or epidemic product (as defined in section 319F–3 of the Public Health Service Act (42 U.S.C. 247d–6d)) for the purpose of the development, manufacture, distribution, purchase, or storage of a countermeasure or product. The Secretary may convene such meeting or consultation at the request of the Secretary of Homeland Security, the Attorney General, the Chairman of the Federal Trade Commission (referred to in this section as the ''Chairman''), or any interested person, or upon initiation by the Secretary. The Secretary shall give prior notice of any such meeting or consultation, and the topics to be discussed, to the Attorney General, the Chairman, and the Secretary of Homeland Security.

(B) MEETING AND CONSULTATION CONDITIONS.—A meeting or consultation conducted under subparagraph (A) shall—

(i) be chaired or, in the case of a consultation, facilitated by the Secretary;

(ii) be open to persons involved in the development, manufacture, distribution, purchase, or storage of a countermeasure or product, as determined by the Secretary;

(iii) be open to the Attorney General, the Secretary of Homeland Security, and the Chairman;

(iv) be limited to discussions involving covered activities; and

(v) be conducted in such manner as to ensure that no national security, confidential commercial, or proprietary information is disclosed outside the meeting or consultation.

(C) LIMITATION.—The Secretary may not require participants to disclose confidential commercial or proprietary information.

(D) TRANSCRIPT.—The Secretary shall maintain a complete verbatim transcript of each meeting or consultation conducted under this subsection, which shall not be disclosed under section 552 of title 5, United States Code, unless such Secretary, in consultation with the Attorney General and the Secretary of Homeland Security, determines that disclosure would pose no threat to national security. The determination regarding possible threats to national security shall not be subject to judicial review.

(E) EXEMPTION.—

(i) IN GENERAL.—Subject to clause (ii), it shall not be a violation of the antitrust laws for any person to participate in a meeting or consultation conducted in accordance with this paragraph.

(ii) LIMITATION.—Clause (i) shall not apply to any agreement or conduct that results from a meeting or consultation and that is not covered by an exemption granted under paragraph (4).

(2) SUBMISSION OF WRITTEN AGREEMENTS.—The Secretary shall submit each written agreement regarding covered activities that is made pursuant to meetings or consultations conducted under paragraph (1) to the Attorney General and the Chairman for consideration. In addition to the proposed agreement itself, any submission shall include—

(A) an explanation of the intended purpose of the agreement;

(B) a specific statement of the substance of the agreement;

(C) a description of the methods that will be utilized to achieve the objectives of the agreement;

(D) an explanation of the necessity for a cooperative effort among the particular participating persons to achieve the objectives of the agreement; and

(E) any other relevant information determined necessary by the Attorney General, in consultation with the Chairman and the Secretary.

(3) EXEMPTION FOR CONDUCT UNDER APPROVED AGREEMENT.—It shall not be a violation of the antitrust laws for a person to engage in conduct in accordance with a written agreement to the extent that such agreement has been granted an exemption under paragraph (4), during the period for which the exemption is in effect.

(4) ACTION ON WRITTEN AGREEMENTS.—

(A) IN GENERAL.—The Attorney General, in consultation with the Chairman, shall grant, deny, grant in part and deny in part, or propose modifications to an exemption request regarding a written agreement submitted under paragraph (2), in a written statement to the Secretary, within 15 business days of the receipt of such request. An exemption granted under this paragraph shall take effect immediately.

(B) EXTENSION.—The Attorney General may extend the 15-day period referred to in subparagraph (A) for an additional period of not to exceed 10 business days.

(C) DETERMINATION.—An exemption shall be granted regarding a written agreement submitted in accordance with paragraph (2) only to the extent that the Attorney General, in consultation with the Chairman and the Secretary, finds that the conduct that will be exempted will not have any substantial anticompetitive effect that is not reasonably necessary for ensuring the availability of the countermeasure or product involved.

(5) LIMITATION ON AND RENEWAL OF EXEMPTIONS.—An exemption granted under paragraph (4) shall be limited to covered activities, and such exemption shall be renewed (with modifications, as appropriate, consistent with the finding described in paragraph (4)(C)), on the date that is 3 years after the date on which the exemption is granted unless the Attorney General in consultation with the Chairman determines that the exemption should not be renewed (with modifications, as appropriate) considering the factors described in paragraph (4).

(6) AUTHORITY TO OBTAIN INFORMATION.—Consideration by the Attorney General for granting or renewing an exemption submitted under this section shall be considered an antitrust investigation for purposes of the Antitrust Civil Process Act (15 U.S.C. 1311 et seq.).

(7) LIMITATION ON PARTIES.—The use of any information acquired under an agreement for which an exemption has been granted under paragraph (4), for any purpose other than specified in the exemption, shall be subject to the antitrust laws and any other applicable laws.

(8) REPORT.—Not later than one year after the date of enactment of this Act and biannually thereafter, the Attorney General and the Chairman shall report to Congress on the use of the exemption from the antitrust laws provided by this subsection.

(b) SUNSET.—The applicability of this section shall expire at the end of the 6-year period that begins on the date of enactment of this Act.

(c) DEFINITIONS.—In this section:

(1) ANTITRUST LAWS.—The term ''antitrust laws''—

(A) has the meaning given such term in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12(a)), except that such term includes section 5 of the Federal Trade Commission Act (15 U.S.C. 45) to the extent such section 5 applies to unfair methods of competition; and

(B) includes any State law similar to the laws referred to in subparagraph (A).

(2) COUNTERMEASURE OR PRODUCT.—The term ''countermeasure or product'' refers to a security countermeasure, qualified countermeasure, or qualified pandemic or epidemic product (as those terms are defined in subsection (a)(1)).

(3) COVERED ACTIVITIES.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the term ''covered activities'' includes any activity relating to the development, manufacture, distribution, purchase, or storage of a countermeasure or product.

(B) EXCEPTION.—The term ''covered activities'' shall not include, with respect to a meeting or consultation conducted under subsection (a)(1) or an agreement for which an exemption has been granted under subsection (a)(4), the following activities involving 2 or more persons:

(i) Exchanging information among competitors relating to costs, profitability, or distribution of any product, process, or service if such information is not reasonably necessary to carry out covered activities—

(I) with respect to a countermeasure or product regarding which such meeting or consultation is being conducted; or

(II) that are described in the agreement as exempted.

(ii) Entering into any agreement or engaging in any other conduct—

(I) to restrict or require the sale, licensing, or sharing of inventions, developments, products, processes, or services not developed through, produced by, or distributed or sold through such covered activities; or

(II) to restrict or require participation, by any person participating in such covered activities, in other research and development activities, except as reasonably necessary to prevent the misappropriation of proprietary information contributed by any person participating in such covered activities or of the results of such covered activities.

(iii) Entering into any agreement or engaging in any other conduct allocating a market with a competitor that is not expressly exempted from the antitrust laws under subsection (a)(4).

(iv) Exchanging information among competitors relating to production (other than production by such covered activities) of a product, process, or service if such information is not reasonably necessary to carry out such covered activities.

(v) Entering into any agreement or engaging in any other conduct restricting, requiring, or otherwise involving the production of a product, process, or service that is not expressly exempted from the antitrust laws under subsection (a)(4).

(vi) Except as otherwise provided in this subsection, entering into any agreement or engaging in any other conduct to restrict or require participation by any person participating in such covered activities, in any unilateral or joint activity that is not reasonably necessary to carry out such covered activities.

(vii) Entering into any agreement or engaging in any other conduct restricting or setting the price at which a countermeasure or product is offered for sale, whether by bid or otherwise.

SEC. 8. PROCUREMENT.

Section 319F–2 of the Public Health Service Act (42 U.S.C. 247d–6b) is amended—

(1) in the section heading, by inserting ''**AND SECURITY COUNTERMEASURE PROCUREMENTS**'' before the period; and

(2) in subsection (c)—

(A) in the subsection heading, by striking ''BIOMEDICAL'';

(B) in paragraph (5)(B)(i), by striking ''to meet the needs of the stockpile'' and inserting ''to meet the stockpile needs'';

(C) in paragraph (7)(B)—

(i) by striking the subparagraph heading and all that follows through ''Homeland Security Secretary'' and inserting the following: ''INTERAGENCY AGREEMENT; COST.—The Homeland Security Secretary''; and

(ii) by striking clause (ii);

(D) in paragraph (7)(C)(ii)—

(i) by amending clause (I) to read as follows:

''(I) PAYMENT CONDITIONED ON DELIVERY.—The contract shall provide that no payment may be made until delivery of a portion, acceptable to the Secretary, of the total number of units contracted for, except that, notwithstanding any other provision of law, the contract may provide that, if the Secretary determines (in the Secretary's discretion) that an advance payment, partial payment for significant milestones, or payment to increase manufacturing capacity is necessary to ensure success of a project, the Secretary shall pay an amount, not to exceed 10 percent of the contract amount, in advance of delivery. The Secretary shall, to the extent practicable, make the determination of advance payment at the same time as the issuance of a solicitation. The contract shall provide that such advance payment is required to be repaid if there is a failure to perform by the vendor under the contract. The contract may also provide for additional advance payments of 5 percent each for meeting the milestones specified in such contract. Provided that the specified milestones are reached, these advanced payments of 5 percent shall not be required to be repaid. Nothing in this subclause shall be construed as affecting the rights of vendors under provisions of law or regulation (including the Federal Acquisition Regulation) relating to the termination of contracts for the convenience of the Government.''; and

(ii) by adding at the end the following:

''(VII) SALES EXCLUSIVITY.—The contract may provide that the vendor is the exclusive supplier of the product to the Federal Government for a specified period of time, not to exceed the term of the contract, on the condition that the vendor is able to satisfy the needs of the Government. During the agreed period of sales exclusivity, the vendor shall not assign its rights of sales exclusivity to another entity or entities without approval by the Secretary. Such a sales exclusivity provision in such a contract shall constitute a valid basis for a sole source procurement under section 303(c)(1) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(c)(1)).

''(VIII) SURGE CAPACITY.—The contract may provide that the vendor establish domestic manufacturing capacity of the product to ensure that additional production of the product is available in the event that the Secretary determines that there is a need to quickly purchase additional quantities of the product. Such contract may provide a fee to the vendor for establishing and maintaining such capacity in excess of the initial requirement for the purchase of the product. Additionally, the cost of maintaining the domestic manufacturing capacity shall be an allowable and allocable direct cost of the contract.

''(IX) CONTRACT TERMS.—The Secretary, in any contract for procurement under this section, may specify—

''(aa) the dosing and administration requirements for countermeasures to be developed and procured;

''(bb) the amount of funding that will be dedicated by the Secretary for development and acquisition of the countermeasure; and

''(cc) the specifications the countermeasure must meet to qualify for procurement under a contract under this section.''; and

(E) in paragraph (8)(A), by adding at the end the following: ''Such agreements may allow other executive agencies to order qualified and security countermeasures under procurement contracts or other agreements established by the Secretary. Such ordering process (including transfers of appropriated funds between an agency and the Department of Health and Human Services as reimbursements for such orders for countermeasures) may be conducted under the authority of section 1535 of title 31, United States Code, except that all such orders shall be processed under the terms established under this section for the procurement of countermeasures.''.

SEC. 9. RULE OF CONSTRUCTION.

Nothing in this Act, or any amendment made by this Act, shall be construed to affect any law that applies to the National Vaccine Injury Compensation Program under title XXI of the Public Health Service Act (42 U.S.C. 300aa–1 et seq.), including such laws regarding—

(1) whether claims may be filed or compensation may be paid for a vaccine-related injury or death under such Program;

(2) claims pending under such Program; and

(3) any petitions, cases, or other proceedings before the United States Court of Federal Claims pursuant to such title.

By Mr. JEFFORDS (for himself and Mr. LEAHY):

S. 2565. A bill to designate certain National Forest System land in the State of Vermont for inclusion in the National Wilderness Preservation system and designate a National Recreation Area; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. JEFFORDS. Mr. President, I rise today to join my colleague from Vermont, Mr. LEAHY, in introducing the Vermont Wilderness Act of 2006. This legislation designates 48,051 acres within the Green Mountain National Forest for management under the 1964 Wilderness Act.

The Green Mountain National Forest constitutes more than 400,000 acres of woodlands in central and southern Vermont. The Forest hosts up to 3.4 million visitors each year and is capable of supporting a variety of uses, from timber production to snowmobiling to hiking, which contribute to Vermont's economy. The forest is also an important wildlife habitat and source of clean, fresh water. If well managed, the Green Mountain National Forest will remain one of Vermont's most precious environmental treasures, while continuing to support our state's economic and recreational needs for generations to come.

The National Forest Service is responsible for most aspects of national forest management but Congress reserved the authority to set aside undisturbed wilderness lands. Good stewardship of the forest requires leadership, and now is the time for us to accept this responsibility to designate additional wilderness areas.

Twenty-two years ago, as a member of the U.S. House of Representatives, I joined my Senate colleagues, Mr. Stafford and Mr. LEAHY, to introduce the Vermont Wilderness Act of 1984. That act designated 41,260 acres as wilderness. Since that time the Green Mountain National Forest has acquired over 110,000 additional acres, while the populations of the State and the region have increased. These changing demands, and the changing landscape, provide the opportunity and drive the need to designate additional land as wilderness.

The Vermont Wilderness Act of 1984 directed Congress to consider additional wilderness designations in the Green Mountain National Forest only after 15 years had elapsed and the management plan for the Forest had been thoroughly reviewed. With last month's adoption of a completely revised Land Resource Management Plan for the Green Mountain National Forest, these conditions have been met and it is time to act.

I have worked for the past 6 years with the other members of Vermont's Congressional delegation, the National Forest Service, and State leaders. I have reviewed comments from thousands of constituents, visited the forest on the ground and viewed it from the air, and spent countless hours studying maps. These new designations are the result of thorough analysis and thought, and we do not make them lightly.

Many Vermonters disagree with the need for any wilderness designations, much less additional lands to be set aside at this time. I understand their concerns, but I also recognize the intent of the Wilderness Act of 1964, and I believe deeply in the benefits of managing some areas so that forces of nature hold sway.

The Vermont Wilderness Act of 2006 designates two significant new wilderness areas: the 28,491-acre Glastenbury wilderness in southern Vermont, and the 12,437-acre Battell wilderness in central Vermont. These are pristine, remote forest lands, and would remain undisturbed for future generations.

The recently completed Land and Resource Management Plan for the Green Mountain National Forest is a credit to everyone who worked on it, and reflects the hard work of the U.S. National Forest Service. This plan calls for additions to several existing wilderness areas including Peru Peak, Big Branch, Breadloaf and Lye Brook. These recommended additions are included in this legislation, with some modification.

This legislation also calls for 16,890 acres of the Moosalamoo Recreation Area in Central Vermont to be designated a national recreation area. Moosalamoo exists today as a world-class destination for widely diverse outdoor recreation activities on both public and private land. Moosalamoo is managed cooperatively by a group of owners and it attracts visitors from far and wide for hiking, camping, Nordic and alpine skiing and other activities. From the Robert Frost interpretive trails to the blueberry management areas and oak clad escarpments, Moosalamoo is uniquely deserving of national recreation area designation.

The Green Mountain National Forest is an important source of wood products and the timber industry is critically important to Vermont's economy. These wilderness and national recreation area designations are not meant to interfere with a robust timber management program within the forest, and I will work to support that program at every opportunity.

As we introduce this legislation it is important to acknowledge the fine work of Supervisor Paul Brewster and the staff of the Green Mountain National Forest. They applied great skill and technical expertise in developing the new management plan for the forest. The same professionalism will certainly be applied to implement the plan. Our wilderness designations differ somewhat from those proposed by the Forest Service, which is the reason this authority is reserved for Congress, but the new management plan has helped to inform and guide our work.

It is with great pride that I join my colleagues to introduce the Vermont Wilderness Act of 2006. Our great state has been blessed with a beautiful natural landscape, which Vermonters have worked hard to preserve. This bill will continue in that tradition by helping to secure areas of the unspoiled wilderness that Vermont is known and admired for.

Mr. LEAHY. Mr. President, I join with Senator JEFFORDS today to introduce the Vermont Wilderness Act of 2006, to designate two new wilderness areas and to make a number of additions to existing wilderness areas in Vermont's Green Mountain National Forest. This legislation will also designate a new National Recreation Area (NRA) in the Green Mountain National Forest in the area commonly known as Moosalamoo.

The U.S. Forest Service has recently released its Record of Decision (ROD) and Final Environmental Impact Statement (FEIS) for the revision of

the Green Mountain National Forest Land and Resource Management Plan. This has been an effort encompassing several years, a lengthy process including significant public involvement, and a great deal of difficult and detailed work on the part of the Forest Service staff in Vermont and our region.

I want to extend my appreciation and thanks to the staff of the Green Mountain National Forest for their perseverance and professionalism throughout the plan revision process. This has been by no means an easy task, with Vermonters and other interested citizens who care deeply about the National Forest weighing in with sincere and often conflicting views on land, resource and forest management decisions.

While there is much of interest in such a comprehensive plan, the primary role of the Congress lies with wilderness and other related special designations, such as National Recreation Areas. The Vermont Congressional Delegation has taken this responsibility seriously as we have sought a compromise between those who would prefer significant additions in wilderness areas and those who would prefer none. If this recommendation were enacted, about a quarter of the current Green Mountain National Forest would be designated as wilderness.

Just as the recently released Land and Resource Management Plan for the Green Mountain National Forest has elicited abundant feedback across the spectrum of interested citizens and organizations, we expect our proposal to do the same. We offer this legislation as a good-faith effort to find a middle ground, and once this proposal is referred to the Senate Committee on Agriculture, Nutrition, and Forestry—of which I am a member—we will welcome constructive comments and criticisms to improve the bill. Since the Vermont Congressional Delegation has long been on the public record in favor of additional wilderness designations within the Green Mountain National Forest, comments that are as specific as possible will be especially helpful in helping to refine our proposal.

In specific terms, this legislation proposes a new wilderness area in the Glastenbury Mountain area of approximately 28,500 acres. In the Romance, Monastery and Worth Mountain areas the bill proposes adding approximately 12,500 acres, which together would become the Battell Wilderness in honor of Joseph Battell, who once owned some 9,000 acres in this area and bequeathed thousands of acres to Middlebury College, which eventually became the core of the north half of the Green Mountain National Forest.

The bill also proposes designating approximately 4,200 acres for addition to the existing Breadloaf Wilderness, 2,200 acres to the Lye Brook Wilderness, 800 acres to the Peru Peak Wilderness, and 40 acres to the Big Branch Wilderness. The proposed Moosalamoo National Recreation Area covers approximately 17,000 acres.

This legislation does not include additional acreage for the George D. Aiken Wilderness Area or the Bristol Cliffs Wilderness Area. It does not propose a wilderness designation for the area known as Lamb Brook, and it does not propose a new National Recreation Area in the Somerset region.

Our legislation builds on the recommendations of the Forest Service. In many areas the Delegation bill closely tracks the Forest Service plan—Breadloaf, Big Branch and Peru Peak areas are nearly identical. In the Glastenbury area, the Forest Service added more than 8,000 acres to their original plan, and we have further increased the acreage of a proposed Glastenbury Wilderness Area. In addition, this legislation adds about 2,000 acres to the Lye Brook Wilderness, above the Forest Service recommendation. Finally, we are proposing the new Battell Wilderness Area, which encompasses lands the Forest Service included in a Remote Backcountry management category, which is essentially managed as a wilderness area.

In the Moosalamoo area, this legislation codifies the Moosalamoo National Recreation Area, which has the strong support of the various communities and local partners in the area. We believe this designation best represents the actual goals of the various stakeholders and merits this national designation. Furthermore, we have included the Forest Service's Escarpment management category in the designated area and have also included previously agreed upon management guidelines in the bill.

I would offer the following thoughts which we have returned to on those numerous occasions over recent years whenever this subject has been brought up for discussion in our State.

In sponsoring this legislation today, the Vermont Congressional Delegation is demonstrating our commitment to additional wilderness designations on the Green Mountain National Forest. The Green Mountain National Forest is the largest contiguous public land area in Vermont and within a days drive for over 70 million people. We are committed to protecting some National Forest lands for future generations under the National Wilderness Preservation System.

Our proposals have not been driven by acreage quotas, but rather by data supplied by the Forest Service and by interested Vermonters. Therefore, what is too much for some will be too little for others.

The timing of this introduction was conditioned so as to allow the Forest Service process to reach its conclusion and, at the same time, to enable Vermonters and other interested parties to review both the Forest Service and the Delegation recommendations. Throughout our deliberations, we have appreciated the help of the Forest Service staff and have recognized their commitment to their planning regulations, guidelines and timetable. We invite all Vermonters to join us in thanking the Forest Service staff for all the hard work in their planning effort.

While this legislation proposes to add significant wilderness to the Green Mountain National Forest, it bears noting that most of the lands designated in this bill are not suitable for timber harvesting. This legislation would retain many thousands of acres available for timber harvesting which will have to be managed in a fair, open and professional manner. We are committed to the development of such a process and we know the Forest Service shares this commitment. We invite all interested parties to join in this effort. It is our hope that given the superior manner in which the Forest Service conducted the Forest Plan Revision process, unnecessary appeals and litigation of the plan and future management activities can be avoided.

The Green Mountain National Forest has expanded since the last wilderness designations were made. As Senator Stafford, then Congressman JEFFORDS and I remember, during the consideration of the last Vermont Wilderness bill in 1984 there were many perspectives on the use of our National Forest. We assume there will be again this time. As we were 1984, we remain committed to carrying on the strong conservation legacy that generations of Vermonters, like Senator Robert Stafford, have fostered over the decades.

We urge anyone who is interested in the Green Mountain National Forest to review the whole Plan, as the Forest Service has recommended, and to look beyond their own primary areas of concern so that we can all do what we can to help implement the Plan.

In closing, I would note that the Delegation knows that you cannot undertake every possible use on every acre of National Forest land, and we believe most Vermonters support our approach to this issue. In recognition of this fact, we are introducing this legislation as a vision for the Green Mountain Forest for this and future generations.

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

S. 2566. A bill to provide for coordination of proliferation interdiction activities and conventional arms disarmament, and for other purposes; to the Committee on Foreign Relations.

Mr. LUGAR. Mr. President, I rise today to introduce the Cooperative Proliferation Detection, Interdiction Assistance, and Conventional Threat Reduction Act of 2006. This bill is based upon the legislation that Senator OBAMA and I introduced last year by the same name. Over the last six months we have worked closely with the Administration and the Department of State on legislation to improve U.S. programs focused on conventional weapons dismantlement and counterproliferation assistance more effective and efficient.

The Lugar-Obama bill launches two major weapons dismantlement and

counterproliferation initiatives. Modeled after the Nunn-Lugar program, which dismantles weapons of mass destruction in the former Soviet Union and beyond, our legislation seeks to build cooperative relationships with willing countries to secure vulnerable stockpiles of conventional weapons and strengthen barriers against WMD falling into terrorist's hands.

The first part of our legislation energizes U.S. programs to dismantle MANPADS and large stockpiles of other conventional weapons, including tactical missile systems. There may be as many as 750,000 MANPADS in arsenals worldwide. The State Department estimates that more than 40 civilian aircraft have been hit by such weapons since the 1970's. In addition loose stocks of small arms and other weapons help fuel civil wars and provide ammunition for those who attack peacekeepers and aid workers seeking to help war-torn societies. Our bill would enhance U.S. capability to safely destroy munitions like those used in the improvised roadside bombs that have proved so deadly to U.S. forces in Iraq.

In August Senator OBAMA and I traveled to Ukraine and saw stacks of thousands of mortars and other weapons, left over from the Soviet era. The scene there is similar to situations in other states of the former Soviet Union, Africa, Latin America, and Asia. In many cases, the security around these weapons is minimal. Every stockpile represents a theft opportunity for terrorists and a temptation for security personnel who might seek to profit by selling weapons on the black market. The more stockpiles that can be safeguarded or eliminated, the safer we will be. We do not want the question posed the day after an attack on an American military base, embassy compound, or commercial plane why we didn't do more to address these threats.

Some foreign governments have already sought U.S. help in eliminating their stocks of lightweight antiaircraft missiles and excess weapons and ammunition. But low budgets and insufficient attention have hampered destruction efforts. Our legislation would require the Administration to develop a response commensurate with the threat, by requiring better coordination and a three-fold increase in spending in this area, to $25 million—a relatively modest sum that would offer large benefits to U.S. security.

The other part of the Lugar-Obama legislation would strengthen the ability of America's friends and allies to detect and intercept illegal shipments of weapons and materials of mass destruction. Stopping these weapons and materials of mass destruction in transit is an important complement to the Nunn-Lugar program, which aims to eliminate weapons of mass destruction at their source.

We cannot do this alone. We need the vigilance of like-minded nations. The Proliferation Security Initiative has been successful in enlisting the help of other countries, but many of our partners lack the capability to detect and interdict hidden weapons. Lugar-Obama seeks to address this gap by providing $50 million to establish a coordinated effort to improve the capabilities of foreign partners by providing equipment, logistics, training and other support. Examples of such assistance may include maritime surveillance and boarding equipment, aerial detection and interdiction capabilities, enhanced port security, and the provision of hand-held detection equipment and passive WMD sensors.

On February 9 the Committee on Foreign Relations held a hearing to examine the State Department's efforts in these important areas. In response to a question on how important conventional weapons elimination and counter-proliferation is to U.S. security Under Secretary Joseph stated that ''other than stopping weapons of mass destruction (at their source), I personally do not think that there is . . . a higher priority.'' The Under Secretary also pointed out that with more resources he was confident additional progress could be achieved faster.

We have worked closely with Secretary Rice and her staff to improve this legislation. The bill has been modified in a number of ways to improve its effectiveness and to provide the Department with the authority necessary to carry out important nonproliferation and counter-proliferation missions. At the Department's request, we provide authorization for the entire Nonproliferation, Antiterrorism, Demining, and Related Programs account. We also authorize international ship-boarding agreements under the Proliferation Security Initiative, the use of the Nonproliferation and Disarmament Fund outside the former Soviet Union, and the use of funds for administrative purposes. In addition, we provide the Secretary with the authority to make a reprogramming request to use the funds required under this legislation for other nonproliferation and counter-proliferation activities in an emergency.

Earlier this week, Secretary Rice appeared before the Committee on Foreign Relations. I took the opportunity to ask her opinion of Lugar-Obama. She stated her personal support and that of the Department and the Administration. I am pleased that efforts to craft this important effort not only have bipartisan Congressional support but the support of the Administration as well.

The U.S. response to conventional weapons threats and the lack of focus on WMD detection and interdiction assistance must be rectified if we are to provide a full and complete defense for the American people. Senator OBAMA and I understand that the United States cannot meet every conceivable security threat everywhere in the world. But filling the security gaps that we have described and that Secretary Rice and Under Secretary Joseph have confirmed, should be near the top of our list of priorities. We do not believe these problems have received adequate resources and look forward to working with our colleagues in the Senate to rectify the situation.

Mr. OBAMA. Mr. President, Senator LUGAR has already outlined the legislation that we are reintroducing here today and the process that has led us to this point, so I will be brief.

I don't want my brevity to be confused with indifference towards this legislation. I want to underscore the importance of this bill in establishing a broad framework to more effectively combat the proliferation of weapons of mass destruction and heavy conventional weapons. As I have said before, these are two critical issues that directly impact the security of the United States.

In some ways, the bill has already had its desired impact. There was a reorganization of the State Department that will improve the Department's ability to deal with the proliferation of weapons of mass destruction and heavy conventional weapons. Moreover, the legislation has focused additional high-level attention—the scarcest commodity in Washington—on these Issues.

However, there is more that needs to be done. I believe the Senate can and should move this bill in an expeditious fashion. We have already held a hearing on the bill, worked with the State Department to update and improve the legislation, and have received endorsements from an array of non-governmental organizations that follow these issues.

I will defer to the Chairman on the procedural issues, but my hope is that we can report this bill out of the Foreign Relations Committee as soon as possible and work for Senate passage shortly thereafter.

In closing, I want to thank Senator LUGAR for his steadfast commitment to these critical issues and look forward to collaborating with him in the coming months on this legislation.

By Mrs. BOXER (for herself and Mrs. FEINSTEIN):

S. 2567. A bill to maintain the rural heritage of the Eastern Sierra and enhance the region's tourism economy by designating certain public lands as wilderness and certain rivers as wild and scenic rivers in the State of California, and for other purposes; to the Committee on Energy and Natural Resources.

Mrs. BOXER. Mr. President, today I am introducing ''the Eastern Sierra Rural Heritage and Economic Enhancement Act,'' a bill that will provide protection for thousands of some of the most pristine, wild, and beautiful acres in California. I am glad to be joined in this effort by my colleague, Senator FEINSTEIN. Representative MCKEON, whose congressional districts contains these special lands, introduced companion legislation today in the House of Representatives.

My bill will protect three very special California treasures in the Eastern Sierra. It makes considerable additions to existing Hoover Wilderness areas, which border on Yosemite National Park. These additions will protect the stunning High Sierra landscape of 11,000 foot snow-capped peaks and valleys, lush meadows and deep forests that people around the world associate with the Eastern Sierra.

These areas are also home to an abundance of wildlife, including black bear, mountain lion, mule deer, waterfowl, and bald eagles.

This land provides more than just visual beauty, however—it is also a recreational paradise. Year after year, hikers enjoy the approximately nine miles of the Pacific Crest National Scenic Trail that runs through this wilderness, and anglers enjoy the clear lakes and streams that support a number of species of wild trout. The bill will also protect areas adjacent to the Emigrant Wilderness area, including another two miles of the Pacific Crest Trail.

My legislation will also designate about 24 miles of the Amargosa River as a Wild and Scenic River. As the only river flowing into Death Valley, the Amargosa is an ecologically-important river in a dry desert area. Birds—and birdwatchers—abound in this area, both coming from far and wide to enjoy the river area.

In short, these areas are not just California's natural treasures—they are America's natural treasures. And that is why they deserve the highest level of protection possible. That is what this bill does.

I was proud to include most of these lands in my California Wild Heritage Act that I reintroduced last month. And I look forward to working with Senator FEINSTEIN and Representative MCKEON, and all my colleagues, to protect these special places forever.

By Mr. SARBANES (for himself, Mr. WARNER, Mr. ALLEN, Ms. MIKULSKI, Mr. BIDEN, and Mr. CARPER):

S. 2568. A bill to amend the National Trails System Act to designate the Captain John Smith Chesapeake National Historic Trail; to the Committee on Energy and Natural Resources.

Mr. SARBANES. Mr. President, today I am introducing legislation, together with Senators WARNER, ALLEN, MIKULSKI, BIDEN and CARPER to designate the route of Captain John Smith's exploration of the Chesapeake Bay and its tributaries as a National Historic Trail. The proposed Trail is of great historical importance to all Americans in that it represents the beginning of our Nation's story.

Next year our Nation will commemorate the 400th anniversary of the founding of Jamestown and the beginning of John Smith's momentous explorations of the Chesapeake Bay. In April 1607, three ships, the *Susan Constant*, the *Godspeed*, and the *Discovery*, arrived at the mouth of the Chesapeake Bay after a four-month voyage from England carrying the colonists who would establish the first permanent English settlement in North America and plant the seeds of our nation and our democracy. Under the leadership of Captain John Smith, the fledgling colony not only survived, but helped ignite a new era of discovery in the New World sparked by reports of Smith's voyages around the Chesapeake Bay.

John Smith's explorations in the small, 30 foot shallop totaled some three thousand miles, reaching from present-day Jamestown, Virginia, to Smiths Falls on the Pennsylvania border with Maryland and from Broad Creek, in Delaware to the Potomac River and Washington, DC. His journeys brought the English into contact with many Native American tribes for the first time, and his observations of the region's people and its natural wonders are still relied upon by anthropologists, historians, and ecologists to this day.

Chief Justice John Marshall wrote of the significance of Smith's explorations. ''When we contemplate the dangers, and the hardships he encountered, and the fortitude, courage and patience with which he met them; when we reflect on the useful and important additions which he made to the stock of knowledge respecting America, then possessed by his countrymen; we shall not hesitate to say that few voyages of discovery, undertaken at any time, reflect more honour on those engaged in them, than this does on Captain Smith.''

What better way to commemorate this important part of our Nation's history and honor John Smith's courageous voyages than by designating the Captain John Smith Chesapeake National Historic Trail? The Congress established the National Trails System ''to provide for the ever-increasing outdoor recreation needs of an expanding population and in order to promote the preservation of, public access to, travel within, and enjoyment and appreciation of the open-air, outdoor areas and historic resources of the Nation.'' National Historic Trails such as the Lewis and Clark Trail, the Pony Express Trail, the Trail of Tears, and the Selma to Montgomery Trail were authorized as part of this System to identify and protect historic routes for public use and enjoyment and to commemorate major events which shaped American history. In my judgment, the proposed Captain John Smith Chesapeake National Historic Trail is a fitting addition to the 13 National Historic Trails administered by the National Park Service.

Pursuant to legislation we enacted as part of the Fiscal 2006 Interior Appropriations Act authorizing the National Park Service to study the feasibility of so designating this trail, on March 21, 2006 the National Park System Advisory Board concluded that the proposed trail is ''nationally significant'' as a milestone for the English exploration of North America, contact between the English and the Native American tribes of the region, and in commerce and trade in North America. This finding is one of the principal criteria for qualifying as a National Historic Trail. Well documented by the remarkably accurate maps and charts that Smith made of his voyages, the trail also offers tremendous opportunities for public recreation and historic interpretation and appreciation. Similar in historic importance to the Lewis and Clark National Trail, this new historic water trail will inspire generations of Americans and visitors to follow Smith's journeys, to learn about the roots of our Nation and to better understand the contributions of the Native Americans who lived within the Bay region. It would also help highlight the Chesapeake Bay's remarkable maritime history, the diversity of its peoples, its historical settlements and our current efforts to restore and sustain the world's most productive estuary.

As Jamestown's 400th anniversary quickly approaches, designating the Captain John Smith Chesapeake National Historic Trail will bring history to life. It would serve to educate visitors about the new colony at Jamestown, John Smith's journeys, the history of 17th century Chesapeake region, and the vital importance of the Native Americans that inhabited the Bay area. It would provide new opportunities for recreation and heritage tourism not only for more than 16 millions Americans living in the Chesapeake Bay's watershed, but for visitors to this area throughout the country and abroad.

This legislation enjoys strong bipartisan support in the Congress and in the States through which the trail passes. The trail proposal has been endorsed by the Governors of Virginia, Pennsylvania, Delaware and Maryland and numerous local governments throughout the Chesapeake Bay region. The measure is also strongly supported by the National Geographic Society, The Conservation Fund, The Garden Club of America, the Izaak Walton League of America, the Chesapeake Bay Foundation and the Chesapeake Bay Commission as well as scores of businesses, tourism leaders, private groups, and intergovernmental bodies.

The Captain John Smith Chesapeake National Historic Trail Act comes at a very timely juncture to educate Americans about historical events that occurred 400 years ago right here in Chesapeake Bay, which were so crucial to the formation of this great country and our democracy. I urge my colleagues to support this measure.

By Mr. HATCH:

S. 2569. A bill to authorize Western States to make selections of public land within their borders in lieu of receiving five per centum of the proceeds of the sale of public land lying within

said States as provided by their respective Enabling Acts; to the Committee on Energy and Natural Resources.

Mr. HATCH. Mr. President, I rise today to introduce a bill that would restore balance to a system that disadvantages education funding in the West. The Action Plan for Public Land and Education Act of 2006 would authorize the Secretary of the Interior and the Secretary of Agriculture to grant Federal land to western States where large proportions of public land hamper the States ability to raise funding for public education. This is a product of the hard work and creativity of Representative ROB BISHOP, and I am working with him on this important effort.

Many of my colleagues may not know this, but 10 of the top 12 States with the largest student-teacher ratios are in the West. These States also have the lowest growth in per-pupil expenditures, and their enrollment growth is projected to increase dramatically.

The West's education funding deficit is not due to lack of commitment or effort by the States. The fact is that Western States allocate as great a percentage of their budgets to public education as the rest of the Nation. Moreover, Western States pay on average 11.1 percent of their personal incomes to State and local taxes, whereas citizens of the remaining States pay 10.9 percent of their incomes to these same State and local taxes.

The funding discrepancy for education in the West is due in large part to the lack of a sales tax base, which can only be generated on private land. On average, the Federal Government owns 52 percent of the land located in the 13 Western States, while the remaining States average just 4 percent Federal land. Sales tax is not collected on Federal land, and as we know, public education is funded largely through sales taxes.

We all know, the school trust lands that are available to these States are not sufficient to make up the education shortfall in the West. This legislation would remedy that by granting public land States 5 percent of federally-owned land within the State boundaries. The land would be held in trust to be sold or leased, and the proceeds used strictly for the support of public education.

Again, I thank Representative BISHOP for his excellent work on this bill. My colleagues and I know of the need to address the West's education funding problem. The Action Plan for Public Land and Education Act of 2006 is a solution to this problem, and I urge my colleagues to lend their support for this important proposal.

By Mr. DEWINE (for himself, Mr. DOMENICI, Mr. KYL, and Mr. MCCAIN):

S. 2570. A bill to authorize funds for the United States Marshals Service's Fugitive Safe Surrender Program; to the Committee on the Judiciary.

Mr. DEWINE. Mr. President, today I join Senators DOMENICI, KYL, and MCCAIN to introduce a bill to support the Fugitive Safe Surrender Program, which encourages those with outstanding arrest warrants to turn themselves in peacefully. This program—conducted under the auspices of the U.S. Marshal Service, with the cooperation of public, private, nonprofit and faith-based partners—involves using a local church or community center as a temporary courthouse, where fugitives can turn themselves in and have their cases adjudicated.

This is not an amnesty program. Those who surrender are still held accountable for the original charges. However, by moving the prosecutors, public defenders, and judges to the new location, non-violent cases can be resolved promptly on-site, in a setting where fugitives feel they can safely turn themselves in.

In a pilot program implemented last August in Cleveland, over 800 people turned themselves in during a four day period, including 324 who had outstanding felony warrants. Almost all the cases were adjudicated on the day of the surrender. As means of comparison, the Fugitive Task Force conducted a more traditional sweep for three days following the implementation of the Fugitive Safe Surrender program, resulting in the capture of 65 people with outstanding warrants. Clearly, the Fugitive Safe Surrender program was a tremendous success, and I'd like to offer my personal congratulations to Pete Elliott, the U.S. Marshal for the Northern District of Ohio, and Dr. C. Jay Matthews, the Senior Pastor of the Mt. Sinai Baptist Church in Cleveland, for their efforts in heading up this successful endeavor. This type of innovation and creative thinking is exactly what we need in the law enforcement community, and it has obviously paid off in Cleveland.

The Fugitive Safe Surrender program has exceeded expectations and demonstrated its value to the community. The logical next step is for the U.S. Marshals to expand their initiative nationwide. They already have been working with law enforcement, community, and church groups in eight cities that have volunteered to be sites for Fugitive Safe Surrender in 2006: Albuquerque, NM; Phoenix, AZ; Washington, DC; Louisville, KY; Camden, NJ; Indianapolis, IN; Richmond, VA; and Akron, OH. They are hoping to expand to even more cities in 2007 and 2008. This expansion is worthy of federal support, and that is why I have joined Senators DOMENICI, KYL, and MCCAIN in sponsoring the Fugitive Safe Surrender Act of 2006, which authorizes $3 million for fiscal year 07, $5 million for fiscal year 08, and $8 million for fiscal year 09. These funds will allow the U.S. Marshals Service to coordinate with the Fugitive Safe Surrender sites around the country, also providing for the cost of establishing secure courtrooms inside of a local church or community center.

This is a good bill, and I encourage my colleagues to support it.

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

S. 2570

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

SECTION 1. FINDINGS.

Congress finds the following:

(1) Fugitive Safe Surrender is a program of the United States Marshals Service, in partnership with public, private, and faith-based organizations, which temporarily transforms a church into a courthouse, so fugitives can turn themselves in, in an atmosphere where they feel more comfortable to do so, and have nonviolent cases adjudicated immediately.

(2) In the 4-day pilot program in Cleveland, Ohio, over 800 fugitives turned themselves in. By contrast, a successful Fugitive Task Force sweep, conducted for 3 days after Fugitive Safe Surrender, resulted in the arrest of 65 individuals.

(3) Fugitive Safe Surrender is safer for defendants, law enforcement, and innocent bystanders than needing to conduct a sweep.

(4) Based upon the success of the pilot program, Fugitive Safe Surrender should be expanded to other cities throughout the United States.

SEC. 2. AUTHORIZATION.

(a) IN GENERAL.—The United States Marshals Service shall establish, direct, and coordinate a program (to be known as the ''Fugitive Safe Surrender Program''), under which the United States Marshals Service shall apprehend Federal, State, and local fugitives in a safe, secure, and peaceful manner to be coordinated with law enforcement and community leaders in designated cities throughout the United States.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the United States Marshals Service to carry out this section—

(1) $3,000,000 for fiscal year 2007;

(2) $5,000,000 for fiscal year 2008; and

(3) $8,000,000 for fiscal year 2009.

(c) OTHER EXISTING APPLICABLE LAW.—Nothing in this section shall be construed to limit any existing authority under any other provision of Federal or State law for law enforcement agencies to locate or apprehend fugitives through task forces or any other means.

By Mr. CONRAD:

S. 2571. A bill to promote energy production and conservation, and for other purposes; to the Committee on Finance.

Mr. CONRAD. Mr. President, I rise today to introduce a comprehensive energy bill, one that I call Breaking Our Long-Term Dependency, or the BOLD Energy Act.

As President Bush has stated, our Nation is addicted to oil. Our economy requires over 20 million barrels of oil a day to fuel our cars, our trucks, heat our homes, and bring goods to market all across the country. Sixty percent of our consumption—60 percent—is from imports. Many of these imports are coming from the most volatile parts of the world, the most unstable parts of the world, and we have to take serious steps now to reduce our growing dependency. That is what this bill is all about.

This legislation, which is comprehensive in nature and which we have worked on for over 6 months, I believe is a serious contribution to the discussion. Let me make clear: These are not tepid steps. This legislation is bold because that is what the situation requires if we are to seriously reduce our dependence.

This legislation invests approximately $40 billion over the next 5 years to meaningfully reduce our dependence on foreign energy. Much of our imported oil comes from unstable parts of the world. Forty-five percent of our oil comes from Saudi Arabia, Venezuela, Nigeria, and Iraq. A major disruption to oil supplies in any of those areas could send oil over $100 a barrel. Threats to oil supplies and surging demand have contributed to a 95-percent increase in oil prices over the past 2 years.

Imported oil now accounts for $266 billion of our trade deficit. That is more than a third of our total trade imbalance.

Our Nation faces other challenges on the energy front as well. Fluctuating natural gas prices threaten the livelihood of our Nation's farmers and manufacturers. Electricity sales are projected to increase by 50 percent over the next 25 years. Transmission capacity constraints prevent development of power production in many parts of the country, including North Dakota.

Fortunately, the United States has the domestic resources and the ingenuity to reduce our dependence on foreign oil and meet our energy challenges. It is time, I believe, to look to the Midwest rather than turning to the Middle East for our energy resources. We can turn to our farm fields to produce more ethanol and biodiesel.

Brazil shows what can be done. Thirty years ago Brazil was 80 percent dependent on foreign energy. They have reduced that dependence to less than 10 percent. At the same time, our country has gone from 35-percent dependence to now 60-percent dependence. We have been going the wrong way. Brazil has demonstrated what can be done to dramatically reduce one's energy dependence. How did they do it? They did it by aggressive promotion of biodiesel, by aggressive promotion of ethanol, and by creating a fleet of flexible fuel vehicles.

We could do that here. Brazilian officials are now predicting they will be completely energy independent this year—this year. We can use our abundant domestic reserve of coal to produce clean, clear fuel as part of a plan to reduce our dependence, in addition to the use of those renewables.

Coal-to-liquid fuel technology has tremendous potential. Converting America's 273 billion tons of coal into transportation fuel would result in the equivalent of over 500 billion barrels of oil. That compares to Saudi Arabia's reserves of 262 billion barrels.

Why are we continuing to be dependent and vulnerable to foreign sources of energy? It makes no sense. It is time to do more than talk about the threat; it is time to act. That is why I am introducing the BOLD Energy Act today.

My legislation would accomplish the following: It would increase production of renewable energy and alternative fuels. It would reward conservation and energy efficiency. It would provide more research and development funding for new energy technologies. It would promote responsible development of domestic fossil fuel resources, and it would facilitate upgrades to our Nation's electricity grid.

First, the BOLD Act takes aggressive steps to increase alternative fuel production and use. It extends the biodiesel and ethanol tax credit. It requires ethanol use in the United States to increase from 4.7 billion gallons in 2007 to 30 billion gallons in 2025. It creates a new biodiesel standard. It promotes alternative fueling stations, and it establishes a $500 million grant program for the expensive front-end engineering and design of coal-to-liquid fuel plants. These steps will allow us to substitute home-grown fuels for foreign oil, dramatically reducing our dependence on imported oil.

Second, the experts tell us the single most important thing we can do to reduce our reliance on foreign oil is to improve the efficiency of our cars and trucks. My legislation provides a new rebate program for cars and trucks that achieve above-average fuel economy. The most fuel-efficient vehicles would qualify for rebates of up to $2,500. This will encourage consumers to buy, and manufacturers to produce, more fuel-efficient cars. We don't do this with the command-and-control structure of CAFE standards; we do it with incentives for the marketplace.

My bill also requires that all vehicles sold in the United States by 2017 must include alternative fuel technologies, such as hybrid electric or flex-fuel systems. Auto makers will be eligible for a 35-percent tax credit or retiree health care cost relief to make this transition. We have had extensive discussions with the automobile industry on how to design these incentives so they would be effective.

North Dakota E85 fueling systems will allow drivers to dramatically reduce gasoline usage. And in urban areas such as Washington, D.C. where most drivers commute fewer than 20 miles a day, new plug-in hybrids will allow most trips to be fueled by electricity rather than gasoline.

Third, the BOLD Energy Act promotes environmentally responsible energy development here at home. It increases the existing enhanced oil recovery tax credit to 20 percent for any new or expanded domestic drilling project that uses carbon dioxide to recover oil from aging wells. Again, we have consulted broadly with industry on what would be the most effective incentives to seriously increase domestic energy production.

It also includes language authorizing energy development in the Lease Sale 181 area in the Gulf of Mexico that prohibits this development from occurring within 100 miles of the Florida coast or interfering with military activities in the gulf.

These steps will allow us to substitute American oil and natural gas for imports, creating jobs here at home and improving our energy security.

Fourth, my BOLD Energy Act promotes new technologies to improve energy efficiency and develop renewable energy, such as wind and solar. It extends the renewable energy tax credit for 5 years and establishes a national 10-percent renewable electricity standard.

My energy bill also creates a clean coal energy bonds program to allow electric cooperatives, tribal governments, and other public power systems to finance new, advanced clean coal powerplants.

Finally, my legislation will improve the electricity grid in the United States by making it easier for State governments to finance the construction of transmission lines through the issuance of tax exempt bonds. Again, we have consulted broadly with industry over an extended period to find the things that would make the greatest difference to dramatically reducing our energy dependence. That is what this legislation is about. That is why I call it the BOLD Energy Act. It is seriously designed to break our long-term dependency. That is why we called it the BOLD Energy Act.

A few weeks ago I met with the President and a bipartisan group of Senators at the White House to talk about energy policy. I told the President he was right to identify our addiction to oil as one of our challenges. I also told him it is time to be bold. No more tepid plans, no more plans that fundamentally do not make a difference. It is time for the United States to stand up to this challenge of seriously reducing our dependence on foreign energy.

Make no mistake, this is a bold plan. This plan calls for the investment of approximately $40 billion over the next 5 years. That is what it is going to take. If we are going to be serious about reducing our dependence, it is going to take more than half steps. It is time to put politics aside and assemble our best collective ideas into a new, comprehensive energy policy. I ask my colleagues and I urge them to look at this bill, to examine it. I urge them and hope that they could cosponsor it. If not, I welcome their constructive criticism about what could be done to make it better.

I don't think we have any time to waste. There is no time to lose. We need bold action. We need this BOLD Energy Act.

I send the bill to the desk for its assignment to the appropriate committee.

The PRESIDING OFFICER. The bill will be received and assigned to the appropriate committee.

Mr. CONRAD. Mr. President, I thank very much the dozens of organizations that have contributed to writing this legislation. As I have indicated, we have spent 6 months in preparing this legislation. We have consulted with literally dozens and dozens of organizations across this country. We have consulted with Members in both the House and the Senate. We have consulted with Governors. We have consulted with every relevant energy group in the State of North Dakota and in the Midwest. I am delighted that so many of them have already endorsed this legislation.

It is time for us to get serious about reducing our dependence on foreign oil. I am delighted today to be presenting this BOLD Energy Act. I believe it is the direction we should take. I again ask my colleagues to give it their close consideration.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. Mr. President, I compliment the Senator from North Dakota for thinking boldly and focusing on an urgent need for our country. I look forward to studying his proposal and working with him, especially in the areas of conservation and efficiency. There is a consensus within the Energy and Natural Resources Committee that we can do more in conservation and efficiency. There is a consensus in the Senate, I believe, that we could do more in research and development. There is a consensus that we could do more in renewable fuels. So I look forward to looking at what he has to say.

I think our goal should be within a generation to end our dependence on foreign oil. That wouldn't mean we wouldn't buy oil from Mexico or from Canada or from anyone, really, but it would mean that no other country could hold the United States of America hostage to the oil supply.

That is a very constructive suggestion. There is one yellow flag I would wave a little bit, and we can talk about it as it makes its way through the process. The Senator mentioned wind power. In terms of the transportation sector, unless we begin to put these large, giant wind machines on the cars—which I fully expect someone to propose before very long, with a large subsidy—I think we ought to examine carefully just how much money we are already spending on giant windmills because it is a massive tax ripoff to the taxpayers of the United States.

The last figures I saw showed that we were now, over the next 5 years, about to spend $3 billion supporting these giant wind machines, which are twice as tall as the football stadium at the University of Tennessee and extend from 10-yard line to 10-yard line and only work when the wind is blowing. They deface the landscape of America.

The Senator has suggested a comprehensive policy that sounds very attractive to me, but I would like us to examine carefully, as we go through this, whether it is wise, for example, to extend the renewable tax credit another 2 years because that is just code words for more billions of dollars to the wind industry. They have a very good lobby. They are very effective. But there are other forms of alternative energy, especially regarding fuels, which is what we are talking about when we are trying to reduce our dependence on foreign oil. That is where we use most of our oil, in the transportation sector. I hope we will spend our available money on research and development, as the Senator has suggested, on conservation and efficiency, as the Senator suggested, and on other kinds of fuels—biodiesel, as the Senator suggested—and be very cautious about adding to the wind subsidy before we clearly understand what we are doing.

Perhaps the figures aren't right, but the last figures I saw from the Department of Treasury is that the Congress has now authorized $3 billion for giant wind machines. We don't need a national windmill policy; we need a national energy policy.

Mr. CONRAD. Mr. President, might I get the attention of the Senator for just a moment? I say to him, first of all, I appreciate very much his thoughtful remarks, as always. When you have a chance to look at this, this is a comprehensive bill. We have spent months talking to everyone we thought had a good idea. We have talked to people who sponsored legislation in the House and the Senate, trying to cull those legislative offerings for the best ideas. We have talked to the people who were sponsored by Hewlett-Packard to do a review of national energy policy in America.

As you know, they spent several years in a serious effort to come to grips with what we could do that would dramatically reduce our energy dependence. The Senator is quite right. That is why so much of this legislation is focused on fuels; that is where a significant part of our imported energy is going—to fuel the fleets of our country.

Let me say with respect to wind energy, I truly believe that is a component of a comprehensive bill. Let me put it in perspective. In terms of our legislation, it is a very small part because I think that is the appropriate level of commitment to make in terms of comprehensive energy policy. There are many other things that have much more prominence in terms of where the investment is being made. I would say to my colleague, in North Dakota we have extraordinary wind energy capacity. We have the ability to relieve our dependence on coal-fired plants and our dependence on plants that are fueled by natural gas, and we have extreme problems, long term, with natural gas in this country. That is why natural gas prices have had such a runup.

Wind energy is a great part of an overall plan to reduce peaking load. Obviously, you cannot count on the wind blowing—although in North Dakota you almost always can. So you have to marry it with other energy-generating sources. That is what we have done with this legislation. I very much welcome my colleague's kind comments, and I look forward to his consideration of what we have tried to do.

Let me just say, I gave my staff an assignment 6 months ago. I told them I wanted an energy bill that anybody could look at and objectively say: If this were enacted, it would make a serious contribution to reducing our energy dependence. I have supported the past energy bills that have come through here. I was pleased to do so. But I think we all know none of them make a dramatic change in our long-term dependence. That is what this bill is designed to do, I say to my colleague: make a dramatic reduction in our dependence.

Mr. ALEXANDER. Mr. President, I appreciate the spirit of the Senator's remarks. He has presented this the same way he dealt with the budget issues. He and Senator GREGG did a very good job with that and helped the Senate through a difficult area. The last energy bill, the one in July, was a very good bill because it began to shift our policy toward producing large amounts of low-carbon and no-carbon energy. It takes a while to do that. It is like turning a big ship around. But we are already beginning to see the results.

There was more conservation and efficiency in that than we had before, which avoids building new natural gas plants, for example. But we could do much more.

There was significant support for nuclear power, which we should do more of. All those who want to solve global warming in a generation should be helping to support nuclear power because 70 percent of our carbon-free energy in the United States today comes from nuclear power. Seventy percent of the carbon-free electricity that we produce comes from nuclear power. There is a growing consensus that we should begin to proceed with that in the United States, and even help India and China avoid dirty coal plants that pollute the area. If we want clean air and low-cost power that is reliable, the approach toward nuclear power is important. That was in the bill.

I encourage steps towards clean coal, which would be coal gasification, which would limit the amount of nitrogen and sulphur and mercury that would come from the use of coal—we have a lot of coal in the United States—and research for carbon sequestration. If we could recapture the carbon, we could then use coal for large amounts of clean power.

Then we had significant support for renewable energy, for ethanol. The President has now suggested that we extend that to different kinds of ethanol. I am sure there are appropriate places for wind power, but it doesn't

amount to much. It is not very reliable. And there is no excuse for spending $3 billion over the next 5 years on gigantic windmills that give big subsidies to investors and scar the landscape when we could be spending it on conservation and efficiency. Of course, what I hope, finally, and in pursuit of Senator CONRAD's goal, is that we redouble our interest in the hydrogen fuel cell economy. Major manufacturers are telling me they are investing hundreds of millions of dollars each year in hydrogen fuel cells which will have no emissions except water, and one major manufacturer said to me that his company, one of the largest in the world, would have a commercially available car on the market within 10 years, and that was last year. That seems soon to me. But the sooner that happens—the sooner that happens, the better.

To reduce our dependence on foreign oil so that we are not held hostage, and to make sure that we have clean air and to make sure that we do our part not to add to global warming, we should do all these things. We do not need a national windmill policy. We need a comprehensive energy policy.

I see the Senator from Massachusetts.

We would have to put enough giant windmills to cover 70 percent of Massachusetts to equal the amount of energy in the oil we would get from ANWR.

My main purpose is to say to Senator CONRAD that I welcome his proposal. It is a serious, thoughtful effort, as is characteristic of his efforts.

I wish to ask that we carefully consider where the tax subsidies go before we spend more billions of dollars on a source that is already oversubsidized, that scars the landscape, that only works when the wind blows, that requires large new power lines to be built and that can fend for its own in marketplaces where it is appropriate to be.

I thank the Chair. I yield the floor.

By Mr. BURNS (for himself and Mr. ROCKEFELLER):

S. 2572. A bill to amend the Aviation and Transportation Security Act to extend the suspended service ticket honor requirement; to the Committee on Commerce, Science, and Transportation.

Mr. BURNS. Mr. President, I come to the floor today to introduce the Aviation Consumer Protection Extension Act. The bill is a 1-year extension of section 145 of the Aviation and Transportation Security Act, which passed in 2001. The current extension expires in November of this year.

Currently, the aviation industry is going through a difficult time with numerous airline bankruptcies and overall uncertainty. In this environment, airline consumers deserve protection in the circumstance that their air service provider suspends service because of a bankruptcy.

This extension provides that airline passengers holding tickets from a bankrupt carrier are entitled to a seat on a standby basis on any airline serving that route if arrangements are made within 60 days after the bankrupt airline suspends operations.

Under the provision, the maximum fee that an airline can charge for providing standby transportation would not exceed $50 each way. The extension does not apply to charter flights but does cover frequent flyer tickets.

Like all Members of this body, my State of Montana has a number of traveling families. In the unfortunate circumstance that an air carrier discontinues service, those families should not have to foot an outrageous bill to get back home.

In these times of unease and uncertainty in the airline industry, we need to make sure hard-earned family vacations don't turn into unnecessarily costly expenditures. I look forward to working with my colleagues on a timely passage of this important extension.

By Mr. DURBIN:

S. 2573. A bill to amend the Higher Education Act of 1965 to provide interest rate reductions, to authorize and appropriate amounts for the Federal Pell Grant program, to allow for in-school consolidation, to provide the administrative account for the Federal Direct Loan Program as a mandatory program, to strike the single holder rule, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

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

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

S. 2573

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 ''Reverse the Raid on Student Aid Act of 2006''.

SEC. 2. INTEREST RATE REDUCTIONS.

(a) FFEL INTEREST RATES.—Section 427A(*l*) (20 U.S.C. 1077a(*l*)) is amended—

(1) in paragraph (1)—

(A) by striking ''6.8 percent'' and inserting ''3.4 percent''; and

(B) by inserting before the period at the end the following: '', except that for any loan made pursuant to section 428H for which the first disbursement is made on or after July 1, 2006, the applicable rate of interest shall be 6.8 percent on the unpaid principal balance of the loan''; and

(2) in paragraph (2), by striking ''8.5 percent'' and inserting ''4.25 percent''.

(b) DIRECT LOANS.—Section 455(b)(7) (20 U.S.C. 1087e(b)(7)) is amended—

(1) in subparagraph (A)—

(A) by striking ''and Federal Direct Unsubsidized Stafford Loans'';

(B) by striking ''6.8 percent'' and inserting ''3.4 percent''; and

(C) by inserting before the period at the end the following: '', and for any Federal Direct Unsubsidized Stafford Loan made for which the first disbursement is made on or after July 1, 2006, the applicable rate of interest shall be 6.8 percent on the unpaid principal balance of the loan''; and

(2) in subparagraph (B), by striking ''7.9 percent'' and inserting ''4.25 percent''.

SEC. 3. FEDERAL PELL GRANT AWARDS.

Section 401 of the Higher Education Act of 1965 (20 U.S.C. 1070a) is amended—

(1) in subsection (b)—

(A) in paragraph (2)(A), by striking clauses (i) through (v) and inserting the following:

''(i) $4,500 for academic year 2007–2008;

''(ii) $4,800 for academic year 2008–2009;

''(iii) $5,200 for academic year 2009–2010;

''(iv) $5,600 for academic year 2010–2011; and

''(v) $6,000 for academic year 2011–2012,'';

(B) in paragraph (3)(A), by striking ''an appropriation Act'' and inserting ''this section''; and

(C) in paragraph (7), by striking ''the appropriate Appropriation Act for this subpart'' and inserting ''this section'';

(2) by striking subsection (g);

(3) by redesignating subsections (h), (i), and (j), as subsections (g), (h), and (i), respectively; and

(4) by adding at the end the following:

''(j) AUTHORIZATION AND APPROPRIATION OF FUNDS.—There are authorized to be appropriated, and there are appropriated, to carry out this section—

''(1) for academic year 2007–2008, such sums as may be necessary to award each student eligible for a Federal Pell Grant for such academic year not more than $4,500;

''(2) for academic year 2008–2009, such sums as may be necessary to award each student eligible for a Federal Pell Grant for such academic year not more than $4,800;

''(3) for academic year 2009–2010, such sums as may be necessary to award each student eligible for a Federal Pell Grant for such academic year not more than $5,200;

''(4) for academic year 2010–2011, such sums as may be necessary to award each student eligible for a Federal Pell Grant for such academic year not more than $5,600;

''(5) for academic year 2011–2012, such sums as may be necessary to award each student eligible for a Federal Pell Grant for such academic year not more than $6,000; and

''(6) for each subsequent academic year, such sums as may be necessary to award each student eligible for a Federal Pell Grant for such subsequent academic year not more than the amount that is equal to the maximum award amount for the previous academic year increased by a percentage equal to the estimated percentage increase in the Consumer Price Index (as determined by the Secretary) between such previous academic year and such subsequent academic year.''.

SEC. 4. IN-SCHOOL CONSOLIDATION.

Section 428(b)(7)(A) of the Higher Education Act of 1965 (20 U.S.C. 1078(b)(7)(A)) is amended by striking ''shall begin'' and all that follows through the period and inserting ''shall begin—

''(i) the day after 6 months after the date the student ceases to carry at least one-half the normal full-time academic workload (as determined by the institution); or

''(ii) on an earlier date if the borrower requests and is granted a repayment schedule that provides for repayment to commence at an earlier date.''.

SEC. 5. ADMINISTRATIVE ACCOUNT FOR DIRECT LOAN PROGRAM.

Section 458 of the Higher Education Act of 1965 (20 U.S.C. 1087h) is amended to read as follows:

''SEC. 458. FUNDS FOR ADMINISTRATIVE EXPENSES.

''(a) ADMINISTRATIVE EXPENSES.—

''(1) IN GENERAL.—Each fiscal year there shall be available to the Secretary, from funds not otherwise appropriated, funds to be obligated for—

''(A) administrative costs under this part and part B, including the costs of the direct student loan programs under this part; and

''(B) account maintenance fees payable to guaranty agencies under part B and calculated in accordance with subsection (b),

not to exceed (from such funds not otherwise appropriated) $904,000,000 in fiscal year 2007, $943,000,000 in fiscal year 2008, $983,000,000 in fiscal year 2009, $1,023,000,000 in fiscal year 2010, $1,064,000,000 in fiscal year 2011, and $1,106,000,000 in fiscal year 2012.

''(2) ACCOUNT MAINTENANCE FEES.—Account maintenance fees under paragraph (1)(B) shall be paid quarterly and deposited in the Agency Operating Fund established under section 422B.

''(3) CARRYOVER.—The Secretary may carry over funds made available under this section to a subsequent fiscal year.

''(b) CALCULATION BASIS.—Account maintenance fees payable to guaranty agencies under subsection (a)(1)(B) shall not exceed the basis of 0.10 percent of the original principal amount of outstanding loans on which insurance was issued under part B.

''(c) BUDGET JUSTIFICATION.—No funds may be expended under this section unless the Secretary includes in the Department of Education's annual budget justification to Congress a detailed description of the specific activities for which the funds made available by this section have been used in the prior and current years (if applicable), the activities and costs planned for the budget year, and the projection of activities and costs for each remaining year for which administrative expenses under this section are made available.''.

SEC. 6. SINGLE HOLDER RULE.

Subparagraph (A) of section 428C(b)(1) of the Higher Education Act of 1965 (20 U.S.C. 1078–3(b)(1)) is amended by striking ''and (i)'' and all that follows through ''so selected for consolidation)''.

By Mr. SALAZAR:

S. 2584. A bill to amend the Healthy Forests Restoration Act of 2003 to help reduce the increased risk of severe wildfires to communities in forested areas affected by infestations of bark beetles and other insects, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. SALAZAR. Mr. President, I rise today to speak about S. 2584, ''The Rocky Mountain Forest Insects Response Enhancement and Support Act,'' or ''Rocky Mountain FIRES Act,'' which I introduced earlier today.

I am introducing this bill because we are facing an extremely dangerous wildfire situation in the West, including my home State of Colorado, maybe worse than we have ever faced.

Below-average snowfalls, protracted drought, and a massive bark beetle infestation have created fuel loads that threaten forest health, property, and human life. I fear that we are facing a perfect storm of conditions for devastating fires this summer in Colorado.

The southern half of Colorado, and much of the Southwest, has been hit by yet another year of below-average precipitation. With the exception of a few areas in Colorado's northern mountains, precipitation levels this winter were 25–50 percent of average. Colorado is now in its 7th consecutive year of drought.

This drought has been so severe and so long that even the healthiest trees have become fuel for disease, fire, and insect infestations.

Mr. President, the bark beetle, a pest that normally kills only a few weak trees in a stand, has fed off entire forests of drought-weakened trees. It is a plague that is sweeping through the Rockies.

The bark beetle problem in Colorado is of unprecedented magnitude. The infestation is killing trees over hundreds of thousands of acres, leaving huge, dry fuel loads in its wake.

Across the State, but particularly in the Arapaho National Forest in northern Colorado, bark beetles are turning entire forests into brown, dead stands. In 2004, bark beetles killed an estimated 7 million trees over 1.5 million acres in Colorado.

When you see pictures that show the stands that have been hit by the bark beetle, you can see why people who live nearby are so concerned. You can imagine what a fire would look like if it got into a stand of beetle-infested timber—it would jump from crown to crown, racing up ridges and through the forest faster than we could respond.

Beetle-kill stands are everywhere in Grand County and Larimer County, Summit and Eagle, Saguache and San Miguel. They are increasingly visible in pockets along the Front Range, among houses and communities in the wildland-urban interface.

The areas with smaller outbreaks, like those in the Pike National Forest and the Gunnison National Forest, are just as worrisome as the massive outbreaks in northern Colorado. When we see even a handful of beetle-kill trees, it usually means that the insects are already attacking the surrounding trees.

Private land owners and local governments are doing all they can to combat this problem—they are using their chainsaws to protect their homes, they are spraying trees, and they are devising protection plans. They wonder, though, if they aren't alone in this fight. They wonder if the Federal Government is asleep at the wheel in the face of potential disaster.

The people who see the browned-out, dead forests from their kitchen windows wonder why Washington isn't moving faster to curb this onslaught on our public lands—why is the government not clearing out the dead trees, creating buffers to prevent the beetle from spreading, or providing more resources and expertise to help local communities protect themselves?

I have pressed Secretary Johanns to find funds to deal with this emergency in Colorado and across the West. At the current budget levels, we are simply not able to curb the bark beetle problem and prepare for the upcoming fire season. We could be treating 2 or 3 times as many acres this year if we only had adequate funds.

We must also give local communities and land managers the tools they need to combat the bark beetle infestation. That is what S2584, the ''Rocky Mountain Fires Act,'' will do.

My bill will facilitate a swifter response by the Forest Service and BLM to widespread insect infestations in our forests; provide additional money to communities that are preparing or revising their wildfire protection plans; make grant funding available for enterprises that use woody biomass for energy production and other commercial purposes, so that we can put beetle-kill trees and wood from hazard fuels-reduction projects to good use; and allow the Forest Service and the BLM to award stewardship contracts to nearby landowners, so that residents can do hazard fuels reduction on federal lands to protect their homes.

Coloradans are anxious for Congress to take action on the bark beetle issue because they know the dangers they face. They remember the fire storms of 2002, when the Hayman Fire burned 138,000 acres on the Front Range, the Missonary Ridge Fire burned 70,000 acres near Durango, and scores of other fires across the State chewed up resources and claimed property and lives.

This year could be as bad, or worse, if we don't take action right now.

We must find funds or provide emergency funding so that we can gear up for the fire season. We must also pass bark beetle legislation that gives communities and land managers the tools they need to protect property and lives.

We must take action right now. As I am reminded by the reports of fires in Colorado just this past week: this summer's fire season is already upon us.

By Mr. SMITH (for himself and Mr. KERRY):

S. 2585. A bill to amend the Internal Revenue Code of 1986 to permit military death gratuities to be contributed to certain tax-favored accounts; to the Committee on Finance.

Mr. SMITH. America's service men and women continue to make the ultimate sacrifices for our Nation. In the tragic cases where brave soldiers, marines, airmen, and sailors lose their lives in support of Operation Enduring Freedom or Operation Iraqi Freedom, we must honor their service by ensuring that their families are not forced to shoulder undue financial strain. Therefore, I am honored to introduce the Fallen Heroes Family Savings Act.

This legislation will increase the flexibility given to families while managing the death gratuity payment to the survivors of fallen service men and women. This bill will provide these families expanded financial options to invest the $100,000 death gratuity payment in health, education, and retirement savings accounts. Allowing families to transfer these funds will help them save money for a college education, medical expenses, or to finance a future retirement.

Allowing military families increased financial flexibility is the least we can do to honor the legacy our troops have worked so hard to create. It is my hope that this legislation will assist the

families of fallen service men and women in their time of grief and allow them to plan for their future.

I ask for unanimous consent to have printed in the RECORD the following letter from the Military Officers Association of America in support of this legislation.

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

MILITARY OFFICERS ASSOCIATION OF AMERICA,
Alexandria, VA, April 6, 2006.

Hon. GORDON SMITH,
U.S. Senate,
Washington, DC.

DEAR SENATOR SMITH: I am writing on behalf of the 360,000 members of the Military Officers Association of America (MOAA) in support of your planned legislation, the Fallen Heroes Family Savings Act. This important bill would help military survivors manage the increased death gratuity amounts permanently authorized in the FY2006 National Defense Authorization Act.

The new $100,000 death gratuity provides greatly improved compensation for military survivors and their families but also presents a challenge as to where to safely invest such sizeable sums to provide for future financial security. Your bill would allow survivors to invest death gratuity lump sums in Roth IRA's and other savings accounts, above the contribution limits now allowed. This makes perfect sense and is a logical extension of efforts to increase benefits to widows.

MOAA is grateful for your leadership on this and other issues important to our servicemembers. We pledge our support in seeking enactment of this important legislation.

Sincerely,

NORB RYAN, Jr.,
President.

Mr. KERRY. Mr. President, today Senator SMITH and I are introducing ''The Fallen Heroes Family Savings Act'' that will help military families that have suffered a tragic loss. In recent years, the Congress has generously raised the amount of the military death gratuity to $100,000 and expanded eligibility to all in uniform.

Our current tax laws do not allow the recipients of this payment to use it to make contributions to tax-preferred accounts that help with saving for retirement, health care, or the cost of education. Our legislation would allow families who already have given so much to contribute the death gratuity to certain tax-preferred accounts. These contributions would be treated as qualified rollovers. The contribution limits of these accounts will not be applied to these contributions.

This legislation will not ease the pain of military families that suffer the loss of a loved one, but it can help families put their lives back together. It will enable military families to save more for retirement, education, and health care by being able to put the death gratuity payment in an account in which the earnings will accumulate tax-free.

These changes to our tax laws will help military families with some of their financial burdens. It can not repay the sacrifices that they have made for us, but it hopefully demonstrates the gratitude of a Nation that will not forget the families of the fallen.

By Mr. KERRY:

S. 2586. A bill to establish a 2-year pilot program to develop a curriculum at historically Black colleges and universities, Tribal Colleges, and Hispanic serving institutions to foster entrepreneurship and business development in underserved minority communities; to the Committee on Small Business and Entrepreneurship.

Mr. KERRY. Mr. President, I rise today to introduce the Minority Entrepreneurship and Innovation Pilot Program, legislation aimed at addressing this Nation's growing economic disparities through entrepreneurship and business development. It is the spirit of entrepreneurship that has made America's economy the best in the world. And it is through the energy and vitality of the small business sector that we will help all sectors of American society benefit from our robust economy.

Exactly one year ago, the National Urban League released a report on the State of Black America, which discussed the growing economic gap between African Americans and their white counterparts. The report states that the median net worth of an African American family is $6,100 compared with $67,000 for a white family. The report makes clear that closing the racial wealth gap needs to be at the forefront of the civil rights agenda moving into the twenty-first century.

Disproportionate unemployment figures for minorities versus their white counterparts have also been a persistent problem. Even as the administration has been touting the current low nationwide unemployment rate, the African American unemployment rate was 9.5 percent, the Hispanic unemployment rate was 6 percent, while the unemployment rate for whites averaged 4.1 percent.

As the Ranking Member on the Senate Committee on Small Business and Entrepreneurship, I have received firsthand testimony and countless reports documenting the positive economic impact that occurs when we foster entrepreneurship in underserved communities. There are signs of significant economic returns when minority businesses are created and are able to grow in size and capacity. Between 1987 and 1997, revenue from minority owned firms rose by 22.5 percent, an increase equivalent to an annual growth rate of 10 percent and employment opportunities within minority owned firms increased by 23 percent during that same period. There is a clear correlation between the growth of minority owned firms and the economic viability of the minority community.

We have come a long way, but we still have a long way to go if this country is going to keep the promise made to all its citizens of the American dream. In 2005, African Americans accounted for 12.3 percent of the population and only 4 percent of all U.S. businesses. Hispanics Americans represent 12.5 percent of the U.S. population and approximately 6 percent of all U.S. businesses. Native Americans account for approximately 1 percent of the population and .9 percent of all U.S. businesses. We can, and should do something to address what is essentially an inequality of opportunity.

I have long argued that there is a compelling interest for the Federal Government to create opportunities for business and economic development in all communities—throughout this Nation. It is appropriate for the Federal Government to lead the efforts and find innovative solutions to the racial disparities that exist in this country, whether they are in healthcare, education, or economics.

Economic disparities in this country are a very complex issue, particularly when racial demographics are involved. I am well aware that there is no one-size-fits-all solution and there is no single piece of legislation that will level the playing field. However, I strongly believe that education and entrepreneurship can help to close the gap in business ownership and the wealth gap that exists in this country. Many minorities are already turning to entrepreneurship as a means of realizing the American dream. According to U.S. Census data, Hispanics are opening businesses 3 times faster than the national average. Business development and entrepreneurship have played a significant role in the expansion of the black middle class in this country for over a century.

The Minority Entrepreneurship and Innovation Pilot Program offers a competitive grant to Historically Black Colleges and Universities, Tribal Colleges, and HispanicServing Institutions to create an entrepreneurship curriculum at these institutions and to open Small Business Development Centers on campus to serve local businesses. The colleges and universities that participate in this program will foster entrepreneurship among their students, the best and brightest of the minority community, and develop a pool of talented entrepreneurs that are essential to innovation, job creation, and closing the wealth gap. The bill would make 24 grants, for $1 million each, available to institutions that include entrepreneurship and innovation as a part of their organizational mission and open a business-counseling center for those graduates that start their own businesses as well as the surrounding community of existing business owners.

The goal of this program is to target students who have skills in highly skilled fields such as engineering, manufacturing, science and technology, and guide them towards entrepreneurship as a career option. Minority-owned businesses already participate in a wide variety of industries, but are

disproportionately represented in traditionally lowgrowth and low-opportunity service sectors. Promoting entrepreneurial education to undergraduate students at colleges and universities expands the pool of potential business owners to technology, financial services, legal services, and other non-traditional areas in which the overall development of minority firms has been slow. Growing the size and capacity of existing minority firms and promoting entrepreneurship among minority students already committed to higher education will have a direct relationship on the employment rate, income levels and wealth creation of minorities throughout the nation.

The funds are also to be used to open a Small Business Development Center (SBDC) on the campus of the institution to assist in capacity building, innovation and market niche development, and to offer traditional business counseling, similar to other SBDCs. The one-to-one counseling offered by the business specialists at these centers has proven to be the most effective model available for making entrepreneurs run more effective, more efficient, and more successful businesses. By placing the centers on campus, the institutions will be able to leverage the $1 million grant for greater returns and coordinate efforts with the school's academic departments to maximize the efficacy of the program.

While the funding in this bill is modest relative to the multi-billion dollar budgets we discuss on a daily basis, these funds can go a long way and be leveraged to create economic growth in the most needed areas of this country. With this legislation, we will help foster long-term innovation and competitiveness in the small business sector. Mr. President, this bill is a small investment in the future of this country that I am sure will do much to foster economic growth in our minority communities and beyond. I urge my colleagues to join me as cosponsors of this important piece of legislation.

By Mr. DOMENICI (for himself and Mr. INHOFE) (by request):

S. 2589. A bill to enhance the management and disposal of spent nuclear fuel and high-level radioactive waste, to ensure protection of public health and safety, to ensure the territorial integrity and security of the repository at Yucca Mountain, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. DOMENICI. Mr. President, I am pleased to rise today, on behalf of myself and Senator INHOFE, to introduce, at the request of the administration, legislation to further the development at Yucca Mountain of the national repository for nuclear spent fuel and defense nuclear waste. This bill is a good start on the road to enactment of legislation that will resolve issues critical to the construction, licensing and operation of the facility.

I hope to begin hearings on this issue in the Energy and Natural Resources Committee shortly after the conclusion of the upcoming recess. I look forward to working with the administration, Senator INHOFE, and other interested Senators to facilitate the construction and operation of the repository, a project so important to the continued development of safe, clean, and efficient nuclear power in this country.

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

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

S. 2589

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 ''Nuclear Fuel Management and Disposal Act''.

SEC. 2. DEFINITIONS.

(a) DEFINITIONS FROM NUCLEAR WASTE POLICY ACT OF 1982 .—In this Act, the terms ''Commission'', ''disposal'', ''Federal agency'', ''high-level radioactive waste'', ''repository'', ''Secretary'', ''State'', ''spent nuclear fuel'', and ''Yucca Mountain site'' have the meaning given those terms in section 2 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101).

(b) OTHER DEFINITIONS.—In this Act:

(1) PROJECT.—The term ''Project'' means the Yucca Mountain Project.

(2) SECRETARY CONCERNED.—The term ''Secretary concerned'' means the Secretary of the Air Force or the Secretary of the Interior, or both, as appropriate.

(3) WITHDRAWAL.—The term ''Withdrawal'' means the withdrawal under section 3(a)(1) of the geographic area consisting of the land described in section 3(c).

SEC. 3. LAND WITHDRAWAL AND RESERVATION.

(a) LAND WITHDRAWAL, JURISDICTION, AND RESERVATION.—

(1) LAND WITHDRAWAL.—Subject to valid existing rights and except as provided otherwise in this Act, the land described in subsection (c) is withdrawn permanently from all forms of entry, appropriation, and disposal under the public land laws, including, without limitation, the mineral leasing laws, geothermal leasing laws, and mining laws.

(2) JURISDICTION.—

(A) IN GENERAL.—Except as otherwise provided in this Act, the Secretary shall have jurisdiction over the Withdrawal.

(B) TRANSFER.—There is transferred to the Secretary the land covered by the Withdrawal that is under the jurisdiction of the Secretary concerned on the date of enactment of this Act.

(3) RESERVATION.—The land covered by the Withdrawal is reserved for use by the Secretary for the development, preconstruction testing and performance confirmation, licensing, construction, management and operation, monitoring, closure, post-closure, and other activities associated with the disposal of high-level radioactive waste and spent nuclear fuel under the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101 et seq.).

(b) REVOCATION AND MODIFICATION OF PUBLIC LAND ORDERS AND RIGHTS-OF-WAY.—

(1) PUBLIC LAND ORDER REVOCATION.—Public Land Order 6802 of September 25, 1990, as extended by Public Land Order 7534, and any conditions or memoranda of understanding accompanying those land orders, are revoked.

(2) RIGHT OF WAY RESERVATIONS.—Project right-of-way reservations N–48602 and N–47748 of January 5, 2001, are revoked.

(c) LAND DESCRIPTION.—

(1) BOUNDARIES.—The land and interests in land covered by the Withdrawal and reserved by this Act comprise the approximately 147,000 acres of land in Nye County, Nevada, as generally depicted on the Yucca Mountain Project Map, YMP–03–024.2, entitled ''Proposed Land Withdrawal'' and dated July 21, 2005.

(2) LEGAL DESCRIPTION AND MAP.—As soon as practicable after the date of enactment of this Act, the Secretary of the Interior shall—

(A) publish in the Federal Register a notice containing a legal description of the land covered by the Withdrawal; and

(B) file copies of the maps described in paragraph (1) and the legal description of the land covered by the Withdrawal with Congress, the Governor of the State of Nevada, and the Archivist of the United States.

(3) TECHNICAL CORRECTIONS.—The maps and legal description referred to in this subsection have the same force and effect as if included in this Act, except that the Secretary of the Interior may correct clerical and typographical errors in the maps and legal description.

(d) RELATIONSHIP TO OTHER RESERVATIONS.—

(1) IN GENERAL.—Subtitle A of title XXX of the Military Lands Withdrawal Act of 1999 (Public Law 106–65; 113 Stat. 885) and Public Land Order 2568 do not apply to the land covered by the Withdrawal and reserved by subsection (a).

(2) OTHER WITHDRAWN LAND.—This Act does not apply to any other land withdrawn for use by the Department of Defense under subtitle A of title XXX of the Military Lands Withdrawal Act of 1999.

(e) MANAGEMENT RESPONSIBILITIES.—

(1) GENERAL AUTHORITY.—The Secretary, in consultation with the Secretary concerned, as applicable, shall manage the land covered by the Withdrawal in accordance with the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), this Act, and other applicable law.

(2) MANAGEMENT PLAN.—

(A) DEVELOPMENT.—Not later than 3 years after the date of enactment of this Act, the Secretary, after consultation with the Secretary concerned, shall develop and submit to Congress and the State of Nevada a management plan for the use of the land covered by the Withdrawal.

(B) PRIORITY OF YUCCA MOUNTAIN PROJECT–RELATED ISSUES.—Subject to subparagraphs (C), (D), and (E), any use of the land covered by the Withdrawal for activities not associated with the Project is subject to such conditions and restrictions as the Secretary considers to be necessary or desirable to permit the conduct of Project-related activities.

(C) DEPARTMENT OF THE AIR FORCE USES.—The management plan may provide for the continued use by the Department of the Air Force of the portion of the land covered by the Withdrawal within the Nellis Air Force Base Test and Training Range under terms and conditions on which the Secretary and the Secretary of the Air Force agree with respect to Air Force activities.

(D) NEVADA TEST SITE USES.—The Secretary may—

(i) permit the National Nuclear Security Administration to continue to use the portion of the land covered by the Withdrawal on the Nevada Test Site; and

(ii) impose any conditions on that use that the Secretary considers to be necessary to minimize any effect on Project or Administration activities.

(E) OTHER NON–YUCCA MOUNTAIN PROJECT USES.—

(i) IN GENERAL.—The management plan shall provide for the maintenance of wildlife habitat and the permitting by the Secretary

of non-Project-related uses that the Secretary considers to be appropriate, including domestic livestock grazing and hunting and trapping in accordance with clauses (ii) and (iii).

(ii) GRAZING.—Subject to regulations, policies, and practices that the Secretary, after consultation with the Secretary of the Interior, determines to be necessary or appropriate, the Secretary may permit grazing on land covered by the Withdrawal to continue on areas on which grazing was established before the date of enactment of this Act, in accordance with applicable grazing laws and policies, including—

(I) the Act of June 28, 1934 (commonly known as the ''Taylor Grazing Act'') (43 U.S.C. 315 et seq.);

(II) title IV of the Federal Land Policy Management Act of 1976 (43 U.S.C. 1751 et seq.); and

(III) the Public Rangelands Improvement Act of 1978 (43 U.S.C. 1901 et seq.).

(iii) HUNTING AND TRAPPING.—The Secretary may permit hunting and trapping on land covered by the Withdrawal on areas in which hunting and trapping were permitted on the day before the date of enactment of this Act, except that the Secretary, after consultation with the Secretary of the Interior and the State of Nevada, may designate zones in which, and establish periods during which, no hunting or trapping is permitted for reasons of public safety, national security, administration, or public use and enjoyment.

(F) MINING.—

(i) IN GENERAL.—Except as provided in subparagraph (B), surface or subsurface mining or oil or gas production, including slant drilling from outside the boundaries of the land covered by the Withdrawal, is not permitted at any time on or under the land covered by the Withdrawal.

(ii) VALIDITY OF CLAIMS.—The Secretary of the Interior shall evaluate and adjudicate the validity of all mining claims on the portion of land covered by the Withdrawal that, on the date of enactment of this Act, was under the control of the Bureau of Land Management.

(iii) COMPENSATION.—The Secretary shall provide just compensation for the acquisition of any valid property right.

(iv) CIND-R-LITE MINE.—

(I) IN GENERAL.—Patented Mining Claim No. 27–83–0002, covering the Cind-R-Lite mine, shall not be affected by establishment of the Withdrawal, unless the Secretary, after consultation with the Secretary of the Interior, determines that the acquisition of the mine is required in furtherance of the reserved use of the land covered by the Withdrawal described in subsection (a)(3).

(II) COMPENSATION.—If the Secretary determines that the acquisition of the mine described in subclause (I) is required, the Secretary shall provide just compensation for acquisition of the mine.

(G) LIMITED PUBLIC ACCESS.—The management plan may provide for limited public access to and use of the portion of the land covered by the Withdrawal that is under the jurisdiction of the Bureau of Land Management on the date of enactment of this Act, including for—

(i) continuation of the Nye County Early Warning Drilling Program;

(ii) utility corridors; and

(iii) such other uses as the Secretary, after consultation with the Secretary of the Interior, considers to be consistent with the purposes of the Withdrawal.

(H) CLOSURE.—If the Secretary, after consultation with the Secretary concerned, determines that the health or safety of the public or the common defense or security requires the closure of a road, trail, or other portion of land covered by the Withdrawal, or the airspace above land covered by the Withdrawal, the Secretary—

(i) may close the portion of land or the airspace; and

(ii) shall provide public notice of the closure.

(3) IMPLEMENTATION.—The Secretary and the Secretary concerned shall implement the management plan developed under paragraph (2) in accordance with terms and conditions on which the Secretary and the Secretary concerned jointly agree.

(f) IMMUNITY.—The United States (including each department and agency of the Federal Government) shall be held harmless, and shall not be liable, for damages to a person or property suffered in the course of any mining, mineral leasing, or geothermal leasing activity conducted on the land covered by the Withdrawal.

(g) LAND ACQUISITION.—

(1) IN GENERAL.—The Secretary may acquire land, and interests in land within the land, covered by the Withdrawal.

(2) METHOD OF ACQUISITION.—Land and interests in land described in paragraph (1) may be acquired by donation, purchase, lease, exchange, easement, right-of-way, or other appropriate methods using donated or appropriated funds.

(3) EXCHANGE OF LAND.—The Secretary of the Interior shall conduct any exchange of land covered by the Withdrawal for Federal land not covered by the Withdrawal.

SEC. 4. APPLICATION PROCEDURES AND INFRASTRUCTURE ACTIVITIES.

(a) APPLICATION.—Section 114(b) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10134(b)) is amended—

(1) by striking ''If the President'' and inserting the following:

''(1) IN GENERAL.—If the President''; and

(2) by adding at the end the following

''(2) REQUIRED INFORMATION.—An application for construction authorization shall not be required to contain information any surface facility other than surface facilities necessary for initial operation of the repository.''.

(b) APPLICATION PROCEDURES AND INFRASTRUCTURE ACTIVITIES.—Section 114(d) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10134(d)) is amended—

(1) in the first sentence, by striking ''The Commission shall consider'' and inserting the following:

''(1) IN GENERAL.—The Commission shall consider'';

(2) by striking the last 2 sentences; and

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

''(2) AMENDMENTS TO APPLICATION FOR CONSTRUCTION AUTHORIZATION.—

''(A) IN GENERAL.—If the Commission approves an application for construction authorization and the Secretary submits an application to amend the authorization to obtain permission to receive and possess spent nuclear fuel and high-level radioactive waste, or to undertake any other action concerning the repository, the Commission shall consider the application using expedited, informal procedures, including discovery procedures that minimize the burden on the parties to produce documents that the Commission does not need to render a decision on an action under this section.

''(B) FINAL DECISION.—The Commission shall issue a final decision on whether to grant permission to receive and possess spent nuclear fuel and high-level radioactive waste, or on any other application, by the date that is 1 year after the date of submission of the application, except that the Commission may extend that deadline by not more than 180 days if, not less than 30 days before the deadline, the Commission complies with the reporting requirements under subsection (e)(2).

''(3) INFRASTRUCTURE ACTIVITIES.—

''(A) IN GENERAL.—At any time before or after the Commission issues a final decision on an application from the Secretary for construction authorization under this subsection, the Secretary may undertake infrastructure activities that the Secretary determines to be necessary or appropriate to support construction or operation of a repository at the Yucca Mountain site or transportation to the Yucca Mountain site of spent nuclear fuel and high level radioactive waste, including infrastructure activities such as—

''(i) safety upgrades;

''(ii) site preparation;

''(iii) the construction of a rail line to connect the Yucca Mountain site with the national rail network, including any facilities to facilitate rail operations; and

''(iv) construction, upgrade, acquisition, or operation of electrical grids or facilities, other utilities, communication facilities, access roads, rail lines, and non-nuclear support facilities.

''(B) COMPLIANCE.—

''(i) IN GENERAL.—The Secretary shall comply with all applicable requirements under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to an infrastructure activity undertaken under this paragraph.

''(ii) EIS.—If the Secretary determines that an environmental impact statement or similar analysis under the National Environmental Policy Act of 1969 is required in connection with an infrastructure activity undertaken under this paragraph, the Secretary shall not be required to consider the need for the action, alternative actions, or a no-action alternative.

''(iii) OTHER AGENCIES.—

''(I) IN GENERAL.—To the extent that a Federal agency is required to consider the potential environmental impact of an infrastructure activity undertaken under this paragraph, the Federal agency shall adopt, to the maximum extent practicable, an environmental impact statement or similar analysis prepared under this paragraph without further action.

''(II) EFFECT OF ADOPTION OF STATEMENT.—Adoption of an environmental impact statement or similar analysis described in subclause (I) shall be considered to satisfy the responsibilities of the adopting agency under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and no further action for the activity covered by the statement or analysis shall be required by the agency.

''(C) DENIALS OF AUTHORIZATION.—The Commission may not deny construction authorization, permission to receive and possess spent nuclear fuel or high-level radioactive waste, or any other action concerning the repository on the ground that the Secretary undertook an infrastructure activity under this paragraph.''.

(c) CONNECTED ACTIONS.—Section 114(f)(6) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10134(f)(6)) is amended—

(1) by striking ''or''; and

(2) by inserting before the period at the end the following: '', or an action connected or otherwise relating to the repository, to the extent the action is undertaken outside the geologic repository operations area and does not require a license from the Commission''.

(d) EXPEDITED AUTHORIZATIONS.—Section 120 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10140) is amended—

(1) in subsection (a)(1)—

(A) in the first sentence, by inserting '', or the conduct of an infrastructure activity,'' after ''repository'';

(B) by inserting '', State, local, or tribal'' after ''Federal'' each place it appears; and

(C) in the second sentence, by striking ''repositories'' and inserting ''a repository or infrastructure activity'';

(2) in subsection (b), by striking '', and may include terms and conditions permitted by law''; and

(3) by adding at the end the following:

''(c) FAILURE TO GRANT AUTHORIZATION.—An agency or officer that fails to grant authorization by the date that is 1 year after the date of receipt of an application or request from the Secretary subject to subsection (a) shall submit to Congress a written report that explains the reason for not meeting that deadline or rejecting the application or request.

''(d) TREATMENT OF ACTIONS.—For the purpose of applying any Federal, State, local, or tribal law or requirement, the taking of an action relating to a repository or an infrastructure activity shall be considered to be—

''(1) beneficial, and not detrimental, to the public interest and interstate commerce; and

''(2) consistent with the public convenience and necessity.''.

SEC. 5. NUCLEAR WASTE FUND.

(a) CREDITING FEES.—Beginning on October 1, 2007, and continuing through the end of the fiscal year during which construction is completed for the Nevada rail line and surface facilities for the fully operational repository described in the license application, fees collected by the Secretary and deposited in the Nuclear Waste Fund established by section 302(c) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222(c)) shall be credited to the Nuclear Waste Fund as discretionary offsetting collections each year in amounts not to exceed the amounts appropriated from the Nuclear Waste Fund for that year.

(b) FUND USES.—Section 302(d)(4) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222(d)(4)) is amended by inserting after ''with'' the following: ''infrastructure activities that the Secretary determines to be necessary or appropriate to support construction or operation of a repository at the Yucca Mountain site or transportation to the Yucca Mountain site of spent nuclear fuel and high-level radioactive waste, and''.

SEC. 6. REGULATORY REQUIREMENTS.

(a) MATERIAL REQUIREMENTS.—Notwithstanding any other provision of law, no Federal, State, interstate, or local requirement, either substantive or procedural, that is referred to in section 6001(a) of the Solid Waste Disposal Act (42 U.S.C. 6961(a)), applies to—

(1) any material owned by the Secretary, if the material is transported or stored in a package, cask, or other container that the Commission has certified for transportation or storage of that type of material; or

(2) any material located at the Yucca Mountain site for disposal, if the management and disposal of the material is subject to a license issued by the Commission.

(b) PERMITS.—

(1) IN GENERAL.—The Environmental Protection Agency shall be the permitting agency for purposes of issuing, administering, or enforcing any new or existing air quality permit or requirement applicable to a Federal facility or activity relating to the Withdrawal that is subject to the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101 et seq.).

(2) STATE AND LOCAL ACTIVITY.—A State or unit of local government shall not issue, administer, or enforce a new or existing air quality permit or requirement affecting a Federal facility or activity that is—

(A) located on the land covered by the Withdrawal; and

(B) subject to the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101 et seq.).

SEC. 7. TRANSPORTATION.

The Nuclear Waste Policy Act of 1982 is amended by inserting after section 180 (42 U.S.C. 10175) the following:

''SEC. 181. TRANSPORTATION.

''(a) IN GENERAL.—The Secretary may determine the extent to which any transportation required to carry out the duties of the Secretary under this Act that is regulated under the Hazardous Materials Transportation Authorization Act of 1994 (title I of Public Law 103–311; 108 Stat. 1673) and amendments made by that Act shall instead be regulated exclusively under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.).

''(b) DETERMINATION OF PREEMPTION.—On request by the Secretary, the Secretary of Transportation may determine, pursuant to section 5125 of title 49, United States Code, that any requirement of a State, political subdivision of a State, or Indian tribe regarding transportation carried out by or on behalf of the Secretary in carrying out this Act is preempted, regardless of whether the transportation otherwise is or would be subject to regulation under the Hazardous Materials Transportation Authorization Act of 1994 (title I of Public Law 103–311; 108 Stat. 1673).''.

SEC. 8. CONSIDERATION OF EFFECT OF ACQUISITION OF WATER RIGHTS.

Section 124 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10144) is amended—

(1) by striking the section heading and all that follows through ''The Secretary'' and inserting the following:

''SEC. 124. CONSIDERATION OF EFFECT OF ACQUISITION OF WATER RIGHTS.

''(a) WATER RIGHTS ACQUISITION EFFECT.—The Secretary''; and

(2) by adding at the end the following:

''(b) BENEFICIAL USE OF WATER.—

''(1) IN GENERAL.—Notwithstanding any other Federal, State, or local law, the use of water from any source in quantities sufficient to accomplish the purposes of this Act and to carry out functions of the Department under this Act shall be considered to be a use that—

''(A) is beneficial to interstate commerce; and

''(B) does not threaten to prove detrimental to the public interest.

''(2) CONFLICTING STATE LAWS.—A State shall not enact or apply a law that discriminates against a use described in paragraph (1).

''(3) ACQUISITION OF WATER RIGHTS.—The Secretary, through purchase or other means, may obtain water rights necessary to carry out functions of the Department under this Act.''.

SEC. 9. CONFIDENCE IN AVAILABILITY OF WASTE DISPOSAL.

Notwithstanding any other provision of law, in deciding whether to permit the construction or operation of a nuclear reactor or any related facilities, the Commission shall deem, without further consideration, that sufficient capacity will be available in a timely manner to dispose of the spent nuclear fuel and high-level radioactive waste resulting from the operation of the reactor and related facilities.

By Mr. COBURN (for himself, Mr. OBAMA, Mr. CARPER, and Mr. MCCAIN):

S. 2590. A bill to require full disclosure of all entities and organizations receiving Federal funds; to the Committee on Homeland Security and Governmental Affairs.

Mr. COBURN. Mr. President, today, along with Senators BARACK OBAMA, THOMAS CARPER, and JOHN MCCAIN, I introduced legislation to create an online public database that itemizes Federal funding.

The bill ensures that the taxpayers will now know how their money is being spent. Every citizen in this country, after all, should have the right to know what organizations and activities are being funded with their hard-earned tax dollars.

The Federal Government awards roughly $300 billion in grants annually to 30,000 different organizations across the United States, according to the General Services Administration.

This bill would require the Office of Management and Budget, OMB, to establish and maintain a single public Web site that lists all entities receiving Federal funds, including the name of each entity, the amount of Federal funds the entity has received annually by program, and the location of the entity. All Federal assistance must be posted within 30 days of such funding being awarded to an organization.

This would be an important tool to make Federal funding more accountable and transparent. It would also help to reduce fraud, abuse, and misallocation of Federal funds by requiring greater accounting of Federal expenditures. According to OMB, Federal agencies reported $37.3 billion in improper payments for fiscal year 2005 alone. Better tracking of Federal funds would ensure that agencies and taxpayers know where resources are being spent and likely reduce the number of improper payments by Federal agencies.

Over the past year, the Senate Federal Financial Management Subcommittee, which I chair along with ranking member CARPER, has uncovered tens of billions of dollars in fraud, abuse and wasteful spending, ranging from expensive leasing schemes to corporate welfare to bloated bureaucracy. This database would ensure that such spending is better tracked and the public can hold policymakers and Government agencies accountable for questionable spending decisions.

The Web site required by this bill would not be difficult to develop. In fact, one such site already exists for some Federal funds provided by agencies within the Department of Health and Human Services, HHS. The CRISP, Computer Retrieval of Information on Scientific Projects, is a searchable database of federally funded biomedical research projects conducted at universities, hospitals, and other research institutions. The database, maintained by the Office of Extramural Research at the National Institutes of Health, includes projects funded by the National Institutes of Health, Substance Abuse and Mental Health Services, Health Resources and Services Administration, Food and Drug Administration, Centers for Disease Control and Prevention, CDC, Agency for Health Care Research and Quality, and Office of Assistant Secretary of Health. The CRISP database contains current and

historical awards dating from 1972 to the present.

This type of information should be available for all Federal contracts, grants, loans, and assistance provided by all Federal agencies and departments.

It often takes agencies months to verify or to determine an organization's funding when requested by Congress. There are numerous examples of Federal agencies or entities receiving Federal funds actually trying to camouflage how Federal dollars are being spent or distributing public funds in violation of Federal laws.

In October 2005, the House Government Reform Committee's Subcommittee on Criminal Justice, Drug Policy and Human Resources questioned the U.S. Agency for International Development, USAID, assistant administrator to determine if the agency was funding a proprostitution nongovernmental organization called Sampada Grameen Mahila Sanstha, SANGRAM, in apparent violation of Public Law 108–25. This law prohibits funds from being used ''to promote or advocate the legalization or practice of prostitution or sex trafficking,'' and organizations seeking Federal funding for HIV/AIDS work must have a policy ''explicitly opposing prostitution and sex trafficking.''

According to an unclassified State Department memorandum, Restore International, an antitrafficking organization working in India, was ''confronted by a USAID-funded NGO, SANGRAM while the former attempted to rescue and provide long-term care for child victims of sex trafficking. The confrontation led to the release of 17 minor girls—victims of trafficking—into the hands of traffickers and trafficking accomplices.'' According to this memorandum, SANGRAM ''allowed a brothel keeper into a shelter to pressure the girls not to cooperate with counselors. The girls are now back in the brothels, being subjected to rape for profit.''

On November 16, 2005, a USAID briefer asserted to subcommittee staff that USAID had ''nothing to do with'' the grant to the proprostitution SANGRAM and that the subcommittee's inquiries were ''destructive.'' Nonetheless, congressional investigators continued to pursue this matter and eventually proved that USAID money financed the proprostitution SANGRAM through a second organization named Avert, which was established with the assistance of four USAID employees as a passthrough entity. USAID has held the ex-officio vice chairmanship of Avert since inception. According to documents obtained by the subcommittee, the USAID board member of Avert voted twice to award funding to SANGRAM—July 27, 2002 and again on December 3, 2004—the last time being some 18 months after the provisions of Public Law 108–25 prohibited taxpayer funding of proprostitution groups like SANGRAM.

Last August, HHS sponsored a conference in Utah entitled the ''First National Conference on Methamphetamine, HIV and Hepatitis'' that promoted illegal drug abuse and dangerous sexual behavior. Conference sessions included: ''We Don't Need a 'War' on Methamphetamine''; ''You Don't Have to Be Clean & Sober. Or Even Want to Be!''; ''Tweaking Tips for Party Boys''; ''Barebacking: A Harm Reduction Approach''; and ''Without condoms: Harm Reduction, Unprotected Sex, Gay Men and Barebacking.'' ''Tweaking'' is a street term for the most dangerous stage of meth abuse. A ''tweaker'' is a term for a meth addict who probably has not slept in days, or weeks, and is irritable and paranoid. Likewise, ''party boy'' is slang for an individual who abuses drugs, or ''parties.'' ''Barebacking'' is a slang term for sexual intercourse without the use of a condom.

While HHS initially denied sponsoring the conference, it was later learned that thousands of dollars of a CDC grant were used to, in fact, sponsor this conference and CDC sent six employees to participate. In a letter dated October 28, 2005, CDC Director Dr. Julie Gerberding admitted that ''Although CDC was not listed as a sponsor, a portion of CDC's cooperative agreement with Utah, $13,500, was used to support the conference. While Utah informed a CDC project officer that Utah and the Harm Reduction Coalition were sponsoring the conference and shared a draft agenda with the project officer, Utah did not inform the project officer about the particular source of the funding for the conference.''

Previously, the CDC was questioned about its financial support for a number of dubious HIV prevention workshops, including ''flirting classes'' and ''Booty Call,'' orchestrated by the Stop AIDS Foundation of San Francisco. While CDC repeatedly denied to both Congress and the public that taxpayer funds were used to finance these programs, a Stop AIDS Project official eventually admitted in August 2001 to using Federal funds for the programs. An HHS Office of Inspector General, OIG, investigation also concluded in November 2001 that Federal funds were used to finance the programs and that the programs themselves contained content that may violate Federal laws and Federal guidelines were not followed. The OIG found that the activity under review ''did not fully comply with the cooperative agreement and other CDC guidance,'' that the CDC requirement for review of materials by a local review panel was not followed, and characterized some of the project activities as ''inappropriate.'' Finally, the OIG concluded that ''CDC funding was used to support all [Stop AIDS] Project activities.'' The Stop AIDS Project received approximately $700,000 a year from the CDC but no longer receives Federal funding.

These are just a few recent examples from only a couple agencies uncovered due to aggressive congressional oversight. While the public, whose taxes finance these groups and programs, watchdog organizations, and the media can file Freedom of Information Act, FOIA, requests for this same information, such requests can take months to receive answers and often go completely ignored.

If enacted, this legislation will finally ensure true accountability and transparency in how the Government spends our money, which will hopefully lead to more fiscal responsibility by the Federal Government.

By Mr. HARKIN (for himself, Mr. SPECTER, Mr. BINGAMAN, Ms. MURKOWSKI, Mr. DURBIN, Mr. CHAFEE, and Mrs. CLINTON):

S. 2592. A bill to amend the Child Nutrition Act of 1966 to improve the nutrition and health of schoolchildren by updating the definition of ''food of minimal nutritional value'' to conform to current nutrition science and to protect the Federal investment in the national school lunch and breakfast programs; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. HARKIN. Mr. President, our Nation faces a public health crisis of the first order. Poor diet and physical inactivity are contributing to growing rates of chronic disease in the U.S. These problems do not just affect adults, but increasingly affect the health of our children as well. Research suggests that one-third of American children born today will develop type II diabetes at some point. For some minority children, the numbers are even more shocking, as high as 50 percent. At the same time, rates of overweight among children are skyrocketing: tripling among children ages 6–11, and doubling among children ages 2 to 5 and ages 12–19 over the past three decades. Indeed, just this week the Journal of the American Medical Association released a new study that found that, in just the past 5 years, rates of childhood overweight and obesity rose very significantly.

There are many reasons for this public health crisis, and accordingly, addressing the crisis will require multiple solutions as well. One place where we can start is with our schools, which have been inundated with foods and drinks having little or no positive nutritional value. A recent study from the Government Accountability office found that 99 percent of high schools, 97 percent of middle schools, and 83 percent of elementary schools sell foods from vending machines, school stores, or a-la-carte lines in the cafeteria. And it is not fresh fruits and vegetables and other healthy foods that are being sold. No, the vast majority of the foods being sold in our schools outside of Federal meal programs are foods that contribute nothing to the health and development of our children and are actually detrimental to them.

Not only does the over consumption of these foods take a toll on the health

of our children, but they also have a negative impact of the investment of taxpayer dollars in the health of our kids. Every year the Federal Government spends nearly $10 billion to reimburse schools for the provision of meals through the National School Lunch Program and School Breakfast Program. In order to receive reimbursement, these meals must meet nutrition standards based upon the Dietary Guidelines for All Americans, the official dietary advice of the U.S. government. However, sales of food elsewhere in our schools do not fall under these guidelines. Therefore, as children consume more and more of the foods typically sold through school vending machines and snack bars, it undermines the nearly $10 billion in Federal reimbursements that we spend on nutritionally balanced school meals.

Finally, the heavy selling of candy, soft drinks and other junk food in our schools undermines the guidance, and even the instruction and authority of parents who want to help their children consume sound and balanced diets. The American public agrees. A Robert Wood Johnson Foundation poll from several years ago found that 90 percent of parents would like to see schools remove the typical junk food from vending machines and replace it with healthier alternatives. My bill seeks to restore the role and authority of parents by ensuring that schools provide the healthy, balanced nutrition that contributes to health and development.

What really hurts children and undermines parents is the junk food free-for-all that currently exists in so many of our schools. How does it help kids if the school sells them a 20-ounce soda and a candy bar for lunch when their parents have sent them to school with the expectation that they will have balanced meals from the school lunch program?

Today, for the first time ever, bipartisan legislation is being introduced in both Chambers of Congress to address this problem—and to do what is right for the health of our kids. This bill is supported by key health and education groups, and I would like to thank the National PTA, the American Medical Association, the Center for Science in the Public Interest, the American Heart Association, the American Dietetic Association, the American Diabetes Association, and others for their strong support.

The Child Nutrition Promotion and School Lunch Protection Act of 2006 does two very simple but important things:

First, it requires the Secretary of Agriculture to initiate a rulemaking process to update nutritional standards for foods sold in schools. Currently, USDA relies upon a very narrow nutritional standard that is nearly 30 years old. Since that definition was formulated, children's diets and dietary risk have changed dramatically. In that time, we have also learned a great deal about the relationship between poor diet and chronic disease. It is time for public policy to catch up with the science.

Second, the bill requires the Secretary of Agriculture to apply the updated definition everywhere on school grounds and throughout the school day. Currently, the Secretary can only issue rules limiting a very narrow class of foods, and then only stop their sales in the actual school cafeteria during the meal period. As a result, a child only needs to walk into the hall outside the cafeteria to buy a ''lunch'' consisting of soda, a bag of chips and a candy bar. This is a loophole that is big enough to drive a soft drink delivery truck through—literally. It is time to close it.

The bill is supported in the Senate by a bipartisan group of Senators. Joining me in introducing the bill are Senator SPECTER of Pennsylvania, Senator BINGAMAN of New Mexico, Senator MURKOWSKI of Alaska, Senator DURBIN of Illinois, and Senator CHAFEE of Rhode Island. The diverse group of supporters of this bill cuts all lines and shows that when the health of our children is at stake, we can put aside our differences in the interest of our children.

This bill, by itself, will not solve the problem of poor diet and rising rates of chronic disease among our children and adults. But it is a start. Scientists predict that—because of obesity and preventable chronic diseases—the current generation of children could very well be the first in American history to live shorter lives than their parents. If this isn't a wakeup call, I don't know what is.

Our children are at risk. The time to act is now. And that's why I am pleased to introduce the Child Nutrition Promotion and School Lunch Protection Act of 2006.

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

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

S. 2592

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 ''Child Nutrition Promotion and School Lunch Protection Act of 2006''.

SEC. 2. FINDINGS.

Congress finds that—

(1) for a school food service program to receive Federal reimbursements under the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) or the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.), school meals served by that program must meet science-based nutritional standards established by Congress and the Secretary of Agriculture;

(2) foods sold individually outside the school meal programs (including foods sold in vending machines, a la carte or snack lines, school stores, and snack bars) are not required to meet comparable nutritional standards;

(3) in order to promote child nutrition and health, Congress—

(A) has authorized the Secretary to establish nutritional standards in the school lunchroom during meal time; and

(B) since 1979, has prohibited the sale of food of minimal nutritional value, as defined by the Secretary, in areas where school meals are sold or eaten;

(4) Federally-reimbursed school meals and child nutrition and health are undermined by the uneven authority of the Secretary to set nutritional standards throughout the school campus and over the course of the school day;

(5) since 1979, when the Secretary defined the term ''food of minimal nutritional value'' and promulgated regulations for the sale of those foods during meal times, nutrition science has evolved and expanded;

(6) the current definition of ''food of minimal nutritional value'' is inconsistent with current knowledge about nutrition and health;

(7) because some children purchase foods other than balanced meals provided through the school lunch program established under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.) and the school breakfast program established by section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773), the efforts of parents to ensure that their children consume healthful diets are undermined;

(8) experts in nutrition science have found that—

(A) since 1980, rates of obesity have doubled in children and tripled in adolescents;

(B) only 2 percent of children eat a healthy diet that is consistent with Federal nutrition recommendations;

(C) 3 out of 4 high school students do not eat the minimum recommended number of servings of fruits and vegetables each day; and

(D) type 2 diabetes, which is primarily due to poor diet and physical inactivity, is rising rapidly in children;

(9) in 1996, children aged 2 to 18 years consumed an average of 118 more calories per day than similar children did in 1978, which is the equivalent of 12 pounds of weight gain annually, if not compensated for through increased physical activity; and

(10) according to the Surgeon General, the direct and indirect costs of obesity in the United States are $117,000,000,000 per year.

SEC. 3. FOOD OF MINIMAL NUTRITIONAL VALUE.

Section 10 of the Child Nutrition Act of 1966 (42 U.S.C. 1779) is amended—

(1) by striking the section heading and all that follows through ''(a) The Secretary'' and inserting the following:

''SEC. 10. REGULATIONS.

''(a) IN GENERAL.—The Secretary''; and

(2) by striking subsections (b) and (c) and inserting the following:

''(b) FOOD OF MINIMAL NUTRITIONAL VALUE.—

''(1) PROPOSED REGULATIONS.—

''(A) IN GENERAL.—Not later than 180 days after the date of enactment of this paragraph, the Secretary shall promulgate proposed regulations to revise the definition of 'food of minimal nutritional value' that is used to carry out this Act and the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.).

''(B) APPLICATION.—The revised definition of 'food of minimal nutritional value' shall apply to all foods sold—

''(i) outside the school meal programs;

''(ii) on the school campus; and

''(iii) at any time during the school day.

''(C) REQUIREMENTS.—In revising the definition, the Secretary shall consider—

''(i) both the positive and negative contributions of nutrients, ingredients, and

foods (including calories, portion size, saturated fat, trans fat, sodium, and added sugars) to the diets of children;

''(ii) evidence concerning the relationship between consumption of certain nutrients, ingredients, and foods to both preventing and promoting the development of overweight, obesity, and other chronic illnesses;

''(iii) recommendations made by authoritative scientific organizations concerning appropriate nutritional standards for foods sold outside of the reimbursable meal programs in schools; and

''(iv) special exemptions for school-sponsored fundraisers (other than fundraising through vending machines, school stores, snack bars, a la carte sales, and any other exclusions determined by the Secretary), if the fundraisers are approved by the school and are infrequent within the school.

''(2) IMPLEMENTATION.—

''(A) EFFECTIVE DATE.—

''(i) IN GENERAL.—Except as provided in clause (ii), the proposed regulations shall take effect at the beginning of the school year following the date on which the regulations are finalized.

''(ii) EXCEPTION.—If the regulations are finalized on a date that is not more than 60 days before the beginning of the school year, the proposed regulations shall take effect at the beginning of the following school year.

''(B) FAILURE TO PROMULGATE.—If, on the date that is 1 year after the date of enactment of this paragraph, the Secretary has not promulgated final regulations, the proposed regulations shall be considered to be final regulations.''.

By Mrs. BOXER (for herself, Mrs. FEINSTEIN, Mrs. MURRAY, Ms. MIKULSKI, Mr. LAUTENBERG, Ms. STABENOW, and Ms. CANTWELL):

S. 2593. A bill to protect, consistent with Roe v. Wade, a woman's freedom to choose to bear a child or terminate a pregnancy, and for other purposes; to the Committee on the Judiciary.

Mrs. BOXER. Mr. President, today I am introducing the Freedom of Choice Act. When the Supreme Court issued its landmark Roe v. Wade decision in 1973, it made clear that our Constitutional right to privacy grants women the freedom to choose whether to begin, prevent, or continue a pregnancy.

The purpose of this bill is very simple: It ensures that the guarantees of Roe v. Wade will be there for every generation of women.

We know what Roe has meant for women these past 33 years. It has allowed them to make their most personal and difficult reproductive decisions in consultation with loved ones and health care providers. It has given them the dignity to plan their own families and the ability to participate fully in the economic and social life of our country. And, most important, it has preserved health and saved lives.

Many of us are old enough to remember what it was like in the days before Roe. More than a million women a year were forced to seek illegal abortions, pushed into the back alleys where they risked infection, hemorrhage, disfiguration, and death. Some estimate that thousands of women died every year because of illegal abortions before Roe.

When the Senate debated the Supreme Court nomination of Judge Alito, women wrote to me with their own heart-breaking stories. For one woman, the year was 1956. She was only four when her mother died of an illegal abortion performed with a coat hanger. Too scared to ask for help, her mother bled to death at work.

Another woman wrote to me about how hard her mother and father struggled during the depression, how they worked day and night to make ends meet and support their two children. When her mother found out she was pregnant again, she had health problems, and she knew she couldn't take care of another child. She made the very difficult decision to get an illegal abortion. The procedure left her bleeding for weeks, and she almost died.

Mr. President, the American people do not want us to go back to those dark days. In a recent CNN poll, 66 percent said they do not want Roe overturned. Yet there is a dangerous movement afoot to overrule Roe and, in the meantime, to severely undermine its promises.

Make no mistake: The threat to Roe is real and immediate. President Bush has already put two anti-choice justices on the Supreme Court, where reproductive freedom now hangs by a thread. More than 450 anti-choice measures have been enacted by the states since 1995.

Recently, South Dakota enacted a ban on abortion in nearly all circumstances, even when a woman's health is at stake, even when she is the victim of rape and incest. And South Dakota is not alone. Several other states are considering similar bans.

The extremists behind these abortion bans make no secret about their goal. They want to use these laws to overturn Roe, and they think that the changes on the Supreme Court give them a chance to do just that.

We must act now. That is why I am introducing legislation today to protect the reproductive freedom of women across America.

The Freedom of Choice Act writes Roe v. Wade into federal law. It says that every woman has the fundamental right to choose to bear a child; to terminate a pregnancy before fetal viability; or, if necessary to protect the health or life of the mother, after viability. It says that we will not turn back the clock on the health and rights of women. And it says that we will take steps—as a Congress and as a country—to safeguard the dignity, privacy, and health of women now and for generations to come.

I thank the cosponsors of this legislation, and I ask all my colleagues who support Roe v. Wade to join us in making sure that it is the law of the land, and I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2593

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 ''Freedom of Choice Act''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) The United States was founded on core principles, such as liberty, personal privacy, and equality, which ensure that individuals are free to make their most intimate decisions without governmental interference and discrimination.

(2) One of the most private and difficult decisions an individual makes is whether to begin, prevent, continue, or terminate a pregnancy. Those reproductive health decisions are best made by women, in consultation with their loved ones and health care providers.

(3) In 1965, in Griswold v. Connecticut (381 U.S. 479), and in 1973, in Roe v. Wade (410 U.S. 113) and Doe v. Bolton (410 U.S. 179), the Supreme Court recognized that the right to privacy protected by the Constitution encompasses the right of every woman to weigh the personal, moral, and religious considerations involved in deciding whether to begin, prevent, continue, or terminate a pregnancy.

(4) The Roe v. Wade decision carefully balances the rights of women to make important reproductive decisions with the State's interest in potential life. Under Roe v. Wade and Doe v. Bolton, the right to privacy protects a woman's decision to choose to terminate her pregnancy prior to fetal viability, with the State permitted to ban abortion after fetal viability except when necessary to protect a woman's life or health.

(5) These decisions have protected the health and lives of women in the United States. Prior to the *Roe v. Wade* decision in 1973, an estimated 1,200,000 women each year were forced to resort to illegal abortions, despite the risk of unsanitary conditions, incompetent treatment, infection, hemorrhage, disfiguration, and death. Before Roe, it is estimated that thousands of women died annually in the United States as a result of illegal abortions.

(6) In countries in which abortion remains illegal, the risk of maternal mortality is high. According to the World Health Organization, of the approximately 600,000 pregnancy-related deaths occurring annually around the world, 80,000 are associated with unsafe abortions.

(7) The Roe v. Wade decision also expanded the opportunities for women to participate equally in society. In 1992, in Planned Parenthood v. Casey (505 U.S. 833), the Supreme Court observed that, ''[t]he ability of women to participate equally in the economic and social life of the Nation has been facilitated by their ability to control their reproductive lives.''.

(8) Even though the *Roe v. Wade* decision has stood for more than 30 years, there are increasing threats to reproductive health and freedom emerging from all branches and levels of government. In 2006, South Dakota became the first State in more than 15 years to enact a ban on abortion in nearly all circumstances. Supporters of this ban have admitted it is an attempt to directly challenge Roe in the courts. Other States are considering similar bans.

(9) Legal and practical barriers to the full range of reproductive services endanger women's health and lives. Incremental restrictions on the right to choose imposed by Congress and State legislatures have made access to abortion care extremely difficult, if not impossible, for many women across the

country. Currently, 87 percent of the counties in the United States have no abortion provider.

(10) While abortion should remain safe and legal, women should also have more meaningful access to family planning services that prevent unintended pregnancies, thereby reducing the need for abortion.

(11) To guarantee the protections of Roe v. Wade, Federal legislation is necessary.

(12) Although Congress may not create constitutional rights without amending the Constitution, Congress may, where authorized by its enumerated powers and not prohibited by the Constitution, enact legislation to create and secure statutory rights in areas of legitimate national concern.

(13) Congress has the affirmative power under section 8 of article I of the Constitution and section 5 of the 14th amendment to the Constitution to enact legislation to facilitate interstate commerce and to prevent State interference with interstate commerce, liberty, or equal protection of the laws.

(14) Federal protection of a woman's right to choose to prevent or terminate a pregnancy falls within this affirmative power of Congress, in part, because—

(A) many women cross State lines to obtain abortions and many more would be forced to do so absent a constitutional right or Federal protection;

(B) reproductive health clinics are commercial actors that regularly purchase medicine, medical equipment, and other necessary supplies from out-of-State suppliers; and

(C) reproductive health clinics employ doctors, nurses, and other personnel who travel across State lines in order to provide reproductive health services to patients.

SEC. 3. DEFINITIONS.

In this Act:

(1) GOVERNMENT.—The term ''government'' includes a branch, department, agency, instrumentality, or official (or other individual acting under color of law) of the United States, a State, or a subdivision of a State.

(2) STATE.—The term ''State'' means each of the States, the District of Columbia, the Commonwealth of Puerto Rico, and each territory or possession of the United States.

(3) VIABILITY.—The term ''viability'' means that stage of pregnancy when, in the best medical judgment of the attending physician based on the particular medical facts of the case before the physician, there is a reasonable likelihood of the sustained survival of the fetus outside of the woman.

SEC. 4. INTERFERENCE WITH REPRODUCTIVE HEALTH PROHIBITED.

(a) STATEMENT OF POLICY.—It is the policy of the United States that every woman has the fundamental right to choose to bear a child, to terminate a pregnancy prior to fetal viability, or to terminate a pregnancy after fetal viability when necessary to protect the life or health of the woman.

(b) PROHIBITION OF INTERFERENCE.—A government may not—

(1) deny or interfere with a woman's right to choose—

(A) to bear a child;

(B) to terminate a pregnancy prior to viability; or

(C) to terminate a pregnancy after viability where termination is necessary to protect the life or health of the woman; or

(2) discriminate against the exercise of the rights set forth in paragraph (1) in the regulation or provision of benefits, facilities, services, or information.

(c) CIVIL ACTION.—An individual aggrieved by a violation of this section may obtain appropriate relief (including relief against a government) in a civil action.

SEC. 5. SEVERABILITY.

If any provision of this Act, or the application of such provision to any person or circumstance, is held to be unconstitutional, the remainder of this Act, or the application of such provision to persons or circumstances other than those as to which the provision is held to be unconstitutional, shall not be affected thereby.

SEC. 6. RETROACTIVE EFFECT.

This Act applies to every Federal, State, and local statute, ordinance, regulation, administrative order, decision, policy, practice, or other action enacted, adopted, or implemented before, on, or after the date of enactment of this Act.

By Mr. KERRY (for himself, Mr. PRYOR, and Ms. LANDRIEU):

S. 2594. A bill to amend the Small Business Act to reauthorize the loan guarantee program under section 7(a) of that Act, and for other purposes; to the Committee on Small Business and Entrepreneurship.

Mr. KERRY. Mr. President, every three years, our Committee reviews the majority of the Small Business Administration's (SBA) programs to see what's working, what's broken, and what can be improved. As ranking member of the Small Business and Entrepreneurship Committee currently, and a member for more than 20 years, I have worked on many reauthorizations. I can tell you that the SBA reauthorization process is a great opportunity to examine programs, to work with the small business groups and SBA's partners—those who use these programs on a day-to-day basis—and the SBA, to ensure that they serve their intended purpose and make the dream of a small business a reality to those who might not be eligible for business loans through conventional lending, don't have an MBA but need some management counseling, or need help cutting through red tape to get government contracts.

Today I am focusing on the SBA's largest small business programs. Specifically, I am introducing legislation to reauthorize the 7(a) Loan Guaranty Program for three years. This bill, the ''7(a) Loan Program Reauthorization Act of 2006,'' authorizes the SBA to back more than a combined $58 billion in 7(a) loans to small businesses, gives borrowers more options when choosing SBA financing, reduces program fees on borrowers and lenders if the government charges excess fees or has excess funding, creates an Office of Minority Small Business Development within SBA to increase the availability of capital to minorities, and creates a National Preferred Lenders program to streamline the application process for exemplary lenders to operate on a national basis and reach more borrowers.

7(a) loans are the most basic and widely used loan of the SBA business loan programs. These loans help qualified, small businesses obtain financing which is guaranteed for working capital, machinery and equipment, furniture and fixtures, land and building (including purchase, renovation and new construction), leasehold improvements, and debt refinancing, under special conditions. The loan maturity is up to 10 years for working capital and generally up to 25 years for fixed assets. A key concept of the 7(a) guaranty loan program is that the loan actually comes from a commercial lender, not the government.

This excellent private/public partnership has made this program one of the agency's most popular, with over 400,000 approved loans in the past six years. Last year alone, almost 96,000 small businesses received $15 billion in 7(a) loans, creating or retaining an estimated 460,000 jobs. To ensure that we continue to have enough authorization levels to manage the increasing demand, my bill reauthorizes the 7(a) Loan Program for three additional years at $18,500,000,000 fiscal year 07, $19,500,000,000 fiscal year 08 and $20,500,000,000 fiscal year 09. These authorization levels ensure that program levels are sufficiently high to enable the SBA to back the maximum amount of loans as possible and avoid credit rationing or shutdowns.

Providing appropriate authorization levels to adequately address the capital needs of small businesses is as important as ensuring that eligible borrowers have access to both fixed asset financing and working capital to address all of their small business needs. Currently, borrowers who need working capital under the 7(a) program and fixed asset financing through the 504 loan program are not able to utilize both SBA loan guaranty programs to their maximum amount and are therefore forced to choose between the two programs. To prevent a situation where a borrower is forced to choose between getting a much-needed facility or getting working capital, my bill specifies that the borrower can have financing under both loan programs at the maximum level, given they qualify for both programs. In previous years, both 7(a) and 504 loans were subsidized by appropriated funds to pay losses. It was therefore appropriate to restrict small businesses to choose between the two programs. However, both of these programs are now self-supporting, and it makes no sense to continue this restriction on borrowers.

One of our jobs on the Committee is to make sure that SBA-backed financing remains affordable to the small business community. As I just referenced, the 7(a) program is now self-funding. The Administration insisted on eliminating all funding for the loans, shifting the cost to borrowers and lenders, by imposing higher fees on them. The administration spins this as a ''savings'' of $100 million to taxpayers while the small business community considers this a ''tax.'' In addition to this ''tax,'' the President's budget shows that borrowers and lenders already pay too much in fees, generating more than $800 million in overpayments since 1992 because the government routinely over-estimates the amount of fees needed to cover the cost

of the program. This is part of the reason that many of us in Congress, on both sides of the aisle, opposed eliminating funding for the program. This legislation seeks to address overpayments by requiring the SBA to lower fees if borrowers and lenders pay more than is necessary to cover the program costs or if the Congress happens to appropriate money for the program and combined with fees there is excess funding to cover the cost of the program. The Senate adopted this provision, offered by me and Senator LANDRIEU last year, to the fiscal year 2006 Commerce Justice State Appropriations bill.

In this reauthorization process, as I mentioned previously, I think it is important to look at specific programs and examine whether or not they are meeting their goals and intended mission. Part of the agency's mission is to fill the financing gap left by the private sector. According to a recent study by the U.S. Chamber of Commerce and Business Loan Express, availability of capital remains a priority for all small businesses, but for Hispanics and African Americans, it is one of their top three concerns. They are still more likely to use credit cards to finance their businesses, and they fear denial from lenders. Knowing of this need, I was deeply disappointed to see that although SBA's loan programs have increased lending overall, the figures surrounding the percentage of small business loans going to African-Americans, Hispanics, Asian Americans and women have not changed much since 2001. The administration will tell you that SBA has been ''highly successful'' in making business loans to minority groups facing competitive opportunity challenges. They claim that in fiscal year 2005, almost 30 percent of 7(a) loans and about 25 percent of 504 loans were made to minority groups. However, according to the SBA's own data, since 2001, while numbers of 7(a) loans have gone up for African Americans, the dollars have remained at 3 percent of all money loaned. In the 504 program, loans to women have decreased from 19 percent in number to 15 percent, and dropped from 16 percent to 14 percent in dollars. In the Microloan program, African Americans received 28 percent of the total number of microloans made in 2001 as compared to only 21 percent of the total number of loans made in 2005. Their microloan dollars have also decreased from $7.1 million to $5.7 million in 2005. Native Americans went from 2 percent of the total number of microloans made in 2001 to less than one percent—a mere .93 percent—in 2005.

These statistics are of great concern and demonstrate that the SBA has not been highly successful in playing an active role in fostering and encouraging robust entrepreneurial activity and small business ownership amongst these minority groups. The stagnant percentage of small business loans in these communities represents a failure of this Administration to provide an alternative means of obtaining capital to our underserved communities where funding has not been available throughout conventional lending methods.

To break this trend and increase the proportion of small business loans to minorities, and the percentage of loans to African Americans, Hispanics, and Asians relative to their share of the population, my bill creates an Office of Minority Small Business Development at the SBA, similar to offices devoted to business development of veterans and women and rural areas. In charge of the office will be the Associate Administrator for Minority Small Business and Capital Ownership Development with expanded authority and an annual budget to carry out its mission.

Currently this position is limited to carrying out the policies and programs of SBA's contracting programs required under sections 7(j) and 8(a) of the Small Business Act. To make sure that minorities are getting a great share of loan dollars, venture capital investments, counseling, and contracting, this bill expands its authority and duties to work with and monitor the outcomes for programs under Capital Access, Entrepreneurial Development, and Government Contracting. It also requires the head of the Office to work with SBA's partners, trade associations, and business groups to identify more effective ways to market to minority business owners, and to work with the head of Field Operations to ensure that district offices have staff and resources to market to minorities. The latter is important because when SBA implemented its extensive workforce transformation plans several years ago, it eliminated lending-related jobs with a partial justification that remaining staff would be trained to do outreach and marketing to the community. However, district offices are not provided with sufficient funds or resources to do the job.

In addition to setting sufficient program levels, giving our borrowers maximum loan options, reaching the underrepresented, and lowering fees to our borrowers, my bill makes great improvements in our lender operations. Lenders are key to providing these loans to small business borrowers throughout our nation. An exceptional lender in the 7(a) program will often become a ''preferred lender,'' with the authority to approve, close, service and liquidate loans without the lender obtaining the prior specific approval of the agency. SBA requires that lenders request preferred lender status in each of the 70 districts it desires to operate. There are many problems with this system, and this bill streamlines and makes uniform the process, an advantage to borrowers, lenders and the SBA.

This preferred lender problem is not a new issue. During our last reauthorization in 2003, lenders complained that applying for lending autonomy in each of the 70 district office and branches is administratively burdensome, both for them and for the Agency staff, and that some district offices have taken advantage of the power to approve or disapprove lenders when they apply for this special lending status. I was very disappointed that this issue was not resolved in our last reauthorization. My bill attempts to alleviate this administrative burden on lenders and SBA staff who must process the application. My bill creates a National Preferred Lenders Program to allow lenders that have already demonstrated proficiency as a preferred lender the authority to operate in any state where it desires to make loans. To ensure that national preferred lenders are proficient and experienced, this bill requires the Administrator, no later than 60 days after enactment, to establish eligibility criteria for national preferred lenders but suggests that the criteria established include several things—consideration of whether the lender has experience as a preferred lender in not fewer than 5 district offices of the Administration for a minimum of 3 years in each territory, uniform written policies on the 7(a) loan program, including centralized loan approval, servicing, and liquidation functions and processes that are satisfactory to the administration.

If a national preferred lender fails to meet the eligibility requirements established by the Administrator, the lender shall be notified of this deficiency and allowed a reasonable time for correction. Failure to correct the deficiency may result in suspension or revocation as a national preferred lender.

Last, my legislation directs the SBA to establish a simple and straightforward alternative size standard for business loan applicants under section 7(a), similar to what is already available for borrowers in the 504 loan program, which utilizes maximum tangible net worth and average net income as an alternative to the use of industry standards. Currently, in order to be eligible for an SBA business loan, the borrower must meet the definition of small businesses. Pursuant to the Small Business Act, SBA has promulgated size standards by industry utilizing the North American Industry Classification System. The SBA table based on this system is over 20 pages, single-spaced, which has made this size standard very complicated for lenders to utilize.

In closing, I want to commend the community of 7(a) lenders for the tens of thousands of borrowers they reach every year, and for working with us to understand how to improve the program to attract more lenders and reach more borrowers. I hope that the Committee will act on this bill and other similar reauthorization bills before the current laws governing the 7(a) loan program expire on September 30, 2006. I ask unanimous consent that my remarks be printed in the RECORD.

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

S. 2595. A bill to amend the Small Business Investment Act of 1958 to modernize the treatment of development companies; to the Committee on Small Business and Entrepreneurship.

Mr. KERRY. Mr. President, today, as Ranking Democrat on the Committee on Small Business and Entrepreneurship, I am introducing a reauthorization bill for the Small Business Administration's (SBA) 504 Loan Guaranty Program. This legislation goes beyond simply reauthorizing the 504 loan program. Not only does this bill provide adequate authorization levels in the 504 loan program, but it also takes on important oversight and accountability issues pertaining to the operation of Certified Development Companies (CDC). The issues that I will present in detail below are well overdue and failure on Congress's behalf to deal with them before the end of the fiscal year when the program expires will shortchange our borrowers, and ultimately our communities who reap the benefits of the local economic development that the 504 loan program is intended to provide.

For more than 20 years, the 504 loan program has provided long-term financing for growing businesses with long-term (up to 20 years), fixed-rate financing for major fixed assets, such as purchasing land and making improvements, including existing buildings, grading, street improvements, utilities, parking lots and landscaping; construction of new facilities, or modernizing, renovating or converting existing facilities; or purchasing long-term machinery and equipment. The 504 loan is made through a collaboration between the Certified Development Company (which provides 40 percent of the financing), a private sector lender (covering up to 50 percent of the financing) and a contribution of at least 10 percent from the small business being helped. This program is a national leader in federal economic development finance programs and demonstrates it through, creating or retaining over 1.4 million jobs, backing more than $25 billion in loans, and leveraging over $30 billion in private investment.

These incredible returns to our community could not be possible without the solid mission of the program that drives the types of projects and borrowers it serves. This program was not established to simply make loans—it was established to promote local economic development and to create jobs. I cannot think of another federal economic development program that has created over 605,000 jobs, as the 504 program has done. Last year alone, the 504 program created over 145,000 jobs. As the demand for 504 loans continues to grow, it is more important than ever to reaffirm the mission of the 504 program and to ensure that the 504 program is reauthorized at adequate levels to meet this growth.

To address this issue, my bill reauthorizes the 504 Loan Program for three additional years at $8,500,000,000, fiscal year 07, $9,500,000,000 fiscal year 08, and $10,500,000,000, fiscal year 09. These levels are based on the current pace of program growth to ensure that there is more than adequate authorization. The fiscal year 06 504 demand is projected to exceed $7 billion, and the last 3 years have shown growth rates of 28 percent, 26 percent, and 26 percent. A low authorization level would either force the SBA to shut down the program or to ration credit throughout the year to avoid a shut-down.

As I mentioned previously, this bill goes beyond simply reauthorizing the 504 loan program for an additional three years. It makes some much-needed changes to the structure of our CDCs, which are responsible for the delivery of this program and which are essential to the success of the 504 loan program.

Year after year, I have heard about the dangers that structural changes pose to the CDC industry and the 504 loan program in maintaining the mission of economic development. One of the major changes experienced by CDCs includes the centralization of all 504 loan processing, loan servicing and liquidation functions from 70 SBA district offices to one or two centers in the country. This has resulted in a huge backlog, estimated at 900 loans waiting to be liquidated. This backlog results in a loss of revenue through delaying or completely writing off defaulted loans. This has the potential to drive up subsidy costs of the program and therefore fees on borrowers, CDCs and lenders. This bill puts forward a solution to this issue by decentralizing liquidation functions and allowing CDCs, if they choose, to foreclose and liquidate defaulted loans or to contract with a qualified third-party to perform foreclosure and liquidation of defaulted loans in its portfolio. However, CDCs are not required to liquidate until SBA has come up with a program to compensate and reimburse them for all expenses pertaining to foreclosure and liquidation. The expenses would be approved in advance by the Administrator or on an emergency basis.

The biggest structural change that has had a tremendous impact on our not-for-profit CDCs is the ability to expand operations into multiple states. This structural change, in conjunction with the growing demand for 504 loans and CDC operations in providing these loans to small businesses, requires Congress to set a statutory course that preserves the local economic development intent and mission of the program through accountability measures. The 504 program was not created for CDCs to expand operations and simply create revenue from one state to another. CDCs are more than lenders and should not act like for-profit banks. My bill ensures that local communities continue to be the main focus of CDCs by requiring that the 25 members of their board and board of directors be residents of the area of operations. In addition, CDCs will be required to annually submit to the SBA a report on the use of all excess funds and local economic development activities in each state of operation. This ensures that the members engage, invest, and are held accountable to the communities they serve.

In addition to preserving and growing the 504 loan program, I think it is very important to ensure that low-income communities have access to 504 loans. As you may know, in 2000 Congress enacted the New Markets Tax Credit program to facilitate private sector investment in low-income communities.

Theoretically, the program was designed to encourage private investors who may never have considered investing in low-income communities to do so, thereby attracting new sources of private capital for a variety of projects, including retail, childcare and primary healthcare centers, which in turn attracts jobs, services and additional opportunities to areas that have historically had a difficult time sustaining economic development. My bill creates a new public policy goal for the ''expansion of businesses in low-income communities'' and defines low-income areas as those areas which would be eligible for new market tax credits. Under public policy goals, a borrower can get a higher loan than the standard limit of $1.5 million. For example, a borrower could receive a 504 loan of up to $2 million if the proceeds will be directed toward this new public policy goal, or any of the currently established eight public policy goals. It is my hope that this incentive will increase the number of 504 loans in low-income communities and therefore build wealth, economic security, and employment opportunities which benefit the entire surrounding community.

I want to thank Senator PRYOR for his sponsorship of this legislation, and thank the many members of the 504 community for working with us to identify ways to make this program better than ever. I look forward to working with them to enact this legislation before the fiscal year expires on September 30, 2006, and ask unanimous consent that my statement be included in the RECORD.

By Mr. KERRY:

S.J. Res. 33. A joint resolution to provide for a strategy for successfully empowering a new unity government in Iraq; to the Committee on Foreign Relations.

Mr. KERRY. Mr. President, 39 years ago this week Dr. Martin Luther King gave a speech at the Riverside Church in New York about the war in Vietnam. He began with these words:

> I come to this magnificent house of worship tonight because my conscience leaves me no other choice.

His message was clear. Despite the difficulty of opposing the government's policy during time of war, he said, ''We must speak with all the humility that is appropriate to our limited vision, but we must speak.''

I am here today to speak about Iraq. There should be humility enough to go around for a Congress that shares responsibility for this war. I believe the time has come again when, as Dr. King said, we must move past indecision to action.

I have many times visited the Vietnam Memorial Wall, as many Vietnam veterans have. When you walk down the path of either side of that wall, east and west of the panels, you walk down to the center of the wall where it comes together in a V. That V represents both the beginning of the war and the end of the war because the names start at that V and go all the way up one end, east, and then they come back from the west.

I remember standing there once after reading ''A Bright Shining Lie,'' by Neil Sheehan, Robert McNamara's memoirs, and many other histories of that war. One cannot help but feel the enormity of the loss, of the immorality that our leaders knew that the strategy was wrong and that almost half the names were added to that wall after the time that people knew our strategy would not work. It was immoral then and it would be immoral now to engage in the same delusion with respect to our policy in Iraq.

Obviously, every single one of us would prefer to see democracy in Iraq. We want democracy in the whole Middle East. The simple reality is, Iraqis must want it as much as we do, and Iraqis must embrace it. If the Iraqi leadership is not ready to make the changes and the compromises that democracy requires, our soldiers, no matter how valiant—and they have been valiant—can't get from a humvee or a helicopter.

The fact is, our soldiers have done a stunning job. I was recently in Iraq with Senator WARNER and Senator STEVENS. I have been there previously. No one can travel there and talk to our soldiers and not be impressed by their commitment to the mission, by their sacrifice, by their desire to have something good come out of this, and by the remarkable contribution they have made to give Iraqis the opportunity to create a democratic future for their country. Our soldiers have done their job. It is time for the newly elected Iraqi leadership to do theirs. It is time for America's political leaders to do theirs.

President Bush says we can't lose our nerve in Iraq. It takes more nerve to respond to mistakes and to adjust a policy that is going wrong than it does to stubbornly continue down the wrong path.

Last week, Secretary Rice acknowledged ''thousands'' of mistakes in Iraq. Amazingly, nobody has been held accountable for those mistakes. But our troops have paid the price, and our troops pay the price every single day. Yet the President continues to insist on a vague and counterproductive strategy that will keep U.S. forces in Iraq indefinitely.

I accept my share of responsibility for the war in Iraq. As I said in 2004, knowing what we know now, I would not have gone to war, and I certainly wouldn't have done it the way the President did. My frustration is that many of us all along the way have offered alternatives to the President. Countless numbers of Senators, Republican and Democrat alike, have publicly offered alternative ways of trying to achieve our goals in Iraq.

I have listened to my colleagues, Senator FEINGOLD, Senator BIDEN, Senator HAGEL, the Presiding Officer, and others all talk about ways in which we could do better. But all of these, almost all of them without exception, have been left by the wayside without any real discussion, without any real dialog, without any real effort to see if we could find a common ground. My frustration is that we keep offering alternatives.

In 2003, in 2004, 2005, 2006, year after year, we put them on the table, but they get ignored and then we get further in the hole, the situation gets worse, and we are left responding, trying to come back to a worse situation than the one we were responding to in the first place. And we keep putting out possibilities, and the possibilities keep being left on the sidelines.

Time after time, this administration has ignored the best advice of the best experts of the country, whether they be our military experts or former civilian leaders of other administrations or our most experienced voices on the Committee on Armed Services and Foreign Relations Committee of the U.S. House and Senate.

The administration is fond of saying that we shouldn't look back, that recrimination only helps our enemies, that we have to deal with the situation on the ground now. Well, we do have to deal with the situation on the ground now, but we have to deal with it in a way that honors the suggestions and ideas of a lot of other people who have concerns about our forces on the ground and our families at home and our budget and our reputation in the world and our need to respond to Afghanistan, North Korea, and Iran.

Frankly, accountability and learning from past mistakes is the only way to improve both policies and institutions. Let me, for the moment, go along with this idea, the administration's idea. Let me focus on the here and now and let's face that reality honestly and let's act accordingly.

You have to live in a fantasy world to believe we are on the brink of domestic peace and a pluralistic democracy in Iraq. One has to be blind to the facts to argue that the prospects for success are so great they outweigh the terrible costs of the President's approach. And you have to be incapable of admitting failure not to be able to face up to the need to change course now. Yes, change course now.

Our soldiers on the ground have learned a lot of terrible lessons in Iraq. All you have to do is talk to some of the soldiers who have returned, as many of us have. It is time those of us responsible for the policies of our country learn those lessons. It is clear the administration's litany of mistakes has reduced what we can reasonably hope to accomplish. Any reasonable, honest observer—and there are many in the Senate who have gone over to Iraq and have come back with these views—knows that the entire definition of this mission has changed and the expectations of what we can get out of this mission have changed.

I, for one, will not sit idly by and watch while American soldiers give their lives for a policy that is not working. Let me say it plainly. Withdrawing U.S. troops from Iraq over the course of the year in a timely schedule is actually necessary to give democracy the best chance to succeed, and it is vital to America's national security interests.

Five months ago, I went to Georgetown University. I gave a speech where I said that we were then entering the make-or-break period, a make-or-break 5-month, 6-month period in Iraq. I said the President must change course and hold Iraqis accountable or Congress should insist on a change in policy. And I set a goal then, back in November, that we should try to reduce American combat forces and withdraw them by the end of this year.

The situation on the ground has now changed for the worse since then. In fact, we are now in the third war in Iraq in as many years. The first war was against Saddam Hussein and his alleged weapons of mass destruction. The second war was against Jihadist terrorists whom the administration said it was better to fight over there than over here. And now we find our troops in the middle of a low-grade civil war that could explode into a full civil war at any time.

While the events in Iraq have changed for the worse, the President has not changed course for the better. It is time for those of us in Congress who share responsibilities constitutionally for our policy to stand up and change that course. We have a constitutional responsibility, and we have a moral responsibility not to sit on the sidelines while young Americans are in harm's way.

That is why today I am introducing legislation that will hold the Iraqis accountable and make the goal of withdrawing the most American forces a reality. I personally believe that most of those forces could be and should be out of Iraq by the end of the year. This war, in the words of our own generals, cannot be won militarily. It can only be won politically.

General Casey said, of our large military presence, it ''feeds the notion of occupation'' and it ''extends the amount of time that it will take for Iraqi security forces to become self-reliant.''

That is General Casey saying that the large force of American presence in

Iraq contributes to the occupation and extends the amount of time. Zbigniew Brzezinski put it:

> The U.S. umbrella, which is in effect designed to stifle these wars but it is so poor that it perpetuates them, in a sense keeps these wars alive . . . and [is] probably unintentionally actually intensifying them.

Richard Nixon's Secretary of Defense, Melvin Laird, breaking a 30-year silence, summed it up simply:

> Our presence is what feeds the insurgency.

The bottom line is that as long as American forces remain in large numbers, enforcing the status quo, Americans will be killed and maimed in a crossfire of vicious conflict that they are powerless to end. We pay for the President's reluctance to face reality in both American dollars and in too many lives. American families pay in the loss of limb and the loss of loved ones.

I don't think we should tolerate what is happening in Iraq today. We can no longer tolerate the political games currently being played by Iraqi politicians in a war-torn Baghdad. No American soldier, not one American soldier, should be sacrificed for the unwillingness of Iraqi politicians to compromise and form a unity government.

We are now almost 5 months since the election. What is happening is the daily game being played by Iraqis who listen to the President say we will be here to the end. There is no sense of urgency, there is no sense of impending need to make a decision. The result is they just go on bickering and they go on playing for advantage while our troops drive by the next IED and the next soldier returns to Walter Reed or to Bethesda without arms and limbs.

Given the recent increase in deadly sectarian strife, Iraq urgently needs a strong unity government to prevent a full-fledged civil war from breaking out and becoming the failed state that all of us have wanted to avoid. I believe the current situation is actually allowing them to go down the road toward that sectarian strife rather than stopping them.

Thus far, step by step, Iraqis have only responded to deadlines. It took a deadline to transfer authority to the provisional government. It took a deadline for the first election to take place. It took a deadline for the referendum on the Constitution. It took a deadline for the most recent election. It is time for another deadline, and that deadline is to say to them that they have to come together and pull together and put together a government or our troops are going to withdraw. And under circumstances over a period of time, we will withdraw in order to put Iraq up on its own two feet.

Iraqi politicians should be told in unmistakable language: You have until May 15 to put together an effective unity government or we will immediately withdraw our military.

I know some colleagues and other people listening will say: Wait a minute. You mean we are going to automatically withdraw our military if they don't pull it together?

The answer is: You bet we ought to do that. Because there isn't one American soldier who ought to be giving up life or limb for the procrastination and unwillingness of Iraqis who have been given an extraordinary opportunity by those soldiers to take hold of democracy and who are ignoring it and playing for advantage. We all know that after the last elections, the momentum was lost by squabbling interim leaders. Everybody sat around and said, coming up to this election, the one thing we can't do is allow the momentum to be lost. Guess what. It has been lost. It has been squandered, again. We are sitting there with occasional visits, occasional speeches but without the kind of sustained diplomacy necessary to provide a resolution. It has gone on for too long, again.

If Iraqis aren't willing to build a unity government in 5 months, then how long does it take and what does it take? If they are not willing to do it, they are not willing to do it. It is that simple. The civil war will only get worse. And if they are not willing to do it, it is because there is such a fundamental intransigence that we haven't broken, that civil war, in fact, becomes inevitable, and our troops will be forced to leave anyway.

The fact is, we have no choice but to get tough and to ratchet up the pressure. We should immediately accelerate the redeployment of American forces to rear guard, garrisoned status for security backup, training, and emergency response. Special operations against al-Qaida in Iraq should be initiated on hard intelligence leads only.

If the Iraqi leaders finally do their job, which I believe you have a better chance of getting them to do if you give them a timetable, then we have to agree on a schedule for leaving, withdrawing American combat forces by the end of the year. The only troops that remain should be those critical to finishing the job of standing up Iraqi security forces.

Such an agreement will have positive benefits in Iraq. It will empower and legitimize the new leadership and the Iraqi people. It will expedite the process of getting the Iraqis to assume a larger role of running their own country. And it will undermine support for the insurgency among the now 80 percent of Iraqis who want U.S. troops to leave. In short, it will give the new Iraqi Government the best chance to succeed in holding the country together while democratic institutions can evolve.

This deadline makes sense when you look at the responsibilities that Iraqis should have assumed by then. Formation of a unity government would constitute a major milestone in the transfer of political responsibility to the Iraqis. Even the President has said that responsibility for security in the majority of the country should be able to be transferred to the Iraqis by this time. If the President believes that it should be able to be transferred to the Iraqis by this time, why not push that eventuality and make it a reality? By the end of the year, our troops will have done as much as they possibly can to give Iraqis the chance to build a democracy. I again remind my colleagues, we are still going to have the ability to have over-the-horizon response for emergency, as well as over-the-horizon response to al-Qaida. And we will have the ability to continue to train those last forces to make sure they are in a position to stand up for Iraq.

The key to this transition is a long overdue engagement in serious and sustained diplomacy. I want to say a word about this. I am not offering this plan in a vacuum. Critical to the achievement of all of our goals in Iraq is real diplomacy. Starting with the leadup to the war, our diplomatic efforts in Iraq have ranged from the indifferent to the indefensible. History shows that effective diplomacy requires persistent hands-on engagement from the highest levels of America's leadership. Top officials in the first Bush administration worked directly and tirelessly to put together a real coalition before the first Gulf War, and President Clinton himself took personal responsibility at Camp David for bringing the Israelis and Palestinians together and leading the comprehensive effort to resolve the conflict in the Middle East. This type of major diplomatic initiative has proven successful in many places in American history.

Most recently, in 1995, there was a brutal civil war in Bosnia involving Serbs, Croats, and Muslims. Faced with a seemingly intractable stalemate in the midst of horrific ethnic cleansing, the Clinton administration took action—direct, personal, engaged action. Led by Richard Holbrooke, they brought leaders of the Bosnian parties together in Dayton, OH, with representatives from the European Union, Russia, and Britain to hammer out a peace agreement. NATO and the United Nations were given a prominent role in implementing what became known as the Dayton Accords.

In contrast, this President Bush has done little more than deliver political speeches, while his cronies in the White House and outside blame the news media for the mess the administration has created in Iraq. We keep hearing: They are not telling the full story. They are not telling the story.

Secretary of State Rice's brief surprise visit to Iraq a few days ago pales in comparison to the real shuttle diplomacy that was practiced by predecessors such as James Baker and Henry Kissinger. Given what is at stake, it is long since time to engage in that. I can remember Henry Kissinger going from one capital to the next capital, back and forth, engaged, pulling people together. Jim Baker did the same thing.

There was a genuine and real effort to leverage the full prestige and full power of the United States behind a goal. That is absent here.

Ambassador Khalilzad is a good man, and he has done a terrific job, almost by himself, left almost to his own devices. That is not the way to succeed. Given what is at stake, it is past time to engage in diplomacy that matches the effort of our soldiers on the ground. We should immediately bring the leaders of the Iraqi factions together at a Dayton-like summit that includes our allies, Iraq's neighbors, members of the Arab League, and the United Nations. The fact is, a true national compact is needed to bring about a political solution to the insurgency. That is how you end the sectarian violence. Our soldiers going on patrol in a striker or a humvee, walking through communities will not end this violence. Our generals have told us, it can only be ended politically. Yet where is the kind of political effort that our Nation has seen in history now, trying to effect what our soldiers have created an opportunity to effect through their sacrifice?

Iraqis have to reach a comprehensive agreement that includes security guarantees, disbanding the militias, and ultimately, though not necessarily at this conference, confronting some of the questions of the Constitution. All of the parties must reach agreement on a process for reviving reconstruction efforts and securing Iraq's borders. Our troops cannot be left hanging out there without that kind of effort to protect them.

At this summit, Shiite religious leaders must agree to rein in their militias and to commit to disbanding them. They also have to work with Iraqi political leaders to ensure that the leadership of the Interior Ministry and the police force under its control is nonsectarian. Shiite and Kurdish leaders must make concessions necessary to address Sunni concerns about federalism and equitable distribution of oil revenues. There is no way the Sunnis are going to suddenly disband or stop the insurgency without some kind of adequate guarantee of their security and their participation in the process. That was obvious months ago. It is even more obvious today. It still remains an open question.

The Sunnis have to accept the reality that they will no longer dominate Iraq. Until a sufficient compromise is hammered out, a Sunni base cannot be created that isolates the hard-core Baathists and jihadists and defuses the insurgency itself. We must work with Iraqis at the summit to convince Iraq's neighbors that they can no longer stand on the sidelines while Iraq teeters on the edge of a civil war that could bring chaos to the entire region. Where they can help the process of forming a government, they need to step up. And for my colleagues who suggest that somehow withdrawing American forces will put that region at greater risk, I say ''no.'' I say that an over-the-horizon deployment, a deployment in Kuwait and elsewhere, diffusing the insurgency, and an adequate effort to diplomatically pull together this kind of summit is the only way to diffuse the insurgency and ultimately strengthen the region.

The administration must also work with Iraqi leaders in seeking a multinational force to help protect Iraq's borders until finally a national army of Iraq has developed the capacity to do that itself. Frankly, such a force, if sanctioned by the United Nations Security Council, could attract participation by Iraq's neighbors, countries such as India and others, that would be a critical step in stemming the tide of insurgents and of encouraging capital to flow into Iraq.

To be credible with the Iraqi people, the new government must deliver goods and services at all levels. It is absolutely stunning—I don't know how many Americans are even aware of the fact—that today, several years later, electricity production is below where it was before the war. It is at 4,000 megawatts compared to the 4,500 before the war. Crude oil production has declined from a prewar level of 2.5 million barrels per day to 1.9 million barrels per day. We were told that oil was going to pay for this war. That has to change. Countries that have promised money for reconstruction, particularly of Sunni areas, haven't paid up yet. The money is not on the table.

We can also do our part on the ground. Our own early reconstruction efforts were—now known to everybody—poorly planned and grossly mismanaged. But as I saw on a recent trip to Iraq, the efforts of our civilian military provisional reconstruction teams, which have the skills and capacity to strengthen governance and institution building around the country, are beginning to take hold. We need to stand up more of those teams as fast as possible. If we do that in the same context as we find the political resolution, then you have a chance.

We must also continue to turn the job of policing the streets and providing security over to Iraqi forces. That means giving our generals the tools they need to finish training an Iraqi police force that is trusted and respected on the street by the end of the year. It also means finishing the training of Iraqi security forces with U.S. troops acting only on the basis of hard intelligence to combat terrorist threats.

The withdrawal of American forces from Iraq is necessary not only to give democracy in Iraq the best chance to succeed, it is also vital to our own national security interests.

We need to pay more attention to our own vital national security interests. We will never be as safe as we ought to be if Iraq continues to distract us from the most important war we need to win—the war on Osama bin Laden, al-Qaida, and the terrorists who are resurfacing even in Afghanistan.

To make it clear, despite everything this administration has said, today, al-Qaida, and the Taliban, even, are more dangerous in northwest Pakistan and northeast Afghanistan than Iraq is to us at this moment in time. There is a greater threat from al-Qaida, which has dispersed cells and through its training and abilities to organize, in Afghanistan than in the place that is consuming most of America's forces and money.

The way to defeat al-Qaida is not by serving as their best recruitment tool. Even Brent Scowcroft, George H. W. Bush's National Security Adviser, has joined the many experts who agree that the war in Iraq actually feeds terrorism and increases the potential for terrorist attacks against the United States. The results speak for themselves: The number of significant terrorist attacks around the world increased from 175 in 2003 to 651 in 2004, and it has continued to increase in 2005.

The President keeps talking about al-Qaida's intent to take over Iraq. I have not met anybody in Iraq—none of the leaders on either side, not Kurds, the Shia, or Sunni—who believes a few thousand, at most—and by many estimates, less than a thousand—foreign jihadists are a genuine threat to forcibly take over a country of 25 million people. And while mistake after mistake by this administration has actually turned Iraq into the breeding ground for al-Qaida that it was not before the war, large numbers of United States troops are not the key to crushing these terrorists.

In fact, Iraqis have begun to make clear their own unwillingness to tolerate foreign jihadists. Every Iraqi I talked to said to me: When we get control and start moving forward, we will deal with the jihadists. They don't want them on Iraqi soil, and they have increasingly turned on these brutal foreign killers who are trying to foment a civil war among Iraqis. This process will only be complete when Iraqis have taken full responsibility for their own future, and resistance to a perceived occupation no longer provides them any common cause with jihadists.

As General Anthony Zinni said on Sunday, building up intelligence-gathering capability from Iraqis is essential to defeating the insurgency. He said:

> We're not fighting the Waffen S.S. here. They can be policed up if the people turn against them. We haven't won the hearts and minds yet.

Once again, I remind my colleagues, the hearts and minds of the Iraqis will be more susceptible to being won when American forces are not there in the way they are now, in a way that can be used as the recruitment tool that it has been, when 80 percent of the Iraqi people suggest that American forces ought to leave.

After the bulk of U.S. forces have been withdrawn, I believe it is essential to keep a rapid reaction force over the horizon. That force can be over the horizon within the desert itself, or it can

be in Kuwait, and that can be used to act against terrorist enclaves. Our air power—the air power we used to police two-thirds of the no-fly zone in Iraq before the war—will always ensure our ability to bring overwhelming force to bear to protect the U.S. interests in the region. The bottom line is that working together with Iraqis from inside and outside Iraq, we can prosecute the war against al-Qaida in Iraq more effectively than we are today.

Withdrawing U.S. troops will also enable us to more effectively combat threats around the world. But winning the war on terror requires more than the killing we have seen from 3 years of combat. The fact is that just taking out terrorists, as our troops have been doing, is not going to end the flow of terrorists who are recruited, for all of the reasons that we understand. The cooperation critical to lasting victory in the region is going to be enhanced when Abu Ghraib, Guantanamo, civil chaos, and mistake after mistake in Iraq no longer deplete America's moral authority within the region.

This is also key to allowing us to repair the damage that flag officers fear has been done to our Armed Forces. I know my colleagues on the other side of the aisle—members of the Armed Services Committee and Intelligence Committee—have heard from flag officers in private about what is happening to the Armed Forces of our country. We know it will take billions of dollars to reset the equipment that has been lost, damaged, or worn out from 3 years of combat. In the National Guard alone, units across the country have only 34 percent of their authorized equipment, including just 14 percent of the chemical decontamination equipment they need. That is a chilling prospect if they are ever asked to respond to a terrorist incident involving weapons of mass destruction.

The fact is the Army is stretched too thin. Soldiers and brigades are being deployed more frequently and longer than the Army believes is best in order to continue to attract the best recruits. Recruiting standards have been changed and recruitment is suffering. The Army fell 6,700 recruits short of their needs in 2005—the largest shortfall since 1979. Recruitment is suffering today. Not only are American troops not getting leadership equal to their sacrifice on the civilian side, but our generals are not getting enough troops to accomplish their mission of keeping the country safe.

The fact is that in the specialties—special forces, translators, intelligence officers, for the Marines, for the Army, for the National Guard—our recruitments are below the levels they ought to be.

Withdrawing from Iraq will also enable us to strengthen our efforts to prevent the proliferation of weapons of mass destruction. Iran, the world's leading state sponsor of terrorism, is absolutely delighted with our presence in Iraq. Why? Because it advances their goals, keeping us otherwise occupied, and it allows them to make mischief in Iraq itself at their choice. Their President is so emboldened that he has openly called for the destruction of Israel, while defying the international community's demands to stop developing its nuclear weapons capability. Could that have happened prior to our being bogged down the way we are?

North Korea has felt at liberty to ignore the six-party talks, while it continues to stockpile more nuclear weapons material.

Any effort to be stronger in dealing with the nuclear threat from Iran and North Korea is incomplete without an exit from Iraq. It will also enable us to more effectively promote democracy in places such as Russia, which is more than content to see us bogged down while President Putin steadily rolls back democratic reforms.

China benefits from us throwing hundreds of billions of dollars into Iraq instead of into economic competition and job creation here at home. Our long-term security requires putting the necessary resources into building our economy and a workforce that can compete and win in the age of globalization. We cannot do as much as we need to—not nearly as much as we need to—while the war in Iraq is draining our treasury.

Finally, we have not provided anywhere near the resources necessary to keep our homeland safe. Katrina showed us in the most graphic way possible that 5 years after 9/11, we are woefully unprepared to handle a natural disaster that we know is coming a week in advance, let alone a catastrophic terrorist attack we have no notice of. Removing the financial strain of Iraq will free up funds for America's homeland defense.

The time has come for the administration to acknowledge the realities that the American people are increasingly coming to understand—the realities in Iraq and the requirements of America's national security. Stop telling us that terrible things will happen if we get tough with the Iraqis, when terrible things happen every single day because we are not tough enough. If we don't change course and hold the Iraqis accountable now, I guarantee you it will get worse.

Ignoring all of the warnings, and ignoring history itself, in a flourish of ideological excess, this administration has managed to make the ancient cradle of civilization look a lot like Vietnam. But there is a path forward if we start making the right decisions.

As Dr. King said so many years ago:

> The choice is ours, and though we might prefer it otherwise, we must choose in this crucial moment of human history.

Now is the moment of choice for Iraq, for America, and for this Congress.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 434—DESIGNATING THE WEEK OF MAY 22, 2006, AS ''NATIONAL CORPORATE COMPLIANCE AND ETHICS WEEK.''

Mr. SANTORUM submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 434

Whereas the United States has experienced corporate scandals in recent years, resulting in serious legislation and regulation dealing with professional responsibility, ethics, and compliance programs;

Whereas the Sarbanes-Oxley Act of 2002 is a compelling example of legislative guidance that recognizes the important role of compliance programs for organizations that desire to maintain ethical and law-abiding workplaces, services, and products;

Whereas the Federal Sentencing Guidelines, including recent amendments to the Federal Sentencing Guidelines, emphasize and reinforce that there are specific consequences for noncompliance;

Whereas many companies in the United States have responded by developing and implementing corporate ethics and compliance programs intended to detect and prevent violations of law, such as establishing a high level official to oversee compliance and integrity in the organization, auditing and monitoring mechanisms to test compliance, reporting mechanisms such as hotlines to ensure open communication, and training programs designed to educate employees on the laws, regulations, and policies that affect their business operation;

Whereas the private sector has organized to provide the necessary resources for ethics and compliance professionals and others who wish to promote quality compliance through organizations such as the Health Care Compliance Association and the Society for Corporate Compliance and Ethics; and

Whereas the establishment of a National Corporate Compliance and Ethics Week would celebrate the creation and maintenance of these ethics and compliance programs, and their resulting impact on the integrity, ethics, and compliance of the organizations that have created them: Now, therefore, be it

Resolved, That the Senate designates the week of May 22, 2006, as ''National Corporate Compliance and Ethics Week''.

SENATE RESOLUTION 435—HONORING THE ENTREPRENEURIAL SPIRIT OF AMERICA'S SMALL BUSINESSES DURING NATIONAL SMALL BUSINESS WEEK, BEGINNING APRIL 9, 2006

Ms. SNOWE (for herself, Mr. KERRY, Mr. ALLEN, Mr. THUNE, Mr. BURNS, Mr. ISAKSON, Mr. BAYH, Mr. FRIST, Mr. COLEMAN, and Mr. LIEBERMAN) submitted the following resolution; which was considered and agreed to:

S. RES. 435

Whereas America's 25,000,000 small businesses have been the driving force behind the Nation's economy, creating more than 75 percent of all new jobs and generating more than 50 percent of the Nation's gross domestic product;

Whereas small businesses are the Nation's innovators, advancing technology and productivity;

Whereas the Small Business Administration has been a critical partner in the success of the Nation's small businesses and in the growth of the Nation's economy;

Whereas the programs and services of the Small Business Administration have time and again proven their value, having helped to create or retain over 5,300,000 jobs in the United States since 1999;

Whereas the mission of the Small Business Administration is to maintain and strengthen the Nation's economy by aiding, counseling, assisting, and protecting the interests of small businesses and by helping families and businesses recover from natural disasters;

Whereas the Small Business Administration has helped small businesses access critical lending opportunities, protected small businesses from excessive Federal regulatory enforcement, played a key role in ensuring full and open competition for Government contracts, and improved the economic environment in which small businesses compete;

Whereas, for more than 50 years, the Small Business Administration has helped more than 23,000,000 Americans start, grow, and expand their businesses and has placed almost $280,000,000,000 in loans and venture capital financing in the hands of entrepreneurs;

Whereas the Small Business Administration, established in 1953, has provided valuable service to small businesses through financial assistance, procurement assistance, business development, small business advocacy, and disaster recovery assistance;

Whereas the Small Business Administration has helped millions of entrepreneurs achieve the American dream of owning a small business, and has played a key role in fostering economic growth in underserved communities; and

Whereas the Small Business Administration will mark National Small Business Week, beginning April 9, 2006: Now, therefore, be it

Resolved, That the Senate—

(1) honors the entrepreneurial spirit of America's small businesses during the Small Business Administration's National Small Business Week, beginning April 9, 2006;

(2) supports the purpose and goals of National Small Business Week, and the ceremonies and events to be featured during the week;

(3) commends the Small Business Administration and the resource partners of the Small Business Administration for their work, which has been critical in helping the Nation's small businesses grow and develop; and

(4) applauds the achievements of small business owners and their employees, whose entrepreneurial spirit and commitment to excellence has been a key player in the Nation's economic vitality.

SENATE RESOLUTION 436—URGING THE FEDERATION INTERNATIONALE DE FOOTBALL ASSOCIATION TO PREVENT PERSONS OR GROUPS REPRESENTING THE ISLAMIC REPUBLIC OF IRAN FROM PARTICIPATING IN SANCTIONED SOCCER MATCHES

Mr. MCCAIN (for himself, Mr. LUGAR, Ms. COLLINS, Mr. LIEBERMAN, Mr. ENSIGN, Mr. MENENDEZ, and Mr. MARTINEZ) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 436

Whereas, since 1984, the Islamic Republic of Iran has been identified by the Department of State as an active sponsor of terrorism;

Whereas an Iran capable of deploying nuclear weapons constitutes a threat to international peace and security;

Whereas, in July 2003, the Iranian Ministry of Defense confirmed the results of a successful test of an intermediate range ballistic missile that is capable of striking Israel;

Whereas, since February 2003, Iran has—

(1) consistently misled the United Nations, the International Atomic Energy Agency, the European Union, and the United States about the scope of its nuclear activities; and

(2) taken steps to produce weapons-grade uranium;

Whereas top officials of Iran have repeatedly threatened the United States, including—

(1) Ayatollah Ali Khamenei, who stated in June 2004 that ''[t]he world of Islam has been mobilized against America for the past 25 years. The peoples call, 'death to America'. Who used to say death to America? Who, besides the Islamic Republic and the Iranian people, used to say this? Today, everyone says this.'';

(2) members of the parliament of Iran who, on October 2004, shouted ''Death to America'' as that body unanimously approved legislation requiring the Government to resume uranium enrichment; and

(3) President Ahmadinejad, who stated on October 2005 that ''God willing, with the force of God behind it, we shall soon experience a world without the United States and Zionism'', and referred to a world without the United States as ''a possible goal and slogan'';

Whereas the Iranian President, Mahmoud Ahmadinejad, in an October 26, 2005, address at the World Without Zionism conference in Tehran, declared that—

(1) Israel is ''a disgraceful blot [on] the face of the Islamic world'';

(2) Israel ''must be wiped off the map''; and

(3) ''anybody who recognizes Israel will burn in the fire of the Islamic nation's fury'';

Whereas President Ahmadinejad also stated on December 8, 2006, that ''If the Europeans are honest they should give some of their provinces in Europe . . . to the Zionists, and the Zionists can establish their state in Europe'';

Whereas Iran supports and provides funds to terrorist groups that are determined to destroy the State of Israel;

Whereas an estimated 6,000,000 Jews were killed in the Nazi Holocaust;

Whereas President Ahmadinejad has denied the existence of the Holocaust on numerous occasions, including—

(1) on December 8, 2005, when at an Islamic conference in Mecca, Saudi Arabia, he declared that ''Some European countries insist on saying that Hitler killed millions of innocent Jews in furnaces . . . although we don't accept this claim''; and

(2) on December 14, 2005, when on Iranian television, he remarked that ''They have invented a myth that Jews were massacred and place this above God, religions and the prophets'';

Whereas it is a crime in the Federal Republic of Germany to deny the existence of the Holocaust;

Whereas on June 9, 2006, the Federation Internationale de Football Association (referred to in this preamble as ''FIFA'') World Cup soccer tournament is scheduled to begin in the Federal Republic of Germany;

Whereas the Islamic Republic of Iran is a member of FIFA, and the Iranian national team is scheduled to play its opening match on June 11, 2006, in Nuremberg, Germany, which was the site of war crimes tribunals that tried Nazi leaders for atrocities and genocide against Jews during the Holocaust;

Whereas the International Olympic Committee barred the Republic of South Africa from the Olympics until 1992, when the country repealed all of its apartheid laws during the previous year;

Whereas, in October 1964, FIFA suspended the national soccer team of South Africa from international competition until the Government of South Africa ended its policy of apartheid in 1991;

Whereas, on May 30, 1992, in a resolution imposing diplomatic and economic sanctions on Yugoslavia, the United Nations Security Council called on member states of the United Nations to ''take the necessary steps to prevent the participation in sporting events on their territory of persons or groups representing Yugoslavia.'';

Whereas, in 1992, the Union of European Football Associations banned Yugoslavia from participating in the European soccer championships and prevented it from participating in the 1994 World Cup qualifying matches; and

Whereas Article 3 of the ''Regulations Governing the Application of the FIFA Statutes'' states that ''Discrimination of any kind against a country, private person or groups of people on account of ethnic origin, gender, language, religion, politics or any other reason is strictly prohibited and punishable by suspension or expulsion.'': Now, therefore, be it

Resolved, That the Senate—

(1) condemns the terrible statements issued by the Iranian president and demands that he repudiate them;

(2) calls on the United Nations Security Council and all countries to prevent Iran from acquiring nuclear weapons;

(3) strongly urges the Federation Internationale de Football Association (referred to in this resolution as ''FIFA'') to ban persons or groups representing the Islamic Republic of Iran from sanctioned international sporting competition, including the 2006 FIFA World Cup, until such time that Iran—

(A) rescinds its position disavowing the Holocaust;

(B) repudiates its calls for the eradication of the State of Israel;

(C) ends its support for terrorism; and

(D) ceases its pursuit of nuclear weapons; and

(4) calls on all FIFA members to support such actions within the appropriate FIFA governing bodies.

SENATE RESOLUTION 437—SUPPORTING THE GOALS AND IDEALS OF THE YEAR OF THE MUSEUM

Mr. ENZI (for himself, Mr. KENNEDY, Mr. COCHRAN, Mr. JEFFORDS, Mr. COLEMAN, Mrs. BOXER, Mr. STEVENS, Mr. LAUTENBERG, Ms. MURKOWSKI, Mr. AKAKA, Mr. ISAKSON, and Mr. DODD) submitted the following resolution; which was considered and agreed to:

S. RES. 437

Whereas museums are institutions of public service and education that foster exploration, study, observation, critical thinking, contemplation, and dialogue to advance a greater public knowledge, understanding, and appreciation of history, science, the arts, and the natural world;

Whereas, according to survey data, the people of the United States view museums as one of the most important resources for educating children;

Whereas museums have a long-standing tradition of inspiring curiosity in schoolchildren that is a result of investments of

more than $1,000,000,000 and more than 18,000,000 instructional hours annually for elementary and secondary education programs in communities across the United States, creative partnerships with schools, professional development for teachers, traveling exhibits to local schools, digitization of materials for access nationwide, creation of electronic and printed educational materials that use local and State curriculum standards, and the hosting of interactive school field trips;

Whereas museums serve as community landmarks that contribute to the livability and economic vitality of communities through expanding tourism;

Whereas museums rank in the top 3 family vacation destinations, revitalize downtowns (often with signature buildings), attract relocating businesses by enhancing quality of life, provide shared community experiences and meeting places, and serve as a repository and resource for each community's unique history, culture, achievements, and values;

Whereas there are more than 16,000 museums in the United States and admission is free at more than half of these museums;

Whereas approximately 865,000,000 people visit museums annually and these people come from all ages, groups, and backgrounds;

Whereas research indicates Americans view museums as one of the most trustworthy sources of objective information and believe that authentic artifacts in history museums and historic sites are second only to their families in significance in creating a strong connection with the past;

Whereas museums enhance the public's ability to engage as citizens, through developing a deeper sense of identity and a broader judgment about the world, and by holding more than 750,000,000 objects and living specimens in the public trust to preserve and protect the cultural and natural heritage of the United States for current and future generations;

Whereas museums are increasingly entering into new partnerships with community educational institutions that include schools, universities, libraries, public broadcasting, and 21st Century Community Learning Centers, and these partnerships reach across community boundaries to provide broader impact and synergy for their community educational programs;

Whereas supporting the goals and ideals of the Year of the Museum would give Americans the opportunity to celebrate the contributions museums have made to American culture and life over the past 100 years; and

Whereas in 2006, museums of the United States are celebrating 100 years of collective contribution to our communities: Now, therefore, be it

Resolved, That the Senate supports the goals and ideals of the Year of the Museum.

AMENDMENTS SUBMITTED AND PROPOSED

SA 3427. Mr. BINGAMAN (for himself and Mr. DOMENICI) submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table.

SA 3428. Mr. BINGAMAN (for himself and Mr. DOMENICI) submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3429. Mr. BINGAMAN (for himself and Mr. DOMENICI) submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3430. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3431. Mr. ISAKSON submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3432. Mr. REED submitted an amendment intended to be proposed to amendment SA 3366 submitted by Mr. REED and intended to be proposed to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3433. Mr. STEVENS submitted an amendment intended to be proposed to amendment SA 3382 submitted by Mr. STEVENS (for himself, Mr. SHELBY, Mr. INOUYE, and Mrs. HUTCHISON) and intended to be proposed to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3434. Mr. CHAMBLISS submitted an amendment intended to be proposed to amendment SA 3424 proposed by Mr. FRIST to the bill S . 2454, supra; which was ordered to lie on the table.

SA 3435. Mr. CHAMBLISS submitted an amendment intended to be proposed to amendment SA 3424 proposed by Mr. FRIST to the bill S . 2454, supra; which was ordered to lie on the table.

SA 3436. Mr. CHAMBLISS submitted an amendment intended to be proposed to amendment SA 3424 proposed by Mr. FRIST to the bill S . 2454, supra; which was ordered to lie on the table.

SA 3437. Mr. ISAKSON submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3438. Mr. GREGG (for himself and Ms. CANTWELL) submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3439. Mr. GREGG (for himself and Ms. CANTWELL) submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3440. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3441. Mr. ENSIGN submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3442. Mr. ENSIGN submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3443. Mr. ENSIGN submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3444. Mr. ENSIGN submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3445. Mr. ENSIGN submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3446. Mr. ENSIGN submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3447. Mr. ENSIGN submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3448. Mr. ENSIGN submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3449. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 3424 proposed by Mr. FRIST to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3450. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 3424 proposed by Mr. FRIST to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3451. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 3424 proposed by Mr. FRIST to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3452. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 3424 proposed by Mr. FRIST to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3453. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 3424 proposed by Mr. FRIST to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3454. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 3424 proposed by Mr. FRIST to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3455. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 3424 proposed by Mr. FRIST to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3456. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 3424 proposed by Mr. FRIST to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3457. Mr. ALLARD submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3458. Mr. ALLARD submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3459. Mr. ALLARD submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3460. Mr. ALLARD submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3461. Ms. COLLINS submitted an amendment intended to be proposed to amendment SA 3424 proposed by Mr. FRIST to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3462. Ms. COLLINS submitted an amendment intended to be proposed by her to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3463. Mr. INHOFE (for himself, Mr. ENZI, Mr. BYRD, Mr. COBURN, Mr. BUNNING, Mr. CHAMBLISS, and Mr. ROBERTS) submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3464. Mr. INHOFE (for himself and Mr. VITTER) submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3465. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3466. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3467. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3468. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3469. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3470. Mr. INHOFE (for himself, Mr. ENZI, Mr. BYRD, Mr. COBURN, Mr. BUNNING, Mr. CHAMBLISS, and Mr. ROBERTS) submitted an amendment intended to be proposed to amendment SA 3424 proposed by Mr. FRIST to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3471. Mr. INHOFE (for himself and Mr. VITTER) submitted an amendment intended to be proposed to amendment SA 3424 proposed by Mr. FRIST to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3472. Mr. INHOFE submitted an amendment intended to be proposed to amendment SA 3424 proposed by Mr. FRIST to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3473. Mr. INHOFE submitted an amendment intended to be proposed to amendment SA 3424 proposed by Mr. FRIST to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3474. Mr. INHOFE submitted an amendment intended to be proposed to amendment SA 3424 proposed by Mr. FRIST to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3475. Mr. INHOFE submitted an amendment intended to be proposed to amendment SA 3424 proposed by Mr. FRIST to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3476. Mr. INHOFE submitted an amendment intended to be proposed to amendment SA 3424 proposed by Mr. FRIST to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3477. Mr. CONRAD submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3478. Mr. DOMENICI (for himself, Mr. BINGAMAN, Mr. KYL, Mr. CORNYN, and Mrs. HUTCHISON) submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3479. Mr. DOMENICI (for himself, Mr. DORGAN, Mr. BURNS, Mr. BINGAMAN, Mr. KYL, Mr. CORNYN, and Mrs. HUTCHISON) submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3480. Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3481. Mr. DOMENICI (for himself, Mr. KYL, Mr. CORNYN, and Mrs. HUTCHISON) submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3482. Mr. OBAMA submitted an amendment intended to be proposed to amendment SA 3361 submitted by Mr. GRASSLEY (for himself and Mr. KYL) and intended to be proposed to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3483. Mr. BOND (for himself and Mr. GREGG) submitted an amendment intended to be proposed to amendment SA 3424 proposed by Mr. FRIST to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3484. Mr. VITTER submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3485. Mr. VITTER submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3486. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 3424 proposed by Mr. FRIST to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3487. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 3424 proposed by Mr. FRIST to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3488. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 3424 proposed by Mr. FRIST to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3489. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 3424 proposed by Mr. FRIST to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3490. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 3424 proposed by Mr. FRIST to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3491. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3492. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 3424 proposed by Mr. FRIST to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3493. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 3424 proposed by Mr. FRIST to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3494. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3495. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3496. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3497. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3498. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 3424 proposed by Mr. FRIST to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3499. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3500. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3501. Mr. HARKIN submitted an amendment intended to be proposed to amendment SA 3424 proposed by Mr. FRIST to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3502. Mr. THUNE submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3503. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3504. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3505. Mr. REID submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3506. Mr. REID (for himself and Mr. LEAHY) submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3507. Mr. REID (for himself and Mr. LEAHY) submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3508. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3509. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3510. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3511. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3512. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3513. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3514. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3515. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3516. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3517. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3518. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3519. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3520. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3521. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3522. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3523. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3524. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3525. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3526. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3527. Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3528. Mr. THOMAS (for himself and Mr. KYL) submitted an amendment intended to

be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3529. Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3530. Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3531. Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3532. Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3533. Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3534. Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3535. Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3536. Mr. CHAMBLISS (for himself, Mr. ISAKSON, and Mr. BROWNBACK) submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3537. Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3538. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3539. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3540. Mr. KENNEDY (for himself and Mr. DEWINE) submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3541. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3542. Mr. THOMAS (for himself and Mr. KYL) submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3543. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3544. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3545. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3546. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3547. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3548. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3549. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3550. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3551. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3552. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3553. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3554. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3555. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3556. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3557. Mr. NELSON, of Florida submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3558. Mr. NELSON, of Florida submitted an amendment intended to be proposed to amendment SA 3424 proposed by Mr. FRIST to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3559. Mr. NELSON, of Florida submitted an amendment intended to be proposed to amendment SA 3424 proposed by Mr. FRIST to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3560. Mr. NELSON, of Florida submitted an amendment intended to be proposed to amendment SA 3424 proposed by Mr. FRIST to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3561. Mr. NELSON, of Florida submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3562. Mr. NELSON, of Florida submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3563. Mr. NELSON, of Florida submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3564. Mr. NELSON, of Florida submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3565. Mr. LEVIN (for himself and Ms. STABENOW) submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3566. Mr. LEVIN (for himself, Mr. KENNEDY, and Ms. STABENOW) submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3567. Mr. LEVIN (for himself, Mr. KENNEDY, and Ms. STABENOW) submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3568. Mr. LEVIN (for himself and Ms. STABENOW) submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3569. Mr. LEVIN (for himself and Ms. COLLINS) submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3570. Mr. LEVIN (for himself and Ms. COLLINS) submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3571. Mr. KYL (for himself and Mr. CORNYN) submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3572. Mr. CORNYN submitted an amendment intended to be proposed to amendment SA 3311 submitted by Mr. KYL (for himself and Mr. CORNYN) and intended to be proposed to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3573. Mr. CORNYN (for himself and Mr. KYL) submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3574. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3575. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3576. Mr. LAUTENBERG (for himself, Mr. REID, Mr. MENENDEZ, and Mrs. CLINTON) submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3577. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3578. Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3579. Ms. MIKULSKI (for herself and Mr. WARNER) submitted an amendment intended to be proposed by her to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3580. Mr. COLEMAN submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3581. Mr. COLEMAN (for himself and Ms. COLLINS) submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3582. Mr. COLEMAN submitted an amendment intended to be proposed to amendment SA 3424 proposed by Mr. FRIST to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3583. Mr. COLEMAN submitted an amendment intended to be proposed to amendment SA 3424 proposed by Mr. FRIST to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3584. Mr. COLEMAN submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3585. Mr. ENSIGN (for himself and Mr. CHAMBLISS) submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3586. Mr. ENSIGN (for himself and Mr. CHAMBLISS) submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 3427. Mr. BINGAMAN (for himself and Mr. DOMENICI) submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

In title I, at the end of subtitle B, add the following:

SEC. ___. SOUTHWEST BORDER SECURITY TASK FORCE.

(a) SHORT TITLE.—This section may be cited as the ''Southwest Border Security Task Force Act of 2006''.

(b) SOUTHWEST BORDER SECURITY TASK FORCE PROGRAM.—

(1) ESTABLISHMENT.—The Secretary shall establish a Southwest Border Security Task Force Program to—

(A) facilitate local participation in providing recommendations regarding steps to enhance border security; and

(B) provide financial and other assistance in implementing such recommendations.

(2) NUMBER.—In carrying out the program established under paragraph (1), the Secretary shall establish at least 1 Border Security Task Force (referred to in this section as a ''Task Force'') in each State that is adjacent to the international border between the United States and Mexico.

(3) MEMBERSHIP.—Each Task Force shall be composed of representatives from—

(A) relevant Federal agencies;

(B) State and local law enforcement agencies;

(C) State and local government;

(D) community organizations;

(E) Indian tribes; and

(F) other interested parties.

(4) CHAIRMAN.—Each Task Force shall select a Chairman from among its members.

(5) RECOMMENDATIONS.—Not later than 9 months after the date of enactment of this Act, and annually thereafter, each Task Force shall submit a report to the Secretary containing—

(A) specific recommendations to enhance border security along the international border between the State in which such Task Force is located and Mexico; and

(B) a request for financial and other resources necessary to implement the recommendations during the subsequent fiscal year.

(c) BORDER SECURITY GRANTS.—

(1) GRANTS AUTHORIZED.—The Secretary shall award a grant to each Task Force submitting a request under subsection (b)(5)(B) to the extent that—

(A) sufficient funds are available; and

(B) the request is consistent with the Nation's comprehensive border security strategy.

(2) MINIMUM AMOUNT.—Not less than 1 Task Force in each of the States bordering Mexico shall be eligible to receive a grant under this subsection in an amount not less than $500,000.

(3) REPORT.—Not later than 90 days after the end of each fiscal year for which Federal financial assistance or other resources were received by a Task Force, the Task Force shall submit a report to the Secretary describing how such financial assistance or other resources were used by the Task Force and by the organizations that its members represent.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $10,000,000 for each of fiscal years 2007 through 2010 to carry out this section.

SA 3428. Mr. BINGAMAN (for himself and Mr. DOMENICI) submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. TEMPORARY ADMITTANCE OF MEXICAN NATIONALS WITH BORDER CROSSING CARDS.

The Secretary shall permit a national of Mexico, who enters the United States with a valid Border Crossing Card (as described in section 212.1(c)(1)(i) of title 8, Code of Federal Regulations, as in effect on the date of the enactment of this Act), and who is admitted to the United States at the Columbus, Santa Teresa, or Antelope Wells port of entry in New Mexico, to remain in New Mexico (within 75 miles of the international border between the United States and Mexico) for a period not to exceed 30 days.

SA 3429. Mr. BINGAMAN (for himself and Mr. DOMENICI) submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. ANNUAL REPORT ON THE NORTH AMERICAN DEVELOPMENT BANK.

Section 2 of Public Law 108–215 (22 U.S.C. 290m–6) is amended—

(1) in paragraph (1), by inserting after ''The number'' the following: ''of applications received by, pending with, and awaiting final approval from the Board of the North American Development Bank and the number''; and

(2) by adding at the end the following:

''(8) Recommendations on how to improve the operations of the North American Development Bank.

''(9) An update on the implementation of this Act, including the business process review undertaken by the North American Development Bank.

''(10) A description of the activities and accomplishments of the North American Development Bank during the previous year, including a brief summary of meetings and actions taken by the Board of the North American Development Bank.''.

SA 3430. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE ___—BORDER HEALTH SECURITY

SEC. ___01. SHORT TITLE.

This Act may be cited as the ''Border Health Security Act of 2006''.

SEC. ___02. DEFINITIONS.

In this title:

(1) BORDER AREA.—The term ''border area'' has the meaning given the term ''United States-Mexico Border Area'' in section 8 of the United States-Mexico Border Health Commission Act (22 U.S.C. 290n–6).

(2) SECRETARY.—The term ''Secretary'' means the Secretary of Health and Human Services.

SEC. ___03. BORDER BIOTERRORISM PREPAREDNESS GRANTS.

(a) ELIGIBLE ENTITY DEFINED.—In this section, the term ''eligible entity'' means a State, local government, tribal government, or public health entity.

(b) AUTHORIZATION.—From funds appropriated under subsection (e), the Secretary shall award grants to eligible entities for bioterrorism preparedness in the border area.

(c) APPLICATION.—An eligible entity that desires a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(d) USES OF FUNDS.—An eligible entity that receives a grant under subsection (b) shall use the grant funds to—

(1) develop and implement bioterror preparedness plans and readiness assessments and purchase items necessary for such plans;

(2) coordinate bioterrorism and emergency preparedness planning in the region;

(3) improve infrastructure, including syndrome surveillance and laboratory capacity;

(4) create a health alert network, including risk communication and information dissemination;

(5) educate and train clinicians, epidemiologists, laboratories, and emergency personnel; and

(6) carry out such other activities identified by the Secretary, the United States-Mexico Border Health Commission, State and local public health offices, and border health offices.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $25,000,000 for fiscal year 2007 and such sums as may be necessary for each succeeding fiscal year.

SEC. ___04. BORDER HEALTH DEMONSTRATION PROJECTS.

(a) ELIGIBLE ENTITY DEFINED.—In this section, the term ''eligible entity'' means a State, public institution of higher education, local government, tribal government, nonprofit health organization, or community health center receiving assistance under section 330 of the Public Health Service Act (42 U.S.C. 254b), that is located in the border area.

(b) AUTHORIZATION.—From funds appropriated under subsection (f), the Secretary, acting through the United States members of the United States-Mexico Border Health Commission, shall award grants to eligible entities to fund demonstration projects to address priorities and recommendations to improve the health of border area residents that are established by—

(1) the United States members of the United States-Mexico Border Health Commission;

(2) the State border health offices; and

(3) the Secretary.

(c) APPLICATION.—An eligible entity that desires a grant under subsection (b) shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(d) USE OF FUNDS.—An eligible entity that receives a grant under subsection (b) shall use the grant funds for—

(1) demonstration programs relating to—

(A) maternal and child health;

(B) primary care and preventative health;

(C) public health and public health infrastructure;

(D) health promotion;

(E) oral health;

(F) behavioral and mental health;

(G) substance abuse;

(H) health conditions that have a high prevalence in the border area;

(I) medical and health services research;

(J) workforce training and development;

(K) community health workers or promotoras;

(L) health care infrastructure problems in the border area (including planning and construction grants);

(M) health disparities in the border area;

(N) environmental health;

(O) health education; and

(P) outreach and enrollment services with respect to Federal programs (including programs authorized under titles XIX and XXI of the Social Security Act (42 U.S.C. 1396 and 1397aa)); and

(2) other demonstration programs determined appropriate by the Secretary.

(e) SUPPLEMENT, NOT SUPPLANT.—Amounts provided to an eligible entity awarded a grant under subsection (b) shall be used to supplement and not supplant other funds available to the eligible entity to carry out the activities described in subsection (d).

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, such sums as may be necessary for each fiscal year.

SEC. ____05. PROVISION OF RECOMMEDATIONS AND ADVICE TO CONGRESS.

Section 5 of the United States-Mexico Border Health Commission Act (22 U.S.C. 290n-3) is amended by adding at the end the following:

''(d) PROVIDING ADVICE AND RECOMMENDATIONS TO CONGRESS.—A member of the Commission, or an individual who is on the staff of the Commission, may at any time provide advice or recommendations to Congress concering issues that are considered by the Commission. Such advice or recommendations may be provided whether or not a request for such is made by a member of Congress and regardless of whether the member or individual is authorized to provide such advice or recommendations by the Commission or any other Federal official.''.

SEC. ____06. BINATIONAL PUBLIC HEALTH INFRASTRUCTURE AND HEALTH INSURANCE.

(a) IN GENERAL.—The Secretary of Health and Human Services shall enter into a contract with the Institute of Medicine for the conduct of a study concerning binational public health infrastructure and health insurance efforts. In conducting such study, the Institute shall solicit input from border health experts and health insurance issuers.

(b) REPORT.—Not later than 1 year after the date on which the Secretary of Health and Human Services enters into the contract under subsection (a), the Institute of Medicine shall submit to the Secretary and the appropriate committees of Congress a report concerning the study conducted under such contract. Such report shall include the recommendations of the Institute on ways to expand or improve binational public health infrastructure and health insurance efforts.

SA 3431. Mr. ISAKSON submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. BORDER SECURITY CERTIFICATION.

Notwithstanding any other provision of law, beginning on the date of the enactment of this Act, the Secretary may not implement a new conditional nonimmigrant work authorization program that grants legal status to any individual who enters or entered the United States illegally, or any similar or subsequent employment program that grants legal status to any individual who illegally enters or entered the United States until the Secretary provides written certification to the President and the Congress that the borders of the United States are reasonably sealed and secured.

SA 3432. Mr. REED submitted an amendment intended to be proposed to amendment SA 3366 submitted by Mr. REED and intended to be proposed to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the end of the matter proposed to be inserted, insert the following:

SEC. __. CONDITIONAL NONIMMIGRANT WORK AUTHORIZATION AND STATUS.

Section 218D(c) of the Immigration and Nationality Act, as added by section 601, is amended to read as follows:

''(c) SPOUSES AND CHILDREN AND CERTAIN OTHER INDIVIDUALS.—Notwithstanding any other provision of law, the Secretary of Homeland Security shall—

''(1) adjust the status to that of a conditional nonimmigrant under this section for, or provide a nonimmigrant visa to, the spouse or child of an alien who is provided nonimmigrant status under this section;

''(2) adjust the status to that of a conditional nonimmigrant under this section for an alien who, before January 7, 2004, was the spouse or child of an alien who is provided conditional nonimmigrant status under this section, or is eligible for such status, if—

''(A) the termination of the qualifying relationship was connected to domestic violence; and

''(B) the spouse or child has been battered or subjected to extreme cruelty by the spouse or parent alien who is provided conditional nonimmigrant status under this section; or

''(3) adjust the status to that of a conditional immigrant under this section for an individual who was present in the United States on January 7, 2004, and is the national of a country designated at that time for protective status pursuant to section 244.''.

SA 3433. Mr. STEVENS submitted an amendment intended to be proposed to amendment SA 3382 submitted by Mr. STEVENS (for himself, Mr. SHELBY, Mr. INOUYE, and Mrs. HUTCHISON) and intended to be proposed to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

Strike the title relating to improved maritime security and insert the following:

TITLE —IMPROVED MARITIME SECURITY

SEC. 500. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the ''Maritime and Transportation Security Act of 2006.''

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

TITLE V—IMPROVED MARITIME SECURITY

Sec. 501. Establishment of additional interagency operational centers for port security.
Sec. 502. Area maritime transportation security plan to include salvage response plan.
Sec. 503. Assistance for foreign ports.
Sec. 504. Specific port security initiatives.
Sec. 505. Technical requirements for non-intrusive inspection equipment.
Sec. 506. Random inspection of containers.
Sec. 507. Port security user fee study.
Sec. 508. Port security grants.
Sec. 509. Work stoppages and employee-employer disputes.
Sec. 510. Inspection of car ferries entering from Canada.

TITLE V—IMPROVED MARITIME SECURITY

SEC. 501. ESTABLISHMENT OF ADDITIONAL INTERAGENCY OPERATIONAL CENTERS FOR PORT SECURITY.

(a) IN GENERAL.—In order to improve interagency cooperation, unity of command, and the sharing of intelligence information in a common mission to provide greater protection for port and intermodal transportation systems against acts of terrorism, the Secretary of Homeland Security, acting through the Commandant of the Coast Guard, shall establish interagency operational centers for port security at all high priority ports.

(b) CHARACTERISTICS.—The interagency operational centers shall—

(1) be based on the most appropriate compositional and operational characteristics of the pilot project interagency operational centers for port security in Miami, Florida, Norfolk/Hampton Roads, Virginia, Charleston, South Carolina, and San Diego, California, and the virtual operation center at the port of New York/New Jersey;

(2) be adapted to meet the security needs, requirements, and resources of the individual port area at which each is operating;

(3) provide for participation by—

(A) representatives of the United States Customs and Border Protection, Immigration and Customs Enforcement, the Transportation Security Administration, the Department of Defense, and other Federal agencies, as determined to be appropriate by the Secretary of Homeland Security;

(B) representatives of State and local law enforcement or port security agencies and personnel; and

(C) members of the area maritime security committee, as deemed appropriate by the captain of the port;

(4) be incorporated in the implementation of—

(A) maritime transportation security plans developed under section 70103 of title 46, United States Code;

(B) maritime intelligence activities under section 70113 of that title;

(C) short and long range vessel tracking under sections 70114 and 70115 of that title;

(D) secure transportation systems under section 70119 of that title;

(E) the United States Customs and Border Protection's screening and high-risk cargo inspection programs; and

(F) the transportation security incident response plans required by section 70104 of that title.

(c) 2005 ACT REPORT REQUIREMENT.—Nothing in this section relieves the Commandant of the Coast Guard from compliance with the requirements of section 807 of the Coast Guard and Maritime Transportation Act of 2004. The Commandant shall utilize the information developed in making the report required by that section in carrying out the requirements of this section.

(d) BUDGET AND COST-SHARING ANALYSIS.—Within 180 days after the date of enactment of this Act, the Secretary shall transmit to the Senate Committee on Commerce, Science, and Transportation, the House of Representatives Committee on Transportation and Infrastructure, and the House of Representatives Committee on Homeland Security a proposed budget analysis for implementing subsection (a), including cost-sharing arrangements with other Federal departments and agencies involved in the interagency operation of the centers.

(e) SECURITY CLEARANCE ASSISTANCE.—The Secretary of the department in which the Coast Guard is operating may assist non-Federal personnel described in subsection (b)(3)(B) or (C) in obtaining expedited appropriate security clearances and in and maintaining their security clearances.

(f) SECURITY INCIDENTS.—During a transportation security incident (as defined in

section 70101(6) of title 46, United States Code) involving a port, the Coast Guard Captain of the Port designated by the Commandant of the Coast Guard in each joint operations center for maritime security shall act as the incident commander, unless otherwise directed under the National Maritime Transportation Security Plan established under section 70103 of title 46, United States Code.

SEC. 502. AREA MARITIME TRANSPORTATION SECURITY PLAN TO INCLUDE SALVAGE RESPONSE PLAN.

Section 70103(b)(2) of title 46, United States Code, is amended—

(1) by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively; and

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

''(E) include a salvage response plan—

''(i) to identify salvage equipment capable of restoring operational trade capacity; and

''(ii) to ensure that the flow of cargo through United States ports is re-established as efficiently and quickly as possible after a transportation security incident.''.

SEC. 503. ASSISTANCE FOR FOREIGN PORTS.

(a) IN GENERAL.—Section 70109 of title 46, United States Code, is amended—

(1) by striking the section heading and inserting the following:

''§ 70109. International cooperation and coordination''; and

(2) by adding at the end the following:

''(c) INTERNATIONAL CARGO SECURITY STANDARDS.—The Secretary, in consultation with the Secretary of State, shall enter into negotiations with foreign governments and international organizations, including the International Maritime Organization, the World Customs Organization, and the International Standards Organization, as appropriate—

''(1) to promote standards for the security of containers and other cargo moving within the international supply chain;

''(2) to encourage compliance with minimum technical requirements for the capabilities of nonintrusive inspection equipment, including imaging and radiation detection devices, established under section ——— of the Maritime and Transportation Security Act of 2006 Act;

''(3) to implement the requirements of the container security initiative under section 70117; and

''(4) to implement standards and procedures established under section 70119.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 701 of title 46, United States Code, is amended by striking the item relating to section 70901 and inserting the following:

''70901. International cooperation and coordination''.

SEC. 504. SPECIFIC PORT SECURITY INITIATIVES.

(a) IN GENERAL.—Chapter 701 of title 46, United States Code, is amended—

(1) by redesignating the second section 70118 (relating to withholding of clearance), as added by section 802(a)(2) of the Coast Guard and Maritime Transportation Act of 2004, as section 70119;

(2) by redesignating the first section 70119 (relating to enforcement by State and local officers), as added by section 801(a) of the Coast Guard and Maritime Transportation Act of 2004, as section 70120;

(3) by redesignating the second section 70119 (relating to civil penalty), as redesignated by section 802(a)(1) of the Coast Guard and Maritime Transportation Act of 2004, as section 70122;

(4) by striking section 70116;

(5) by redesignating sections 70117 through 70122 (as redesignated) as sections 70120 through 70126; and

(6) by inserting after section 70115 the following:

''§ 70116. Automated targeting system

''(a) IN GENERAL.—The Secretary shall develop and maintain an antiterrorism cargo identification and screening system for containerized cargo shipped to the United States either directly or via a foreign port to assess imports and target those imports which pose a high risk of containing contraband.

''(b) 24-HOUR ADVANCE NOTIFICATION.—In order to provide the best possible data for the automated targeting system, the Secretary shall require importers shipping goods to the United States via cargo container to supply advanced trade data not later than 24 hours before loading a container under the advance notification requirements under section 484(a)(2) of the Tariff Act of 1930 (19 U.S.C. 1484(a)(2)). The requirement shall apply to goods entered after July 1, 2007.

''(c) SECURE TRANSMISSION; CONFIDENTIALITY.—All information required by the Secretary from supply chain partners under this section shall—

''(1) be transmitted in a secure fashion, as determined by the Secretary, so as to protect the information from unauthorized access; and

''(2) shall not be subject to public disclosure under section 552 of title 5.

''(c) AUTHORIZATION OF APPROPRIATIONS.—

''(1) There are authorized to be appropriated to the Secretary of Homeland Security to carry out the automated targeting system program to identify high-risk oceanborne container cargo for inspection—

''(A) $30,700,000 for fiscal year 2007;

''(B) $33,200,000 for fiscal year 2008; and

''(C) $35,700,000 for fiscal year 2009.

''(2) The amounts authorized by this subsection shall be in addition to any other amounts authorized to be appropriated to carry out that program.

''§ 70117. Container security initiative

''(a) IN GENERAL.—The Secretary shall issue regulations to—

''(1) evaluate and screen cargo documents prior to loading in a foreign port for shipment to the United States, either directly or via a foreign port; and

''(2) inspect high-risk cargo in a foreign port intended for shipment to the United States by physical examination or nonintrusive examination by technological means.

''(b) IMPLEMENTATION.—The Commissioner of Customs and Border Protection shall execute inspection and screening protocols with authorities in foreign ports to ensure that the standards and procedures promulgated under subsection (a) are implemented in an effective manner.

''(c) APPLICATION OF CONTAINER SECURITY INITIATIVE TO OTHER PORTS.—

''(1) IN GENERAL.—The Secretary, through the Commissioner of Customs and Border Protection, may designate foreign seaports under this section if, with respect to any such seaport, the Secretary determines that—

''(A) the seaport—

''(i) presents a significant level of risk;

''(ii) is a significant port or origin or transshipment, in terms of volume or value, for cargo being imported to the United States; and

''(iii) is potentially capable of validating a secure system of transportation pursuant to section 70119; and

''(B) the Department of State and representatives of the country with jurisdiction over the port have completed negotiations to ensure compliance with the requirements of the container security initiative.

''(2) COORDINATION WITH INTERNATIONAL CARGO SECURITY STANDARDS.—In carrying out paragraph (a), the Secretary shall—

''(A) consult with the Secretary of State concerning progress under section 70109(d); and

''(B) coordinate activities under paragraph (1) with activities conducted under that section.

''(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out this section—

''(1) $142,000,000 for fiscal year 2007;

''(2) $144,000,000 for fiscal year 2008; and

''(3) $146,000,000 for fiscal year 2009.

''§ 70118. Customs-Trade Partnership Against Terrorism validation program

''(a) IN GENERAL.—The Secretary shall establish a voluntary program to strengthen and improve the overall security of the international supply chain and United States border security.

''(b) VALIDATION; RECORDS MANAGEMENT.—The Secretary shall issue regulations—

''(1) to strengthen the validation process to verify that security programs of members of the Customs-Trade Partnership Against Terrorism have been implemented and that the program benefits should continue by providing appropriate guidance to specialists conducting such validations, including establishing what level of review is adequate to determine whether member security practices are reliable, accurate, and effective; and

''(2) to implement a records management system that documents key decisions and significant operational events accurately and in a timely manner, including a reliable system for—

''(A) documenting and maintaining records of all decisions in the application through validation processes, including documentation of the objectives, scope, methodologies, and limitations of validations; and

''(B) tracking member status.

''(b) HUMAN CAPITAL PLAN.—Within 6 months after the date of enactment of the Transportation Security Improvement Act of 2005, the Secretary shall complete a human capital plan, that clearly describes how the Customs-Trade Partnership Against Terrorism program will recruit, train, and retain sufficient staff to conduct the work of the program successfully, including reviewing security profiles, vetting, and conducting validations to mitigate program risk.

''(c) REVALIDATION.—The Secretary shall establish a process for revalidating C–TPAT participants. Such revalidation shall occur not less frequently than once during every 3-year period following validation.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out this section not to exceed—

''(1) $60,000,000 for fiscal year 2007;

''(2) $65,000,000 for fiscal year 2008; and

''(3) $72,000,000 for fiscal year 2009.

''§ 70119. Secure systems of transportation

''(a) IN GENERAL.—The Secretary shall establish a program, to be known as the 'GreenLane program', to evaluate and certify secure systems of international intermodal transportation—

''(1) to ensure the security and integrity of shipments of goods to the United States from the point at which such goods are initially packed or loaded into a cargo container for international shipment until they reach their ultimate destination; and

''(2) to facilitate the movement of such goods through the entire supply chain through an expedited security and clearance program.

''(b) PROGRAM ELEMENTS.—In establishing and conducting the program under subsection (a) the Secretary, acting through the Commissioner of Customs and Border Protection, shall—

''(1) establish standards and procedures for verifying, at the point at which goods are placed in a cargo container for shipping, that the container is free of unauthorized hazardous chemical, biological, or nuclear material and for securely sealing such containers after the contents are so verified;

''(2) ensure that cargo is loaded at a port designated under section 70117 for shipment to the United States;

''(3) develop performance standards to enhance the physical security of shipping containers, including performance standards for container security devices;

''(4) establish standards and procedures for securing cargo and monitoring that security while in transit;

''(5) ensure that cargo complies with additional security criteria established by the Secretary beyond the minimum requirements for C–TPAT participation under section 70118, particularly in the area of access controls;

''(6) establish standards and procedures for allowing the United States Government to ensure and validate compliance with this program; and

''(7) incorporate any other measures the Secretary considers necessary to ensure the security and integrity of international intermodal transport movements.

''(c) BENEFITS FROM PARTICIPATION.—

''(1) ELIGIBILITY.—The Commissioner of Customs and Border Protection may by regulation provide for expedited clearance of cargo for an entity that—

''(A) meets or exceeds the standards established under subsection (b); and

''(B) certifies the security of its supply chain not less often than once every 2 years to the Secretary.

''(2) BENEFITS.—The expedited clearance provided under paragraph (1) to any eligible entity may include—

''(A) the expedited release of GreenLane cargo into destination ports within the United States during all threat levels designated by the Secretary or the Commandant of the Coast Guard;

''(B) reduced or eliminated bonding requirements for GreenLane cargo;

''(C) priority processing for searches;

''(D) further reduced scores in the automated targeting system; and

''(E) streamlined billing of any customs duties or fees.

''(d) CONSEQUENCES OF LACK OF COMPLIANCE.—

''(1) IN GENERAL.—Any participant whose security measures and supply chain security practices have been determined by the Secretary to be out of compliance with any requirements of the program shall be denied benefits under the program.

''(2) RIGHT OF APPEAL.—Any participant determined by the Secretary under paragraph (1) not to be in compliance with the requirements of the program may appeal that determination to the Secretary.''.

(b) CONFORMING AMENDMENTS.—

(1) The chapter analysis for chapter 701 of title 46, United States Code, is amended by striking the items following the item relating to section 70116 and inserting the following:

''70116. Automated targeting system
''70117. Container security initiative
''70118. Customs-Trade Partnership Against Terrorism validation program
''70119. Secure systems of transportation
''70120. In rem liability for civil penalties and certain costs
''70121. Firearms, arrests, and seizure of property
''70122. Withholding of clearance
''70123. Enforcement by State and local officers
''70124. Container security initiative
''70125. Civil penalty''.

(2) Section 70117(a) of title 46, United States Code, is amended by striking ''section 70120'' and inserting ''section 70125''.

(3) Section 70119(a) of such title, as redesignated by subsection (a)(1) of this section, is amended—

(A) by striking ''under section 70119,'' and inserting ''under section 70125,''; and

(B) by striking ''under section 70120,'' and inserting ''under that section,''.

SEC. 505. TECHNICAL REQUIREMENTS FOR NONINTRUSIVE INSPECTION EQUIPMENT.

(a) IN GENERAL.—Within 180 days after the date of enactment of this Act, the Domestic Nuclear Detection Office, in consultation with the National Institute of Science and Technology and the U.S. Customs and Border Protection, shall initiate a rulemaking—

(1) to establish minimum technical requirements for the capabilities of non-intrusive inspection equipment for cargo, including imaging and radiation devices; and

(2) to ensure that all equipment used can detect risks and threats as determined appropriate by the Secretary.

(b) ENDORSEMENTS; SOVEREIGNTY CONFLICTS.—In establishing such requirements, the Domestic Nuclear Detection Office shall be careful to avoid the endorsement of products associated with specific companies and the creation of sovereignty conflicts with participating countries.

(c) RADIATION SAFETY.—Not later than 90 days after the date of enactment of this Act, the Secretary of Homeland Security shall submit a plan to the Senate Committee on Commerce, Science, and Transportation, Senate Committee on Homeland Security and Governmental Affairs, the Senate Committee on Appropriations, the House of Representatives Committee on Homeland Security, and the House of Representatives Committee on Appropriations that—

(1) details the health and safety impacts of nonintrusive inspection technology; and

(2) describes the policy of the Bureau of Customs and Border Protection for using nonintrusive inspection equipment.

(d) FINAL RULE DEADLINE.—The Domestic Nuclear Detection Office shall issue a final rule under subsection (a) within 1 year after the rulemaking proceeding is initiated.

SEC. 506. RANDOM INSPECTION OF CONTAINERS.

Within 1 year after the date of enactment of this Act, the Commissioner of Customs and Border Protection shall develop and implement a plan, utilizing best practices for empirical scientific research design and random sampling standards for random physical inspection of shipping containers in addition to any targeted or pre-shipment inspection of such containers required by law or regulation or conducted under any other program conducted by the Commissioner. Nothing in this section shall be construed to mean that implementation of the random sampling plan would preclude the additional physical inspection of shipping containers not inspected pursuant to the plan.

SEC. 507. PORT SECURITY USER FEE STUDY.

The Secretary of Homeland Security shall conduct a study of the need for, and feasibility of, establishing a system of oceanborne and port-related intermodal transportation user fees that could be imposed and collected as a dedicated revenue source, on a temporary or continuing basis, to provide necessary funding for the improvement and maintenance of enhanced port security. Within 1 year after date of enactment of this Act, the Secretary shall submit a report to the Senate Committee on Commerce, Science, and Transportation, the House of Representatives Committee on Transportation and Infrastructure, and the House of Representatives Committee on Homeland Security that—

(1) contains the Secretary's findings, conclusions, and recommendations (including legislative recommendations if appropriate); and

(2) includes an assessment of the annual amount of customs fees and duties collected through oceanborne and port-related transportation and the amount and percentage of such fees and duties that are dedicated to improve and maintain security.

SEC. 508. PORT SECURITY GRANTS.

(a) BASIS FOR GRANTS.—Section 70107(a) of title 46, United States Code, is amended by striking ''for making a fair and equitable allocation of funds'' and inserting ''based on risk and vulnerability''.

(b) ELIGIBLE COSTS.—Section 70107(b) of title 46, United States Code, is amended by striking paragraph (1) and redesignating paragraphs (2) through (4) as paragraphs (1) through (3), respectively.

(c) LETTERS OF INTENT.—Section 70107(e) of title 46, United States Code, is amended by adding at the end the following:

''(5) LETTERS OF INTENT.—The Secretary may execute letters of intent to commit funding to port sponsors from the Fund.''.

(d) OPERATION SAFE COMMERCE.—Section 70107(i) of title 46, United States Code, is amended—

(1) by redesignating paragraphs (4) and (5) as paragraphs (5) and (6); and

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

''(4) OPERATION SAFE COMMERCE.—

''(A) IN GENERAL.—Not later than 1 year after the date of enactment of the [To be supplied] Act, the Secretary shall initiate grant projects that—

''(i) integrate nonintrusive inspection and radiation detection equipment with automatic identification methods for containers, vessels, and vehicles;

''(ii) test physical access control protocols and technologies;

''(iii) create a data sharing network capable of transmitting data required by entities participating in the international supply chain from every intermodal transfer point to the National Targeting Center of the Department; and

''(iv) otherwise further maritime and cargo security, as determined by the Secretary.

''(B) SUPPLY CHAIN SECURITY FOR SPECIAL CONTAINER AND NONCONTAINERIZED CARGO.—The Secretary shall consider demonstration projects that further the security of the international supply chain for special container cargo, including refrigerated containers, and noncontainerized cargo, including roll-on/roll-off, break-bulk, liquid, and dry bulk cargo.

''(C) ANNUAL REPORT.—Not later than March 1 of each year, the Secretary shall submit a report detailing the results of Operation Safe Commerce to—

''(i) the Senate Committee on Commerce, Science, and Transportation;

''(ii) the Senate Committee on Homeland Security and Governmental Affairs;

''(iii) the House of Representatives Committee on Homeland Security;

''(iv) the Senate Committee on Appropriations; and

''(v) the House of Representatives Committee on Appropriations.''.

(e) RESEARCH, DEVELOPMENT, TEST, AND EVALUATION.—The Secretary of Homeland Security shall—

(1) direct research, development, test, and evaluation efforts in furtherance of maritime and cargo security;

(2) encourage the ingenuity of the private sector in developing and testing technologies

and process innovations in furtherance of these objectives; and

(3) evaluate such technologies.

(f) COORDINATION.—The Secretary of Homeland Security, acting through the Undersecretary for Science and Technology, in consultation with the Assistant Secretary for Policy, the Director of Cargo Security Policy, and the Chief Financial Officer, shall ensure that—

(1) research, development, test, and evaluation efforts funded by the Department in furtherance of maritime and cargo security are coordinated to avoid duplication of efforts; and

(2) the results of such efforts are shared throughout the Department, as appropriate.

SEC. 509. WORK STOPPAGES AND EMPLOYEE-EMPLOYER DISPUTES.

Section 70101(6) is amended by inserting after ''area.'' the following: ''In this paragraph, the term 'economic disruption' does not include a work stoppage or other nonviolent employee-related action resulting from an employee-employer dispute.''.

SEC. 510. INSPECTION OF CAR FERRIES ENTERING FROM CANADA.

Within 120 days after the date of enactment of this Act, the Secretary of Homeland Security, acting through the Commissioner of Customs and Border Protection, in coordination with the Secretary of State, and their Canadian counterparts, shall develop a plan for the inspection of passengers and vehicles before such passengers board, or such vehicles are loaded onto, a ferry bound for a United States port.

SA 3434. Mr. CHAMBLISS submitted an amendment intended to be proposed to amendment SA 3424 proposed by Mr. FRIST to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 395, strike line 10 and all that follows through page 416, line 11, and insert the following:

(c) PERIOD OF AUTHORIZED ADMISSION.—

(1) IN GENERAL.—An alien may be granted blue card status for a period not to exceed 2 years.

(2) RETURN TO COUNTRY.—At the end of the period described in paragraph (1), the alien shall return to the country of nationality or last residence of the alien.

(3) ELIGIBILITY FOR NONIMMIGRANT VISA.—Upon return to the country of nationality or last residence of the alien under paragraph (2), the alien may apply for any nonimmigrant visa.

(d) LOSS OF EMPLOYMENT.—

(1) IN GENERAL.—The blue card status of an alien shall terminate if the alien is not employed for at least 60 consecutive days.

(2) RETURN TO COUNTRY.—An alien whose period of authorized admission terminates under paragraph (1) shall return to the country of nationality or last residence of the alien.

(e) PROHIBITION OF CHANGE OR ADJUSTMENT OF STATUS.—

(1) IN GENERAL.—An alien with blue card status shall not be eligible to change or adjust status in the United States.

(2) LOSS OF ELIGIBILITY.—An alien with blue card status shall lose the status if the alien—

(A) files a petition to adjust status to legal permanent residence in the United States; or

(B) requests a consular processing for an immigrant or nonimmigrant visa outside the United States.

SA 3435. Mr. CHAMBLISS submitted an amendment intended to be proposed to amendment SA 3424 proposed by Mr. FRIST to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 386, line 11, strike ''863 hours or''.

SA 3436. Mr. CHAMBLISS submitted an amendment intended to be proposed to amendment SA 3424 proposed by Mr. FRIST to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 388, lines 8 and 9, strike ''3 or more misdemeanors'' and insert ''misdemeanor''.

SA 3437. Mr. ISAKSON submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. BORDER SECURITY CERTIFICATION.

Beginning on the date of the enactment of this Act, the Secretary may not implement the new conditional nonimmigrant work authorization programs provided for in this Act that grant legal status to any individual who illegally enters or entered the United States until the Secretary provides written certification to the President and the Congress that the border security and enforcement provisions provided for in this Act are in place and operational as determined by the Secretary of Homeland Security.

SA 3438. Mr. GREGG (for himself and Ms. CANTWELL) submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropirate place in the proposed instructions, insert the following:

(e) WORLDWIDE LEVEL OF IMMIGRANTS WITH ADVANCED DEGREES.—Section 201 (8 U.S.C. 1151) is amended—

(1) in subsection (a)(3), by inserting ''and immigrants with advanced degrees'' after ''diversity immigrants''; and

(2) by amending subsection (e) to read as follows:

''(e) WORLDWIDE LEVEL OF DIVERSITY IMMIGRANTS AND IMMIGRANTS WITH ADVANCED DEGREES.—

''(1) DIVERSITY IMMIGRANTS.—The worldwide level of diversity immigrants described in section 203(c)(1) is equal to 18,333 for each fiscal year.

''(2) IMMIGRANTS WITH ADVANCED DEGREES.—The worldwide level of immigrants with advanced degrees described in section 203(c)(2) is equal to 36,667 for each fiscal year.''.

(f) IMMIGRANTS WITH ADVANCED DEGREES.—Section 203 (8 U.S.C. 1153(c)) is amended—

(1) in subsection (c)—

(A) in paragraph (1), by striking ''paragraph (2), aliens subject to the worldwide level specified in section 201(e)'' and inserting ''paragraphs (2) and (3), aliens subject to the worldwide level specified in section 201(e)(1)'';

(B) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively;

(C) by inserting after paragraph (1) the following:

''(2) ALIENS WHO HOLD AN ADVANCED DEGREE IN SCIENCE, MATHEMATICS, TECHNOLOGY, OR ENGINEERING.—

''(A) IN GENERAL.—Qualified immigrants who hold a master's or doctorate degree in the life sciences, the physical sciences, mathematics, technology, or engineering shall be allotted visas each fiscal year in a number not to exceed the worldwide level specified in section 201(e)(2).

''(B) ECONOMIC CONSIDERATIONS.—Beginning on the date which is 1 year after the date of the enactment of this paragraph, the Secretary of State, in consultation with the Secretary of Commerce and the Secretary of Labor, and after notice and public hearing, shall determine which of the degrees described in subparagraph (A) will provide immigrants with the knowledge and skills that are most needed to meet anticipated workforce needs and protect the economic security of the United States.'';

(D) in paragraph (3), as redesignated, by striking ''this subsection'' each place it appears and inserting ''paragraph (1)''; and

(E) by amending paragraph (4), as redesignated, to read as follows:

''(4) MAINTENANCE OF INFORMATION.—

''(A) DIVERSITY IMMIGRANTS.—The Secretary of State shall maintain information on the age, occupation, education level, and other relevant characteristics of immigrants issued visas under paragraph (1).

''(B) IMMIGRANTS WITH ADVANCED DEGREES.—The Secretary of State shall maintain information on the age, degree (including field of study), occupation, work experience, and other relevant characteristics of immigrants issued visas under paragraph (2).''; and

(2) in subsection (e)—

(A) in paragraph (2), by striking ''(c)'' and inserting ''(c)(1)'';

(B) by redesignating paragraph (3) as paragraph (4); and

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

''(3) Immigrant visas made available under subsection (c)(2) shall be issued as follows:

''(A) If the Secretary of State has not made a determination under subsection (c)(2)(B), immigrant visas shall be issued in a strictly random order established by the Secretary for the fiscal year involved.

''(B) If the Secretary of State has made a determination under subsection (c)(2)(B) and the number of eligible qualified immigrants who have a degree selected under such subsection and apply for an immigrant visa described in subsection (c)(2) is greater than the worldwide level specified in section 201(e)(2), the Secretary shall issue immigrant visas only to such immigrants and in a strictly random order established by the Secretary for the fiscal year involved.

''(C) If the Secretary of State has made a determination under subsection (c)(2)(B) and the number of eligible qualified immigrants who have degrees selected under such subsection and apply for an immigrant visa described in subsection (c)(2) is not greater than the worldwide level specified in section 201(e)(2), the Secretary shall—

''(i) issue immigrant visas to eligible qualified immigrants with degrees selected in subsection (c)(2)(B); and

''(ii) issue any immigrant visas remaining thereafter to other eligible qualified immigrants with degrees described in subsection (c)(2)(A) in a strictly random order established by the Secretary for the fiscal year involved.''.

(g) DIVERSITY VISA CARRYOVER.—Section 204(a)(1)(I)(ii)(II) (8 U.S.C. 1154(a)(1)(I)(ii)(II)) is amended to read as follows:

''(II) An immigrant visa made available under subsection 203(c) for fiscal year 2007 or

any subsequent fiscal year may be issued, or adjustment of status under section 245(a) may be granted, to an eligible qualified alien who has properly applied for such visa or adjustment of status in the fiscal year for which the alien was selected notwithstanding the end of such fiscal year. Such visa or adjustment of status shall be counted against the worldwide levels set forth in section 201(e) for the fiscal year for which the alien was selected.''.

(h) EFFECTIVE DATE.—The amendments made by subsections (e) through (g) shall take effect on October 1, 2006.

SA 3439. Mr. GREGG (for himself and Ms. CANTWELL) submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

In the language proposed to be stricken, at the appropriate place insert the following:

(e) WORLDWIDE LEVEL OF IMMIGRANTS WITH ADVANCED DEGREES.—Section 201 (8 U.S.C. 1151) is amended—

(1) in subsection (a)(3), by inserting ''and immigrants with advanced degrees'' after ''diversity immigrants''; and

(2) by amending subsection (e) to read as follows:

''(e) WORLDWIDE LEVEL OF DIVERSITY IMMIGRANTS AND IMMIGRANTS WITH ADVANCED DEGREES.—

''(1) DIVERSITY IMMIGRANTS.—The worldwide level of diversity immigrants described in section 203(c)(1) is equal to 18,333 for each fiscal year.

''(2) IMMIGRANTS WITH ADVANCED DEGREES.—The worldwide level of immigrants with advanced degrees described in section 203(c)(2) is equal to 36,667 for each fiscal year.''.

(f) IMMIGRANTS WITH ADVANCED DEGREES.—Section 203 (8 U.S.C. 1153(c)) is amended—

(1) in subsection (c)—

(A) in paragraph (1), by striking ''paragraph (2), aliens subject to the worldwide level specified in section 201(e)'' and inserting ''paragraphs (2) and (3), aliens subject to the worldwide level specified in section 201(e)(1)'';

(B) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively;

(C) by inserting after paragraph (1) the following:

''(2) ALIENS WHO HOLD AN ADVANCED DEGREE IN SCIENCE, MATHEMATICS, TECHNOLOGY, OR ENGINEERING.—

''(A) IN GENERAL.—Qualified immigrants who hold a master's or doctorate degree in the life sciences, the physical sciences, mathematics, technology, or engineering shall be allotted visas each fiscal year in a number not to exceed the worldwide level specified in section 201(e)(2).

''(B) ECONOMIC CONSIDERATIONS.—Beginning on the date which is 1 year after the date of the enactment of this paragraph, the Secretary of State, in consultation with the Secretary of Commerce and the Secretary of Labor, and after notice and public hearing, shall determine which of the degrees described in subparagraph (A) will provide immigrants with the knowledge and skills that are most needed to meet anticipated workforce needs and protect the economic security of the United States.'';

(D) in paragraph (3), as redesignated, by striking ''this subsection'' each place it appears and inserting ''paragraph (1)''; and

(E) by amending paragraph (4), as redesignated, to read as follows:

''(4) MAINTENANCE OF INFORMATION.—

''(A) DIVERSITY IMMIGRANTS.—The Secretary of State shall maintain information on the age, occupation, education level, and other relevant characteristics of immigrants issued visas under paragraph (1).

''(B) IMMIGRANTS WITH ADVANCED DEGREES.—The Secretary of State shall maintain information on the age, degree (including field of study), occupation, work experience, and other relevant characteristics of immigrants issued visas under paragraph (2).''; and

(2) in subsection (e)—

(A) in paragraph (2), by striking ''(c)'' and inserting ''(c)(1)'';

(B) by redesignating paragraph (3) as paragraph (4); and

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

''(3) Immigrant visas made available under subsection (c)(2) shall be issued as follows:

''(A) If the Secretary of State has not made a determination under subsection (c)(2)(B), immigrant visas shall be issued in a strictly random order established by the Secretary for the fiscal year involved.

''(B) If the Secretary of State has made a determination under subsection (c)(2)(B) and the number of eligible qualified immigrants who have a degree selected under such subsection and apply for an immigrant visa described in subsection (c)(2) is greater than the worldwide level specified in section 201(e)(2), the Secretary shall issue immigrant visas only to such immigrants and in a strictly random order established by the Secretary for the fiscal year involved.

''(C) If the Secretary of State has made a determination under subsection (c)(2)(B) and the number of eligible qualified immigrants who have degrees selected under such subsection and apply for an immigrant visa described in subsection (c)(2) is not greater than the worldwide level specified in section 201(e)(2), the Secretary shall—

''(i) issue immigrant visas to eligible qualified immigrants with degrees selected in subsection (c)(2)(B); and

''(ii) issue any immigrant visas remaining thereafter to other eligible qualified immigrants with degrees described in subsection (c)(2)(A) in a strictly random order established by the Secretary for the fiscal year involved.''.

(g) DIVERSITY VISA CARRYOVER.—Section 204(a)(1)(I)(ii)(II) (8 U.S.C. 1154(a)(1)(I)(ii)(II)) is amended to read as follows:

''(II) An immigrant visa made available under subsection 203(c) for fiscal year 2007 or any subsequent fiscal year may be issued, or adjustment of status under section 245(a) may be granted, to an eligible qualified alien who has properly applied for such visa or adjustment of status in the fiscal year for which the alien was selected notwithstanding the end of such fiscal year. Such visa or adjustment of status shall be counted against the worldwide levels set forth in section 201(e) for the fiscal year for which the alien was selected.''.

(h) EFFECTIVE DATE.—The amendments made by subsections (e) through (g) shall take effect on October 1, 2006.

SA 3440. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. SENSE OF THE SENATE REGARDING REIMBURSING STATES FOR THE COSTS OF UNDOCUMENTED IMMIGRANTS.

(a) FINDINGS.—The Senate finds the following:

(1) It is the obligation of the Federal Government to adequately secure the borders of the United States and prevent the flow of undocumented immigrants into the United States.

(2) Despite the fact that, according to the Congressional Research Service, Border Patrol agents apprehend more than 1,000,000 individuals each year trying to illegally enter the United States, the net growth in the number of unauthorized immigrants entering the United States has increased by approximately 500,000 each year.

(3) The costs associated with incarcerating undocumented criminal immigrants and providing education and healthcare to undocumented immigrants place a tremendous financial burden on States and local governments.

(4) In 2003, States received compensation from the Federal Government, through the State criminal alien assistance program under section 241(i) of the Immigration and Nationality Act (8 U.S.C. 1231(i)), for incarcerating approximately 74,000 undocumented criminal immigrants.

(5) In 2003, 700 local governments received compensation from the Federal Government, through the State criminal alien assistance program, for incarcerating approximately 138,000 undocumented criminal immigrants.

(6) It is estimated that Federal Government payments through the State criminal alien assistance program reimburse States and local governments for 25 percent or less of the actual costs of incarcerating the undocumented criminal immigrants.

(7) It is estimated that providing kindergarten through grade 12 education to undocumented immigrants costs States more than $8,000,000,000 annually.

(8) It is further estimated that more than $1,000,000,000 is spent on healthcare for undocumented immigrants each year.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) States should be fully reimbursed by the Federal Government for the costs associated with providing education and healthcare to undocumented immigrants; and

(2) the program authorized under section 241(i) of the Immigration and Nationality Act (8 U.S.C. 1231(i)) should be fully funded, for each of the fiscal years 2007 through 2012, at the levels authorized for such program under section 241(i)(5) of such Act (as amended by section 218(b)(2) of this Act).

SA 3441. Mr. ENSIGN submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

SEC. . SUFFICIENCY FOR REVENUE FOR ENFORCEMENT.

Notwithstanding any other provision of law, any fee or, penalty required to be paid pursuant to this Act or an amendment made by this Act, shall be deposited in a special account in the Treasury to be available to the Secretary to implement the provisions of this Act without further appropriations and shall remain available until expended.

SA 3442. Mr. ENSIGN submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

SEC. . SUFFICIENCY FOR REVENUE FOR ENFORCEMENT.

Notwithstanding any other provision of law, any fee, revenue, or penalty required to be paid pursuant to this Act or an amendment made by this Act, shall be deposited in a special account in the Treasury to be available to the Secretary to implement the provisions of this Act without further appropriations and shall remain available until expended.

SA 3443. Mr. ENSIGN submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. PROTECTION OF THE INTEGRITY OF THE SOCIAL SECURITY SYSTEM.

(a) TRANSMITTAL AND APPROVAL OF TOTALIZATION AGREEMENTS.—

(1) IN GENERAL.—Section 233(e) of the Social Security Act (42 U.S.C. 433(e)) is amended to read as follows:

''(e)(1) Any agreement to establish a totalization arrangement which is entered into with another country under this section shall enter into force with respect to the United States if (and only if)—

''(A) the President, at least 90 calendar days before the date on which the President enters into the agreement, notifies each House of the Congress of the President's intention to enter into the agreement, and promptly thereafter publishes notice of such intention in the Federal Register,

''(B) the President transmits the text of such agreement to each House of the Congress as provided in paragraph (2), and

''(C) an approval resolution regarding such agreement has passed both Houses of the Congress and has been enacted into law.

''(2)(A) Whenever an agreement referred to in paragraph (1) is entered into, the President shall transmit to each House of the Congress a document setting forth the final legal text of such agreement and including a report by the President in support of such agreement. The President's report shall include the following:

''(i) an estimate by the Chief Actuary of the Social Security Administration of the effect of the agreement, in the short term and in the long term, on the receipts and disbursements under the social security system established by this title;

''(ii) a statement of any administrative action proposed to implement the agreement and how such action will change or affect existing law,

''(iii) a statement describing whether and how the agreement changes provisions of an agreement previously negotiated,

''(iv) a statement describing how and to what extent the agreement makes progress in achieving the purposes, policies, and objectives of this title,

''(v) an estimate of the number of individuals who will be affected by the agreement,

''(vi) an assessment of the integrity of the retirement data and records (including birth, death, and marriage records) of the other country that is the subject of the agreement, and

''(vii) an assessment of ability of such country to track and monitor recipients of benefits under such agreement.

''(B) If any separate agreement or other understanding with another country (whether oral or in writing) relating to an agreement to establish a totalization arrangement under this section is not disclosed to the Congress in the transmittal to the Congress under this paragraph of the agreement to establish a totalization arrangement, then such separate agreement or understanding shall not be considered to be part of the agreement approved by the Congress under this section and shall have no force and effect under United States law.

''(3) For purposes of this subsection, the term 'approval resolution' means a joint resolution, the matter after the resolving clause of which is as follows: 'That the proposed agreement entered into pursuant to section 233 of the Social Security Act between the United States and _____ establishing totalization arrangements between the social security system established by title II of such Act and the social security system of _____, transmitted to the Congress by the President on _____, is hereby approved.', the first two blanks therein being filled with the name of the country with which the United States entered into the agreement, and the third blank therein being filled with the date of the transmittal of the agreement to the Congress.

''(4) Whenever a document setting forth an agreement entered into under this section and the President's report in support of the agreement is transmitted to the Congress pursuant to paragraph (2), copies of such document shall be delivered to both Houses of Congress on the same day and shall be delivered to the Clerk of the House of Representatives if the House is not in session and to the Secretary of the Senate if the Senate is not in session.

''(5) On the day on which a document setting forth the agreement is transmitted to the House of Representatives and the Senate pursuant to paragraph (1), an approval resolution with respect to such agreement shall be introduced (by request) in the House by the majority leader of the House, for himself or herself and the minority leader of the House, or by Members of the House designated by the majority leader and minority leader of the House; and shall be introduced (by request) in the Senate by the majority leader of the Senate, for himself or herself and the minority leader of the Senate, or by Members of the Senate designated by the majority leader and minority leader of the Senate. If either House is not in session on the day on which such an agreement is transmitted, the approval resolution with respect to such agreement shall be introduced in that House, as provided in the proceeding sentence, on the first day thereafter on which that House is in session. The resolution introduced in the House of Representatives shall be referred to the Committee on Ways and Means and the resolution introduced in the Senate shall be referred to the Committee on Finance.''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply with respect to agreements establishing totalization arrangements entered into under section 233 of the Social Security Act which are transmitted to the Congress on or after April 1, 2006.

(b) BIENNIAL GAO REPORT ON IMPACT TOTALIZATION AGREEMENTS.—Section 233(e) of the Social Security Act (42 U.S.C. 433(e)), as amended by subsection (a)(1), is amended by adding at the end the following new paragraph:

''(6) Not later than January 1, 2007, and biennially thereafter, the Comptroller General of the United States shall submit a report to Congress and the President with respect to each such agreement that has become effective that—

''(A) compares the estimates, statements, and assessments contained in the report submitted to Congress under paragraph (2) with respect to that agreement with the actual number of individuals affected by the agreement and the actual effect of the agreement on the estimated income and expenditures of the social security system established by this title; and

''(B) contains such recommendations for adjusting the methods used to make the estimates, statements, and assessments required for reports submitted under paragraph (2) as the Comptroller General determines necessary.''.

SA 3444. Mr. ENSIGN submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. PROTECTION OF THE INTEGRITY OF THE SOCIAL SECURITY SYSTEM.

(a) TRANSMITTAL AND APPROVAL OF TOTALIZATION AGREEMENTS.—

(1) IN GENERAL.—Section 233(e) of the Social Security Act (42 U.S.C. 433(e)) is amended to read as follows:

''(e)(1) Any agreement to establish a totalization arrangement which is entered into with another country under this section shall enter into force with respect to the United States if (and only if)—

''(A) the President, at least 90 calendar days before the date on which the President enters into the agreement, notifies each House of the Congress of the President's intention to enter into the agreement, and promptly thereafter publishes notice of such intention in the Federal Register,

''(B) the President transmits the text of such agreement to each House of the Congress as provided in paragraph (2), and

''(C) an approval resolution regarding such agreement has passed both Houses of the Congress and has been enacted into law.

''(2)(A) Whenever an agreement referred to in paragraph (1) is entered into, the President shall transmit to each House of the Congress a document setting forth the final legal text of such agreement and including a report by the President in support of such agreement. The President's report shall include the following:

''(i) an estimate by the Chief Actuary of the Social Security Administration of the effect of the agreement, in the short term and in the long term, on the receipts and disbursements under the social security system established by this title;

''(ii) a statement of any administrative action proposed to implement the agreement and how such action will change or affect existing law,

''(iii) a statement describing whether and how the agreement changes provisions of an agreement previously negotiated,

''(iv) a statement describing how and to what extent the agreement makes progress in achieving the purposes, policies, and objectives of this title,

''(v) an estimate of the number of individuals who will be affected by the agreement,

''(vi) an assessment of the integrity of the retirement data and records (including birth, death, and marriage records) of the other country that is the subject of the agreement, and

''(vii) an assessment of ability of such country to track and monitor recipients of benefits under such agreement.

''(B) If any separate agreement or other understanding with another country (whether oral or in writing) relating to an agreement to establish a totalization arrangement under this section is not disclosed to the Congress in the transmittal to the Congress under this paragraph of the agreement to establish a totalization arrangement, then

such separate agreement or understanding shall not be considered to be part of the agreement approved by the Congress under this section and shall have no force and effect under United States law.

''(3) For purposes of this subsection, the term 'approval resolution' means a joint resolution, the matter after the resolving clause of which is as follows: 'That the proposed agreement entered into pursuant to section 233 of the Social Security Act between the United States and _____ establishing totalization arrangements between the social security system established by title II of such Act and the social security system of _____, transmitted to the Congress by the President on _____, is hereby approved.', the first two blanks therein being filled with the name of the country with which the United States entered into the agreement, and the third blank therein being filled with the date of the transmittal of the agreement to the Congress.

''(4) Whenever a document setting forth an agreement entered into under this section and the President's report in support of the agreement is transmitted to the Congress pursuant to paragraph (2), copies of such document shall be delivered to both Houses of Congress on the same day and shall be delivered to the Clerk of the House of Representatives if the House is not in session and to the Secretary of the Senate if the Senate is not in session.

''(5) On the day on which a document setting forth the agreement is transmitted to the House of Representatives and the Senate pursuant to paragraph (1), an approval resolution with respect to such agreement shall be introduced (by request) in the House by the majority leader of the House, for himself or herself and the minority leader of the House, or by Members of the House designated by the majority leader and minority leader of the House; and shall be introduced (by request) in the Senate by the majority leader of the Senate, for himself or herself and the minority leader of the Senate, or by Members of the Senate designated by the majority leader and minority leader of the Senate. If either House is not in session on the day on which such an agreement is transmitted, the approval resolution with respect to such agreement shall be introduced in that House, as provided in the proceeding sentence, on the first day thereafter on which that House is in session. The resolution introduced in the House of Representatives shall be referred to the Committee on Ways and Means and the resolution introduced in the Senate shall be referred to the Committee on Finance.''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply with respect to agreements establishing totalization arrangements entered into under section 233 of the Social Security Act which are transmitted to the Congress on or after March 1, 2006.

(b) BIENNIAL GAO REPORT ON IMPACT TOTALIZATION AGREEMENTS.—Section 233(e) of the Social Security Act (42 U.S.C. 433(e)), as amended by subsection (a)(1), is amended by adding at the end the following new paragraph:

''(6) Not later than January 1, 2007, and biennially thereafter, the Comptroller General of the United States shall submit a report to Congress and the President with respect to each such agreement that has become effective that—

''(A) compares the estimates, statements, and assessments contained in the report submitted to Congress under paragraph (2) with respect to that agreement with the actual number of individuals affected by the agreement and the actual effect of the agreement on the estimated income and expenditures of the social security system established by this title; and

''(B) contains such recommendations for adjusting the methods used to make the estimates, statements, and assessments required for reports submitted under paragraph (2) as the Comptroller General determines necessary.''.

SA 3445. Mr. ENSIGN submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. PROHIBITION ON PAYMENT OF SOCIAL SECURITY BENEFITS BASED ON QUARTERS OF COVERAGE EARNED BY AN INDIVIDUAL WHO IS NOT A UNITED STATES CITIZEN OR NATIONAL WHILE THAT INIDIVIDUAL IS NOT AUTHORIZED TO WORK IN THE UNITED STATES.

(a) IN GENERAL.—Section 213(a)(2)(B)(i) of the Social Security Act (42 U.S.C. 413(a)(2)(B)(i)) is amended—

(1) by striking ''and no quarter'' and inserting '', no quarter''; and

(2) by inserting before the semicolon the following: '', and no quarter any part of which includes wages paid to an individual or self-employment income earned by an individual while the individual was not assigned a social security account number consistent with the requirements of subclause (I) or (III) of section 205(c)(2)(B)(i) or was not described in section 214(c)(2) shall be a quarter of coverage''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to applications for benefits under title II of the Social Security Act (42 U.S.C. 401 et seq.) filed on or after the date of enactment of this Act.

SA 3446. Mr. ENSIGN submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. PROHIBITION ON PAYMENT OF SOCIAL SECURITY BENEFITS BASED ON QUARTERS OF COVERAGE EARNED BY AN INDIVIDUAL WHO IS NOT A UNITED STATES CITIZEN OR NATIONAL WHILE THAT INIDIVIDUAL IS NOT AUTHORIZED TO WORK IN THE UNITED STATES.

(a) IN GENERAL.—Section 213(a)(2)(B)(i) of the Social Security Act (42 U.S.C. 413(a)(2)(B)(i)) is amended—

(1) by striking ''and no quarter'' and inserting '', no quarter''; and

(2) by inserting before the semicolon the following: '', and no quarter any part of which includes wages paid to an individual or self-employment income earned by an individual while the individual was not assigned a social security account number consistent with the requirements of subclause (I) or (III) of section 205(c)(2)(B)(i) or was not described in section 214(c)(2) shall be a quarter of coverage''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to applications for benefits under title II of the Social Security Act (42 U.S.C. 401 et seq.) filed one day after the date of enactment of this Act.

SA 3447. Mr. ENSIGN submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $500,000,000 for each of the fiscal years 2007 through 2011 to reimburse States that use the National Guard to secure their borders, provided that not more than $100,000,000 may be paid to any one State in a fiscal year. Not less than 10% of the money appropriated in any given year shall be available to states along the Northern border of the United States.

SA 3448. Mr. ENSIGN submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $500,000,000 for each of the fiscal years 2007 through 2011 to reimburse States that use the National Guard to secure their borders, provided that not more than $100,000,000 may be paid to any one State in a fiscal year. Not less than 20% of the money appropriated in any given year shall be available to states along the Northern border of the United States.

SA 3449. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 3424 proposed by Mr. FRIST to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 385, strike lines 21 through 25 and insert the following:

(7) WORK DAY.—The term ''work day'' means any day in which the individual is employed 5.75 or more hours in agricultural employment.

SA 3450. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 3424 proposed by Mr. FRIST to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 386, strike lines 10 through 13 and insert the following:

(A) has performed agricultural employment in the United States for at least 863 hours or 150 work days during the 24-month period ending on December 31, 2005;

SA 3451. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 3424 proposed by Mr. FRIST to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 386, line 17, strike ''and''.

On page 386, line 21, strike the period at the end and insert ''; and''.

On page 386, between lines 21 and 22, insert the following:

(D) has been convicted of any felony or a misdemeanor, an element of which involves bodily injury, threat of serious bodily injury, or harm to property in excess of $500.

On page 398, strike lines 18 through 20 and insert the following:

(III) is convicted of an offense, an element of which involves bodily injury, threat of serious bodily injury, or harm to property in excess of $500.

On page 401, strike lines 22 through 24 and insert the following:

(iii) is convicted of an offense, an element of which involves bodily injury, threat of serious bodily injury, or harm to property in excess of $500.

SA 3452. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 3424 proposed by Mr. FRIST to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 388, line 2, strike ''or''.

On page 388, strike line 14 and insert the following:

or harm to property in excess of $500; or

(iii) the alien fails to perform the agricultural employment required under subsection (c)(1)(A)(i) unless the alien was unable to work in agricultural employment due to the extraordinary circumstances described in subsection (c)(1)(A)(iii).

SA 3453. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 3424 proposed by Mr. FRIST to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 395, strike line 18 and all that follows through page 396, line 9, and insert the following:

(i) QUALIFYING EMPLOYMENT.—

(I) IN GENERAL.—Subject to subclause (II), the alien has performed at least—

(aa) 5 years of agricultural employment in the United States, for at least 100 work days per year, during the 5-year period beginning on the date of enactment of this Act; or

(bb) 3 years of agricultural employment in the United States, for at least 150 work days per year, during the 3-year period beginning on the date of enactment of this Act.

(II) 4-YEAR PERIOD OF EMPLOYMENT.—An alien shall be considered to qualify under subclause (I) if the alien has performed 4 years of agricultural employment in the United States, for at least 150 work days during 3 of the 4 years and at least 100 work days during the remaining year, during the 4-year period beginning on the date of enactment of this Act.

SA 3454. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 3424 proposed by Mr. FRIST to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 416, strike lines 8 through 11 and insert the following:

(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as are necessary for the startup costs of the program authorized under this section for each of fiscal years 2007 and 2008.

SA 3455. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 3424 proposed by Mr. FRIST to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 385, strike lines 21 through 25 and insert the following:

(7) WORK DAY.—The term ''work day'' means any day in which the individual is employed 5.75 or more hours in agricultural employment.

On page 386, strike lines 10 through 13 and insert the following:

(A) has performed agricultural employment in the United States for at least 863 hours or 150 work days during the 24-month period ending on December 31, 2005;

On page 386, line 17, strike ''and''.

On page 386, line 21, strike the period at the end and insert ''; and''.

On page 386, between lines 21 and 22, insert the following:

(D) has been convicted of any felony or a misdemeanor, an element of which involves bodily injury, threat of serious bodily injury, or harm to property in excess of $500.

On page 388, line 2, strike ''or''.

On page 388, strike line 14 and insert the following:

or harm to property in excess of $500; or

(iii) the alien fails to perform the agricultural employment required under subsection (c)(1)(A)(i) unless the alien was unable to work in agricultural employment due to the extraordinary circumstances described in subsection (c)(1)(A)(iii).

Beginning on page 395, strike line 18 and all that follows through page 396, line 9, and insert the following:

(i) QUALIFYING EMPLOYMENT.—

(I) IN GENERAL.—Subject to subclause (II), the alien has performed at least—

(aa) 5 years of agricultural employment in the United States, for at least 100 work days per year, during the 5-year period beginning on the date of enactment of this Act; or

(bb) 3 years of agricultural employment in the United States, for at least 150 work days per year, during the 3-year period beginning on the date of enactment of this Act.

(II) 4-YEAR PERIOD OF EMPLOYMENT.—An alien shall be considered to qualify under subclause (I) if the alien has performed 4 years of agricultural employment in the United States, for at least 150 work days during 3 of the 4 years and at least 100 work days during the remaining year, during the 4-year period beginning on the date of enactment of this Act.

On page 398, strike lines 18 through 20 and insert the following:

(III) is convicted of an offense, an element of which involves bodily injury, threat of serious bodily injury, or harm to property in excess of $500.

On page 401, strike lines 22 through 24 and insert the following:

(iii) is convicted of an offense, an element of which involves bodily injury, threat of serious bodily injury, or harm to property in excess of $500.

On page 416, strike lines 8 through 11 and insert the following:

(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as are necessary for the startup costs of the program authorized under this section for each of fiscal years 2007 and 2008.

SA 3456. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 3424 proposed by Mr. FRIST to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 525, after line 2, add the following:

Subtitle E—Farm Worker Transportation Safety

SEC. _____. SHORT TITLE.

This subtitle may be cited as the ''Farm Worker Transportation Safety Act''.

SEC. _____. SEATS AND SEAT BELTS FOR MIGRANT AND SEASONAL AGRICULTURAL WORKERS.

(a) SEATS.—Except as provided in subsection (d), in promulgating vehicle safety standards under the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1801 et seq.) for the transportation of migrant and seasonal agricultural workers by farm labor contractors, agricultural employers or agricultural associations, the Secretary of Labor shall ensure that each occupant or rider in, or on, any vehicle subject to such standards is provided with a seat that is a designated seating position (as such term is defined for purposes of the Federal motor vehicle safety standards issued under chapter 301 of title 49, United States Code).

(b) SEAT BELTS.—Each seating position required under subsection (a) shall be equipped with an operational seat belt, except that this subsection shall not apply with respect to seating positions in buses that would otherwise not be required to have seat belts under the Federal motor vehicle safety standards.

(c) PERFORMANCE REQUIREMENTS.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary of Transportation, in consultation with the Secretary of Labor, shall issue minimum performance requirements for the strength of seats and the attachment of seats and seat belts in vehicles that are converted, after being sold for purposes other than resale, for the purpose of transporting migrant or seasonal agricultural workers. The requirements shall provide a level of safety that is as close as practicable to the level of safety provided for in a vehicle that is manufactured or altered for the purpose of transporting such workers before being sold for purposes other than resale.

(2) EXPIRATION.—Effective on the date that is 7 years after the date of enactment of this Act, any vehicle that is or has been converted for the purpose of transporting migrant or seasonal agricultural workers shall provide the same level of safety as a vehicle that is manufactured or altered for such purpose prior to being sold for purposes other than resale.

(d) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to alter or modify the regulations contained in section 500.103, or the provision pertaining to transportation that is primarily on private roads in section 500.104(l), of title 29, Code of Federal Regulations, as in effect on the date of enactment of this Act.

(e) DEFINITIONS.—The definitions contained in section 3 of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1802) shall apply to this section.

(f) COMPLIANCE DATE.—Not later than 1 year after such date of enactment, all vehicles subject to this Act shall be in compliance with the requirements of this section.

SA 3457. Mr. ALLARD submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

(f) TERRORIST ACTIVITIES.—Section 212(a)(3)(B)(i) (8 U.S.C. 1182(a)(3)(B)(i)) is amended—

(1) in subclause (III), by striking '', under circumstances indicating an intention to cause death or serious bodily harm, incited'' and inserting ''incited or advocated''; and

(2) in subclause (VII), by striking ''or espouses terrorist activity or persuades others to endorse or espouse'' and inserting ''espouses, or advocates terrorist activity or persuades others to endorse, espouse, or advocate''.

(g)

SA 3458. Mr. ALLARD submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. COMPREHENSIVE METHAMPHETAMINE PLAN.

(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the President, in coordination with the Secretary of State, the Attorney General, and the Secretary of Homeland Security, shall submit to the Chairman of Committee on the Judiciary of the Senate and the Chairman of the Committee on the Judiciary of the House of Representatives a formal plan that outlines the diplomatic, law enforcement, and other procedures that the Federal Government should implement to reduce the amount of Methamphetamine being trafficked into the United States.

(b) CONTENTS OF PLAN.—The plan under subsection (a) shall, at a minimum, include—

(1) a specific timeline for engaging elected and diplomatic officials in a bilateral process focused on developing a framework to reduce the inflow of Methamphetamine into the United States;

(2) a specific plan to engage the 5 countries who export the most psuedoephedrine, ephedrine, phenylpropanolamine, and other such Methamphetamine precursor chemicals during calendar year preceding the year in which the plan is prepared; and

(3) a specific funding request that outlines what, if any, additional appropriations are needed to secure the border, ports of entry, or any other Methamphetamine trafficking windows that are currently being exploited by Methamphetamine traffickers.

(c) GAO REPORT.—Not later than 100 days after the date of enactment of this Act, the Government Accountability Office shall prepare and submit to the committees of Congress referred to in subsection (a), a report to determine whether the President is in compliance with this section.

SA 3459. Mr. ALLARD submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 57, line 15, strike ''(f)'' and insert the following:

(f) TERRORIST ACTIVITIES.—Section 212(a)(3)(B)(i) (8 U.S.C. 1182(a)(3)(B)(i)) is amended—

(1) in subclause (III), by striking '', under circumstances indicating an intention to cause death or serious bodily harm, incited'' and inserting ''incited or advocated''; and

(2) in subclause (VII), by striking ''or espouses terrorist activity or persuades others to endorse or espouse'' and inserting ''espouses, or advocates terrorist activity or persuades others to endorse, espouse, or advocate''.

(g)

SA 3460. Mr. ALLARD submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. COMPREHENSIVE METHAMPHETAMINE PLAN.

(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the President, in coordination with the Secretary of State, the Attorney General, and the Secretary of Homeland Security, shall submit to the Chairman of Committee on the Judiciary of the Senate and the Chairman of the Committee on the Judiciary of the House of Representatives a formal plan that outlines the diplomatic, law enforcement, and other procedures that the Federal Government should implement to reduce the amount of Methamphetamine being trafficked into the United States.

(b) CONTENTS OF PLAN.—The plan under subsection (a) shall, at a minimum, include—

(1) a specific timeline for engaging elected and diplomatic officials in a bilateral process focused on developing a framework to reduce the inflow of Methamphetamine into the United States;

(2) a specific plan to engage the 5 countries who export the most psuedoephedrine, ephedrine, phenylpropanolamine, and other such Methamphetamine precursor chemicals during calendar year preceding the year in which the plan is prepared; and

(3) a specific funding request that outlines what, if any, additional appropriations are needed to secure the border, ports of entry, or any other Methamphetamine trafficking windows that are currently being exploited by Methamphetamine traffickers.

(c) GAO REPORT.—Not later than 100 days after the date of enactment of this Act, the Government Accountability Office shall prepare and submit to the committees of Congress referred to in subsection (a), a report to determine whether the President is in compliance with this section.

SA 3461. Ms. COLLINS submitted an amendment intended to be proposed to amendment SA 3424 proposed by Mr. FRIST to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. 232. NONIMMIGRANT ALIEN STATUS FOR CERTAIN ATHLETES.

(a) IN GENERAL.—Section 214(c)(4)(A) (8 U.S.C. 1184(c)(4)(A)) is amended by striking clauses (i) and (ii) and inserting the following:

''(i)(I) performs as an athlete, individually or as part of a group or team, at an internationally recognized level of performance,

''(II) is a professional athlete, as defined in section 204(i)(2),

''(III) performs as an athlete, or as a coach, as part of a team or franchise that is located in the United States and a member of a foreign league or association of 15 or more amateur sports teams, if—

''(aa) the foreign league or association is the highest level of amateur performance of that sport in the relevant foreign country,

''(bb) participation in such league or association renders players ineligible, whether on a temporary or permanent basis, to earn a scholarship in, or participate in, that sport at a college or university in the United States under the rules of the National Collegiate Athletic Association (NCAA), and

''(cc) a significant number of the individuals who play in such league or association are drafted by a major sports league or a minor league affiliate of such a sports league, or

''(IV) is a professional athlete or amateur athlete who performs individually or as part of a group in a theatrical ice skating production, and

''(ii) seeks to enter the United States temporarily and solely for the purpose of performing—

''(I) as such an athlete with respect to a specific athletic competition, or

''(II) in the case of an individual described in clause (i)(IV), in a specific theatrical ice skating production or tour.''.

(b) ADVISORY OPINIONS.—Section 214(c) (8 U.S.C. 1184(c)) is amended—

(1) in paragraph (4)(D), by inserting ''(other than with respect to aliens seeking entry under subclause (II), (III), or (IV) of subparagraph (A)(i) of this paragraph),'' after ''101(a)(15)(P)''; and

(2) in paragraph (6)(A)(iii), by inserting ''(other than with respect to aliens seeking entry under subclause (II), (III), or (IV) of paragraph (4)(A)(i))'' after ''101(a)(15)(P)(i)''.

(c) PETITIONS FOR MULTIPLE ALIENS.—Section 214(c)(4) (8 U.S.C. 1184(c)(4)) is amended by adding at the end the following new paragraph:

''(F) The Secretary of Homeland Security shall permit a petition under this subsection to seek classification of more than one alien as a nonimmigrant under section 101(a)(15)(P)(i)(a). The fee charged for such a petition may not be more than the fee charged for a petition seeking classification of one such alien.''.

(d) RELATIONSHIP TO OTHER PROVISIONS OF THE IMMIGRATION AND NATIONALITY ACT.—Section 214(c)(4) (8 U.S.C. 1184(c)(4)), as amended by subsection (c), is further amended by adding at the end the following new paragraph:

''(G) Notwithstanding any other provision of this title, the Secretary of Homeland Security shall permit an athlete, or the employer of an athlete, to seek admission to the United States for such athlete under a provision of this Act other than section 101(a)(15)(P)(i).''.

SA 3462. Ms. COLLINS submitted an amendment intended to be proposed by her to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. 232. NONIMMIGRANT ALIEN STATUS FOR CERTAIN ATHLETES.

(a) IN GENERAL.—Section 214(c)(4)(A) (8 U.S.C. 1184(c)(4)(A)) is amended by striking clauses (i) and (ii) and inserting the following:

''(i)(I) performs as an athlete, individually or as part of a group or team, at an internationally recognized level of performance,

''(II) is a professional athlete, as defined in section 204(i)(2),

''(III) performs as an athlete, or as a coach, as part of a team or franchise that is located in the United States and a member of a foreign league or association of 15 or more amateur sports teams, if—

''(aa) the foreign league or association is the highest level of amateur performance of that sport in the relevant foreign country,

''(bb) participation in such league or association renders players ineligible, whether on a temporary or permanent basis, to earn a scholarship in, or participate in, that sport at a college or university in the United States under the rules of the National Collegiate Athletic Association (NCAA), and

''(cc) a significant number of the individuals who play in such league or association are drafted by a major sports league or a minor league affiliate of such a sports league, or

''(IV) is a professional athlete or amateur athlete who performs individually or as part of a group in a theatrical ice skating production, and

''(ii) seeks to enter the United States temporarily and solely for the purpose of performing—

''(I) as such an athlete with respect to a specific athletic competition, or

''(II) in the case of an individual described in clause (i)(IV), in a specific theatrical ice skating production or tour.''.

(b) ADVISORY OPINIONS.—Section 214(c) (8 U.S.C. 1184(c)) is amended—

(1) in paragraph (4)(D), by inserting ''(other than with respect to aliens seeking entry under subclause (II), (III), or (IV) of subparagraph (A)(i) of this paragraph),'' after ''101(a)(15)(P)''; and

(2) in paragraph (6)(A)(iii), by inserting ''(other than with respect to aliens seeking entry under subclause (II), (III), or (IV) of paragraph (4)(A)(i))'' after ''101(a)(15)(P)(i)''.

(c) PETITIONS FOR MULTIPLE ALIENS.—Section 214(c)(4) (8 U.S.C. 1184(c)(4)) is amended by adding at the end the following new paragraph:

''(F) The Secretary of Homeland Security shall permit a petition under this subsection to seek classification of more than one alien as a nonimmigrant under section 101(a)(15)(P)(i)(a). The fee charged for such a petition may not be more than the fee charged for a petition seeking classification of one such alien.''.

(d) RELATIONSHIP TO OTHER PROVISIONS OF THE IMMIGRATION AND NATIONALITY ACT.—Section 214(c)(4) (8 U.S.C. 1184(c)(4)), as amended by subsection (c), is further amended by adding at the end the following new paragraph:

''(G) Notwithstanding any other provision of this title, the Secretary of Homeland Security shall permit an athlete, or the employer of an athlete, to seek admission to the United States for such athlete under a provision of this Act other than section 101(a)(15)(P)(i).''.

SA 3463. Mr. INHOFE (for himself, Mr. ENZI, Mr. BYRD, Mr. COBURN, Mr. BUNNING, Mr. CHAMBLISS, and Mr. ROBERTS) submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following: 0

SEC. ____. NATIONAL LANGUAGE ACT OF 2006.

(a) SHORT TITLE.—This section may be cited as the ''National Language Act of 2006''.

(b) ENGLISH AS OFFICIAL LANGUAGE.—

(1) IN GENERAL.—Title 4, United States Code, is amended by adding at the end the following new chapter:

''CHAPTER 6—LANGUAGE OF THE GOVERNMENT

''Sec

''161. Declaration of official language

''162. Official Government activities in English

''163. Preserving and enhancing the role of the official language

''164. Exceptions

''§ 161. Declaration of official language

''English shall be the official language of the Government of the United States.

''§ 162. Official government activities in English

''The Government of the United States shall conduct its official business in English, including publications, income tax forms, and informational materials.

''§ 163. Preserving and enhancing the role of the official language

''The Government of the United States shall preserve and enhance the role of English as the official language of the United States of America. Unless specifically stated in applicable law, no person has a right, entitlement, or claim to have the Government of the United States or any of its officials or representatives act, communicate, perform or provide services, or provide materials in any language other than English. If exceptions are made, that does not create a legal entitlement to additional services in that language or any language other than English. If any forms are issued by the Federal government in a language other than English (or such forms are completed in a language other than English), the English language version of the form is the sole authority for all legal purposes.

SA 3464. Mr. INHOFE (for himself and Mr. VITTER) submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 42, between lines 11 and 12, insert the following:

Subtitle D—National Border Neighborhood Watch Program

SEC. 131. NATIONAL BORDER NEIGHBORHOOD WATCH PROGRAM.

The Commissioner of the United States Customs and Border Protection (referred to in this subtitle as the ''USCBP'') shall establish a National Border Neighborhood Watch Program (referred to in this subtitle as the ''NBNW Program'') to permit retired law enforcement officers and civilian volunteers to combat illegal immigration into the United States.

SEC. 132. BRAVE FORCE.

(a) ESTABLISHMENT.—There is established in the USCBP a Border Regiment Assisting in Valuable Enforcement Force (referred to in this subtitle as ''BRAVE Force''), which shall consist of retired law enforcement officers, to carry out the NBNW Program.

(b) RETIRED LAW ENFORCEMENT OFFICERS.—In this section, the term ''retired law enforcement officer'' means an individual who—

(1) has retired from employment as a Federal, State, or local law enforcement officer; and

(2) has not reached the Social Security retirement age (as defined in section 216(*l*) of the Social Security Act (42 U.S.C. 416(*l*)).

(c) EFFECT ON PERSONNEL CAPS.—Employees of BRAVE Force hired to carry out the NBNW Program shall be considered as additional agents and shall not count against the USCBP personnel limits.

(d) RETIRED ANNUITANTS.—An employee of BRAVE Force who has worked for the Federal Government shall be considered a rehired annuitant and shall have no reduction in annuity as a result of salary payment for such employees' service in the NBNW Program.

SEC. 133. CIVILIAN VOLUNTEERS.

(a) IN GENERAL.—The USCBP shall provide the opportunity for civilian volunteers to assist in carrying out the purposes of the NBNW Program.

(b) ORGANIZATION.—Not less than 3 civilian volunteers in the NBNW Program may report to each employee of BRAVE Force.

(c) REPORTING.—A civilian volunteer shall report a violation of Federal immigration law to the appropriate employee of BRAVE Force as soon as possible after observing such violation.

(d) REIMBURSEMENT.—A civilian volunteer participating in the NBNW Program shall be eligible for reimbursement by the USCBP for expenses related to carrying out the duties of the NBNW Program.

SEC. 134. LIABILITY OF BRAVE FORCE EMPLOYEES AND CIVILIAN VOLUNTEERS.

(a) CIVILIANS.—A civilian volunteer participating in the NBNW Program shall not be entitled to any immunity from personal liability by virtue of the volunteer's participation in the NBNW Program.

(b) EMPLOYEES.—An employee of the BRAVE Force shall not be liable for the actions of a civilian volunteer participating in the NBNW Program.

SEC. 135. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this subtitle.

SA 3465. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 11, after line 23, insert the following:

SEC. 107. ESTABLISHMENT OF IMMIGRATION AND CUSTOMS ENFORCEMENT FIELD OFFICE.

(a) FINDINGS.—Congress finds the following:

(1) On July 17, 2002, 18 aliens who were present in the United States illegally, including 3 minors, were taken into custody by the Tulsa County Sheriff's Department. The aliens were later released by officials of the former Immigration and Naturalization Service.

(2) On August 13, 2002, an immigration task force meeting convened in Tulsa, Oklahoma, with the goal of bringing together local law enforcement and the Immigration and Naturalization Service to open a dialogue to find effective ways to better enforce Federal immigration laws in the first District of Oklahoma.

(3) On January 22, 2003, 4 new agents at the Immigration and Naturalization Service office in Oklahoma City were hired.

(4) On January 30, 2003, Oklahoma's Immigration and Naturalization Service office added 6 new special agents to their staff.

(5) On September 22, 2004, officials of the Bureau of Immigration and Customs Enforcement of the Department authorized the release of 18 individuals who may have been present in the United States illegally and were in the custody of the police department of the City of Catoosa, Oklahoma. Catoosa Police stopped a truck carrying 18 individuals, including children, in the early morning hours on that date. Only 2 of the individuals produced identification. One adult was arrested on drug possession charges and the remaining individuals were released.

(6) Oklahoma has 1 Office of Investigations of the Bureau of Immigration and Customs Enforcement, which is located in Oklahoma City. In 2005, 12 agents of the Bureau of Immigration and Customs Enforcement served the 3,500,000 people residing in Oklahoma.

(7) Highway I–44 and U.S.–75 are major roads through Tulsa, Oklahoma, that are used to transport illegal aliens to all areas of the United States.

(8) The establishment of a field office of the Office of Investigations of the Bureau of Immigration and Customs Enforcement in Tulsa, Oklahoma, will help enforce Federal immigration laws in Eastern Oklahoma.

(9) Seven agents of the Drug Enforcement Administration and an estimated 22 agents of the Federal Bureau of Investigation are assigned to duty stations in Tulsa, Oklahoma, and there are no agents of the Bureau of Immigration and Customs Enforcement who are assigned to a duty station in Tulsa, Oklahoma.

(b) ESTABLISHMENT OF FIELD OFFICE IN TULSA, OKLAHOMA.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall establish a field office of the Office of Investigations of the Bureau of Immigration and Customs Enforcement in Tulsa, Oklahoma.

SA 3466. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 42, between lines 11 and 12, insert the following:

Subtitle D—Immigration Enforcement Training

SEC. 131. IMMIGRATION ENFORCEMENT TRAINING DEMONSTRATION PROJECT.

(a) IN GENERAL.—

(1) AUTHORITY.—The Secretary is authorized to provide assistance to the President of Cameron University, located in Lawton, Oklahoma, to establish and implement the demonstration project (referred to in this subtitle as the ''Project'') described in this subtitle.

(2) PURPOSE.—The purposes of the Project shall be to assess the feasibility of establishing a nationwide e-learning training course, covering basic immigration law enforcement issues, to be used by State, local, and tribal law enforcement officers in order to improve and enhance the ability of such officers, during their routine course of duties, to assist Federal immigration officers in the enforcement of immigration laws of the United States.

(b) PROJECT DIRECTOR RESPONSIBILITIES.—The Project shall be carried out by the Project Director, who shall—

(1) develop an online, e-learning Web site that—

(A) provides State, local, and tribal law enforcement officers access to the e-learning training course;

(B) enrolls officers in the e-learning training course;

(C) records the performance of officers on the course;

(D) tracks officers' proficiency in learning the course's concepts;

(E) ensures a high level of security; and

(F) encrypts personal and sensitive information;

(2) develop an e-learning training course that—

(A) entails not more than 4 hours of training;

(B) is accessible through the on-line, e-learning Web site developed under paragraph (1);

(C) covers the basic principles and practices of immigration law and the policies that relate to the enforcement of immigration laws;

(D) includes instructions about—

(i) employment-based and family-based immigration;

(ii) the various types of nonimmigrant visas;

(iii) the differences between immigrant and nonimmigrant status;

(iv) the differences between lawful and unlawful presence;

(v) the criminal and civil consequences of unlawful presence;

(vi) the various grounds for removal;

(vii) the types of false identification commonly used by illegal and criminal aliens;

(viii) the common methods of alien smuggling and groups that commonly participate in alien smuggling rings;

(ix) the inherent legal authority of local law enforcement officers to enforce federal immigration laws; and

(x) detention and removal procedures, including expeditious removal; and

(E) is accessible through the secure, encrypted on-line, e-learning Web site not later than 90 days of the date of enactment of this Act, and

(F) incorporates content similar to that covered in the 4-hour training course provided by the employees of the Immigration and Naturalization Service to Alabama State Troopers during 2003, in addition to the training given pursuant to an agreement by the State under section 287(g) of the Immigration and Nationality Act (8 U.S.C. 1357(g)); and

(3) assess the feasibility of expanding to State, local, and tribal law enforcement agencies throughout the Nation the on-line, e-learning Web site, including the e-learning training course, by using on-line technology.

(c) PERIOD OF PROJECT.—The Project Director shall carry out the demonstration project for a 2-year period beginning 90 days after the date of the enactment of this Act.

(d) PARTICIPATION IN PROJECT.—The Project Director shall carry out the demonstration project by enrolling in the e-learning training course State, local, and tribal law enforcement officers from—

(1) Alabama;

(2) Colorado;

(3) Florida;

(4) Oklahoma;

(5) Texas; and

(6) at least 1, but not more than 3, other States.

(e) PARTICIPATING OFFICERS.—

(1) NUMBER.—A total of 100,000 officers shall have access to, enroll in, and complete the e-learning training course provided under the Project.

(2) APPORTIONMENT.—The number of officers who are selected to participate in the Project shall be apportioned according to the State populations of the participating States.

(3) SELECTION.—Participation in the Project shall—

(A) be equally apportioned between State, county, and municipal law enforcement agency officers;

(B) include, when practicable, a significant subset of tribal law enforcement officers; and

(C) include officers from urban, rural, and highly rural areas.

(4) RECRUITMENT.—Recruitment of participants shall begin immediately, and occur concurrently, with the e-learning training course's establishment and implementation.

(5) LIMITATION ON PARTICIPATION.—Officers shall be ineligible to participate in the demonstration project if they are employed by a State, local, or tribal law enforcement agency that—

(A) has in effect a statute, policy, or practice that prohibits its law enforcement officers from cooperating with Federal immigration enforcement agents; or

(B) is otherwise in contravention of section 642(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1373(a)).

(6) ADDITIONAL REQUIREMENTS.—The law enforcement officers selected to participate in the e-learning training course provided under the Project—

(A) shall undergo standard vetting procedures, pursuant to the Federal Law Enforcement Training Center Distributed Learning Program, to ensure that each individual is a bona fide law enforcement officer; and

(B) shall be granted continuous access, throughout the 2-year period of the Project, to on-line course material and other training and reference resources accessible through the on-line, e-learning Web site.

(f) REPORT.—

(1) IN GENERAL.—Not later than the end of the 2-year period described in subsection (c), the Project Director shall submit a report on the participation of State, local, and tribal law enforcement officers in the Project's e-learning training course to—

(A) the Committee on the Judiciary of the Senate;

(B) the Committee on the Judiciary of the House of Representatives;

(C) the Committee on Homeland Security and Governmental Affairs of the Senate; and

(D) the Committee on Homeland Security of the House of Representatives.

(2) CONTENTS.—The report submitted under paragraph (1) shall include—

(A) an estimate of the cost savings realized by offering training through the e-learning training course instead of the residential classroom method;

(B) an estimate of the difference between the 100,000 law enforcement officers who received training through the e-learning training course and the number of law enforcement officers who could have received training through the residential classroom method in the same 2-year period;

(C) the effectiveness of the e-learning training course with respect to student-officer performance;

(D) the convenience afforded student-officers with respect to their ability to access the e-learning training course at their own convenience and to return to the on-line, e-learning Web site for refresher training and reference; and

(E) the ability of the on-line, e-learning Web site to safeguard the student officers' private and personal information while providing supervisors with appropriate information about student performance and course completion.

SEC. 132. EXPANSION OF PROGRAM.

(a) IN GENERAL.—After the completion of the Project, the Secretary shall—

(1) continue to make available the on-line, e-learning Web site and the e-learning training course developed in the Project;

(2) annually enroll 100,000 new State, local, and tribal law enforcement officers in such e-learning training course; and

(3) consult with Congress regarding the addition, substitution, or removal of States eligible to participate in such e-learning training course.

(b) LIMITATION ON PARTICIPATION.—An individual is ineligible to participate in the expansion of the Project established under this subtitle if the individual is employed by a State, local, or tribal law enforcement agency that—

(1) has in effect a statute, policy, or practice that prohibits its law enforcement officers from cooperating with Federal immigration enforcement agents; or

(2) is otherwise in contravention of section 642(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1373(a)).

SEC. 133. AUTHORIZATION OF APPROPRIATIONS.

(a) FISCAL YEAR 2007.—There are authorized to be appropriated $3,000,000 to the Secretary in fiscal year 2007 to carry out this subtitle.

(b) SUBSEQUENT FISCAL YEARS.—There are authorized to be appropriated in fiscal year 2008, and each subsequent fiscal year, such sums as may be necessary to continue to operate, promote, and recruit participants for the Project and the expansion of the Project under this subtitle.

(c) AVAILABILITY OF FUNDS.—Funds appropriated pursuant to this section shall remain available until expended.

SA 3467. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 13, strike lines 10 through 13 and insert the following:

(c) STUDY ON THE USE OF TECHNOLOGY TO PREVENT UNLAWFUL IMMIGRATION.—The Secretary shall conduct a study of available technology, including radar animal detection systems, that could be utilized to—

(1) increase the security of the international borders of the United States; and

(2) permit law enforcement officials to detect and prevent illegal immigration.

(d) SUBMISSION TO CONGRESS.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall submit to Congress a report, which shall include—

(1) the plan required under subsection (a);

(2) the results of the study carried out under subsection (c); and

(3) recommendations of the Secretary related to the efficacy of the technologies studied under subsection (c).

SA 3468. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. CRIMINAL PENALTIES FOR FORGERY OF FEDERAL DOCUMENTS.

(a) IN GENERAL.—Chapter 25 of title 18, United States Code, is amended by adding at the end the following:

"§ 515. Federal records, documents, and writings, generally

"Any person who—

"(1) falsely makes, alters, forges, or counterfeits any Federal record, Federal document, Federal writing, or record, document, or writing characterizing, or purporting to characterize, official Federal activity, service, contract, obligation, duty, property, or chose;

"(2) utters or publishes as true, or possesses with intent to utter or publish as true, any record, document, or writing described in paragraph (1), knowing, or negligently failing to know, that such record, document, or writing has not been verified, has been inconclusively verified, is unable to be verified, or is false, altered, forged, or counterfeited;

"(3) transmits to, or presents at any office, or to any officer, of the United States, any record, document, or writing described in paragraph (1), knowing, or negligently failing to know, that such record, document, or writing has not been verified, has been inconclusively verified, is unable to be verified, or is false, altered, forged, or counterfeited;

"(4) attempts, or conspires to commit, any of the acts described in paragraphs (1) through (3); or

"(5) while outside of the United States, engages in any of the acts described in paragraphs (1) through (3),

shall be fined under this title, imprisoned not more than 10 years, or both.".

(b) CLERICAL AMENDMENT.—The table of contents for chapter 25 of title 18, United States Code, is amended by inserting after the item relating to section 514 the following:

"515. Federal records, documents, and writings, generally.".

SA 3469. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. IMMIGRATION TRAINING FOR LAW ENFORCEMENT.

The Assistant Secretary of Homeland Security for the Bureau of Immigration and Customs Enforcement (ICE) shall maximize the training provided by ICE by using law-enforcement-sensitive, secure, encrypted, Web-based e-learning, including the Distributed Learning Program of the Federal Law Enforcement Training Center to provide—

(1) basic immigration enforcement training for State, local, and tribal police officers;

(2) training, mentoring, and updates authorized under section 287(f)(1) of the Immigration and Nationality Act (8 U.S.C. 1357(g)) through e-learning, to the maximum extent possible; and

(3) access to ICE information, updates, and notices for ICE field agents during field deployments.

SA 3470. Mr. INHOFE (for himself, Mr. ENZI, Mr. BYRD, Mr. COBURN, Mr. BUNNING, Mr. CHAMBLISS, and Mr. ROBERTS) submitted an amendment intended to be proposed to amendment SA 3424 proposed by Mr. FRIST to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. NATIONAL LANGUAGE ACT OF 2006.

(a) SHORT TITLE.—This section may be cited as the "National Language Act of 2006".

(b) ENGLISH AS OFFICIAL LANGUAGE.—

(1) IN GENERAL.—Title 4, United States Code, is amended by adding at the end the following new chapter:

"CHAPTER 6—LANGUAGE OF THE GOVERNMENT

"Sec

"161. Declaration of official language

"162. Official Government activities in English

"163. Preserving and enhancing the role of the official language

"164. Exceptions

"§ 161. Declaration of official language

"English shall be the official language of the Government of the United States.

"§ 162. Official government activities in English

"The Government of the United States shall conduct its official business in English, including publications, income tax forms, and informational materials.

"§ 163. Preserving and enhancing the role of the official language

"The Government of the United States shall preserve and enhance the role of English as the official language of the United States of America. Unless specifically stated in applicable law, no person has a right, entitlement, or claim to have the Government of the United States or any of its officials or representatives act, communicate, perform or provide services, or provide materials in any language other than English. If exceptions are made, that does not create a legal entitlement to additional services in that language or any language other than English. If any forms are issued by the Federal government in a language other than English (or such forms are completed in a language other than English), the English language version of the form is the sole authority for all legal purposes.

SA 3471. Mr. INHOFE (for himself, and Mr. VITTER) submitted an amendment intended to be proposed to amendment SA 3424 proposed by Mr. FRIST to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

Subtitle D—National Border Neighborhood Watch Program

SEC. 131. NATIONAL BORDER NEIGHBORHOOD WATCH PROGRAM.

The Commissioner of the United States Customs and Border Protection (referred to in this subtitle as the "USCBP") shall establish a National Border Neighborhood Watch Program (referred to in this subtitle as the "NBNW Program") to permit retired law enforcement officers and civilian volunteers to combat illegal immigration into the United States.

SEC. 132. BRAVE FORCE.

(a) ESTABLISHMENT.—There is established in the USCBP a Border Regiment Assisting in Valuable Enforcement Force (referred to in this subtitle as "BRAVE Force"), which shall consist of retired law enforcement officers, to carry out the NBNW Program.

(b) RETIRED LAW ENFORCEMENT OFFICERS.—In this section, the term "retired law enforcement officer" means an individual who—

(1) has retired from employment as a Federal, State, or local law enforcement officer; and

(2) has not reached the Social Security retirement age (as defined in section 216(*l*) of the Social Security Act (42 U.S.C. 416(*l*)).

(c) EFFECT ON PERSONNEL CAPS.—Employees of BRAVE Force hired to carry out the NBNW Program shall be considered as additional agents and shall not count against the USCBP personnel limits.

(d) RETIRED ANNUITANTS.—An employee of BRAVE Force who has worked for the Federal Government shall be considered a rehired annuitant and shall have no reduction in annuity as a result of salary payment for such employees' service in the NBNW Program.

SEC. 133. CIVILIAN VOLUNTEERS.

(a) IN GENERAL.—The USCBP shall provide the opportunity for civilian volunteers to assist in carrying out the purposes of the NBNW Program.

(b) ORGANIZATION.—Not less than 3 civilian volunteers in the NBNW Program may report to each employee of BRAVE Force.

(c) REPORTING.—A civilian volunteer shall report a violation of Federal immigration law to the appropriate employee of BRAVE Force as soon as possible after observing such violation.

(d) REIMBURSEMENT.—A civilian volunteer participating in the NBNW Program shall be eligible for reimbursement by the USCBP for expenses related to carrying out the duties of the NBNW Program.

SEC. 134. LIABILITY OF BRAVE FORCE EMPLOYEES AND CIVILIAN VOLUNTEERS.

(a) CIVILIANS.—A civilian volunteer participating in the NBNW Program shall not be entitled to any immunity from personal liability by virtue of the volunteer's participation in the NBNW Program.

(b) EMPLOYEES.—An employee of the BRAVE Force shall not be liable for the actions of a civilian volunteer participating in the NBNW Program.

SEC. 135. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this subtitle.

SA 3472. Mr. INHOFE submitted an amendment intended to be proposed by Mr. FRIST to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. 107. ESTABLISHMENT OF IMMIGRATION AND CUSTOMS ENFORCEMENT FIELD OFFICE.

(a) FINDINGS.—Congress finds the following:

(1) On July 17, 2002, 18 aliens who were present in the United States illegally, including 3 minors, were taken into custody by the Tulsa County Sheriff's Department. The aliens were later released by officials of the former Immigration and Naturalization Service.

(2) On August 13, 2002, an immigration task force meeting convened in Tulsa, Oklahoma, with the goal of bringing together local law enforcement and the Immigration and Naturalization Service to open a dialogue to find effective ways to better enforce Federal immigration laws in the first District of Oklahoma.

(3) On January 22, 2003, 4 new agents at the Immigration and Naturalization Service office in Oklahoma City were hired.

(4) On January 30, 2003, Oklahoma's Immigration and Naturalization Service office added 6 new special agents to their staff.

(5) On September 22, 2004, officials of the Bureau of Immigration and Customs Enforcement of the Department authorized the release of 18 individuals who may have been present in the United States illegally and were in the custody of the police department of the City of Catoosa, Oklahoma. Catoosa Police stopped a truck carrying 18 individuals, including children, in the early morning hours on that date. Only 2 of the individuals produced identification. One adult was arrested on drug possession charges and the remaining individuals were released.

(6) Oklahoma has 1 Office of Investigations of the Bureau of Immigration and Customs Enforcement, which is located in Oklahoma City. In 2005, 12 agents of the Bureau of Immigration and Customs Enforcement served the 3,500,000 people residing in Oklahoma.

(7) Highway I–44 and U.S.–75 are major roads through Tulsa, Oklahoma, that are used to transport illegal aliens to all areas of the United States.

(8) The establishment of a field office of the Office of Investigations of the Bureau of Immigration and Customs Enforcement in Tulsa, Oklahoma, will help enforce Federal immigration laws in Eastern Oklahoma.

(9) Seven agents of the Drug Enforcement Administration and an estimated 22 agents of the Federal Bureau of Investigation are assigned to duty stations in Tulsa, Oklahoma, and there are no agents of the Bureau of Immigration and Customs Enforcement who are assigned to a duty station in Tulsa, Oklahoma.

(b) ESTABLISHMENT OF FIELD OFFICE IN TULSA, OKLAHOMA.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall establish a field office of the Office of Investigations of the Bureau of Immigration and Customs Enforcement in Tulsa, Oklahoma.

SA 3473. Mr. INHOFE submitted an amendment intended to be proposed to amendment SA 3424 proposed by Mr. FRIST to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

Subtitle D—Immigration Enforcement Training

SEC. 131. IMMIGRATION ENFORCEMENT TRAINING DEMONSTRATION PROJECT.

(a) IN GENERAL.—

(1) AUTHORITY.—The Secretary is authorized to provide assistance to the President of Cameron University, located in Lawton, Oklahoma, to establish and implement the demonstration project (referred to in this subtitle as the ''Project'') described in this subtitle.

(2) PURPOSE.—The purposes of the Project shall be to assess the feasibility of establishing a nationwide e-learning training course, covering basic immigration law enforcement issues, to be used by State, local, and tribal law enforcement officers in order to improve and enhance the ability of such officers, during their routine course of duties, to assist Federal immigration officers in the enforcement of immigration laws of the United States.

(b) PROJECT DIRECTOR RESPONSIBILITIES.—The Project shall be carried out by the Project Director, who shall—

(1) develop an online, e-learning Web site that—

(A) provides State, local, and tribal law enforcement officers access to the e-learning training course;

(B) enrolls officers in the e-learning training course;

(C) records the performance of officers on the course;

(D) tracks officers' proficiency in learning the course's concepts;

(E) ensures a high level of security; and

(F) encrypts personal and sensitive information;

(2) develop an e-learning training course that—

(A) entails not more than 4 hours of training;

(B) is accessible through the on-line, e-learning Web site developed under paragraph (1);

(C) covers the basic principles and practices of immigration law and the policies that relate to the enforcement of immigration laws;

(D) includes instructions about—

(i) employment-based and family-based immigration;

(ii) the various types of nonimmigrant visas;

(iii) the differences between immigrant and nonimmigrant status;

(iv) the differences between lawful and unlawful presence;

(v) the criminal and civil consequences of unlawful presence;

(vi) the various grounds for removal;

(vii) the types of false identification commonly used by illegal and criminal aliens;

(viii) the common methods of alien smuggling and groups that commonly participate in alien smuggling rings;

(ix) the inherent legal authority of local law enforcement officers to enforce federal immigration laws; and

(x) detention and removal procedures, including expeditious removal; and

(E) is accessible through the secure, encrypted on-line, e-learning Web site not later than 90 days of the date of enactment of this Act, and

(F) incorporates content similar to that covered in the 4-hour training course provided by the employees of the Immigration and Naturalization Service to Alabama State Troopers during 2003, in addition to the training given pursuant to an agreement by the State under section 287(g) of the Immigration and Nationality Act (8 U.S.C. 1357(g)); and

(3) assess the feasibility of expanding to State, local, and tribal law enforcement agencies throughout the Nation the on-line, e-learning Web site, including the e-learning training course, by using on-line technology.

(c) PERIOD OF PROJECT.—The Project Director shall carry out the demonstration project for a 2-year period beginning 90 days after the date of the enactment of this Act.

(d) PARTICIPATION IN PROJECT.—The Project Director shall carry out the demonstration project by enrolling in the e-learning training course State, local, and tribal law enforcement officers from—

(1) Alabama;

(2) Colorado;

(3) Florida;

(4) Oklahoma;

(5) Texas; and

(6) at least 1, but not more than 3, other States.

(e) PARTICIPATING OFFICERS.—

(1) NUMBER.—A total of 100,000 officers shall have access to, enroll in, and complete the e-learning training course provided under the Project.

(2) APPORTIONMENT.—The number of officers who are selected to participate in the Project shall be apportioned according to the State populations of the participating States.

(3) SELECTION.—Participation in the Project shall—

(A) be equally apportioned between State, county, and municipal law enforcement agency officers;

(B) include, when practicable, a significant subset of tribal law enforcement officers; and

(C) include officers from urban, rural, and highly rural areas.

(4) RECRUITMENT.—Recruitment of participants shall begin immediately, and occur concurrently, with the e-learning training course's establishment and implementation.

(5) LIMITATION ON PARTICIPATION.—Officers shall be ineligible to participate in the demonstration project if they are employed by a State, local, or tribal law enforcement agency that—

(A) has in effect a statute, policy, or practice that prohibits its law enforcement officers from cooperating with Federal immigration enforcement agents; or

(B) is otherwise in contravention of section 642(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1373(a)).

(6) ADDITIONAL REQUIREMENTS.—The law enforcement officers selected to participate in the e-learning training course provided under the Project—

(A) shall undergo standard vetting procedures, pursuant to the Federal Law Enforcement Training Center Distributed Learning Program, to ensure that each individual is a bona fide law enforcement officer; and

(B) shall be granted continuous access, throughout the 2-year period of the Project, to on-line course material and other training and reference resources accessible through the on-line, e-learning Web site.

(f) REPORT.—

(1) IN GENERAL.—Not later than the end of the 2-year period described in subsection (c), the Project Director shall submit a report on the participation of State, local, and tribal law enforcement officers in the Project's e-learning training course to—

(A) the Committee on the Judiciary of the Senate;

(B) the Committee on the Judiciary of the House of Representatives;

(C) the Committee on Homeland Security and Governmental Affairs of the Senate; and

(D) the Committee on Homeland Security of the House of Representatives.

(2) CONTENTS.—The report submitted under paragraph (1) shall include—

(A) an estimate of the cost savings realized by offering training through the e-learning training course instead of the residential classroom method;

(B) an estimate of the difference between the 100,000 law enforcement officers who received training through the e-learning training course and the number of law enforcement officers who could have received training through the residential classroom method in the same 2-year period;

(C) the effectiveness of the e-learning training course with respect to student-officer performance;

(D) the convenience afforded student-officers with respect to their ability to access the e-learning training course at their own convenience and to return to the on-line, e-learning Web site for refresher training and reference; and

(E) the ability of the on-line, e-learning Web site to safeguard the student officers' private and personal information while providing supervisors with appropriate information about student performance and course completion.

SEC. 132. EXPANSION OF PROGRAM.

(a) IN GENERAL.—After the completion of the Project, the Secretary shall—

(1) continue to make available the on-line, e-learning Web site and the e-learning training course developed in the Project;

(2) annually enroll 100,000 new State, local, and tribal law enforcement officers in such e-learning training course; and

(3) consult with Congress regarding the addition, substitution, or removal of States eligible to participate in such e-learning training course.

(b) LIMITATION ON PARTICIPATION.—An individual is ineligible to participate in the expansion of the Project established under this subtitle if the individual is employed by a State, local, or tribal law enforcement agency that—

(1) has in effect a statute, policy, or practice that prohibits its law enforcement officers from cooperating with Federal immigration enforcement agents; or

(2) is otherwise in contravention of section 642(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1373(a)).

SEC. 133. AUTHORIZATION OF APPROPRIATIONS.

(a) FISCAL YEAR 2007.—There are authorized to be appropriated $3,000,000 to the Secretary in fiscal year 2007 to carry out this subtitle.

(b) SUBSEQUENT FISCAL YEARS.—There are authorized to be appropriated in fiscal year 2008, and each subsequent fiscal year, such sums as may be necessary to continue to operate, promote, and recruit participants for the Project and the expansion of the Project under this subtitle.

(c) AVAILABILITY OF FUNDS.—Funds appropriated pursuant to this section shall remain available until expended.

SA 3474. Mr. INHOFE submitted an amendment intended to be proposed to amendment SA 3424 proposed by Mr. FRIST to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

(c) STUDY ON THE USE OF TECHNOLOGY TO PREVENT UNLAWFUL IMMIGRATION.—The Secretary shall conduct a study of available technology, including radar animal detection systems, that could be utilized to—

(1) increase the security of the international borders of the United States; and

(2) permit law enforcement officials to detect and prevent illegal immigration.

(d) SUBMISSION TO CONGRESS.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall submit to Congress a report, which shall include—

(1) the plan required under subsection (a);

(2) the results of the study carried out under subsection (c); and

(3) recommendations of the Secretary related to the efficacy of the technologies studied under subsection (c).

SA 3475. Mr. INHOFE submitted an amendment intended to be proposed to amendment SA 3424 proposed by Mr. FRIST to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. CRIMINAL PENALTIES FOR FORGERY OF FEDERAL DOCUMENTS.

(a) IN GENERAL.—Chapter 25 of title 18, United States Code, is amended by adding at the end the following:

"§ 515. Federal records, documents, and writings, generally

''Any person who—

''(1) falsely makes, alters, forges, or counterfeits any Federal record, Federal document, Federal writing, or record, document, or writing characterizing, or purporting to characterize, official Federal activity, service, contract, obligation, duty, property, or chose;

''(2) utters or publishes as true, or possesses with intent to utter or publish as true, any record, document, or writing described in paragraph (1), knowing, or negligently failing to know, that such record, document, or writing has not been verified, has been inconclusively verified, is unable to be verified, or is false, altered, forged, or counterfeited;

''(3) transmits to, or presents at any office, or to any officer, of the United States, any record, document, or writing described in paragraph (1), knowing, or negligently failing to know, that such record, document, or writing has not been verified, has been inconclusively verified, is unable to be verified, or is false, altered, forged, or counterfeited;

''(4) attempts, or conspires to commit, any of the acts described in paragraphs (1) through (3); or

''(5) while outside of the United States, engages in any of the acts described in paragraphs (1) through (3),

shall be fined under this title, imprisoned not more than 10 years, or both.''.

(b) CLERICAL AMENDMENT.—The table of contents for chapter 25 of title 18, United States Code, is amended by inserting after the item relating to section 514 the following:

''515. Federal records, documents, and writings, generally.''.

SA 3476. Mr. INHOFE submitted an amendment intended to be proposed to amendment SA 3424 proposed by Mr. FRIST to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. IMMIGRATION TRAINING FOR LAW ENFORCEMENT.

The Assistant Secretary of Homeland Security for the Bureau of Immigration and Customs Enforcement (ICE) shall maximize the training provided by ICE by using law-enforcement-sensitive, secure, encrypted, Web-based e-learning, including the Distributed Learning Program of the Federal Law Enforcement Training Center to provide—

(1) basic immigration enforcement training for State, local, and tribal police officers;

(2) training, mentoring, and updates authorized under section 287(f)(1) of the Immigration and Nationality Act (8 U.S.C. 1357(g)) through e-learning, to the maximum extent possible; and

(3) access to ICE information, updates, and notices for ICE field agents during field deployments.

SA 3477. Mr. CONRAD submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 163, strike lines 23 through 25 and insert the following:

(a) IN GENERAL.—Any alien with nonimmigrant status under subparagraph (H)(i)(b) or (J) of section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)), who seeks to practice medicine in the United States, other than during participation in an accredited medical residency program, shall, during the 3-year period from the date of commencement of such status (or, in the case of an alien who initially practices medicine as part of such medical residency program, from the date of completion of such program), practice medicine in a facility that treats patients who reside in a Health Professional Shortage Area (as designated under section 5 of title 42, Code of Federal Regulations) or a Medically Underserved Area (as designated by the Secretary of Health and Human Services).

(b) EXEMPTION FROM NUMERICAL LIMITATION.—Section 214(g)(5) (8 U.S.C. 1184(g)(5)) is amended—

(1) in subparagraph (B), by striking ''or'' at the end;

(2) in subparagraph (C), by striking the period at the end and inserting ''; or''; and

(3) by adding at the end the following:

''(D) practices medicine in a facility that treats patients who reside in a Health Professional Shortage Area or a Medically Underserved Area, in accordance with section

226(a) of the Comprehensive Immigration Reform Act of 2006.''.

(c) EXTENSION OF WAIVER PROGRAM.—Section 220(c) of the Immigration and Nationality Technical Corrections Act of 1994 (8 U.S.C. 1182 note) is amended by striking ''and before June 1, 2006.''.

SA 3478. Mr. DOMENICI (for himself, Mr. BINGAMAN, Mr. KYL, Mr. CORNYN, and Mrs. HUTCHISON) submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

''(5) DEPUTY UNITED STATES MARSHALS.—In each of fiscal years 2007 through 2011, the Attorney General shall, subject to the availability of appropriations, increase by not less than 50 the number of positions for full-time active duty Deputy United States Marshals that investigate criminal matters related to immigration.''.

On page 7, between lines 3 and 4, insert the following:

''(4) DEPUTY UNITED STATES MARSHALS.—There are authorized to be appropriated to the Attorney General such sums as may be necessary for each of fiscal years 2007 through 2011 to carry out paragraph (5) of subsection (a).''.

SA 3479. Mr. DOMENICI (for himself, Mr. DORGAN, Mr. BURNS, Mr. BINGAMAN, Mr. KYL, Mr. CORNYN, and Mrs. HUTCHISON) submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 62, after line 9, add the following:

Subtitle F—Border Infrastructure and Technology Modernization

SEC. 161. SHORT TITLE.

This subtitle may be cited as the ''Border Infrastructure and Technology Modernization Act''.

SEC. 162. DEFINITIONS.

In this subtitle:

(1) COMMISSIONER.—The term ''Commissioner'' means the Commissioner of the Bureau of Customs and Border Protection of the Department of Homeland Security.

(2) MAQUILADORA.—The term ''maquiladora'' means an entity located in Mexico that assembles and produces goods from imported parts for export to the United States.

(3) NORTHERN BORDER.—The term ''northern border'' means the international border between the United States and Canada.

(4) SOUTHERN BORDER.—The term ''southern border'' means the international border between the United States and Mexico.

SEC. 163. PORT OF ENTRY INFRASTRUCTURE ASSESSMENT STUDY.

(a) REQUIREMENT TO UPDATE.—Not later than January 31 of each year, the Administrator of General Services shall update the Port of Entry Infrastructure Assessment Study prepared by the Bureau of Customs and Border Protection in accordance with the matter relating to the ports of entry infrastructure assessment that is set out in the joint explanatory statement in the conference report accompanying H.R. 2490 of the 106th Congress, 1st session (House of Representatives Rep. No. 106–319, on page 67) and submit such updated study to Congress.

(b) CONSULTATION.—In preparing the updated studies required in subsection (a), the Administrator of General Services shall consult with the Director of the Office of Management and Budget, the Secretary, and the Commissioner.

(c) CONTENT.—Each updated study required in subsection (a) shall—

(1) identify port of entry infrastructure and technology improvement projects that would enhance border security and facilitate the flow of legitimate commerce if implemented;

(2) include the projects identified in the National Land Border Security Plan required by section 154; and

(3) prioritize the projects described in paragraphs (1) and (2) based on the ability of a project to—

(A) fulfill immediate security requirements; and

(B) facilitate trade across the borders of the United States.

(d) PROJECT IMPLEMENTATION.—The Commissioner shall implement the infrastructure and technology improvement projects described in subsection (c) in the order of priority assigned to each project under subsection (c)(3).

(e) DIVERGENCE FROM PRIORITIES.—The Commissioner may diverge from the priority order if the Commissioner determines that significantly changed circumstances, such as immediate security needs or changes in infrastructure in Mexico or Canada, compellingly alter the need for a project in the United States.

SEC. 164. NATIONAL LAND BORDER SECURITY PLAN.

(a) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, an annually thereafter, the Secretary, after consultation with representatives of Federal, State, and local law enforcement agencies and private entities that are involved in international trade across the northern border or the southern border, shall submit a National Land Border Security Plan to Congress.

(b) VULNERABILITY ASSESSMENT.—

(1) IN GENERAL.—The plan required in subsection (a) shall include a vulnerability assessment of each port of entry located on the northern border or the southern border.

(2) PORT SECURITY COORDINATORS.—The Secretary may establish 1 or more port security coordinators at each port of entry located on the northern border or the southern border—

(A) to assist in conducting a vulnerability assessment at such port; and

(B) to provide other assistance with the preparation of the plan required in subsection (a).

SEC. 165. EXPANSION OF COMMERCE SECURITY PROGRAMS.

(a) CUSTOMS-TRADE PARTNERSHIP AGAINST TERRORISM.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Commissioner, in consultation with the Secretary, shall develop a plan to expand the size and scope, including personnel, of the Customs–Trade Partnership Against Terrorism programs along the northern border and southern border, including—

(A) the Business Anti-Smuggling Coalition;

(B) the Carrier Initiative Program;

(C) the Americas Counter Smuggling Initiative;

(D) the Container Security Initiative;

(E) the Free and Secure Trade Initiative; and

(F) other Industry Partnership Programs administered by the Commissioner.

(2) SOUTHERN BORDER DEMONSTRATION PROGRAM.—Not later than 180 days after the date of enactment of this Act, the Commissioner shall implement, on a demonstration basis, at least 1 Customs–Trade Partnership Against Terrorism program, which has been successfully implemented along the northern border, along the southern border.

(b) MAQUILADORA DEMONSTRATION PROGRAM.—Not later than 180 days after the date of enactment of this Act, the Commissioner shall establish a demonstration program to develop a cooperative trade security system to improve supply chain security.

SEC. 166. PORT OF ENTRY TECHNOLOGY DEMONSTRATION PROGRAM.

(a) ESTABLISHMENT.—The Secretary shall carry out a technology demonstration program to—

(1) test and evaluate new port of entry technologies;

(2) refine port of entry technologies and operational concepts; and

(3) train personnel under realistic conditions.

(b) TECHNOLOGY AND FACILITIES.—

(1) TECHNOLOGY TESTING.—Under the technology demonstration program, the Secretary shall test technologies that enhance port of entry operations, including operations related to—

(A) inspections;

(B) communications;

(C) port tracking;

(D) identification of persons and cargo;

(E) sensory devices;

(F) personal detection;

(G) decision support; and

(H) the detection and identification of weapons of mass destruction.

(2) DEVELOPMENT OF FACILITIES.—At a demonstration site selected pursuant to subsection (c)(2), the Secretary shall develop facilities to provide appropriate training to law enforcement personnel who have responsibility for border security, including—

(A) cross-training among agencies;

(B) advanced law enforcement training; and

(C) equipment orientation.

(c) DEMONSTRATION SITES.—

(1) NUMBER.—The Secretary shall carry out the demonstration program at not less than 3 sites and not more than 5 sites.

(2) SELECTION CRITERIA.—To ensure that at least 1 of the facilities selected as a port of entry demonstration site for the demonstration program has the most up-to-date design, contains sufficient space to conduct the demonstration program, has a traffic volume low enough to easily incorporate new technologies without interrupting normal processing activity, and can efficiently carry out demonstration and port of entry operations, at least 1 port of entry selected as a demonstration site shall—

(A) have been established not more than 15 years before the date of the enactment of this Act;

(B) consist of not less than 65 acres, with the possibility of expansion to not less than 25 adjacent acres; and

(C) have serviced an average of not more than 50,000 vehicles per month during the 1-year period ending on the date of the enactment of this Act.

(d) RELATIONSHIP WITH OTHER AGENCIES.—The Secretary shall permit personnel from an appropriate Federal or State agency to utilize a demonstration site described in subsection (c) to test technologies that enhance port of entry operations, including technologies described in subparagraphs (A) through (H) of subsection (b)(1).

(e) REPORT.—

(1) REQUIREMENT.—Not later than 1 year after the date of the enactment of this Act, and annually thereafter, the Secretary shall submit to Congress a report on the activities carried out at each demonstration site under

the technology demonstration program established under this section.

(2) CONTENT.—The report submitted under paragraph (1) shall include an assessment by the Secretary of the feasibility of incorporating any demonstrated technology for use throughout the Bureau of Customs and Border Protection.

SEC. 167. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—In addition to any funds otherwise available, there are authorized to be appropriated—

(1) such sums as may be necessary for the fiscal years 2007 through 2011 to carry out the provisions of section 153(a);

(2) to carry out section 153(d)—

(A) $100,000,000 for each of the fiscal years 2007 through 2011; and

(B) such sums as may be necessary in any succeeding fiscal year;

(3) to carry out section 155(a)—

(A) $30,000,000 for fiscal year 2007, of which $5,000,000 shall be made available to fund the demonstration project established in section 156(a)(2); and

(B) such sums as may be necessary for the fiscal years 2008 through 2011; and

(4) to carry out section 155(b)—

(A) $5,000,000 for fiscal year 2007; and

(B) such sums as may be necessary for the fiscal years 2008 through 2011; and

(5) to carry out section 156, provided that not more than $10,000,000 may be expended for technology demonstration program activities at any 1 port of entry demonstration site in any fiscal year—

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

(B) such sums as may be necessary for each of the fiscal years 2008 through 2011.

(b) INTERNATIONAL AGREEMENTS.—Amounts authorized to be appropriated under this subtitle may be used for the implementation of projects described in the Declaration on Embracing Technology and Cooperation to Promote the Secure and Efficient Flow of People and Commerce across our Shared Border between the United States and Mexico, agreed to March 22, 2002, Monterrey, Mexico (commonly known as the Border Partnership Action Plan) or the Smart Border Declaration between the United States and Canada, agreed to December 12, 2001, Ottawa, Canada that are consistent with the provisions of this subtitle.

SA 3480. Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. COOPERATION WITH THE GOVERNMENT OF MEXICO.

(a) COOPERATION REGARDING BORDER SECURITY.—The Secretary of State, in cooperation with the Secretary and representatives of Federal, State, and local law enforcement agencies that are involved in border security and immigration enforcement efforts, shall work with the appropriate officials from the Government of Mexico to improve coordination between the United States and Mexico regarding—

(1) improved border security along the international border between the United States and Mexico;

(2) the reduction of human trafficking and smuggling between the United States and Mexico;

(3) the reduction of drug trafficking and smuggling between the United States and Mexico;

(4) the reduction of gang membership in the United States and Mexico;

(5) the reduction of violence against women in the United States and Mexico; and

(6) the reduction of other violence and criminal activity.

(b) COOPERATION REGARDING EDUCATION ON IMMIGRATION LAWS.—The Secretary of State, in cooperation with other appropriate Federal officials, shall work with the appropriate officials from the Government of Mexico to carry out activities to educate citizens and nationals of Mexico regarding eligibility for status as a nonimmigrant under Federal law to ensure that the citizens and nationals are not exploited while working in the United States.

(c) COOPERATION REGARDING CIRCULAR MIGRATION.—The Secretary of State, in cooperation with the Secretary of Labor and other appropriate Federal officials, shall work with the appropriate officials from the Government of Mexico to improve coordination between the United States and Mexico to encourage circular migration, including assisting in the development of economic opportunities and providing job training for citizens and nationals in Mexico.

(d) ANNUAL REPORT.—Not later than 180 days after the date of enactment of this Act, and annually thereafter, the Secretary of State shall submit to Congress a report on the actions taken by the United States and Mexico under this section.

SA 3481. Mr. DOMENICI (for himself, Mr. KYL, Mr. CORNYN, and Mrs. HUTCHISON) submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. ADDITIONAL DISTRICT COURT JUDGESHIPS.

The President shall appoint, by and with the advice and consent of the Senate, such additional district court judges as are necessary to carry out the 2005 recommendations of the Judicial Conference for district courts in which the criminal immigration filings totaled more than 50 per cent of all criminal filings for the 12-month period ending September 30, 2004.

SA 3482. Mr. OBAMA submitted an amendment intended to be proposed to amendment SA 3361 submitted by Mr. GRASSLEY (for himself and Mr. KYL) and intended to be proposed to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

Strike title III and insert the following:

TITLE III—UNLAWFUL EMPLOYMENT OF ALIENS

SEC. 301. UNLAWFUL EMPLOYMENT OF ALIENS.

(a) IN GENERAL.—Section 274A (8 U.S.C. 1324a) is amended to read as follows:

"SEC. 274A. UNLAWFUL EMPLOYMENT OF ALIENS.

"(a) MAKING EMPLOYMENT OF UNAUTHORIZED ALIENS UNLAWFUL.—

"(1) IN GENERAL.—It is unlawful for an employer—

"(A) to hire, or to recruit or refer for a fee, an alien for employment in the United States knowing that the alien is an unauthorized alien with respect to such employment; or

"(B) to hire, or to recruit or refer for a fee, for employment in the United States an individual unless such employer meets the requirements of subsections (c) and (d).

"(2) CONTINUING EMPLOYMENT.—It is unlawful for an employer, after lawfully hiring an alien for employment, to continue to employ the alien in the United States knowing that the alien is (or has become) an unauthorized alien with respect to such employment.

"(3) USE OF LABOR THROUGH CONTRACT.—In this section, an employer who uses a contract, subcontract, or exchange, entered into, renegotiated, or extended after the date of the enactment of the Comprehensive Immigration Reform Act of 2006, to obtain the labor of an alien in the United States knowing that the alien is an unauthorized alien with respect to performing such labor, shall be considered to have hired the alien for employment in the United States in violation of paragraph (1)(A).

"(4) REBUTTABLE PRESUMPTION OF UNLAWFUL HIRING.—A rebuttable presumption is created for the purpose of a civil enforcement proceeding that an employer knowingly violated paragraph (1)(A) if the Secretary determines that—

"(A) the employer hired 50 or more new employees during a calendar year and that at least 10 percent of new employees hired in the calendar year by the employer were unauthorized aliens; or

"(B) the employer hired less than 50 new employees during a calendar year and that 5 new employees hired by the employer in the calendar year were unauthorized aliens.

"(5) DEFENSE.—

"(A) IN GENERAL.—Subject to subparagraph (B), an employer that establishes that the employer has complied in good faith with the requirements of subsections (c) and (d) has established an affirmative defense that the employer has not violated paragraph (1)(A) with respect to such hiring, recruiting, or referral.

"(B) EXCEPTION.—Until the date that an employer is required to participate in the Electronic Employment Verification System under subsection (d) or is permitted to participate in such System on a voluntary basis, the employer may establish an affirmative defense under subparagraph (A) without a showing of compliance with subsection (d).

"(b) ORDER OF INTERNAL REVIEW AND CERTIFICATION OF COMPLIANCE.—

"(1) AUTHORITY TO REQUIRE CERTIFICATION.—If the Secretary has reasonable cause to believe that an employer has failed to comply with this section, the Secretary is authorized, at any time, to require that the employer certify that the employer is in compliance with this section, or has instituted a program to come into compliance.

"(2) CONTENT OF CERTIFICATION.—Not later than 60 days after the date an employer receives a request for a certification under paragraph (1) the chief executive officer or similar official of the employer shall certify under penalty of perjury that—

"(A) the employer is in compliance with the requirements of subsections (c) and (d); or

"(B) that the employer has instituted a program to come into compliance with such requirements.

"(3) EXTENSION.—The 60-day period referred to in paragraph (2), may be extended by the Secretary for good cause, at the request of the employer.

"(4) PUBLICATION.—The Secretary is authorized to publish in the Federal Register standards or methods for certification and for specific recordkeeping practices with respect to such certification, and procedures for the audit of any records related to such certification.

"(c) DOCUMENT VERIFICATION REQUIREMENTS.—An employer hiring, or recruiting or

referring for a fee, an individual for employment in the United States shall take all reasonable steps to verify that the individual is eligible for such employment. Such steps shall include meeting the requirements of subsection (d) and the following paragraphs:

''(1) ATTESTATION BY EMPLOYER.—

''(A) REQUIREMENTS.—

''(i) IN GENERAL.—The employer shall attest, under penalty of perjury and on a form prescribed by the Secretary, that the employer has verified the identity and eligibility for employment of the individual by examining—

''(I) a document described in subparagraph (B); or

''(II) a document described in subparagraph (C) and a document described in subparagraph (D).

''(ii) SIGNATURE REQUIREMENTS.—An attestation required by clause (i) may be manifested by a handwritten or electronic signature.

''(iii) STANDARDS FOR EXAMINATION.—An employer has complied with the requirement of this paragraph with respect to examination of a document if the document examined reasonably appears on its face to be genuine. If an individual provides a document (or combination of documents) that reasonably appears on its face to be genuine and that is sufficient to meet the requirement of clause (i), nothing in this paragraph may be construed as requiring the employer to solicit the production of any other document or as requiring the individual to produce such another document.

''(iv) REQUIREMENTS FOR EMPLOYMENT ELIGIBILITY SYSTEM PARTICIPANTS.—A participant in the Electronic Employment Verification System established under subsection (d), regardless of whether such participation is voluntary or mandatory, shall be permitted to utilize any technology that is consistent with this section and with any regulation or guidance from the Secretary to streamline the procedures to comply with the attestation requirement, and to comply with the employment eligibility verification requirements contained in this section.

''(B) DOCUMENTS ESTABLISHING BOTH EMPLOYMENT ELIGIBILITY AND IDENTITY.—A document described in this subparagraph is an individual's—

''(i) United States passport; or

''(ii) permanent resident card or other document designated by the Secretary, if the document—

''(I) contains a photograph of the individual and such other personal identifying information relating to the individual that the Secretary proscribes in regulations is sufficient for the purposes of this subparagraph;

''(II) is evidence of eligibility for employment in the United States; and

''(III) contains security features to make the document resistant to tampering, counterfeiting, and fraudulent use.

''(C) DOCUMENTS EVIDENCING EMPLOYMENT ELIGIBILITY.—A document described in this subparagraph is an individual's—

''(i) social security account number card issued by the Commissioner of Social Security (other than a card which specifies on its face that the issuance of the card does not authorize employment in the United States); or

''(ii) any other documents evidencing eligibility of employment in the United States, if—

''(I) the Secretary has published a notice in the Federal Register stating that such document is acceptable for purposes of this subparagraph; and

''(II) contains security features to make the document resistant to tampering, counterfeiting, and fraudulent use.

''(D) DOCUMENTS ESTABLISHING IDENTITY OF INDIVIDUAL.—A document described in this subparagraph is an individual's—

''(i) driver's license or identity card issued by a State, the Commonwealth of the Northern Mariana Islands, or an outlying possession of the United States provided that such a card or document—

''(I) contains the individual's photograph or information, including the individual's name, date of birth, gender, eye color, and address; and

''(II) contains security features to make such license or card resistant to tampering, counterfeiting, or fraudulent use;

''(ii) identification card issued by a Federal agency or department, including a branch of the Armed Forces, or an agency, department, or entity of a State, or a Native American tribal document, provided that such card or document—

''(I) contains the individual's photograph or information, including the individual's name, date of birth, gender, eye color, and address; and

''(II) contains security features to make the card resistant to tampering, counterfeiting, and fraudulent use; or

''(iii) in the case of an individual who is under 16 years of age who is unable to present a document described in clause (i) or (ii), a document of personal identity of such other type that—

''(I) the Secretary determines is a reliable means of identification; and

''(II) contains security features to make the document resistant to tampering, counterfeiting, and fraudulent use.

''(E) AUTHORITY TO PROHIBIT USE OF CERTAIN DOCUMENTS.—

''(i) AUTHORITY.—If the Secretary finds that a document or class of documents described in subparagraph (B), (C), or (D) is not reliable to establish identity or eligibility for employment (as the case may be) or is being used fraudulently to an unacceptable degree, the Secretary is authorized to prohibit, or impose conditions, on the use of such document or class of documents for purposes of this subsection.

''(ii) REQUIREMENT FOR PUBLICATION.—The Secretary shall publish notice of any findings under clause (i) in the Federal Register.

''(2) ATTESTATION OF EMPLOYEE.—

''(A) REQUIREMENTS.—

''(i) IN GENERAL.—The individual shall attest, under penalty of perjury on the form prescribed by the Secretary, that the individual is a national of the United States, an alien lawfully admitted for permanent residence, or an alien who is authorized under this Act or by the Secretary to be hired, recruited, or referred for a fee, in the United States.

''(ii) SIGNATURE FOR EXAMINATION.—An attestation required by clause (i) may be manifested by a handwritten or electronic signature.

''(B) PENALTIES.—An individual who falsely represents that the individual is eligible for employment in the United States in an attestation required by subparagraph (A) shall, for each such violation, be subject to a fine of not more than $5,000, a term of imprisonment not to exceed 3 years, or both.

''(3) RETENTION OF ATTESTATION.—An employer shall retain a paper, microfiche, microfilm, or electronic version of an attestation submitted under paragraph (1) or (2) for an individual and make such attestations available for inspection by an officer of the Department of Homeland Security, any other person designated by the Secretary, the Special Counsel for Immigration-Related Unfair Employment Practices of the Department of Justice, or the Secretary of Labor during a period beginning on the date of the hiring, or recruiting or referring for a fee, of the individual and ending—

''(A) in the case of recruiting or referral for a fee of an individual, 3 years after the date of the recruiting or referral; or

''(B) in the case of the hiring of an individual the later of—

''(i) 3 years after the date of such hiring;

''(ii) 1 year after the date of the individual's employment is terminated; or

''(iii) in the case of an employer or class of employers, a period that is less than the applicable period described in clause (i) or (ii) if the Secretary reduces such period for such employer or class of employers.

''(4) DOCUMENT RETENTION AND RECORD-KEEPING REQUIREMENTS.—

''(A) RETENTION OF DOCUMENTS.—An employer shall retain, for the applicable period described in paragraph (3), the following documents:

''(i) IN GENERAL.—Notwithstanding any other provision of law, the employer shall copy all documents presented by an individual pursuant to this subsection and shall retain paper, microfiche, microfilm, or electronic copies of such documents. Such copies shall reflect the signature of the employer and the individual and the date of receipt of such documents.

''(ii) USE OF RETAINED DOCUMENTS.—An employer shall use copies retained under clause (i) only for the purposes of complying with the requirements of this subsection, except as otherwise permitted under law.

''(B) RETENTION OF CLARIFICATION DOCUMENTS.—The employer shall maintain records of any actions and copies of any correspondence or action taken by the employer to clarify or resolve any issue that raises reasonable doubt as to the validity of the individual's identity or eligibility for employment in the United States.

''(C) RETENTION OF OTHER RECORDS.—The Secretary may require that an employer retain copies of additional records related to the individual for the purposes of this section.

''(5) PENALTIES.—An employer that fails to comply with the requirement of this subsection shall be subject to the penalties described in subsection (e)(4)(B).

''(6) NO AUTHORIZATION OF NATIONAL IDENTIFICATION CARDS.—Nothing in this section may be construed to authorize, directly or indirectly, the issuance, use, or establishment of a national identification card.

''(d) ELECTRONIC EMPLOYMENT VERIFICATION SYSTEM.—

''(1) REQUIREMENT FOR SYSTEM.—The Secretary, in cooperation with the Commissioner of Social Security, shall implement an Electronic Employment Verification System (referred to in this subsection as the 'System') as described in this subsection.

''(2) MANAGEMENT OF SYSTEM.—

''(A) IN GENERAL.—The Secretary shall, through the System—

''(i) provide a response to an inquiry made by an employer through the Internet or other electronic media or over a telephone line regarding an individual's identity and eligibility for employment in the United States;

''(ii) establish a set of codes to be provided through the System to verify such identity and authorization; and

''(iii) maintain a record of each such inquiry and the information and codes provided in response to such inquiry.

''(B) INITIAL RESPONSE.—

''(i) IN GENERAL.—The Secretary shall, through the System, tentatively confirm or nonconfirm an individual's identity and eligibility for employment in the United States not later than 1 working day after an employer submits an inquiry regarding the individual.

''(ii) MANUAL VERIFICATION.—If a tentative nonconfirmation is provided for an individual under clause (i), the Secretary, through the System, shall conduct a secondary manual verification not later than 9 working days after such tentative nonconfirmation is made.

''(iii) NOTICES.—Not later than 10 working days after an employer submits an inquiry to the System regarding an individual, the Secretary shall provide, through the System, to the employer—

''(I) if the System is able to confirm, through a verification described in clause (i) or (ii), the individual's identity and eligibility for employment in the United States, an appropriate code indicating such confirmation; or

''(II) if the System is unable to confirm, through a verification described in clause (i) or (ii), the individual's identity or eligibility for employment in the United States, an appropriate code indicating such tentative nonconfirmation.

''(iv) DEFAULT CONFIRMATION IN CASE OF SYSTEM FAILURE.—If the Secretary, through the System, fails to provide a notice described in clause (iii) for an individual within the period described in such clause, an appropriate code indicating confirmation shall be provided to the employer. Such confirmation shall remain in effect for the individual until the Secretary, through the System, provides a notice that—

''(I) the System is unable to confirm the individual's identity; or

''(II) the individual is ineligible for employment in the United States.

''(C) VERIFICATION PROCESS IN CASE OF A TENTATIVE NONCONFIRMATION NOTICE.—

''(i) IN GENERAL.—If a tentative nonconfirmation notice is issued under subparagraph (B)(iii)(II), not later than 10 working days after the date an individual submits information to contest such notice under paragraph (7)(C)(ii)(III), the Secretary, through the System, shall issue to the employer an appropriate code indicating final confirmation or final nonconfirmation.

''(ii) DEFAULT CONFIRMATION IN CASE OF SYSTEM FAILURE.—If the Secretary, through the System, fails to confirm or tentatively nonconfirm the individual's identity and eligibility for employment in the United States within the period described in clause (i), an appropriate code indicating confirmation shall be provided to the employer. Such confirmation shall remain in effect for the individual until the Secretary, through the System, provides a notice that—

''(I) the System is unable to confirm the individual's identity; or

''(II) the individual is ineligible for employment in the United States.

''(iii) DEVELOPMENT OF PROCESS.—The Secretary shall consult with the Commissioner of Social Security to develop a verification process to be used to provide a final confirmation notice or a final nonconfirmation notice under clause (i).

''(D) RIGHT TO APPEAL FINAL NONCONFIRMATION.—The individual shall have the right to an administrative or judicial appeal of a notice of final nonconfirmation. The Secretary shall consult with the Commissioner of Social Security to develop a process for such appeals.

''(E) DESIGN AND OPERATION OF SYSTEM.—The Secretary, in consultation with the Commissioner of Social Security, shall design and operate the System—

''(i) to maximize reliability and ease of use by employers in a manner that protects and maintains the privacy and security of the information maintained in the System;

''(ii) to respond to each inquiry made by an employer; and

''(iii) to track and record any occurrence when the System is unable to receive such an inquiry;

''(iv) to include appropriate administrative, technical, and physical safeguards to prevent unauthorized disclosure of personal information during use, transmission, storage, or disposal of that information, including the use of encryption, carrying out periodic stress testing of the System to detect, prevent, and respond to vulnerabilities or other failures, and utilizing periodic security updates;

''(v) to allow for monitoring of the use of the System and provide an audit capability;

''(vi) to have reasonable safeguards, developed in consultation with the Attorney General, to prevent employers from engaging in unlawful discriminatory practices, based on national origin or citizenship status; and

''(vii) to permit individuals—

''(I) to view their own records in order to ensure the accuracy of such records; and

''(II) to contact the appropriate agency to correct any errors through an expedited process established by the Secretary, in consultation and coordination with the Commissioner of Social Security.

''(F) LIMITATION ON DATA ELEMENTS STORED.—The System and any databases created by the Commissioner of Social Security or the Secretary to achieve confirmation, tentative nonconfirmation, or final nonconfirmation under the System shall store only the minimum data about each individual for whom an inquiry was made to facilitate the successful operation of the System, and in no case shall the data stored be other than—

''(i) the individual's full legal name;

''(ii) the individual's date of birth;

''(iii) the individual's social security account number, or employment authorization status identification number;

''(iv) the address of the employer making the inquiry and the dates of any prior inquiries concerning the identity and authorization of the employee by the employer or any other employer and the address of such employer;

''(v) a record of each prior confirmation, tentative nonconfirmation, or final nonconfirmation made by the System for such individual; and

''(vi) in the case of the individual successfully contesting a prior tentative nonconfirmation, explanatory information concerning the successful resolution of any erroneous data or confusion regarding the identity or eligibility for employment of the individual, including the source of that error.

''(G) RESPONSIBILITIES OF THE COMMISSIONER OF SOCIAL SECURITY.—The Commissioner of Social Security shall establish a reliable, secure method to provide through the System, within the time periods required by subparagraphs (B) and (C)—

''(i) a determination of whether the name and social security account number provided in an inquiry by an employer match such information maintained by the Commissioner in order to confirm the validity of the information provided;

''(ii) determination of the citizenship status associated with such name and social security account number, according to the records maintained by the Commissioner; and

''(iii) a confirmation notice or a nonconfirmation notice under subparagraph (B) or (C), in a manner that ensures that other information maintained by the Commissioner is not disclosed or released to employers through the System.

''(H) RESPONSIBILITIES OF THE SECRETARY.—The Secretary shall establish a reliable, secure method to provide through the System, within the time periods required by subparagraphs (B) and (C)—

''(i) a determination of whether the name and alien identification or authorization number provided in an inquiry by an employer match such information maintained by the Secretary in order to confirm the validity of the information provided;

''(ii) a determination of whether such number was issued to the named individual;

''(iii) a determination of whether the individual is authorized to be employed in the United States; and

''(iv) any other related information that the Secretary may require.

''(I) OFFICE OF ELECTRONIC VERIFICATION.—

''(i) IN GENERAL.—The Secretary shall establish the Office of Electronic Verification in the Bureau of Citizenship and Immigration Services.

''(ii) RESPONSIBILITIES.—Subject to available appropriations, the Office of Electronic Verification shall work with the Commissioner of Social Security—

''(I) to update the information maintained in the System in a manner that promotes maximum accuracy;

''(II) to provide a process for correcting erroneous information by registering not less than 97 percent of the new information and information changes submitted by employees within all relevant databases within 24 hours after submission and registering not less than 99 percent of such information within 10 working days after submission;

''(III) to ensure that at least 99 percent of the data received from field offices of the Bureau of Customs and Border Protection and from other points of contact between immigrants and the Department of Homeland Security is registered within all relevant databases within 24 hours after receipt;

''(IV) to ensure that at least 99 percent of the data received from field offices of the Social Security Administration and other points of contact between citizens and the Social Security Administration is registered within all relevant databases within 24 hours after receipt;

''(V) to employ a sufficient number of manual status verifiers to resolve 99 percent of the tentative nonconfirmations within 3 days;

''(VI) to establish and promote call-in help lines accessible to employers and employees on a 24-hour basis with questions about the functioning of the System or about the specific issues underlying a tentative nonconfirmation;

''(VII) to establish an outreach and education program to ensure that all new employers are fully informed of their responsibilities under the System; and

''(VIII) to conduct a random audit of a substantial percentage of workers' files in a database maintained by an agency or department of the United States each year to determine accuracy rates and require corrections of errors in a timely manner.

''(J) RIGHT TO REVIEW SYSTEM INFORMATION AND APPEAL ERRONEOUS NONCONFIRMATIONS.—Any individual who contests a tentative nonconfirmation or final nonconfirmation may review and challenge the accuracy of the data elements and information within the System upon, which such a nonconfirmation was based. Such a challenge may include the ability to submit additional information or appeal any final nonconfirmation to the Office of Electronic Verification. The Office of Electronic Verification shall review any such information submitted pursuant to such a challenge and issue a response and decision concerning the appeal within 7 days of the filing of such a challenge. The Office of Electronic Verification shall at least annually study and issue findings concerning the most common causes for erroneous nonconfirmations and issue recommendations concerning the resolution of such causes.

''(K) PRIVACY IMPACT ASSESSMENT.—The Commissioner of Social Security and the Secretary shall each complete a privacy impact assessment as described in section 208 of the E-Government Act of 2002 (Public Law 107–347; 44 U.S.C. 3501 note) with regard to the System.

''(L) TRAINING.—The Commissioner of Social Security and the Secretary shall provide appropriate training materials to participating employers to ensure such employers are able to utilize the System in compliance with the requirements of this section.

''(M) HOTLINE.—The Secretary shall establish a fully staffed 24-hour hotline to receive inquiries by employees concerning tentative nonconfirmations and final nonconfirmations and shall identify for employees, at the time of inquiry, the particular data that resulted on the issuance of a nonconfirmation notice under the System.

''(3) REQUIREMENTS FOR PARTICIPATION.—Except as provided in paragraphs (4) and (5), the Secretary shall require employers to participate in the System as follows:

''(A) CRITICAL EMPLOYERS.—

''(i) REQUIRED PARTICIPATION.—

''(I) DESIGNATION.—As of the date that is 180 days after the date of the enactment of the Comprehensive Immigration Reform Act of 2006, the Secretary shall designate, in the Secretary's sole and unrevieweable discretion, an employer or class of employers under this subclause if the Secretary determines such employer or class of employers is part of the critical infrastructure of the United States or directly related to the national security or homeland security of the United States.

''(II) PARTICIPATION.—Not later than 180 days after the date an employer or class of employers is designated under subclause (I), the Secretary shall require such employer or class of employers to participate in the System, with respect to employees hired by the employer on or after the date of the enactment of the Comprehensive Immigration Reform Act of 2006.

''(ii) DISCRETIONARY PARTICIPATION.—

''(I) DESIGNATION.—As of the date that is 180 days after the date of the enactment of the Comprehensive Immigration Reform Act of 2006, the Secretary may designate, in the Secretary's sole and unreviewable discretion, an employer or class of employers under this subclause if the Secretary determines such employer or class of employers as a critical employer based on immigration enforcement or homeland security needs.

''(II) PARTICIPATION.—Not later than 180 days after the date an employer or class of employers is designated under subclause (I), the Secretary may require such employer or class of employers to participate in the System, with respect to employees hired on or after the date of the enactment of the Comprehensive Immigration Reform Act of 2006.

''(B) LARGE EMPLOYERS.—Not later than 2 years after the date of the enactment of the Comprehensive Immigration Reform Act of 2006, the Secretary shall require an employer with 5,000 or more employees in the United States to participate in the System, with respect to all employees hired by the employer after the date the Secretary requires such participation.

''(C) MIDSIZED EMPLOYERS.—Not later than 3 years after the date of enactment of the Comprehensive Immigration Reform Act of 2006, the Secretary shall require an employer with 1,000 or more employees in the United States to participate in the System, with respect to all employees hired by the employer after the date the Secretary requires such participation.

''(D) SMALL EMPLOYERS.—Not later than 4 years after the date of the enactment of the Comprehensive Immigration Reform Act of 2006, the Secretary shall require all employers with 250 or more employees in the United States to participate in the System, with respect to all employees hired by the employer after the date the Secretary requires such participation.

''(E) REMAINING EMPLOYERS.—Not later than 5 years after the date of the enactment of the Comprehensive Immigration Reform Act of 2006, the Secretary shall require all employers in the United States to participate in the System, with respect to all employees hired by an employer after the date the Secretary requires such participation.

''(F) REQUIREMENT TO PUBLISH.—The Secretary shall publish in the Federal Register the requirements for participation in the System as described in subparagraphs (B), (C), (D), and (E) prior to the effective date of such requirements.

''(4) OTHER PARTICIPATION IN SYSTEM.—Notwithstanding paragraph (3), the Secretary has the authority, in the Secretary's sole and unreviewable discretion to permit any employer that is not required to participate in the System under paragraph (3) to participate in the System on a voluntary basis.

''(5) WAIVER.—

''(A) AUTHORITY TO PROVIDE A WAIVER.—The Secretary is authorized to waive or delay the participation requirements of paragraph (3) with respect to any employer or class of employers if the Secretary provides notice to Congress of such waiver prior to the date such waiver is granted.

''(B) REQUIREMENT TO PROVIDE A WAIVER.—The Secretary shall waive or delay the participation requirements of paragraph (3) with respect to any employer or class of employers until the date that the Comptroller General of the United States submits the initial certification described in paragraph (13)(E) and shall waive or delay such participation during a year if the Comptroller General fails to submit a certification of paragraph (13)(E) for such year.

''(6) CONSEQUENCE OF FAILURE TO PARTICIPATE.—If an employer is required to participate in the System and fails to comply with the requirements of the System with respect to an individual—

''(A) such failure shall be treated as a violation of subsection (a)(1)(B) of this section with respect to such individual; and

''(B) a rebuttable presumption is created that the employer has violated subsection (a)(1)(A) of this section, however such presumption may not apply to a prosecution under subsection (f)(1).

''(7) SYSTEM REQUIREMENTS.—

''(A) IN GENERAL.—An employer that participates in the System, with respect to the hiring, or recruiting or referring for a fee, of any individual for employment in the United States, shall—

''(i) notify employees of the employer and prospective employees to whom the employer has extended a job offer that the employer participates in the System and that the System may be used for immigration enforcement purposes;

''(ii) obtain from the individual and record on the form designated by the Secretary—

''(I) the individual's social security account number; and

''(II) in the case of an individual who does not attest that the individual is a national of the United States under subsection (c)(2), such identification or authorization number that the Secretary shall require;

''(iii) retain such form in electronic format, paper, microfilm, or microfiche and make such a form available for inspection for the periods and in the manner described in subsection (c)(3); and

''(iv) safeguard any information collected for purposes of the System and protect any means of access to such information to ensure that such information is not used for any other purpose and to protect the confidentiality of such information, including ensuring that such information is not provided to any person other than a person that carries out the employer's responsibilities under this subsection.

''(B) SEEKING VERIFICATION.—The employer shall submit an inquiry through the System to seek confirmation of the individual's identity and eligibility for employment in the United States not later than 3 working days (or such other reasonable time as may be specified by the Secretary of Homeland Security) after the date of the hiring, or recruiting or referring for a fee, of the individual (as the case may be).

''(C) CONFIRMATION OR NONCONFIRMATION.—

''(i) CONFIRMATION UPON INITIAL INQUIRY.—If an employer receives a confirmation notice under paragraph (2)(B)(i) for an individual, the employer shall record, on the form specified by the Secretary, the appropriate code provided in such notice.

''(ii) NONCONFIRMATION AND VERIFICATION.—

''(I) NONCONFIRMATION.—If an employer receives a tentative nonconfirmation notice under paragraph (2)(B)(ii) for an individual, the employer shall inform such individual of the issuances of such notice in writing and shall provide the individual with information about the right to contest the tentative nonconfirmation and contact information for the appropriate agency to file such contest.

''(II) NO CONTEST.—If the individual does not contest the tentative nonconfirmation notice under subclause (I) within 10 days of receiving notice from the individual's employer, the notice shall become final and the employer shall record on the form specified by the Secretary, the appropriate code provided in the nonconfirmation notice. An individual's failure to contest a tentative nonconfirmation may not be the basis for determining that the individual acted in a knowing (as defined in section 274a.1 of title 8, Code of Federal Regulations, or any corresponding similar regulation) manner.

''(III) CONTEST.—If the individual contests the tentative nonconfirmation notice under subclause (I), the individual shall submit appropriate information to contest such notice to the System within 10 working days of receiving notice from the individual's employer and shall utilize the verification process developed under paragraph (2)(C)(ii).

''(IV) EFFECTIVE PERIOD OF TENTATIVE NONCONFIRMATION.—A tentative nonconfirmation notice shall remain in effect until a final such notice becomes final under clause (II) or a final confirmation notice or final nonconfirmation notice is issued by the System.

''(V) PROHIBITION ON TERMINATION.—An employer may not terminate the employment of an individual based on a tentative nonconfirmation notice until such notice becomes final under subclause (II) or a final nonconfirmation notice is issued for the individual by the System. Nothing in this clause shall apply to a termination of employment for any reason other than because of such a failure.

''(VI) RECORDING OF CONCLUSION ON FORM.—If a final confirmation or nonconfirmation is provided by the System regarding an individual, the employer shall record on the form designated by the Secretary the appropriate code that is provided under the System to indicate a confirmation or nonconfirmation of the identity and employment eligibility of the individual.

''(D) CONSEQUENCES OF NONCONFIRMATION.—

''(i) TERMINATION OF CONTINUED EMPLOYMENT.—If the employer has received a final nonconfirmation regarding an individual,

the employer shall terminate the employment, recruitment, or referral of the individual. If the employer continues to employ, recruit, or refer the individual after receiving final nonconfirmation, a rebuttable presumption is created that the employer has violated subsections (a)(1)(A) and (a)(2). Such presumption may not apply to a prosecution under subsection (f)(1).

''(ii) ASSISTANCE IN IMMIGRATION ENFORCEMENT.—If an employer has received a final nonconfirmation which is not the result of the individual's failure to contest a tentative nonconfirmation in subparagraph (C)(ii)(II), the employer shall provide to the Secretary any information relating to the nonconfirmed individual that the Secretary determines would assist the Secretary in enforcing or administering the immigration laws.

''(E) UNLAWFUL USE OF SYSTEM.—It shall be an unlawful immigration-related employment practice for an employer—

''(i) to use the System prior to an offer of employment;

''(ii) to use the System selectively to exclude certain individuals from consideration for employment as a result of a perceived likelihood that additional verification will be required, beyond what is required for most applicants;

''(iii) to terminate or undertake any adverse employment action based on a tentative nonconfirmation described in paragraph (2)(B)(iii)(II); or

''(iv) to reverify the employment authorization of hire employees after the 3 days of the employee's hire and after the employee has satisfied the eligibility verification provisions of subsection (b)(1) or to reverify employees hired before the date that the person or entity is required to participate in the System.

''(F) PROHIBITION OF UNLAWFUL ACCESSING AND OBTAINING OF INFORMATION.—

''(i) IMPROPER ACCESS.—It shall be unlawful for any individual, other than the government employees authorized in this subsection, to intentionally and knowingly access the System or the databases utilized to verify identity or employment authorization for the System for any purpose other than verifying identity or employment authorization or modifying the System pursuant to law or regulation. Any individual who unlawfully accesses the System or the databases or shall be fined no less than $1,000 for each individual whose file was compromised or sentenced to less than 6 months imprisonment for each individual whose file was compromised.

''(ii) IDENTITY THEFT.—It shall be unlawful for any individual, other than the government employees authorized in this subsection, to intentionally and knowingly obtain the information concerning an individual stored in the System or the databases utilized to verify identity or employment authorization for the System for any purpose other than verifying identity or employment authorization or modifying the System pursuant to law or regulation. Any individual who unlawfully obtains such information and uses it to commit identity theft for financial gain or to evade security or to assist another in gaining financially or evading security, shall be fined no less than $10,000 for each individual whose information was obtained and misappropriated sentenced to not less than 1 year of imprisonment for each individual whose information was obtained and misappropriated.

''(8) PROTECTION FROM LIABILITY.—No employer that participates in the System shall be liable under any law for any employment-related action taken with respect to an individual in good faith reliance on information provided by the System.

''(9) LIMITATION ON USE OF THE SYSTEM.—Notwithstanding any other provision of law, nothing in this subsection shall be construed to permit or allow any department, bureau, or other agency of the United States to utilize any information, database, or other records used in the System for any purpose other than as provided for under this subsection.

''(10) ACCESS TO DATABASE.—No officer or employee of any agency or department of the United States, other than such an officer or employee who is responsible for the verification of employment eligibility or for the evaluation of an employment eligibility verification program at the Social Security Administration, the Department of Homeland Security, and the Department of Labor, may have access to any information, database, or other records utilized by the System.

''(11) MODIFICATION AUTHORITY.—The Secretary, after notice is submitted to Congress and provided to the public in the Federal Register, is authorized to modify the requirements of this subsection, including requirements with respect to completion of forms, method of storage, attestations, copying of documents, signatures, methods of transmitting information, and other operational and technical aspects to improve the efficiency, accuracy, and security of the System.

''(12) REPORT.—Not later than 1 year after the date of the enactment of the Comprehensive Immigration Reform Act of 2006, the Secretary shall submit to Congress a report on the capacity, systems integrity, and accuracy of the System.

''(13) ANNUAL STUDY AND REPORT.—

''(A) REQUIREMENT FOR STUDY.—The Comptroller General of the United States shall conduct an annual study of the System as described in this paragraph.

''(B) PURPOSE OF THE STUDY.—The Comptroller General shall, for each year, undertake a study to determine whether the System meets the following requirements:

''(i) DEMONSTRATED ACCURACY OF THE DATABASES.—New information and information changes submitted by employees to the System is updated in all of the relevant databases within 3 working days of submission in at least 99 percent of all cases.

''(ii) LOW ERROR RATES AND DELAYS IN VERIFICATION.—

''(I) That, during a year, the System provides incorrect tentative nonconfirmation notices under paragraph (2)(B)(ii) for no more than 1 percent of all such notices sent during such year.

''(II) That, during a year, the System provides incorrect final nonconfirmation notices under paragraph (2)(C)(i) for no more than 3 percent of all such notices sent during such year.

''(III) That the number of incorrect tentative nonconfirmation notices under paragraph (2)(B)(ii) provided by the System during a year for individuals who are not citizens of the United States is not more than 300 percent more than the number of such incorrect notices sent to citizens of the United States during such year.

''(IV) That the number of final nonconfirmation notices under paragraph (2)(C)(i) provided by the System during a year for individuals who are not citizens of the United States is not more than 300 percent more than the number of such incorrect notices sent to citizens of the United States during such year.

''(iii) LIMITED IMPLEMENTATION COSTS TO EMPLOYERS.—No employer is required to spend more than $10 to verify the identity and employment eligibility of an individual through the system in any year, including the costs of all staff, training, materials, or other related costs of participation in the System.

''(iv) MEASURABLE EMPLOYER COMPLIANCE WITH SYSTEM REQUIREMENTS.—

''(I) The System has not and will not result in increased discrimination or cause reasonable employers to conclude that employees of certain races or ethnicities are more likely to have difficulties when offered employment caused by the operation of the System.

''(II) The determination described in subclause (I) is based on an independent study commissioned by the Comptroller General in each phase of expansion of the System that includes the use of testers.

''(v) PROTECTION OF WORKERS' PRIVATE INFORMATION.—At least 97 percent of employers who participate in the System are in full compliance with the privacy requirements described in this subsection.

''(vi) ADEQUATE AGENCY STAFFING AND FUNDING.—The Secretary and Commissioner of Social Security have sufficient funding to meet all of the deadlines and requirements of this subsection.

''(C) CONSULTATION.—In conducting a study under this paragraph, the Comptroller General shall consult with representatives from business, labor, immigrant communities, State governments, privacy advocates, and appropriate executive branch agencies.

''(D) REQUIREMENT FOR REPORTS.—Not later that 180 days after the date of the enactment of the Comprehensive Immigration Reform Act of 2006, and annually thereafter, the Comptroller General shall submit to the Secretary and to Congress a report containing the findings of the study carried out under this paragraph. Each report shall include any certification made under subparagraph (E) and, at a minimum, the following:

''(i) An assessment of the impact of the System on the employment of unauthorized workers, including whether it has indirectly caused an increase in exploitation of unauthorized workers.

''(ii) An assessment of the accuracy of databases employed by the System and of the timeliness and accuracy of the System's responses to employers.

''(iii) An assessment of the privacy and confidentiality of the System and of its overall security with respect to cyber theft and theft or misuse of private data.

''(iv) An assessment of whether the System is being implemented in a nondiscriminatory and non-retaliatory manner.

''(v) Recommendations regarding whether or not the System should be modified prior to further expansion.

''(E) CERTIFICATION.—If the Comptroller General determines that the System meets the requirements described in subparagraph (B) for a year, the Comptroller shall certify such determination and submit such certification to Congress with the report required by subparagraph (D).

''(14) SUNSET PROVISION.—Mandatory participation in the System shall be discontinued 6 years after the date of the enactment of the Comprehensive Immigration Reform Act of 2006 unless Congress reauthorizes such participation.

''(e) COMPLIANCE.—

''(1) COMPLAINTS AND INVESTIGATIONS.—The Secretary shall establish procedures—

''(A) for individuals and entities to file complaints regarding potential violations of subsection (a);

''(B) for the investigation of those complaints that the Secretary deems it appropriate to investigate; and

''(C) for the investigation of such other violations of subsection (a), as the Secretary determines are appropriate.

''(2) AUTHORITY IN INVESTIGATIONS.—

''(A) IN GENERAL.—In conducting investigations and hearings under this subsection, officers and employees of the Department of Homeland Security—

''(i) shall have reasonable access to examine evidence of any employer being investigated; and

''(ii) if designated by the Secretary of Homeland Security, may compel by subpoena the attendance of witnesses and the production of evidence at any designated place in an investigation or case under this subsection.

''(B) FAILURE TO COOPERATE.—In case of refusal to obey a subpoena lawfully issued under subparagraph (A)(ii), the Secretary may request that the Attorney General apply in an appropriate district court of the United States for an order requiring compliance with such subpoena, and any failure to obey such order may be punished by such court as contempt.

''(C) DEPARTMENT OF LABOR.—The Secretary of Labor shall have the investigative authority provided under section 11(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 211(a)) to ensure compliance with the provisions of this title, or any regulation or order issued under this title.

''(3) COMPLIANCE PROCEDURES.—

''(A) PREPENALTY NOTICE.—If the Secretary has reasonable cause to believe that there has been a violation of a requirement of this section and determines that further proceedings related to such violation are warranted, the Secretary shall issue to the employer concerned a written notice of the Secretary's intention to issue a claim for a fine or other penalty. Such notice shall—

''(i) describe the violation;

''(ii) specify the laws and regulations allegedly violated;

''(iii) disclose the material facts which establish the alleged violation; and

''(iv) inform such employer that the employer shall have a reasonable opportunity to make representations as to why a claim for a monetary or other penalty should not be imposed.

''(B) REMISSION OR MITIGATION OF PENALTIES.—

''(i) PETITION BY EMPLOYER.—Whenever any employer receives written notice of a fine or other penalty in accordance with subparagraph (A), the employer may file within 30 days from receipt of such notice, with the Secretary a petition for the remission or mitigation of such fine or penalty, or a petition for termination of the proceedings. The petition may include any relevant evidence or proffer of evidence the employer wishes to present, and shall be filed and considered in accordance with procedures to be established by the Secretary.

''(ii) REVIEW BY SECRETARY.—If the Secretary finds that such fine or other penalty was incurred erroneously, or finds the existence of such mitigating circumstances as to justify the remission or mitigation of such fine or penalty, the Secretary may remit or mitigate such fine or other penalty on the terms and conditions as the Secretary determines are reasonable and just, or order termination of any proceedings related to the notice. Such mitigating circumstances may include good faith compliance and participation in, or agreement to participate in, the System, if not otherwise required.

''(iii) APPLICABILITY.—This subparagraph may not apply to an employer that has or is engaged in a pattern or practice of violations of paragraph (1)(A), (1)(B), or (2) of subsection (a) or of any other requirements of this section.

''(C) PENALTY CLAIM.—After considering evidence and representations offered by the employer pursuant to subparagraph (B), the Secretary shall determine whether there was a violation and promptly issue a written final determination setting forth the findings of fact and conclusions of law on which the determination is based and the appropriate penalty.

''(4) CIVIL PENALTIES.—

''(A) HIRING OR CONTINUING TO EMPLOY UNAUTHORIZED ALIENS.—Any employer that violates any provision of paragraph (1)(A) or (2) of subsection (a) shall pay civil penalties as follows:

''(i) Pay a civil penalty of not less than $500 and not more than $4,000 for each unauthorized alien with respect to each such violation.

''(ii) If the employer has previously been fined 1 time during the 2-year period preceding the violation under this subparagraph, pay a civil penalty of not less than $4,000 and not more than $10,000 for each unauthorized alien with respect to each such violation.

''(iii) If the employer has previously been fined more than 1 time during the 2-year period preceding the violation under this subparagraph or has failed to comply with a previously issued and final order related to any such provision, pay a civil penalty of not less than $6,000 and not more than $20,000 for each unauthorized alien with respect to each such violation.

''(B) RECORDKEEPING OR VERIFICATION PRACTICES.—Any employer that violates or fails to comply with the requirements of subsection (b), (c), or (d), shall pay a civil penalty as follows:

''(i) Pay a civil penalty of not less than $200 and not more than $2,000 for each such violation.

''(ii) If the employer has previously been fined 1 time during the 2-year period preceding the violation under this subparagraph, pay a civil penalty of not less than $400 and not more than $4,000 for each such violation.

''(iii) If the employer has previously been fined more than 1 time during the 2-year period preceding the violation under this subparagraph or has failed to comply with a previously issued and final order related to such requirements, pay a civil penalty of $6,000 for each such violation.

''(C) OTHER PENALTIES.—Notwithstanding subparagraphs (A) and (B), the Secretary may impose additional penalties for violations, including cease and desist orders, specially designed compliance plans to prevent further violations, suspended fines to take effect in the event of a further violation, and in appropriate cases, the civil penalty described in subsection (g)(2).

''(D) REDUCTION OF PENALTIES.—Notwithstanding subparagraphs (A), (B), and (C), the Secretary is authorized to reduce or mitigate penalties imposed upon employers, based upon factors including the employer's hiring volume, compliance history, good faith implementation of a compliance program, participation in a temporary worker program, and voluntary disclosure of violations of this subsection to the Secretary.

''(E) ADJUSTMENT FOR INFLATION.—All penalties in this section may be adjusted every 4 years to account for inflation, as provided by law.

''(5) JUDICIAL REVIEW.—An employer adversely affected by a final determination may, within 45 days after the date the final determination is issued, file a petition in any appropriate district court of the United States for review of the order. The filing of a petition as provided in this paragraph shall stay the Secretary's determination until the appeal process is completed. The burden shall be on the employer to show that the final determination was not supported by a preponderance of the evidence. The Secretary is authorized to require that the petitioner provide, prior to filing for review, security for payment of fines and penalties through bond or other guarantee of payment acceptable to the Secretary.

''(6) ENFORCEMENT OF ORDERS.—If an employer fails to comply with a final determination issued against that employer under this subsection, and the final determination is not subject to review as provided in paragraph (5), the Attorney General may file suit to enforce compliance with the final determination, no earlier than 46 days, but no later than 90 days, after the date the final determination is issued, in any appropriate district court of the United States. The burden shall remain on the employer to show that the final determination was not supported by a preponderance of the evidence.

''(7) RECOVERY OF COSTS AND ATTORNEYS' FEES.—In any appeal brought under paragraph (5) by an employer or suit brought under paragraph (6) against an employer, the employer shall be entitled to recover from the Department of Homeland Security reasonable costs and attorneys' fees if such employer substantially prevails on the merits of the case. An award of such attorneys' fees may not exceed $25,000. Any costs and attorneys' fees assessed against the Department of Homeland Security under this paragraph shall be charged against the operating expenses of the Department for the fiscal year in which the assessment is made, and shall not be reimbursed from any other source.

''(f) CRIMINAL PENALTIES AND INJUNCTIONS FOR PATTERN OR PRACTICE VIOLATIONS.—

''(1) CRIMINAL PENALTY.—An employer that engages in a pattern or practice of knowing violations of subsection (a)(1)(A) or (a)(2) shall be fined not more than $20,000 for each unauthorized alien with respect to whom such a violation occurs, imprisoned for not more than 6 months for the entire pattern or practice, or both.

''(2) ENJOINING OF PATTERN OR PRACTICE VIOLATIONS.—If the Secretary or the Attorney General has reasonable cause to believe that an employer is engaged in a pattern or practice of employment, recruitment, or referral in violation of paragraph (1)(A) or (2) of subsection (a), the Attorney General may bring a civil action in the appropriate district court of the United States requesting such relief, including a permanent or temporary injunction, restraining order, or other order against the employer, as the Secretary deems necessary.

''(g) PROHIBITION OF INDEMNITY BONDS.—

''(1) PROHIBITION.—It is unlawful for an employer, in the hiring, recruiting, or referring for a fee, of an individual, to require the individual to post a bond or security, to pay or agree to pay an amount, or otherwise to provide a financial guarantee or indemnity, against any potential liability arising under this section relating to such hiring, recruiting, or referring of the individual.

''(2) CIVIL PENALTY.—Any employer which is determined, after notice and opportunity for mitigation of the monetary penalty under subsection (e), to have violated paragraph (1) of this subsection shall be subject to a civil penalty of $2,000 for each violation and to an administrative order requiring the return of any amounts received in violation of such paragraph to the employee or, if the employee cannot be located, the deposit of such amounts as miscellaneous receipts in the general fund.

''(h) PROHIBITION ON AWARD OF GOVERNMENT CONTRACTS, GRANTS, AND AGREEMENTS.—

''(1) EMPLOYERS WITH NO CONTRACTS, GRANTS, OR AGREEMENTS.—

''(A) IN GENERAL.—If an employer who does not hold a Federal contract, grant, or cooperative agreement is determined by the Secretary to be a repeat violator of this section

or is convicted of a crime under this section, the employer may be debarred from the receipt of a Federal contract, grant, or cooperative agreement for a period of 2 years. The Secretary or the Attorney General shall advise the Administrator of General Services of such a debarment, and the Administrator of General Services shall list the employer on the List of Parties Excluded from Federal Procurement and Nonprocurement Programs for a period of 2 years.

''(B) WAIVER.—The Administrator of General Services, in consultation with the Secretary and the Attorney General, may waive operation of this subsection or may limit the duration or scope of the debarment.

''(2) EMPLOYERS WITH CONTRACTS, GRANTS, OR AGREEMENTS.—

''(A) IN GENERAL.—An employer who holds a Federal contract, grant, or cooperative agreement and is determined by the Secretary of Homeland Secretary to be a repeat violator of this section or is convicted of a crime under this section, may be debarred from the receipt of Federal contracts, grants, or cooperative agreements for a period of 2 years.

''(B) NOTICE TO AGENCIES.—Prior to debarring the employer under subparagraph (A), the Secretary, in cooperation with the Administrator of General Services, shall advise any agency or department holding a contract, grant, or cooperative agreement with the employer of the Government's intention to debar the employer from the receipt of new Federal contracts, grants, or cooperative agreements for a period of 2 years.

''(C) WAIVER.—After consideration of the views of any agency or department that holds a contract, grant, or cooperative agreement with the employer, the Secretary may, in lieu of debarring the employer from the receipt of new Federal contracts, grants, or cooperative agreements for a period of 2 years, waive operation of this subsection, limit the duration or scope of the debarment, or may refer to an appropriate lead agency the decision of whether to debar the employer, for what duration, and under what scope in accordance with the procedures and standards prescribed by the Federal Acquisition Regulation. However, any proposed debarment predicated on an administrative determination of liability for civil penalty by the Secretary or the Attorney General shall not be reviewable in any debarment proceeding. The decision of whether to debar or take alternation shall not be judicially reviewed.

''(3) SUSPENSION.—Indictments for violations of this section or adequate evidence of actions that could form the basis for debarment under this subsection shall be considered a cause for suspension under the procedures and standards for suspension prescribed by the Federal Acquisition Regulation.

''(i) MISCELLANEOUS PROVISIONS.—

''(1) DOCUMENTATION.—In providing documentation or endorsement of authorization of aliens (other than aliens lawfully admitted for permanent residence) eligible to be employed in the United States, the Secretary shall provide that any limitations with respect to the period or type of employment or employer shall be conspicuously stated on the documentation or endorsement.

''(2) PREEMPTION.—The provisions of this section preempt any State or local law imposing civil or criminal sanctions upon those who employ, or recruit or refer for a fee for employment, unauthorized aliens.

''(j) DEFINITIONS.—In this section:

''(1) EMPLOYER.—The term 'employer' means any person or entity, including any entity of the Government of the United States, hiring, recruiting, or referring an individual for employment in the United States.

''(2) SECRETARY.—Except as otherwise provided, the term 'Secretary' means the Secretary of Homeland Security.

''(3) UNAUTHORIZED ALIEN.—The term 'unauthorized alien' means, with respect to the employment of an alien at a particular time, that the alien is not at that time either—

''(A) an alien lawfully admitted for permanent residence; or

''(B) authorized to be so employed by this Act or by the Secretary.''.

(b) CONFORMING AMENDMENTS.—

(1) AMENDMENTS.—Sections 401, 402, 403, 404, and 405 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208; 8 U.S.C. 1324a) are repealed.

(2) CONSTRUCTION.—Nothing in this subsection or in subsection (d) of section 274A, as amended by subsection (a), may be construed to limit the authority of the Secretary to allow or continue to allow the participation of employers who participated in the basic pilot program under such sections 401, 402, 403, 404, and 405 in the Electronic Employment Verification System established pursuant to such subsection (d).

(c) TECHNICAL AMENDMENTS.—

(1) DEFINITION OF UNAUTHORIZED ALIEN.—Sections 218(i)(1) (8 U.S.C. 1188(i)(1)), 245(c)(8) (8 U.S.C. 1255(c)(8)), 274(a)(3)(B)(i) (8 U.S.C. 1324(a)(3)(B)(i)), and 274B(a)(1) (8 U.S.C. 1324b(a)(1)) are amended by striking ''274A(h)(3)'' and inserting ''274A''.

(2) DOCUMENT REQUIREMENTS.—Section 274B (8 U.S.C. 1324b) is amended—

(A) in subsections (a)(6) and (g)(2)(B), by striking ''274A(b)'' and inserting ''274A(d)''; and

(B) in subsection (g)(2)(B)(ii), by striking ''274A(b)(5)'' and inserting ''274A(d)''.

(d) AUTHORIZATION OF APPROPRIATIONS.—

(1) COMMISSIONER OF SOCIAL SECURITY.—There are authorized to be appropriated to the Commissioner of Social Security for each of the fiscal years 2007 through 2011 such sums as may be necessary to carry out the responsibilities of the Commission under section 274A of the Immigration and Nationality Act, as amended by subsection (a).

(2) SECRETARY OF HOMELAND SECURITY.—There are authorized to be appropriated to the Secretary for each of the fiscal years 2007 through 2011 such sums as may be necessary to carry out section 274A of the Immigration and Nationality Act, as amended by section 301(a).

(e) EFFECTIVE DATE.—The amendments made by subsections (a), (b), and (c) shall take effect on the date that is 180 days after the date of the enactment of this Act.

SEC. 302. ADDITIONAL WORKSITE ENFORCEMENT AND FRAUD DETECTION AGENTS.

(a) WORKSITE ENFORCEMENT.—The Secretary shall, subject to the availability of appropriations for such purpose, annually increase, by not less than 2,000, the number of positions for investigators dedicated to enforcing compliance with sections 274 and 274A of the Immigration and Nationality Act (8 U.S.C. 1324 and 1324a) during the 5-year period beginning on the date of the enactment of this Act.

(b) FRAUD DETECTION.—The Secretary shall, subject to the availability of appropriations for such purpose, increase by not less than 1,000 the number of positions for agents of the Bureau of Immigration and Customs Enforcement dedicated to immigration fraud detection during the 5-year period beginning on the date of the enactment of this Act.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for each of the fiscal years 2007 through 2011 such sums as may be necessary to carry out this section.

SEC. 303. CLARIFICATION OF INELIGIBILITY FOR MISREPRESENTATION.

Section 212(a)(6)(C)(ii)(I) (8 U.S.C. 1182(a)(6)(C)(ii)(I)), is amended by striking ''citizen'' and inserting ''national''.

SEC. 304. ANTIDISCRIMINATION PROTECTIONS.

(a) APPLICATION OF PROHIBITION OF DISCRIMINATION TO VERIFICATION SYSTEM.—Section 274B(a)(1) (8 U.S.C. 1324b(a)(1)) is amended by inserting '', the verification of the individual's work authorization through the Electronic Employment Verification System described in section 274A(d),'' after ''the individual for employment''.

(b) CLASSES OF ALIENS AS PROTECTED INDIVIDUALS.—Section 274B(a)(3)(B) (8 U.S.C. 1324b(a)(3)(B)) is amended to read as follows:

''(B) is an alien who is—

''(i) lawfully admitted for permanent residence;

''(ii) granted the status of an alien lawfully admitted for temporary residence under section 210(a) or 245(a)(1);

''(iii) admitted as a refugee under section 207;

''(iv) granted asylum under section 208;

''(v) granted the status of a nonimmigrant under section 101(a)(15)(H)(ii)(c);

''(vi) granted temporary protected status under section 244; or

''(vii) granted parole under section 212(d)(5).''.

(c) REQUIREMENTS FOR ELECTRONIC EMPLOYMENT VERIFICATION.—Section 274B(a) (8 U.S.C. 1324b(a)) is amended by adding at the end the following:

''(7) ANTIDISCRIMINATION REQUIREMENTS OF THE ELECTRONIC EMPLOYMENT VERIFICATION SYSTEM.—It is an unfair immigration-related employment practice for a person or other entity, in the course of the electronic verification process described in section 274A(d)—

''(A) to terminate or undertake any adverse employment action due to a tentative nonconfirmation;

''(B) to use the verification system for screening of an applicant prior to an offer of employment;

''(C) except as described in section 274A(d)(4)(B), to use the verification system for a current employee after the first 3 days of employment, or for the reverification of an employee after the employee has satisfied the process described in section 274A(b).''.

(d) INCREASE IN CIVIL MONEY PENALTIES.—Section 274B(g)(2) (8 U.S.C. 1324b(g)(2)) is amended—

(1) in subparagraph (B)(iv)—

(A) in subclause (I), by striking ''$250 and not more than $2,000'' and inserting ''$1,000 and not more than $4,000'';

(B) in subclause (II), by striking ''$2,000 and not more than $5,000'' and inserting ''$4,000 and not more than $10,000'';

(C) in subclause (III), by striking ''$3,000 and not more than $10,000'' and inserting ''$6,000 and not more than $20,000''; and

(D) in subclause (IV), by striking ''$100 and not more than $1,000'' and inserting ''$500 and not more than $5,000''.

(e) INCREASED FUNDING OF INFORMATION CAMPAIGN.—Section 274B(l)(3) (8 U.S.C. 1324b(l)(3)) is amended by inserting ''and an additional $40,000,000 for each of fiscal years 2007 through 2009'' before the period at the end.

(f) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to violations occurring on or after such date.

SA 3483. Mr. BOND (for himself and Mr. GREGG) submitted an amendment intended to be proposed to amendment SA 3424 proposed by Mr. FRIST to the

bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 324, strike line 8 and all that follows through page 332, line 7, and insert the following:

''(iv) an alien described in clause (i) who has been accepted and plans to attend an accredited graduate program in mathematics, engineering, technology, or the sciences in the United States for the purpose of obtaining a master's or doctorate degree or pursuing post-doctoral studies.''.

(b) CREATION OF J-STEM VISA CATEGORY.—Section 101(a)(15)(J) (8 U.S.C. 1101(a)(15)(J)) is amended to read as follows:

''(J) an alien with a residence in a foreign country that the alien has no intention of abandoning who is a bona fide student, scholar, trainee, teacher, professor, research assistant, specialist, or leader in a field of specialized knowledge or skill, or other person of similar description, and who—

''(i) is coming temporarily to the United States as a participant in a program (other than a graduate program described in clause (ii))designated by the Director of the United States Information Agency, for the purpose of teaching, instructing or lecturing, studying, observing, conducting research, consulting, demonstrating special skills, or receiving training and who, if coming to the United States to participate in a program under which the alien will receive graduate medical education or training, also meets the requirements of section 212(j), and the alien spouse and minor children of any such alien if accompanying the alien or following to join the alien; or

''(ii) has been accepted and plans to attend an accredited graduate program in mathematics, engineering, technology, or the physical or life sciences in the United States for the purpose of obtaining a master's or doctorate degree or pursuing post-doctoral studies.''.

(c) ADMISSION OF NONIMMIGRANTS.—Section 214(b) (8 U.S.C. 1184(b)) is amended by striking ''subparagraph (L) or (V)'' and inserting ''subparagraph (F)(iv), (J)(ii), (L), or (V)''.

(d) REQUIREMENTS FOR F–4 OR J-STEM VISA.—Section 214(m) (8 U.S.C. 1184(m)) is amended—

(1) by inserting before paragraph (1) the following:

''(m) NONIMMIGRANT ELEMENTARY, SECONDARY, AND POST-SECONDARY SCHOOL STUDENTS.—''; and

(2) by adding at the end the following:

''(3) A visa issued to an alien under subparagraph (F)(iv) or (J)(ii) of section 101(a)(15) shall be valid—

''(A) during the intended period of study in a graduate program described in such section;

''(B) for an additional period, not to exceed 1 year after the completion of the graduate program, if the alien is actively pursuing an offer of employment related to the knowledge and skills obtained through the graduate program; and

''(C) for the additional period necessary for the adjudication of any application for labor certification, employment-based immigrant petition, and application under section 245(a)(2) to adjust such alien's status to that of an alien lawfully admitted for permanent residence, if such application for labor certification or employment-based immigrant petition has been filed not later than 1 year after the completion of the graduate program.''.

(e) WAIVER OF FOREIGN RESIDENCE REQUIREMENT.—Section 212(e) (8 U.S.C. 1182(e)) is amended—

(1) by inserting ''(1)'' before ''No person'';

(2) by striking ''admission (i) whose'' and inserting the following: ''admission—

''(A) whose'';

(3) by striking ''residence, (ii) who'' and inserting the following: ''residence;

''(B) who'';

(4) by striking ''engaged, or (iii) who'' and inserting the following: ''engaged; or

''(C) who'';

(5) by striking ''training, shall'' and inserting the following: ''training, ''shall'';

(6) by striking ''United States: *Provided*, That upon'' and inserting the following: ''United States.

''(2) Upon'';

(7) by striking ''section 214(l): And provided further, That, except'' and inserting the following: ''section 214(l).

''(3) Except''; and

(8) by adding at the end the following:

''(4) An alien who qualifies for adjustment of status under section 214(m)(3)(C) shall not be subject to the 2-year foreign residency requirement under this subsection.''.

(f) OFF CAMPUS WORK AUTHORIZATION FOR FOREIGN STUDENTS.—

(1) IN GENERAL.—Aliens admitted as nonimmigrant students described in section 101(a)(15)(F) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(F)) may be employed in an off-campus position unrelated to the alien's field of study if—

(A) the alien has enrolled full time at the educational institution and is maintaining good academic standing;

(B) the employer provides the educational institution and the Secretary of Labor with an attestation that the employer—

(i) has spent at least 21 days recruiting United States citizens to fill the position; and

(ii) will pay the alien and other similarly situated workers at a rate equal to not less than the greater of—

(I) the actual wage level for the occupation at the place of employment; or

(II) the prevailing wage level for the occupation in the area of employment; and

(C) the alien will not be employed more than—

(i) 20 hours per week during the academic term; or

(ii) 40 hours per week during vacation periods and between academic terms.

(2) DISQUALIFICATION.—If the Secretary of Labor determines that an employer has provided an attestation under paragraph (1)(B) that is materially false or has failed to pay wages in accordance with the attestation, the employer, after notice and opportunity for a hearing, shall be disqualified from employing an alien student under paragraph (1).

(g) ADJUSTMENT OF STATUS.—Section 245(a) (8 U.S.C. 1255(a)) is amended to read as follows:

''(a) AUTHORIZATION.—

''(1) IN GENERAL.—The status of an alien, who was inspected and admitted or paroled into the United States, or who has an approved petition for classification under subparagraph (A)(iii), (A)(iv), (B)(ii), or (B)(iii) of section 204(a)(1), may be adjusted by the Secretary of Homeland Security or the Attorney General, under such regulations as the Secretary or the Attorney General may prescribe, to that of an alien lawfully admitted for permanent residence if—

''(A) the alien makes an application for such adjustment;

''(B) the alien is eligible to receive an immigrant visa;

''(C) the alien is admissible to the United States for permanent residence; and

''(D) an immigrant visa is immediately available to the alien at the time the application is filed.

''(2) STUDENT VISAS.—Notwithstanding the requirement under paragraph (1)(D), an alien may file an application for adjustment of status under this section if—

''(A) the alien has been issued a visa or otherwise provided nonimmigrant status under subparagraph (J)(ii) or (F)(iv) of section 101(a)(15), or would have qualified for such nonimmigrant status if subparagraph (J)(ii) or (F)(iv) of section 101(a)(15) had been enacted before such alien's graduation;

''(B) the alien has earned a master's or doctorate degree or completed post-doctoral studies in the sciences, technology, engineering, or mathematics;

''(C) the alien is the beneficiary of a petition filed under subparagraph (E) or (F) of section 204(a)(1); and

''(D) a fee of $2,000 is remitted to the Secretary on behalf of the alien.

''(3) LIMITATION.—An application for adjustment of status filed under this section may not be approved until an immigrant visa number becomes available.''.

(h) USE OF FEES.—

(1) JOB TRAINING; SCHOLARSHIPS.—Section 286(s)(1) (8 U.S.C. 1356(s)(1)) is amended by inserting ''and 80 percent of the fees collected under section 245(a)(2)(D)'' before the period at the end.

(2) FRAUD PREVENTION AND DETECTION.—Section 286(v)(1) (8 U.S.C. 1356(v)(1)) is amended by inserting ''and 20 percent of the fees collected under section 245(a)(2)(D)'' before the period at the end.

SEC. 508. VISAS FOR INDIVIDUALS WITH ADVANCED DEGREES.

(a) ALIENS WITH CERTAIN ADVANCED DEGREES NOT SUBJECT TO NUMERICAL LIMITATIONS ON EMPLOYMENT BASED IMMIGRANTS.—

(1) IN GENERAL.—Section 201(b)(1) (8 U.S.C. 1151(b)(1)), as amended by section 505, is amended by adding at the end the following:

''(G) Aliens who have earned a master's or doctorate degree, or completed post-doctoral studies, in science, technology, engineering, or math and have been working in a related field in the United States under a nonimmigrant visa during the 3-year period preceding their application for an immigrant visa under section 203(b).

''(H) Aliens described in subparagraph (A) or (B) of section 203(b)(1)(A) or who have received a national interest waiver under section 203(b)(2)(B).

''(I) The spouse and minor children of an alien who is admitted as an employment-based immigrant under section 203(b).''.

(2) APPLICABILITY.—The amendment made by paragraph (1) shall apply to any visa application—

(A) pending on the date of the enactment of this Act; or

(B) filed on or after such date of enactment.

(b) LABOR CERTIFICATION.—Section 212(a)(5)(A)(ii) (8 U.S.C. 1182(a)(5)(A)(ii)) is amended—

(1) in subclause (I), by striking ''or'' at the end;

(2) in subclause (II), by striking the period at the end and inserting ''; or''; and

(3) by adding at the end the following:

''(III) has a master's or doctorate degree, or completed post-doctoral studies, in the sciences, technology, engineering, or mathematics from an accredited university in the United States and is employed in a field related to such degree.''.

(c) TEMPORARY WORKERS.—Section 214(g) (8 U.S.C. 1184(g)) is amended—

(1) in paragraph (1)—

(A) by striking ''(beginning with fiscal year 1992)''; and

(B) in subparagraph (A)—

(i) in clause (vii), by striking ''each succeeding fiscal year; or'' and inserting ''each of fiscal years 2004, 2005, and 2006;''; and

(ii) by adding after clause (vii) the following:

''(viii) 115,000 in the first fiscal year beginning after the date of the enactment of this clause; and

''(ix) the number calculated under paragraph (9) in each fiscal year after the year described in clause (viii); or'';

(2) in paragraph (5)—

(A) in subparagraph (B), by striking ''or'' at the end;

(B) in subparagraph (C), by striking the period at the end and inserting ''; or''; and

(C) by adding at the end the following:

''(D) has earned a master's or doctorate degree, or completed post-doctoral studies, in science, technology, engineering, or math.'';

SA 3484. Mr. VITTER submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 233 beginning on line 14, strike all through page 491, line 9 and insert the following:

(A) by striking ''Attorney General'' each place that term appears and inserting ''Secretary of Homeland Security'';

(B) in subclause (I), by inserting before the semicolon, ', including a criminal enterprise undertaken by a foreign government, its agents, representatives, or officials';

(C) in subclause (III), by inserting ''where the information concerns a criminal enterprise undertaken by an individual or organization that is not a foreign government, its agents, representatives, or officials,'' before ''whose''; and

(D) by striking ''or'' at the end; and

(2) in clause (ii)—

(A) by striking ''Attorney General'' and inserting ''Secretary of Homeland Security''; and

(B) by striking ''1956,'' and all that follows through ''the alien;'' and inserting the following: ''1956; or

''(iii) who the Secretary of Homeland Security and the Secretary of State, in consultation with the Director of Central Intelligence, jointly determine—

''(I) is in possession of critical reliable information concerning the activities of governments or organizations, or their agents, representatives, or officials, with respect to weapons of mass destruction and related delivery systems, if such governments or organizations are at risk of developing, selling, or transferring such weapons or related delivery systems; and

''(II) is willing to supply or has supplied, fully and in good faith, information described in subclause (I) to appropriate persons within the United States Government;

''and, if the Secretary of Homeland Security (or with respect to clause (ii), the Secretary of State and the Secretary of Homeland Security jointly) considers it to be appropriate, the spouse, married and unmarried sons and daughters, and parents of an alien described in clause (i), (ii), or (iii) if accompanying, or following to join, the alien;''.

(b) NUMERICAL LIMITATION.—Section 214(k)(1) (8 U.S.C. 1184(k)(1)) is amended by striking ''The number of aliens'' and all that follows through the period and inserting the following: ''The number of aliens who may be provided a visa as nonimmigrants under section 101(a)(15)(S) in any fiscal year may not exceed 1,000.''.

(c) REPORTS.—

(1) CONTENT.—Paragraph (4) of section 214(k) (8 U.S.C. 1184(k)) is amended—

(A) in the matter preceding subparagraph (A)—

(i) by striking ''The Attorney General'' and inserting ''The Secretary of Homeland Security''; and

(ii) by striking ''concerning—'' and inserting ''that includes—'';

(B) in subparagraph (D), by striking ''and'';

(C) in subparagraph (E), by striking the period at the end and inserting ''; and''; and

(D) by inserting at the end the following:

''(F) in the event that the total number of such nonimmigrants admitted is fewer than 25 percent of the total number provided for under paragraph (1) of this subsection—

''(i) the reasons why the number of such nonimmigrants admitted is fewer than 25 percent of that provided for by law;

''(ii) the efforts made by the Secretary of Homeland Security to admit such nonimmigrants; and

''(iii) any extenuating circumstances that contributed to the admission of a number of such nonimmigrants that is fewer than 25 percent of that provided for by law.''.

(2) FORM OF REPORT.—Section 214(k) (8 U.S.C. 1184(k)) is amended by adding at the end the following new paragraph:

''(5) To the extent required by law and if it is in the interests of national security or the security of such nonimmigrants that are admitted, as determined by the Secretary of Homeland Security, the information contained in a report described in paragraph (4) may be classified, and the Secretary of Homeland Security shall, to the extent feasible, submit a non-classified version of the report to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate.''.

SEC. 411. L VISA LIMITATIONS.

Section 214(c)(2) (8 U.S.C. 1184(c)(2)) is amended—

(1) by striking ''Attorney General'' each place it appears and inserting ''Secretary of Homeland Security'';

(2) in subparagraph (E), by striking ''In the case'' and inserting ''Except as provided in subparagraph (H), in the case''; and

(3) by adding at the end the following:

''(G)(i) If the beneficiary of a petition under this subsection is coming to the United States to open, or be employed in, a new facility, the petition may be approved for a period not to exceed 12 months only if the employer operating the new facility has—

''(I) a business plan;

''(II) sufficient physical premises to carry out the proposed business activities; and

''(III) the financial ability to commence doing business immediately upon the approval of the petition.

''(ii) An extension of the approval period under clause (i) may not be granted until the importing employer submits to the Secretary of Homeland Security—

''(I) evidence that the importing employer meets the requirements of this subsection;

''(II) evidence that the beneficiary meets the requirements of section 101(a)(15)(L);

''(III) a statement summarizing the original petition;

''(IV) evidence that the importing employer has fully complied with the business plan submitted under clause (i);

''(V) evidence of the truthfulness of any representations made in connection with the filing of the original petition;

''(VI) evidence that the importing employer, during the previous 12 months, has been doing business at the new facility through regular, systematic, and continuous provision of goods or services, or has otherwise been taking commercially reasonable steps to establish the new facility as a commercial enterprise;

''(VII) a statement of the duties the beneficiary has performed at the new facility during the previous 12 months and the duties the beneficiary will perform at the new facility during the extension period approved under this clause;

''(VIII) a statement describing the staffing at the new facility, including the number of employees and the types of positions held by such employees;

''(IX) evidence of wages paid to employees if the beneficiary will be employed in a managerial or executive capacity;

''(X) evidence of the financial status of the new facility; and

''(XI) any other evidence or data prescribed by the Secretary.

''(iii) Notwithstanding subclauses (I) through (VI) of clause (ii) and subject to the maximum period of authorized admission set forth in subparagraph (D), the Secretary of Homeland Security may approve a subsequently filed petition on behalf of the beneficiary to continue employment at the facility described in this subsection for a period beyond the initially granted 12-month period if the importing employer demonstrates that the failure to satisfy any of the requirements described in those subclauses was directly caused by extraordinary circumstances beyond the control of the importing employer.

''(H)(i) The Secretary of Homeland Security may not authorize the spouse of an alien described under section 101(a)(15)(L), who is a dependent of a beneficiary under subparagraph (G), to engage in employment in the United States during the initial 9-month period described in subparagraph (G)(i).

''(ii) A spouse described in clause (i) may be provided employment authorization upon the approval of an extension under subparagraph (G)(ii).

''(I) For purposes of determining the eligibility of an alien for classification under Section 101(a)(15)(L) of this Act, the Secretary of Homeland Security shall establish a program to work cooperatively with the Department of State to verify a company or facility's existence in the United States and abroad.''.

SEC. 412. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary such sums as may be necessary to carry out this subtitle and the amendments made by this subtitle for the first fiscal year beginning before the date of enactment of this Act and each of the subsequent fiscal years beginning not more than 7 years after the effective date of the regulations promulgated by the Secretary to implement this subtitle.

Subtitle B—Immigration Injunction Reform

SEC. 421. SHORT TITLE.

This subtitle may be cited as the ''Fairness in Immigration Litigation Act of 2006''.

SEC. 422. APPROPRIATE REMEDIES FOR IMMIGRATION LEGISLATION.

(a) REQUIREMENTS FOR AN ORDER GRANTING PROSPECTIVE RELIEF AGAINST THE GOVERNMENT.—

(1) IN GENERAL.—If a court determines that prospective relief should be ordered against the Government in any civil action pertaining to the administration or enforcement of the immigration laws of the United States, the court shall—

(A) limit the relief to the minimum necessary to correct the violation of law;

(B) adopt the least intrusive means to correct the violation of law;

(C) minimize, to the greatest extent practicable, the adverse impact on national security, border security, immigration administration and enforcement, and public safety, and

(D) provide for the expiration of the relief on a specific date, which is not later than the earliest date necessary for the Government to remedy the violation.

(2) WRITTEN EXPLANATION.—The requirements described in subsection (1) shall be discussed and explained in writing in the order granting prospective relief and must be sufficiently detailed to allow review by another court.

(3) EXPIRATION OF PRELIMINARY INJUNCTIVE RELIEF.—Preliminary injunctive relief shall automatically expire on the date that is 90 days after the date on which such relief is entered, unless the court—

(A) makes the findings required under paragraph (1) for the entry of permanent prospective relief; and

(B) makes the order final before expiration of such 90-day period.

(4) REQUIREMENTS FOR ORDER DENYING MOTION.—This subsection shall apply to any order denying the Government's motion to vacate, modify, dissolve or otherwise terminate an order granting prospective relief in any civil action pertaining to the administration or enforcement of the immigration laws of the United States.

(b) PROCEDURE FOR MOTION AFFECTING ORDER GRANTING PROSPECTIVE RELIEF AGAINST THE GOVERNMENT.—

(1) IN GENERAL.—A court shall promptly rule on the Government's motion to vacate, modify, dissolve or otherwise terminate an order granting prospective relief in any civil action pertaining to the administration or enforcement of the immigration laws of the United States.

(2) AUTOMATIC STAYS.—

(A) IN GENERAL.—The Government's motion to vacate, modify, dissolve, or otherwise terminate an order granting prospective relief made in any civil action pertaining to the administration or enforcement of the immigration laws of the United States shall automatically, and without further order of the court, stay the order granting prospective relief on the date that is 15 days after the date on which such motion is filed unless the court previously has granted or denied the Government's motion.

(B) DURATION OF AUTOMATIC STAY.—An automatic stay under subparagraph (A) shall continue until the court enters an order granting or denying the Government's motion.

(C) POSTPONEMENT.—The court, for good cause, may postpone an automatic stay under subparagraph (A) for not longer than 15 days.

(D) ORDERS BLOCKING AUTOMATIC STAYS.—Any order staying, suspending, delaying, or otherwise barring the effective date of the automatic stay described in subparagraph (A), other than an order to postpone the effective date of the automatic stay for not longer than 15 days under subparagraph (C), shall be—

(i) treated as an order refusing to vacate, modify, dissolve or otherwise terminate an injunction; and

(ii) immediately appealable under section 1292(a)(1) of title 28, United States Code.

(c) SETTLEMENTS.—

(1) CONSENT DECREES.—In any civil action pertaining to the administration or enforcement of the immigration laws of the United States, the court may not enter, approve, or continue a consent decree that does not comply with subsection (a).

(2) PRIVATE SETTLEMENT AGREEMENTS.—Nothing in this section shall preclude parties from entering into a private settlement agreement that does not comply with subsection (a) if the terms of that agreement are not subject to court enforcement other than reinstatement of the civil proceedings that the agreement settled.

(d) DEFINITIONS.—In this section:

(1) CONSENT DECREE.—The term ''consent decree''—

(A) means any relief entered by the court that is based in whole or in part on the consent or acquiescence of the parties; and

(B) does not include private settlements.

(2) GOOD CAUSE.—The term ''good cause'' does not include discovery or congestion of the court's calendar.

(3) GOVERNMENT.—The term ''Government'' means the United States, any Federal department or agency, or any Federal agent or official acting within the scope of official duties.

(4) PERMANENT RELIEF.—The term ''permanent relief'' means relief issued in connection with a final decision of a court.

(5) PRIVATE SETTLEMENT AGREEMENT.—The term ''private settlement agreement'' means an agreement entered into among the parties that is not subject to judicial enforcement other than the reinstatement of the civil action that the agreement settled.

(6) PROSPECTIVE RELIEF.—The term ''prospective relief'' means temporary, preliminary, or permanent relief other than compensatory monetary damages.

(e) EXPEDITED PROCEEDINGS.—It shall be the duty of every court to advance on the docket and to expedite the disposition of any civil action or motion considered under this section.

SEC. 423. EFFECTIVE DATE.

(a) IN GENERAL.—This subtitle shall apply with respect to all orders granting prospective relief in any civil action pertaining to the administration or enforcement of the immigration laws of the United States, whether such relief was ordered before, on, or after the date of the enactment of this Act.

(b) PENDING MOTIONS.—Every motion to vacate, modify, dissolve or otherwise terminate an order granting prospective relief in any such action, which motion is pending on the date of the enactment of this Act, shall be treated as if it had been filed on such date of enactment.

(c) AUTOMATIC STAY FOR PENDING MOTIONS.—

(1) IN GENERAL.—An automatic stay with respect to the prospective relief that is the subject of a motion described in subsection (b) shall take effect without further order of the court on the date which is 10 days after the date of the enactment of this Act if the motion—

(A) was pending for 45 days as of the date of the enactment of this Act; and

(B) is still pending on the date which is 10 days after such date of enactment.

(2) DURATION OF AUTOMATIC STAY.—An automatic stay that takes effect under paragraph (1) shall continue until the court enters an order granting or denying the Government's motion under section 422(b). There shall be no further postponement of the automatic stay with respect to any such pending motion under section 422(b)(2). Any order, staying, suspending, delaying or otherwise barring the effective date of this automatic stay with respect to pending motions described in subsection (b) shall be an order blocking an automatic stay subject to immediate appeal under section 422(b)(2)(D).

TITLE V—BACKLOG REDUCTION

SEC. 501. ELIMINATION OF EXISTING BACKLOGS.

(a) FAMILY-SPONSORED IMMIGRANTS.—Section 201(c) (8 U.S.C. 1151(c)) is amended to read as follows:

''(c) WORLDWIDE LEVEL OF FAMILY-SPONSORED IMMIGRANTS.—The worldwide level of family-sponsored immigrants under this subsection for a fiscal year is equal to the sum of—

''(1) 480,000;

''(2) the difference between the maximum number of visas authorized to be issued under this subsection during the previous fiscal year and the number of visas issued during the previous fiscal year;

''(3) the difference between—

''(A) the maximum number of visas authorized to be issued under this subsection during fiscal years 2001 through 2005 minus the number of visas issued under this subsection during those fiscal years; and

''(B) the number of visas calculated under subparagraph (A) that were issued after fiscal year 2005.''.

(b) EMPLOYMENT-BASED IMMIGRANTS.—Section 201(d) (8 U.S.C. 1151(d)) is amended to read as follows:

''(d) WORLDWIDE LEVEL OF EMPLOYMENT-BASED IMMIGRANTS.—

''(1) IN GENERAL.—Subject to paragraph (2), the worldwide level of employment-based immigrants under this subsection for a fiscal year is equal to the sum of—

''(A)(i) 450,000, for each of the fiscal years 2007 through 2016; or

''(ii) 290,000, for fiscal year 2017 and each subsequent fiscal year;

''(B) the difference between the maximum number of visas authorized to be issued under this subsection during the previous fiscal year and the number of visas issued during the previous fiscal year; and

''(C) the difference between—

''(i) the maximum number of visas authorized to be issued under this subsection during fiscal years 2001 through 2005 and the number of visa numbers issued under this subsection during those fiscal years; and

''(ii) the number of visas calculated under clause (i) that were issued after fiscal year 2005.

''(2) VISAS FOR SPOUSES AND CHILDREN.—Immigrant visas issued on or after October 1, 2004, to spouses and children of employment-based immigrants shall not be counted against the numerical limitation set forth in paragraph (1).''.

SEC. 502. COUNTRY LIMITS.

Section 202(a) (8 U.S.C. 1152(a)) is amended—

(1) in paragraph (2)—

(A) by striking '', (4), and (5)'' and inserting ''and (4)''; and

(B) by striking ''7 percent (in the case of a single foreign state) or 2 percent'' and inserting ''10 percent (in the case of a single foreign state) or 5 percent''; and

(2) by striking paragraph (5).

SEC. 503. ALLOCATION OF IMMIGRANT VISAS.

(a) PREFERENCE ALLOCATION FOR FAMILY-SPONSORED IMMIGRANTS.—Section 203(a) (8 U.S.C. 1153(a)) is amended to read as follows:

''(a) PREFERENCE ALLOCATIONS FOR FAMILY-SPONSORED IMMIGRANTS.—Aliens subject to the worldwide level specified in section 201(c) for family-sponsored immigrants shall be allocated visas as follows:

''(1) UNMARRIED SONS AND DAUGHTERS OF CITIZENS.—Qualified immigrants who are the unmarried sons or daughters of citizens of the United States shall be allocated visas in a quantity not to exceed the sum of—

''(A) 10 percent of such worldwide level; and

''(B) any visas not required for the class specified in paragraph (4).

''(2) SPOUSES AND UNMARRIED SONS AND DAUGHTERS OF PERMANENT RESIDENT ALIENS.—

''(A) IN GENERAL.—Visas in a quantity not to exceed 50 percent of such worldwide level plus any visas not required for the class specified in paragraph (1) shall be allocated to qualified immigrants who are—

''(i) the spouses or children of an alien lawfully admitted for permanent residence; or

''(ii) the unmarried sons or daughters of an alien lawfully admitted for permanent residence.

''(B) MINIMUM PERCENTAGE.—Visas allocated to individuals described in subparagraph (A)(i) shall constitute not less than 77

percent of the visas allocated under this paragraph.

''(3) MARRIED SONS AND DAUGHTERS OF CITIZENS.—Qualified immigrants who are the married sons and daughters of citizens of the United States shall be allocated visas in a quantity not to exceed the sum of—

''(A) 10 percent of such worldwide level; and

''(B) any visas not required for the classes specified in paragraphs (1) and (2).

''(4) BROTHERS AND SISTERS OF CITIZENS.—Qualified immigrants who are the brothers or sisters of a citizen of the United States who is at least 21 years of age shall be allocated visas in a quantity not to exceed 30 percent of the worldwide level.''.

(b) PREFERENCE ALLOCATION FOR EMPLOYMENT-BASED IMMIGRANTS.—Section 203(b) (8 U.S.C. 1153(b)) is amended—

(1) in paragraph (1), by striking ''28.6 percent'' and inserting ''15 percent'';

(2) in paragraph (2)(A), by striking ''28.6 percent'' and inserting ''15 percent'';

(3) in paragraph (3)(A)—

(A) by striking ''28.6 percent'' and inserting ''35 percent''; and

(B) by striking clause (iii);

(4) by striking paragraph (4);

(5) by redesignating paragraph (5) as paragraph (4);

(6) in paragraph (4)(A), as redesignated, by striking ''7.1 percent'' and inserting ''5 percent'';

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

''(5) OTHER WORKERS.—

''(A) IN GENERAL.—Visas shall be made available, in a number not to exceed 30 percent of such worldwide level, plus any visa numbers not required for the classes specified in paragraphs (1) through (4), to qualified immigrants who are capable, at the time of petitioning for classification under this paragraph, of performing unskilled labor that is not of a temporary or seasonal nature, for which qualified workers are determined to be unavailable in the United States.

''(B) PRIORITY.—In allocating visas under subparagraph (A), priority shall be given to qualified immigrants who were physically present in the United States before January 7, 2004,''; and

(8) by striking paragraph (6).

(c) CONFORMING AMENDMENTS.—

(1) DEFINITION OF SPECIAL IMMIGRANT.—Section 101(a)(27)(M) (8 U.S.C. 1101(a)(27)(M)) is amended by striking ''subject to the numerical limitations of section 203(b)(4),''.

(2) REPEAL OF TEMPORARY REDUCTION IN WORKERS' VISAS.—Section 203(e) of the Nicaraguan Adjustment and Central American Relief Act (Public Law 105–100; 8 U.S.C. 1153 note) is repealed.

SEC. 504. RELIEF FOR MINOR CHILDREN.

(a) IN GENERAL.—Section 201(b)(2) (8 U.S.C. 1151(b)(2)) is amended to read as follows:

''(2)(A)(i) Aliens admitted under section 211(a) on the basis of a prior issuance of a visa under section 203(a) to their accompanying parent who is an immediate relative.

''(ii) In this subparagraph, the term 'immediate relative' means a child, spouse, or parent of a citizen of the United States (and each child of such child, spouse, or parent who is accompanying or following to join the child, spouse, or parent), except that, in the case of parents, such citizens shall be at least 21 years of age.

''(iii) An alien who was the spouse of a citizen of the United States for not less than 2 years at the time of the citizen's death and was not legally separated from the citizen at the time of the citizen's death, and each child of such alien, shall be considered, for purposes of this subsection, to remain an immediate relative after the date of the citizen's death if the spouse files a petition under section 204(a)(1)(A)(ii) before the earlier of—

''(I) 2 years after such date; or

''(II) the date on which the spouse remarries.

''(iv) In this clause, an alien who has filed a petition under clause (iii) or (iv) of section 204(a)(1)(A) remains an immediate relative if the United States citizen spouse or parent loses United States citizenship on account of the abuse.

''(B) Aliens born to an alien lawfully admitted for permanent residence during a temporary visit abroad.''.

(b) PETITION.—Section 204(a)(1)(A)(ii) (8 U.S.C. 1154 (a)(1)(A)(ii)) is amended by striking ''in the second sentence of section 201(b)(2)(A)(i) also'' and inserting ''in section 201(b)(2)(A)(iii) or an alien child or alien parent described in the 201(b)(2)(A)(iv)''.

SEC. 505. SHORTAGE OCCUPATIONS.

(a) EXCEPTION TO DIRECT NUMERICAL LIMITATIONS.—Section 201(b)(1) (8 U.S.C. 1151(b)(1)) is amended by adding at the end the following new subparagraph:

''(F)(i) During the period beginning on the date of the enactment the Comprehensive Immigration Reform Act of 2006 and ending on September 30, 2017, an alien—

''(I) who is otherwise described in section 203(b); and

''(II) who is seeking admission to the United States to perform labor in shortage occupations designated by the Secretary of Labor for blanket certification under section 212(a)(5)(A) due to the lack of sufficient United States workers able, willing, qualified, and available for such occupations and for which the employment of aliens will not adversely affect the terms and conditions of similarly employed United States workers.

''(ii) During the period described in clause (i), the spouse or dependents of an alien described in clause (i), if accompanying or following to join such alien.''.

(b) EXCEPTION TO NONDISCRIMINATION REQUIREMENTS.—Section 202(a)(1)(A) (8 U.S.C. 1152(a)(1)(A)) is amended by striking ''201(b)(2)(A)(i)'' and inserting ''201(b)''.

(c) EXCEPTION TO PER COUNTRY LEVELS FOR FAMILY-SPONSORED AND EMPLOYMENT-BASED IMMIGRANTS.—Section 202(a)(2) (8 U.S.C. 1152(a)(2)), as amended by section 502(1), is further amended by inserting '', except for aliens described in section 201(b),'' after ''any fiscal year''.

(d) INCREASING THE DOMESTIC SUPPLY OF NURSES AND PHYSICAL THERAPISTS.—Not later than January 1, 2007, the Secretary of Health and Human Services shall—

(1) submit to Congress a report on the source of newly licensed nurses and physical therapists in each State, which report shall—

(A) include the past 3 years for which data are available;

(B) provide separate data for each occupation and for each State;

(C) separately identify those receiving their initial license and those licensed by endorsement from another State;

(D) within those receiving their initial license in each year, identify the number who received their professional education in the United States and those who received such education outside the United States; and

(E) to the extent possible, identify, by State of residence and country of education, the number of nurses and physical therapists who were educated in any of the 5 countries (other than the United States) from which the most nurses and physical therapists arrived;

(F) identify the barriers to increasing the supply of nursing faculty, domestically trained nurses, and domestically trained physical therapists;

(G) recommend strategies to be followed by Federal and State governments that would be effective in removing such barriers, including strategies that address barriers to advancement to become registered nurses for other health care workers, such as home health aides and nurses assistants;

(H) recommend amendments to Federal legislation that would increase the supply of nursing faculty, domestically trained nurses, and domestically trained physical therapists;

(I) recommend Federal grants, loans, and other incentives that would provide increases in nurse educators, nurse training facilities, and other steps to increase the domestic education of new nurses and physical therapists;

(J) identify the effects of nurse emigration on the health care systems in their countries of origin; and

(K) recommend amendments to Federal law that would minimize the effects of health care shortages in the countries of origin from which immigrant nurses arrived;

(2) enter into a contract with the National Academy of Sciences Institute of Medicine to determine the level of Federal investment under titles VII and VIII of the Public Health Service Act necessary to eliminate the domestic nursing and physical therapist shortage not later than 7 years from the date on which the report is published; and

(3) collaborate with other agencies, as appropriate, in working with ministers of health or other appropriate officials of the 5 countries from which the most nurses and physical therapists arrived, to—

(A) address health worker shortages caused by emigration;

(B) ensure that there is sufficient human resource planning or other technical assistance needed to reduce further health worker shortages in such countries.

SEC. 506. RELIEF FOR WIDOWS AND ORPHANS.

(a) SHORT TITLE.—This section may be cited as the ''Widows and Orphans Act of 2006''.

(b) NEW SPECIAL IMMIGRANT CATEGORY.—

(1) CERTAIN CHILDREN AND WOMEN AT RISK OF HARM.—Section 101(a)(27) (8 U.S.C. 1101(a)(27)) is amended—

(A) in subparagraph (L), by inserting a semicolon at the end;

(B) in subparagraph (M), by striking the period at the end and inserting ''; or''; and

(C) by adding at the end the following:

''(N) subject to subsection (j), an immigrant who is not present in the United States—

''(i) who is—

''(I) referred to a consular, immigration, or other designated official by a United States Government agency, an international organization, or recognized nongovernmental entity designated by the Secretary of State for purposes of such referrals; and

''(II) determined by such official to be a minor under 18 years of age (as determined under subsection (j)(5))—

''(aa) for whom no parent or legal guardian is able to provide adequate care;

''(bb) who faces a credible fear of harm related to his or her age;

''(cc) who lacks adequate protection from such harm; and

''(dd) for whom it has been determined to be in his or her best interests to be admitted to the United States; or

''(ii) who is—

''(I) referred to a consular or immigration official by a United States Government agency, an international organization or recognized nongovernmental entity designated by the Secretary of State for purposes of such referrals; and

''(II) determined by such official to be a female who has—

''(aa) a credible fear of harm related to her sex; and

''(bb) a lack of adequate protection from such harm.''.

(2) STATUTORY CONSTRUCTION.—Section 101 (8 U.S.C. 1101) is amended by adding at the end the following:

''(j)(1) No natural parent or prior adoptive parent of any alien provided special immigrant status under subsection (a)(27)(N)(i) shall thereafter, by virtue of such parentage, be accorded any right, privilege, or status under this Act.

''(2)(A) No alien who qualifies for a special immigrant visa under subsection (a)(27)(N)(ii) may apply for derivative status or petition for any spouse who is represented by the alien as missing, deceased, or the source of harm at the time of the alien's application and admission. The Secretary of Homeland Security may waive this requirement for an alien who demonstrates that the alien's representations regarding the spouse were bona fide.

''(B) An alien who qualifies for a special immigrant visa under subsection (a)(27)(N) may apply for derivative status or petition for any sibling under the age of 18 years or children under the age of 18 years of any such alien, if accompanying or following to join the alien. For purposes of this subparagraph, a determination of age shall be made using the age of the alien on the date the petition is filed with the Department of Homeland Security.

''(3) An alien who qualifies for a special immigrant visa under subsection (a)(27)(N) shall be treated in the same manner as a refugee solely for purposes of section 412.

''(4) The provisions of paragraphs (4), (5), and (7)(A) of section 212(a) shall not be applicable to any alien seeking admission to the United States under subsection (a)(27)(N), and the Secretary of Homeland Security may waive any other provision of such section (other than paragraph 2(C) or subparagraph (A), (B), (C), or (E) of paragraph (3) with respect to such an alien for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest. Any such waiver by the Secretary of Homeland Security shall be in writing and shall be granted only on an individual basis following an investigation. The Secretary of Homeland Security shall provide for the annual reporting to Congress of the number of waivers granted under this paragraph in the previous fiscal year and a summary of the reasons for granting such waivers.

''(5) For purposes of subsection (a)(27)(N)(i)(II), a determination of age shall be made using the age of the alien on the date on which the alien was referred to the consular, immigration, or other designated official.

''(6) The Secretary of Homeland Security shall waive any application fee for a special immigrant visa for an alien described in section 101(a)(27)(N).''.

(3) EXPEDITED PROCESS.—Not later than 45 days after the date of referral to a consular, immigration, or other designated official (as described in section 101(a)(27)(N) of the Immigration and Nationality Act, as added by paragraph (1))—

(A) special immigrant status shall be adjudicated; and

(B) if special immigrant status is granted, the alien shall be paroled to the United States pursuant to section 212(d)(5) of that Act (8 U.S.C. 1182(d)(5)) and allowed to apply for adjustment of status to permanent residence under section 245 of that Act (8 U.S.C. 1255) within 1 year after the alien's arrival in the United States.

(4) REPORT TO CONGRESS.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives on the progress of the implementation of this section and the amendments made by this section, including—

(A) data related to the implementation of this section and the amendments made by this section;

(B) data regarding the number of placements of females and children who faces a credible fear of harm as referred to in section 101(a)(27)(N) of the Immigration and Nationality Act, as added by paragraph (1); and

(C) any other information that the Secretary considers appropriate.

(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this subsection and the amendments made by this subsection.

(c) REQUIREMENTS FOR ALIENS.—

(1) REQUIREMENT PRIOR TO ENTRY INTO THE UNTIED STATES.—

(A) DATABASE SEARCH.—An alien may not be admitted to the United States unless the Secretary has ensured that a search of each database maintained by an agency or department of the United States has been conducted to determine whether such alien is ineligible to be admitted to the Untied States on criminal, security, or related grounds.

(B) COOPERATION AND SCHEDULE.—The Secretary and the head of each appropriate agency or department of the United States shall work cooperatively to ensure that each database search required by subparagraph (A) is completed not later than 45 days after the date on which an alien files a petition seeking a special immigration visa under section 101(a)(27)(N) of the Immigration and Nationality Act, as added by subsection (b)(1).

(2) REQUIREMENT AFTER ENTRY INTO THE UNITED STATES.—

(A) REQUIREMENT TO SUBMIT FINGERPRINTS.—

(i) IN GENERAL.—Not later than 30 days after the date that an alien enters the United States, the alien shall be fingerprinted and submit to the Secretary such fingerprints and any other personal biometric data required by the Secretary.

(ii) OTHER REQUIREMENTS.—The Secretary may prescribe regulations that permit fingerprints submitted by an alien under section 262 of the Immigration and Nationality Act (8 U.S.C. 1302) or any other provision of law to satisfy the requirement to submit fingerprints of clause (i).

(B) DATABASE SEARCH.—The Secretary shall ensure that a search of each database that contains fingerprints that is maintained by an agency or department of the United States be conducted to determine whether such alien is ineligible for an adjustment of status under any provision of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) on criminal, security, or related grounds.

(C) COOPERATION AND SCHEDULE.—The Secretary and the head of each appropriate agency or department of the United States shall work cooperatively to ensure that each database search required by subparagraph (B) is completed not later than 180 days after the date on which the alien enters the United States.

(D) ADMINISTRATIVE AND JUDICIAL REVIEW.—

(i) IN GENERAL.—There may be no review of a determination by the Secretary, after a search required by subparagraph (B), that an alien is ineligible for an adjustment of status, under any provision of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) on criminal, security, or related grounds except as provided in this subparagraph.

(ii) ADMINISTRATIVE REVIEW.—An alien may appeal a determination described in clause (i) through the Administrative Appeals Office of the Bureau of Citizenship and Immigration Services. The Secretary shall ensure that a determination on such appeal is made not later than 60 days after the date that the appeal is filed.

(iii) JUDICIAL REVIEW.—There may be no judicial review of a determination described in clause (i).

SEC. 507. STUDENT VISAS.

(a) IN GENERAL.—Section 101(a)(15)(F) (8 U.S.C. 1101(a)(15)(F)) is amended—

(1) in clause (i)—

(A) by striking ''he has no intention of abandoning, who is'' and inserting the following: ''except in the case of an alien described in clause (iv), the alien has no intention of abandoning, who is—

''(I)'';

(B) by striking ''consistent with section 214(l)'' and inserting ''(except for a graduate program described in clause (iv)) consistent with section 214(m)'';

(C) by striking the comma at the end and inserting the following: ''; or

''(II) engaged in temporary employment for optional practical training related to the alien's area of study, which practical training shall be authorized for a period or periods of up to 24 months;'';

(2) in clause (ii)—

(A) by inserting ''or (iv)'' after ''clause (i)''; and

(B) by striking '', and'' and inserting a semicolon;

(3) in clause (iii), by adding ''and'' at the end; and

(4) by adding at the end the following:

''(iv) an alien described in clause (i) who has been accepted and plans to attend an accredited graduate program in mathematics, engineering, technology, or the sciences in the United States for the purpose of obtaining an advanced degree.''.

(b) ADMISSION OF NONIMMIGRANTS.—Section 214(b) (8 U.S.C. 1184(b)) is amended by striking ''subparagraph (L) or (V)'' and inserting ''subparagraph (F)(iv), (L), or (V)''.

(c) REQUIREMENTS FOR F-4 VISA.—Section 214(m) (8 U.S.C. 1184(m)) is amended—

(1) by inserting before paragraph (1) the following:

''(m) NONIMMIGRANT ELEMENTARY, SECONDARY, AND POST-SECONDARY SCHOOL STUDENTS.—''; and

(2) by adding at the end the following:

''(3) A visa issued to an alien under section 101(a)(15)(F)(iv) shall be valid—

''(A) during the intended period of study in a graduate program described in such section;

''(B) for an additional period, not to exceed 1 year after the completion of the graduate program, if the alien is actively pursuing an offer of employment related to the knowledge and skills obtained through the graduate program; and

''(C) for the additional period necessary for the adjudication of any application for labor certification, employment-based immigrant petition, and application under section 245(a)(2) to adjust such alien's status to that of an alien lawfully admitted for permanent residence, if such application for labor certification or employment-based immigrant petition has been filed not later than 1 year after the completion of the graduate program.''.

(d) OFF CAMPUS WORK AUTHORIZATION FOR FOREIGN STUDENTS.—

(1) IN GENERAL.—Aliens admitted as nonimmigrant students described in section 101(a)(15)(F) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(F)) may be employed in an off-campus position unrelated to the alien's field of study if—

(A) the alien has enrolled full time at the educational institution and is maintaining good academic standing;

(B) the employer provides the educational institution and the Secretary of Labor with an attestation that the employer—

(i) has spent at least 21 days recruiting United States citizens to fill the position; and

(ii) will pay the alien and other similarly situated workers at a rate equal to not less than the greater of—

(I) the actual wage level for the occupation at the place of employment; or

(II) the prevailing wage level for the occupation in the area of employment; and

(C) the alien will not be employed more than—

(i) 20 hours per week during the academic term; or

(ii) 40 hours per week during vacation periods and between academic terms.

(2) DISQUALIFICATION.—If the Secretary of Labor determines that an employer has provided an attestation under paragraph (1)(B) that is materially false or has failed to pay wages in accordance with the attestation, the employer, after notice and opportunity for a hearing, shall be disqualified from employing an alien student under paragraph (1).

(e) ADJUSTMENT OF STATUS.—Section 245(a) (8 U.S.C. 1255(a)) is amended to read as follows:

''(a) AUTHORIZATION.—

''(1) IN GENERAL.—The status of an alien, who was inspected and admitted or paroled into the United States, or who has an approved petition for classification under subparagraph (A)(iii), (A)(iv), (B)(ii), or (B)(iii) of section 204(a)(1), may be adjusted by the Secretary of Homeland Security or the Attorney General, under such regulations as the Secretary or the Attorney General may prescribe, to that of an alien lawfully admitted for permanent residence if—

''(A) the alien makes an application for such adjustment;

''(B) the alien is eligible to receive an immigrant visa;

''(C) the alien is admissible to the United States for permanent residence; and

''(D) an immigrant visa is immediately available to the alien at the time the application is filed.

''(2) STUDENT VISAS.—Notwithstanding the requirement under paragraph (1)(D), an alien may file an application for adjustment of status under this section if—

''(A) the alien has been issued a visa or otherwise provided nonimmigrant status under section 101(a)(15)(F)(iv), or would have qualified for such nonimmigrant status if section 101(a)(15)(F)(iv) had been enacted before such alien's graduation;

''(B) the alien has earned an advanced degree in the sciences, technology, engineering, or mathematics;

''(C) the alien is the beneficiary of a petition filed under subparagraph (E) or (F) of section 204(a)(1); and

''(D) a fee of $2,000 is remitted to the Secretary on behalf of the alien.

''(3) LIMITATION.—An application for adjustment of status filed under this section may not be approved until an immigrant visa number becomes available.''.

(f) USE OF FEES.—

(1) JOB TRAINING; SCHOLARSHIPS.—Section 286(s)(1) (8 U.S.C. 1356(s)(1)) is amended by inserting ''and 80 percent of the fees collected under section 245(a)(2)(D)'' before the period at the end.

(2) FRAUD PREVENTION AND DETECTION.—Section 286(v)(1) (8 U.S.C. 1356(v)(1)) is amended by inserting ''and 20 percent of the fees collected under section 245(a)(2)(D)'' before the period at the end.

SEC. 508. VISAS FOR INDIVIDUALS WITH ADVANCED DEGREES.

(a) ALIENS WITH CERTAIN ADVANCED DEGREES NOT SUBJECT TO NUMERICAL LIMITATIONS ON EMPLOYMENT BASED IMMIGRANTS.—

(1) IN GENERAL.—Section 201(b)(1) (8 U.S.C. 1151(b)(1)), as amended by section 505, is amended by adding at the end the following:

''(G) Aliens who have earned an advanced degree in science, technology, engineering, or math and have been working in a related field in the United States under a nonimmigrant visa during the 3-year period preceding their application for an immigrant visa under section 203(b).

''(H) Aliens described in subparagraph (A) or (B) of section 203(b)(1)(A) or who have received a national interest waiver under section 203(b)(2)(B).

''(I) The spouse and minor children of an alien who is admitted as an employment-based immigrant under section 203(b).''.

(2) APPLICABILITY.—The amendment made by paragraph (1) shall apply to any visa application—

(A) pending on the date of the enactment of this Act; or

(B) filed on or after such date of enactment.

(b) LABOR CERTIFICATION.—Section 212(a)(5)(A)(ii) (8 U.S.C. 1182(a)(5)(A)(ii)) is amended—

(1) in subclause (I), by striking ''or'' at the end;

(2) in subclause (II), by striking the period at the end and inserting ''; or''; and

(3) by adding at the end the following:

''(III) has an advanced degree in the sciences, technology, engineering, or mathematics from an accredited university in the United States and is employed in a field related to such degree.''.

(c) TEMPORARY WORKERS.—Section 214(g) (8 U.S.C. 1184(g)) is amended—

(1) in paragraph (1)—

(A) by striking ''(beginning with fiscal year 1992)''; and

(B) in subparagraph (A)—

(i) in clause (vii), by striking ''each succeeding fiscal year; or'' and inserting ''each of fiscal years 2004, 2005, and 2006;''; and

(ii) by adding after clause (vii) the following:

''(viii) 115,000 in the first fiscal year beginning after the date of the enactment of this clause; and

''(ix) the number calculated under paragraph (9) in each fiscal year after the year described in clause (viii); or'';

(2) in paragraph (5)—

(A) in subparagraph (B), by striking ''or'' at the end;

(B) in subparagraph (C), by striking the period at the end and inserting ''; or''; and

(C) by adding at the end the following:

''(D) has earned an advanced degree in science, technology, engineering, or math.'';

(3) by redesignating paragraphs (9), (10), and (11) as paragraphs (10), (11), and (12), respectively; and

(4) by inserting after paragraph (8) the following:

''(9) If the numerical limitation in paragraph (1)(A)—

''(A) is reached during a given fiscal year, the numerical limitation under paragraph (1)(A)(ix) for the subsequent fiscal year shall be equal to 120 percent of the numerical limitation of the given fiscal year; or

''(B) is not reached during a given fiscal year, the numerical limitation under paragraph (1)(A)(ix) for the subsequent fiscal year shall be equal to the numerical limitation of the given fiscal year.''.

(d) APPLICABILITY.—The amendment made by subsection (c)(2) shall apply to any visa application—

(1) pending on the date of the enactment of this Act; or

(2) filed on or after such date of enactment.

SA 3485. Mr. VITTER submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 225, beginning on line 17, strike all through page 491, line 9, and insert the following:

(d) OTHER STUDIES AND REPORTS.—

(1) STUDY BY LABOR.—The Secretary of Labor shall conduct a study on a sector-by-sector basis on the need for guest workers and the impact that any proposed temporary worker or guest worker program would have on wages and employment opportunities of American workers.

(2) STUDY BY GAO.—The Comptroller General of the United States shall conduct a study regarding establishing minimum criteria for effectively implementing any proposed temporary worker program and determining whether the Department has the capability to effectively enforce the program. If the Comptroller General determines that the Department does not have the capability to effectively enforce any proposed temporary worker program, the Comptroller General shall determine what additional manpower and resources would be required to ensure effective implementation.

(3) STUDY BY THE DEPARTMENT.—The Secretary shall conduct a study to determine if the border security and interior enforcement measures contained in this Act are being properly implemented and whether they are effective in securing United States borders and curbing illegal immigration.

(4) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall, in cooperation with the Secretary of Labor and the Comptroller General of the United States, submit a report to Congress regarding the studies conducted pursuant to paragraphs (1), (2), and (3).

SEC. 410. S VISAS.

(a) EXPANSION OF S VISA CLASSIFICATION.—Section 101(a)(15)(S) (8 U.S.C. 1101(a)(15)(S)) is amended—

(1) in clause (i)—

(A) by striking ''Attorney General'' each place that term appears and inserting ''Secretary of Homeland Security'';

(B) in subclause (I), by inserting before the semicolon, ', including a criminal enterprise undertaken by a foreign government, its agents, representatives, or officials';

(C) in subclause (III), by inserting ''where the information concerns a criminal enterprise undertaken by an individual or organization that is not a foreign government, its agents, representatives, or officials,'' before ''whose''; and

(D) by striking ''or'' at the end; and

(2) in clause (ii)—

(A) by striking ''Attorney General'' and inserting ''Secretary of Homeland Security''; and

(B) by striking ''1956,'' and all that follows through ''the alien;'' and inserting the following: ''1956; or

''(iii) who the Secretary of Homeland Security and the Secretary of State, in consultation with the Director of Central Intelligence, jointly determine—

''(I) is in possession of critical reliable information concerning the activities of governments or organizations, or their agents, representatives, or officials, with respect to weapons of mass destruction and related delivery systems, if such governments or organizations are at risk of developing, selling,

or transferring such weapons or related delivery systems; and

''(II) is willing to supply or has supplied, fully and in good faith, information described in subclause (I) to appropriate persons within the United States Government;

''and, if the Secretary of Homeland Security (or with respect to clause (ii), the Secretary of State and the Secretary of Homeland Security jointly) considers it to be appropriate, the spouse, married and unmarried sons and daughters, and parents of an alien described in clause (i), (ii), or (iii) if accompanying, or following to join, the alien;''.

(b) NUMERICAL LIMITATION.—Section 214(k)(1) (8 U.S.C. 1184(k)(1)) is amended by striking ''The number of aliens'' and all that follows through the period and inserting the following: ''The number of aliens who may be provided a visa as nonimmigrants under section 101(a)(15)(S) in any fiscal year may not exceed 1,000.''.

(c) REPORTS.—

(1) CONTENT.—Paragraph (4) of section 214(k) (8 U.S.C. 1184(k)) is amended—

(A) in the matter preceding subparagraph (A)—

(i) by striking ''The Attorney General'' and inserting ''The Secretary of Homeland Security''; and

(ii) by striking ''concerning—'' and inserting ''that includes—'';

(B) in subparagraph (D), by striking ''and'';

(C) in subparagraph (E), by striking the period at the end and inserting ''; and''; and

(D) by inserting at the end the following:

''(F) in the event that the total number of such nonimmigrants admitted is fewer than 25 percent of the total number provided for under paragraph (1) of this subsection—

''(i) the reasons why the number of such nonimmigrants admitted is fewer than 25 percent of that provided for by law;

''(ii) the efforts made by the Secretary of Homeland Security to admit such nonimmigrants; and

''(iii) any extenuating circumstances that contributed to the admission of a number of such nonimmigrants that is fewer than 25 percent of that provided for by law.''.

(2) FORM OF REPORT.—Section 214(k) (8 U.S.C. 1184(k)) is amended by adding at the end the following new paragraph:

''(5) To the extent required by law and if it is in the interests of national security or the security of such nonimmigrants that are admitted, as determined by the Secretary of Homeland Security, the information contained in a report described in paragraph (4) may be classified, and the Secretary of Homeland Security shall, to the extent feasible, submit a non-classified version of the report to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate.''.

SEC. 411. L VISA LIMITATIONS.

Section 214(c)(2) (8 U.S.C. 1184(c)(2)) is amended—

(1) by striking ''Attorney General'' each place it appears and inserting ''Secretary of Homeland Security'';

(2) in subparagraph (E), by striking ''In the case'' and inserting ''Except as provided in subparagraph (H), in the case''; and

(3) by adding at the end the following:

''(G)(i) If the beneficiary of a petition under this subsection is coming to the United States to open, or be employed in, a new facility, the petition may be approved for a period not to exceed 12 months only if the employer operating the new facility has—

''(I) a business plan;

''(II) sufficient physical premises to carry out the proposed business activities; and

''(III) the financial ability to commence doing business immediately upon the approval of the petition.

''(ii) An extension of the approval period under clause (i) may not be granted until the importing employer submits to the Secretary of Homeland Security—

''(I) evidence that the importing employer meets the requirements of this subsection;

''(II) evidence that the beneficiary meets the requirements of section 101(a)(15)(L);

''(III) a statement summarizing the original petition;

''(IV) evidence that the importing employer has fully complied with the business plan submitted under clause (i);

''(V) evidence of the truthfulness of any representations made in connection with the filing of the original petition;

''(VI) evidence that the importing employer, during the previous 12 months, has been doing business at the new facility through regular, systematic, and continuous provision of goods or services, or has otherwise been taking commercially reasonable steps to establish the new facility as a commercial enterprise;

''(VII) a statement of the duties the beneficiary has performed at the new facility during the previous 12 months and the duties the beneficiary will perform at the new facility during the extension period approved under this clause;

''(VIII) a statement describing the staffing at the new facility, including the number of employees and the types of positions held by such employees;

''(IX) evidence of wages paid to employees if the beneficiary will be employed in a managerial or executive capacity;

''(X) evidence of the financial status of the new facility; and

''(XI) any other evidence or data prescribed by the Secretary.

''(iii) Notwithstanding subclauses (I) through (VI) of clause (ii) and subject to the maximum period of authorized admission set forth in subparagraph (D), the Secretary of Homeland Security may approve a subsequently filed petition on behalf of the beneficiary to continue employment at the facility described in this subsection for a period beyond the initially granted 12-month period if the importing employer demonstrates that the failure to satisfy any of the requirements described in those subclauses was directly caused by extraordinary circumstances beyond the control of the importing employer.

''(H)(i) The Secretary of Homeland Security may not authorize the spouse of an alien described under section 101(a)(15)(L), who is a dependent of a beneficiary under subparagraph (G), to engage in employment in the United States during the initial 9-month period described in subparagraph (G)(i).

''(ii) A spouse described in clause (i) may be provided employment authorization upon the approval of an extension under subparagraph (G)(ii).

''(I) For purposes of determining the eligibility of an alien for classification under Section 101(a)(15)(L) of this Act, the Secretary of Homeland Security shall establish a program to work cooperatively with the Department of State to verify a company or facility's existence in the United States and abroad.''.

SEC. 412. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary such sums as may be necessary to carry out this subtitle and the amendments made by this subtitle for the first fiscal year beginning before the date of enactment of this Act and each of the subsequent fiscal years beginning not more than 7 years after the effective date of the regulations promulgated by the Secretary to implement this subtitle.

Subtitle B—Immigration Injunction Reform

SEC. 421. SHORT TITLE.

This subtitle may be cited as the ''Fairness in Immigration Litigation Act of 2006''.

SEC. 422. APPROPRIATE REMEDIES FOR IMMIGRATION LEGISLATION.

(a) REQUIREMENTS FOR AN ORDER GRANTING PROSPECTIVE RELIEF AGAINST THE GOVERNMENT.—

(1) IN GENERAL.—If a court determines that prospective relief should be ordered against the Government in any civil action pertaining to the administration or enforcement of the immigration laws of the United States, the court shall—

(A) limit the relief to the minimum necessary to correct the violation of law;

(B) adopt the least intrusive means to correct the violation of law;

(C) minimize, to the greatest extent practicable, the adverse impact on national security, border security, immigration administration and enforcement, and public safety, and

(D) provide for the expiration of the relief on a specific date, which is not later than the earliest date necessary for the Government to remedy the violation.

(2) WRITTEN EXPLANATION.—The requirements described in subsection (1) shall be discussed and explained in writing in the order granting prospective relief and must be sufficiently detailed to allow review by another court.

(3) EXPIRATION OF PRELIMINARY INJUNCTIVE RELIEF.—Preliminary injunctive relief shall automatically expire on the date that is 90 days after the date on which such relief is entered, unless the court—

(A) makes the findings required under paragraph (1) for the entry of permanent prospective relief; and

(B) makes the order final before expiration of such 90-day period.

(4) REQUIREMENTS FOR ORDER DENYING MOTION.—This subsection shall apply to any order denying the Government's motion to vacate, modify, dissolve or otherwise terminate an order granting prospective relief in any civil action pertaining to the administration or enforcement of the immigration laws of the United States.

(b) PROCEDURE FOR MOTION AFFECTING ORDER GRANTING PROSPECTIVE RELIEF AGAINST THE GOVERNMENT.—

(1) IN GENERAL.—A court shall promptly rule on the Government's motion to vacate, modify, dissolve or otherwise terminate an order granting prospective relief in any civil action pertaining to the administration or enforcement of the immigration laws of the United States.

(2) AUTOMATIC STAYS.—

(A) IN GENERAL.—The Government's motion to vacate, modify, dissolve, or otherwise terminate an order granting prospective relief made in any civil action pertaining to the administration or enforcement of the immigration laws of the United States shall automatically, and without further order of the court, stay the order granting prospective relief on the date that is 15 days after the date on which such motion is filed unless the court previously has granted or denied the Government's motion.

(B) DURATION OF AUTOMATIC STAY.—An automatic stay under subparagraph (A) shall continue until the court enters an order granting or denying the Government's motion.

(C) POSTPONEMENT.—The court, for good cause, may postpone an automatic stay under subparagraph (A) for not longer than 15 days.

(D) ORDERS BLOCKING AUTOMATIC STAYS.—Any order staying, suspending, delaying, or otherwise barring the effective date of the

automatic stay described in subparagraph (A), other than an order to postpone the effective date of the automatic stay for not longer than 15 days under subparagraph (C), shall be—

(i) treated as an order refusing to vacate, modify, dissolve or otherwise terminate an injunction; and

(ii) immediately appealable under section 1292(a)(1) of title 28, United States Code.

(c) SETTLEMENTS.—

(1) CONSENT DECREES.—In any civil action pertaining to the administration or enforcement of the immigration laws of the United States, the court may not enter, approve, or continue a consent decree that does not comply with subsection (a).

(2) PRIVATE SETTLEMENT AGREEMENTS.—Nothing in this section shall preclude parties from entering into a private settlement agreement that does not comply with subsection (a) if the terms of that agreement are not subject to court enforcement other than reinstatement of the civil proceedings that the agreement settled.

(d) DEFINITIONS.—In this section:

(1) CONSENT DECREE.—The term ''consent decree''—

(A) means any relief entered by the court that is based in whole or in part on the consent or acquiescence of the parties; and

(B) does not include private settlements.

(2) GOOD CAUSE.—The term ''good cause'' does not include discovery or congestion of the court's calendar.

(3) GOVERNMENT.—The term ''Government'' means the United States, any Federal department or agency, or any Federal agent or official acting within the scope of official duties.

(4) PERMANENT RELIEF.—The term ''permanent relief'' means relief issued in connection with a final decision of a court.

(5) PRIVATE SETTLEMENT AGREEMENT.—The term ''private settlement agreement'' means an agreement entered into among the parties that is not subject to judicial enforcement other than the reinstatement of the civil action that the agreement settled.

(6) PROSPECTIVE RELIEF.—The term ''prospective relief'' means temporary, preliminary, or permanent relief other than compensatory monetary damages.

(e) EXPEDITED PROCEEDINGS.—It shall be the duty of every court to advance on the docket and to expedite the disposition of any civil action or motion considered under this section.

SEC. 423. EFFECTIVE DATE.

(a) IN GENERAL.—This subtitle shall apply with respect to all orders granting prospective relief in any civil action pertaining to the administration or enforcement of the immigration laws of the United States, whether such relief was ordered before, on, or after the date of the enactment of this Act.

(b) PENDING MOTIONS.—Every motion to vacate, modify, dissolve or otherwise terminate an order granting prospective relief in any such action, which motion is pending on the date of the enactment of this Act, shall be treated as if it had been filed on such date of enactment.

(c) AUTOMATIC STAY FOR PENDING MOTIONS.—

(1) IN GENERAL.—An automatic stay with respect to the prospective relief that is the subject of a motion described in subsection (b) shall take effect without further order of the court on the date which is 10 days after the date of the enactment of this Act if the motion—

(A) was pending for 45 days as of the date of the enactment of this Act; and

(B) is still pending on the date which is 10 days after such date of enactment.

(2) DURATION OF AUTOMATIC STAY.—An automatic stay that takes effect under paragraph (1) shall continue until the court enters an order granting or denying the Government's motion under section 422(b). There shall be no further postponement of the automatic stay with respect to any such pending motion under section 422(b)(2). Any order, staying, suspending, delaying or otherwise barring the effective date of this automatic stay with respect to pending motions described in subsection (b) shall be an order blocking an automatic stay subject to immediate appeal under section 422(b)(2)(D).

TITLE V—BACKLOG REDUCTION

SEC. 501. ELIMINATION OF EXISTING BACKLOGS.

(a) FAMILY-SPONSORED IMMIGRANTS.—Section 201(c) (8 U.S.C. 1151(c)) is amended to read as follows:

''(c) WORLDWIDE LEVEL OF FAMILY-SPONSORED IMMIGRANTS.—The worldwide level of family-sponsored immigrants under this subsection for a fiscal year is equal to the sum of—

''(1) 480,000;

''(2) the difference between the maximum number of visas authorized to be issued under this subsection during the previous fiscal year and the number of visas issued during the previous fiscal year;

''(3) the difference between—

''(A) the maximum number of visas authorized to be issued under this subsection during fiscal years 2001 through 2005 minus the number of visas issued under this subsection during those fiscal years; and

''(B) the number of visas calculated under subparagraph (A) that were issued after fiscal year 2005.''.

(b) EMPLOYMENT-BASED IMMIGRANTS.—Section 201(d) (8 U.S.C. 1151(d)) is amended to read as follows:

''(d) WORLDWIDE LEVEL OF EMPLOYMENT-BASED IMMIGRANTS.—

''(1) IN GENERAL.—Subject to paragraph (2), the worldwide level of employment-based immigrants under this subsection for a fiscal year is equal to the sum of—

''(A)(i) 450,000, for each of the fiscal years 2007 through 2016; or

''(ii) 290,000, for fiscal year 2017 and each subsequent fiscal year;

''(B) the difference between the maximum number of visas authorized to be issued under this subsection during the previous fiscal year and the number of visas issued during the previous fiscal year; and

''(C) the difference between—

''(i) the maximum number of visas authorized to be issued under this subsection during fiscal years 2001 through 2005 and the number of visa numbers issued under this subsection during those fiscal years; and

''(ii) the number of visas calculated under clause (i) that were issued after fiscal year 2005.

''(2) VISAS FOR SPOUSES AND CHILDREN.—Immigrant visas issued on or after October 1, 2004, to spouses and children of employment-based immigrants shall not be counted against the numerical limitation set forth in paragraph (1).''.

SEC. 502. COUNTRY LIMITS.

Section 202(a) (8 U.S.C. 1152(a)) is amended—

(1) in paragraph (2)—

(A) by striking '', (4), and (5)'' and inserting ''and (4)''; and

(B) by striking ''7 percent (in the case of a single foreign state) or 2 percent'' and inserting ''10 percent (in the case of a single foreign state) or 5 percent''; and

(2) by striking paragraph (5).

SEC. 503. ALLOCATION OF IMMIGRANT VISAS.

(a) PREFERENCE ALLOCATION FOR FAMILY-SPONSORED IMMIGRANTS.—Section 203(a) (8 U.S.C. 1153(a)) is amended to read as follows:

''(a) PREFERENCE ALLOCATIONS FOR FAMILY-SPONSORED IMMIGRANTS.—Aliens subject to the worldwide level specified in section 201(c) for family-sponsored immigrants shall be allocated visas as follows:

''(1) UNMARRIED SONS AND DAUGHTERS OF CITIZENS.—Qualified immigrants who are the unmarried sons or daughters of citizens of the United States shall be allocated visas in a quantity not to exceed the sum of—

''(A) 10 percent of such worldwide level; and

''(B) any visas not required for the class specified in paragraph (4).

''(2) SPOUSES AND UNMARRIED SONS AND DAUGHTERS OF PERMANENT RESIDENT ALIENS.—

''(A) IN GENERAL.—Visas in a quantity not to exceed 50 percent of such worldwide level plus any visas not required for the class specified in paragraph (1) shall be allocated to qualified immigrants who are—

''(i) the spouses or children of an alien lawfully admitted for permanent residence; or

''(ii) the unmarried sons or daughters of an alien lawfully admitted for permanent residence.

''(B) MINIMUM PERCENTAGE.—Visas allocated to individuals described in subparagraph (A)(i) shall constitute not less than 77 percent of the visas allocated under this paragraph.

''(3) MARRIED SONS AND DAUGHTERS OF CITIZENS.—Qualified immigrants who are the married sons and daughters of citizens of the United States shall be allocated visas in a quantity not to exceed the sum of—

''(A) 10 percent of such worldwide level; and

''(B) any visas not required for the classes specified in paragraphs (1) and (2).

''(4) BROTHERS AND SISTERS OF CITIZENS.—Qualified immigrants who are the brothers or sisters of a citizen of the United States who is at least 21 years of age shall be allocated visas in a quantity not to exceed 30 percent of the worldwide level.''.

(b) PREFERENCE ALLOCATION FOR EMPLOYMENT-BASED IMMIGRANTS.—Section 203(b) (8 U.S.C. 1153(b)) is amended—

(1) in paragraph (1), by striking ''28.6 percent'' and inserting ''15 percent'';

(2) in paragraph (2)(A), by striking ''28.6 percent'' and inserting ''15 percent'';

(3) in paragraph (3)(A)—

(A) by striking ''28.6 percent'' and inserting ''35 percent''; and

(B) by striking clause (iii);

(4) by striking paragraph (4);

(5) by redesignating paragraph (5) as paragraph (4);

(6) in paragraph (4)(A), as redesignated, by striking ''7.1 percent'' and inserting ''5 percent'';

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

''(5) OTHER WORKERS.—

''(A) IN GENERAL.—Visas shall be made available, in a number not to exceed 30 percent of such worldwide level, plus any visa numbers not required for the classes specified in paragraphs (1) through (4), to qualified immigrants who are capable, at the time of petitioning for classification under this paragraph, of performing unskilled labor that is not of a temporary or seasonal nature, for which qualified workers are determined to be unavailable in the United States.

''(B) PRIORITY.—In allocating visas under subparagraph (A), priority shall be given to qualified immigrants who were physically present in the United States before January 7, 2004,''; and

(8) by striking paragraph (6).

(c) CONFORMING AMENDMENTS.—

(1) DEFINITION OF SPECIAL IMMIGRANT.—Section 101(a)(27)(M) (8 U.S.C. 1101(a)(27)(M)) is amended by striking ''subject to the numerical limitations of section 203(b)(4),''.

(2) REPEAL OF TEMPORARY REDUCTION IN WORKERS' VISAS.—Section 203(e) of the Nicaraguan Adjustment and Central American Relief Act (Public Law 105–100; 8 U.S.C. 1153 note) is repealed.

SEC. 504. RELIEF FOR MINOR CHILDREN.

(a) IN GENERAL.—Section 201(b)(2) (8 U.S.C. 1151(b)(2)) is amended to read as follows:

''(2)(A)(i) Aliens admitted under section 211(a) on the basis of a prior issuance of a visa under section 203(a) to their accompanying parent who is an immediate relative.

''(ii) In this subparagraph, the term 'immediate relative' means a child, spouse, or parent of a citizen of the United States (and each child of such child, spouse, or parent who is accompanying or following to join the child, spouse, or parent), except that, in the case of parents, such citizens shall be at least 21 years of age.

''(iii) An alien who was the spouse of a citizen of the United States for not less than 2 years at the time of the citizen's death and was not legally separated from the citizen at the time of the citizen's death, and each child of such alien, shall be considered, for purposes of this subsection, to remain an immediate relative after the date of the citizen's death if the spouse files a petition under section 204(a)(1)(A)(ii) before the earlier of—

''(I) 2 years after such date; or

''(II) the date on which the spouse remarries.

''(iv) In this clause, an alien who has filed a petition under clause (iii) or (iv) of section 204(a)(1)(A) remains an immediate relative if the United States citizen spouse or parent loses United States citizenship on account of the abuse.

''(B) Aliens born to an alien lawfully admitted for permanent residence during a temporary visit abroad.''.

(b) PETITION.—Section 204(a)(1)(A)(ii) (8 U.S.C. 1154 (a)(1)(A)(ii)) is amended by striking ''in the second sentence of section 201(b)(2)(A)(i) also'' and inserting ''in section 201(b)(2)(A)(iii) or an alien child or alien parent described in the 201(b)(2)(A)(iv)''.

SEC. 505. SHORTAGE OCCUPATIONS.

(a) EXCEPTION TO DIRECT NUMERICAL LIMITATIONS.—Section 201(b)(1) (8 U.S.C. 1151(b)(1)) is amended by adding at the end the following new subparagraph:

''(F)(i) During the period beginning on the date of the enactment the Comprehensive Immigration Reform Act of 2006 and ending on September 30, 2017, an alien—

''(I) who is otherwise described in section 203(b); and

''(II) who is seeking admission to the United States to perform labor in shortage occupations designated by the Secretary of Labor for blanket certification under section 212(a)(5)(A) due to the lack of sufficient United States workers able, willing, qualified, and available for such occupations and for which the employment of aliens will not adversely affect the terms and conditions of similarly employed United States workers.

''(ii) During the period described in clause (i), the spouse or dependents of an alien described in clause (i), if accompanying or following to join such alien.''.

(b) EXCEPTION TO NONDISCRIMINATION REQUIREMENTS.—Section 202(a)(1)(A) (8 U.S.C. 1152(a)(1)(A)) is amended by striking ''201(b)(2)(A)(i)'' and inserting ''201(b)''.

(c) EXCEPTION TO PER COUNTRY LEVELS FOR FAMILY-SPONSORED AND EMPLOYMENT-BASED IMMIGRANTS.—Section 202(a)(2) (8 U.S.C. 1152(a)(2)), as amended by section 502(1), is further amended by inserting '', except for aliens described in section 201(b),'' after ''any fiscal year''.

(d) INCREASING THE DOMESTIC SUPPLY OF NURSES AND PHYSICAL THERAPISTS.—Not later than January 1, 2007, the Secretary of Health and Human Services shall—

(1) submit to Congress a report on the source of newly licensed nurses and physical therapists in each State, which report shall—

(A) include the past 3 years for which data are available;

(B) provide separate data for each occupation and for each State;

(C) separately identify those receiving their initial license and those licensed by endorsement from another State;

(D) within those receiving their initial license in each year, identify the number who received their professional education in the United States and those who received such education outside the United States; and

(E) to the extent possible, identify, by State of residence and country of education, the number of nurses and physical therapists who were educated in any of the 5 countries (other than the United States) from which the most nurses and physical therapists arrived;

(F) identify the barriers to increasing the supply of nursing faculty, domestically trained nurses, and domestically trained physical therapists;

(G) recommend strategies to be followed by Federal and State governments that would be effective in removing such barriers, including strategies that address barriers to advancement to become registered nurses for other health care workers, such as home health aides and nurses assistants;

(H) recommend amendments to Federal legislation that would increase the supply of nursing faculty, domestically trained nurses, and domestically trained physical therapists;

(I) recommend Federal grants, loans, and other incentives that would provide increases in nurse educators, nurse training facilities, and other steps to increase the domestic education of new nurses and physical therapists;

(J) identify the effects of nurse emigration on the health care systems in their countries of origin; and

(K) recommend amendments to Federal law that would minimize the effects of health care shortages in the countries of origin from which immigrant nurses arrived;

(2) enter into a contract with the National Academy of Sciences Institute of Medicine to determine the level of Federal investment under titles VII and VIII of the Public Health Service Act necessary to eliminate the domestic nursing and physical therapist shortage not later than 7 years from the date on which the report is published; and

(3) collaborate with other agencies, as appropriate, in working with ministers of health or other appropriate officials of the 5 countries from which the most nurses and physical therapists arrived, to—

(A) address health worker shortages caused by emigration;

(B) ensure that there is sufficient human resource planning or other technical assistance needed to reduce further health worker shortages in such countries.

SEC. 506. RELIEF FOR WIDOWS AND ORPHANS.

(a) SHORT TITLE.—This section may be cited as the ''Widows and Orphans Act of 2006''.

(b) NEW SPECIAL IMMIGRANT CATEGORY.—

(1) CERTAIN CHILDREN AND WOMEN AT RISK OF HARM.—Section 101(a)(27) (8 U.S.C. 1101(a)(27)) is amended—

(A) in subparagraph (L), by inserting a semicolon at the end;

(B) in subparagraph (M), by striking the period at the end and inserting ''; or''; and

(C) by adding at the end the following:

''(N) subject to subsection (j), an immigrant who is not present in the United States—

''(i) who is—

''(I) referred to a consular, immigration, or other designated official by a United States Government agency, an international organization, or recognized nongovernmental entity designated by the Secretary of State for purposes of such referrals; and

''(II) determined by such official to be a minor under 18 years of age (as determined under subsection (j)(5))—

''(aa) for whom no parent or legal guardian is able to provide adequate care;

''(bb) who faces a credible fear of harm related to his or her age;

''(cc) who lacks adequate protection from such harm; and

''(dd) for whom it has been determined to be in his or her best interests to be admitted to the United States; or

''(ii) who is—

''(I) referred to a consular or immigration official by a United States Government agency, an international organization or recognized nongovernmental entity designated by the Secretary of State for purposes of such referrals; and

''(II) determined by such official to be a female who has—

''(aa) a credible fear of harm related to her sex; and

''(bb) a lack of adequate protection from such harm.''.

(2) STATUTORY CONSTRUCTION.—Section 101 (8 U.S.C. 1101) is amended by adding at the end the following:

''(j)(1) No natural parent or prior adoptive parent of any alien provided special immigrant status under subsection (a)(27)(N)(i) shall thereafter, by virtue of such parentage, be accorded any right, privilege, or status under this Act.

''(2)(A) No alien who qualifies for a special immigrant visa under subsection (a)(27)(N)(ii) may apply for derivative status or petition for any spouse who is represented by the alien as missing, deceased, or the source of harm at the time of the alien's application and admission. The Secretary of Homeland Security may waive this requirement for an alien who demonstrates that the alien's representations regarding the spouse were bona fide.

''(B) An alien who qualifies for a special immigrant visa under subsection (a)(27)(N) may apply for derivative status or petition for any sibling under the age of 18 years or children under the age of 18 years of any such alien, if accompanying or following to join the alien. For purposes of this subparagraph, a determination of age shall be made using the age of the alien on the date the petition is filed with the Department of Homeland Security.

''(3) An alien who qualifies for a special immigrant visa under subsection (a)(27)(N) shall be treated in the same manner as a refugee solely for purposes of section 412.

''(4) The provisions of paragraphs (4), (5), and (7)(A) of section 212(a) shall not be applicable to any alien seeking admission to the United States under subsection (a)(27)(N), and the Secretary of Homeland Security may waive any other provision of such section (other than paragraph 2(C) or subparagraph (A), (B), (C), or (E) of paragraph (3) with respect to such an alien for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest. Any such waiver by the Secretary of Homeland Security shall be in writing and shall be granted only on an individual basis following an investigation. The Secretary of Homeland Security shall provide for the annual reporting to Congress of the number of waivers granted under this paragraph in the previous fiscal

year and a summary of the reasons for granting such waivers.

''(5) For purposes of subsection (a)(27)(N)(i)(II), a determination of age shall be made using the age of the alien on the date on which the alien was referred to the consular, immigration, or other designated official.

''(6) The Secretary of Homeland Security shall waive any application fee for a special immigrant visa for an alien described in section 101(a)(27)(N).''.

(3) EXPEDITED PROCESS.—Not later than 45 days after the date of referral to a consular, immigration, or other designated official (as described in section 101(a)(27)(N) of the Immigration and Nationality Act, as added by paragraph (1))—

(A) special immigrant status shall be adjudicated; and

(B) if special immigrant status is granted, the alien shall be paroled to the United States pursuant to section 212(d)(5) of that Act (8 U.S.C. 1182(d)(5)) and allowed to apply for adjustment of status to permanent residence under section 245 of that Act (8 U.S.C. 1255) within 1 year after the alien's arrival in the United States.

(4) REPORT TO CONGRESS.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives on the progress of the implementation of this section and the amendments made by this section, including—

(A) data related to the implementation of this section and the amendments made by this section;

(B) data regarding the number of placements of females and children who faces a credible fear of harm as referred to in section 101(a)(27)(N) of the Immigration and Nationality Act, as added by paragraph (1); and

(C) any other information that the Secretary considers appropriate.

(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this subsection and the amendments made by this subsection.

(c) REQUIREMENTS FOR ALIENS.—

(1) REQUIREMENT PRIOR TO ENTRY INTO THE UNTIED STATES.—

(A) DATABASE SEARCH.—An alien may not be admitted to the United States unless the Secretary has ensured that a search of each database maintained by an agency or department of the United States has been conducted to determine whether such alien is ineligible to be admitted to the Untied States on criminal, security, or related grounds.

(B) COOPERATION AND SCHEDULE.—The Secretary and the head of each appropriate agency or department of the United States shall work cooperatively to ensure that each database search required by subparagraph (A) is completed not later than 45 days after the date on which an alien files a petition seeking a special immigration visa under section 101(a)(27)(N) of the Immigration and Nationality Act, as added by subsection (b)(1).

(2) REQUIREMENT AFTER ENTRY INTO THE UNITED STATES.—

(A) REQUIREMENT TO SUBMIT FINGERPRINTS.—

(i) IN GENERAL.—Not later than 30 days after the date that an alien enters the United States, the alien shall be fingerprinted and submit to the Secretary such fingerprints and any other personal biometric data required by the Secretary.

(ii) OTHER REQUIREMENTS.—The Secretary may prescribe regulations that permit fingerprints submitted by an alien under section 262 of the Immigration and Nationality Act (8 U.S.C. 1302) or any other provision of law to satisfy the requirement to submit fingerprints of clause (i).

(B) DATABASE SEARCH.—The Secretary shall ensure that a search of each database that contains fingerprints that is maintained by an agency or department of the United States be conducted to determine whether such alien is ineligible for an adjustment of status under any provision of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) on criminal, security, or related grounds.

(C) COOPERATION AND SCHEDULE.—The Secretary and the head of each appropriate agency or department of the United States shall work cooperatively to ensure that each database search required by subparagraph (B) is completed not later than 180 days after the date on which the alien enters the United States.

(D) ADMINISTRATIVE AND JUDICIAL REVIEW.—

(i) IN GENERAL.—There may be no review of a determination by the Secretary, after a search required by subparagraph (B), that an alien is ineligible for an adjustment of status, under any provision of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) on criminal, security, or related grounds except as provided in this subparagraph.

(ii) ADMINISTRATIVE REVIEW.—An alien may appeal a determination described in clause (i) through the Administrative Appeals Office of the Bureau of Citizenship and Immigration Services. The Secretary shall ensure that a determination on such appeal is made not later than 60 days after the date that the appeal is filed.

(iii) JUDICIAL REVIEW.—There may be no judicial review of a determination described in clause (i).

SEC. 507. STUDENT VISAS.

(a) IN GENERAL.—Section 101(a)(15)(F) (8 U.S.C. 1101(a)(15)(F)) is amended—

(1) in clause (i)—

(A) by striking ''he has no intention of abandoning, who is'' and inserting the following: ''except in the case of an alien described in clause (iv), the alien has no intention of abandoning, who is—

''(I)'';

(B) by striking ''consistent with section 214(l)'' and inserting ''(except for a graduate program described in clause (iv)) consistent with section 214(m)'';

(C) by striking the comma at the end and inserting the following: ''; or

''(II) engaged in temporary employment for optional practical training related to the alien's area of study, which practical training shall be authorized for a period or periods of up to 24 months;'';

(2) in clause (ii)—

(A) by inserting ''or (iv)'' after ''clause (i)''; and

(B) by striking '', and'' and inserting a semicolon;

(3) in clause (iii), by adding ''and'' at the end; and

(4) by adding at the end the following:

''(iv) an alien described in clause (i) who has been accepted and plans to attend an accredited graduate program in mathematics, engineering, technology, or the sciences in the United States for the purpose of obtaining an advanced degree.''.

(b) ADMISSION OF NONIMMIGRANTS.—Section 214(b) (8 U.S.C. 1184(b)) is amended by striking ''subparagraph (L) or (V)'' and inserting ''subparagraph (F)(iv), (L), or (V)''.

(c) REQUIREMENTS FOR F-4 VISA.—Section 214(m) (8 U.S.C. 1184(m)) is amended—

(1) by inserting before paragraph (1) the following:

''(m) NONIMMIGRANT ELEMENTARY, SECONDARY, AND POST-SECONDARY SCHOOL STUDENTS.—''; and

(2) by adding at the end the following:

''(3) A visa issued to an alien under section 101(a)(15)(F)(iv) shall be valid—

''(A) during the intended period of study in a graduate program described in such section;

''(B) for an additional period, not to exceed 1 year after the completion of the graduate program, if the alien is actively pursuing an offer of employment related to the knowledge and skills obtained through the graduate program; and

''(C) for the additional period necessary for the adjudication of any application for labor certification, employment-based immigrant petition, and application under section 245(a)(2) to adjust such alien's status to that of an alien lawfully admitted for permanent residence, if such application for labor certification or employment-based immigrant petition has been filed not later than 1 year after the completion of the graduate program.''.

(d) OFF CAMPUS WORK AUTHORIZATION FOR FOREIGN STUDENTS.—

(1) IN GENERAL.—Aliens admitted as nonimmigrant students described in section 101(a)(15)(F) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(F)) may be employed in an off-campus position unrelated to the alien's field of study if—

(A) the alien has enrolled full time at the educational institution and is maintaining good academic standing;

(B) the employer provides the educational institution and the Secretary of Labor with an attestation that the employer—

(i) has spent at least 21 days recruiting United States citizens to fill the position; and

(ii) will pay the alien and other similarly situated workers at a rate equal to not less than the greater of—

(I) the actual wage level for the occupation at the place of employment; or

(II) the prevailing wage level for the occupation in the area of employment; and

(C) the alien will not be employed more than—

(i) 20 hours per week during the academic term; or

(ii) 40 hours per week during vacation periods and between academic terms.

(2) DISQUALIFICATION.—If the Secretary of Labor determines that an employer has provided an attestation under paragraph (1)(B) that is materially false or has failed to pay wages in accordance with the attestation, the employer, after notice and opportunity for a hearing, shall be disqualified from employing an alien student under paragraph (1).

(e) ADJUSTMENT OF STATUS.—Section 245(a) (8 U.S.C. 1255(a)) is amended to read as follows:

''(a) AUTHORIZATION.—

''(1) IN GENERAL.—The status of an alien, who was inspected and admitted or paroled into the United States, or who has an approved petition for classification under subparagraph (A)(iii), (A)(iv), (B)(ii), or (B)(iii) of section 204(a)(1), may be adjusted by the Secretary of Homeland Security or the Attorney General, under such regulations as the Secretary or the Attorney General may prescribe, to that of an alien lawfully admitted for permanent residence if—

''(A) the alien makes an application for such adjustment;

''(B) the alien is eligible to receive an immigrant visa;

''(C) the alien is admissible to the United States for permanent residence; and

''(D) an immigrant visa is immediately available to the alien at the time the application is filed.

''(2) STUDENT VISAS.—Notwithstanding the requirement under paragraph (1)(D), an alien

may file an application for adjustment of status under this section if—

''(A) the alien has been issued a visa or otherwise provided nonimmigrant status under section 101(a)(15)(F)(iv), or would have qualified for such nonimmigrant status if section 101(a)(15)(F)(iv) had been enacted before such alien's graduation;

''(B) the alien has earned an advanced degree in the sciences, technology, engineering, or mathematics;

''(C) the alien is the beneficiary of a petition filed under subparagraph (E) or (F) of section 204(a)(1); and

''(D) a fee of $2,000 is remitted to the Secretary on behalf of the alien.

''(3) LIMITATION.—An application for adjustment of status filed under this section may not be approved until an immigrant visa number becomes available.''.

(f) USE OF FEES.—

(1) JOB TRAINING; SCHOLARSHIPS.—Section 286(s)(1) (8 U.S.C. 1356(s)(1)) is amended by inserting ''and 80 percent of the fees collected under section 245(a)(2)(D)'' before the period at the end.

(2) FRAUD PREVENTION AND DETECTION.—Section 286(v)(1) (8 U.S.C. 1356(v)(1)) is amended by inserting ''and 20 percent of the fees collected under section 245(a)(2)(D)'' before the period at the end.

SEC. 508. VISAS FOR INDIVIDUALS WITH ADVANCED DEGREES.

(a) ALIENS WITH CERTAIN ADVANCED DEGREES NOT SUBJECT TO NUMERICAL LIMITATIONS ON EMPLOYMENT BASED IMMIGRANTS.—

(1) IN GENERAL.—Section 201(b)(1) (8 U.S.C. 1151(b)(1)), as amended by section 505, is amended by adding at the end the following:

''(G) Aliens who have earned an advanced degree in science, technology, engineering, or math and have been working in a related field in the United States under a nonimmigrant visa during the 3-year period preceding their application for an immigrant visa under section 203(b).

''(H) Aliens described in subparagraph (A) or (B) of section 203(b)(1)(A) or who have received a national interest waiver under section 203(b)(2)(B).

''(I) The spouse and minor children of an alien who is admitted as an employment-based immigrant under section 203(b).''.

(2) APPLICABILITY.—The amendment made by paragraph (1) shall apply to any visa application—

(A) pending on the date of the enactment of this Act; or

(B) filed on or after such date of enactment.

(b) LABOR CERTIFICATION.—Section 212(a)(5)(A)(ii) (8 U.S.C. 1182(a)(5)(A)(ii)) is amended—

(1) in subclause (I), by striking ''or'' at the end;

(2) in subclause (II), by striking the period at the end and inserting ''; or''; and

(3) by adding at the end the following:

''(III) has an advanced degree in the sciences, technology, engineering, or mathematics from an accredited university in the United States and is employed in a field related to such degree.''.

(c) TEMPORARY WORKERS.—Section 214(g) (8 U.S.C. 1184(g)) is amended—

(1) in paragraph (1)—

(A) by striking ''(beginning with fiscal year 1992)''; and

(B) in subparagraph (A)—

(i) in clause (vii), by striking ''each succeeding fiscal year; or'' and inserting ''each of fiscal years 2004, 2005, and 2006;''; and

(ii) by adding after clause (vii) the following:

''(viii) 115,000 in the first fiscal year beginning after the date of the enactment of this clause; and

''(ix) the number calculated under paragraph (9) in each fiscal year after the year described in clause (viii); or''.

(2) in paragraph (5)—

(A) in subparagraph (B), by striking ''or'' at the end;

(B) in subparagraph (C), by striking the period at the end and inserting ''; or''; and

(C) by adding at the end the following:

''(D) has earned an advanced degree in science, technology, engineering, or math.''.

(3) by redesignating paragraphs (9), (10), and (11) as paragraphs (10), (11), and (12), respectively; and

(4) by inserting after paragraph (8) the following:

''(9) If the numerical limitation in paragraph (1)(A)—

''(A) is reached during a given fiscal year, the numerical limitation under paragraph (1)(A)(ix) for the subsequent fiscal year shall be equal to 120 percent of the numerical limitation of the given fiscal year; or

''(B) is not reached during a given fiscal year, the numerical limitation under paragraph (1)(A)(ix) for the subsequent fiscal year shall be equal to the numerical limitation of the given fiscal year.''.

(d) APPLICABILITY.—The amendment made by subsection (c)(2) shall apply to any visa application—

(1) pending on the date of the enactment of this Act; or

(2) filed on or after such date of enactment.

SA 3486. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 3424 proposed by Mr. FRIST to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 11, strike line 13 through page 13, line 20, and insert the following:

''SEC. 105. PORTS OF ENTRY.

To facilitate the flow of trade, commerce, tourism, and legal immigration, the Secretary shall—

(1) at locations to be determined by the Secretary, increase by at least 25 percent, the number of ports of entry along the southwestern international border of the United States;

(2) increase the port of entry along the northern international land border as needed; and

(3) make necessary improvements to the ports of entry in existence on the date of the enactment of this Act.

SEC. 106 CONSTRUCTION OF STRATEGIC BORDER FENCING AND VEHICLE BARRIERS.

(a) TUCSON SECTOR.—The Secretary shall—

(1) replace all aged, deteriorating, or damaged primary fencing in the Tucson Sector located proximate to population centers in Douglas, Nogales, Naco, and Lukeville, Arizona with double- or triple-fencing running parallel to the international border between the United States and Mexico;

(2) extend the double- or triple-layered fencing for a distance of not less than 2 miles beyond urban areas, except that the double- or triple-layered fence shall extend west of Naco, Arizona, for a distance of 10 miles; and

(3) construct not less than 150 miles of vehicle barriers and all-weather roads in the Tucson Sector running parallel to the international border between the United States and Mexico in areas that are known transit points for illegal cross-border traffic.

(b) YUMA SECTOR.—The Secretary shall—

(1) replace all aged, deteriorating, or damaged primary fencing in the Yuma Sector located proximate to population centers in Yuma, Somerton, and San Luis, Arizona with double- or triple-fencing running parallel to the international border between the United States and Mexico;

(2) extend the double- or triple-layered fencing for a distance of not less than 2 miles beyond urban areas in the Yuma Sector.

(3) construct not less than 50 miles of vehicle barriers and all-weather roads in the Yuma Sector running parallel to the international border between the United States and Mexico in areas that are known transit points for illegal cross-border traffic.

(c) OTHER SECTORS.—

(1) REINFORCED FENCING—The Secretary shall construct a double- or triple-layered fence

(A) extending from 10 miles west of the Tecate, California, port of entry to 10 miles east of the Tecate, California, port of entry;

(B) extending from 10 miles west of the Calexico, California, port of entry to 5 miles east of the Douglas, Arizona, port of entry;

(C) extending from 5 miles west of the Columbus, New Mexico, port of entry to 10 miles east of El Paso, Texas;

(D) extending from 5 miles northwest of the Del Rio, Texas, port of entry to 5 miles southeast of the Eagle Pass, Texas, port of entry; and

(E) extending 15 miles northwest of the Laredo, Texas, port of entry to the Brownsville, Texas, port of entry.

(d) CONSTRUCTION DEADLINE.—The Secretary shall immediately commence construction of the fencing, barriers, and roads described in subsections (a) (b) and (c), and shall complete such construction not later than 2 years after the date of the enactment of this Act.

(e) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives that describes the progress that has been made in constructing the fencing, barriers, and roads described in subsections (a) (b) and (c).

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

SA 3487. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 3424 proposed by Mr. FRIST to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 11, strike line 13 through page 13, line 20, and insert the following:

''SEC. 105. PORTS OF ENTRY.

To facilitate the flow of trade, commerce, tourism, and legal immigration, the Secretary shall—

(1) at locations to be determined by the Secretary, increase by at least 25 percent, the number of ports of entry along the southwestern international border of the United States;

(2) increase the ports of entry along the northern international land border as needed; and

(3) make necessary improvements to the ports of entry in existence on the date of the enactment of this Act.

SEC. 106 CONSTRUCTION OF STRATEGIC BORDER FENCING AND VEHICLE BARRIERS.

(a) TUCSON SECTOR.—The Secretary shall—

(1) replace all aged, deteriorating, or damaged primary fencing in the Tucson Sector located proximate to population centers in Douglas, Nogales, Naco, and Lukeville, Arizona with double- or triple-fencing running

parallel to the international border between the United States and Mexico;

(2) extend the double- or triple-layered fencing for a distance of not less than 2 miles beyond urban areas, except that the double- or triple-layered fence shall extend west of Naco, Arizona, for a distance of 10 miles; and

(3) construct not less than 150 miles of vehicle barriers and all-weather roads in the Tucson Sector running parallel to the international border between the United States and Mexico in areas that are known transit points for illegal cross-border traffic.

(b) YUMA SECTOR.—The Secretary shall—

(1) replace all aged, deteriorating, or damaged primary fencing in the Yuma Sector located proximate to population centers in Yuma, Somerton, and San Luis, Arizona with double- or triple-fencing running parallel to the international border between the United States and Mexico;

(2) extend the double- or triple-layered fencing for a distance of not less than 2 miles beyond urban areas in the Yuma Sector.

(3) construct not less than 50 miles of vehicle barriers and all-weather roads in the Yuma Sector running parallel to the international border between the United States and Mexico in areas that are known transit points for illegal cross-border traffic.

(c) OTHER SECTORS.—

(1) REINFORCED FENCING.—The Secretary shall construct not less than 700 additional miles of double- or triple-layered fencing at strategic locations along the southwest international border to be determined by the Secretary.

(2) PRIORITY AREAS.—In determining strategic locations under paragraph (c)(1), the Secretary shall prioritize, to the maximum extent practicable—

(A) areas with the highest illegal alien apprehension rates; and

(B) areas with the highest human and drug trafficking rates, in the determination of the Secretary.

(d) CONSTRUCTION DEADLINE.—The Secretary shall immediately commence construction of the fencing, barriers, and roads described in subsections (a) (b) and (c), and shall complete such construction not later than 2 years after the date of the enactment of this Act.

(e) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives that describes the progress that has been made in constructing the fencing, barriers, and roads described in subsections (a) (b) and (c).

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

SA 3488. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 3424 proposed by Mr. FRIST to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 169, line 1 and 2 strike ''of the criminal provisions''.

SA 3489. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 3424 proposed by Mr. FRIST to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the end of title V, insert the following:

SEC. 509. REQUIREMENTS FOR NATURALIZATION.

(a) ENGLISH LANGUAGE REQUIREMENTS.—Section 312(a)(1) (8 U.S.C. 1423(a)(1)) is amended to read as follows:

''(1) an understanding of the English language on an eighth grade level, in accordance with regulations prescribed by the Secretary of Homeland Security, in consultation with the Secretary of State; and''.

(b) REQUIREMENT FOR HISTORY AND GOVERNMENT TESTING.—Section 312(a)(2) (8 U.S.C. 1423(a)(2)) is amended by striking the period at the end and inserting '', as demonstrated by receiving a passing score on a standardized test administered by the Secretary of Homeland Security of not less than 50 randomly selected questions from a database of not less than 1000 questions developed by the Secretary.''.

SA 3490. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 3424 proposed by Mr. FRIST to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 5, after line 16, add new Sections 3 (3); 3(4); and 3(5) that reads:

(3) BIOMETRIC.—The term ''Biometric'' includes the collection of, at a minimum, all 10 fingerprints from an individual, unless the individual is missing one or more of their digits, in which case the term ''biometric'' shall include the collection of, at a minimum, all fingerprints available.

(4) BIOMETRIC IDENTIFIER.—The term ''biometric identifier'' includes identifying an individual through the use of, at a minimum, fingerprint biometrics. The term does not include identification through a facial recognition biometric alone.

(5) BIOMETRIC AUTHENTICATION.—The term ''biometric authentication'' includes, at a minimum, authentication through the use of a fingerprint biometric.

SA 3491. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE VII—IMMIGRATION LITIGATION REDUCTION

SEC. 701. CONSOLIDATION OF IMMIGRATION APPEALS.

(a) REAPPORTIONMENT OF CIRCUIT COURT JUDGES.—The table in section 44(a) of title 28, United States Code, is amended in the item relating to the Federal Circuit by striking ''12'' and inserting ''15''.

(b) REVIEW OF ORDERS OF REMOVAL.—Section 242(b) (8 U.S.C. 1252(b)) is amended—

(1) in paragraph (2), by striking the first sentence and inserting ''The petition for review shall be filed with the United States Court of Appeals for the Federal Circuit.'';

(2) in paragraph (5)(B), by adding at the end the following: ''Any appeal of a decision by the district court under this paragraph shall be filed with the United States Court of Appeals for the Federal Circuit.''; and

(3) in paragraph (7), by amending subparagraph (C) to read as follows:

''(C) CONSEQUENCE OF INVALIDATION AND VENUE OF APPEALS.—

''(i) INVALIDATION.—If the district court rules that the removal order is invalid, the court shall dismiss the indictment for violation of section 243(a).

''(ii) APPEALS.—The United States Government may appeal a dismissal under clause (i) to the United States Court of Appeals for the Federal Circuit within 30 days after the date of the dismissal. If the district court rules that the removal order is valid, the defendant may appeal the district court decision to the United States Court of Appeals for the Federal Circuit within 30 days after the date of completion of the criminal proceeding.''.

(c) REVIEW OF ORDERS REGARDING INADMISSABLE ALIENS.—Section 242(e) (8 U.S.C. 1252(e)) is amended by adding at the end the following new paragraph:

''(6) VENUE.—The petition to appeal any decision by the district court pursuant to this subsection shall be filed with the United States Court of Appeals for the Federal Circuit.''.

(d) EXCLUSIVE JURISDICTION.—Section 242(g) (8 U.S.C. 1252(g)) is amended—

(1) by striking ''Except''; and inserting the following:

''(1) IN GENERAL.—Except''; and

(2) by adding at the end the following:

''(2) APPEALS.—Notwithstanding any other provision of law, the United States Court of Appeals for the Federal Circuit shall have exclusive jurisdiction to review a district court order arising from any action taken, or proceeding brought, to remove or exclude an alien from the United States, including a district court order granting or denying a petition for writ of habeas corpus.''.

(e) JURISDICTION OF THE UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT.—

(1) EXCLUSIVE JURISDICTION.—Section 1295(a) of title 28, United States Code, is amended by adding at the end the following new paragraph:

''(15) of an appeal to review a final administrative order or a district court decision arising from any action taken, or proceeding brought, to remove or exclude an alien from the United States.''.

(2) CONFORMING AMENDMENTS.—Such section 1295(a) is further amended—

(A) in paragraph (13), by striking ''and''; and

(B) in paragraph (14), by striking the period at the end and inserting a semicolon and ''and''.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the United States Court of Appeals for the Federal Circuit for each of the fiscal years 2007 through 2011 such sums as may be necessary to carry out this subsection, including the hiring of additional attorneys for the such Court.

(g) EFFECTIVE DATE.—The amendments made by this section shall take effect upon the date of enactment of this Act and shall apply to any final agency order or district court decision entered on or after the date of enactment of this Act.

SEC. 702. CERTIFICATE OF REVIEWABILITY.

(a) BRIEFS.—Section 242(b)(3)(C) (8 U.S.C. 1252(b)(3)(C)) is amended to read as follows:

''(C) BRIEFS.—

''(i) ALIEN'S BRIEF.—The alien shall serve and file a brief in connection with a petition for judicial review not later than 40 days after the date on which the administrative record is available. The court may not extend this deadline except upon motion for good cause shown. If an alien fails to file a brief within the time provided in this subparagraph, the court shall dismiss the appeal unless a manifest injustice would result.

''(ii) UNITED STATES BRIEF.—The United States shall not be afforded an opportunity to file a brief in response to the alien's brief until a judge issues a certificate of reviewability as provided in subparagraph (D), unless the court requests the United

States to file a reply brief prior to issuing such certification.''.

(b) CERTIFICATE OF REVIEWABILITY.—Section 242(b)(3) (8 U.S.C. 1252 (b)(3)) is amended by adding at the end the following new subparagraphs:

''(D) CERTIFICATE OF REVIEWABILITY.—

''(i) After the alien has filed a brief, the petition for review shall be assigned to one judge on the Federal Circuit Court of Appeals.

''(ii) Unless such judge issues a certificate of reviewability, the petition for review shall be denied and the United States may not file a brief.

''(iii) Such judge may not issue a certificate of reviewability under clause (ii) unless the petitioner establishes a prima facie case that the petition for review should be granted.

''(iv) Such judge shall complete all action on such certificate, including rendering judgment, not later than 60 days after the date on which the judge is assigned the petition for review, unless an extension is granted under clause (v).

''(v) Such judge may grant, on the judge's own motion or on the motion of a party, an extension of the 60-day period described in clause (iv) if—

''(I) all parties to the proceeding agree to such extension; or

''(II) such extension is for good cause shown or in the interests of justice, and the judge states the grounds for the extension with specificity.

''(vi) If no certificate of reviewability is issued before the end of the period described in clause (iv), including any extension under clause (v), the petition for review shall be denied, any stay or injunction on petitioner's removal shall be dissolved without further action by the court or the Government, and the alien may be removed.

''(vii) If such judge issues a certificate of reviewability under clause (ii), the Government shall be afforded an opportunity to file a brief in response to the alien's brief. The alien may serve and file a reply brief not later than 14 days after service of the Government brief, and the court may not extend this deadline except upon motion for good cause shown.

''(E) NO FURTHER REVIEW OF DECISION NOT TO ISSUE A CERTIFICATE OF REVIEWABILITY.—The decision of a judge on the Federal Circuit Court of Appeals not to issue a certificate of reviewability or to deny a petition for review, shall be the final decision for the Federal Circuit Court of Appeals and may not be reconsidered, reviewed, or reversed by the such Court through any mechanism or procedure.''.

SA 3492. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 3424 proposed by Mr. FRIST to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

Strike subsection 644(c)(3) and insert:

(3) ENGLISH AND HISTORY AND GOVERNMENT REQUIREMENTS.— Section 312(a) is amended to read as follows:

''(a) No person except as otherwise provided in this title shall hereafter be naturalized as a citizen of the United States upon his own application who cannot demonstrate—''

''(1) an understanding of the English language on an eighth grade level, in accordance with regulations prescribed by the Secretary of Homeland Security, in consultation with the Secretary of State; and''

''(2) a knowledge and understanding of the fundamentals of the history, and of the principles and form of government of the United Staes, as demonstrated by receiving a passing score on a standardized test administered by the Secretary of the Department of Homeland Security of not less than 50 randomly selected questions from a database of not less than 1000 questions developed by the Secretary.''

SA 3493. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 3424 proposed by Mr. FRIST to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 11, strike lines 13 through 20 and insert the following:

SEC. 105. PORTS OF ENTRY.

To facilitate the flow of trade, commerce, tourism, and legal immigration, the Secretary shall—

(1) at locations to be determined by the Secretary, increase by at least 25 percent the number of ports of entry along the southwestern border of the United States;

(2) increase the ports of entry along the northern international land border as needed; and

(3) make necessary improvements to the ports of entry in existence on the date of the enactment of this Act.

On page 13, between lines 5 and 6 insert the following:

(c) OTHER SECTORS.—

(1) REINFORCED FENCING.—The Secretary shall construct not less than 700 additional miles of double- or triple-layered fencing at strategic locations along the southwest border at strategic locations to be determined by the Secretary.

(2) PRIORITY AREAS.—In determining strategic locations under paragraph (1), the Secretary shall prioritize, to the maximum extent practicable—

(A) areas with the highest illegal alien apprehension rates; and

(B) areas with the highest human and drug trafficking rates, in the determination of the Secretary.

On page 13, line 6, strike ''(c)'' and insert ''(d)''.

On page 13, line 11, strike ''(d)'' and insert ''(e)''.

On page 13, line 18, strike ''(e)'' and insert ''(f)''.

SA 3494. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 351, strike lines 9 through 12, and insert the following:

''(3) CRIMINAL PENALTY.—Any person who knowingly uses, discloses, or allows to be disclosed information in violation of this subsection shall be fined not more than $1,000.

SA 3495. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 350, strike line 4 and all that follows through 350, line 21, and insert the following:

''(i) CONFIDENTIALITY OF INFORMATION.—

''(1) IN GENERAL.—Except as otherwise provided in this subsection, no Federal agency or bureau, nor any officer, employee, or agent of such agency or bureau, may use the information filed by the applicant under this section for any purpose other than the enforcement and administration of the immigration laws.

''(2) REQUIRED DISCLOSURES.—The Secretary of Homeland Security shall provide the information furnished pursuant to an application filed under this section, and any other information derived from such furnished information, to a duly recognized law enforcement entity in connection with a criminal investigation or prosecution or a national security investigation or prosecution, in each instance about an individual suspect or group of suspects, when such information is requested in writing by such entity.

''(3) CRIMINAL PENALTY.—Any person who knowingly uses, discloses, or allows to be disclosed information in violation of this subsection shall be fined not more than $1,000.

SA 3496. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. ELIGIBILITY FOR CERTAIN FEDERAL PUBLIC BENEFITS.

No alien granted legal status under this Act or an amendment made by this Act shall be granted any public benefit as a result of the changed status of the alien, including any cash or non-cash assistance, postsecondary educational assistance, housing assistance, daycare assistance, food stamps, Medicaid, or other individual public assistance, whether or not receipt of the public assistance would be sufficient for the person to be considered a public charge under section 212(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(4)).

SA 3497. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 350, strike line 5 and all that follows through 350, line 21, and insert the following:

''(1) IN GENERAL.—Except as otherwise provided in this subsection, no Federal agency or bureau, nor any officer, employee, or agent of such agency or bureau, may use the information filed by the applicant under this section for any purpose other than the enforcement and administration of the immigration laws.

SA 3498. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 3424 proposed by Mr. FRIST to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 241, strike lines 13 and 14 and insert the following:

''(A) paragraphs (5) and (7) of section 212(a) may be waived for

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SA 3499. Mr. SESSIONS submitted an amendment intended to be proposed by

him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 355, strike lines 7 through line 14, and insert the following:

''(2) DELAYED ELIGIBILITY FOR CERTAIN FEDERAL PUBLIC BENEFITS.—An alien in status under this Title shall not be eligible, by reason of such status, for any form of assistance or benefit described in section 403(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1613(a)).''

SA 3500. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 355, strike lines 7 through line 14, and insert the following:

''(2) DELAYED ELIGIBILITY FOR CERTAIN FEDERAL PUBLIC BENEFITS.—An alien in status under this Title shall not be eligible, by reason of such status, for any form of assistance or benefit described in section 403(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1613(a)), for the first 5 years after status under this Title is attained.''

SA 3501. Mr. HARKIN submitted an amendment intended to be proposed to amendment SA 3424 proposed by Mr. FRIST to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. GRANT PROGRAM TO ASSIST ELIGIBLE APPLICANTS.

(a) SHORT TITLE.—This section may be cited as the ''Initial Entry, Adjustment, and Citizenship Assistance Grant Act of 2006''.

(b) PURPOSE.—The purpose of this section is to establish a grant program within the Bureau of Citizenship and Immigration Services that provides funding to community-based organizations, including community-based legal service organizations, as appropriate, to develop and implement programs to assist eligible applicants for the conditional nonimmigrant worker program established under this Act by providing them with the services described in subsection (d)(2).

(c) DEFINITIONS.—In this section:

(1) COMMUNITY-BASED ORGANIZATION.—The term ''community-based organization'' means a nonprofit, tax-exempt organization, including a faith-based organization, whose staff has experience and expertise in meeting the legal, social, educational, cultural educational, or cultural needs of immigrants, refugees, persons granted asylum, or persons applying for such statuses.

(2) IEACA GRANT.—The term ''IEACA grant'' means an Initial Entry, Adjustment, and Citizenship Assistance Grant authorized under subsection (d).

(d) ESTABLISHMENT OF INITIAL ENTRY, ADJUSTMENT, AND CITIZENSHIP ASSISTANCE GRANT PROGRAM.—

(1) GRANTS AUTHORIZED.—The Secretary, working through the Director of the Bureau of Citizenship and Immigration Services, may award IEACA grants to community-based organizations.

(2) USE OF FUNDS.—Grants awarded under this section may be used for the design and implementation of programs to provide the following services:

(A) INITIAL APPLICATION.—Assistance and instruction, including legal assistance, to aliens making initial application for treatment under the program established by section 218D of the Immigration and Nationality Act, as added by section 601. Such assistance may include assisting applicants in—

(i) screening to assess prospective applicants' potential eligibility or lack of eligibility;

(ii) filling out applications;

(iii) gathering proof of identification, employment, residence, and tax payment;

(iv) gathering proof of relationships of eligible family members;

(v) applying for any waivers for which applicants and qualifying family members may be eligible; and

(vi) any other assistance that the Secretary or grantee considers useful to aliens who are interested in filing applications for treatment under such section 218D.

(B) ADJUSTMENT OF STATUS.—Assistance and instruction, including legal assistance, to aliens seeking to adjust their status in accordance with section 245 or 245B of the Immigration and Nationality Act.

(C) CITIZENSHIP.—Assistance and instruction to applicants on—

(i) the rights and responsibilities of United States Citizenship;

(ii) English as a second language;

(iii) civics; or

(iv) applying for United States citizenship.

(3) DURATION AND RENEWAL.—

(A) DURATION.—Each grant awarded under this section shall be awarded for a period of not more than 3 years.

(B) RENEWAL.—The Secretary may renew any grant awarded under this section in 1-year increments.

(4) APPLICATION FOR GRANTS.—Each entity desiring an IEACA grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require.

(5) ELIGIBLE ORGANIZATIONS.—A community-based organization applying for a grant under this section to provide services described in subparagraph (A), (B), or (C)(iv) of paragraph (2) may not receive such a grant unless the organization is—

(A) recognized by the Board of Immigration Appeals under section 292.2 of title 8, Code of Federal Regulations; or

(B) otherwise directed by an attorney.

(6) SELECTION OF GRANTEES.—Grants awarded under this section shall be awarded on a competitive basis.

(7) GEOGRAPHIC DISTRIBUTION OF GRANTS.—The Secretary shall approve applications under this section in a manner that ensures, to greatest extent practicable, that—

(A) not less than 50 percent of the funding for grants under this section are awarded to programs located in the 10 States with the highest percentage of foreign-born residents; and

(B) not less than 20 percent of the funding for grants under this section are awarded to programs located in States that are not described in subparagraph (A).

(8) ETHNIC DIVERSITY.—The Secretary shall ensure that community-based organizations receiving grants under this section provide services to an ethnically diverse population, to the greatest extent possible.

(e) LIAISON BETWEEN USCIS AND GRANTEES.—The Secretary shall establish a liaison between the Bureau of Citizenship and Immigration Services and the community of providers of services under this section to assure quality control, efficiency, and greater client willingness to come forward.

(f) REPORTS TO CONGRESS.—Not later than 180 days after the date of the enactment of this Act, and each subsequent July 1, the Secretary shall submit a report to Congress that includes information regarding—

(1) the status of the implementation of this section;

(2) the grants issued pursuant to this section; and

(3) the results of those grants.

(g) SOURCE OF GRANT FUNDS.—

(1) APPLICATION FEES.—The Secretary may use funds made available under sections 218A(l)(2) and 218D(f)(4)(B) of the Immigration and Nationality Act, as added by this Act, to carry out this section.

(2) AUTHORIZATION OF APPROPRIATIONS.—

(A) AMOUNTS AUTHORIZED.—In addition to the amounts made available under paragraph (1), there are authorized to be appropriated such additional sums as may be necessary for each of the fiscal years 2007 through 2011 to carry out this section.

(B) AVAILABILITY.—Any amounts appropriated pursuant to subparagraph (A) shall remain available until expended.

(h) DISTRIBUTION OF FEES AND FINES.—

(1) H–2C VISA FEES.—Notwithstanding section 218A(l) of the Immigration and Nationality Act, as added by section 403, 2 percent of the fees collected under section 218A of such Act shall be made available for grants under the Initial Entry, Adjustment, and Citizenship Assistance Grant Program established under this section.

(2) CONDITIONAL NONIMMIGRANT VISA FEES AND FINES.—Notwithstanding section 218D(f)(4) of the Immigration and Nationality Act, as added by section 601, 2 percent of the fees and fines collected under section 218D of such Act shall be made available for grants under the Initial Entry, Adjustment, and Citizenship Assistance Grant Program established under this section.

SA 3502. Mr. THUNE submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

(13) AGREEMENT TO COLLECT PERCENTAGE OF WAGES TO OFFSET COST OF EMERGENCY HEALTH SERVICES FURNISHED TO UNINSURED H–2C NONIMMIGRANTS.—The employer shall collect an amount equal to 1.45 percent of the wages paid by the employer to any H–2C nonimmigrant and shall transmit such amount to the Secretary of the Treasury for deposit into the H–2C Nonimmigrant Health Services Trust Fund established under section 404(c) of the Comprehensive Immigration Reform Act of 2006 at such time and in such manner as the Secretary of the Treasury shall determine.

On page 266, after line 22, add the following:

(c) H–2C NONIMMIGRANT HEALTH SERVICES TRUST FUND.—

(1) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the ''H–2C Nonimmigrant Health Services Trust Fund'', consisting of such amounts as may be appropriated or credited to such Trust Fund as provided in this subsection or under rules similar to the rules of section 9602 of the Internal Revenue Code of 1986.

(2) TRANSFERS TO TRUST FUND.—There are hereby appropriated to the H–2C Nonimmigrant Health Services Trust Fund amounts equivalent to the amounts received by the Secretary of the Treasury as a result of the provisions of section 218B(b)(13) of the Immigration and Nationality Act.

(3) EXPENDITURES FROM TRUST FUND.—Amounts in the H–2C Nonimmigrant Health Services Trust Fund shall be available only for making payments by the Secretary of Health and Human Services out of the State allotments established in accordance with paragraph (4) directly to eligible providers for the provision of eligible services to H–2C nonimmigrants to the extent that the eligible provider was not otherwise reimbursed (through insurance or otherwise) for such services, as determined by such Secretary. Such payments shall be made under rules similar to the rules for making payments to eligible providers under section 1011 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (42 U.S.C. 1395dd).

(4) STATE ALLOTMENTS.—Not later than January 1 of each year, the Secretary of Health and Human Services shall establish an allotment for each State equal to the product of—

(A) the total amount the Secretary of the Treasury notifies the Secretary of Health and Human Services was appropriated or credited to the H–2C Nonimmigrant Health Services Trust Fund during the preceding year; and

(B) the number of H–2C nonimmigrants employed in the State during such preceding year (as determined by the Secretary of Labor).

(5) DEFINITIONS.—In this subsection:

(A) ELIGIBLE PROVIDER; ELIGIBLE SERVICES.—The terms ''eligible provider'' and ''eligible services'' have the meanings given those terms in section 1011(e) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (42 U.S.C. 1395dd).

(B) H–2C NONIMMIGRANT.—The term ''H–2C nonimmigrant'' has the meaning given that term in section 218A(n)(7) of the Immigration and Nationality Act.

SA 3503. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 303, strike line 7 and all that follows through page 304, line 5, and insert the following:

''(A)(i) for each of fiscal years 2007 through 2016, 450,000; or

''(ii) for fiscal year 2017 and each subsequent fiscal year, 290,000; and

''(B) the difference between the maximum number of visas authorized to be issued under this subsection during the previous fiscal year and the number of visas issued during the previous fiscal year.

''(2) RECAPTURE OF UNUSED EMPLOYMENT-BASED IMMIGRANT VISAS FOR FISCAL YEARS 2001 THROUGH 2005.—

''(A) IN GENERAL.—Beginning in fiscal year 2006, the number of employment-based visas made available for immigrants described in paragraph (1), (2), or (3) of section 203(b) during any fiscal year, as calculated under paragraph (1), shall be increased by the number described in subparagraph (B).

''(B) ADDITIONAL NUMBER.—

''(i) IN GENERAL.—Subject to clause (ii), the number referred to in subparagraph (A) shall be equal to the sum of—

''(I) the difference between—

''(aa) the number of employment-based visas made available during the period of fiscal years 2001 through 2005; and

''(bb) the number of employment-based visas actually used during that period; and

''(II) the number of immigrant visas issued after September 30, 2004, to spouses and children of employment-based immigrants that were counted for purposes of paragraph (1)(B).

''(ii) REDUCTION.—For fiscal year 2007 and each fiscal year thereafter, the number described in clause (i) shall be reduced by the number of employment-based visas actually used under subparagraph (A) during the preceding fiscal year.''.

On page 304, strike lines 6 through 15 and insert the following:

SEC. 502. COUNTRY LIMITS.

Section 202(a) (8 U.S.C. 1152(a)) is amended by striking ''7 percent (in the case of a single foreign state) or 2 percent'' and inserting ''10 percent (in the case of a single foreign state) or 5 percent''.

On page 329, strike lines 1 through 4 and insert the following:

''(3) LIMITATION.—An application for adjustment of status filed under this section may not be approved until an immigrant visa number becomes available.

''(4) FILING IN CASES OF UNAVAILABLE VISA NUMBERS.—Subject to the limitation described in paragraph (3), if a supplemental petition fee is paid for a petition under subparagraph (E) or (F) of section 204(a)(1), an application under paragraph (1) on behalf of an alien that is a beneficiary of the petition (including a spouse or child who is accompanying or following to join the beneficiary) may be filed without regard to the requirement under paragraph (1)(D).

''(5) PENDING APPLICATIONS.—Subject to the limitation described in paragraph (3), if a petition under subparagraph (E) or (F) of section 204(a)(1) is pending or approved as of the date of enactment of this paragraph, on payment of the supplemental petition fee under that section, the alien that is the beneficiary of the petition may submit an application for adjustment of status under this subsection without regard to the requirement under paragraph (1)(D).

''(6) EMPLOYMENT AUTHORIZATIONS AND ADVANCED PAROLE TRAVEL DOCUMENTATION.—The Attorney General shall—

''(A) provide to any immigrant who has submitted an application for adjustment of status under this subsection not less than 3 increments, the duration of each of which shall be not less than 3 years, for any applicable employment authorization or advanced parole travel document of the immigrant; and

''(B) adjust each applicable fee payment schedule in accordance with the increments provided under subparagraph (A) so that 1 fee for each authorization or document is required for each 3-year increment.''.

Beginning on page 329, strike line 23 and all that follows through page 330, line 4, and insert the following:

''(G) Aliens who have earned an advanced degree in science, technology, engineering, or math and are employed in a related field.

On page 333, after line 5, insert the following:

(e) TEMPORARY WORKER VISA DURATION.—Section 106 of the American Competitiveness in the Twenty-First Century Act of 2000 (Public Law 106–313; 114 Stat. 1254) is amended by striking subsection (b) and inserting the following:

''(b) EXTENSION OF H–1B WORKER STATUS.—The Attorney General shall—

''(1) extend the stay of an alien who qualifies for an exemption under subsection (a) in not less than 3 increments, the duration of each of which shall be not less than 3 years, until such time as a final decision is made with respect to the lawful permanent residence of the alien; and

''(2) adjust each applicable fee payment schedule in accordance with the increments provided under paragraph (1) so that 1 fee is required for each 3-year increment.''.

SA 3504. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert ''(other than subparagraph (C)(i)(II) of such paragraph (9))'' after ''212(a)''.

At the appropriate place, insert the following:

this paragraph to waive the provisions of section 212(a).

''(3) INELIGIBILITY.—An alien is ineligible for conditional nonimmigrant work authorization and status under this section if—

''(A) the Secretary of Homeland Security determines that—

''(i) the alien, having been convicted by a final judgment of a serious crime, constitutes a danger to the community of the United States;

''(ii) there are reasonable grounds for believing that the alien has committed a serious crime outside the United States prior to the arrival of the alien in the United States; or

''(iii) there are reasonable grounds for regarding the alien as a danger to the security of the United States;

''(B) the alien has been convicted of any felony or three or more misdemeanors; or

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SA 3505. Mr. REID submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purpose; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. BORDER SECURITY CERTIFICATION.

(a) IN GENERAL.—Notwithstanding any other provision of law, subject to subsection (b), beginning on the date of enactment of this Act, the Secretary may not implement a new conditional nonimmigrant work authorization program that grants legal status to any individual who illegally enters or entered the United States, or any similar or subsequent employment program that grants legal status to any individual who illegally enters or entered the United States, until the Secretary provides written certification to the President and Congress that the borders of the United States are reasonably sealed and secured.

(b) WAIVER AND IMPLEMENTATION.—The President may waive the certification requirement under subsection (a) and direct the Secretary to implement a new conditional nonimmigrant work authorization program or any similar or subsequent program described in that subsection, if the President determines that implementation of the program would strengthen the national security of the United States.

SA 3506. Mr. REID (for himself and Mr. LEAHY) submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purpose; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

''(6) CRIMINAL AND RELATED GROUNDS.—An alien is ineligible for conditional nonimmigrant work authorization and status under this section under any of the following circumstances:

''(A) CONVICTION OF CERTAIN CRIMES.—

''(i) IN GENERAL.—Except as provided in clause (ii), the alien was convicted of, admits having committed, or admits having committed acts which constitute the essential elements of—

''(I) a crime involving moral turpitude (other than a purely political offense) or an attempt or conspiracy to commit such a crime, or

''(II) a violation of (or a conspiracy or attempt to violate) any law or regulation of a State, the United States, or a foreign country relating to a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)).

''(ii) EXCEPTION.—Clause (i)(I) shall not apply to an alien who committed only 1 crime if—

''(I) the crime was committed before the alien reached 18 years of age and the alien was released from any confinement to a prison or correctional institution imposed for the crime more than 5 years before the date of application for a visa or other documentation and the date of application for admission to the United States; or

''(II) the maximum allowable penalty for the crime for which the alien was convicted, admits having committed, or admits having committed the acts constituting the essential elements of, is not longer than imprisonment for 1 year and, if the alien was convicted of such crime, the alien was not sentenced to a term of imprisonment longer than 6 months (regardless of the extent to which the sentence was ultimately executed).

''(B) MULTIPLE CRIMINAL CONVICTIONS.—The alien has been convicted of 2 or more offenses (other than purely political offenses) for which the aggregate sentences to confinement were 5 years or more, regardless of whether—

''(i) the conviction was in a single trial;

''(ii) the offenses arose from a single scheme of misconduct; or

''(iii) the offenses involved moral turpitude, .

''(C) CONTROLLED SUBSTANCE TRAFFICKERS.—The consular officer or the Attorney General knows, or has reason to believe, that the alien—

''(i) is or has been—

''(I) an illicit trafficker in any controlled substance or in any listed chemical (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)); or

''(II) a knowing aider, abettor, assister, conspirator, or colluder with others in the illicit trafficking in any such controlled or listed substance or chemical, or endeavored to do so; or

''(ii) is the spouse, son, or daughter of an alien ineligible under clause (i), and has—

''(I) during the previous 5 years, obtained any financial or other benefit from the illicit activity of that alien; and

''(II) knew or reasonably should have known that the financial or other benefit was the product of such illicit activity.

''(D) CERTAIN ALIENS INVOLVED IN SERIOUS CRIMINAL ACTIVITY WHO HAVE ASSERTED IMMUNITY FROM PROSECUTION.—The alien—

''(i) has committed a serious criminal offense (as defined in section 101(h)) in the United States;

''(ii) exercised immunity from criminal jurisdiction with respect to that offense;

''(iii) as a consequence of the offense and exercise of immunity, has departed from the United States; and

''(iv) has not subsequently submitted fully to the jurisdiction of the court in the United States having jurisdiction with respect to that offense.

''(E) FOREIGN GOVERNMENT OFFICIALS WHO HAVE COMMITTED PARTICULARLY SEVERE VIOLATIONS OF RELIGIOUS FREEDOM.—The alien, while serving as a foreign government official, was responsible for, or directly carried out, at any time, particularly severe violations of religious freedom (as defined in section 3 of the International Religious Freedom Act of 1998 (22 U.S.C. 6402)).

''(F) SIGNIFICANT TRAFFICKERS IN PERSONS.—

''(i) IN GENERAL.—The alien is listed in a report submitted under section 111(b) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7108(b)) or the consular officer or the Attorney General knows or has reason to believe that the alien is, or has been, a knowing aider, abettor, assister, conspirator, or colluder with such a trafficker in severe forms of trafficking in persons (as defined in the section 103 of such Act (22 U.S.C. 7102)).

''(ii) BENEFICIARIES OF TRAFFICKING.—Except as provided in clause (iii), the consular officer or the Attorney General knows or has reason to believe that the alien is the spouse, son, or daughter of an alien ineligible under clause (i), and the alien—

''(I) within the previous 5 years, has obtained any financial or other benefit from the illicit activity of that alien; and

''(II) knew or reasonably should have known that the financial or other benefit was the product of such illicit activity.

''(iii) EXCEPTION FOR CERTAIN SONS AND DAUGHTERS.—Clause (ii) shall not apply to a son or daughter who was a child at the time he or she received the benefit described in such clause.

''(G) MONEY LAUNDERING.—A consular officer or the Attorney General knows, or has reason to believe, that the alien—

''(i) has engaged, is engaging, or seeks to enter the United States to engage, in an offense described in section 1956 or 1957 of title 18, United States Code (relating to laundering of monetary instruments); or

''(ii) is, or has been, a knowing aider, abettor, assister, conspirator, or colluder with others in an offense referred to in clause (i).

''(H) CRIMINAL CONVICTIONS.—The alien has been convicted of any felony or at least 3 misdemeanors.

SA 3507. Mr. REID (for himself and Mr. LEAHY) submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purpose; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

''(6) CRIMINAL AND RELATED GROUNDS.—An alien is ineligible for conditional nonimmigrant work authorization and status under this section under any of the following circumstances:

''(A) CONVICTION OF CERTAIN CRIMES.—

''(i) IN GENERAL.—Except as provided in clause (ii), the alien was convicted of, admits having committed, or admits having committed acts which constitute the essential elements of—

''(I) a crime involving moral turpitude (other than a purely political offense) or an attempt or conspiracy to commit such a crime, or

''(II) a violation of (or a conspiracy or attempt to violate) any law or regulation of a State, the United States, or a foreign country relating to a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)).

''(ii) EXCEPTION.—Clause (i)(I) shall not apply to an alien who committed only 1 crime if—

''(I) the crime was committed before the alien reached 18 years of age and the alien was released from any confinement to a prison or correctional institution imposed for the crime more than 5 years before the date of application for a visa or other documentation and the date of application for admission to the United States; or

''(II) the maximum allowable penalty for the crime for which the alien was convicted, admits having committed, or admits having committed the acts constituting the essential elements of, is not longer than imprisonment for 1 year and, if the alien was convicted of such crime, the alien was not sentenced to a term of imprisonment longer than 6 months (regardless of the extent to which the sentence was ultimately executed).

''(B) MULTIPLE CRIMINAL CONVICTIONS.—The alien has been convicted of 2 or more offenses (other than purely political offenses) for which the aggregate sentences to confinement were 5 years or more, regardless of whether—

''(i) the conviction was in a single trial;

''(ii) the offenses arose from a single scheme of misconduct; or

''(iii) the offenses involved moral turpitude, .

''(C) CONTROLLED SUBSTANCE TRAFFICKERS.—The consular officer or the Attorney General knows, or has reason to believe, that the alien—

''(i) is or has been—

''(I) an illicit trafficker in any controlled substance or in any listed chemical (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)); or

''(II) a knowing aider, abettor, assister, conspirator, or colluder with others in the illicit trafficking in any such controlled or listed substance or chemical, or endeavored to do so; or

''(ii) is the spouse, son, or daughter of an alien ineligible under clause (i), and has—

''(I) during the previous 5 years, obtained any financial or other benefit from the illicit activity of that alien; and

''(II) knew or reasonably should have known that the financial or other benefit was the product of such illicit activity.

''(D) CERTAIN ALIENS INVOLVED IN SERIOUS CRIMINAL ACTIVITY WHO HAVE ASSERTED IMMUNITY FROM PROSECUTION.—The alien—

''(i) has committed a serious criminal offense (as defined in section 101(h)) in the United States;

''(ii) exercised immunity from criminal jurisdiction with respect to that offense;

''(iii) as a consequence of the offense and exercise of immunity, has departed from the United States; and

''(iv) has not subsequently submitted fully to the jurisdiction of the court in the United States having jurisdiction with respect to that offense.

''(E) FOREIGN GOVERNMENT OFFICIALS WHO HAVE COMMITTED PARTICULARLY SEVERE VIOLATIONS OF RELIGIOUS FREEDOM.—The alien, while serving as a foreign government official, was responsible for, or directly carried out, at any time, particularly severe violations of religious freedom (as defined in section 3 of the International Religious Freedom Act of 1998 (22 U.S.C. 6402)).

''(F) SIGNIFICANT TRAFFICKERS IN PERSONS.—

''(i) IN GENERAL.—The alien is listed in a report submitted under section 111(b) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7108(b)) or the consular officer or the Attorney General knows or has reason to believe that the alien is, or has been, a knowing aider, abettor, assister, conspirator, or colluder with such a trafficker in severe forms of trafficking in persons (as defined in the section 103 of such Act (22 U.S.C. 7102)).

''(ii) BENEFICIARIES OF TRAFFICKING.—Except as provided in clause (iii), the consular

officer or the Attorney General knows or has reason to believe that the alien is the spouse, son, or daughter of an alien ineligible under clause (i), and the alien—

''(I) within the previous 5 years, has obtained any financial or other benefit from the illicit activity of that alien; and

''(II) knew or reasonably should have known that the financial or other benefit was the product of such illicit activity.

''(iii) EXCEPTION FOR CERTAIN SONS AND DAUGHTERS.—Clause (ii) shall not apply to a son or daughter who was a child at the time he or she received the benefit described in such clause.

''(G) MONEY LAUNDERING.—A consular officer or the Attorney General knows, or has reason to believe, that the alien—

''(i) has engaged, is engaging, or seeks to enter the United States to engage, in an offense described in section 1956 or 1957 of title 18, United States Code (relating to laundering of monetary instruments); or

''(ii) is, or has been, a knowing aider, abettor, assister, conspirator, or colluder with others in an offense referred to in clause (i).

SA 3508. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purpose; which was ordered to lie on the table; as follows:

On page 351, lines 7 and 8, strike '', when such information is requested in writing by such entity''.

SA 3509. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purpose; which was ordered to lie on the table; as follows:

On page 351, strike lines 9 through 12.

SA 3510. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purpose; which was ordered to lie on the table; as follows:

On page 351, beginning on line 7, strike '', when such'' and all that follows through line 12, and insert a period.

SA 3511. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 350, strike line 4 and all that follows through ''(f)'' on page 351, line 13, and insert ''(e)''.

SA 3512. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 339, strike lines 7 through 22, and insert the following:

''(E) PAYMENT OF INCOME TAXES.—

''(i) IN GENERAL.—Not later than the date on which status is adjusted under this section, the alien establishes the payment of all applicable Federal income tax liability by establishing that—

''(I) no such tax liability exists;

''(II) all outstanding liabilities have been paid; or

''(III) the alien has entered into an agreement for payment of all outstanding liabilities with the Internal Revenue Service.

''(ii) APPLICABLE FEDERAL INCOME TAX LIABILITY.—For purposes of clause (i), the term 'applicable Federal income tax liability' means liability for Federal income taxes owed for any year during the period of employment required by subparagraph (D)(i) for which the statutory period for assessment of any deficiency for such taxes has not expired.

''(iii) IRS COOPERATION.—The Secretary of the Treasury shall establish rules and procedures under which the Commissioner of Internal Revenue shall provide documentation to an alien upon request to establish the payment of all income taxes required by this subparagraph.

SA 3513. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 399, strike lines 6 through 25, and insert the following:

(D) PAYMENT OF INCOME TAXES.—

(i) IN GENERAL.—Not later than the date on which an alien's status is adjusted under this subsection, the alien shall establish the payment of all applicable Federal income tax liability by establishing that—

(I) no such tax liability exists;

(II) all outstanding liabilities have been paid; or

(III) the alien has entered into an agreement for payment of all outstanding liabilities with the Internal Revenue Service.

(ii) APPLICABLE FEDERAL INCOME TAX LIABILITY.—For purposes of clause (i), the term ''applicable Federal income tax liability'' means liability for Federal income taxes owed for any year during the period of employment required under paragraph (1)(A) for which the statutory period for assessment of any deficiency for such taxes has not expired.

(iii) IRS COOPERATION.—The Secretary of the Treasury shall establish rules and procedures under which the Commissioner of Internal Revenue shall provide documentation to an alien upon request to establish the payment of all income taxes required by this subparagraph.

SA 3514. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 341, line 16, strike ''90'' and insert ''180''.

SA 3515. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 340, strike ''alien—'' and all that follows through line 15, and insert the following ''alien meets the requirements of section 312.''.

SA 3516. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 332, line 7, strike the semicolon at the end and all that follows through line 24 and insert a period.

SA 3517. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. H–1B EMPLOYER FEE.

Section 214(c)(9)(B) (8 U.S.C. 1184(c)(9)(B)) is amended by striking ''$1,500'' and inserting ''$2,000''.

SA 3518. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, add the following:

SEC. ___. NATIONAL CENTER FOR WELCOMING NEW AMERICANS.

(a) ESTABLISHMENT.—The Secretary, acting through the Director of the Bureau of Citizenship and Immigration Services, may establish the National Center for Welcoming New Americans, an organization duly established at the University of Northern Iowa.

(b) PURPOSES.—The purposes of the National Center for Welcoming New Americans shall be—

(1) to promote the integration of new immigrants and refugees in communities, institutions, faith-based organizations, and workplaces;

(2) to provide training to new immigrants and refugees with respect to culturally appropriate social and health services;

(3) to create publications for new immigrants and refugees, United States citizens, and institutions; and

(4) to establish a national clearinghouse to collect and disseminate information relating to best practices in immigrant integration in the United States and abroad.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

SA 3519. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. OFFICE OF INTERNAL CORRUPTION INVESTIGATION.

(a) INTERNAL CORRUPTION; BENEFITS FRAUD.—Section 453 of the Homeland Security Act of 2002 (6 U.S.C. 273) is amended—

(1) by striking ''the Bureau of'' each place it appears and inserting ''United States'';

(2) in subsection (a)—

(A) by striking paragraph (1) and inserting the following:

''(1) establishing the Office of Internal Corruption Investigation, which shall—

''(A) receive, process, administer, and investigate criminal and noncriminal allegations of misconduct, corruption, and fraud involving any employee or contract worker of United States Citizenship and Immigration Services that are not subject to investigation by the Inspector General for the Department;

''(B) ensure that all complaints alleging any violation described in subparagraph (A) are handled and stored in a manner appropriate to their sensitivity;

''(C) have access to all records, reports, audits, reviews, documents, papers, recommendations, or other material available to United States Citizenship and Immigration Services, which relate to programs and operations for which the Director is responsible under this Act;

''(D) request such information or assistance from any Federal, State, or local governmental agency as may be necessary for carrying out the duties and responsibilities under this section;

''(E) require the production of all information, documents, reports, answers, records, accounts, papers, and other data and documentary evidence necessary to carry out the functions under this section—

''(i) by subpoena, which shall be enforceable, in the case of contumacy or refusal to obey, by order of any appropriate United States district court; or

''(ii) through procedures other than subpoenas if obtaining documents or information from Federal agencies;

''(F) administer to, or take from, any person an oath, affirmation, or affidavit, as necessary to carry out the functions under this section, which oath, affirmation, or affidavit, if administered or taken by or before an agent of the Office of Internal Corruption Investigation shall have the same force and effect as if administered or taken by or before an officer having a seal;

''(G) investigate criminal allegations and noncriminal misconduct;

''(H) acquire adequate office space, equipment, and supplies as necessary to carry out the functions and responsibilities under this section; and

''(I) be under the direct supervision of the Director.'';

(B) in paragraph (2), by striking ''and'' at the end;

(C) in paragraph (3), by striking the period at the end and inserting ''; and''; and

(D) by adding at the end the following:

''(4) establishing the Office of Immigration Benefits Fraud Investigation, which shall—

''(A) conduct administrative investigations, including site visits, to address immigration benefit fraud;

''(B) assist United States Citizenship and Immigration Services provide the right benefit to the right person at the right time;

''(C) track, measure, assess, conduct pattern analysis, and report fraud-related data to the Director; and

''(D) work with counterparts in other Federal agencies on matters of mutual interest or information-sharing relating to immigration benefit fraud.''; and

(3) by adding at the end the following:

''(c) ANNUAL REPORT.—The Director, in consultation with the Office of Internal Corruption Investigations, shall submit an annual report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives that describes—

''(1) the activities of the Office, including the number of investigations began, completed, pending, turned over to the Inspector General for criminal investigations, and turned over to a United States Attorney for prosecution; and

''(2) the types of allegations investigated by the Office during the 12-month period immediately preceding the submission of the report that relate to the misconduct, corruption, and fraud described in subsection (a)(1).''.

(b) USE OF IMMIGRATION FEES TO COMBAT FRAUD.—Section 286(v)(2)(B) (8 U.S.C. 1356(v)(2)(B)) is amended by adding at the end the following: ''Not less than 20 percent of the funds made available under this subparagraph shall be used for activities and functions described in paragraphs (1) and (4) of section 453(a) of the Homeland Security Act of 2002 (6 U.S.C. 273(a)).''.

SA 3520. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 283, line 21, strike ''visa—'' and all that follows through line 25, and insert ''visa by the alien's employer.''.

SA 3521. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 358, strike ''$2,000'' in line 17 and insert ''$5,000''.

SA 3522. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 359, strike ''be eligible to'' in line 19.

SA 3523. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 362, strike lines 20–22

SA 3524. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 364, strike ''may'' in line 21 and ''be'' in line 22, and insert ''shall''.

SA 3525. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 373, strike ''$2,000'' in line 19 and insert ''$5,000''.

On page 373, strike ''$3,000'' in line 22 and insert ''$10,000''.

SA 3526. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 9, strike lines 2 through 20 and insert the following:

(a) ACQUISITION.—Subject to the availability of appropriations, the Secretary shall procure additional unmanned aerial vehicles, autonomous unmanned ground vehicles, cameras, poles, sensors, and other technologies necessary to achieve operational control of the international borders of the United States and to establish a security perimeter known as a ''virtual fence'' along such international borders to provide a barrier to illegal immigration.

(b) INCREASED AVAILABILITY OF EQUIPMENT.—The Secretary and the Secretary of Defense shall develop and implement a plan to use authorities provided to the Secretary of Defense under chapter 18 of title 10, United States Code, to increase the availability and use of Department of Defense equipment, including unmanned aerial vehicles, autonomous unmanned ground vehicles, tethered aerostat radars, and other surveillance equipment, to assist the Secretary in carrying out surveillance activities conducted at or near the international land borders of the United States to prevent illegal immigration.

SA 3527. Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 390, strike line 15 and all that follows through page 394, line 17.

SA 3528. Mr. THOMAS (for himself and Mr. KYL) submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. BORDER SECURITY ON CERTAIN FEDERAL LAND.

(a) DEFINITIONS.—In this section:

(1) PROTECTED LAND.—The term ''protected land'' means land under the jurisdiction of the Secretary concerned.

(2) SECRETARY CONCERNED.—The term ''Secretary concerned'' means—

(A) with respect to land under the jurisdiction of the Secretary of Agriculture, the Secretary of Agriculture; and

(B) with respect to land under the jurisdiction of the Secretary of the Interior, the Secretary of the Interior.

(b) SUPPORT FOR BORDER SECURITY NEEDS.—

(1) IN GENERAL.—To gain operational control over the international land borders of the United States and to prevent the entry of terrorists, unlawful aliens, narcotics, and other contraband into the United States, the Secretary, in cooperation with the Secretary concerned, shall provide—

(A) increased Customs and Border Protection personnel to secure protected land along the international land borders of the United States;

(B) Federal land resource training for Customs and Border Protection agents dedicated to protected land; and

(C) Unmanned Aerial Vehicles, aerial assets, Remote Video Surveillance camera systems, and sensors on protected land that is directly adjacent to the international land border of the United States, with priority given to units of the National Park System.

(2) COORDINATION.—In providing training for Customs and Border Protection agents under paragraph (1)(B), the Secretary shall coordinate with the Secretary concerned to ensure that the training is appropriate to the mission of the National Park Service, the Forest Service, or the relevant agency of the Department of the Interior or the Department of Agriculture to minimize the adverse impact on natural and cultural resources from border protection activities.

(c) INVENTORY OF COSTS AND ACTIVITIES.—The Secretary concerned shall develop and submit to the Secretary an inventory of costs incurred by the Secretary concerned relating to illegal border activity, including the cost of equipment, training, recurring maintenance, construction of facilities, restoration of natural and cultural resources, recapitalization of facilities, and operations.

(d) RECOMMENDATIONS.—The Secretary shall—

(1) develop joint recommendations with the National Park Service and the Forest Service for an appropriate cost recovery mechanism relating to items identified in subsection (c); and

(2) not later than March 31, 2007, submit to the appropriate congressional committees (as defined in section 2 of the Homeland Security Act of 2002 (6 U.S. C. 101)), including the Subcommittee on National Parks of the Senate and the Subcommittee on National Parks, Recreation and Public Lands of the House of Representatives, the recommendations developed under paragraph (1).

(e) BORDER PROTECTION STRATEGY.—The Secretary, the Secretary of the Interior, and the Secretary of Agriculture shall jointly develop a border protection strategy that supports the border security needs of the United States in the manner that best protects—

(1) units of the National Park System;

(2) land under the jurisdiction of the United States Fish and Wildlife Service; and

(3) other relevant land under the jurisdiction of the Department of the Interior or the Department of Agriculture.

SA 3529. Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 389, line 18, strike ''100'' and insert ''$1000''.

SA 3530. Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 388, lines 8 and 9, strike ''3 or more misdemeanors'' and insert ''misdemeanor''.

SA 3531. Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 386, line 11, strike ''863 hours or''.

SA 3532. Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 397, line 19, strike ''$400'' and insert ''$1000''.

SA 3533. Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 385, line 22, strike ''1'' and insert ''8''.

SA 3534. Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 409, strike line 13 and all that follows through line 19 on page 409.

SA 3535. Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 426, strike line 6 and all that follows through line 23 on page 427.

SA 3536. Mr. CHAMBLISS (for himself, Mr. ISAKSON, and Mr. BROWNBACK) submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 439, strike line 24 and all that follows through line 19 on page 442, and insert the following:

''(A) IN GENERAL.—An employer applying for workers under section 218(a) shall offer to pay, and shall pay, all workers in the occupation for which the employer has applied for workers, not less (and is not required to pay more) than the greater of the prevailing wage in the occupation in the area of intended employment or the applicable State minimum wage.''.

SA 3537. Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 395, strike line 10 and all that follows through page 416, line 11 and insert the following:

(c) PERIOD OF AUTHORIZED ADMISSION.—

(1) IN GENERAL.—An alien may be granted blue card status for a period not to exceed 2 years.

(2) RETURN TO COUNTRY.—At the end of the period described in paragraph (1), the alien shall return to the country of nationality or last residence of the alien.

(3) ELIGIBILITY FOR NONIMMIGRANT VISA.—Upon return to the country of nationality or last residence of the alien under paragraph (2), the alien may apply for any nonimmigrant visa.

(d) LOSS OF EMPLOYMENT.—

(1) IN GENERAL.—The blue card status of an alien shall terminate if the alien is not employed for at least 60 consecutive days.

(2) RETURN TO COUNTRY.—An alien whose period of authorized admission terminates under paragraph (1) shall return to the country of nationality or last residence of the alien.

(e) PROHIBITION OF CHANGE OR ADJUSTMENT OF STATUS.—

(1) IN GENERAL.—An alien with blue card status shall not be eligible to change or adjust status in the United States.

(2) LOSS OF ELIGIBILITY.—An alien with blue card status shall lose the status if the alien—

(A) files a petition to adjust status to legal permanent residence in the United States; or

(B) requests a consular processing for an immigrant or nonimmigrant Visa outside the United States.

SA 3538. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 9, line 4, insert ''autonomous unmanned ground vehicles, '' after ''vehicles,''.

On page 9, line 16, insert ''autonomous unmanned ground vehicles, '' after ''vehicles,''.

SA 3539. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the end of title III, insert the following:

SEC. 305. EMPLOYEE IDENTITY THEFT PREVENTION AND PRIVACY PROTECTION.

(a) FINDINGS.—

(1) According to the Federal Trade Commission, more than 8,400,000 Americans were victims of identity theft in 2004, and according to published reports approximately 55,000,000 Americans' most sensitive, personally identifiable information was accidentally made public through a data breach during 2005.

(2) Approximately 54,000,000 times each year, someone in America begins a new job and full implementation of the System will require transfer of data to verify the identity and authorization of each potential new employee.

(3) The data transferred through the System or stored in the databases utilized to verify identity and authorization will contain each employee's most sensitive, personally identifiable information.

(4) The information transferred and stored will be of uniquely high value to any potential identity thief, nonwork authorized undocumented alien, alien smuggler, or terrorist seeking to establish work authorization under another's name.

(5) The System should not be implemented or expanded unless it sufficiently protects against identity theft and safeguards employees' personal privacy.

(b) PRIVACY PROTECTIONS IN THE ELECTRONIC EMPLOYMENT VERIFICATION SYSTEM.—Section 274A (8 U.S.C. 1324a), as amended by section 301(a), is further amended by adding at the end of subsection (d)(2) the following new subparagraphs:

''(H) LIMITATION ON DATA ELEMENTS COLLECTED FOR VERIFICATION PROCESS.—Employers utilizing the System shall obtain only

the following data elements from any employee:

''(i) The employee's full legal name.

''(ii) The employee's date of birth.

''(iii) The employee's social security account number or other employment authorization status identification number.

''(I) LIMITATION ON DATA ELEMENTS STORED.—The System and any databases created by the Commissioner of Social Security or the Secretary to achieve confirmation, tentative nonconfirmation, or final nonconfirmation of employment eligibility for an individual shall store only the minimum data about each individual for whom an inquiry was made to facilitate the successful operation of the System, but in no case shall the data stored be other than—

''(i) the individual's full legal name;

''(ii) the individual's date of birth;

''(iii) the individual's social security account number or other employment authorization status identification number;

''(iv) the address of the employer making the inquiry;

''(v) the dates of any prior inquiries concerning the identity and eligibility of the employee by the employer or any other employers and the address of any such employer;

''(vi) records of any prior confirmations, tentative nonconfirmations, or final nonconfirmations issued under the System for the individual; and

''(vii) in the case of an employee successfully challenging a prior tentative nonconfirmation, explanatory information concerning the successful resolution of any erroneous data or confusion regarding the identity of the employee, including the source of that error.

''(J) LIMITATION OF SYSTEM USE OR INFORMATION TRANSFER.—Only individuals employed by the Commissioner of Social Security or the Secretary to implement and operate the System shall be permitted access to the System and any information in the databases queried to determine identity and employment authorization. It shall be unlawful for any other person to access the System or such databases or obtain information from the System or database. Information stored in the Systems or such databases may not be transferred to or shared with any Federal, State, or local government officials for any purpose other than preventing unauthorized workers from obtaining employment.

''(K) PROTECTION AGAINST UNLAWFUL INTERCEPTION AND DATA BREACHES.—The Commissioner of Social Security and the Secretary shall protect against unauthorized disclosure of the information transferred between employers, the Commissioner, and the Secretary and between the Commissioner and the Secretary by requiring that all information transmitted be encrypted.

''(L) ROBUST COMPUTER SYSTEM AND SOFTWARE SECURITY.—The Commissioner of Social Security and the Secretary shall employ robust, state-of-the-art computer system and software security to prevent hacking of the System or the databases employed.

''(M) SYSTEM SECURITY TESTING.—

''(i) REQUIREMENT FOR TESTING.—The Commissioner of Social Security and the Secretary shall require periodic stress testing of the System to determine if the System contains any vulnerabilities to data loss or theft or improper use of data. Such testing shall occur not less often than prior to each phase-in expansion of the System.

''(ii) REQUIREMENT TO REPAIR VULNERABILITIES.—Any computer vulnerabilities identified under clause (i) or through any other process shall be resolved prior to initial implementation or any subsequent expansion of the System.

''(iii) REQUIREMENT TO UPDATE.—The Secretary shall regularly update the System to ensure that the data protections in the System remains consistent with the state-of-the-art for databases of similarly sensitive personally identifiable information.

''(N) PROHIBITION OF UNLAWFUL ACCESSING AND OBTAINING OF INFORMATION.—

''(i) IMPROPER ACCESS.—It shall be unlawful for any individual, other than the government employees authorized in this subsection, to intentionally and knowingly access the System or the databases utilized to verify identity or employment authorization for the System for any purpose other than verifying identity or employment authorization or modifying the System pursuant to law or regulation. Any individual who unlawfully accesses the System or the databases or shall be fined no less than $1,000 for each individual whose file was compromised or sentenced to less than 6 months imprisonment for each individual whose file was compromised.

''(ii) IDENTITY THEFT.—It shall be unlawful for any individual, other than the government employees authorized in this subsection, to intentionally and knowingly obtain the information concerning an individual stored in the System or the databases utilized to verify identity or employment authorization for the System for any purpose other than verifying identity or employment authorization or modifying the System pursuant to law or regulation. Any individual who unlawfully obtains such information and uses it to commit identity theft for financial gain or to evade security or to assist another in gaining financially or evading security, shall be fined no less than $10,000 for each individual whose information was obtained and misappropriated sentenced to not less than 1 year of imprisonment for each individual whose information was obtained and misappropriated.

''(O) OFFICE OF EMPLOYEE PRIVACY.—

''(i) ESTABLISHMENT.—The Commissioner of Social Security and the Secretary shall establish a joint Office of Employee Privacy that shall be empowered to protect the rights of employees subject to verification under the System.

''(ii) AUTHORITY TO INVESTIGATE.—The Office of Employee Privacy shall investigate alleged privacy violations concerning failure of the Commissioner or the Secretary to satisfy the requirements of subparagraphs (H) through (Q) of this paragraph and any data breaches that may occur pursuant to the implementation and operation of the System.

''(iii) AUTHORITY TO ISSUE SUBPOENAS.—The head of the Office of Employee Privacy may issue subpoenas for a document or a person to facilitate an investigation.

''(iv) ANNUAL REPORT TO CONGRESS.—The head of the Office of Employee Privacy shall submit to Congress an annual report concerning the operation of the System.

''(v) ANNUAL REPORT ON INCORRECT NOTICES.—The head of the Office of Employee Privacy shall, at least annually, study and issue findings concerning the most common causes of the incorrect issuance of nonconfirmation notices under the System. Such report shall include recommendations for preventing such incorrect notices.

''(vi) AVAILABILITY OF REPORTS.—The head of the Office of Employee Privacy shall make available to the public any report issued by the Office concerning findings of an investigation conducted by the Office.

''(vii) REQUIREMENT FOR HOTLINE.—The head of the Office of Employee Privacy shall establish a fully staffed 24-hour hotline to receive inquiries by employees concerning tentative nonconfirmations and final nonconfirmations and shall identify for employees, at the time of inquiry, the particularity data that resulted in the issuance of a nonconfirmation notice under the System.

''(viii) CERTIFICATION BY GAO.—The Secretary may not implement the System or any subsequent expansion or phase-in of the System unless the Comptroller General of the United States certifies that the Office of Employee Privacy has hired sufficient employees to answer employee inquiries and respond in real time concerning the particular data that resulted in the issuance of a nonconfirmation notice.

''(ix) TRAINING IN PRIVACY PROTECTION.—The head of the Office of Employee Privacy shall train any employee of the Social Security Administration or the Department of Homeland Security who implements or operates the System concerning the importance of and means of utilizing best practices for protecting employee privacy while utilizing and operating the System.

''(P) AUDITS OF DATA ACCURACY.—The Commissioner of Social Security and the Secretary shall randomly audit a substantial percentage of both citizens and work-eligible noncitizens files utilized to verify identity and authorization for the System each year to determine accuracy rates and shall require correction of errors in a timely fashion.

''(Q) EMPLOYEE RIGHT TO REVIEW SYSTEM INFORMATION AND APPEAL ERRONEOUS NONCONFIRMATIONS.—Any employee who contests a tentative nonconfirmation notice or final nonconfirmation notice may review and challenge the accuracy of the data elements and information in the System that resulted in the issuance of the nonconfirmation notice. Such a challenge may include the ability to submit additional information or appeal any final nonconfirmation notice to the Office of Employee Privacy. The head of the Office of Employee Privacy shall review any such information submitted pursuant to such a challenge and issue a response and decision concerning the appeal within 7 days of the filing of such a challenge.''.

SA 3540. Mr. KENNEDY (for himself and Mr. DEWINE) submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in title V of the amendment, insert the following:

SEC. 2. DETERMINATIONS WITH RESPECT TO CHILDREN UNDER THE HAITIAN AND IMMIGRANT FAIRNESS ACT OF 1998.

(a) IN GENERAL.—Section 902(d) of the Haitian Refugee Immigration Fairness Act of 1998 (8 U.S.C. 1255 note) is amended by adding at the end the following:

''(3) DETERMINATIONS WITH RESPECT TO CHILDREN.—

''(A) USE OF APPLICATION FILING DATE.—Determinations made under this subsection as to whether an individual is a child of a parent shall be made using the age and status of the individual on October 21, 1998.

''(B) APPLICATION SUBMISSION BY PARENT.—Notwithstanding paragraph (1)(C), an application under this subsection filed based on status as a child may be filed or the benefit of such child by a parent or guardian of the child, if the child is physically present in the United States on such filing date.''.

(b) NEW APPLICATIONS AND MOTIONS TO REOPEN.—

(1) NEW APPLICATIONS.—Notwithstanding section 902(a)(1)(A) of the Haitian and Immigrant Fairness Act of 1998, an alien who is eligible for adjustment of status under such

Act, as amended by subsection (a), may submit an application for adjustment of status under such Act not later than the later of—

(A) 2 years after the date of the enactment of this Act; and

(B) 1 year after the date on which final regulations implementing this section are promulgated.

(2) MOTIONS TO REOPEN.—The Secretary of Homeland Security shall establish procedures for the reopening and reconsideration of applications for adjustment of status under the Haitian Refugee Immigration Fairness Act of 1998 that are affected by the amendments under subsection (a).

(3) RELATIONSHIP OF APPLICATION TO CERTAIN ORDERS.—Section 902(a)(3) of the Haitian and Immigrant Fairness Act of 1998 shall apply to an alien present in the United States who has been ordered excluded, deported, removed, or ordered to depart voluntarily, and who files an application under paragraph (1), or a motion under paragraph (2), in the same manner as such section 902(a)(3) applied to aliens filing applications for adjustment of status under such Act before April 1, 2000.

SEC. 3. INADMISSIBILITY DETERMINATION.

Section 902 of the Haitian Refugee Immigration Fairness Act of 1998 (8 U.S.C. 1255 note) is amended in subsections (a)(1)(B) and (d)(1)(D) by inserting ''(6)(C)(i),'' after ''(6)(A).''

SA 3541. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigation and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 329, line 11, insert ''(other than subparagraph (C)(i)(II) of such paragraph (9))'' after ''212(a)''.

On page 330, strike lines 8 through 15, and insert the following: this paragraph to waive the provisions of section 212(a).

''(3) INELIGIBILITY.—An alien is ineligible for conditional nonimmigrant work authorization and status under this section if—

''(A) the Secretary of Homeland Security determines that—

''(i) the alien, having been convicted by a final judgment of a serious crime, constitutes a danger to the community of the United States;

''(ii) there are reasonable grounds for believing that the alien has committed a serious crime outside the United States prior to the arrival of the alien in the United States; or

''(iii) there are reasonable grounds for regarding the alien as a danger to the security of the United States;

''(B) the alien has been convicted of any felony or three or more misdemeanors; or

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SA 3542. Mr. THOMAS (for himself and Mr. KYL) submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purpose; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. BORDER SECURITY ON CERTAIN FEDERAL LAND.

(a) DEFINITIONS.—In this section:

(1) PROTECTED LAND.—The term ''protected land'' means land under the jurisdiction of the Secretary concerned.

(2) SECRETARY CONCERNED.—The term ''Secretary concerned'' means—

(A) with respect to land under the jurisdiction of the Secretary of Agriculture, the Secretary of Agriculture; and

(B) with respect to land under the jurisdiction of the Secretary of the Interior, the Secretary of the Interior.

(b) SUPPORT FOR BORDER SECURITY NEEDS.—

(1) IN GENERAL.—To gain operational control over the international land borders of the United States and to prevent the entry of terrorists, unlawful aliens, narcotics, and other contraband into the United States, the Secretary, in cooperation with the Secretary concerned, shall provide—

(A) increased Customs and Border Protection personnel to secure protected land along the international land borders of the United States;

(B) Federal land resource training for Customs and Border Protection agents dedicated to protected land; and

(C) Unmanned Aerial Vehicles, aerial assets, Remote Video Surveillance camera systems, and sensors on protected land that is directly adjacent to the international land border of the United States, with priority given to units of the National Park System.

(2) COORDINATION.—In providing training for Customs and Border Protection agents under paragraph (1)(B), the Secretary shall coordinate with the Secretary concerned to ensure that the training is appropriate to the mission of the National Park Service, the Forest Service, or the relevant agency of the Department of the Interior or the Department of Agriculture to minimize the adverse impact on natural and cultural resources from border protection activities.

(c) INVENTORY OF COSTS AND ACTIVITIES.—The Secretary concerned shall develop and submit to the Secretary an inventory of costs incurred by the Secretary concerned relating to illegal border activity, including the cost of equipment, training, recurring maintenance, construction of facilities, restoration of natural and cultural resources, recapitalization of facilities, and operations.

(d) RECOMMENDATIONS.—The Secretary shall—

(1) develop joint recommendations with the National Park Service and the Forest Service for an appropriate cost recovery mechanism relating to items identified in subsection (c); and

(2) not later than March 31, 2007, submit to the appropriate congressional committees (as defined in section 2 of the Homeland Security Act of 2002 (6 U.S. C. 101)), including the Subcommittee on National Parks of the Senate and the Subcommittee on National Parks, Recreation and Public Lands of the House of Representatives, the recommendations developed under paragraph (1).

(e) BORDER PROTECTION STRATEGY.—The Secretary, the Secretary of the Interior, and the Secretary of Agriculture shall jointly develop a border protection strategy that supports the border security needs of the United States in the manner that best protects—

(1) units of the National Park System;

(2) land under the jurisdiction of the United States Fish and Wildlife Service; and

(3) other relevant land under the jurisdiction of the Department of the Interior or the Department of Agriculture.

SA 3543. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 1, strike line 3 and all that follows through the end, and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Comprehensive Immigration Reform Act of 2006''.

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

Sec. 1. Short title; table of contents.
Sec. 2. Reference to the Immigration and Nationality Act.
Sec. 3. Definitions.
Sec. 4. Severability.

TITLE I—BORDER ENFORCEMENT

Subtitle A—Assets for Controlling United States Borders

Sec. 101. Enforcement personnel.
Sec. 102. Technological assets.
Sec. 103. Infrastructure.
Sec. 104. Border patrol checkpoints.
Sec. 105. Ports of entry.
Sec. 106. Construction of strategic border fencing and vehicle barriers.

Subtitle B—Border Security Plans, Strategies, and Reports

Sec. 111. Surveillance plan.
Sec. 112. National Strategy for Border Security.
Sec. 113. Reports on improving the exchange of information on North American security.
Sec. 114. Improving the security of Mexico's southern border.
Sec. 115. Combating human smuggling.

Subtitle C—Other Border Security Initiatives

Sec. 121. Biometric data enhancements.
Sec. 122. Secure communication.
Sec. 123. Border patrol training capacity review.
Sec. 124. US-VISIT System.
Sec. 125. Document fraud detection.
Sec. 126. Improved document integrity.
Sec. 127. Cancellation of visas.
Sec. 128. Biometric entry-exit system.
Sec. 129. Border study.
Sec. 130. Secure border initiative financial accountability.
Sec. 131. Mandatory detention for aliens apprehended at or between ports of entry.
Sec. 132. Evasion of inspection or violation of arrival, reporting, entry, or clearance requirements.

Subtitle D—Border Tunnel Prevention Act

Sec. 141. Short title.
Sec. 142. Construction of border tunnel or passage.
Sec. 143. Directive to the United States Sentencing Commission.

TITLE II—INTERIOR ENFORCEMENT

Sec. 201. Removal and denial of benefits to terrorist aliens.
Sec. 202. Detention and removal of aliens ordered removed.
Sec. 203. Aggravated felony.
Sec. 204. Terrorist bars.
Sec. 205. Increased criminal penalties related to gang violence, removal, and alien smuggling.
Sec. 206. Illegal entry.
Sec. 207. Illegal reentry.
Sec. 208. Reform of passport, visa, and immigration fraud offenses.
Sec. 209. Inadmissibility and removal for passport and immigration fraud offenses.
Sec. 210. Incarceration of criminal aliens.
Sec. 211. Encouraging aliens to depart voluntarily.
Sec. 212. Deterring aliens ordered removed from remaining in the United States unlawfully.
Sec. 213. Prohibition of the sale of firearms to, or the possession of firearms by certain aliens.
Sec. 214. Uniform statute of limitations for certain immigration, naturalization, and peonage offenses.

Sec. 215. Diplomatic security service.
Sec. 216. Field agent allocation and background checks.
Sec. 217. Construction.
Sec. 218. State criminal alien assistance program.
Sec. 219. Transportation and processing of illegal aliens apprehended by State and local law enforcement officers.
Sec. 220. Reducing illegal immigration and alien smuggling on tribal lands.
Sec. 221. Alternatives to detention.
Sec. 222. Conforming amendment.
Sec. 223. Reporting requirements.
Sec. 224. State and local enforcement of Federal immigration laws.
Sec. 225. Removal of drunk drivers.
Sec. 226. Medical services in underserved areas.
Sec. 227. Expedited removal.
Sec. 228. Protecting immigrants from convicted sex offenders.
Sec. 229. Law enforcement authority of States and political subdivisions and transfer to Federal custody.
Sec. 230. Laundering of monetary instruments.
Sec. 231. Listing of immigration violators in the National Crime Information Center database.
Sec. 232. Cooperative enforcement programs.
Sec. 233. Increase of Federal detention space and the utilization of facilities identified for closures as a result of the Defense Base Closure Realignment Act of 1990.
Sec. 234. Determination of immigration status of individuals charged with Federal offenses.

TITLE III—UNLAWFUL EMPLOYMENT OF ALIENS

Sec. 301. Unlawful employment of aliens.
Sec. 302. Employer Compliance Fund.
Sec. 303. Additional worksite enforcement and fraud detection agents.
Sec. 304. Clarification of ineligibility for misrepresentation.

TITLE IV—TEMPORARY WORKER PROGRAMS AND VISA REFORM

Subtitle A—Requirements for Participating Countries

Sec. 401. Requirements for participating countries.

Subtitle B—Nonimmigrant Temporary Worker Program

Sec. 411. Nonimmigrant temporary worker category.
Sec. 412. Temporary worker program.
Sec. 413. Statutory construction.
Sec. 414. Authorization of appropriations.

Subtitle C—Mandatory Departure and Reentry in Legal Status

Sec. 421. Mandatory departure and reentry in legal status.
Sec. 422. Statutory construction.
Sec. 423. Authorization of appropriations.

Subtitle D—Alien Employment Management System

Sec. 431. Alien employment management system.
Sec. 432. Labor investigations.

Subtitle E—Protection Against Immigration Fraud

Sec. 441. Grants to Support Public Education and Training.

Subtitle F—Circular Migration

Sec. 451. Investment accounts.

Subtitle G—Backlog Reduction

Sec. 461. Employment based immigrants.
Sec. 462. Country limits.
Sec. 463. Allocation of immigrant visas.

Subtitle H—Temporary Agricultural Workers

Sec. 471. Sense of the Senate on temporary agricultural workers.

SEC. 2. REFERENCE TO THE IMMIGRATION AND NATIONALITY ACT.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

SEC. 3. DEFINITIONS.

In this Act:

(1) DEPARTMENT.—Except as otherwise provided, the term ''Department'' means the Department of Homeland Security.

(2) SECRETARY.—Except as otherwise provided, the term ''Secretary'' means the Secretary of Homeland Security.

SEC. 4. SEVERABILITY.

If any provision of this Act, any amendment made by this Act, or the application of such provision or amendment to any person or circumstance is held to be invalid for any reason, the remainder of this Act, the amendments made by this Act, and the application of the provisions of such to any other person or circumstance shall not be affected by such holding.

TITLE I—BORDER ENFORCEMENT

Subtitle A—Assets for Controlling United States Borders

SEC. 101. ENFORCEMENT PERSONNEL.

(a) ADDITIONAL PERSONNEL.—

(1) PORT OF ENTRY INSPECTORS.—In each of the fiscal years 2007 through 2011, the Secretary shall, subject to the availability of appropriations, increase by not less than 500 the number of positions for full-time active duty port of entry inspectors and provide appropriate training, equipment, and support to such additional inspectors.

(2) INVESTIGATIVE PERSONNEL.—

(A) IMMIGRATION AND CUSTOMS ENFORCEMENT INVESTIGATORS.—Section 5203 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 118 Stat. 3734) is amended by striking ''800'' and inserting ''1000''.

(B) ADDITIONAL PERSONNEL.—In addition to the positions authorized under section 5203 of the Intelligence Reform and Terrorism Prevention Act of 2004, as amended by subparagraph (A), during each of the fiscal years 2007 through 2011, the Secretary shall, subject to the availability of appropriations, increase by not less than 200 the number of positions for personnel within the Department assigned to investigate alien smuggling.

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) PORT OF ENTRY INSPECTORS.—There are authorized to be appropriated to the Secretary such sums as may be necessary for each of the fiscal years 2007 through 2011 to carry out paragraph (1) of subsection (a).

(2) BORDER PATROL AGENTS.—Section 5202 of the Intelligence Reform and Terrorism Prevention Act of 2004 (118 Stat. 3734) is amended to read as follows:

''SEC. 5202. INCREASE IN FULL-TIME BORDER PATROL AGENTS.

''(a) ANNUAL INCREASES.—The Secretary of Homeland Security shall, subject to the availability of appropriations for such purpose, increase the number of positions for full-time active-duty border patrol agents within the Department of Homeland Security (above the number of such positions for which funds were appropriated for the preceding fiscal year), by—

''(1) 2,000 in fiscal year 2006;

''(2) 2,400 in fiscal year 2007;

''(3) 2,400 in fiscal year 2008;

''(4) 2,400 in fiscal year 2009;

''(5) 2,400 in fiscal year 2010; and

''(6) 2,400 in fiscal year 2011;

''(b) NORTHERN BORDER.—In each of the fiscal years 2006 through 2011, in addition to the border patrol agents assigned along the northern border of the United States during the previous fiscal year, the Secretary shall assign a number of border patrol agents equal to not less than 20 percent of the net increase in border patrol agents during each such fiscal year.

''(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for each of fiscal years 2007 through 2011 to carry out this section.''.

SEC. 102. TECHNOLOGICAL ASSETS.

(a) ACQUISITION.—Subject to the availability of appropriations, the Secretary shall procure additional unmanned aerial vehicles, cameras, poles, sensors, and other technologies necessary to achieve operational control of the international borders of the United States and to establish a security perimeter known as a ''virtual fence'' along such international borders to provide a barrier to illegal immigration.

(b) INCREASED AVAILABILITY OF EQUIPMENT.—The Secretary and the Secretary of Defense shall develop and implement a plan to use authorities provided to the Secretary of Defense under chapter 18 of title 10, United States Code, to increase the availability and use of Department of Defense equipment, including unmanned aerial vehicles, tethered aerostat radars, and other surveillance equipment, to assist the Secretary in carrying out surveillance activities conducted at or near the international land borders of the United States to prevent illegal immigration.

(c) REPORT.—Not later than 6 months after the date of enactment of this Act, the Secretary and the Secretary of Defense shall submit to Congress a report that contains—

(1) a description of the current use of Department of Defense equipment to assist the Secretary in carrying out surveillance of the international land borders of the United States and assessment of the risks to citizens of the United States and foreign policy interests associated with the use of such equipment;

(2) the plan developed under subsection (b) to increase the use of Department of Defense equipment to assist such surveillance activities; and

(3) a description of the types of equipment and other support to be provided by the Secretary of Defense under such plan during the 1-year period beginning on the date of the submission of the report.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as may be necessary for each of the fiscal years 2007 through 2011 to carry out subsection (a).

(e) CONSTRUCTION.—Nothing in this section may be construed as altering or amending the prohibition on the use of any part of the Army or the Air Force as a posse comitatus under section 1385 of title 18, United States Code.

SEC. 103. INFRASTRUCTURE.

(a) CONSTRUCTION OF BORDER CONTROL FACILITIES.—Subject to the availability of appropriations, the Secretary shall construct all-weather roads and acquire additional vehicle barriers and facilities necessary to achieve operational control of the international borders of the United States.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as may be necessary for each of the fiscal years 2007 through 2011 to carry out subsection (a).

SEC. 104. BORDER PATROL CHECKPOINTS.

The Secretary may maintain temporary or permanent checkpoints on roadways in border patrol sectors that are located in proximity to the international border between the United States and Mexico.

SEC. 105. PORTS OF ENTRY.

The Secretary is authorized to—

(1) construct additional ports of entry along the international land borders of the United States, at locations to be determined by the Secretary; and

(2) make necessary improvements to the ports of entry in existence on the date of the enactment of this Act.

SEC. 106. CONSTRUCTION OF STRATEGIC BORDER FENCING AND VEHICLE BARRIERS.

(a) TUCSON SECTOR.—The Secretary shall—

(1) replace all aged, deteriorating, or damaged primary fencing in the Tucson Sector located proximate to population centers in Douglas, Nogales, Naco, and Lukeville, Arizona with double- or triple-layered fencing running parallel to the international border between the United States and Mexico;

(2) extend the double- or triple-layered fencing for a distance of not less than 2 miles beyond urban areas, except that the double- or triple-layered fence shall extend west of Naco, Arizona, for a distance of 10 miles; and

(3) construct not less than 150 miles of vehicle barriers and all-weather roads in the Tucson Sector running parallel to the international border between the United States and Mexico in areas that are known transit points for illegal cross-border traffic.

(b) YUMA SECTOR.—The Secretary shall—

(1) replace all aged, deteriorating, or damaged primary fencing in the Yuma Sector located proximate to population centers in Yuma, Somerton, and San Luis, Arizona with double- or triple-layered fencing running parallel to the international border between the United States and Mexico;

(2) extend the double- or triple-layered fencing for a distance of not less than 2 miles beyond urban areas in the Yuma Sector.

(3) construct not less than 50 miles of vehicle barriers and all-weather roads in the Yuma Sector running parallel to the international border between the United States and Mexico in areas that are known transit points for illegal cross-border traffic.

(c) CONSTRUCTION DEADLINE.—The Secretary shall immediately commence construction of the fencing, barriers, and roads described in subsections (a) and (b), and shall complete such construction not later than 2 years after the date of the enactment of this Act.

(d) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives that describes the progress that has been made in constructing the fencing, barriers, and roads described in subsections (a) and (b).

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

Subtitle B—Border Security Plans, Strategies, and Reports

SEC. 111. SURVEILLANCE PLAN.

(a) REQUIREMENT FOR PLAN.—The Secretary shall develop a comprehensive plan for the systematic surveillance of the international land and maritime borders of the United States.

(b) CONTENT.—The plan required by subsection (a) shall include the following:

(1) An assessment of existing technologies employed on the international land and maritime borders of the United States.

(2) A description of the compatibility of new surveillance technologies with surveillance technologies in use by the Secretary on the date of the enactment of this Act.

(3) A description of how the Commissioner of the United States Customs and Border Protection of the Department is working, or is expected to work, with the Under Secretary for Science and Technology of the Department to identify and test surveillance technology.

(4) A description of the specific surveillance technology to be deployed.

(5) Identification of any obstacles that may impede such deployment.

(6) A detailed estimate of all costs associated with such deployment and with continued maintenance of such technologies.

(7) A description of how the Secretary is working with the Administrator of the Federal Aviation Administration on safety and airspace control issues associated with the use of unmanned aerial vehicles.

(c) SUBMISSION TO CONGRESS.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall submit to Congress the plan required by this section.

SEC. 112. NATIONAL STRATEGY FOR BORDER SECURITY.

(a) REQUIREMENT FOR STRATEGY.—The Secretary, in consultation with the heads of other appropriate Federal agencies, shall develop a National Strategy for Border Security that describes actions to be carried out to achieve operational control over all ports of entry into the United States and the international land and maritime borders of the United States.

(b) CONTENT.—The National Strategy for Border Security shall include the following:

(1) The implementation schedule for the comprehensive plan for systematic surveillance described in section 111.

(2) An assessment of the threat posed by terrorists and terrorist groups that may try to infiltrate the United States at locations along the international land and maritime borders of the United States.

(3) A risk assessment for all United States ports of entry and all portions of the international land and maritime borders of the United States that includes a description of activities being undertaken—

(A) to prevent the entry of terrorists, other unlawful aliens, instruments of terrorism, narcotics, and other contraband into the United States; and

(B) to protect critical infrastructure at or near such ports of entry or borders.

(4) An assessment of the legal requirements that prevent achieving and maintaining operational control over the entire international land and maritime borders of the United States.

(5) An assessment of the most appropriate, practical, and cost-effective means of defending the international land and maritime borders of the United States against threats to security and illegal transit, including intelligence capacities, technology, equipment, personnel, and training needed to address security vulnerabilities.

(6) An assessment of staffing needs for all border security functions, taking into account threat and vulnerability information pertaining to the borders and the impact of new security programs, policies, and technologies.

(7) A description of the border security roles and missions of Federal, State, regional, local, and tribal authorities, and recommendations regarding actions the Secretary can carry out to improve coordination with such authorities to enable border security and enforcement activities to be carried out in a more efficient and effective manner.

(8) An assessment of existing efforts and technologies used for border security and the effect of the use of such efforts and technologies on civil rights, personal property rights, privacy rights, and civil liberties, including an assessment of efforts to take into account asylum seekers, trafficking victims, unaccompanied minor aliens, and other vulnerable populations.

(9) A prioritized list of research and development objectives to enhance the security of the international land and maritime borders of the United States.

(10) A description of ways to ensure that the free flow of travel and commerce is not diminished by efforts, activities, and programs aimed at securing the international land and maritime borders of the United States.

(11) An assessment of additional detention facilities and beds that are needed to detain unlawful aliens apprehended at United States ports of entry or along the international land borders of the United States.

(12) A description of the performance metrics to be used to ensure accountability by the bureaus of the Department in implementing such Strategy.

(13) A schedule for the implementation of the security measures described in such Strategy, including a prioritization of security measures, realistic deadlines for addressing the security and enforcement needs, an estimate of the resources needed to carry out such measures, and a description of how such resources should be allocated.

(c) CONSULTATION.—In developing the National Strategy for Border Security, the Secretary shall consult with representatives of—

(1) State, local, and tribal authorities with responsibility for locations along the international land and maritime borders of the United States; and

(2) appropriate private sector entities, nongovernmental organizations, and affected communities that have expertise in areas related to border security.

(d) COORDINATION.—The National Strategy for Border Security shall be consistent with the National Strategy for Maritime Security developed pursuant to Homeland Security Presidential Directive 13, dated December 21, 2004.

(e) SUBMISSION TO CONGRESS.—

(1) STRATEGY.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit to Congress the National Strategy for Border Security.

(2) UPDATES.—The Secretary shall submit to Congress any update of such Strategy that the Secretary determines is necessary, not later than 30 days after such update is developed.

(f) IMMEDIATE ACTION.—Nothing in this section or section 111 may be construed to relieve the Secretary of the responsibility to take all actions necessary and appropriate to achieve and maintain operational control over the entire international land and maritime borders of the United States.

SEC. 113. REPORTS ON IMPROVING THE EXCHANGE OF INFORMATION ON NORTH AMERICAN SECURITY.

(a) REQUIREMENT FOR REPORTS.—Not later than 1 year after the date of the enactment of this Act, and annually thereafter, the Secretary of State, in coordination with the Secretary and the heads of other appropriate Federal agencies, shall submit to Congress a report on improving the exchange of information related to the security of North America.

(b) CONTENTS.—Each report submitted under subsection (a) shall contain a description of the following:

(1) SECURITY CLEARANCES AND DOCUMENT INTEGRITY.—The progress made toward the development of common enrollment, security,

technical, and biometric standards for the issuance, authentication, validation, and repudiation of secure documents, including—

(A) technical and biometric standards based on best practices and consistent with international standards for the issuance, authentication, validation, and repudiation of travel documents, including—

(i) passports;

(ii) visas; and

(iii) permanent resident cards;

(B) working with Canada and Mexico to encourage foreign governments to enact laws to combat alien smuggling and trafficking, and laws to forbid the use and manufacture of fraudulent travel documents and to promote information sharing;

(C) applying the necessary pressures and support to ensure that other countries meet proper travel document standards and are committed to travel document verification before the citizens of such countries travel internationally, including travel by such citizens to the United States; and

(D) providing technical assistance for the development and maintenance of a national database built upon identified best practices for biometrics associated with visa and travel documents.

(2) IMMIGRATION AND VISA MANAGEMENT.—The progress of efforts to share information regarding high-risk individuals who may attempt to enter Canada, Mexico, or the United States, including the progress made—

(A) in implementing the Statement of Mutual Understanding on Information Sharing, signed by Canada and the United States in February 2003; and

(B) in identifying trends related to immigration fraud, including asylum and document fraud, and to analyze such trends.

(3) VISA POLICY COORDINATION AND IMMIGRATION SECURITY.—The progress made by Canada, Mexico, and the United States to enhance the security of North America by cooperating on visa policy and identifying best practices regarding immigration security, including the progress made—

(A) in enhancing consultation among officials who issue visas at the consulates or embassies of Canada, Mexico, or the United States throughout the world to share information, trends, and best practices on visa flows;

(B) in comparing the procedures and policies of Canada and the United States related to visitor visa processing, including—

(i) application process;

(ii) interview policy;

(iii) general screening procedures;

(iv) visa validity;

(v) quality control measures; and

(vi) access to appeal or review;

(C) in exploring methods for Canada, Mexico, and the United States to waive visa requirements for nationals and citizens of the same foreign countries;

(D) in providing technical assistance for the development and maintenance of a national database built upon identified best practices for biometrics associated with immigration violators;

(E) in developing and implementing an immigration security strategy for North America that works toward the development of a common security perimeter by enhancing technical assistance for programs and systems to support advance automated reporting and risk targeting of international passengers;

(F) in sharing information on lost and stolen passports on a real-time basis among immigration or law enforcement officials of Canada, Mexico, and the United States; and

(G) in collecting 10 fingerprints from each individual who applies for a visa.

(4) NORTH AMERICAN VISITOR OVERSTAY PROGRAM.—The progress made by Canada and the United States in implementing parallel entry-exit tracking systems that, while respecting the privacy laws of both countries, share information regarding third country nationals who have overstayed their period of authorized admission in either Canada or the United States.

(5) TERRORIST WATCH LISTS.—The progress made in enhancing the capacity of the United States to combat terrorism through the coordination of counterterrorism efforts, including the progress made—

(A) in developing and implementing bilateral agreements between Canada and the United States and between Mexico and the United States to govern the sharing of terrorist watch list data and to comprehensively enumerate the uses of such data by the governments of each country;

(B) in establishing appropriate linkages among Canada, Mexico, and the United States Terrorist Screening Center; and

(C) in exploring with foreign governments the establishment of a multilateral watch list mechanism that would facilitate direct coordination between the country that identifies an individual as an individual included on a watch list, and the country that owns such list, including procedures that satisfy the security concerns and are consistent with the privacy and other laws of each participating country.

(6) MONEY LAUNDERING, CURRENCY SMUGGLING, AND ALIEN SMUGGLING.—The progress made in improving information sharing and law enforcement cooperation in combating organized crime, including the progress made—

(A) in combating currency smuggling, money laundering, alien smuggling, and trafficking in alcohol, firearms, and explosives;

(B) in implementing the agreement between Canada and the United States known as the Firearms Trafficking Action Plan;

(C) in determining the feasibility of formulating a firearms trafficking action plan between Mexico and the United States;

(D) in developing a joint threat assessment on organized crime between Canada and the United States;

(E) in determining the feasibility of formulating a joint threat assessment on organized crime between Mexico and the United States;

(F) in developing mechanisms to exchange information on findings, seizures, and capture of individuals transporting undeclared currency; and

(G) in developing and implementing a plan to combat the transnational threat of illegal drug trafficking.

(7) LAW ENFORCEMENT COOPERATION.—The progress made in enhancing law enforcement cooperation among Canada, Mexico, and the United States through enhanced technical assistance for the development and maintenance of a national database built upon identified best practices for biometrics associated with known and suspected criminals or terrorists, including exploring the formation of law enforcement teams that include personnel from the United States and Mexico, and appropriate procedures for such teams.

SEC. 114. IMPROVING THE SECURITY OF MEXICO'S SOUTHERN BORDER.

(a) TECHNICAL ASSISTANCE.—The Secretary of State, in coordination with the Secretary, shall work to cooperate with the head of Foreign Affairs Canada and the appropriate officials of the Government of Mexico to establish a program—

(1) to assess the specific needs of Guatemala and Belize in maintaining the security of the international borders of such countries;

(2) to use the assessment made under paragraph (1) to determine the financial and technical support needed by Guatemala and Belize from Canada, Mexico, and the United States to meet such needs;

(3) to provide technical assistance to Guatemala and Belize to promote issuance of secure passports and travel documents by such countries; and

(4) to encourage Guatemala and Belize—

(A) to control alien smuggling and trafficking;

(B) to prevent the use and manufacture of fraudulent travel documents; and

(C) to share relevant information with Mexico, Canada, and the United States.

(b) BORDER SECURITY FOR BELIZE, GUATEMALA, AND MEXICO.—The Secretary, in consultation with the Secretary of State, shall work to cooperate—

(1) with the appropriate officials of the Government of Guatemala and the Government of Belize to provide law enforcement assistance to Guatemala and Belize that specifically addresses immigration issues to increase the ability of the Government of Guatemala to dismantle human smuggling organizations and gain additional control over the international border between Guatemala and Belize; and

(2) with the appropriate officials of the Government of Belize, the Government of Guatemala, the Government of Mexico, and the governments of neighboring contiguous countries to establish a program to provide needed equipment, technical assistance, and vehicles to manage, regulate, and patrol the international borders between Mexico and Guatemala and between Mexico and Belize.

(c) TRACKING CENTRAL AMERICAN GANGS.—The Secretary of State, in coordination with the Secretary and the Director of the Federal Bureau of Investigation, shall work to cooperate with the appropriate officials of the Government of Mexico, the Government of Guatemala, the Government of Belize, and the governments of other Central American countries—

(1) to assess the direct and indirect impact on the United States and Central America of deporting violent criminal aliens;

(2) to establish a program and database to track individuals involved in Central American gang activities;

(3) to develop a mechanism that is acceptable to the governments of Belize, Guatemala, Mexico, the United States, and other appropriate countries to notify such a government if an individual suspected of gang activity will be deported to that country prior to the deportation and to provide support for the reintegration of such deportees into that country; and

(4) to develop an agreement to share all relevant information related to individuals connected with Central American gangs.

(d) LIMITATIONS ON ASSISTANCE.—Any funds made available to carry out this section shall be subject to the limitations contained in section 551 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act of 2006 (Public Law 109–102; 119 Stat. 2218).

SEC. 115. COMBATING HUMAN SMUGGLING.

(a) REQUIREMENT FOR PLAN.—The Secretary shall develop and implement a plan to improve coordination between the Bureau of Immigration and Customs Enforcement and the Bureau of Customs and Border Protection of the Department and any other Federal, State, local, or tribal authorities, as determined appropriate by the Secretary, to improve coordination efforts to combat human smuggling.

(b) CONTENT.—In developing the plan required by subsection (a), the Secretary shall consider—

(1) the interoperability of databases utilized to prevent human smuggling;

(2) adequate and effective personnel training;

(3) methods and programs to effectively target networks that engage in such smuggling;

(4) effective utilization of—

(A) visas for victims of trafficking and other crimes; and

(B) investigatory techniques, equipment, and procedures that prevent, detect, and prosecute international money laundering and other operations that are utilized in smuggling;

(5) joint measures, with the Secretary of State, to enhance intelligence sharing and cooperation with foreign governments whose citizens are preyed on by human smugglers; and

(6) other measures that the Secretary considers appropriate to combating human smuggling.

(c) REPORT.—Not later than 1 year after implementing the plan described in subsection (a), the Secretary shall submit to Congress a report on such plan, including any recommendations for legislative action to improve efforts to combating human smuggling.

(d) SAVINGS PROVISION.—Nothing in this section may be construed to provide additional authority to any State or local entity to enforce Federal immigration laws.

Subtitle C—Other Border Security Initiatives

SEC. 121. BIOMETRIC DATA ENHANCEMENTS.

Not later than October 1, 2007, the Secretary shall—

(1) in consultation with the Attorney General, enhance connectivity between the Automated Biometric Fingerprint Identification System (IDENT) of the Department and the Integrated Automated Fingerprint Identification System (IAFIS) of the Federal Bureau of Investigation to ensure more expeditious data searches; and

(2) in consultation with the Secretary of State, collect all fingerprints from each alien required to provide fingerprints during the alien's initial enrollment in the integrated entry and exit data system described in section 110 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1365a).

SEC. 122. SECURE COMMUNICATION.

The Secretary shall, as expeditiously as practicable, develop and implement a plan to improve the use of satellite communications and other technologies to ensure clear and secure 2-way communication capabilities—

(1) among all Border Patrol agents conducting operations between ports of entry;

(2) between Border Patrol agents and their respective Border Patrol stations;

(3) between Border Patrol agents and residents in remote areas along the international land borders of the United States; and

(4) between all appropriate border security agencies of the Department and State, local, and tribal law enforcement agencies.

SEC. 123. BORDER PATROL TRAINING CAPACITY REVIEW.

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a review of the basic training provided to Border Patrol agents by the Secretary to ensure that such training is provided as efficiently and cost-effectively as possible.

(b) COMPONENTS OF REVIEW.—The review under subsection (a) shall include the following components:

(1) An evaluation of the length and content of the basic training curriculum provided to new Border Patrol agents by the Federal Law Enforcement Training Center, including a description of how such curriculum has changed since September 11, 2001, and an evaluation of language and cultural diversity training programs provided within such curriculum.

(2) A review and a detailed breakdown of the costs incurred by the Bureau of Customs and Border Protection and the Federal Law Enforcement Training Center to train 1 new Border Patrol agent.

(3) A comparison, based on the review and breakdown under paragraph (2), of the costs, effectiveness, scope, and quality, including geographic characteristics, with other similar training programs provided by State and local agencies, nonprofit organizations, universities, and the private sector.

(4) An evaluation of whether utilizing comparable non-Federal training programs, proficiency testing, and long-distance learning programs may affect—

(A) the cost-effectiveness of increasing the number of Border Patrol agents trained per year;

(B) the per agent costs of basic training; and

(C) the scope and quality of basic training needed to fulfill the mission and duties of a Border Patrol agent.

SEC. 124. US-VISIT SYSTEM.

Not later than 6 months after the date of the enactment of this Act, the Secretary, in consultation with the heads of other appropriate Federal agencies, shall submit to Congress a schedule for—

(1) equipping all land border ports of entry of the United States with the U.S.-Visitor and Immigrant Status Indicator Technology (US-VISIT) system implemented under section 110 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1365a);

(2) developing and deploying at such ports of entry the exit component of the US-VISIT system; and

(3) making interoperable all immigration screening systems operated by the Secretary.

SEC. 125. DOCUMENT FRAUD DETECTION.

(a) TRAINING.—Subject to the availability of appropriations, the Secretary shall provide all Customs and Border Protection officers with training in identifying and detecting fraudulent travel documents. Such training shall be developed in consultation with the head of the Forensic Document Laboratory of the Bureau of Immigration and Customs Enforcement.

(b) FORENSIC DOCUMENT LABORATORY.—The Secretary shall provide all Customs and Border Protection officers with access to the Forensic Document Laboratory.

(c) ASSESSMENT.—

(1) REQUIREMENT FOR ASSESSMENT.—The Inspector General of the Department shall conduct an independent assessment of the accuracy and reliability of the Forensic Document Laboratory.

(2) REPORT TO CONGRESS.—Not later than 6 months after the date of the enactment of this Act, the Inspector General shall submit to Congress the findings of the assessment required by paragraph (1).

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as may be necessary for each of fiscal years 2007 through 2011 to carry out this section.

SEC. 126. IMPROVED DOCUMENT INTEGRITY.

(a) IN GENERAL.—Section 303 of the Enhanced Border Security and Visa Entry Reform Act of 2002 (8 U.S.C. 1732) is amended—

(1) by striking ''Attorney General'' each place it appears and inserting ''Secretary of Homeland Security'';

(2) in the heading, by striking ''**ENTRY AND EXIT DOCUMENTS**'' and inserting ''**TRAVEL AND ENTRY DOCUMENTS AND EVIDENCE OF STATUS**'';

(3) in subsection (b)(1)—

(A) by striking ''Not later than October 26, 2004, the'' and inserting ''The''; and

(B) by striking ''visas and'' both places it appears and inserting ''visas, evidence of status, and'';

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

(5) by inserting after subsection (c) the following:

''(d) OTHER DOCUMENTS.—Not later than October 26, 2007, every document, other than an interim document, issued by the Secretary of Homeland Security, which may be used as evidence of an alien's status as an immigrant, nonimmigrant, parolee, asylee, or refugee, shall be machine-readable and tamper-resistant, and shall incorporate a biometric identifier to allow the Secretary of Homeland Security to verify electronically the identity and status of the alien.''.

SEC. 127. CANCELLATION OF VISAS.

Section 222(g) (8 U.S.C. 1202(g)) is amended—

(1) in paragraph (1)—

(A) by striking ''Attorney General'' and inserting ''Secretary of Homeland Security''; and

(B) by inserting ''and any other nonimmigrant visa issued by the United States that is in the possession of the alien'' after ''such visa''; and

(2) in paragraph (2)(A), by striking ''(other than the visa described in paragraph (1)) issued in a consular office located in the country of the alien's nationality'' and inserting ''(other than a visa described in paragraph (1)) issued in a consular office located in the country of the alien's nationality or foreign residence''.

SEC. 128. BIOMETRIC ENTRY-EXIT SYSTEM.

(a) COLLECTION OF BIOMETRIC DATA FROM ALIENS DEPARTING THE UNITED STATES.—Section 215 (8 U.S.C. 1185) is amended—

(1) by redesignating subsection (c) as subsection (g);

(2) by moving subsection (g), as redesignated by paragraph (1), to the end; and

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

''(c) The Secretary of Homeland Security is authorized to require aliens departing the United States to provide biometric data and other information relating to their immigration status.''.

(b) INSPECTION OF APPLICANTS FOR ADMISSION.—Section 235(d) (8 U.S.C. 1225(d)) is amended by adding at the end the following:

''(5) AUTHORITY TO COLLECT BIOMETRIC DATA.—In conducting inspections under subsection (b), immigration officers are authorized to collect biometric data from—

''(A) any applicant for admission or alien seeking to transit through the United States; or

''(B) any lawful permanent resident who is entering the United States and who is not regarded as seeking admission pursuant to section 101(a)(13)(C).''.

(c) COLLECTION OF BIOMETRIC DATA FROM ALIEN CREWMEN.—Section 252 (8 U.S.C. 1282) is amended by adding at the end the following:

''(d) An immigration officer is authorized to collect biometric data from an alien crewman seeking permission to land temporarily in the United States.''.

(d) GROUNDS OF INADMISSIBILITY.—Section 212 (8 U.S.C. 1182) is amended—

(1) in subsection (a)(7), by adding at the end the following:

''(C) WITHHOLDERS OF BIOMETRIC DATA.—Any alien who knowingly fails to comply with a lawful request for biometric data under section 215(c) or 235(d) is inadmissible.''; and

(2) in subsection (d), by inserting after paragraph (1) the following:

''(2) The Secretary of Homeland Security shall determine whether a ground for inadmissibility exists with respect to an alien described in subparagraph (C) of subsection

(a)(7) and may waive the application of such subparagraph for an individual alien or a class of aliens, at the discretion of the Secretary.''.

(e) IMPLEMENTATION.—Section 7208 of the 9/11 Commission Implementation Act of 2004 (8 U.S.C. 1365b) is amended—

(1) in subsection (c), by adding at the end the following:

''(3) IMPLEMENTATION.—In fully implementing the automated biometric entry and exit data system under this section, the Secretary is not required to comply with the requirements of chapter 5 of title 5, United States Code (commonly referred to as the Administrative Procedure Act) or any other law relating to rulemaking, information collection, or publication in the Federal Register.''; and

(2) in subsection (l)—

(A) by striking ''There are authorized'' and inserting the following:

''(1) IN GENERAL.—There are authorized''; and

(B) by adding at the end the following:

''(2) IMPLEMENTATION AT ALL LAND BORDER PORTS OF ENTRY.—There are authorized to be appropriated such sums as may be necessary for each of fiscal years 2007 and 2008 to implement the automated biometric entry and exit data system at all land border ports of entry.''.

SEC. 129. BORDER STUDY.

(a) SOUTHERN BORDER STUDY.—The Secretary, in consultation with the Attorney General, the Secretary of the Interior, the Secretary of Agriculture, the Secretary of Defense, the Secretary of Commerce, and the Administrator of the Environmental Protection Agency, shall conduct a study on the construction of a system of physical barriers along the southern international land and maritime border of the United States. The study shall include—

(1) an assessment of the necessity of constructing such a system, including the identification of areas of high priority for the construction of such a system determined after consideration of factors including the amount of narcotics trafficking and the number of illegal immigrants apprehended in such areas;

(2) an assessment of the feasibility of constructing such a system;

(3) an assessment of the international, national, and regional environmental impact of such a system, including the impact on zoning, global climate change, ozone depletion, biodiversity loss, and transboundary pollution;

(4) an assessment of the necessity for ports of entry along such a system;

(5) an assessment of the impact such a system would have on international trade, commerce, and tourism;

(6) an assessment of the effect of such a system on private property rights including issues of eminent domain and riparian rights;

(7) an estimate of the costs associated with building a barrier system, including costs associated with excavation, construction, and maintenance;

(8) an assessment of the effect of such a system on Indian reservations and units of the National Park System; and

(9) an assessment of the necessity of constructing such a system after the implementation of provisions of this Act relating to guest workers, visa reform, and interior and worksite enforcement, and the likely effect of such provisions on undocumented immigration and the flow of illegal immigrants across the international border of the United States;

(10) an assessment of the impact of such a system on diplomatic relations between the United States and Mexico, Central America, and South America, including the likely impact of such a system on existing and potential areas of bilateral and multilateral cooperative enforcement efforts;

(11) an assessment of the impact of such a system on the quality of life within border communities in the United States and Mexico, including its impact on noise and light pollution, housing, transportation, security, and environmental health;

(12) an assessment of the likelihood that such a system would lead to increased violations of the human rights, health, safety, or civil rights of individuals in the region near the southern international border of the United States, regardless of the immigration status of such individuals;

(13) an assessment of the effect such a system would have on violence near the southern international border of the United States; and

(14) an assessment of the effect of such a system on the vulnerability of the United States to infiltration by terrorists or other agents intending to inflict direct harm on the United States.

(b) REPORT.—Not later than 9 months after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the study described in subsection (a).

SEC. 130. SECURE BORDER INITIATIVE FINANCIAL ACCOUNTABILITY.

(a) IN GENERAL.—The Inspector General of the Department shall review each contract action relating to the Secure Border Initiative having a value of more than $20,000,000, to determine whether each such action fully complies with applicable cost requirements, performance objectives, program milestones, inclusion of small, minority, and women-owned business, and time lines. The Inspector General shall complete a review under this subsection with respect to each contract action—

(1) not later than 60 days after the date of the initiation of the action; and

(2) upon the conclusion of the performance of the contract.

(b) INSPECTOR GENERAL.—

(1) ACTION.—If the Inspector General becomes aware of any improper conduct or wrongdoing in the course of conducting a contract review under subsection (a), the Inspector General shall, as expeditiously as practicable, refer information relating to such improper conduct or wrongdoing to the Secretary, or to another appropriate official of the Department, who shall determine whether to temporarily suspend the contractor from further participation in the Secure Border Initiative.

(2) REPORT.—Upon the completion of each review described in subsection (a), the Inspector General shall submit to the Secretary a report containing the findings of the review, including findings regarding—

(A) cost overruns;

(B) significant delays in contract execution;

(C) lack of rigorous departmental contract management;

(D) insufficient departmental financial oversight;

(E) bundling that limits the ability of small businesses to compete; or

(F) other high risk business practices.

(c) REPORTS BY THE SECRETARY.—

(1) IN GENERAL.—Not later than 30 days after the receipt of each report required under subsection (b)(2), the Secretary shall submit a report, to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives, that describes—

(A) the findings of the report received from the Inspector General; and

(B) the steps the Secretary has taken, or plans to take, to address the problems identified in such report.

(2) CONTRACTS WITH FOREIGN COMPANIES.—Not later than 60 days after the initiation of each contract action with a company whose headquarters is not based in the United States, the Secretary shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives, regarding the Secure Border Initiative.

(d) REPORTS ON UNITED STATES PORTS.—Not later that 30 days after receiving information regarding a proposed purchase of a contract to manage the operations of a United States port by a foreign entity, the Committee on Foreign Investment in the United States shall submit a report to Congress that describes—

(1) the proposed purchase;

(2) any security concerns related to the proposed purchase; and

(3) the manner in which such security concerns have been addressed.

(e) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts that are otherwise authorized to be appropriated to the Office of the Inspector General of the Department, there are authorized to be appropriated to the Office, to enable the Office to carry out this section—

(1) for fiscal year 2007, not less than 5 percent of the overall budget of the Office for such fiscal year;

(2) for fiscal year 2008, not less than 6 percent of the overall budget of the Office for such fiscal year; and

(3) for fiscal year 2009, not less than 7 percent of the overall budget of the Office for such fiscal year.

SEC. 131. MANDATORY DETENTION FOR ALIENS APPREHENDED AT OR BETWEEN PORTS OF ENTRY.

(a) IN GENERAL.—Beginning on October 1, 2007, an alien (other than a national of Mexico) who is attempting to illegally enter the United States and who is apprehended at a United States port of entry or along the international land and maritime border of the United States shall be detained until removed or a final decision granting admission has been determined, unless the alien—

(1) is permitted to withdraw an application for admission under section 235(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1225(a)(4)) and immediately departs from the United States pursuant to such section; or

(2) is paroled into the United States by the Secretary for urgent humanitarian reasons or significant public benefit in accordance with section 212(d)(5)(A) of such Act (8 U.S.C. 1182(d)(5)(A)).

(b) REQUIREMENTS DURING INTERIM PERIOD.—Beginning 60 days after the date of the enactment of this Act and before October 1, 2007, an alien described in subsection (a) may be released with a notice to appear only if—

(1) the Secretary determines, after conducting all appropriate background and security checks on the alien, that the alien does not pose a national security risk; and

(2) the alien provides a bond of not less than $5,000.

(c) RULES OF CONSTRUCTION.—

(1) ASYLUM AND REMOVAL.—Nothing in this section shall be construed as limiting the right of an alien to apply for asylum or for relief or deferral of removal based on a fear of persecution.

(2) TREATMENT OF CERTAIN ALIENS.—The mandatory detention requirement in subsection (a) does not apply to any alien who is a native or citizen of a country in the Western Hemisphere with whose government the United States does not have full diplomatic relations.

(3) DISCRETION.—Nothing in this section shall be construed as limiting the authority of the Secretary, in the Secretary's sole unreviewable discretion, to determine whether an alien described in clause (ii) of section 235(b)(1)(B) of the Immigration and Nationality Act shall be detained or released after a finding of a credible fear of persecution (as defined in clause (v) of such section).

SEC. 132. EVASION OF INSPECTION OR VIOLATION OF ARRIVAL, REPORTING, ENTRY, OR CLEARANCE REQUIREMENTS.

(a) IN GENERAL.—Chapter 27 of title 18, United States Code, is amended by adding at the end the following:

"§ 554. Evasion of inspection or during violation of arrival, reporting, entry, or clearance requirements

''(a) PROHIBITION.—A person shall be punished as described in subsection (b) if such person attempts to elude or eludes customs, immigration, or agriculture inspection or fails to stop at the command of an officer or employee of the United States charged with enforcing the immigration, customs, or other laws of the United States at a port of entry or customs or immigration checkpoint;

''(b) PENALTIES.—A person who commits an offense described in subsection (a) shall be—

''(1) fined under this title;

''(2)(A) imprisoned for not more than 3 years, or both;

''(B) imprisoned for not more than 10 years, or both, if in commission of this violation, attempts to inflict or inflicts bodily injury (as defined in section 1365(g) of this title); or

''(C) imprisoned for any term of years or for life, or both, if death results, and may be sentenced to death; or

''(3) both fined and imprisoned under this subsection.

''(c) CONSPIRACY.—If 2 or more persons conspire to commit an offense described in subsection (a), and 1 or more of such persons do any act to effect the object of the conspiracy, each shall be punishable as a principal, except that the sentence of death may not be imposed.

''(d) PRIMA FACIE EVIDENCE.—For the purposes of seizure and forfeiture under applicable law, in the case of use of a vehicle or other conveyance in the commission of this offense, or in the case of disregarding or disobeying the lawful authority or command of any officer or employee of the United States under section 111(b) of this title, such conduct shall constitute prima facie evidence of smuggling aliens or merchandise.''.

(b) CONFORMING AMENDMENT.—The table of sections for chapter 27 of title 18, United States Code, is amended by inserting at the end:

''554. Evasion of inspection or during violation of arrival, reporting, entry, or clearance requirements.''.

(c) FAILURE TO OBEY BORDER ENFORCEMENT OFFICERS.—Section 111 of title 18, United States Code, is amended by inserting after subsection (b) the following:

''(c) FAILURE TO OBEY LAWFUL ORDERS OF BORDER ENFORCEMENT OFFICERS.—Whoever willfully disregards or disobeys the lawful authority or commend of any officer or employee of the United States charged with enforcing the immigration, customs, or other laws of the United States while engaged in, or on account of, the performance of official duties shall be fined under this title or imprisoned for not more than 5 years, or both.''.

Subtitle D—Border Tunnel Prevention Act

SEC. 141. SHORT TITLE.

This subtitle may be cited as the ''Border Tunnel Prevention Act''.

SEC. 142. CONSTRUCTION OF BORDER TUNNEL OR PASSAGE.

(a) IN GENERAL.—Chapter 27 of title 18, United States Code, as amended by section 132(a), is further amended by adding at the end the following:

"§ 555. Border tunnels and passages

''(a) Any person who knowingly constructs or finances the construction of a tunnel or subterranean passage that crosses the international border between the United States and another country, other than a lawfully authorized tunnel or passage known to the Secretary of Homeland Security and subject to inspection by the Bureau of Immigration and Customs Enforcement, shall be fined under this title and imprisoned for not more than 20 years.

''(b) Any person who knows or recklessly disregards the construction or use of a tunnel or passage described in subsection (a) on land that the person owns or controls shall be fined under this title and imprisoned for not more than 10 years.

''(c) Any person who uses a tunnel or passage described in subsection (a) to unlawfully smuggle an alien, goods (in violation of section 545), controlled substances, weapons of mass destruction (including biological weapons), or a member of a terrorist organization (as defined in section 212(a)(3)(B)(vi) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(vi))) shall be subject to a maximum term of imprisonment that is twice the maximum term of imprisonment that would have otherwise been applicable had the unlawful activity not made use of such a tunnel or passage.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 27 of title 18, United States Code, as amended by section 132(b), is further amended by adding at the end the following:

''Sec. 555. Border tunnels and passages.''.

(c) CRIMINAL FORFEITURE.—Section 982(a)(6) of title 18, United States Code, is amended by inserting ''555,'' before ''1425,''.

SEC. 143. DIRECTIVE TO THE UNITED STATES SENTENCING COMMISSION.

(a) IN GENERAL.—Pursuant to its authority under section 994 of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission shall promulgate or amend sentencing guidelines to provide for increased penalties for persons convicted of offenses described in section 554 of title 18, United States Code, as added by section 132.

(b) REQUIREMENTS.—In carrying out this section, the United States Sentencing Commission shall—

(1) ensure that the sentencing guidelines, policy statements, and official commentary reflect the serious nature of the offenses described in section 554 of title 18, United States Code, and the need for aggressive and appropriate law enforcement action to prevent such offenses;

(2) provide adequate base offense levels for offenses under such section;

(3) account for any aggravating or mitigating circumstances that might justify exceptions, including—

(A) the use of a tunnel or passage described in subsection (a) of such section to facilitate other felonies; and

(B) the circumstances for which the sentencing guidelines currently provide applicable sentencing enhancements;

(4) ensure reasonable consistency with other relevant directives, other sentencing guidelines, and statutes;

(5) make any necessary and conforming changes to the sentencing guidelines and policy statements; and

(6) ensure that the sentencing guidelines adequately meet the purposes of sentencing set forth in section 3553(a)(2) of title 18, United States Code.

TITLE II—INTERIOR ENFORCEMENT

SEC. 201. REMOVAL AND DENIAL OF BENEFITS TO TERRORIST ALIENS.

(a) ASYLUM.—Section 208(b)(2)(A)(v) (8 U.S.C. 1158(b)(2)(A)(v)) is amended by striking ''or (VI)'' and inserting ''(V), (VI), (VII), or (VIII)''.

(b) CANCELLATION OF REMOVAL.—Section 240A(c)(4) (8 U.S.C. 1229b(c)(4)) is amended—

(1) by striking ''inadmissible under'' and inserting ''described in''; and

(2) by striking ''deportable under'' and inserting ''described in''.

(c) VOLUNTARY DEPARTURE.—Section 240B(b)(1)(C) (8 U.S.C. 1229c(b)(1)(C)) is amended by striking ''deportable under section 237(a)(2)(A)(iii) or section 237(a)(4)'' and inserting ''described in paragraph (2)(A)(iii) or (4) of section 237(a)''.

(d) RESTRICTION ON REMOVAL.—Section 241(b)(3)(B) (8 U.S.C. 1231(b)(3)(B)) is amended—

(1) in clause (iii), by striking ''or'' at the end;

(2) in clause (iv) by striking the period at the end and inserting ''; or'';

(3) by inserting after clause (iv) the following:

''(v) the alien is described in section 237(a)(4)(B) (other than an alien described in section 212(a)(3)(B)(i)(IV) if the Secretary of Homeland Security determines that there are not reasonable grounds for regarding the alien as a danger to the security of the United States).''; and

(4) in the undesignated paragraph, by striking ''For purposes of clause (iv), an alien who is described in section 237(a)(4)(B) shall be considered to be an alien with respect to whom there are reasonable grounds for regarding as a danger to the security of the United States.''.

(e) RECORD OF ADMISSION.—Section 249 (8 U.S.C. 1259) is amended to read as follows:

"SEC. 249. RECORD OF ADMISSION FOR PERMANENT RESIDENCE IN THE CASE OF CERTAIN ALIENS WHO ENTERED THE UNITED STATES PRIOR TO JANUARY 1, 1972.

''A record of lawful admission for permanent residence may be made, in the discretion of the Secretary of Homeland Security and under such regulations as the Secretary may prescribe, for any alien, as of the date of the approval of the alien's application or, if entry occurred before July 1, 1924, as of the date of such entry if no such record is otherwise available, if the alien establishes that the alien—

''(1) is not described in section 212(a)(3)(E) or in section 212(a) (insofar as it relates to criminals, procurers, other immoral persons, subversives, violators of the narcotics laws, or smugglers of aliens);

''(2) entered the United States before January 1, 1972;

''(3) has resided in the United States continuously since such entry;

''(4) is a person of good moral character;

''(5) is not ineligible for citizenship; and

''(6) is not described in section 237(a)(4)(B).''.

(f) EFFECTIVE DATE AND APPLICATION.—The amendments made by this section shall—

(1) take effect on the date of the enactment of this Act; and

(2) apply to any act or condition constituting a ground for inadmissibility, excludability, or removal occurring or existing on or after the date of the enactment of this Act.

SEC. 202. DETENTION AND REMOVAL OF ALIENS ORDERED REMOVED.

(a) IN GENERAL.—

(1) AMENDMENTS.—Section 241(a) (8 U.S.C. 1231(a)) is amended—

(A) by striking ''Attorney General'' the first place it appears and inserting ''Secretary of Homeland Security'';

(B) by striking ''Attorney General'' any other place it appears and inserting ''Secretary'';

(C) in paragraph (1)—

(i) in subparagraph (B), by amending clause (ii) to read as follows:

''(ii) If a court, the Board of Immigration Appeals, or an immigration judge orders a stay of the removal of the alien, the expiration date of the stay of removal.''.

(ii) by amending subparagraph (C) to read as follows:

''(C) EXTENSION OF PERIOD.—The removal period shall be extended beyond a period of 90 days and the alien may remain in detention during such extended period if the alien fails or refuses to—

''(i) make all reasonable efforts to comply with the removal order; or

''(ii) fully cooperate with the Secretary's efforts to establish the alien's identity and carry out the removal order, including failing to make timely application in good faith for travel or other documents necessary to the alien's departure, or conspiring or acting to prevent the alien's removal.''; and

(iii) by adding at the end the following:

''(D) TOLLING OF PERIOD.—If, at the time described in subparagraph (B), the alien is not in the custody of the Secretary under the authority of this Act, the removal period shall not begin until the alien is taken into such custody. If the Secretary lawfully transfers custody of the alien during the removal period to another Federal agency or to a State or local government agency in connection with the official duties of such agency, the removal period shall be tolled, and shall recommence on the date on which the alien is returned to the custody of the Secretary.'';

(D) in paragraph (2), by adding at the end the following: ''If a court, the Board of Immigration Appeals, or an immigration judge orders a stay of removal of an alien who is subject to an administrative final order of removal, the Secretary, in the exercise of discretion, may detain the alien during the pendency of such stay of removal.'';

(E) in paragraph (3), by amending subparagraph (D) to read as follows:

''(D) to obey reasonable restrictions on the alien's conduct or activities, or to perform affirmative acts, that the Secretary prescribes for the alien—

''(i) to prevent the alien from absconding;

''(ii) for the protection of the community; or

''(iii) for other purposes related to the enforcement of the immigration laws.'';

(F) in paragraph (6), by striking ''removal period and, if released,'' and inserting ''removal period, in the discretion of the Secretary, without any limitations other than those specified in this section, until the alien is removed. If an alien is released, the alien'';

(G) by redesignating paragraph (7) as paragraph (10); and

(H) by inserting after paragraph (6) the following:

''(7) PAROLE.—If an alien detained pursuant to paragraph (6) is an applicant for admission, the Secretary of Homeland Security, in the Secretary's discretion, may parole the alien under section 212(d)(5) and may provide, notwithstanding section 212(d)(5), that the alien shall not be returned to custody unless either the alien violates the conditions of the alien's parole or the alien's removal becomes reasonably foreseeable, provided that in no circumstance shall such alien be considered admitted.

''(8) ADDITIONAL RULES FOR DETENTION OR RELEASE OF ALIENS.—The following procedures shall apply to an alien detained under this section:

''(A) DETENTION REVIEW PROCESS FOR ALIENS WHO HAVE EFFECTED AN ENTRY AND FULLY COOPERATE WITH REMOVAL.—The Secretary of Homeland Security shall establish an administrative review process to determine whether an alien described in subparagraph (B) should be detained or released after the removal period in accordance with this paragraph.

''(B) ALIEN DESCRIBED.—An alien is described in this subparagraph if the alien—

''(i) has effected an entry into the United States;

''(ii) has made all reasonable efforts to comply with the alien's removal order;

''(iii) has cooperated fully with the Secretary's efforts to establish the alien's identity and to carry out the removal order, including making timely application in good faith for travel or other documents necessary for the alien's departure; and

''(iv) has not conspired or acted to prevent removal.

''(C) EVIDENCE.—In making a determination under subparagraph (A), the Secretary—

''(i) shall consider any evidence submitted by the alien;

''(ii) may consider any other evidence, including—

''(I) any information or assistance provided by the Department of State or other Federal agency; and

''(II) any other information available to the Secretary pertaining to the ability to remove the alien.

''(D) AUTHORITY TO DETAIN FOR 90 DAYS BEYOND REMOVAL PERIOD.—The Secretary, in the exercise of the Secretary's discretion and without any limitations other than those specified in this section, may detain an alien for 90 days beyond the removal period (including any extension of the removal period under paragraph (1)(C)).

''(E) AUTHORITY TO DETAIN FOR ADDITIONAL PERIOD.—The Secretary, in the exercise of the Secretary's discretion and without any limitations other than those specified in this section, may detain an alien beyond the 90-day period authorized under subparagraph (D) until the alien is removed, if the Secretary—

''(i) determines that there is a significant likelihood that the alien will be removed in the reasonably foreseeable future; or

''(ii) certifies in writing—

''(I) in consultation with the Secretary of Health and Human Services, that the alien has a highly contagious disease that poses a threat to public safety;

''(II) after receipt of a written recommendation from the Secretary of State, that the release of the alien would likely have serious adverse foreign policy consequences for the United States;

''(III) based on information available to the Secretary (including classified, sensitive, or national security information, and regardless of the grounds upon which the alien was ordered removed), that there is reason to believe that the release of the alien would threaten the national security of the United States;

''(IV) that—

''(aa) the release of the alien would threaten the safety of the community or any person, and conditions of release cannot reasonably be expected to ensure the safety of the community or any person; and

''(bb) the alien—

''(AA) has been convicted of 1 or more aggravated felonies (as defined in section 101(a)(43)(A)), or of 1 or more attempts or conspiracies to commit any such aggravated felonies for an aggregate term of imprisonment of at least 5 years; or

''(BB) has committed a crime of violence (as defined in section 16 of title 18, United States Code, but not including a purely political offense) and, because of a mental condition or personality disorder and behavior associated with that condition or disorder, is likely to engage in acts of violence in the future; or

''(V) that—

''(aa) the release of the alien would threaten the safety of the community or any person, notwithstanding conditions of release designed to ensure the safety of the community or any person; and

''(bb) the alien has been convicted of 1 or more aggravated felonies (as defined in section 101(a)(43)) for which the alien was sentenced to an aggregate term of imprisonment of not less than 1 year.

''(F) ADMINISTRATIVE REVIEW PROCESS.—The Secretary, without any limitations other than those specified in this section, may detain an alien pending a determination under subparagraph (E)(ii), if the Secretary has initiated the administrative review process identified in subparagraph (A) not later than 30 days after the expiration of the removal period (including any extension of the removal period under paragraph (1)(C)).

''(G) RENEWAL AND DELEGATION OF CERTIFICATION.—

''(i) RENEWAL.—The Secretary may renew a certification under subparagraph (E)(ii) every 6 months, without limitation, after providing the alien with an opportunity to request reconsideration of the certification and to submit documents or other evidence in support of that request. If the Secretary does not renew such certification, the Secretary shall release the alien, pursuant to subparagraph (H).

''(ii) DELEGATION.—Notwithstanding any other provision of law, the Secretary may not delegate the authority to make or renew a certification described in subclause (II), (III), or (V) of subparagraph (E)(ii) to any employee reporting to the Assistant Secretary for Immigration and Customs Enforcement.

''(iii) HEARING.—The Secretary may request that the Attorney General, or a designee of the Attorney General, provide for a hearing to make the determination described in subparagraph (E)(ii)(IV)(bb)(BB).

''(H) RELEASE ON CONDITIONS.—If it is determined that an alien should be released from detention, the Secretary may, in the Secretary's discretion, impose conditions on release in accordance with the regulations prescribed pursuant to paragraph (3).

''(I) REDETENTION.—The Secretary, without any limitations other than those specified in this section, may detain any alien subject to a final removal order who has previously been released from custody if—

''(i) the alien fails to comply with the conditions of release;

''(ii) the alien fails to continue to satisfy the conditions described in subparagraph (B); or

''(iii) upon reconsideration, the Secretary determines that the alien can be detained under subparagraph (E).

''(J) APPLICABILITY.—This paragraph and paragraphs (6) and (7) shall apply to any alien returned to custody under subparagraph (I) as if the removal period terminated on the day of the redetention.

''(K) DETENTION REVIEW PROCESS FOR ALIENS WHO HAVE EFFECTED AN ENTRY AND FAIL TO COOPERATE WITH REMOVAL.—The Secretary shall detain an alien until the alien makes all reasonable efforts to comply with a removal order and to cooperate fully with the Secretary's efforts, if the alien—

''(i) has effected an entry into the United States; and

''(ii)(I) and the alien faces a significant likelihood that the alien will be removed in the reasonably foreseeable future, or would have been removed if the alien had not—

''(aa) failed or refused to make all reasonable efforts to comply with a removal order;

''(bb) failed or refused to fully cooperate with the Secretary's efforts to establish the alien's identity and carry out the removal order, including the failure to make timely application in good faith for travel or other documents necessary to the alien's departure; or

''(cc) conspired or acted to prevent removal; or

''(II) the Secretary makes a certification as specified in subparagraph (E), or the renewal of a certification specified in subparagraph (G).

''(L) DETENTION REVIEW PROCESS FOR ALIENS WHO HAVE NOT EFFECTED AN ENTRY.—Except as otherwise provided in this subparagraph, the Secretary shall follow the guidelines established in section 241.4 of title 8, Code of Federal Regulations, when detaining aliens who have not effected an entry. The Secretary may decide to apply the review process outlined in this paragraph.

''(9) JUDICIAL REVIEW.—Without regard to the place of confinement, judicial review of any action or decision made pursuant to paragraph (6), (7), or (8) shall be available exclusively in a habeas corpus proceeding instituted in the United States District Court for the District of Columbia and only if the alien has exhausted all administrative remedies (statutory and nonstatutory) available to the alien as of right.''.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1)—

(A) shall take effect on the date of the enactment of this Act; and

(B) shall apply to—

(i) any alien subject to a final administrative removal, deportation, or exclusion order that was issued before, on, or after the date of the enactment of this Act; and

(ii) any act or condition occurring or existing before, on, or after the date of the enactment of this Act.

(b) CRIMINAL DETENTION OF ALIENS.—Section 3142 of title 18, United States Code, is amended—

(1) in subsection (e)—

(A) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively;

(B) by inserting ''(1)'' before ''If, after a hearing'';

(C) in subparagraphs (B) and (C), as redesignated, by striking ''paragraph (1)'' and inserting ''subparagraph (A)''; and

(D) by adding after subparagraph (C), as redesignated, the following:

''(2) Subject to rebuttal by the person, it shall be presumed that no condition or combination of conditions will reasonably assure the appearance of the person as required if the judicial officer finds that there is probable cause to believe that the person—

''(A) is an alien; and

''(B)(i) has no lawful immigration status in the United States;

''(ii) is the subject of a final order of removal; or

''(iii) has committed a felony offense under section 911, 922(g)(5), 1015, 1028, 1425, or 1426 of this title, chapter 75 or 77 of this title, or section 243, 274, 275, 276, 277, or 278 of the Immigration and Nationality Act (8 U.S.C. 1253, 1324, 1325, 1326, 2327, and 1328).''; and

(2) in subsection (g)(3)—

(A) in subparagraph (A), by striking ''and'' at the end; and

(B) by adding at the end the following:

''(C) the person's immigration status; and''.

SEC. 203. AGGRAVATED FELONY.

(a) DEFINITION OF AGGRAVATED FELONY.—Section 101(a)(43) (8 U.S.C. 1101(a)(43)) is amended—

(1) by striking ''The term 'aggravated felony' means—'' and inserting ''Notwithstanding any other provision of law (except for the provision providing an effective date for section 203 of the Comprehensive Reform Act of 2006), the term 'aggravated felony' applies to an offense described in this paragraph, whether in violation of Federal or State law and to such an offense in violation of the law of a foreign country, for which the term of imprisonment was completed within the previous 15 years, even if the length of the term of imprisonment is based on recidivist or other enhancements and regardless of whether the conviction was entered before, on, or after September 30, 1996, and means—'';

(2) in subparagraph (A), by striking ''murder, rape, or sexual abuse of a minor;'' and inserting ''murder, rape, or sexual abuse of a minor, whether or not the minority of the victim is established by evidence contained in the record of conviction or by evidence extrinsic to the record of conviction;'';

(3) in subparagraph (N), by striking ''paragraph (1)(A) or (2) of'';

(4) in subparagraph (O), by striking ''section 275(a) or 276 committed by an alien who was previously deported on the basis of a conviction for an offense described in another subparagraph of this paragraph'' and inserting ''section 275 or 276 for which the term of imprisonment is at least 1 year'';

(5) in subparagraph (U), by striking ''an attempt or conspiracy to commit an offense described in this paragraph'' and inserting ''aiding or abetting an offense described in this paragraph, or soliciting, counseling, procuring, commanding, or inducing another, attempting, or conspiring to commit such an offense''; and

(6) by striking the undesignated matter following subparagraph (U).

(b) EFFECTIVE DATE AND APPLICATION.—

(1) IN GENERAL.—The amendments made by subsection (a) shall—

(A) take effect on the date of the enactment of this Act; and

(B) apply to any act that occurred on or after the date of the enactment of this Act.

(2) APPLICATION OF IIRAIRA AMENDMENTS.—The amendments to section 101(a)(43) of the Immigration and Nationality Act made by section 321 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104-208; 110 Stat. 3009-627) shall continue to apply, whether the conviction was entered before, on, or after September 30, 1996.

SEC. 204. TERRORIST BARS.

(a) DEFINITION OF GOOD MORAL CHARACTER.—Section 101(f) (8 U.S.C. 1101(f)) is amended—

(1) by inserting after paragraph (1) the following:

''(2) an alien described in section 212(a)(3) or 237(a)(4), as determined by the Secretary of Homeland Security or Attorney General based upon any relevant information or evidence, including classified, sensitive, or national security information;'';

(2) in paragraph (8), by striking ''(as defined in subsection (a)(43))'' and inserting the following: '', regardless of whether the crime was defined as an aggravated felony under subsection (a)(43) at the time of the conviction, unless—

''(A) the person completed the term of imprisonment and sentence not later than 10 years before the date of application; and

''(B) the Secretary of Homeland Security or the Attorney General waives the application of this paragraph; or''; and

(3) in the undesignated matter following paragraph (9), by striking ''a finding that for other reasons such person is or was not of good moral character'' and inserting the following: ''a discretionary finding for other reasons that such a person is or was not of good moral character. In determining an applicant's moral character, the Secretary of Homeland Security and the Attorney General may take into consideration the applicant's conduct and acts at any time and are not limited to the period during which good moral character is required.''.

(b) PENDING PROCEEDINGS.—Section 204(b) (8 U.S.C. 1154(b)) is amended by adding at the end the following: ''A petition may not be approved under this section if there is any administrative or judicial proceeding (whether civil or criminal) pending against the petitioner that could directly or indirectly result in the petitioner's denaturalization or the loss of the petitioner's lawful permanent resident status.''.

(c) CONDITIONAL PERMANENT RESIDENT STATUS.—

(1) IN GENERAL.—Section 216(e) (8 U.S.C. 1186a(e)) is amended by inserting ''if the alien has had the conditional basis removed pursuant to this section'' before the period at the end.

(2) CERTAIN ALIEN ENTREPRENEURS.—Section 216A(e) (8 U.S.C. 1186b(e)) is amended by inserting ''if the alien has had the conditional basis removed pursuant to this section'' before the period at the end.

(d) JUDICIAL REVIEW OF NATURALIZATION APPLICATIONS.—Section 310(c) (8 U.S.C. 1421(c)) is amended—

(1) by inserting '', not later than 120 days after the Secretary of Homeland Security's final determination,'' after ''may''; and

(2) by adding at the end the following: ''Except that in any proceeding, other than a proceeding under section 340, the court shall review for substantial evidence the administrative record and findings of the Secretary of Homeland Security regarding whether an alien is a person of good moral character, understands and is attached to the principles of the Constitution of the United States, or is well disposed to the good order and happiness of the United States. The petitioner shall have the burden of showing that the Secretary's denial of the application was contrary to law.''.

(e) PERSONS ENDANGERING NATIONAL SECURITY.—Section 316 (8 U.S.C. 1427) is amended by adding at the end the following:

''(g) PERSONS ENDANGERING THE NATIONAL SECURITY.—A person may not be naturalized if the Secretary of Homeland Security determines, based upon any relevant information or evidence, including classified, sensitive, or national security information, that the person was once an alien described in section 212(a)(3) or 237(a)(4).''.

(f) CONCURRENT NATURALIZATION AND REMOVAL PROCEEDINGS.—Section 318 (8 U.S.C. 1429) is amended by striking ''the Attorney General if'' and all that follows and inserting: ''the Secretary of Homeland Security or any court if there is pending against the applicant any removal proceeding or other proceeding to determine the applicant's inadmissibility or deportability, or to determine whether the applicant's lawful permanent resident status should be rescinded, regardless of when such proceeding was commenced. The findings of the Attorney General in terminating removal proceedings or canceling the removal of an alien under this Act shall not be deemed binding in any way upon the Secretary of Homeland Security with respect to the question of whether such person has established eligibility for naturalization in accordance with this title.''.

(g) DISTRICT COURT JURISDICTION.—Section 336(b) (8 U.S.C. 1447(b)) is amended to read as follows:

''(b) REQUEST FOR HEARING BEFORE DISTRICT COURT.—If there is a failure to render a final administrative decision under section 335 before the end of the 180-day period beginning on the date on which the Secretary of Homeland Security completes all examinations and interviews required under such section, the applicant may apply to the district court for the district in which the applicant resides for a hearing on the matter. The Secretary shall notify the applicant when such examinations and interviews have been completed. Such district court shall only have jurisdiction to review the basis for delay and remand the matter, with appropriate instructions, to the Secretary for the Secretary's determination on the application.''.

(h) EFFECTIVE DATE.—The amendments made by this section—

(1) shall take effect on the date of the enactment of this Act; and

(2) shall apply to any act that occurred on or after such date of enactment.

SEC. 205. INCREASED CRIMINAL PENALTIES RELATED TO GANG VIOLENCE, REMOVAL, AND ALIEN SMUGGLING.

(a) CRIMINAL STREET GANGS.—

(1) INADMISSIBILITY.—Section 212(a)(2) (8 U.S.C. 1182(a)(2)) is amended—

(A) by redesignating subparagraph (F) as subparagraph (J); and

(B) by inserting after subparagraph (E) the following:

''(F) MEMBERS OF CRIMINAL STREET GANGS.—Unless the Secretary of Homeland Security or the Attorney General waives the application of this subparagraph, any alien who a consular officer, the Attorney General, or the Secretary of Homeland Security knows or has reason to believe—

''(i) is, or has been, a member of a criminal street gang (as defined in section 521(a) of title 18, United States Code); or

''(ii) has participated in the activities of a criminal street gang, knowing or having reason to know that such activities promoted, furthered, aided, or supported the illegal activity of the criminal gang,

is inadmissible.''.

(2) DEPORTABILITY.—Section 237(a)(2) (8 U.S.C. 1227(a)(2)) is amended by adding at the end the following:

''(F) MEMBERS OF CRIMINAL STREET GANGS.—Unless the Secretary of Homeland Security or the Attorney General waives the application of this subparagraph, any alien who the Secretary of Homeland Security or the Attorney General knows or has reason to believe—

''(i) is, or at any time after admission has been, a member of a criminal street gang (as defined in section 521(a) of title 18, United States Code); or

''(ii) has participated in the activities of a criminal street gang, knowing or having reason to know that such activities promoted, furthered, aided, or supported the illegal activity of the criminal gang,

is deportable.''.

(3) TEMPORARY PROTECTED STATUS.—Section 244 (8 U.S.C. 1254a) is amended—

(A) by striking ''Attorney General'' each place it appears and inserting ''Secretary of Homeland Security'';

(B) in subsection (b)(3)—

(i) in subparagraph (B), by striking the last sentence and inserting the following: ''Notwithstanding any other provision of this section, the Secretary of Homeland Security may, for any reason (including national security), terminate or modify any designation under this section. Such termination or modification is effective upon publication in the Federal Register, or after such time as the Secretary may designate in the Federal Register.'';

(ii) in subparagraph (C), by striking ''a period of 12 or 18 months'' and inserting ''any other period not to exceed 18 months'';

(C) in subsection (c)—

(i) in paragraph (1)(B), by striking ''The amount of any such fee shall not exceed $50.'';

(ii) in paragraph (2)(B)—

(I) in clause (i), by striking '', or'' at the end;

(II) in clause (ii), by striking the period at the end and inserting ''; or''; and

(III) by adding at the end the following:

''(iii) the alien is, or at any time after admission has been, a member of a criminal street gang (as defined in section 521(a) of title 18, United States Code).''; and

(D) in subsection (d)—

(i) by striking paragraph (3); and

(ii) in paragraph (4), by adding at the end the following: ''The Secretary of Homeland Security may detain an alien provided temporary protected status under this section whenever appropriate under any other provision of law.''.

(b) PENALTIES RELATED TO REMOVAL.—Section 243 (8 U.S.C. 1253) is amended—

(1) in subsection (a)(1)—

(A) in the matter preceding subparagraph (A), by inserting ''212(a) or'' after ''section''; and

(B) in the matter following subparagraph (D)—

(i) by striking ''or imprisoned not more than four years'' and inserting ''and imprisoned for not less than 6 months or more than 5 years''; and

(ii) by striking '', or both'';

(2) in subsection (b), by striking ''not more than $1000 or imprisoned for not more than one year, or both'' and inserting ''under title 18, United States Code, and imprisoned for not less than 6 months or more than 5 years (or for not more than 10 years if the alien is a member of any of the classes described in paragraphs (1)(E), (2), (3), and (4) of section 237(a)).''; and

(3) by amending subsection (d) to read as follows:

''(d) DENYING VISAS TO NATIONALS OF COUNTRY DENYING OR DELAYING ACCEPTING ALIEN.—The Secretary of Homeland Security, after making a determination that the government of a foreign country has denied or unreasonably delayed accepting an alien who is a citizen, subject, national, or resident of that country after the alien has been ordered removed, and after consultation with the Secretary of State, may instruct the Secretary of State to deny a visa to any citizen, subject, national, or resident of that country until the country accepts the alien that was ordered removed.''.

(c) ALIEN SMUGGLING AND RELATED OFFENSES.—

(1) IN GENERAL.—Section 274 (8 U.S.C. 1324), is amended to read as follows:

''SEC. 274. ALIEN SMUGGLING AND RELATED OFFENSES.

''(a) CRIMINAL OFFENSES AND PENALTIES.—

''(1) PROHIBITED ACTIVITIES.—Except as provided in paragraph (3), a person shall be punished as provided under paragraph (2), if the person—

''(A) facilitates, encourages, directs, or induces a person to come to or enter the United States, or to cross the border to the United States, knowing or in reckless disregard of the fact that such person is an alien who lacks lawful authority to come to, enter, or cross the border to the United States;

''(B) facilitates, encourages, directs, or induces a person to come to or enter the United States, or to cross the border to the United States, at a place other than a designated port of entry or place other than as designated by the Secretary of Homeland Security, knowing or in reckless disregard of the fact that such person is an alien and regardless of whether such alien has official permission or lawful authority to be in the United States;

''(C) transports, moves, harbors, conceals, or shields from detection a person outside of the United States knowing or in reckless disregard of the fact that such person is an alien in unlawful transit from 1 country to another or on the high seas, under circumstances in which the alien is seeking to enter the United States without official permission or legal authority;

''(D) encourages or induces a person to reside in the United States, knowing or in reckless disregard of the fact that such person is an alien who lacks lawful authority to reside in the United States;

''(E) transports or moves a person in the United States, knowing or in reckless disregard of the fact that such person is an alien who lacks lawful authority to enter or be in the United States, if the transportation or movement will further the alien's illegal entry into or illegal presence in the United States;

''(F) harbors, conceals, or shields from detection a person in the United States, knowing or in reckless disregard of the fact that such person is an alien who lacks lawful authority to be in the United States; or

''(G) conspires or attempts to commit any of the acts described in subparagraphs (A) through (F).

''(2) CRIMINAL PENALTIES.—A person who violates any provision under paragraph (1)—

''(A) except as provided in subparagraphs (C) through (G), if the offense was not committed for commercial advantage, profit, or private financial gain, shall be fined under title 18, United States Code, imprisoned for not more than 5 years, or both;

''(B) except as provided in subparagraphs (C) through (G), if the offense was committed for commercial advantage, profit, or private financial gain—

''(i) if the violation is the offender's first violation under this subparagraph, shall be fined under such title, imprisoned for not more than 20 years, or both; or

''(ii) if the violation is the offender's second or subsequent violation of this subparagraph, shall be fined under such title, imprisoned for not less than 3 years or more than 20 years, or both;

''(C) if the offense furthered or aided the commission of any other offense against the United States or any State that is punishable by imprisonment for more than 1 year, shall be fined under such title, imprisoned for not less than 5 years or more than 20 years, or both;

''(D) shall be fined under such title, imprisoned not less than 5 years or more than 20 years, or both, if the offense created a substantial and foreseeable risk of death, a substantial and foreseeable risk of serious bodily injury (as defined in section 2119(2) of title 18, United States Code), or inhumane conditions to another person, including—

''(i) transporting the person in an engine compartment, storage compartment, or other confined space;

''(ii) transporting the person at an excessive speed or in excess of the rated capacity of the means of transportation; or

''(iii) transporting the person in, harboring the person in, or otherwise subjecting the person to crowded or dangerous conditions;

''(E) if the offense caused serious bodily injury (as defined in section 2119(2) of title 18, United States Code) to any person, shall be fined under such title, imprisoned for not less than 7 years or more than 30 years, or both;

''(F) shall be fined under such title and imprisoned for not less than 10 years or more

than 30 years if the offense involved an alien who the offender knew or had reason to believe was—

''(i) engaged in terrorist activity (as defined in section 212(a)(3)(B)); or

''(ii) intending to engage in terrorist activity;

''(G) if the offense caused or resulted in the death of any person, shall be punished by death or imprisoned for a term of years not less than 10 years and up to life, and fined under title 18, United States Code.

''(3) LIMITATION.—It is not a violation of subparagraph (D), (E), or (F) of paragraph (1)—

''(A) for a religious denomination having a bona fide nonprofit, religious organization in the United States, or the agents or officers of such denomination or organization, to encourage, invite, call, allow, or enable an alien who is present in the United States to perform the vocation of a minister or missionary for the denomination or organization in the United States as a volunteer who is not compensated as an employee, notwithstanding the provision of room, board, travel, medical assistance, and other basic living expenses, provided the minister or missionary has been a member of the denomination for at least 1 year; or

''(B) for an individual or organization, not previously convicted of a violation of this section, to provide an alien who is present in the United States with humanitarian assistance, including medical care, housing, counseling, victim services, and food, or to transport the alien to a location where such assistance can be rendered.

''(4) EXTRATERRITORIAL JURISDICTION.—There is extraterritorial Federal jurisdiction over the offenses described in this subsection.

''(b) EMPLOYMENT OF UNAUTHORIZED ALIENS.—

''(1) CRIMINAL OFFENSE AND PENALTIES.—Any person who, during any 12-month period, knowingly employs 10 or more individuals with actual knowledge or in reckless disregard of the fact that the individuals are aliens described in paragraph (2), shall be fined under title 18, United States Code, imprisoned for not more than 10 years, or both.

''(2) DEFINITION.—An alien described in this paragraph is an alien who—

''(A) is an unauthorized alien (as defined in section 274A(h)(3));

''(B) is present in the United States without lawful authority; and

''(C) has been brought into the United States in violation of this subsection.

''(c) SEIZURE AND FORFEITURE.—

''(1) IN GENERAL.—Any real or personal property used to commit or facilitate the commission of a violation of this section, the gross proceeds of such violation, and any property traceable to such property or proceeds, shall be subject to forfeiture.

''(2) APPLICABLE PROCEDURES.—Seizures and forfeitures under this subsection shall be governed by the provisions of chapter 46 of title 18, United States Code, relating to civil forfeitures, except that such duties as are imposed upon the Secretary of the Treasury under the customs laws described in section 981(d) shall be performed by such officers, agents, and other persons as may be designated for that purpose by the Secretary of Homeland Security.

''(3) PRIMA FACIE EVIDENCE IN DETERMINATIONS OF VIOLATIONS.—In determining whether a violation of subsection (a) has occurred, prima facie evidence that an alien involved in the alleged violation lacks lawful authority to come to, enter, reside in, remain in, or be in the United States or that such alien had come to, entered, resided in, remained in, or been present in the United States in violation of law shall include—

''(A) any order, finding, or determination concerning the alien's status or lack of status made by a Federal judge or administrative adjudicator (including an immigration judge or immigration officer) during any judicial or administrative proceeding authorized under Federal immigration law;

''(B) official records of the Department of Homeland Security, the Department of Justice, or the Department of State concerning the alien's status or lack of status; and

''(C) testimony by an immigration officer having personal knowledge of the facts concerning the alien's status or lack of status.

''(d) AUTHORITY TO ARREST.—No officer or person shall have authority to make any arrests for a violation of any provision of this section except—

''(1) officers and employees designated by the Secretary of Homeland Security, either individually or as a member of a class; and

''(2) other officers responsible for the enforcement of Federal criminal laws.

''(e) ADMISSIBILITY OF VIDEOTAPED WITNESS TESTIMONY.—Notwithstanding any provision of the Federal Rules of Evidence, the videotaped or otherwise audiovisually preserved deposition of a witness to a violation of subsection (a) who has been deported or otherwise expelled from the United States, or is otherwise unavailable to testify, may be admitted into evidence in an action brought for that violation if—

''(1) the witness was available for cross examination at the deposition by the party, if any, opposing admission of the testimony; and

''(2) the deposition otherwise complies with the Federal Rules of Evidence.

''(f) OUTREACH PROGRAM.—

''(1) IN GENERAL.—The Secretary of Homeland Security, in consultation with the Attorney General and the Secretary of State, as appropriate, shall—

''(A) develop and implement an outreach program to educate people in and out of the United States about the penalties for bringing in and harboring aliens in violation of this section; and

''(B) establish the American Local and Interior Enforcement Needs (ALIEN) Task Force to identify and respond to the use of Federal, State, and local transportation infrastructure to further the trafficking of unlawful aliens within the United States.

''(2) FIELD OFFICES.—The Secretary of Homeland Security, after consulting with State and local government officials, shall establish such field offices as may be necessary to carry out this subsection.

''(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums are necessary for the fiscal years 2007 through 2011 to carry out this subsection.

''(g) DEFINITIONS.—In this section:

''(1) CROSSED THE BORDER INTO THE UNITED STATES.—An alien is deemed to have crossed the border into the United States regardless of whether the alien is free from official restraint.

''(2) LAWFUL AUTHORITY.—The term 'lawful authority' means permission, authorization, or license that is expressly provided for in the immigration laws of the United States or accompanying regulations. The term does not include any such authority secured by fraud or otherwise obtained in violation of law or authority sought, but not approved. No alien shall be deemed to have lawful authority to come to, enter, reside in, remain in, or be in the United States if such coming to, entry, residence, remaining, or presence was, is, or would be in violation of law.

''(3) PROCEEDS.—The term 'proceeds' includes any property or interest in property obtained or retained as a consequence of an act or omission in violation of this section.

''(4) UNLAWFUL TRANSIT.—The term 'unlawful transit' means travel, movement, or temporary presence that violates the laws of any country in which the alien is present or any country from which the alien is traveling or moving.''.

(2) CLERICAL AMENDMENT.—The table of contents is amended by striking the item relating to section 274 and inserting the following:

''Sec. 274. Alien smuggling and related offenses.''.

(d) PROHIBITING CARRYING OR USING A FIREARM DURING AND IN RELATION TO AN ALIEN SMUGGLING CRIME.—Section 924(c) of title 18, United States Code, is amended—

(1) in paragraph (1)—

(A) in subparagraph (A), by inserting '', alien smuggling crime,'' after ''any crime of violence'';

(B) in subparagraph (A), by inserting '', alien smuggling crime,'' after ''such crime of violence'';

(C) in subparagraph (D)(ii), by inserting '', alien smuggling crime,'' after ''crime of violence''; and

(2) by adding at the end the following:

''(6) For purposes of this subsection, the term 'alien smuggling crime' means any felony punishable under section 274(a), 277, or 278 of the Immigration and Nationality Act (8 U.S.C. 1324(a), 1327, and 1328).''.

SEC. 206. ILLEGAL ENTRY.

(a) IN GENERAL.—Section 275 (8 U.S.C. 1325) is amended to read as follows:

''SEC. 275. ILLEGAL ENTRY.

''(a) IN GENERAL.—

''(1) CRIMINAL OFFENSES.—An alien shall be subject to the penalties set forth in paragraph (2) if the alien—

''(A) knowingly enters or crosses the border into the United States at any time or place other than as designated by the Secretary of Homeland Security;

''(B) knowingly eludes examination or inspection by an immigration officer (including failing to stop at the command of such officer), or a customs or agriculture inspection at a port of entry; or

''(C) knowingly enters or crosses the border to the United States by means of a knowingly false or misleading representation or the knowing concealment of a material fact (including such representation or concealment in the context of arrival, reporting, entry, or clearance requirements of the customs law, immigration laws, agriculture laws, or shipping laws).

''(2) CRIMINAL PENALTIES.—Any alien who violates any provision under paragraph (1)—

''(A) shall, for the first violation, be fined under title 18, United States Code, imprisoned not more than 6 months, or both;

''(B) shall, for a second or subsequent violation, or following an order of voluntary departure, be fined under such title, imprisoned not more than 2 years, or both;

''(C) if the violation occurred after the alien had been convicted of 3 or more misdemeanors or for a felony, shall be fined under such title, imprisoned not more than 10 years, or both;

''(D) if the violation occurred after the alien had been convicted of a felony for which the alien received a term of imprisonment of not less than 30 months, shall be fined under such title, imprisoned not more than 15 years, or both; and

''(E) if the violation occurred after the alien had been convicted of a felony for which the alien received a term of imprisonment of not less than 60 months, such alien shall be fined under such title, imprisoned not more than 20 years, or both.

''(3) PRIOR CONVICTIONS.—The prior convictions described in subparagraphs (C) through (E) of paragraph (2) are elements of the offenses described in that paragraph and the

penalties in such subparagraphs shall apply only in cases in which the conviction or convictions that form the basis for the additional penalty are—

''(A) alleged in the indictment or information; and

''(B) proven beyond a reasonable doubt at trial or admitted by the defendant.

''(4) DURATION OF OFFENSE.—An offense under this subsection continues until the alien is discovered within the United States by an immigration officer.

''(5) ATTEMPT.—Whoever attempts to commit any offense under this section shall be punished in the same manner as for a completion of such offense.

''(b) IMPROPER TIME OR PLACE; CIVIL PENALTIES.—

''(1) IN GENERAL.—Any alien who is apprehended while entering, attempting to enter, or knowingly crossing or attempting to cross the border to the United States at a time or place other than as designated by immigration officers shall be subject to a civil penalty, in addition to any criminal or other civil penalties that may be imposed under any other provision of law, in an amount equal to—

''(A) not less than $50 or more than $250 for each such entry, crossing, attempted entry, or attempted crossing; or

''(B) twice the amount specified in paragraph (1) if the alien had previously been subject to a civil penalty under this subsection.

''(2) CROSSED THE BORDER DEFINED.—In this section, an alien is deemed to have crossed the border if the act was voluntary, regardless of whether the alien was under observation at the time of the crossing.''.

(b) CLERICAL AMENDMENT.—The table of contents is amended by striking the item relating to section 275 and inserting the following:

''Sec. 275. Illegal entry.''.

SEC. 207. ILLEGAL REENTRY.

Section 276 (8 U.S.C. 1326) is amended to read as follows:

''SEC. 276. REENTRY OF REMOVED ALIEN.

''(a) REENTRY AFTER REMOVAL.—Any alien who has been denied admission, excluded, deported, or removed, or who has departed the United States while an order of exclusion, deportation, or removal is outstanding, and subsequently enters, attempts to enter, crosses the border to, attempts to cross the border to, or is at any time found in the United States, shall be fined under title 18, United States Code, imprisoned not more than 2 years, or both.

''(b) REENTRY OF CRIMINAL OFFENDERS.—Notwithstanding the penalty provided in subsection (a), if an alien described in that subsection—

''(1) was convicted for 3 or more misdemeanors or a felony before such removal or departure, the alien shall be fined under title 18, United States Code, imprisoned not more than 10 years, or both;

''(2) was convicted for a felony before such removal or departure for which the alien was sentenced to a term of imprisonment of not less than 30 months, the alien shall be fined under such title, imprisoned not more than 15 years, or both;

''(3) was convicted for a felony before such removal or departure for which the alien was sentenced to a term of imprisonment of not less than 60 months, the alien shall be fined under such title, imprisoned not more than 20 years, or both;

''(4) was convicted for 3 felonies before such removal or departure, the alien shall be fined under such title, imprisoned not more than 20 years, or both; or

''(5) was convicted, before such removal or departure, for murder, rape, kidnaping, or a felony offense described in chapter 77 (relating to peonage and slavery) or 113B (relating to terrorism) of such title, the alien shall be fined under such title, imprisoned not more than 20 years, or both.

''(c) REENTRY AFTER REPEATED REMOVAL.—Any alien who has been denied admission, excluded, deported, or removed 3 or more times and thereafter enters, attempts to enter, crosses the border to, attempts to cross the border to, or is at any time found in the United States, shall be fined under title 18, United States Code, imprisoned not more than 10 years, or both.

''(d) PROOF OF PRIOR CONVICTIONS.—The prior convictions described in subsection (b) are elements of the crimes described in that subsection, and the penalties in that subsection shall apply only in cases in which the conviction or convictions that form the basis for the additional penalty are—

''(1) alleged in the indictment or information; and

''(2) proven beyond a reasonable doubt at trial or admitted by the defendant.

''(e) AFFIRMATIVE DEFENSES.—It shall be an affirmative defense to a violation of this section that—

''(1) prior to the alleged violation, the alien had sought and received the express consent of the Secretary of Homeland Security to reapply for admission into the United States; or

''(2) with respect to an alien previously denied admission and removed, the alien—

''(A) was not required to obtain such advance consent under the Immigration and Nationality Act or any prior Act; and

''(B) had complied with all other laws and regulations governing the alien's admission into the United States.

''(f) LIMITATION ON COLLATERAL ATTACK ON UNDERLYING REMOVAL ORDER.—In a criminal proceeding under this section, an alien may not challenge the validity of any prior removal order concerning the alien unless the alien demonstrates by clear and convincing evidence that—

''(1) the alien exhausted all administrative remedies that may have been available to seek relief against the order;

''(2) the removal proceedings at which the order was issued improperly deprived the alien of the opportunity for judicial review; and

''(3) the entry of the order was fundamentally unfair.

''(g) REENTRY OF ALIEN REMOVED PRIOR TO COMPLETION OF TERM OF IMPRISONMENT.—Any alien removed pursuant to section 241(a)(4) who enters, attempts to enter, crosses the border to, attempts to cross the border to, or is at any time found in, the United States shall be incarcerated for the remainder of the sentence of imprisonment which was pending at the time of deportation without any reduction for parole or supervised release unless the alien affirmatively demonstrates that the Secretary of Homeland Security has expressly consented to the alien's reentry. Such alien shall be subject to such other penalties relating to the reentry of removed aliens as may be available under this section or any other provision of law.

''(h) LIMITATION.—It is not aiding and abetting a violation of this section for an individual to provide an alien with emergency humanitarian assistance, including emergency medical care and food, or to transport the alien to a location where such assistance can be rendered without compensation or the expectation of compensation.

''(i) DEFINITIONS.—In this section:

''(1) CROSSES THE BORDER.—The term 'crosses the border' applies if an alien acts voluntarily, regardless of whether the alien was under observation at the time of the crossing.

''(2) FELONY.—Term 'felony' means any criminal offense punishable by a term of imprisonment of more than 1 year under the laws of the United States, any State, or a foreign government.

''(3) MISDEMEANOR.—The term 'misdemeanor' means any criminal offense punishable by a term of imprisonment of not more than 1 year under the applicable laws of the United States, any State, or a foreign government.

''(4) REMOVAL.—The term 'removal' includes any denial of admission, exclusion, deportation, or removal, or any agreement by which an alien stipulates or agrees to exclusion, deportation, or removal.

''(5) STATE.—The term 'State' means a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.''.

SEC. 208. REFORM OF PASSPORT, VISA, AND IMMIGRATION FRAUD OFFENSES.

(a) PASSPORT, VISA, AND IMMIGRATION FRAUD.—

(1) IN GENERAL.—Chapter 75 of title 18, United States Code, is amended to read as follows:

''CHAPTER 75—PASSPORT, VISA, AND IMMIGRATION FRAUD

''Sec.
''1541. Trafficking in passports.
''1542. False statement in an application for a passport.
''1543. Forgery and unlawful production of a passport.
''1544. Misuse of a passport.
''1545. Schemes to defraud aliens.
''1546. Immigration and visa fraud.
''1547. Marriage fraud.
''1548. Attempts and conspiracies.
''1549. Alternative penalties for certain offenses.
''1550. Seizure and forfeiture.
''1551. Additional jurisdiction.
''1552. Additional venue.
''1553. Definitions.
''1554. Authorized law enforcement activities.
''1555. Exception for refugees and asylees.

''§ 1541. Trafficking in passports

''(a) MULTIPLE PASSPORTS.—Any person who, during any 3-year period, knowingly–

''(1) and without lawful authority produces, issues, or transfers 10 or more passports;

''(2) forges, counterfeits, alters, or falsely makes 10 or more passports;

''(3) secures, possesses, uses, receives, buys, sells, or distributes 10 or more passports, knowing the passports to be forged, counterfeited, altered, falsely made, stolen, procured by fraud, or produced or issued without lawful authority; or

''(4) completes, mails, prepares, presents, signs, or submits 10 or more applications for a United States passport (including any supporting documentation), knowing the applications to contain any false statement or representation,

shall be fined under this title, imprisoned not more than 20 years, or both.

''(b) PASSPORT MATERIALS.—Any person who knowingly and without lawful authority produces, counterfeits, secures, possesses, or uses any official paper, seal, hologram, image, text, symbol, stamp, engraving, plate, or other material used to make a passport shall be fined under this title, imprisoned not more than 20 years, or both.

''§ 1542. False statement in an application for a passport

''Any person who knowingly—

''(1) makes any false statement or representation in an application for a United States passport (including any supporting documentation);

''(2) completes, mails, prepares, presents, signs, or submits an application for a United

States passport (including any supporting documentation) knowing the application to contain any false statement or representation; or

''(3) causes or attempts to cause the production of a passport by means of any fraud or false application for a United States passport (including any supporting documentation), if such production occurs or would occur at a facility authorized by the Secretary of State for the production of passports,

shall be fined under this title, imprisoned not more than 15 years, or both.

''§ 1543. Forgery and unlawful production of a passport

''(a) FORGERY.—Any person who—

''(1) knowingly forges, counterfeits, alters, or falsely makes any passport; or

''(2) knowingly transfers any passport knowing it to be forged, counterfeited, altered, falsely made, stolen, or to have been produced or issued without lawful authority,

shall be fined under this title, imprisoned not more than 15 years, or both.

''(b) UNLAWFUL PRODUCTION.—Any person who knowingly and without lawful authority—

''(1) produces, issues, authorizes, or verifies a passport in violation of the laws, regulations, or rules governing the issuance of the passport;

''(2) produces, issues, authorizes, or verifies a United States passport for or to any person not owing allegiance to the United States; or

''(3) transfers or furnishes a passport to a person for use when such person is not the person for whom the passport was issued or designed,

shall be fined under this title, imprisoned not more than 15 years, or both.

''§ 1544. Misuse of a passport

''(a) IN GENERAL.—Any person who—

''(1) knowingly uses any passport issued or designed for the use of another;

''(2) knowingly uses any passport in violation of the conditions or restrictions therein contained, or in violation of the laws, regulations, or rules governing the issuance and use of the passport;

''(3) knowingly secures, possesses, uses, receives, buys, sells, or distributes any passport knowing it to be forged, counterfeited, altered, falsely made, procured by fraud, or produced or issued without lawful authority; or

''(4) knowingly violates the terms and conditions of any safe conduct duly obtained and issued under the authority of the United States,

shall be fined under this title, imprisoned not more than 15 years, or both.

''(b) ENTRY; FRAUD.—Any person who knowingly uses any passport, knowing the passport to be forged, counterfeited, altered, falsely made, procured by fraud, produced or issued without lawful authority, or issued or designed for the use of another—

''(1) to enter or to attempt to enter the United States; or

''(2) to defraud the United States, a State, or a political subdivision of a State,

shall be fined under this title, imprisoned not more than 15 years, or both.

''§ 1545. Schemes to defraud aliens

''(a) IN GENERAL.—Any person who knowingly executes a scheme or artifice, in connection with any matter that is authorized by or arises under Federal immigration laws, or any matter the offender claims or represents is authorized by or arises under Federal immigration laws—

''(1) to defraud any person, or

''(2) to obtain or receive from any person, by means of false or fraudulent pretenses, representations, promises, money or anything else of value,

shall be fined under this title, imprisoned not more than 15 years, or both.

''(b) MISREPRESENTATION.—Any person who knowingly and falsely represents himself to be an attorney in any matter arising under Federal immigration laws shall be fined under this title, imprisoned not more than 15 years, or both.

''§ 1546. Immigration and visa fraud

''(a) IN GENERAL.—Any person who knowingly—

''(1) uses any immigration document issued or designed for the use of another;

''(2) forges, counterfeits, alters, or falsely makes any immigration document;

''(3) completes, mails, prepares, presents, signs, or submits any immigration document knowing it to contain any materially false statement or representation;

''(4) secures, possesses, uses, transfers, receives, buys, sells, or distributes any immigration document knowing it to be forged, counterfeited, altered, falsely made, stolen, procured by fraud, or produced or issued without lawful authority;

''(5) adopts or uses a false or fictitious name to evade or to attempt to evade the immigration laws; or

''(6) transfers or furnishes an immigration document to a person without lawful authority for use if such person is not the person for whom the immigration document was issued or designed,

shall be fined under this title, imprisoned not more than 15 years, or both.

''(b) MULTIPLE VIOLATIONS.—Any person who, during any 3-year period, knowingly—

''(1) and without lawful authority produces, issues, or transfers 10 or more immigration documents;

''(2) forges, counterfeits, alters, or falsely makes 10 or more immigration documents;

''(3) secures, possesses, uses, buys, sells, or distributes 10 or more immigration documents, knowing the immigration documents to be forged, counterfeited, altered, stolen, falsely made, procured by fraud, or produced or issued without lawful authority; or

''(4) completes, mails, prepares, presents, signs, or submits 10 or more immigration documents knowing the documents to contain any materially false statement or representation,

shall be fined under this title, imprisoned not more than 20 years, or both.

''(c) IMMIGRATION DOCUMENT MATERIALS.—Any person who knowingly and without lawful authority produces, counterfeits, secures, possesses, or uses any official paper, seal, hologram, image, text, symbol, stamp, engraving, plate, or other material, used to make an immigration document shall be fined under this title, imprisoned not more than 20 years, or both.

''§ 1547. Marriage fraud

''(a) EVASION OR MISREPRESENTATION.—Any person who—

''(1) knowingly enters into a marriage for the purpose of evading any provision of the immigration laws; or

''(2) knowingly misrepresents the existence or circumstances of a marriage—

''(A) in an application or document authorized by the immigration laws; or

''(B) during any immigration proceeding conducted by an administrative adjudicator (including an immigration officer or examiner, a consular officer, an immigration judge, or a member of the Board of Immigration Appeals),

shall be fined under this title, imprisoned not more than 10 years, or both.

''(b) MULTIPLE MARRIAGES.—Any person who—

''(1) knowingly enters into 2 or more marriages for the purpose of evading any immigration law; or

''(2) knowingly arranges, supports, or facilitates 2 or more marriages designed or intended to evade any immigration law,

shall be fined under this title, imprisoned not more than 20 years, or both.

''(c) COMMERCIAL ENTERPRISE.—Any person who knowingly establishes a commercial enterprise for the purpose of evading any provision of the immigration laws shall be fined under this title, imprisoned for not more than 10 years, or both.

''(d) DURATION OF OFFENSE.—

''(1) IN GENERAL.—An offense under subsection (a) or (b) continues until the fraudulent nature of the marriage or marriages is discovered by an immigration officer.

''(2) COMMERCIAL ENTERPRISE.—An offense under subsection (c) continues until the fraudulent nature of commercial enterprise is discovered by an immigration officer or other law enforcement officer.

''§ 1548. Attempts and conspiracies

''Any person who attempts or conspires to violate any section of this chapter shall be punished in the same manner as a person who completed a violation of that section.

''§ 1549. Alternative penalties for certain offenses

''(a) TERRORISM.—Any person who violates any section of this chapter—

''(1) knowing that such violation will facilitate an act of international terrorism or domestic terrorism (as those terms are defined in section 2331); or

''(2) with the intent to facilitate an act of international terrorism or domestic terrorism,

shall be fined under this title, imprisoned not more than 25 years, or both.

''(b) OFFENSE AGAINST GOVERNMENT.—Any person who violates any section of this chapter—

''(1) knowing that such violation will facilitate the commission of any offense against the United States (other than an offense in this chapter) or against any State, which offense is punishable by imprisonment for more than 1 year; or

''(2) with the intent to facilitate the commission of any offense against the United States (other than an offense in this chapter) or against any State, which offense is punishable by imprisonment for more than 1 year,

shall be fined under this title, imprisoned not more than 20 years, or both.

''§ 1550. Seizure and forfeiture

''(a) FORFEITURE.—Any property, real or personal, used to commit or facilitate the commission of a violation of any section of this chapter, the gross proceeds of such violation, and any property traceable to such property or proceeds, shall be subject to forfeiture.

''(b) APPLICABLE LAW.—Seizures and forfeitures under this section shall be governed by the provisions of chapter 46 relating to civil forfeitures, except that such duties as are imposed upon the Secretary of the Treasury under the customs laws described in section 981(d) shall be performed by such officers, agents, and other persons as may be designated for that purpose by the Secretary of Homeland Security, the Secretary of State, or the Attorney General.

''§ 1551. Additional jurisdiction

''(a) IN GENERAL.—Any person who commits an offense under this chapter within the special maritime and territorial jurisdiction of the United States shall be punished as provided under this chapter.

''(b) EXTRATERRITORIAL JURISDICTION.—Any person who commits an offense under this

chapter outside the United States shall be punished as provided under this chapter if—

''(1) the offense involves a United States immigration document (or any document purporting to be such a document) or any matter, right, or benefit arising under or authorized by Federal immigration laws;

''(2) the offense is in or affects foreign commerce;

''(3) the offense affects, jeopardizes, or poses a significant risk to the lawful administration of Federal immigration laws, or the national security of the United States;

''(4) the offense is committed to facilitate an act of international terrorism (as defined in section 2331) or a drug trafficking crime (as defined in section 929(a)(2)) that affects or would affect the national security of the United States;

''(5) the offender is a national of the United States (as defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22))) or an alien lawfully admitted for permanent residence in the United States (as defined in section 101(a)(20) of such Act); or

''(6) the offender is a stateless person whose habitual residence is in the United States.

''§ 1552. Additional venue

''(a) IN GENERAL.—An offense under section 1542 may be prosecuted in—

''(1) any district in which the false statement or representation was made;

''(2) any district in which the passport application was prepared, submitted, mailed, received, processed, or adjudicated; or

''(3) in the case of an application prepared and adjudicated outside the United States, in the district in which the resultant passport was produced.

''(b) SAVINGS CLAUSE.—Nothing in this section limits the venue otherwise available under sections 3237 and 3238.

''§ 1553. Definitions

''As used in this chapter:

''(1) The term 'falsely make' means to prepare or complete an immigration document with knowledge or in reckless disregard of the fact that the document—

''(A) contains a statement or representation that is false, fictitious, or fraudulent;

''(B) has no basis in fact or law; or

''(C) otherwise fails to state a fact which is material to the purpose for which the document was created, designed, or submitted.

''(2) The term a 'false statement or representation' includes a personation or an omission.

''(3) The term 'felony' means any criminal offense punishable by a term of imprisonment of more than 1 year under the laws of the United States, any State, or a foreign government.

''(4) The term 'immigration document'—

''(A) means—

''(i) any passport or visa; or

''(ii) any application, petition, affidavit, declaration, attestation, form, identification card, alien registration document, employment authorization document, border crossing card, certificate, permit, order, license, stamp, authorization, grant of authority, or other evidentiary document, arising under or authorized by the immigration laws of the United States; and

''(B) includes any document, photograph, or other piece of evidence attached to or submitted in support of an immigration document.

''(5) The term 'immigration laws' includes—

''(A) the laws described in section 101(a)(17) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(17));

''(B) the laws relating to the issuance and use of passports; and

''(C) the regulations prescribed under the authority of any law described in paragraphs (1) and (2).

''(6) The term 'immigration proceeding' includes an adjudication, interview, hearing, or review.

''(7) A person does not exercise 'lawful authority' if the person abuses or improperly exercises lawful authority the person otherwise holds.

''(8) The term 'passport' means a travel document attesting to the identity and nationality of the bearer that is issued under the authority of the Secretary of State, a foreign government, or an international organization; or any instrument purporting to be the same.

''(9) The term 'produce' means to make, prepare, assemble, issue, print, authenticate, or alter.

''(10) The term 'State' means a State of the United States, the District of Columbia, or any commonwealth, territory, or possession of the United States.

''§ 1554. Authorized law enforcement activities

''Nothing in this chapter shall prohibit any lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency of the United States, a State, or a political subdivision of a State, or an intelligence agency of the United States, or any activity authorized under title V of the Organized Crime Control Act of 1970 (84 Stat. 933).

''§ 1555. Exception for refugees, asylees, and other vulnerable persons

''(a) IN GENERAL.—If a person believed to have violated section 1542, 1544, 1546, or 1548 while attempting to enter the United States, without delay, indicates an intention to apply for asylum under section 208 or 241(b)(3) of the Immigration and Nationality Act (8 U.S.C. 1158 and 1231), or for relief under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (in accordance with section 208.17 of title 8, Code of Federal Regulations), or under section 101(a)(15)(T), 101(a)(15)(U), 101(a)(27)(J), 101(a)(51), 216(c)(4)(C), 240A(b)(2), or 244(a)(3) (as in effect prior to March 31, 1997) of such Act, or a credible fear of persecution or torture—

''(1) the person shall be referred to an appropriate Federal immigration official to review such claim and make a determination if such claim is warranted;

''(2) if the Federal immigration official determines that the person qualifies for the claimed relief, the person shall not be considered to have violated any such section; and

''(3) if the Federal immigration official determines that the person does not qualify for the claimed relief, the person shall be referred to an appropriate Federal official for prosecution under this chapter.

''(b) SAVINGS PROVISION.—Nothing in this section shall be construed to diminish, increase, or alter the obligations of refugees or the United States under article 31(1) of the Convention Relating to the Status of Refugees, done at Geneva July 28, 1951 (as made applicable by the Protocol Relating to the Status of Refugees, done at New York January 31, 1967 (19 UST 6223)).''.

(2) CLERICAL AMENDMENT.—The table of chapters in title 18, United States Code, is amended by striking the item relating to chapter 75 and inserting the following:

''75. Passport, visa, and immigration fraud ..... 1541''.

(b) PROTECTION FOR LEGITIMATE REFUGEES AND ASYLUM SEEKERS.—Section 208 (8 U.S.C. 1158) is amended by adding at the end the following:

''(e) PROTECTION FOR LEGITIMATE REFUGEES AND ASYLUM SEEKERS.—The Attorney General, in consultation with the Secretary of Homeland Security, shall develop binding prosecution guidelines for federal prosecutors to ensure that any prosecution of an alien seeking entry into the United States by fraud is consistent with the written terms and limitations of Article 31(1) of the Convention Relating to the Status of Refugees, done at Geneva July 28, 1951 (as made applicable by the Protocol Relating to the Status of Refugees, done at New York January 31, 1967 (19 UST 6223)).''.

SEC. 209. INADMISSIBILITY AND REMOVAL FOR PASSPORT AND IMMIGRATION FRAUD OFFENSES.

(a) INADMISSIBILITY.—Section 212(a)(2)(A)(i) (8 U.S.C. 1182(a)(2)(A)(i)) is amended–

(1) in subclause (I), by striking '', or'' at the end and inserting a semicolon;

(2) in subclause (II), by striking the comma at the end and inserting ''; or''; and

(3) by inserting after subclause (II) the following:

''(III) a violation of (or a conspiracy or attempt to violate) any provision of chapter 75 of title 18, United States Code,''.

(b) REMOVAL.—Section 237(a)(3)(B)(iii) (8 U.S.C. 1227(a)(3)(B)(iii)) is amended to read as follows:

''(iii) of a violation of any provision of chapter 75 of title 18, United States Code,''.

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to proceedings pending on or after the date of the enactment of this Act, with respect to conduct occurring on or after that date.

SEC. 210. INCARCERATION OF CRIMINAL ALIENS.

(a) INSTITUTIONAL REMOVAL PROGRAM.—

(1) CONTINUATION.—The Secretary shall continue to operate the Institutional Removal Program (referred to in this section as the ''Program'') or shall develop and implement another program to—

(A) identify removable criminal aliens in Federal and State correctional facilities;

(B) ensure that such aliens are not released into the community; and

(C) remove such aliens from the United States after the completion of their sentences.

(2) EXPANSION.—The Secretary may extend the scope of the Program to all States.

(b) AUTHORIZATION FOR DETENTION AFTER COMPLETION OF STATE OR LOCAL PRISON SENTENCE.—Law enforcement officers of a State or political subdivision of a State may—

(1) hold an illegal alien for a period not to exceed 14 days after the completion of the alien's State prison sentence to effectuate the transfer of the alien to Federal custody if the alien is removable or not lawfully present in the United States; or

(2) issue a detainer that would allow aliens who have served a State prison sentence to be detained by the State prison until authorized employees of the Bureau of Immigration and Customs Enforcement can take the alien into custody.

(c) TECHNOLOGY USAGE.—Technology, such as videoconferencing, shall be used to the maximum extent practicable to make the Program available in remote locations. Mobile access to Federal databases of aliens, such as IDENT, and live scan technology shall be used to the maximum extent practicable to make these resources available to State and local law enforcement agencies in remote locations.

(d) REPORT TO CONGRESS.—Not later than 6 months after the date of the enactment of this Act, and annually thereafter, the Secretary shall submit a report to Congress on the participation of States in the Program and in any other program authorized under subsection (a).

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary in each of the fiscal years 2007 through 2011 to carry out the Program.

SEC. 211. ENCOURAGING ALIENS TO DEPART VOLUNTARILY.

(a) IN GENERAL.—Section 240B (8 U.S.C. 1229c) is amended—

(1) in subsection (a)—

(A) by amending paragraph (1) to read as follows:

''(1) INSTEAD OF REMOVAL PROCEEDINGS.—If an alien is not described in paragraph (2)(A)(iii) or (4) of section 237(a), the Secretary of Homeland Security may permit the alien to voluntarily depart the United States at the alien's own expense under this subsection instead of being subject to proceedings under section 240.'';

(B) by striking paragraph (3);

(C) by redesignating paragraph (2) as paragraph (3);

(D) by adding after paragraph (1) the following:

''(2) BEFORE THE CONCLUSION OF REMOVAL PROCEEDINGS.—If an alien is not described in paragraph (2)(A)(iii) or (4) of section 237(a), the Attorney General may permit the alien to voluntarily depart the United States at the alien's own expense under this subsection after the initiation of removal proceedings under section 240 and before the conclusion of such proceedings before an immigration judge.'';

(E) in paragraph (3), as redesignated—

(i) by amending subparagraph (A) to read as follows:

''(A) INSTEAD OF REMOVAL.—Subject to subparagraph (C), permission to voluntarily depart under paragraph (1) shall not be valid for any period in excess of 120 days. The Secretary may require an alien permitted to voluntarily depart under paragraph (1) to post a voluntary departure bond, to be surrendered upon proof that the alien has departed the United States within the time specified.'';

(ii) by redesignating subparagraphs (B), (C), and (D) as paragraphs (C), (D), and (E), respectively;

(iii) by adding after subparagraph (A) the following:

''(B) BEFORE THE CONCLUSION OF REMOVAL PROCEEDINGS.—Permission to voluntarily depart under paragraph (2) shall not be valid for any period in excess of 60 days, and may be granted only after a finding that the alien has the means to depart the United States and intends to do so. An alien permitted to voluntarily depart under paragraph (2) shall post a voluntary departure bond, in an amount necessary to ensure that the alien will depart, to be surrendered upon proof that the alien has departed the United States within the time specified. An immigration judge may waive the requirement to post a voluntary departure bond in individual cases upon a finding that the alien has presented compelling evidence that the posting of a bond will pose a serious financial hardship and the alien has presented credible evidence that such a bond is unnecessary to guarantee timely departure.'';

(iv) in subparagraph (C), as redesignated, by striking ''subparagraphs (C) and(D)(ii)'' and inserting ''subparagraphs (D) and (E)(ii)'';

(v) in subparagraph (D), as redesignated, by striking ''subparagraph (B)'' each place that term appears and inserting ''subparagraph (C)''; and

(vi) in subparagraph (E), as redesignated, by striking ''subparagraph (B)'' each place that term appears and inserting ''subparagraph (C)''; and

(F) in paragraph (4), by striking ''paragraph (1)'' and inserting ''paragraphs (1) and (2)'';

(2) in subsection (b)(2), by striking ''a period exceeding 60 days'' and inserting ''any period in excess of 45 days'';

(3) by amending subsection (c) to read as follows:

''(c) CONDITIONS ON VOLUNTARY DEPARTURE.—

''(1) VOLUNTARY DEPARTURE AGREEMENT.—Voluntary departure may only be granted as part of an affirmative agreement by the alien. A voluntary departure agreement under subsection (b) shall include a waiver of the right to any further motion, appeal, application, petition, or petition for review relating to removal or relief or protection from removal.

''(2) CONCESSIONS BY THE SECRETARY.—In connection with the alien's agreement to depart voluntarily under paragraph (1), the Secretary of Homeland Security may agree to a reduction in the period of inadmissibility under subparagraph (A) or (B)(i) of section 212(a)(9).

''(3) ADVISALS.—Agreements relating to voluntary departure granted during removal proceedings under section 240, or at the conclusion of such proceedings, shall be presented on the record before the immigration judge. The immigration judge shall advise the alien of the consequences of a voluntary departure agreement before accepting such agreement.

''(4) FAILURE TO COMPLY WITH AGREEMENT.—

''(A) IN GENERAL.—If an alien agrees to voluntary departure under this section and fails to depart the United States within the time allowed for voluntary departure or fails to comply with any other terms of the agreement (including failure to timely post any required bond), the alien is—

''(i) ineligible for the benefits of the agreement;

''(ii) subject to the penalties described in subsection (d); and

''(iii) subject to an alternate order of removal if voluntary departure was granted under subsection (a)(2) or (b).

''(B) EFFECT OF FILING TIMELY APPEAL.—If, after agreeing to voluntary departure, the alien files a timely appeal of the immigration judge's decision granting voluntary departure, the alien may pursue the appeal instead of the voluntary departure agreement. Such appeal operates to void the alien's voluntary departure agreement and the consequences of such agreement, but precludes the alien from another grant of voluntary departure while the alien remains in the United States.

''(5) VOLUNTARY DEPARTURE PERIOD NOT AFFECTED.—Except as expressly agreed to by the Secretary in writing in the exercise of the Secretary's discretion before the expiration of the period allowed for voluntary departure, no motion, appeal, application, petition, or petition for review shall affect, reinstate, enjoin, delay, stay, or toll the alien's obligation to depart from the United States during the period agreed to by the alien and the Secretary.'';

(4) by amending subsection (d) to read as follows:

''(d) PENALTIES FOR FAILURE TO DEPART.—If an alien is permitted to voluntarily depart under this section and fails to voluntarily depart from the United States within the time period specified or otherwise violates the terms of a voluntary departure agreement, the alien will be subject to the following penalties:

''(1) CIVIL PENALTY.—The alien shall be liable for a civil penalty of $3,000. The order allowing voluntary departure shall specify the amount of the penalty, which shall be acknowledged by the alien on the record. If the Secretary thereafter establishes that the alien failed to depart voluntarily within the time allowed, no further procedure will be necessary to establish the amount of the penalty, and the Secretary may collect the civil penalty at any time thereafter and by whatever means provided by law. An alien will be ineligible for any benefits under this chapter until this civil penalty is paid.

''(2) INELIGIBILITY FOR RELIEF.—The alien shall be ineligible during the time the alien remains in the United States and for a period of 10 years after the alien's departure for any further relief under this section and sections 240A, 245, 248, and 249. The order permitting the alien to depart voluntarily shall inform the alien of the penalties under this subsection.

''(3) REOPENING.—The alien shall be ineligible to reopen the final order of removal that took effect upon the alien's failure to depart, or upon the alien's other violations of the conditions for voluntary departure, during the period described in paragraph (2). This paragraph does not preclude a motion to reopen to seek withholding of removal under section 241(b)(3) or protection against torture, if the motion—

''(A) presents material evidence of changed country conditions arising after the date of the order granting voluntary departure in the country to which the alien would be removed; and

''(B) makes a sufficient showing to the satisfaction of the Attorney General that the alien is otherwise eligible for such protection.''; and

(5) by amending subsection (e) to read as follows:

''(e) ELIGIBILITY.—

''(1) PRIOR GRANT OF VOLUNTARY DEPARTURE.—An alien shall not be permitted to voluntarily depart under this section if the Secretary of Homeland Security or the Attorney General previously permitted the alien to depart voluntarily.

''(2) RULEMAKING.—The Secretary may promulgate regulations to limit eligibility or impose additional conditions for voluntary departure under subsection (a)(1) for any class of aliens. The Secretary or Attorney General may by regulation limit eligibility or impose additional conditions for voluntary departure under subsections (a)(2) or (b) of this section for any class or classes of aliens.''; and

(6) in subsection (f), by adding at the end the following: ''Notwithstanding section 242(a)(2)(D) of this Act, sections 1361, 1651, and 2241 of title 28, United States Code, any other habeas corpus provision, and any other provision of law (statutory or nonstatutory), no court shall have jurisdiction to affect, reinstate, enjoin, delay, stay, or toll the period allowed for voluntary departure under this section.''.

(b) RULEMAKING.—The Secretary shall promulgate regulations to provide for the imposition and collection of penalties for failure to depart under section 240B(d) of the Immigration and Nationality Act (8 U.S.C. 1229c(d)).

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply with respect to all orders granting voluntary departure under section 240B of the Immigration and Nationality Act (8 U.S.C. 1229c) made on or after the date that is 180 days after the enactment of this Act.

(2) EXCEPTION.—The amendment made by subsection (a)(6) shall take effect on the date of the enactment of this Act and shall apply with respect to any petition for review which is filed on or after such date.

SEC. 212. DETERRING ALIENS ORDERED REMOVED FROM REMAINING IN THE UNITED STATES UNLAWFULLY.

(a) INADMISSIBLE ALIENS.—Section 212(a)(9)(A) (8 U.S.C. 1182(a)(9)(A)) is amended—

(1) in clause (i), by striking ''seeks admission within 5 years of the date of such removal (or within 20 years'' and inserting ''seeks admission not later than 5 years after the date of the alien's removal (or not later than 20 years after the alien's removal''; and

(2) in clause (ii), by striking ''seeks admission within 10 years of the date of such alien's departure or removal (or within 20 years of'' and inserting ''seeks admission not later than 10 years after the date of the alien's departure or removal (or not later than 20 years after''.

(b) BAR ON DISCRETIONARY RELIEF.—Section 274D (9 U.S.C. 324d) is amended—

(1) in subsection (a), by striking ''Commissioner'' and inserting ''Secretary of Homeland Security''; and

(2) by adding at the end the following:

''(c) INELIGIBILITY FOR RELIEF.—

''(1) IN GENERAL.—Unless a timely motion to reopen is granted under section 240(c)(6), an alien described in subsection (a) shall be ineligible for any discretionary relief from removal (including cancellation of removal and adjustment of status) during the time the alien remains in the United States and for a period of 10 years after the alien's departure from the United States.

''(2) SAVINGS PROVISION.—Nothing in paragraph (1) shall preclude a motion to reopen to seek withholding of removal under section 241(b)(3) or protection against torture, if the motion—

''(A) presents material evidence of changed country conditions arising after the date of the final order of removal in the country to which the alien would be removed; and

''(B) makes a sufficient showing to the satisfaction of the Attorney General that the alien is otherwise eligible for such protection.''.

(c) EFFECTIVE DATES.—The amendments made by this section shall take effect on the date of the enactment of this Act with respect to aliens who are subject to a final order of removal entered on or after such date.

SEC. 213. PROHIBITION OF THE SALE OF FIREARMS TO, OR THE POSSESSION OF FIREARMS BY CERTAIN ALIENS.

Section 922 of title 18, United States Code, is amended—

(1) in subsection (d)(5)—

(A) in subparagraph (A), by striking ''or'' at the end;

(B) in subparagraph (B), by striking ''(y)(2)'' and all that follows and inserting ''(y), is in a nonimmigrant classification; or''; and

(C) by adding at the end the following:

''(C) has been paroled into the United States under section 212(d)(5) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(5));''; and

(2) in subsection (g)(5)—

(A) in subparagraph (A), by striking ''or'' at the end;

(B) in subparagraph (B), by striking ''(y)(2)'' and all that follows and inserting ''(y), is in a nonimmigrant classification; or''; and

(C) by adding at the end the following:

''(C) has been paroled into the United States under section 212(d)(5) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(5));''.

(3) in subsection (y)—

(A) in the header, by striking ''ADMITTED UNDER NONIMMIGRANT VISAS'' and inserting ''IN A NONIMMIGRANT CLASSIFICATION'';

(B) in paragraph (1), by amending subparagraph (B) to read as follows:

''(B) the term 'nonimmigrant classification' includes all classes of nonimmigrant aliens described in section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)), or otherwise described in the immigration laws (as defined in section 101(a)(17) of such Act).'';

(C) in paragraph (2), by striking ''has been lawfully admitted to the United States under a nonimmigrant visa'' and inserting ''is in a nonimmigrant classification''; and

(D) in paragraph (3)(A), by striking ''Any individual who has been admitted to the United States under a nonimmigrant visa may receive a waiver from the requirements of subsection (g)(5)'' and inserting ''Any alien in a nonimmigrant classification may receive a waiver from the requirements of subsection (g)(5)(B)''.

SEC. 214. UNIFORM STATUTE OF LIMITATIONS FOR CERTAIN IMMIGRATION, NATURALIZATION, AND PEONAGE OFFENSES.

(a) IN GENERAL.—Section 3291 of title 18, United States Code, is amended to read as follows:

''§ 3291. Immigration, naturalization, and peonage offenses

''No person shall be prosecuted, tried, or punished for a violation of any section of chapters 69 (relating to nationality and citizenship offenses), 75 (relating to passport, visa, and immigration offenses), or 77 (relating to peonage, slavery, and trafficking in persons), for an attempt or conspiracy to violate any such section, for a violation of any criminal provision under section 243, 266, 274, 275, 276, 277, or 278 of the Immigration and Nationality Act (8 U.S.C. 1253, 1306, 1324, 1325, 1326, 1327, and 1328), or for an attempt or conspiracy to violate any such section, unless the indictment is returned or the information filed not later than 10 years after the commission of the offense.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 213 of title 18, United States Code, is amended by striking the item relating to section 3291 and inserting the following:

''3291. Immigration, naturalization, and peonage offenses.''.

SEC. 215. DIPLOMATIC SECURITY SERVICE.

Section 2709(a)(1) of title 22, United States Code, is amended to read as follows:

''(1) conduct investigations concerning—

''(A) illegal passport or visa issuance or use;

''(B) identity theft or document fraud affecting or relating to the programs, functions, and authorities of the Department of State;

''(C) violations of chapter 77 of title 18, United States Code; and

''(D) Federal offenses committed within the special maritime and territorial jurisdiction of the United States (as defined in section 7(9) of title 18, United States Code);''.

SEC. 216. FIELD AGENT ALLOCATION AND BACKGROUND CHECKS.

(a) IN GENERAL.—Section 103 (8 U.S.C. 1103) is amended—

(1) by amending subsection (f) to read as follows:

''(f) MINIMUM NUMBER OF AGENTS IN STATES.—

''(1) IN GENERAL.—The Secretary of Homeland Security shall allocate to each State—

''(A) not fewer than 40 full-time active duty agents of the Bureau of Immigration and Customs Enforcement to—

''(i) investigate immigration violations; and

''(ii) ensure the departure of all removable aliens; and

''(B) not fewer than 15 full-time active duty agents of the Bureau of Citizenship and Immigration Services to carry out immigration and naturalization adjudication functions.

''(2) WAIVER.—The Secretary may waive the application of paragraph (1) for any State with a population of less than 2,000,000, as most recently reported by the Bureau of the Census''; and

(2) by adding at the end the following:

''(i) Notwithstanding any other provision of law, appropriate background and security checks, as determined by the Secretary of Homeland Security, shall be completed and assessed and any suspected or alleged fraud relating to the granting of any status (including the granting of adjustment of status), relief, protection from removal, or other benefit under this Act shall be investigated and resolved before the Secretary or the Attorney General may—

''(1) grant or order the grant of adjustment of status of an alien to that of an alien lawfully admitted for permanent residence;

''(2) grant or order the grant of any other status, relief, protection from removal, or other benefit under the immigration laws; or

''(3) issue any documentation evidencing or related to such grant by the Secretary, the Attorney General, or any court.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a)(1) shall take effect on the date that is 90 days after the date of the enactment of this Act.

SEC. 217. CONSTRUCTION.

(a) IN GENERAL.—Chapter 4 of title III (8 U.S.C. 1501 et seq.) is amended by adding at the end the following:

''SEC. 362. CONSTRUCTION.

''(a) IN GENERAL.—Nothing in this Act or in any other provision of law shall be construed to require the Secretary of Homeland Security, the Attorney General, the Secretary of State, the Secretary of Labor, or any other authorized head of any Federal agency to grant any application, approve any petition, or grant or continue any status or benefit under the immigration laws by, to, or on behalf of—

''(1) any alien described in subparagraph (A)(i), (A)(iii), (B), or (F) of section 212(a)(3) or subparagraph (A)(i), (A)(iii), or (B) of section 237(a)(4);

''(2) any alien with respect to whom a criminal or other investigation or case is pending that is material to the alien's inadmissibility, deportability, or eligibility for the status or benefit sought; or

''(3) any alien for whom all law enforcement checks, as deemed appropriate by such authorized official, have not been conducted and resolved.

''(b) DENIAL; WITHHOLDING.—An official described in subsection (a) may deny or withhold (with respect to an alien described in subsection (a)(1)) or withhold pending resolution of the investigation, case, or law enforcement checks (with respect to an alien described in paragraph (2) or (3) of subsection (a)) any such application, petition, status, or benefit on such basis.''.

(b) CLERICAL AMENDMENT.—The table of contents is amended by inserting after the item relating to section 361 the following:

''Sec. 362. Construction.''.

SEC. 218. STATE CRIMINAL ALIEN ASSISTANCE PROGRAM.

(a) REIMBURSEMENT FOR COSTS ASSOCIATED WITH PROCESSING CRIMINAL ILLEGAL ALIENS.—The Secretary shall reimburse States and units of local government for costs associated with processing undocumented criminal aliens through the criminal justice system, including—

(1) indigent defense;

(2) criminal prosecution;

(3) autopsies;

(4) translators and interpreters; and

(5) courts costs.

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) PROCESSING CRIMINAL ILLEGAL ALIENS.—There are authorized to be appropriated $400,000,000 for each of the fiscal years 2007 through 2012 to carry out subsection (a).

(2) COMPENSATION UPON REQUEST.—Section 241(i)(5) (8 U.S.C. 1231(i)) is amended to read as follows:

''(5) There are authorized to be appropriated to carry this subsection—

''(A) such sums as may be necessary for fiscal year 2007;

''(B) $750,000,000 for fiscal year 2008;

''(C) $850,000,000 for fiscal year 2009; and

''(D) $950,000,000 for each of the fiscal years 2010 through 2012.''.

(c) TECHNICAL AMENDMENT.—Section 501 of the Immigration Reform and Control Act of 1986 (8 U.S.C. 1365) is amended by striking ''Attorney General'' each place it appears and inserting ''Secretary of Homeland Security''.

SEC. 219. TRANSPORTATION AND PROCESSING OF ILLEGAL ALIENS APPREHENDED BY STATE AND LOCAL LAW ENFORCEMENT OFFICERS.

(a) IN GENERAL.—The Secretary shall provide sufficient transportation and officers to take illegal aliens apprehended by State and local law enforcement officers into custody for processing at a detention facility operated by the Department.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for each of fiscal years 2007 through 2011 to carry out this section.

SEC. 220. REDUCING ILLEGAL IMMIGRATION AND ALIEN SMUGGLING ON TRIBAL LANDS.

(a) GRANTS AUTHORIZED.—The Secretary may award grants to Indian tribes with lands adjacent to an international border of the United States that have been adversely affected by illegal immigration.

(b) USE OF FUNDS.—Grants awarded under subsection (a) may be used for—

(1) law enforcement activities;

(2) health care services;

(3) environmental restoration; and

(4) the preservation of cultural resources.

(c) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives that—

(1) describes the level of access of Border Patrol agents on tribal lands;

(2) describes the extent to which enforcement of immigration laws may be improved by enhanced access to tribal lands;

(3) contains a strategy for improving such access through cooperation with tribal authorities; and

(4) identifies grants provided by the Department for Indian tribes, either directly or through State or local grants, relating to border security expenses.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2007 through 2011 to carry out this section.

SEC. 221. ALTERNATIVES TO DETENTION.

The Secretary shall conduct a study of—

(1) the effectiveness of alternatives to detention, including electronic monitoring devices and intensive supervision programs, in ensuring alien appearance at court and compliance with removal orders;

(2) the effectiveness of the Intensive Supervision Appearance Program and the costs and benefits of expanding that program to all States; and

(3) other alternatives to detention, including—

(A) release on an order of recognizance;

(B) appearance bonds; and

(C) electronic monitoring devices.

SEC. 222. CONFORMING AMENDMENT.

Section 101(a)(43)(P) (8 U.S.C. 1101(a)(43)(P)) is amended—

(1) by striking ''(i) which either is falsely making, forging, counterfeiting, mutilating, or altering a passport or instrument in violation of section 1543 of title 18, United States Code, or is described in section 1546(a) of such title (relating to document fraud) and (ii)'' and inserting ''which is described in chapter 75 of title 18, United States Code, and''; and

(2) by inserting the following: ''that is not described in section 1548 of such title (relating to increased penalties), and'' after ''first offense''.

SEC. 223. REPORTING REQUIREMENTS.

(a) CLARIFYING ADDRESS REPORTING REQUIREMENTS.—Section 265 (8 U.S.C. 1305) is amended—

(1) in subsection (a)—

(A) by striking ''notify the Attorney General in writing'' and inserting ''submit written or electronic notification to the Secretary of Homeland Security, in a manner approved by the Secretary,'';

(B) by striking ''the Attorney General may require by regulation'' and inserting ''the Secretary may require''; and

(C) by adding at the end the following: ''If the alien is involved in proceedings before an immigration judge or in an administrative appeal of such proceedings, the alien shall submit to the Attorney General the alien's current address and a telephone number, if any, at which the alien may be contacted.'';

(2) in subsection (b), by striking ''Attorney General'' each place such term appears and inserting ''Secretary'';

(3) in subsection (c), by striking ''given to such parent'' and inserting ''given by such parent''; and

(4) by adding at the end the following:

''(d) ADDRESS TO BE PROVIDED.—

''(1) IN GENERAL.—Except as otherwise provided by the Secretary under paragraph (2), an address provided by an alien under this section shall be the alien's current residential mailing address, and shall not be a post office box or other non-residential mailing address or the address of an attorney, representative, labor organization, or employer.

''(2) SPECIFIC REQUIREMENTS.—The Secretary may provide specific requirements with respect to—

''(A) designated classes of aliens and special circumstances, including aliens who are employed at a remote location; and

''(B) the reporting of address information by aliens who are incarcerated in a Federal, State, or local correctional facility.

''(3) DETENTION.—An alien who is being detained by the Secretary under this Act is not required to report the alien's current address under this section during the time the alien remains in detention, but shall be required to notify the Secretary of the alien's address under this section at the time of the alien's release from detention.

''(e) USE OF MOST RECENT ADDRESS PROVIDED BY THE ALIEN.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary may provide for the appropriate coordination and cross referencing of address information provided by an alien under this section with other information relating to the alien's address under other Federal programs, including—

''(A) any information pertaining to the alien, which is submitted in any application, petition, or motion filed under this Act with the Secretary of Homeland Security, the Secretary of State, or the Secretary of Labor;

''(B) any information available to the Attorney General with respect to an alien in a proceeding before an immigration judge or an administrative appeal or judicial review of such proceeding;

''(C) any information collected with respect to nonimmigrant foreign students or exchange program participants under section 641 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1372); and

''(D) any information collected from State or local correctional agencies pursuant to the State Criminal Alien Assistance Program.

''(2) RELIANCE.—The Secretary may rely on the most recent address provided by the alien under this section or section 264 to send to the alien any notice, form, document, or other matter pertaining to Federal immigration laws, including service of a notice to appear. The Attorney General and the Secretary may rely on the most recent address provided by the alien under section 239(a)(1)(F) to contact the alien about pending removal proceedings.

''(3) OBLIGATION.—The alien's provision of an address for any other purpose under the Federal immigration laws does not excuse the alien's obligation to submit timely notice of the alien's address to the Secretary under this section (or to the Attorney General under section 239(a)(1)(F) with respect to an alien in a proceeding before an immigration judge or an administrative appeal of such proceeding).''.

(b) CONFORMING CHANGES WITH RESPECT TO REGISTRATION REQUIREMENTS.—Chapter 7 of title II (8 U.S.C. 1301 et seq.) is amended—

(1) in section 262(c), by striking ''Attorney General'' and inserting ''Secretary of Homeland Security'';

(2) in section 263(a), by striking ''Attorney General'' and inserting ''Secretary of Homeland Security''; and

(3) in section 264—

(A) in subsections (a), (b), (c), and (d), by striking ''Attorney General'' each place it appears and inserting ''Secretary of Homeland Security''; and

(B) in subsection (f)—

(i) by striking ''Attorney General is authorized'' and inserting ''Secretary of Homeland Security and Attorney General are authorized''; and

(ii) by striking ''Attorney General or the Service'' and inserting ''Secretary or the Attorney General''.

(c) PENALTIES.—Section 266 (8 U.S.C. 1306) is amended—

(1) by amending subsection (b) to read as follows:

''(b) FAILURE TO PROVIDE NOTICE OF ALIEN'S CURRENT ADDRESS.—

''(1) CRIMINAL PENALTIES.—Any alien or any parent or legal guardian in the United States of any minor alien who fails to notify the Secretary of Homeland Security of the alien's current address in accordance with section 265 shall be fined under title 18, United States Code, imprisoned for not more than 6 months, or both.

''(2) EFFECT ON IMMIGRATION STATUS.—Any alien who violates section 265 (regardless of whether the alien is punished under paragraph (1)) and does not establish to the satisfaction of the Secretary that such failure was reasonably excusable or was not willful shall be taken into custody in connection with removal of the alien. If the alien has not been inspected or admitted, or if the alien has failed on more than 1 occasion to submit notice of the alien's current address as required under section 265, the alien may be presumed to be a flight risk. The Secretary or the Attorney General, in considering any form of relief from removal which

may be granted in the discretion of the Secretary or the Attorney General, may take into consideration the alien's failure to comply with section 265 as a separate negative factor. If the alien failed to comply with the requirements of section 265 after becoming subject to a final order of removal, deportation, or exclusion, the alien's failure shall be considered as a strongly negative factor with respect to any discretionary motion for reopening or reconsideration filed by the alien.'';

(2) in subsection (c), by inserting ''or a notice of current address'' before ''containing statements''; and

(3) in subsections (c) and (d), by striking ''Attorney General'' each place it appears and inserting ''Secretary''.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to proceedings initiated on or after the date of the enactment of this Act.

(2) CONFORMING AND TECHNICAL AMENDMENTS.—The amendments made by paragraphs (1)(A), (1)(B), (2) and (3) of subsection (a) are effective as if enacted on March 1, 2003.

SEC. 224. STATE AND LOCAL ENFORCEMENT OF FEDERAL IMMIGRATION LAWS.

(a) IN GENERAL.—Section 287(g) (8 U.S.C. 1357(g)) is amended—

(1) in paragraph (2), by adding at the end the following: ''If such training is provided by a State or political subdivision of a State to an officer or employee of such State or political subdivision of a State, the cost of such training (including applicable overtime costs) shall be reimbursed by the Secretary of Homeland Security.''; and

(2) in paragraph (4), by adding at the end the following: ''The cost of any equipment required to be purchased under such written agreement and necessary to perform the functions under this subsection shall be reimbursed by the Secretary of Homeland Security.''.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as may be necessary to carry out this section and the amendments made by this section.

SEC. 225. REMOVAL OF DRUNK DRIVERS.

(a) IN GENERAL.—Section 101(a)(43)(F) (8 U.S.C. 1101(a)(43)(F)) is amended by inserting '', including a third drunk driving conviction, regardless of the States in which the convictions occurred or whether the offenses are classified as misdemeanors or felonies under State law,'' after ''offense)''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall—

(1) take effect on the date of the enactment of this Act; and

(2) apply to convictions entered before, on, or after such date.

SEC. 226. MEDICAL SERVICES IN UNDERSERVED AREAS.

Section 220(c) of the Immigration and Nationality Technical Corrections Act of 1994 (8 U.S.C. 1182 note) is amended by striking ''and before June 1, 2006.''.

SEC. 227. EXPEDITED REMOVAL.

(a) IN GENERAL.—Section 238 (8 U.S.C. 1228) is amended—

(1) by striking the section heading and inserting ''EXPEDITED REMOVAL OF CRIMINAL ALIENS'';

(2) in subsection (a), by striking the subsection heading and inserting: ''EXPEDITED REMOVAL FROM CORRECTIONAL FACILITIES.—'';

(3) in subsection (b), by striking the subsection heading and inserting: ''REMOVAL OF CRIMINAL ALIENS.—'';

(4) in subsection (b), by striking paragraphs (1) and (2) and inserting the following:

''(1) IN GENERAL.—The Secretary of Homeland Security may, in the case of an alien described in paragraph (2), determine the deportability of such alien and issue an order of removal pursuant to the procedures set forth in this subsection or section 240.

''(2) ALIENS DESCRIBED.—An alien is described in this paragraph if the alien—

''(A) has not been lawfully admitted to the United States for permanent residence; and

''(B) was convicted of any criminal offense described in subparagraph (A)(iii), (C), or (D) of section 237(a)(2).'';

(5) in the subsection (c) that relates to presumption of deportability, by striking ''convicted of an aggravated felony'' and inserting ''described in subsection (b)(2)'';

(6) by redesignating the subsection (c) that relates to judicial removal as subsection (d); and

(7) in subsection (d)(5) (as so redesignated), by striking '', who is deportable under this Act,''.

(b) APPLICATION TO CERTAIN ALIENS.—

(1) IN GENERAL.—Section 235(b)(1)(A)(iii) (8 U.S.C. 1225(b)(1)(A)(iii)) is amended—

(A) in subclause (I), by striking ''Attorney General'' and inserting ''Secretary of Homeland Security'' each place it appears; and

(B) by adding at the end the following new subclause:

''(III) EXCEPTION.—Notwithstanding subclauses (I) and (II), the Secretary of Homeland Security shall apply clauses (i) and (ii) of this subparagraph to any alien (other than an alien described in subparagraph (F)) who is not a national of a country contiguous to the United States, who has not been admitted or paroled into the United States, and who is apprehended within 100 miles of an international land border of the United States and within 14 days of entry.''.

(2) EXCEPTIONS.—Section 235(b)(1)(F) of the Immigration and Nationality Act (8 U.S.C. 1225(b)(1)(F)) is amended—

(A) by striking ''and who arrives by aircraft at a port of entry'' and inserting ''and—''; and

(B) by adding at the end the following:

''(i) who arrives by aircraft at a port of entry; or

''(ii) who is present in the United States and arrived in any manner at or between a port of entry.''.

(c) LIMIT ON INJUNCTIVE RELIEF.—Section 242(f)(2) (8 U.S.C. 1252(f)(2)) is amended by inserting ''or stay, whether temporarily or otherwise,'' after ''enjoin''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to all aliens apprehended or convicted on or after such date.

SEC. 228. PROTECTING IMMIGRANTS FROM CONVICTED SEX OFFENDERS.

(a) IMMIGRANTS.—Section 204(a)(1) (8 U.S.C. 1154(a)(1)), is amended—

(1) in subparagraph (A)(i), by striking ''Any'' and inserting ''Except as provided in clause (vii), any'';

(2) in subparagraph (A), by inserting after clause (vi) the following:

''(vii) Clause (i) shall not apply to a citizen of the United States who has been convicted of an offense described in subparagraph (A), (I), or (K) of section 101(a)(43), unless the Secretary of Homeland Security, in the Secretary's sole and unreviewable discretion, determines that the citizen poses no risk to the alien with respect to whom a petition described in clause (i) is filed.''; and

(3) in subparagraph (B)(i)—

(A) by striking ''Any alien'' and inserting the following: ''(I) Except as provided in subclause (II), any alien''; and

(B) by adding at the end the following:

''(II) Subclause (I) shall not apply in the case of an alien admitted for permanent residence who has been convicted of an offense described in subparagraph (A), (I), or (K) of section 101(a)(43), unless the Secretary of Homeland Security, in the Secretary's sole and unreviewable discretion, determines that the alien lawfully admitted for permanent residence poses no risk to the alien with respect to whom a petition described in subclause (I) is filed.''.

(b) NONIMMIGRANTS.—Section 101(a)(15)(K) (8 U.S.C. 1101(a)(15)(K)), is amended by inserting ''(other than a citizen described in section 204(a)(1)(A)(vii))'' after ''citizen of the United States'' each place that phrase appears.

SEC. 229. LAW ENFORCEMENT AUTHORITY OF STATES AND POLITICAL SUBDIVISIONS AND TRANSFER TO FEDERAL CUSTODY.

(a) IN GENERAL.—Title II (8 U.S.C. 1151 et. seq.) is amended by adding after section 240C the following new section:

''SEC. 240D. LAW ENFORCEMENT AUTHORITY OF STATES AND POLITICAL SUBDIVISIONS AND TRANSFER OF ALIENS TO FEDERAL CUSTODY.

''(a) AUTHORITY.—Notwithstanding any other provision of law, law enforcement personnel of a State, or a political subdivision of a State, have the inherent authority of a sovereign entity to investigate, apprehend, arrest, detain, or transfer to Federal custody (including the transportation across State lines to detention centers) an alien for the purpose of assisting in the enforcement of the criminal provisions of the immigration laws of the United States in the normal course of carrying out the law enforcement duties of such personnel. This State authority has never been displaced or preempted by a Federal law.

''(b) CONSTRUCTION.—Nothing in this section shall be construed to require law enforcement personnel of a State or a political subdivision to assist in the enforcement of the immigration laws of the United States.

''(c) TRANSFER.—If the head of a law enforcement entity of a State (or, if appropriate, a political subdivision of the State) exercising authority with respect to the apprehension or arrest of an alien submits a request to the Secretary of Homeland Security that the alien be taken into Federal custody, the Secretary of Homeland Security—

''(1) shall—

''(A) deem the request to include the inquiry to verify immigration status described in section 642(c) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1373(c)), and expeditiously inform the requesting entity whether such individual is an alien lawfully admitted to the United States or is otherwise lawfully present in the United States; and

''(B) if the individual is an alien who is not lawfully admitted to the United States or otherwise is not lawfully present in the United States—

''(i) take the illegal alien into the custody of the Federal Government not later than 72 hours after—

''(I) the conclusion of the State charging process or dismissal process; or

''(II) the illegal alien is apprehended, if no State charging or dismissal process is required; or

''(ii) request that the relevant State or local law enforcement agency temporarily detain or transport the alien to a location for transfer to Federal custody; and

''(2) shall designate at least 1 Federal, State, or local prison or jail or a private contracted prison or detention facility within each State as the central facility for that State to transfer custody of aliens to the Department of Homeland Security.

''(d) REIMBURSEMENT.—

''(1) IN GENERAL.—The Secretary of Homeland Security shall reimburse a State, or a

political subdivision of a State, for expenses, as verified by the Secretary, incurred by the State or political subdivision in the detention and transportation of an alien as described in subparagraphs (A) and (B) of subsection (c)(1).

''(2) COST COMPUTATION.—Compensation provided for costs incurred under subparagraphs (A) and (B) of subsection (c)(1) shall be—

''(A) the product of—

''(i) the average daily cost of incarceration of a prisoner in the relevant State, as determined by the chief executive officer of a State (or, as appropriate, a political subdivision of the State); multiplied by

''(ii) the number of days that the alien was in the custody of the State or political subdivision; plus

''(B) the cost of transporting the alien from the point of apprehension or arrest to the location of detention, and if the location of detention and of custody transfer are different, to the custody transfer point; plus

''(C) the cost of uncompensated emergency medical care provided to a detained alien during the period between the time of transmittal of the request described in subsection (c) and the time of transfer into Federal custody.

''(e) REQUIREMENT FOR APPROPRIATE SECURITY.—The Secretary of Homeland Security shall ensure that—

''(1) aliens incarcerated in a Federal facility pursuant to this section are held in facilities which provide an appropriate level of security; and

''(2) if practicable, aliens detained solely for civil violations of Federal immigration law are separated within a facility or facilities.

''(f) REQUIREMENT FOR SCHEDULE.—In carrying out this section, the Secretary of Homeland Security shall establish a regular circuit and schedule for the prompt transportation of apprehended aliens from the custody of those States, and political subdivisions of States, which routinely submit requests described in subsection (c), into Federal custody.

''(g) AUTHORITY FOR CONTRACTS.—

''(1) IN GENERAL.—The Secretary of Homeland Security may enter into contracts or cooperative agreements with appropriate State and local law enforcement and detention agencies to implement this section.

''(2) DETERMINATION BY SECRETARY.—Prior to entering into a contract or cooperative agreement with a State or political subdivision of a State under paragraph (1), the Secretary shall determine whether the State, or if appropriate, the political subdivision in which the agencies are located, has in place any formal or informal policy that violates section 642 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1373). The Secretary shall not allocate any of the funds made available under this section to any State or political subdivision that has in place a policy that violates such section.''.

(b) AUTHORIZATION OF APPROPRIATIONS FOR THE DETENTION AND TRANSPORTATION TO FEDERAL CUSTODY OF ALIENS NOT LAWFULLY PRESENT.—There are authorized to be appropriated $850,000,000 for fiscal year 2007 and each subsequent fiscal year for the detention and removal of aliens not lawfully present in the United States under the Immigration and Nationality Act (8 U.S.C. 1101 et. seq.).

SEC. 230. LAUNDERING OF MONETARY INSTRUMENTS.

Section 1956(c)(7)(D) of title 18, United States Code, is amended—

(1) by inserting ''section 1590 (relating to trafficking with respect to peonage, slavery, involuntary servitude, or forced labor),'' after ''section 1363 (relating to destruction of property within the special maritime and territorial jurisdiction),''; and

(2) by inserting ''section 274(a) of the Immigration and Nationality Act (8 U.S.C.1324(a)) (relating to bringing in and harboring certain aliens),'' after ''section 590 of the Tariff Act of 1930 (19 U.S.C. 1590) (relating to aviation smuggling),''.

SEC. 231. LISTING OF IMMIGRATION VIOLATORS IN THE NATIONAL CRIME INFORMATION CENTER DATABASE.

(a) PROVISION OF INFORMATION TO THE NATIONAL CRIME INFORMATION CENTER.—

(1) IN GENERAL.—Except as provided in paragraph (3), not later than 180 days after the date of the enactment of this Act, the Secretary shall provide to the head of the National Crime Information Center of the Department of Justice the information that the Secretary has or maintains related to any alien—

(A) against whom a final order of removal has been issued;

(B) who enters into a voluntary departure agreement, or is granted voluntary departure by an immigration judge, whose period for departure has expired under subsection (a)(3) of section 240B of the Immigration and Nationality Act (8 U.S.C. 1229c) (as amended by section 211(a)(1)(C)), subsection (b)(2) of such section 240B, or who has violated a condition of a voluntary departure agreement under such section 240B;

(C) whom a Federal immigration officer has confirmed to be unlawfully present in the United States; and

(D) whose visa has been revoked.

(2) REMOVAL OF INFORMATION.—The head of the National Crime Information Center should promptly remove any information provided by the Secretary under paragraph (1) related to an alien who is granted lawful authority to enter or remain legally in the United States.

(3) PROCEDURE FOR REMOVAL OF ERRONEOUS INFORMATION.—The Secretary, in consultation with the head of the National Crime Information Center of the Department of Justice, shall develop and implement a procedure by which an alien may petition the Secretary or head of the National Crime Information Center, as appropriate, to remove any erroneous information provided by the Secretary under paragraph (1) related to such alien. Under such procedures, failure by the alien to receive notice of a violation of the immigration laws shall not constitute cause for removing information provided by the Secretary under paragraph (1) related to such alien, unless such information is erroneous. Notwithstanding the 180-day time period set forth in paragraph (1), the Secretary shall not provide the information required under paragraph (1) until the procedures required by this paragraph are developed and implemented.

(b) INCLUSION OF INFORMATION IN THE NATIONAL CRIME INFORMATION CENTER DATABASE.—Section 534(a) of title 28, United States Code, is amended—

(1) in paragraph (3), by striking ''and'' at the end;

(2) by redesignating paragraph (4) as paragraph (5); and

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

''(4) acquire, collect, classify, and preserve records of violations of the immigration laws of the United States; and''.

SEC. 232. COOPERATIVE ENFORCEMENT PROGRAMS.

Not later than 2 years after the date of the enactment of this Act, the Secretary shall negotiate and execute, where practicable, a cooperative enforcement agreement described in section 287(g) of the Immigration and Nationality Act (8 U.S.C. 1357(g)) with at least 1 law enforcement agency in each State, to train law enforcement officers in the detection and apprehension of individuals engaged in transporting, harboring, sheltering, or encouraging aliens in violation of section 274 of such Act (8 U.S.C. 1324).

SEC. 233. INCREASE OF FEDERAL DETENTION SPACE AND THE UTILIZATION OF FACILITIES IDENTIFIED FOR CLOSURES AS A RESULT OF THE DEFENSE BASE CLOSURE REALIGNMENT ACT OF 1990.

(a) CONSTRUCTION OR ACQUISITION OF DETENTION FACILITIES.—

(1) IN GENERAL.—The Secretary shall construct or acquire, in addition to existing facilities for the detention of aliens, 20 detention facilities in the United States that have the capacity to detain a combined total of not less than 10,000 individuals at any time for aliens detained pending removal or a decision on removal of such aliens from the United States.

(2) DETERMINATION OF LOCATION.—The location of any detention facility built or acquired in accordance with this subsection shall be determined with the concurrence of the Secretary by the senior officer responsible for Detention and Removal Operations in the Department. The detention facilities shall be located so as to enable the officers and employees of the Department to increase to the maximum extent practicable the annual rate and level of removals of illegal aliens from the United States.

(3) USE OF INSTALLATIONS UNDER BASE CLOSURE LAWS.—In acquiring detention facilities under this subsection, the Secretary shall consider the transfer of appropriate portions of military installations approved for closure or realignment under the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) for use in accordance with paragraph (1).

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 241(g)(1) (8 U.S.C. 1231(g)(1)) is amended by striking ''may expend'' and inserting ''shall expend''.

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

SEC. 234. DETERMINATION OF IMMIGRATION STATUS OF INDIVIDUALS CHARGED WITH FEDERAL OFFENSES.

(a) RESPONSIBILITY OF UNITED STATES ATTORNEYS.—Beginning not later than 2 years after the date of the enactment of this Act, the office of the United States Attorney that is prosecuting a criminal case in a Federal court—

(1) shall determine, not later than 30 days after filing the initial pleadings in the case, whether each defendant in the case is lawfully present in the United States (subject to subsequent legal proceedings to determine otherwise);

(2)(A) if the defendant is determined to be an alien lawfully present in the United States, shall notify the court in writing of the determination and the current status of the alien under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.); and

(B) if the defendant is determined not to be lawfully present in the United States, shall notify the court in writing of the determination, the defendant's alien status, and, to the extent possible, the country of origin or legal residence of the defendant; and

(3) ensure that the information described in paragraph (2) is included in the case file and the criminal records system of the office of the United States attorney.

(b) GUIDELINES.—A determination made under subsection (a)(1) shall be made in accordance with guidelines of the Executive Office for Immigration Review of the Department of Justice.

(c) RESPONSIBILITIES OF FEDERAL COURTS.—

(1) MODIFICATIONS OF RECORDS AND CASE MANAGEMENTS SYSTEMS.—Not later than 2 years after the date of the enactment of this Act, all Federal courts that hear criminal cases, or appeals of criminal cases, shall modify their criminal records and case management systems, in accordance with guidelines which the Director of the Administrative Office of the United States Courts shall establish, so as to enable accurate reporting of information described in subsection (a)(2).

(2) DATA ENTRIES.—Beginning not later than 2 years after the date of the enactment of this Act, each Federal court described in paragraph (1) shall enter into its electronic records the information contained in each notification to the court under subsection (a)(2).

(d) CONSTRUCTION.—Nothing in this section may be construed to provide a basis for admitting evidence to a jury or releasing information to the public regarding an alien's immigration status.

(e) ANNUAL REPORT TO CONGRESS.—The Director of the Administrative Office of the United States Courts shall include, in the annual report filed with Congress under section 604 of title 28, United States Code—

(1) statistical information on criminal trials of aliens in the courts and criminal convictions of aliens in the lower courts and upheld on appeal, including the type of crime in each case and including information on the legal status of the aliens; and

(2) recommendations on whether additional court resources are needed to accommodate the volume of criminal cases brought against aliens in the Federal courts.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of fiscal years 2007 through 2011, such sums as may be necessary to carry out this Act. Funds appropriated pursuant to this subsection in any fiscal year shall remain available until expended.

TITLE III—UNLAWFUL EMPLOYMENT OF ALIENS

SEC. 301. UNLAWFUL EMPLOYMENT OF ALIENS.

(a) IN GENERAL.—Section 274A (8 U.S.C. 1324a) is amended to read as follows:

"SEC. 274A. UNLAWFUL EMPLOYMENT OF ALIENS.

''(a) MAKING EMPLOYMENT OF UNAUTHORIZED ALIENS UNLAWFUL.—

''(1) IN GENERAL.—It is unlawful for an employer—

''(A) to hire, or to recruit or refer for a fee, an alien for employment in the United States knowing, or with reason to know, that the alien is an unauthorized alien with respect to such employment; or

''(B) to hire, or to recruit or refer for a fee, for employment in the United States an individual unless such employer meets the requirements of subsections (c) and (d).

''(2) CONTINUING EMPLOYMENT.—It is unlawful for an employer, after lawfully hiring an alien for employment, to continue to employ the alien in the United States knowing or with reason to know that the alien is (or has become) an unauthorized alien with respect to such employment.

''(3) USE OF LABOR THROUGH CONTRACT.—In this section, an employer who uses a contract, subcontract, or exchange, entered into, renegotiated, or extended after the date of the enactment of the Comprehensive Immigration Reform Act of 2006, to obtain the labor of an alien in the United States knowing, or with reason to know, that the alien is an unauthorized alien with respect to performing such labor, shall be considered to have hired the alien for employment in the United States in violation of paragraph (1)(A).

''(4) REBUTTABLE PRESUMPTION OF UNLAWFUL HIRING.—If the Secretary determines that an employer has hired more than 10 unauthorized aliens during a calendar year, a rebuttable presumption is created for the purpose of a civil enforcement proceeding, that the employer knew or had reason to know that such aliens were unauthorized.

''(5) DEFENSE.—

''(A) IN GENERAL.—Subject to subparagraph (B), an employer that establishes that the employer has complied in good faith with the requirements of subsections (c) and (d) has established an affirmative defense that the employer has not violated paragraph (1)(A) with respect to such hiring, recruiting, or referral.

''(B) EXCEPTION.—Until the date that an employer is required to participate in the Electronic Employment Verification System under subsection (d) or is permitted to participate in such System on a voluntary basis, the employer may establish an affirmative defense under subparagraph (A) without a showing of compliance with subsection (d).

''(b) ORDER OF INTERNAL REVIEW AND CERTIFICATION OF COMPLIANCE.—

''(1) AUTHORITY TO REQUIRE CERTIFICATION.—If the Secretary has reasonable cause to believe that an employer has failed to comply with this section, the Secretary is authorized, at any time, to require that the employer certify that the employer is in compliance with this section, or has instituted a program to come into compliance.

''(2) CONTENT OF CERTIFICATION.—Not later than 60 days after the date an employer receives a request for a certification under paragraph (1) the chief executive officer or similar official of the employer shall certify under penalty of perjury that—

''(A) the employer is in compliance with the requirements of subsections (c) and (d); or

''(B) that the employer has instituted a program to come into compliance with such requirements.

''(3) EXTENSION.—The 60-day period referred to in paragraph (2), may be extended by the Secretary for good cause, at the request of the employer.

''(4) PUBLICATION.—The Secretary is authorized to publish in the Federal Register standards or methods for certification and for specific record-keeping practices with respect to such certification, and procedures for the audit of any records related to such certification.

''(c) DOCUMENT VERIFICATION REQUIREMENTS.—An employer hiring, or recruiting or referring for a fee, an individual for employment in the United States shall take all reasonable steps to verify that the individual is eligible for such employment. Such steps shall include meeting the requirements of subsection (d) and the following paragraphs:

''(1) ATTESTATION BY EMPLOYER.—

''(A) REQUIREMENTS.—

''(i) IN GENERAL.—The employer shall attest, under penalty of perjury and on a form prescribed by the Secretary, that the employer has verified the identity and eligibility for employment of the individual by examining—

''(I) a document described in subparagraph (B); or

''(II) a document described in subparagraph (C) and a document described in subparagraph (D).

''(ii) SIGNATURE REQUIREMENTS.—An attestation required by clause (i) may be manifested by a handwritten or electronic signature.

''(iii) STANDARDS FOR EXAMINATION.—An employer has complied with the requirement of this paragraph with respect to examination of documentation if, based on the totality of the circumstances, a reasonable person would conclude that the document examined is genuine and establishes the individual's identity and eligibility for employment in the United States.

''(iv) REQUIREMENTS FOR EMPLOYMENT ELIGIBILITY SYSTEM PARTICIPANTS.—A participant in the Electronic Employment Verification System established under subsection (d), regardless of whether such participation is voluntary or mandatory, shall be permitted to utilize any technology that is consistent with this section and with any regulation or guidance from the Secretary to streamline the procedures to comply with the attestation requirement, and to comply with the employment eligibility verification requirements contained in this section.

''(B) DOCUMENTS ESTABLISHING BOTH EMPLOYMENT ELIGIBILITY AND IDENTITY.—A document described in this subparagraph is an individual's—

''(i) United States passport; or

''(ii) permanent resident card or other document designated by the Secretary, if the document—

''(I) contains a photograph of the individual and such other personal identifying information relating to the individual that the Secretary proscribes in regulations is sufficient for the purposes of this subparagraph;

''(II) is evidence of eligibility for employment in the United States; and

''(III) contains security features to make the document resistant to tampering, counterfeiting, and fraudulent use.

''(C) DOCUMENTS EVIDENCING EMPLOYMENT ELIGIBILITY.—A document described in this subparagraph is an individual's—

''(i) social security account number card issued by the Commissioner of Social Security (other than a card which specifies on its face that the issuance of the card does not authorize employment in the United States); or

''(ii) any other documents evidencing eligibility of employment in the United States, if—

''(I) the Secretary has published a notice in the Federal Register stating that such document is acceptable for purposes of this subparagraph; and

''(II) contains security features to make the document resistant to tampering, counterfeiting, and fraudulent use.

''(D) DOCUMENTS ESTABLISHING IDENTITY OF INDIVIDUAL.—A document described in this subparagraph is an individual's—

''(i) driver's license or identity card issued by a State, the Commonwealth of the Northern Mariana Islands, or an outlying possession of the United States that complies with the requirements of the REAL ID Act of 2005 (division B of Public Law 109–13; 119 Stat. 302);

''(ii) driver's license or identity card issued by a State, the Commonwealth of the Northern Mariana Islands, or an outlying possession of the United States that is not in compliance with the requirements of the REAL ID Act of 2005, if the license or identity card—

''(I) is not required by the Secretary to comply with such requirements; and

''(II) contains the individual's photograph or information, including the individual's name, date of birth, gender, and address; and

''(iii) identification card issued by a Federal agency or department, including a branch of the Armed Forces, or an agency, department, or entity of a State, or a Native American tribal document, provided that such card or document—

''(I) contains the individual's photograph or information including the individual's name, date of birth, gender, eye color, and address; and

''(II) contains security features to make the card resistant to tampering, counterfeiting, and fraudulent use; or

''(iv) in the case of an individual who is under 16 years of age who is unable to present a document described in clause (i), (ii), or (iii), a document of personal identity of such other type that—

''(I) the Secretary determines is a reliable means of identification; and

''(II) contains security features to make the document resistant to tampering, counterfeiting, and fraudulent use.

''(E) AUTHORITY TO PROHIBIT USE OF CERTAIN DOCUMENTS.—

''(i) AUTHORITY.—If the Secretary finds that a document or class of documents described in subparagraph (B), (C), or (D) is not reliable to establish identity or eligibility for employment (as the case may be) or is being used fraudulently to an unacceptable degree, the Secretary is authorized to prohibit, or impose conditions, on the use of such document or class of documents for purposes of this subsection.

''(ii) REQUIREMENT FOR PUBLICATION.—The Secretary shall publish notice of any findings under clause (i) in the Federal Register.

''(2) ATTESTATION OF EMPLOYEE.—

''(A) REQUIREMENTS.—

''(i) IN GENERAL.—The individual shall attest, under penalty of perjury on the form prescribed by the Secretary, that the individual is a national of the United States, an alien lawfully admitted for permanent residence, or an alien who is authorized under this Act or by the Secretary to be hired, recruited or referred for a fee, in the United States.

''(ii) SIGNATURE FOR EXAMINATION.—An attestation required by clause (i) may be manifested by a handwritten or electronic signature.

''(B) PENALTIES.—An individual who falsely represents that the individual is eligible for employment in the United States in an attestation required by subparagraph (A) shall, for each such violation, be subject to a fine of not more than $5,000, a term of imprisonment not to exceed 3 years, or both.

''(3) RETENTION OF ATTESTATION.—An employer shall retain a paper, microfiche, microfilm, or electronic version of an attestation submitted under paragraph (1) or (2) for an individual and make such attestations available for inspection by an officer of the Department of Homeland Security, any other person designated by the Secretary, the Special Counsel for Immigration-Related Unfair Employment Practices of the Department of Justice, or the Secretary of Labor during a period beginning on the date of the hiring, or recruiting or referring for a fee, of the individual and ending—

''(A) in the case of the recruiting or referral for a fee (without hiring) of an individual, 7 years after the date of the recruiting or referral; or

''(B) in the case of the hiring of an individual the later of—

''(i) 7 years after the date of such hiring;

''(ii) 1 year after the date the individual's employment is terminated; or

''(iii) in the case of an employer or class of employers, a period that is less than the applicable period described in clause (i) or (ii) if the Secretary reduces such period for such employer or class of employers.

''(4) DOCUMENT RETENTION AND RECORD KEEPING REQUIREMENTS.—

''(A) RETENTION OF DOCUMENTS.—An employer shall retain, for the applicable period described in paragraph (3), the following documents:

''(i) IN GENERAL.—Notwithstanding any other provision of law, the employer shall copy all documents presented by an individual pursuant to this subsection and shall retain paper, microfiche, microfilm, or electronic copies of such documents. Such copies shall reflect the signature of the employer and the individual and the date of receipt of such documents.

''(ii) USE OF RETAINED DOCUMENTS.—An employer shall use copies retained under clause (i) only for the purposes of complying with the requirements of this subsection, except as otherwise permitted under law.

''(B) RETENTION OF SOCIAL SECURITY CORRESPONDENCE.—The employer shall maintain records related to an individual of any no-match notice from the Commissioner of Social Security regarding the individual's name or corresponding social security account number and the steps taken to resolve each issue described in the no-match notice.

''(C) RETENTION OF CLARIFICATION DOCUMENTS.—The employer shall maintain records of any actions and copies of any correspondence or action taken by the employer to clarify or resolve any issue that raises reasonable doubt as to the validity of the individual's identity or eligibility for employment in the United States.

''(D) RETENTION OF OTHER RECORDS.—The Secretary may require that an employer retain copies of additional records related to the individual for the purposes of this section.

''(5) PENALTIES.—An employer that fails to comply with the requirement of this subsection shall be subject to the penalties described in subsection (e)(4)(B).

''(6) NO AUTHORIZATION OF NATIONAL IDENTIFICATION CARDS.—Nothing in this section may be construed to authorize, directly or indirectly, the issuance, use, or establishment of a national identification card.

''(d) ELECTRONIC EMPLOYMENT VERIFICATION SYSTEM.—

''(1) REQUIREMENT FOR SYSTEM.—The Secretary, in cooperation with the Commissioner of Social Security, shall implement an Electronic Employment Verification System (referred to in this subsection as the 'System') as described in this subsection.

''(2) MANAGEMENT OF SYSTEM.—

''(A) IN GENERAL.—The Secretary shall, through the System—

''(i) provide a response to an inquiry made by an employer through the Internet or other electronic media or over a telephone line regarding an individual's identity and eligibility for employment in the United States;

''(ii) establish a set of codes to be provided through the System to verify such identity and authorization; and

''(iii) maintain a record of each such inquiry and the information and codes provided in response to such inquiry.

''(B) INITIAL RESPONSE.—Not later than 3 days after an employer submits an inquiry to the System regarding an individual, the Secretary shall provide, through the System, to the employer—

''(i) if the System is able to confirm the individual's identity and eligibility for employment in the United States, a confirmation notice, including the appropriate codes on such confirmation notice; or

''(ii) if the System is unable to confirm the individual's identity or eligibility for employment in the United States, a tentative nonconfirmation notice, including the appropriate codes for such nonconfirmation notice.

''(C) VERIFICATION PROCESS IN CASE OF A TENTATIVE NONCONFIRMATION NOTICE.—

''(i) IN GENERAL.—If a tentative nonconfirmation notice is issued under subparagraph (B)(ii), not later than 10 days after the date an individual submits information to contest such notice under paragraph (7)(C)(ii)(III), the Secretary, through the System, shall issue a final confirmation notice or a final nonconfirmation notice to the employer, including the appropriate codes for such notice.

''(ii) DEVELOPMENT OF PROCESS.—The Secretary shall consult with the Commissioner of Social Security to develop a verification process to be used to provide a final confirmation notice or a final nonconfirmation notice under clause (i).

''(D) DESIGN AND OPERATION OF SYSTEM.—The Secretary, in consultation with the Commissioner of Social Security, shall design and operate the System—

''(i) to maximize reliability and ease of use by employers in a manner that protects and maintains the privacy and security of the information maintained in the System;

''(ii) to respond to each inquiry made by an employer; and

''(iii) to track and record any occurrence when the System is unable to receive such an inquiry;

''(iv) to include appropriate administrative, technical, and physical safeguards to prevent unauthorized disclosure of personal information;

''(v) to allow for monitoring of the use of the System and provide an audit capability; and

''(vi) to have reasonable safeguards, developed in consultation with the Attorney General, to prevent employers from engaging in unlawful discriminatory practices, based on national origin or citizenship status.

''(E) RESPONSIBILITIES OF THE COMMISSIONER OF SOCIAL SECURITY.—The Commissioner of Social Security shall establish a reliable, secure method to provide through the System, within the time periods required by subparagraphs (B) and (C)—

''(i) a determination of whether the name and social security account number provided in an inquiry by an employer match such information maintained by the Commissioner in order to confirm the validity of the information provided;

''(ii) a determination of whether such social security account number was issued to the named individual;

''(iii) a determination of whether such social security account number is valid for employment in the United States; and

''(iv) a confirmation notice or a nonconfirmation notice under subparagraph (B) or (C), in a manner that ensures that other information maintained by the Commissioner is not disclosed or released to employers through the System.

''(F) RESPONSIBILITIES OF THE SECRETARY.—The Secretary shall establish a reliable, secure method to provide through the System, within the time periods required by subparagraphs (B) and (C)—

''(i) a determination of whether the name and alien identification or authorization number provided in an inquiry by an employer match such information maintained by the Secretary in order to confirm the validity of the information provided;

''(ii) a determination of whether such number was issued to the named individual;

''(iii) a determination of whether the individual is authorized to be employed in the United States; and

''(iv) any other related information that the Secretary may require.

''(G) UPDATING INFORMATION.—The Commissioner of Social Security and the Secretary shall update the information maintained in the System in a manner that promotes maximum accuracy and shall provide a process for the prompt correction of erroneous information.

''(3) REQUIREMENTS FOR PARTICIPATION.—Except as provided in paragraphs (4) and (5), the Secretary shall require employers to participate in the System as follows:

''(A) CRITICAL EMPLOYERS.—

''(i) REQUIRED PARTICIPATION.—As of the date that is 180 days after the date of the enactment of the Comprehensive Immigration

Reform Act of 2006, the Secretary shall require any employer or class of employers to participate in the System, with respect to employees hired by the employer prior to, on, or after such date of enactment, if the Secretary determines, in the Secretary's sole and unreviewable discretion, such employer or class of employer is—

''(I) part of the critical infrastructure of the United States; or

''(II) directly related to the national security or homeland security of the United States.

''(ii) DISCRETIONARY PARTICIPATION.—As of the date that is 180 days after the date of the enactment of the Comprehensive Immigration Reform Act of 2006, the Secretary may require an additional employer or class of employers to participate in the System with respect to employees hired on or after such date if the Secretary designates such employer or class of employers, in the Secretary's sole and unreviewable discretion, as a critical employer based on immigration enforcement or homeland security needs.

''(B) LARGE EMPLOYERS.—Not later than 2 years after the date of the enactment of the Comprehensive Immigration Reform Act of 2006, the Secretary shall require an employer with 5,000 or more employees in the United States to participate in the System, with respect to all employees hired by the employer after the date the Secretary requires such participation.

''(C) MIDSIZED EMPLOYERS.—Not later than 3 years after the date of enactment of the Comprehensive Immigration Reform Act of 2006, the Secretary shall require an employer with less than 5,000 employees and with 1,000 or more employees in the United States to participate in the System, with respect to all employees hired by the employer after the date the Secretary requires such participation.

''(D) SMALL EMPLOYERS.—Not later than 4 years after the date of the enactment of the Comprehensive Immigration Reform Act of 2006, the Secretary shall require all employers with less than 1,000 employees and with 250 or more employees in the United States to participate in the System, with respect to all employees hired by the employer after the date the Secretary requires such participation.

''(E) REMAINING EMPLOYERS.—Not later than 5 years after the date of the enactment of the Comprehensive Immigration Reform Act of 2006, the Secretary shall require all employers in the United States to participate in the System, with respect to all employees hired by an employer after the date the Secretary requires such participation.

''(F) REQUIREMENT TO PUBLISH.—The Secretary shall publish in the Federal Register the requirements for participation in the System as described in subparagraphs (A), (B), (C), (D), and (E) prior to the effective date of such requirements.

''(4) OTHER PARTICIPATION IN SYSTEM.—Notwithstanding paragraph (3), the Secretary has the authority, in the Secretary's sole and unreviewable discretion—

''(A) to permit any employer that is not required to participate in the System under paragraph (3) to participate in the System on a voluntary basis; and

''(B) to require any employer that is required to participate in the System under paragraph (3) with respect to newly hired employees to participate in the System with respect to all employees hired by the employer prior to, on, or after the date of the enactment of the Comprehensive Immigration Reform Act of 2006, if the Secretary has reasonable cause to believe that the employer has engaged in violations of the immigration laws.

''(5) WAIVER.—The Secretary is authorized to waive or delay the participation requirements of paragraph (3) with respect to any employer or class of employers if the Secretary provides notice to Congress of such waiver prior to the date such waiver is granted.

''(6) CONSEQUENCE OF FAILURE TO PARTICIPATE.—If an employer is required to participate in the System and fails to comply with the requirements of the System with respect to an individual—

''(A) such failure shall be treated as a violation of subsection (a)(1)(B) of this section with respect to such individual; and

''(B) a rebuttable presumption is created that the employer has violated subsection (a)(1)(A) of this section, however such presumption may not apply to a prosecution under subsection (f)(1).

''(7) SYSTEM REQUIREMENTS.—

''(A) IN GENERAL.—An employer that participates in the System, with respect to the hiring, or recruiting or referring for a fee, any individual for employment in the United States, shall—

''(i) obtain from the individual and record on the form designated by the Secretary—

''(I) the individual's social security account number; and

''(II) in the case of an individual who does not attest that the individual is a national of the United States under subsection (c)(2), such identification or authorization number that the Secretary shall require; and

''(ii) retain the original of such form and make such form available for inspection for the periods and in the manner described in subsection (c)(3).

''(B) SEEKING VERIFICATION.—The employer shall submit an inquiry through the System to seek confirmation of the individual's identity and eligibility for employment in the United States—

''(i) not later than 3 working days (or such other reasonable time as may be specified by the Secretary of Homeland Security) after the date of the hiring, or recruiting or referring for a fee, of the individual (as the case may be); or

''(ii) in the case of an employee hired prior to the date of enactment of the Comprehensive Immigration Reform Act of 2006, at such time as the Secretary shall specify.

''(C) CONFIRMATION OR NONCONFIRMATION.—

''(i) CONFIRMATION UPON INITIAL INQUIRY.—If an employer receives a confirmation notice under paragraph (2)(B)(i) for an individual, the employer shall record, on the form specified by the Secretary, the appropriate code provided in such notice.

''(ii) NONCONFIRMATION AND VERIFICATION.—

''(I) NONCONFIRMATION.—If an employer receives a tentative nonconfirmation notice under paragraph (2)(B)(ii) for an individual, the employer shall inform such individual of the issuances of such notice in writing and the individual may contest such nonconfirmation notice.

''(II) NO CONTEST.—If the individual does not contest the tentative nonconfirmation notice under subclause (I) within 10 days of receiving notice from the individual's employer, the notice shall become final and the employer shall record on the form specified by the Secretary, the appropriate code provided in the nonconfirmation notice.

''(III) CONTEST.—If the individual contests the tentative nonconfirmation notice under subclause (I), the individual shall submit appropriate information to contest such notice to the System within 10 days of receiving notice from the individual's employer and shall utilize the verification process developed under paragraph (2)(C)(ii).

''(IV) EFFECTIVE PERIOD OF TENTATIVE NONCONFIRMATION.—A tentative nonconfirmation notice shall remain in effect until a final such notice becomes final under clause (II) or a final confirmation notice or final nonconfirmation notice is issued by the System.

''(V) PROHIBITION ON TERMINATION.—An employer may not terminate the employment of an individual based on a tentative nonconfirmation notice until such notice becomes final under clause (II) or a final nonconfirmation notice is issued for the individual by the System. Nothing in this clause shall apply to a termination of employment for any reason other than because of such a failure.

''(VI) RECORDING OF CONCLUSION ON FORM.—If a final confirmation or nonconfirmation is provided by the System regarding an individual, the employer shall record on the form designated by the Secretary the appropriate code that is provided under the System to indicate a confirmation or nonconfirmation of the identity and employment eligibility of the individual.

''(D) CONSEQUENCES OF NONCONFIRMATION.—

''(i) TERMINATION OF CONTINUED EMPLOYMENT.—If the employer has received a final nonconfirmation regarding an individual, the employer shall terminate the employment, recruitment, or referral of the individual. Such employer shall provide to the Secretary any information relating to the nonconfirmed individual that the Secretary determines would assist the Secretary in enforcing or administering the immigration laws. If the employer continues to employ, recruit, or refer the individual after receiving final nonconfirmation, a rebuttable presumption is created that the employer has violated subsections (a)(1)(A) and (a)(2). Such presumption may not apply to a prosecution under subsection (f)(1).

''(8) PROTECTION FROM LIABILITY.—No employer that participates in the System shall be liable under any law for any employment-related action taken with respect to an individual in good faith reliance on information provided by the System.

''(9) LIMITATION ON USE OF THE SYSTEM.—Notwithstanding any other provision of law, nothing in this subsection shall be construed to permit or allow any department, bureau, or other agency of the United States to utilize any information, database, or other records used in the System for any purpose other than as provided for under this subsection.

''(10) MODIFICATION AUTHORITY.—The Secretary, after notice is submitted to Congress and provided to the public in the Federal Register, is authorized to modify the requirements of this subsection, including requirements with respect to completion of forms, method of storage, attestations, copying of documents, signatures, methods of transmitting information, and other operational and technical aspects to improve the efficiency, accuracy, and security of the System.

''(11) FEES.—The Secretary is authorized to require any employer participating in the System to pay a fee or fees for such participation. The fees may be set at a level that will recover the full cost of providing the System to all participants. The fees shall be deposited and remain available as provided in subsection (m) and (n) of section 286 and the System is providing an immigration adjudication and naturalization service for purposes of section 286(n).

''(12) REPORT.—Not later than 1 year after the date of the enactment of the Comprehensive Immigration Reform Act of 2006, the Secretary shall submit to Congress a report on the capacity, systems integrity, and accuracy of the System.

''(e) COMPLIANCE.—

''(1) COMPLAINTS AND INVESTIGATIONS.—The Secretary shall establish procedures—

''(A) for individuals and entities to file complaints regarding potential violations of subsection (a);

''(B) for the investigation of those complaints that the Secretary deems it appropriate to investigate; and

''(C) for the investigation of such other violations of subsection (a), as the Secretary determines are appropriate.

''(2) AUTHORITY IN INVESTIGATIONS.—

''(A) IN GENERAL.—In conducting investigations and hearings under this subsection, officers and employees of the Department of Homeland Security—

''(i) shall have reasonable access to examine evidence of any employer being investigated; and

''(ii) if designated by the Secretary of Homeland Security, may compel by subpoena the attendance of witnesses and the production of evidence at any designated place in an investigation or case under this subsection.

''(B) FAILURE TO COOPERATE.—In case of refusal to obey a subpoena lawfully issued under subparagraph (A)(ii), the Secretary may request that the Attorney General apply in an appropriate district court of the United States for an order requiring compliance with such subpoena, and any failure to obey such order may be punished by such court as contempt.

''(C) DEPARTMENT OF LABOR.—The Secretary of Labor shall have the investigative authority provided under section 11(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 211(a)) to ensure compliance with the provisions of this title, or any regulation or order issued under this title.

''(3) COMPLIANCE PROCEDURES.—

''(A) PREPENALTY NOTICE.—If the Secretary has reasonable cause to believe that there has been a violation of a requirement of this section and determines that further proceedings related to such violation are warranted, the Secretary shall issue to the employer concerned a written notice of the Secretary's intention to issue a claim for a fine or other penalty. Such notice shall—

''(i) describe the violation;

''(ii) specify the laws and regulations allegedly violated;

''(iii) disclose the material facts which establish the alleged violation; and

''(iv) inform such employer that the employer shall have a reasonable opportunity to make representations as to why a claim for a monetary or other penalty should not be imposed.

''(B) REMISSION OR MITIGATION OF PENALTIES.—

''(i) PETITION BY EMPLOYER.—Whenever any employer receives written notice of a fine or other penalty in accordance with subparagraph (A), the employer may file within 30 days from receipt of such notice, with the Secretary a petition for the remission or mitigation of such fine or penalty, or a petition for termination of the proceedings. The petition may include any relevant evidence or proffer of evidence the employer wishes to present, and shall be filed and considered in accordance with procedures to be established by the Secretary.

''(ii) REVIEW BY SECRETARY.—If the Secretary finds that such fine or other penalty was incurred erroneously, or finds the existence of such mitigating circumstances as to justify the remission or mitigation of such fine or penalty, the Secretary may remit or mitigate such fine or other penalty on the terms and conditions as the Secretary determines are reasonable and just, or order termination of any proceedings related to the notice. Such mitigating circumstances may include good faith compliance and participation in, or agreement to participate in, the System, if not otherwise required.

''(iii) APPLICABILITY.—This subparagraph may not apply to an employer that has or is engaged in a pattern or practice of violations of paragraph (1)(A), (1)(B), or (2) of subsection (a) or of any other requirements of this section.

''(C) PENALTY CLAIM.—After considering evidence and representations offered by the employer pursuant to subparagraph (B), the Secretary shall determine whether there was a violation and promptly issue a written final determination setting forth the findings of fact and conclusions of law on which the determination is based and the appropriate penalty.

''(4) CIVIL PENALTIES.—

''(A) HIRING OR CONTINUING TO EMPLOY UNAUTHORIZED ALIENS.—Any employer that violates any provision of paragraph (1)(A) or (2) of subsection (a) shall pay civil penalties as follows:

''(i) Pay a civil penalty of not less than $500 and not more than $4,000 for each unauthorized alien with respect to each such violation.

''(ii) If the employer has previously been fined 1 time under this subparagraph, pay a civil penalty of not less than $4,000 and not more than $10,000 for each unauthorized alien with respect to each such violation.

''(iii) If the employer has previously been fined more than 1 time under this subparagraph or has failed to comply with a previously issued and final order related to any such provision, pay a civil penalty of not less than $6,000 and not more than $20,000 for each unauthorized alien with respect to each such violation.

''(B) RECORD KEEPING OR VERIFICATION PRACTICES.—Any employer that violates or fails to comply with the requirements of subsection (b), (c), or (d), shall pay a civil penalty as follows:

''(i) Pay a civil penalty of not less than $200 and not more than $2,000 for each such violation.

''(ii) If the employer has previously been fined 1 time under this subparagraph, pay a civil penalty of not less than $400 and not more than $4,000 for each such violation.

''(iii) If the employer has previously been fined more than 1 time under this subparagraph or has failed to comply with a previously issued and final order related to such requirements, pay a civil penalty of $6,000 for each such violation.

''(C) OTHER PENALTIES.—Notwithstanding subparagraphs (A) and (B), the Secretary may impose additional penalties for violations, including cease and desist orders, specially designed compliance plans to prevent further violations, suspended fines to take effect in the event of a further violation, and in appropriate cases, the civil penalty described in subsection (g)(2).

''(D) REDUCTION OF PENALTIES.—Notwithstanding subparagraphs (A), (B), and (C), the Secretary is authorized to reduce or mitigate penalties imposed upon employers, based upon factors including the employer's hiring volume, compliance history, good faith implementation of a compliance program, participation in a temporary worker program, and voluntary disclosure of violations of this subsection to the Secretary.

''(E) ADJUSTMENT FOR INFLATION.—All penalties in this section may be adjusted every 4 years to account for inflation, as provided by law.

''(5) JUDICIAL REVIEW.—An employer adversely affected by a final determination may, within 45 days after the date the final determination is issued, file a petition in the Court of Appeals for the appropriate circuit for review of the order. The filing of a petition as provided in this paragraph shall stay the Secretary's determination until entry of judgment by the court. The burden shall be on the employer to show that the final determination was not supported by substantial evidence. The Secretary is authorized to require that the petitioner provide, prior to filing for review, security for payment of fines and penalties through bond or other guarantee of payment acceptable to the Secretary.

''(6) ENFORCEMENT OF ORDERS.—If an employer fails to comply with a final determination issued against that employer under this subsection, and the final determination is not subject to review as provided in paragraph (5), the Attorney General may file suit to enforce compliance with the final determination in any appropriate district court of the United States. In any such suit, the validity and appropriateness of the final determination shall not be subject to review.

''(f) CRIMINAL PENALTIES AND INJUNCTIONS FOR PATTERN OR PRACTICE VIOLATIONS.—

''(1) CRIMINAL PENALTY.—An employer that engages in a pattern or practice of knowing violations of subsection (a)(1)(A) or (a)(2) shall be fined not more than $20,000 for each unauthorized alien with respect to whom such a violation occurs, imprisoned for not more than 6 months for the entire pattern or practice, or both.

''(2) ENJOINING OF PATTERN OR PRACTICE VIOLATIONS.—If the Secretary or the Attorney General has reasonable cause to believe that an employer is engaged in a pattern or practice of employment, recruitment, or referral in violation of paragraph (1)(A) or (2) of subsection (a), the Attorney General may bring a civil action in the appropriate district court of the United States requesting such relief, including a permanent or temporary injunction, restraining order, or other order against the employer, as the Secretary deems necessary.

''(g) PROHIBITION OF INDEMNITY BONDS.—

''(1) PROHIBITION.—It is unlawful for an employer, in the hiring, recruiting, or referring for a fee, of an individual, to require the individual to post a bond or security, to pay or agree to pay an amount, or otherwise to provide a financial guarantee or indemnity, against any potential liability arising under this section relating to such hiring, recruiting, or referring of the individual.

''(2) CIVIL PENALTY.—Any employer which is determined, after notice and opportunity for mitigation of the monetary penalty under subsection (e), to have violated paragraph (1) of this subsection shall be subject to a civil penalty of $10,000 for each violation and to an administrative order requiring the return of any amounts received in violation of such paragraph to the employee or, if the employee cannot be located, to the Employer Compliance Fund established under section 286(w).

''(h) PROHIBITION ON AWARD OF GOVERNMENT CONTRACTS, GRANTS, AND AGREEMENTS.—

''(1) EMPLOYERS WITH NO CONTRACTS, GRANTS, OR AGREEMENTS.—

''(A) IN GENERAL.—If an employer who does not hold a Federal contract, grant, or cooperative agreement is determined by the Secretary to be a repeat violator of this section or is convicted of a crime under this section, the employer shall be debarred from the receipt of a Federal contract, grant, or cooperative agreement for a period of 2 years. The Secretary or the Attorney General shall advise the Administrator of General Services of such a debarment, and the Administrator of General Services shall list the employer on the List of Parties Excluded from Federal Procurement and Nonprocurement Programs for a period of 2 years.

''(B) WAIVER.—The Administrator of General Services, in consultation with the Secretary and the Attorney General, may waive

operation of this subsection or may limit the duration or scope of the debarment.

''(2) EMPLOYERS WITH CONTRACTS, GRANTS, OR AGREEMENTS.—

''(A) IN GENERAL.—An employer who holds a Federal contract, grant, or cooperative agreement and is determined by the Secretary of Homeland Secretary to be a repeat violator of this section or is convicted of a crime under this section, shall be debarred from the receipt of Federal contracts, grants, or cooperative agreements for a period of 2 years.

''(B) NOTICE TO AGENCIES.—Prior to debarring the employer under subparagraph (A), the Secretary, in cooperation with the Administrator of General Services, shall advise any agency or department holding a contract, grant, or cooperative agreement with the employer of the Government's intention to debar the employer from the receipt of new Federal contracts, grants, or cooperative agreements for a period of 2 years.

''(C) WAIVER.—After consideration of the views of any agency or department that holds a contract, grant, or cooperative agreement with the employer, the Secretary may, in lieu of debarring the employer from the receipt of new Federal contracts, grants, or cooperative agreements for a period of 2 years, waive operation of this subsection, limit the duration or scope of the debarment, or may refer to an appropriate lead agency the decision of whether to debar the employer, for what duration, and under what scope in accordance with the procedures and standards prescribed by the Federal Acquisition Regulation. However, any proposed debarment predicated on an administrative determination of liability for civil penalty by the Secretary or the Attorney General shall not be reviewable in any debarment proceeding. The decision of whether to debar or take alternation shall not be judicially reviewed.

''(3) SUSPENSION.—Indictments for violations of this section or adequate evidence of actions that could form the basis for debarment under this subsection shall be considered a cause for suspension under the procedures and standards for suspension prescribed by the Federal Acquisition Regulation.

''(i) MISCELLANEOUS PROVISIONS.—

''(1) DOCUMENTATION.—In providing documentation or endorsement of authorization of aliens (other than aliens lawfully admitted for permanent residence) eligible to be employed in the United States, the Secretary shall provide that any limitations with respect to the period or type of employment or employer shall be conspicuously stated on the documentation or endorsement.

''(2) PREEMPTION.—The provisions of this section preempt any State or local law—

''(A) imposing civil or criminal sanctions (other than through licensing and similar laws) upon those who employ, or recruit or refer for a fee for employment, unauthorized aliens; or

''(B) requiring, as a condition of conducting, continuing, or expanding a business, that a business entity—

''(i) provide, build, fund, or maintain a shelter, structure, or designated area for use by day laborers at or near its place of business; or

''(ii) take other steps that facilitate the employment of day laborers by others.

''(j) DEPOSIT OF AMOUNTS RECEIVED.—Except as otherwise specified, civil penalties collected under this section shall be deposited by the Secretary into the Employer Compliance Fund established under section 286(w).

''(k) DEFINITIONS.—In this section:

''(1) EMPLOYER.—The term 'employer' means any person or entity, including any entity of the Government of the United States, hiring, recruiting, or referring an individual for employment in the United States.

''(2) NO-MATCH NOTICE.—The term 'no-match notice' means written notice from the Commissioner of Social Security to an employer reporting earnings on a Form W–2 that an employee name or corresponding social security account number fail to match records maintained by the Commissioner.

''(3) SECRETARY.—Except as otherwise provided, the term 'Secretary' means the Secretary of Homeland Security.

''(4) UNAUTHORIZED ALIEN.—The term 'unauthorized alien' means, with respect to the employment of an alien at a particular time, that the alien is not at that time either—

''(A) an alien lawfully admitted for permanent residence; or

''(B) authorized to be so employed by this Act or by the Secretary.''.

(b) CONFORMING AMENDMENT.—

(1) AMENDMENT.—Sections 401, 402, 403, 404, and 405 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208; 8 U.S.C. 1324a) are repealed.

(2) CONSTRUCTION.—Nothing in this subsection or in subsection (d) of section 274A, as amended by subsection (a), may be construed to limit the authority of the Secretary to allow or continue to allow the participation of employers who participated in the basic pilot program under such sections 401, 402, 403, 404, and 405 in the Electronic Employment Verification System established pursuant to such subsection (d).

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on the date that is 180 days after the date of the enactment of this Act.

SEC. 302. EMPLOYER COMPLIANCE FUND.

Section 286 (8 U.S.C. 1356) is amended by adding at the end the following new subsection:

''(w) EMPLOYER COMPLIANCE FUND.—

''(1) IN GENERAL.—There is established in the general fund of the Treasury, a separate account, which shall be known as the 'Employer Compliance Fund' (referred to in this subsection as the 'Fund').

''(2) DEPOSITS.—There shall be deposited as offsetting receipts into the Fund all civil monetary penalties collected by the Secretary of Homeland Security under section 274A.

''(3) PURPOSE.—Amounts refunded to the Secretary from the Fund shall be used for the purposes of enhancing and enforcing employer compliance with section 274A.

''(4) AVAILABILITY OF FUNDS.—Amounts deposited into the Fund shall remain available until expended and shall be refunded out of the Fund by the Secretary of the Treasury, at least on a quarterly basis, to the Secretary of Homeland Security.''.

SEC. 303. ADDITIONAL WORKSITE ENFORCEMENT AND FRAUD DETECTION AGENTS.

(a) WORKSITE ENFORCEMENT.—The Secretary shall, subject to the availability of appropriations for such purpose, annually increase, by not less than 2,000, the number of positions for investigators dedicated to enforcing compliance with sections 274 and 274A of the Immigration and Nationality Act (8 U.S.C. 1324, and 1324a) during the 5-year period beginning on the date of the enactment of this Act.

(b) FRAUD DETECTION.—The Secretary shall, subject to the availability of appropriations for such purpose, increase by not less than 1,000 the number of positions for agents of the Bureau of Immigration and Customs Enforcement dedicated to immigration fraud detection during the 5-year period beginning on the date of the enactment of this Act.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for each of the fiscal years 2007 through 2011 such sums as may be necessary to carry out this section.

SEC. 304. CLARIFICATION OF INELIGIBILITY FOR MISREPRESENTATION.

Section 212(a)(6)(C)(ii)(I) (8 U.S.C. 1182(a)(6)(C)(ii)(I)), is amended by striking ''citizen'' and inserting ''national''.

TITLE IV—TEMPORARY WORKER PROGRAMS AND VISA REFORM

Subtitle A—Requirements for Participating Countries

SEC. 401. REQUIREMENTS FOR PARTICIPATING COUNTRIES.

(a) IN GENERAL.—An alien is not eligible for status as a nonimmigrant under section 101(a)(15)(W) of the Immigration and Nationality Act, as added by section 501 of this Act, or deferred mandatory departure status under section 218B of the Immigration and Nationality Act, as added by section 601 of this Act, unless the home country of the alien has entered into a bilateral agreement with the United States that conforms to the requirements under subsection (b).

(b) REQUIREMENTS OF BILATERAL AGREEMENTS.—Each agreement under subsection (a) shall require the home country to—

(1) accept, within 3 days, the return of nationals who are ordered removed from the United States;

(2) cooperate with the United States Government in—

(A) identifying, tracking, and reducing gang membership, violence, and human trafficking and smuggling; and

(B) controlling illegal immigration;

(3) provide the United States Government with—

(A) passport information and criminal records of aliens who are seeking admission to or are present in the United States; and

(B) admission and entry data to facilitate United States entry-exit data systems;

(4) take steps to educate nationals of the home country regarding the program under title V or VI to ensure that such nationals are not exploited; and

(5) provide a minimum level of health coverage to its participants.

(c) RULEMAKING.—

(1) IN GENERAL.—Not later than 3 months after the date of enactment of this Act, the Secretary of Health and Human Services shall, by regulation, define the minimum level of health coverage to be provided by participating countries.

(2) RESPONSIBILITY TO OBTAIN COVERAGE.—If the health coverage provided by the home country falls below the minimum level defined pursuant to paragraph (1), the employer of the alien shall provide or the alien shall obtain coverage that meets such minimum level.

(d) HOUSING.—Participating countries shall agree to evaluate means to provide housing incentives in the alien's home country for returning workers.

Subtitle B—Nonimmigrant Temporary Worker Program

SEC. 411. NONIMMIGRANT TEMPORARY WORKER CATEGORY.

(a) NEW TEMPORARY WORKER CATEGORY.—Section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)) is amended by adding at the end the following:

''(W) an alien having a residence in a foreign country which the alien has no intention of abandoning who is coming temporarily to the United States to perform temporary labor or service, other than that

which would qualify an alien for status under sections 101(a)(15)(H)(i), 101(a)(15)(H)(ii)(a), 101(a)(15)(L), 101(a)(15)(O), 101(a)(15)(P), and who meets the requirements of section 218A; or''.

(b) REPEAL OF H–2B CATEGORY.—Section 101(a)(15)(H)(ii) is amended by striking '', or (b) having a residence in a foreign country which he has no intention of abandoning who is coming temporarily to the United States to perform other temporary service or labor if unemployed persons capable of performing such service or labor cannot be found in this country, but this clause shall not apply to graduates of medical schools coming to the United States to perform services as members of the medical profession''.

(c) TECHNICAL AMENDMENTS.—Section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)) is amended—

(1) in subparagraph (U)(iii), by striking ''or'' at the end; and

(2) in subparagraph (V)(ii)(II), by striking the period at the end and inserting a semicolon and ''or''.

SEC. 412. TEMPORARY WORKER PROGRAM.

(a) IN GENERAL.—The Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended by inserting after section 218 the following new section:

''SEC. 218A. TEMPORARY WORKER PROGRAM.

''(a) IN GENERAL.—The Secretary of State may grant a temporary visa to a nonimmigrant described in section 101(a)(15)(W) who demonstrates an intent to perform labor or services in the United States (other than those occupational classifications covered under the provisions of clause (i)(b) or (ii)(a) of section 101(a)(15)(H) or subparagraph (L), (O), (P), or (R)) of section 101(a)(15)).

''(b) REQUIREMENTS FOR ADMISSION.—In order to be eligible for nonimmigrant status under section 101(a)(15)(H)(W), an alien shall meet the following requirements:

''(1) ELIGIBILITY TO WORK.—The alien shall establish that the alien is capable of performing the labor or services required for an occupation under section 101(a)(15)(W).

''(2) EVIDENCE OF EMPLOYMENT.—The alien must establish that he has a job offer from an employer authorized to hire aliens under the Alien Employment Management Program.

''(3) FEE.—The alien shall pay a $500 visa issuance fee in addition to the cost of processing and adjudicating such application. Nothing in this paragraph shall be construed to affect consular procedures for charging reciprocal fees.

''(4) MEDICAL EXAMINATION.—The alien shall undergo a medical examination (including a determination of immunization status) at the alien's expense, that conforms to generally accepted standards of medical practice.

''(5) APPLICATION CONTENT AND WAIVER.—

''(A) APPLICATION FORM.—The Secretary of Homeland Security shall create an application form that an alien shall be required to complete as a condition of being admitted as a nonimmigrant under section 101(a)(15)(W).

''(B) CONTENT.—In addition to any other information that the Secretary determines is required to determine an alien's eligibility for admission as a nonimmigrant under section 101(a)(15)(W), the Secretary shall require an alien to provide information concerning the alien's physical and mental health, criminal history and gang membership, immigration history, involvement with groups or individuals that have engaged in terrorism, genocide, persecution, or who seek the overthrow of the United States Government, voter registration history, claims to United States citizenship, and tax history.

''(C) WAIVER.—The Secretary of Homeland Security may require an alien to include with the application a waiver of rights that explains to the alien that, in exchange for the discretionary benefit of admission as a nonimmigrant under section 101(a)(15)(W), the alien agrees to waive any right—

''(i) to administrative or judicial review or appeal of an immigration officer's determination as to the alien's admissibility; or

''(ii) to contest any removal action, other than on the basis of an application for asylum pursuant to the provisions contained in section 208 or 241(b)(3), or under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York December 10, 1984, if such removal action is initiated after the termination of the alien's period of authorized admission as a nonimmigrant under section 101(a)(15)(W).

''(D) KNOWLEDGE.—The Secretary of Homeland Security shall require an alien to include with the application a signed certification in which the alien certifies that the alien has read and understood all of the questions and statements on the application form, and that the alien certifies under penalty of perjury under the laws of the United States that the application, and any evidence submitted with it, are all true and correct, and that the applicant authorizes the release of any information contained in the application and any attached evidence for law enforcement purposes.

''(c) GROUNDS OF INADMISSIBILITY.—

''(1) IN GENERAL.—In determining an alien's admissibility as a nonimmigrant under section 101(a)(15)(W)—

''(A) paragraphs (5), (6)(A), (7), and (9)(B) or (C) of section 212(a) may be waived for conduct that occurred on a date prior to the effective date of this Act; and

''(B) the Secretary of Homeland Security may not waive—

''(i) subparagraph (A), (B), (C), (E), (G), (H), or (I) of section 212(a)(2) (relating to criminals);

''(ii) section 212(a)(3) (relating to security and related grounds); or

''(iii) subparagraphs (A), (C) or (D) of section 212(a)(10) (relating to polygamists, child abductors and illegal voters);

''(C) for conduct that occurred prior to the date this Act was introduced in Congress, the Secretary of Homeland Security may waive the application of any provision of section 212(a) not listed in subparagraph (B) on behalf of an individual alien for humanitarian purposes, to ensure family unity, or when such waiver is otherwise in the public interest; and

''(D) nothing in this paragraph shall be construed as affecting the authority of the Secretary of Homeland Security to waive the provisions of section 212(a).

''(2) WAIVER FEE.—An alien who is granted a waiver under subparagraph (1) shall pay a $500 fee upon approval of the alien's visa application.

''(3) RENEWAL OF AUTHORIZED ADMISSION AND SUBSEQUENT ADMISSIONS.—An alien seeking renewal of authorized admission or subsequent admission as a nonimmigrant under section 101(a)(15)(W) shall establish that the alien is not inadmissible under section 212(a).

''(d) BACKGROUND CHECKS AND INTERVIEW.—The Secretary of Homeland Security shall not admit, and the Secretary of State shall not issue a visa to, an alien seeking admission under section 101(a)(15)(W) until all appropriate background checks have been completed. The Secretary of State shall ensure that an employee of the Department of State conducts a personal interview of an applicant for a visa under section 101(a)(15)(W).

''(e) INELIGIBLE TO CHANGE NONIMMIGRANT CLASSIFICATION.—An alien admitted under section 101(a)(15)(W) is ineligible to change status under section 248.

''(f) DURATION.—

''(1) GENERAL.—The period of authorized admission as a nonimmigrant under 101(a)(15)(W) shall be 2 years, and may not be extended. An alien is ineligible to reenter as an alien under 101(a)(15)(W) until the alien has resided continuously in the alien's home country for a period of 1 year. The total period of admission as a nonimmigrant under section 101(a)(15)(W) may not exceed 6 years.

''(2) SEASONAL WORKERS.—An alien who spends less than 6 months a year as a nonimmigrant described in section 101(a)(15)(W) is not subject to the time limitations under subparagraph (1).

''(3) COMMUTERS.—An alien who resides outside the United States, but who commutes to the United States to work as a nonimmigrant described in section 101(a)(15)(W), is not subject to the time limitations under paragraph (1).

''(4) DEFERRED MANDATORY DEPARTURE.—An alien granted Deferred Mandatory Departure status, who remains in the United States under such status for—

''(A) a period of 2 years, may not be granted status as a nonimmigrant under section 101(a)(15)(W) for more than a total of 5 years;

''(B) a period of 3 years, may not be granted status as a nonimmigrant under section 101(a)(15)(W) for more than a total of 4 years;

''(C) a period of 4 years, may not be granted status as a nonimmigrant under section 101(a)(15)(W) for more than a total of 3 years; or

''(D) a period of 5 years, may not be granted status as a nonimmigrant under section 101(a)(15)(W) for more than a total of 2 years.

''(g) INTENT TO RETURN HOME.—In addition to other requirements in this section, an alien is not eligible for nonimmigrant status under section 101(a)(15)(W) unless the alien—

''(1) maintains a residence in a foreign country which the alien has no intention of abandoning; and

''(2) is present in such foreign country for at least 7 consecutive days during each year that the alien is a temporary worker.

''(h) BIOMETRIC DOCUMENTATION.—Evidence of status under section 101(a)(15)(W) shall be machine-readable, tamper-resistant, and allow for biometric authentication. The Secretary of Homeland Security is authorized to incorporate integrated-circuit technology into the document. The Secretary of Homeland Security shall consult with the Forensic Document Laboratory in designing the document. The document may serve as a travel, entry, and work authorization document during the period of its validity.

''(i) PENALTY FOR FAILURE TO DEPART.—An alien who fails to depart the United States prior to 10 days after the date that the alien's authorized period of admission as a temporary worker ends is not eligible and may not apply for or receive any immigration relief or benefit under this Act or any other law, with the exception of section 208 or 241(b)(3) or the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York December 10, 1984, in the case of an alien who indicates either an intention to apply for asylum under section 208 or a fear of persecution or torture.

''(j) PENALTY FOR ILLEGAL ENTRY OR OVERSTAY.—An alien who, after the effective date of enactment of the Comprehensive Enforcement and Immigration Reform Act of 2005, enters the United States without inspection, or violates a term or condition of admission into the United States as a nonimmigrant, including overstaying the period of authorized admission, shall be ineligible for nonimmigrant status under section 101(a)(15)(W) or Deferred Mandatory Departure status under section 218B for a period of 10 years.

''(k) ESTABLISHMENT OF TEMPORARY WORKER TASK FORCE.—

''(1) IN GENERAL.—There is established a task force to be known as the Temporary Worker Task Force (referred to in this section as the 'Task Force').

''(2) PURPOSES.—The purposes of the Task Force are—

''(A) to study the impact of the admission of aliens under section 101(a)(15)(W) on the wages, working conditions, and employment of United States workers; and

''(B) to make recommendations to the Secretary of Labor regarding the need for an annual numerical limitation on the number of aliens that may be admitted in any fiscal year under section 101(a)(15)(W).

''(3) MEMBERSHIP.—The Task Force shall be composed of 10 members, of whom—

''(A) 1 shall be appointed by the President and shall serve as chairman of the Task Force;

''(B) 1 shall be appointed by the leader of the minority party in the Senate, in consultation with the leader of the minority party in the House of Representatives, and shall serve as vice chairman of the Task Force;

''(C) 2 shall be appointed by the majority leader of the Senate;

''(D) 2 shall be appointed by the minority leader of the Senate;

''(E) 2 shall be appointed by the Speaker of the House of Representatives; and

''(F) 2 shall be appointed by the minority leader of the House of Representatives.

''(4) QUALIFICATIONS.—

''(A) IN GENERAL.—Members of the Task Force shall be—

''(i) individuals with expertise in economics, demography, labor, business, or immigration or other pertinent qualifications or experience; and

''(ii) representative of a broad cross-section of perspectives within the United States, including the public and private sectors and academia.

''(B) POLITICAL AFFILIATION.—Not more than 5 members of the Task Force may be members of the same political party.

''(C) NONGOVERNMENTAL APPOINTEES.—An individual appointed to the Task Force may not be an officer or employee of the Federal Government or of any State or local government.

''(5) DEADLINE FOR APPOINTMENT.—All members of the Task Force shall be appointed not later than 6 months after the date of enactment of the Comprehensive Enforcement and Immigration Reform Act of 2005.

''(6) VACANCIES.—Any vacancy in the Task Force shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

''(7) MEETINGS.—

''(A) INITIAL MEETING.—The Task Force shall meet and begin the operations of the Task Force as soon as practicable.

''(B) SUBSEQUENT MEETINGS.—After its initial meeting, the Task Force shall meet upon the call of the chairman or a majority of its members.

''(8) QUORUM.—Six members of the Task Force shall constitute a quorum.

''(9) REPORT.—Not later than 18 months after the date of enactment of the Comprehensive Enforcement and Immigration Reform Act of 2005, the Task Force shall submit to Congress, the Secretary of Labor, and the Secretary of Homeland Security a report that contains—

''(A) findings with respect to the duties of the Task Force;

''(B) recommendations for imposing a numerical limit.

''(10) DETERMINATION.—Not later than 6 months after the submission of the report, the Secretary of Labor may impose a numerical limitation on the number of aliens that may be admitted under section 101(a)(15)(W). Any numerical limit shall not become effective until 6 months after the Secretary of Labor submits a report to Congress regarding the imposition of a numerical limit.

''(l) FAMILY MEMBERS.—

''(1) FAMILY MEMBERS OF W NONIMMIGRANTS.—

''(A) IN GENERAL.—The spouse or child of an alien admitted as a nonimmigrant under section 101(a)(15)(W) may be admitted to the United States—

''(i) as a nonimmigrant under section 101(a)(15)(B) for a period of not more than 30 days, which may not be extended unless the Secretary of Homeland Security, in his sole and unreviewable discretion, determines that exceptional circumstances exist; or

''(ii) under any other provision of this Act, if such family member is otherwise eligible for such admission.

''(B) APPLICATION FEE.—

''(i) IN GENERAL.—The spouse or child of an alien admitted as a nonimmigrant under section 101(a)(15)(W) who is seeking to be admitted as a nonimmigrant under section 101(a)(15)(B) shall submit, in addition to any other fee authorized by law, an additional fee of $100.

''(ii) USE OF FEE.—The fees collected under clause (i) shall be available for use by the Secretary of Homeland Security for activities to identify, locate, or remove illegal aliens.

''(m) TRAVEL OUTSIDE THE UNITED STATES.—

''(1) IN GENERAL.—Under regulations established by the Secretary of Homeland Security, a nonimmigrant alien under section 101(a)(15)(W)—

''(A) may travel outside of the United States; and

''(B) may be readmitted without having to obtain a new visa if the period of authorized admission has not expired.

''(2) EFFECT ON PERIOD OF AUTHORIZED ADMISSION.—Time spent outside the United States under paragraph (1) shall not extend the period of authorized admission in the United States.

''(n) EMPLOYMENT.—

''(1) PORTABILITY.—An alien may be employed by any United States employer authorized by the Secretary of Homeland Security to hire aliens admitted under section 218C.

''(2) CONTINUOUS EMPLOYMENT.—An alien must be employed while in the United States. An alien who fails to be employed for 30 days is ineligible for hire until the alien departs the United States and reenters as a nonimmigrant under section 101(a)(15)(W). The Secretary of Homeland Security may, in its sole and unreviewable discretion, reauthorize an alien for employment, without requiring the alien's departure from the United States.

''(o) ENUMERATION OF SOCIAL SECURITY NUMBER.—The Secretary of Homeland Security, in coordination with the Commissioner of Social Security, shall implement a system to allow for the enumeration of a Social Security number and production of a Social Security card at time of admission of an alien under section 101(a)(15)(W).

''(p) DENIAL OF DISCRETIONARY RELIEF.—The determination of whether an alien is eligible for a grant of nonimmigrant status under section 101(a)(15)(W) is solely within the discretion of the Secretary of Homeland Security. Notwithstanding any other provision of law, no court shall have jurisdiction to review—

''(1) any judgment regarding the granting of relief under this section; or

''(2) any other decision or action of the Secretary of Homeland Security the authority for which is specified under this section to be in the discretion of the Secretary, other than the granting of relief under section 1158(a).

''(q) JUDICIAL REVIEW.—

''(1) LIMITATIONS ON RELIEF.—Without regard to the nature of the action or claim and without regard to the identity of the party or parties bringing the action, no court may—

''(A) enter declaratory, injunctive, or other equitable relief in any action pertaining to—

''(i) an order or notice denying an alien a grant of nonimmigrant status under section 101(a)(15)(W) or any other benefit arising from such status; or

''(ii) an order of removal, exclusion, or deportation entered against an alien if such order is entered after the termination of the alien's period of authorized admission as a nonimmigrant under section 101(a)(15)(W); or

''(B) certify a class under Rule 23 of the Federal Rules of Civil Procedure in any action for which judicial review is authorized under a subsequent paragraph of this subsection.

''(2) CHALLENGES TO VALIDITY.—

''(A) IN GENERAL.—Any right or benefit not otherwise waived or limited pursuant this section is available in an action instituted in the United States District Court for the District of Columbia, but shall be limited to determinations of—

''(i) whether such section, or any regulation issued to implement such section, violates the Constitution of the United States; or

''(ii) whether such a regulation, or a written policy directive, written policy guideline, or written procedure issued by or under the authority the Secretary of Homeland Security to implement such section, is not consistent with applicable provisions of this section or is otherwise in violation of law.''.

(b) PROHIBITION ON CHANGE IN NONIMMIGRANT CLASSIFICATION.—Section 248(1) of the Immigration and Nationality Act (8 U.S.C. 1258(1)) is amended by striking ''or (S)'' and inserting ''(S), or (W)''.

SEC. 413. STATUTORY CONSTRUCTION.

Nothing in this subtitle, or any amendment made by this title, shall be construed to create any substantive or procedural right or benefit that is legally enforceable by any party against the United States or its agencies or officers or any other person.

SEC. 414. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $500,000,000 for facilities, personnel (including consular officers), training, technology and processing necessary to carry out the amendments made by this subtitle.

Subtitle C—Mandatory Departure and Reentry in Legal Status

SEC. 421. MANDATORY DEPARTURE AND REENTRY IN LEGAL STATUS.

(a) IN GENERAL.—The Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended by inserting after section 218A, as added by section 412, the following new section:

''SEC. 218B. MANDATORY DEPARTURE AND REENTRY.

''(a) IN GENERAL.—The Secretary of Homeland Security may grant Deferred Mandatory Departure status to aliens who are in the United States illegally to allow such aliens time to depart the United States and to seek admission as a nonimmigrant or immigrant alien.

''(b) REQUIREMENTS.—

''(1) PRESENCE.—An alien must establish that the alien was physically present in the United States 1 year prior to the date of the introduction of the Comprehensive Enforcement and Immigration Reform Act of 2005 in

Congress and has been continuously in the United States since such date, and was not legally present in the United States under any classification set forth in section 101(a)(15) on that date.

''(2) EMPLOYMENT.—An alien must establish that the alien was employed in the United States prior to the date of the introduction of the Comprehensive Enforcement and Immigration Reform Act of 2005, and has been employed in the United States since that date.

''(3) ADMISSIBILITY.—

''(A) IN GENERAL.—The alien must establish that he—

''(i) is admissible to the United States, except as provided as in (B); and

''(ii) has not assisted in the persecution of any person or persons on account of race, religion, nationality, membership in a particular social group, or political opinion.

''(B) GROUNDS NOT APPLICABLE.—The provisions of paragraphs (5), (6)(A), and (7) of section 212(a) shall not apply.

''(C) WAIVER.—The Secretary of Homeland Security may waive any other provision of section 212(a), or a ground of ineligibility under paragraph (4), in the case of individual aliens for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest.

''(4) INELIGIBLE.—An alien is ineligible for Deferred Mandatory Departure status if the alien—

''(A) is subject to a final order or removal under section 240;

''(B) failed to depart the United States during the period of a voluntary departure order under section 240B;

''(C) has been issued a Notice to Appear under section 239, unless the sole acts of conduct alleged to be in violation of the law are that the alien is removable under section 237(a)(1)(C) or is inadmissible under section 212(a)(6)(A);

''(D) is a resident of a country for which the Secretary of State has made a determination that the government of such country has repeatedly provided support for acts of international terrorism under section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)) or under section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371); or

''(E) fails to comply with any request for information by the Secretary of Homeland Security.

''(5) MEDICAL EXAMINATION.—The alien may be required, at the alien's expense, to undergo such a medical examination (including a determination of immunization status) as is appropriate and conforms to generally accepted professional standards of medical practice.

''(6) TERMINATION.—The Secretary of Homeland Security may terminate an alien's Deferred Mandatory Departure status—

''(A) if the Secretary of Homeland Security determines that the alien was not in fact eligible for such status; or

''(B) if the alien commits an act that makes the alien removable from the United States.

''(7) APPLICATION CONTENT AND WAIVER.—

''(A) APPLICATION FORM.—The Secretary of Homeland Security shall create an application form that an alien shall be required to complete as a condition of obtaining Deferred Mandatory Departure status.

''(B) CONTENT.—In addition to any other information that the Secretary determines is required to determine an alien's eligibility for Deferred Mandatory Departure, the Secretary shall require an alien to answer questions concerning the alien's physical and mental health, criminal history and gang membership, immigration history, involvement with groups or individuals that have engaged in terrorism, genocide, persecution, or who seek the overthrow of the United States government, voter registration history, claims to United States citizenship, and tax history.

''(C) WAIVER.—The Secretary of Homeland Security shall require an alien to include with the application a waiver of rights that explains to the alien that, in exchange for the discretionary benefit of obtaining Deferred Mandatory Departure status, the alien agrees to waive any right to administrative or judicial review or appeal of an immigration officer's determination as to the alien's eligibility, or to contest any removal action, other than on the basis of an application for asylum pursuant to the provisions contained in section 208 or 241(b)(3), or under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York December 10, 1984.

''(D) KNOWLEDGE.—The Secretary of Homeland Security shall require an alien to include with the application a signed certification in which the alien certifies that the alien has read and understood all of the questions and statements on the application form, and that the alien certifies under penalty of perjury under the laws of the United States that the application, and any evidence submitted with it, are all true and correct, and that the applicant authorizes the release of any information contained in the application and any attached evidence for law enforcement purposes.

''(c) IMPLEMENTATION AND APPLICATION TIME PERIODS.—

''(1) IN GENERAL.—The Secretary of Homeland Security shall ensure that the application process is secure and incorporates anti-fraud protection. The Secretary of Homeland Security shall interview an alien to determine eligibility for Deferred Mandatory Departure status and shall utilize biometric authentication at time of document issuance.

''(2) INITIAL RECEIPT OF APPLICATIONS.—The Secretary of Homeland Security shall begin accepting applications for Deferred Mandatory Departure status not later than 3 months after the date of enactment of the Comprehensive Enforcement and Immigration Reform Act of 2005.

''(3) APPLICATION.—An alien must submit an initial application for Deferred Mandatory Departure status not later than 6 months after the date of enactment of the Comprehensive Enforcement and Immigration Reform Act of 2005. An alien that fails to comply with this requirement is ineligible for Deferred Mandatory Departure status.

''(4) COMPLETION OF PROCESSING.—The Secretary of Homeland Security shall ensure that all applications for Deferred Mandatory Departure status are processed not later than 12 months after the date of enactment of the Comprehensive Enforcement and Immigration Reform Act of 2005.

''(d) SECURITY AND LAW ENFORCEMENT BACKGROUND CHECKS.—An alien may not be granted Deferred Mandatory Departure status unless the alien submits biometric data in accordance with procedures established by the Secretary of Homeland Security. The Secretary of Homeland Security may not grant Deferred Mandatory Departure status until all appropriate background checks are completed to the satisfaction of the Secretary of Homeland Security.

''(e) ACKNOWLEDGMENT.—An alien who applies for Deferred Mandatory Departure status shall submit to the Secretary of Homeland Security—

''(1) an acknowledgment made in writing and under oath that the alien—

''(A) is unlawfully present in the United States and subject to removal or deportation, as appropriate, under this Act; and

''(B) understands the terms of the terms of Deferred Mandatory Departure;

''(2) any Social Security account number or card in the possession of the alien or relied upon by the alien;

''(3) any false or fraudulent documents in the alien's possession.

''(f) MANDATORY DEPARTURE.—

''(1) IN GENERAL.—The Secretary of Homeland Security may, in the Secretary's sole and unreviewable discretion, grant an alien Deferred Mandatory Departure status for a period not to exceed 5 years.

''(2) REGISTRATION AT TIME OF DEPARTURE.—An alien granted Deferred Mandatory Departure must depart prior to the expiration of the period of Deferred Mandatory Departure status. The alien must register with the Secretary of Homeland Security at time of departure and surrender any evidence of Deferred Mandatory Departure status at time of departure.

''(3) RETURN IN LEGAL STATUS.—An alien who complies with the terms of Deferred Mandatory Departure status and who departs prior to the expiration of such status shall not be subject to section 212(a)(9)(B) and, if otherwise eligible, may immediately seek admission as a nonimmigrant or immigrant.

''(4) FAILURE TO DEPART.—An alien who fails to depart the United States prior to the expiration of Mandatory Deferred Departure status is not eligible and may not apply for or receive any immigration relief or benefit under this Act or any other law for a period of 10 years, with the exception of section 208 or 241(b)(3) or the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York December 10, 1984, in the case of an alien who indicates either an intention to apply for asylum under section 208 or a fear of persecution or torture.

''(5) PENALTIES FOR DELAYED DEPARTURE.—An alien who fails to depart immediately shall be subject to the following fees:

''(A) No fine if the alien departs within the first year after the grant of Deferred Mandatory Departure.

''(B) $2,000 if the alien does not depart within the second year after the grant of Deferred Mandatory Departure.

''(C) $3,000 if the alien does not depart within the third year following the grant of Deferred Mandatory Departure.

''(D) $4,000 if the alien does not depart within the fourth year following the grant of Deferred Mandatory Departure.

''(E) $5,000 if the alien does not depart during the fifth year following the grant of Deferred Mandatory Departure.

''(g) EVIDENCE OF DEFERRED MANDATORY DEPARTURE STATUS.—Evidence of Deferred Mandatory Departure status shall be machine-readable, tamper-resistant, and allow for biometric authentication. The Secretary of Homeland Security is authorized to incorporate integrated-circuit technology into the document. The Secretary of Homeland Security shall consult with the Forensic Document Laboratory in designing the document. The document may serve as a travel, entry, and work authorization document during the period of its validity. The document may be accepted by an employer as evidence of employment authorization and identity under section 274A(b)(1)(B).

''(h) TERMS OF STATUS.—

''(1) REPORTING.—During the period of Deferred Mandatory Departure, an alien shall comply with all registration requirements under section 264.

''(2) TRAVEL.—

''(A) An alien granted Deferred Mandatory Departure is not subject to section 212(a)(9) for any unlawful presence that occurred prior to the Secretary of Homeland Security

granting the alien Deferred Mandatory Departure status.

''(B) Under regulations established by the Secretary of Homeland Security, an alien granted Deferred Mandatory Departure—

''(i) may travel outside of the United States and may be readmitted if the period of Deferred Mandatory Departure status has not expired; and

''(ii) must establish at the time of application for admission that the alien is admissible under section 212.

''(C) EFFECT ON PERIOD OF AUTHORIZED ADMISSION.—Time spent outside the United States under subparagraph (B) shall not extend the period of Deferred Mandatory Departure status.

''(3) BENEFITS.—During the period in which an alien is granted Deferred Mandatory Departure under this section—

''(A) the alien shall not be considered to be permanently residing in the United States under the color of law and shall be treated as a nonimmigrant admitted under section 214; and

''(B) the alien may be deemed ineligible for public assistance by a State (as defined in section 101(a)(36)) or any political subdivision thereof which furnishes such assistance.

''(i) PROHIBITION ON CHANGE OF STATUS OR ADJUSTMENT OF STATUS.—An alien granted Deferred Mandatory Departure status is prohibited from applying to change status under section 248 or, unless otherwise eligible under section 245(i), from applying for adjustment of status to that of a permanent resident under section 245.

''(j) APPLICATION FEE.—

''(1) IN GENERAL.—An alien seeking a grant of Deferred Mandatory Departure status shall submit, in addition to any other fees authorized by law, an application fee of $1,000.

''(2) USE OF FEE.—The fees collected under paragraph (1) shall be available for use by the Secretary of Homeland Security for activities to identify, locate, or remove illegal aliens.

''(k) FAMILY MEMBERS.—

''(1) FAMILY MEMBERS.—

''(A) IN GENERAL.—The spouse or child of an alien granted Deferred Mandatory Departure status is subject to the same terms and conditions as the principal alien, but is not authorized to work in the United States.

''(B) APPLICATION FEE.—

''(i) IN GENERAL.—The spouse or child of an alien seeking Deferred Mandatory Departure shall submit, in addition to any other fee authorized by law, an additional fee of $500.

''(ii) USE OF FEE.—The fees collected under clause (i) shall be available for use by the Secretary of Homeland Security for activities to identify, locate, or remove aliens who are removable under section 237.

''(l) EMPLOYMENT.—

''(1) IN GENERAL.—An alien may be employed by any United States employer authorized by the Secretary of Homeland Security to hire aliens under section 218C.

''(2) CONTINUOUS EMPLOYMENT.—An alien must be employed while in the United States. An alien who fails to be employed for 30 days is ineligible for hire until the alien has departed the United States and reentered. The Secretary of Homeland Security may, in the Secretary's sole and unreviewable discretion, reauthorize an alien for employment without requiring the alien's departure from the United States.

''(m) ENUMERATION OF SOCIAL SECURITY NUMBER.—The Secretary of Homeland Security, in coordination with the Commissioner of the Social Security System, shall implement a system to allow for the enumeration of a Social Security number and production of a Social Security card at the time the Secretary of Homeland Security grants an alien Deferred Mandatory Departure status.

''(n) PENALTIES FOR FALSE STATEMENTS IN APPLICATION FOR DEFERRED MANDATORY DEPARTURE.—

''(1) CRIMINAL PENALTY.—

''(A) VIOLATION.—It shall be unlawful for any person—

''(i) to file or assist in filing an application for adjustment of status under this section and knowingly and willfully falsify, misrepresent, conceal, or cover up a material fact or make any false, fictitious, or fraudulent statements or representations, or make or use any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry; or

''(ii) to create or supply a false writing or document for use in making such an application.

''(B) PENALTY.—Any person who violates subparagraph (A) shall be fined in accordance with title 18, United States Code, imprisoned not more than 5 years, or both.

''(2) INADMISSIBILITY.—An alien who is convicted of a crime under paragraph (1) shall be considered to be inadmissible to the United States on the ground described in section 212(a)(6)(C)(i).

''(o) RELATION TO CANCELLATION OF REMOVAL.—With respect to an alien granted Deferred Mandatory Departure status under this section, the period of such status shall not be counted as a period of physical presence in the United States for purposes of section 240A(a), unless the Secretary of Homeland Security determines that extreme hardship exists.

''(p) WAIVER OF RIGHTS.—An alien is not eligible for Deferred Mandatory Departure status, unless the alien has waived any right to contest, other than on the basis of an application for asylum or protection under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York December 10, 1984, any action for deportation or removal of the alien that is instituted against the alien subsequent to a grant of Deferred Mandatory Departure status.

''(q) DENIAL OF DISCRETIONARY RELIEF.—The determination of whether an alien is eligible for a grant of Deferred Mandatory Departure status is solely within the discretion of the Secretary of Homeland Security. Notwithstanding any other provision of law, no court shall have jurisdiction to review—

''(1) any judgment regarding the granting of relief under this section; or

''(2) any other decision or action of the Secretary of Homeland Security the authority for which is specified under this section to be in the discretion of the Secretary, other than the granting of relief under section 1158(a).

''(r) JUDICIAL REVIEW.—

''(1) LIMITATIONS ON RELIEF.—Without regard to the nature of the action or claim and without regard to the identity of the party or parties bringing the action, no court may—

''(A) enter declaratory, injunctive, or other equitable relief in any action pertaining to—

''(i) an order or notice denying an alien a grant of Deferred Mandatory Departure status or any other benefit arising from such status; or

''(ii) an order of removal, exclusion, or deportation entered against an alien after a grant of Deferred Mandatory Departure status; or

''(B) certify a class under Rule 23 of the Federal Rules of Civil Procedure in any action for which judicial review is authorized under a subsequent paragraph of this subsection.

''(2) CHALLENGES TO VALIDITY.—

''(A) IN GENERAL.—Any right or benefit not otherwise waived or limited pursuant this section is available in an action instituted in the United States District Court for the District of Columbia, but shall be limited to determinations of—

''(i) whether such section, or any regulation issued to implement such section, violates the Constitution of the United States; or

''(ii) whether such a regulation, or a written policy directive, written policy guideline, or written procedure issued by or under the authority the Secretary of Homeland Security to implement such section, is not consistent with applicable provisions of this section or is otherwise in violation of law.''.

(b) CONFORMING AMENDMENT.—Amend section 237(a)(2)(A)(i)(II) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(2)(A)(i)(II)) is amended by striking the period at the end and inserting ''(or 6 months in the case of an alien granted Deferred Mandatory Departure status under section 218B),''.

SEC. 422. STATUTORY CONSTRUCTION.

Nothing in this subtitle, or any amendment made by this subtitle, shall be construed to create any substantive or procedural right or benefit that is legally enforceable by any party against the United States or its agencies or officers or any other person.

SEC. 423. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated $1,000,000,000 for facilities, personnel (including consular officers), training, technology, and processing necessary to carry out the amendments made by this subtitle.

Subtitle D—Alien Employment Management System

SEC. 431. ALIEN EMPLOYMENT MANAGEMENT SYSTEM.

The Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended by inserting after section 218B, as added by section 621, the following new section:

''SEC. 218C. ALIEN EMPLOYMENT MANAGEMENT SYSTEM.

''(a) ESTABLISHMENT.—

''(1) PURPOSE.—The Secretary of Homeland Security, in consultation with the Secretary of Labor, the Secretary of State, and the Commissioner of Social Security, shall develop and implement a program to authorize, manage and track the employment of aliens described in section 218A or 218B.

''(2) DEADLINE.—The program under subsection (a) shall commence prior to any alien being admitted under section 101(a)(15)(W) or granted Deferred Mandatory Departure under section 218B.

''(b) REQUIREMENTS.—The program shall—

''(1) enable employers who seek to hire aliens described in section 218A or 218B to apply for authorization to employ such aliens;

''(2) be interoperable with Social Security databases and must provide a means of immediately verifying the identity and employment authorization of an alien described in section 218A or 218B, for purposes of complying with title III of the Comprehensive Enforcement and Immigration Reform Act of 2005;

''(3) require an employer to utilize readers or scanners at the location of employment or at a Federal facility to transmit the biometric and biographic information contained in the alien's evidence of status to the Secretary of Homeland Security, for purposes of complying with title III of the Comprehensive Enforcement and Immigration Reform Act of 2005; and

''(4) collect sufficient information from employers to enable the Secretary of Homeland Security to identify—

''(A) whether an alien described in section 218A or 218B is employed;

''(B) any employer that has hired an alien described in section 218A or 218B;

''(C) the number of aliens described in section 218A or 218B that an employer is authorized to hire and is currently employing; and

''(D) the occupation, industry and length of time that an alien described in section 218A or 218B has been employed in the United States.

''(c) AUTHORIZATION TO HIRE ALIENS DESCRIBED IN SECTION 218A OR 218B.—

''(1) APPLICATION.—An employer must apply, through the program described in subsection (a) of this section, to obtain authorization to hire aliens described in section 218A or 218B.

''(2) PENALTIES.—An employer who employs an alien described in section 218A or 218B without authorization is subject to the same penalties and provisions as an employer who violates section 274(a)(1)(A) or (a)(2). An employer shall be subject to penalties prescribed by the Secretary of Homeland Security by regulation, which may include monetary penalties and debarment from eligibility to hire aliens described in section 218A or 218B.

''(3) ELIGIBILITY.—An employer must establish that it is a legitimate company and must attest that it will comply with the terms of the program established under subsection (a).

''(4) NUMBER OF ALIENS AUTHORIZED.—An employer may request authorization to multiple aliens described in section 218A or 218B.

''(5) ELECTRONIC FORM.—The program established under subsection (a) shall permit employers to submit applications under this subsection in an electronic form.

''(d) NOTIFICATION UPON TERMINATION OF EMPLOYMENT.—An employer, through the program established under subsection (a), must notify the Secretary of Homeland Security not more than 3 business days after the date of the termination of the alien's employment. The employer is not authorized to fill the position with another alien described in section 218A or 218B until the employer notifies the Secretary of Homeland Security that the alien is no longer employed by that employer.

''(e) PROTECTION OF UNITED STATES WORKERS.—An employer may not be authorized to hire an alien described in section 218A or 218B until the employer submits an attestation stating the following:

''(1) The employer has posted the position in a national, electronic job registry maintained by the Secretary of Labor, for not less than 30 days.

''(2) The employer has offered the position to any eligible United States worker who applies and is equally or better qualified for the job for which a temporary worker is sought and who will be available at the time and place of need. An employer shall maintain records for not less than 1 year demonstrating that why United States workers who applied were not hired.

''(3) The employer shall comply with the terms of the program established under subsection (a), including the terms of any temporary worker monitoring program established by the Secretary.

''(4) The employer shall not hire more aliens than the number authorized by the Secretary of Homeland Security has authorized it to hire.

''(5) The worker shall be paid at least the greater of the hourly wage prescribed under section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) or the applicable State minimum wage. All wages will be paid in a timely manner and all payroll records will be maintained accurately.

''(6) The employment of a temporary worker shall not adversely affect the working conditions of other similarly employed United States workers.

''(f) APPROVAL.—After determining that there are no United States workers who are qualified and willing to obtain the employment for which the employer is seeking temporary workers, the Secretary of Homeland Security may approve the application submitted by the employer under this paragraph for the number of temporary workers that the Secretary determines are required by the employer. Such approval shall be valid for a 2-year period.''.

SEC. 432. LABOR INVESTIGATIONS.

(a) IN GENERAL.—The Secretary of Homeland Security and the Secretary of Labor shall conduct audits, including random audits, of employers who employ aliens described under section 218A or 218B of the Immigration and Nationality Act, as added by section 412 and 421, respectively.

(b) PENALTIES.—The Secretary of Homeland Security shall establish penalties, which may include debarment from eligibility for hire also described under section 218A, as added by section 412 of this Act, 218B, as added by section 421 of this Act, for employers who fail to comply with section 218C of the Immigration and Nationality Act as added by section 431 of this Act, and shall establish protections for aliens who report employers who fail to comply with such section.

Subtitle E—Protection Against Immigration Fraud

SEC. 441. GRANTS TO SUPPORT PUBLIC EDUCATION AND TRAINING.

(a) GENERAL PROGRAM PURPOSE.—The purpose of this subtitle is to assist qualified non-profit community organizations to educate, train, and support non-profit agencies, immigrant communities, and other interested entities regarding this Act and the amendments made by this Act.

(b) PURPOSES FOR WHICH GRANTS MAY BE USED.—The grants under this part shall be used to fund public education, training, technical assistance, government liaison, and all related costs (including personnel and equipment) incurred by non-profit community organizations in providing services related to this Act, and to educate, train and support non-profit organizations, immigrant communities, and other interested parties regarding this Act and the amendments made by this Act and on matters related to its implementation. In particular, funding shall be provided to non-profit organizations for the purposes of—

(1) educating immigrant communities and other interested entities on the individuals and organizations that can provide authorized legal representation in immigration matters under regulations prescribed by the Secretary of Homeland Security, and on the dangers of securing legal advice and assistance from those who are not authorized to provide legal representation in immigration matters;

(2) educating interested entities on the requirements for obtaining non-profit recognition and accreditation to represent immigrants under regulations prescribed by the Secretary of Homeland Security, and providing non-profit agencies with training and technical assistance on the recognition and accreditation process; and

(3) educating non-profit community organizations, immigrant communities and other interested entities on the process for obtaining benefits under this Act or an amendment made by this Act, and the availability of authorized legal representation for low-income persons who may qualify for benefits under this Act of an amendment made by this Act.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Office of Justice Programs at the United States Department of Justice to carry out this section—

(1) $40,000,000 for fiscal year 2006;

(2) $40,000,000 for fiscal year 2007; and

(3) $40,000,000 for fiscal year 2008.

(d) IN GENERAL.—The Office of Justice Programs shall ensure, to the extent possible, that the non-profit community organizations funded under this Section shall serve geographically diverse locations and ethnically diverse populations who may qualify for benefits under the Act.

Subtitle F—Circular Migration

SEC. 451. INVESTMENT ACCOUNTS.

(a) IN GENERAL.—Section 201 of the Social Security Act (42 U.S.C. 401) is amended by adding at the end the following:

''(o)(1) Notwithstanding any other provision of this section, the Secretary of the Treasury shall transfer at least quarterly from the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund 100 percent of the temporary worker taxes to the Temporary Worker Investment Fund for deposit in a temporary worker investment account for each temporary worker as specified in section 253.

''(2) For purposes of this subsection—

''(A) the term 'temporary worker taxes' means that portion of the amounts appropriated to the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund under this section and properly attributable to the wages (as defined in section 3121 of the Internal Revenue Code of 1986) and self-employment income (as defined in section 1402 of such Code) of temporary workers as determined by the Commissioner of Social Security; and

''(B) the term 'temporary worker' means an alien who is admitted to the United States as a nonimmigrant under section 101(a)(15)(W) of the Immigration and Nationality Act.''.

(b) TEMPORARY WORKER INVESTMENT ACCOUNTS.—Title II of the Social Security Act (42 U.S.C. 401 et seq.) is amended—

(1) by inserting before section 201 the ''**PART A—SOCIAL SECURITY**''; and

(2) by adding at the end the following:

''PART II—TEMPORARY WORKER INVESTMENT ACCOUNTS

''DEFINITIONS

''SEC. 251. For purposes of this part:

''(1) COVERED EMPLOYER.—The term 'covered employer' means, for any calendar year, any person on whom an excise tax is imposed under section 3111 of the Internal Revenue Code of 1986 with respect to having an individual in the person's employ to whom wages are paid by such person during such calendar year.

''(2) SECRETARY.—The term 'Secretary' means the Secretary of the Treasury.

''(3) TEMPORARY WORKER.—The term 'temporary worker' an alien who is admitted to the United States as a nonimmigrant under section 101(a)(15)(W) of the Immigration and Nationality Act.

''(4) TEMPORARY WORKER INVESTMENT ACCOUNT.—The term 'temporary worker investment account' means an account for a temporary worker which is administered by the Secretary through the Temporary Worker Investment Fund.

''(5) TEMPORARY WORKER INVESTMENT FUND.—The term 'Temporary Worker Investment Fund' means the fund established under section 253.

''TEMPORARY WORKER INVESTMENT ACCOUNTS

''SEC. 252. (a) IN GENERAL.—A temporary worker investment account shall be established by the Secretary in the Temporary Worker Investment Fund for each individual not later than 10 business days after the covered employer of such individual submits a W–4 form (or any successor form) identifying such individual as a temporary worker.

''(b) TIME ACCOUNT TAKES EFFECT.—A temporary worker investment account established under subsection (a) shall take effect with respect to the first pay period beginning more than 14 days after the date of such establishment.

''(c) TEMPORARY WORKER'S PROPERTY RIGHT IN TEMPORARY WORKER INVESTMENT ACCOUNT.—The temporary worker investment account established for a temporary worker is the sole property of the worker.

''TEMPORARY WORKER INVESTMENT FUND

''SEC. 253. (a) IN GENERAL.—There is created on the books of the Treasury of the United States a trust fund to be known as the 'Temporary Worker Investment Fund' to be administered by the Secretary. Such Fund shall consist of the assets transferred under section 201(o) to each temporary worker investment account established under section 252 and the income earned under subsection (e) and credited to such account.

''(b) NOTICE OF CONTRIBUTIONS.—The full amount of a temporary worker's investment account transfers shall be shown on such worker's W–2 tax statement, as provided in section 6051(a)(14) of the Internal Revenue Code of 1986.

''(c) INVESTMENT EARNINGS REPORT.—

''(1) IN GENERAL.—At least annually, the Temporary Worker Investment Fund shall provide to each temporary worker with a temporary worker investment account managed by the Fund a temporary worker investment status report. Such report may be transmitted electronically upon the agreement of the temporary worker under the terms and conditions established by the Secretary.

''(2) CONTENTS OF REPORT.—The temporary worker investment status report, with respect to a temporary worker investment account, shall provide the following information:

''(A) The total amounts transferred under section 201(o) in the last quarter, the last year, and since the account was established.

''(B) The amount and rate of income earned under subsection (e) for each period described in subparagraph (A).

''(d) MAXIMUM ADMINISTRATIVE FEE.—The Temporary Worker Investment Fund shall charge each temporary worker in the Fund a single, uniform annual administrative fee not to exceed 0.3 percent of the value of the assets invested in the worker's account.

''(e) INVESTMENT DUTIES OF SECRETARY.—The Secretary shall establish policies for the investment and management of temporary worker investment accounts, including policies that shall provide for prudent Federal Government investment instruments suitable for accumulating funds.

''TEMPORARY WORKER INVESTMENT ACCOUNT DISTRIBUTIONS

''SEC. 254. (a) DATE OF DISTRIBUTION.—Except as provided in subsections (b) and (c), a distribution of the balance in a temporary worker investment account may only be made on or after the date such worker departs the United States and abandons such worker's nonimmigrant status under section 101(a)(15)(W) of the Immigration and Nationality Act and returns to the worker's home country.

''(b) DISTRIBUTION IN THE EVENT OF DEATH.—If the temporary worker dies before the date determined under subsection (a), the balance in the worker's account shall be distributed to the worker's estate under rules established by the Secretary.''.

(c) TEMPORARY WORKER INVESTMENT ACCOUNT TRANSFERS SHOWN ON W–2S.—

(1) IN GENERAL.—Section 6051(a) of the Internal Revenue Code of 1986 (relating to receipts for employees) is amended—

(A) by striking ''and'' at the end of paragraph (12);

(B) by striking the period at the end of paragraph (13) and inserting ''; and''; and

(C) by inserting after paragraph (13) the following:

''(14) in the case of a temporary worker (as defined in section 251(1) of the Social Security Act), of the amount shown pursuant to paragraph (6), the total amount transferred to such worker's temporary worker investment account under section 201(o) of such Act.''.

(2) CONFORMING AMENDMENTS.—Section 6051 of the Internal Revenue Code of 1986 is amended—

(A) in subsection (a)(6), by inserting ''and paid as tax under section 3111'' after ''section 3101''; and

(B) in subsection (c), by inserting ''and paid as tax under section 3111'' after ''section 3101''.

Subtitle G—Backlog Reduction

SEC. 461. EMPLOYMENT BASED IMMIGRANTS.

(a) EMPLOYMENT-BASED IMMIGRANT LIMIT.—Section 201(d) of the Immigration and Nationality Act (8 U.S.C. 1151(d)) is amended to read as follows:

''(d) WORLDWIDE LEVEL OF EMPLOYMENT-BASED IMMIGRANTS.—The worldwide level of employment-based immigrants under this subsection for a fiscal year is equal to the sum of—

''(1) 140,000;

''(2) the difference between the maximum number of visas authorized to be issued under this subsection during the previous fiscal year and the number of visas issued during the previous fiscal year;

''(3) the difference between—

''(A) the maximum number of visas authorized to be issued under this subsection during fiscal years 2001 through 2005 and the number of visa numbers issued under this subsection during those years; and

''(B) the number of visas described in subparagraph (A) that were issued after fiscal year 2005; and

''(4) the number of visas previously made available under section 203(e).''.

(b) DIVERSITY VISA TERMINATION.—The allocation of immigrant visas to aliens under section 203(c) of the Immigration and Nationality Act (8 U.S.C. 1153(c)), and the admission of such aliens to the United States as immigrants, is terminated. This provision shall become effective on October 1st of the fiscal year following enactment of this Act.

(c) IMMIGRATION TASK FORCE.—

(1) IN GENERAL.—There is established a task force to be known as the Immigration Task Force (referred to in this section as the ''Task Force'').

(2) PURPOSES.—The purposes of the Task Force are—

(A) to study the impact of the delay between the date on which an application for immigration is submitted and the date on which a determination on such application is made;

(B) to study the impact of immigration of workers to the United States on family unity; and

(C) to provide to Congress any recommendations of the Task Force regarding increasing the number immigrant visas issued by the United States for family members and on the basis of employment.

(3) MEMBERSHIP.—The Task Force shall be composed of 10 members, of whom—

(A) 1 shall be appointed by the President and shall serve as chairman of the Task Force;

(B) 1 shall be appointed by the leader of the minority party in the Senate, in consultation with the leader of the minority party in the House of Representatives, and shall serve as vice chairman of the Task Force;

(C) 2 shall be appointed by the majority leader of the Senate;

(D) 2 shall be appointed by the minority leader of the Senate;

(E) 2 shall be appointed by the Speaker of the House of Representatives; and

(F) 2 shall be appointed by the minority leader of the House of Representatives.

(4) QUALIFICATIONS.—

(A) IN GENERAL.—Members of the Task Force shall be—

(i) individuals with expertise in economics, demography, labor, business, or immigration or other pertinent qualifications or experience; and

(ii) representative of a broad cross-section of perspectives within the United States, including the public and private sectors and academia.

(B) POLITICAL AFFILIATION.—Not more than 5 members of the Task Force may be members of the same political party.

(C) NONGOVERNMENTAL APPOINTEES.—An individual appointed to the Task Force may not be an officer or employee of the Federal Government or of any State or local government.

(5) DEADLINE FOR APPOINTMENT.—All members of the Task Force shall be appointed not later than 6 months after the date of enactment of this Act.

(6) VACANCIES.—Any vacancy in the Task Force shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

(7) MEETINGS.—

(A) INITIAL MEETING.—The Task Force shall meet and begin the operations of the Task Force as soon as practicable.

(B) SUBSEQUENT MEETINGS.—After its initial meeting, the Task Force shall meet upon the call of the chairman or a majority of its members.

(8) QUORUM.—Six members of the Task Force shall constitute a quorum.

(9) REPORT.—Not later than 18 months after the date of enactment of this Act, the Task Force shall submit to Congress, the Secretary of Labor, and the Secretary of Homeland Security a report that contains—

(A) findings with respect to the duties of the Task Force; and

(B) recommendations for modifying the numerical limits on the number immigrant visas issued by the United States for family members of individuals in the United States and on the basis of employment.

SEC. 462. COUNTRY LIMITS.

Section 202(a) of the Immigration and Nationality Act (8 U.S.C. 1152(a)) is amended—

(1) in paragraph (2)—

(A) by striking '', (4), and (5)'' and inserting ''and (4)''; and

(B) by striking ''7 percent (in the case of a single foreign state) or 2 percent'' and inserting ''10 percent (in the case of a single foreign state) or 5 percent''; and

(2) by striking paragraph (5).

SEC. 463. ALLOCATION OF IMMIGRANT VISAS.

(a) PREFERENCE ALLOCATION FOR EMPLOYMENT-BASED IMMIGRANTS.—Section 203(b) of the Immigration and Nationality Act (8 U.S.C. 1153(b)) is amended—

(1) in paragraph (1), by striking ''28.6 percent'' and inserting ''10 percent'';

(2) in paragraph (2)(A), by striking ''28.6 percent'' and inserting ''10 percent'';

(3) in paragraph (3)(A)—

(A) by striking ''28.6 percent'' and inserting ''35 percent''; and

(B) by striking clause (iii);

(4) by striking paragraph (4);

(5) by redesignating paragraph (5) as paragraph (4);

(6) in paragraph (4)(A), as redesignated, by striking ''7.1 percent'' and inserting ''4 percent'';

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

''(5) OTHER WORKERS.—Visas shall be made available, in a number not to exceed 36 percent of such worldwide level, plus any visa numbers not required for the classes specified in paragraphs (1) through (4), to qualified immigrants who are capable, at the time of petitioning for classification under this paragraph, of performing unskilled labor that is not of a temporary or seasonal nature, for which qualified workers are determined to be unavailable in the United States''; and

(8) by striking paragraph (6).

(b) CONFORMING AMENDMENTS.—

(1) DEFINITION OF SPECIAL IMMIGRANT.—Section 101(a)(27)(M) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)(M)) is amended by striking ''subject to the numerical limitations of section 203(b)(4),''.

(2) REPEAL OF TEMPORARY REDUCTION IN WORKERS' VISAS.—Section 203(e) of the Nicaraguan Adjustment and Central American Relief Act (8 U.S.C. 1153 note) is repealed.

Subtitle H—Temporary Agricultural Workers

SEC. 471. SENSE OF THE SENATE ON TEMPORARY AGRICULTURAL WORKERS.

It is the sense of the Senate that consideration of any comprehensive immigration reform during the 109th Congress will include agricultural workers.

SA 3544. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 283, strike line 17 and all that follows through page 285, line 9, and insert the following:

''(n)(1) For purposes of adjustment of status under subsection (a), employment-based immigrant visas shall be made available to an alien having nonimmigrant status described in section 101(a)(15)(H)(ii)(c) upon the filing of a petition for such a visa by the alien's employer.

''(2) An alien having nonimmigrant status described in section 101(a)(15)(H)(ii)(c) may not apply for adjustment of status under this section unless the alien—

''(A) is physically present in the United States; and

''(B) the alien establishes that the alien—

''(i) meets the requirements of section 312; or

''(ii) is satisfactorily pursuing a course of study to achieve such an understanding of English and knowledge and understanding of the history and government of the United States.

''(3) An alien who demonstrates that the alien meets the requirements of section 312 may be considered to have satisfied the requirements of that section for purposes of becoming naturalized as a citizen of the United States under title III.

''(4) Filing a petition under paragraph (1) on behalf of an alien or otherwise seeking permanent residence in the United States for such alien shall not constitute evidence of the alien's ineligibility for nonimmigrant status under section 101(a)(15)(H)(ii)(c).

''(5) The Secretary of Homeland Security shall extend, in 1-year increments, the stay of an alien for whom a labor certification petition filed under section 203(b) or an immigrant visa petition filed under section 204(b) is pending until a final decision is made on the alien's lawful permanent residence.

''(6) Nothing in this subsection shall be construed to prevent an alien having nonimmigrant status described in section 101(a)(15)(H)(ii)(c) from filing an application for adjustment of status under this section in accordance with any other provision of law.''.

SA 3545. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 283, strike lines 23 through 25.

SA 3546. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 283, strike line 17 and all that follows through page 285, line 9, and insert the following:

''(n) Notwithstanding any other provision of this Act, an alien having nonimmigrant status described in section 101(a)(15)(H)(ii)(c) is ineligible for and may not apply for adjustment of status under this section on the basis of such status.''.

SA 3547. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the end of subsection (a) of section 403, insert the following:

(3) LIMITATION ON GRANTING OF VISAS TO H–2C NONIMMIGRANTS.—Notwithstanding any other provision of this Act or the amendments made by this Act, the Secretary may not grant a temporary visa to an alien described in section 101(a)(15)(H)(ii)(c) of the Immigration and Nationality Act, as amended by section 402(a), pursuant to section 218A of the Immigration and Nationality Act, as amended by paragraph (1), until after the date that the Secretary certifies to Congress that—

(A) the Electronic Employment Verification System described in section 274A of the Immigration and Nationality Act, as amended by section 301(a), is fully operational;

(B) the number of full-time employees who investigate compliance with immigration laws related to the hiring of aliens within the Department is increased by not less than 2,000 more than the number of such employees within the Department on the date of the enactment of this Act and that such employees have received appropriate training;

(C) the number of full-time, active-duty border patrol agents within the Department is increased by not less than 2,500 more than the number of such agents within the Department on the date of the enactment of this Act; and

(D) additional detention facilities to detain unlawful aliens apprehended in United States have been constructed or obtained and the personnel to operate such facilities have been hired, trained, and deployed so that the number of detention bed spaces available is increased by not less than 2,000 more than the number of such beds available on the date of the enactment of this Act.

SA 3548. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

Strike titles III, IV, V, and insert the following:

TITLE III—NONPARTISAN COMMISSION ON IMMIGRATION REFORM

SEC. 301. NONPARTISAN COMMISSION ON IMMIGRATION REFORM.

(a) ESTABLISHMENT AND COMPOSITION OF COMMISSION.—

(1) ESTABLISHMENT.—Not later than May 1, 2006, the President shall establish a commission to be known as the Nonpartisan Commission on Immigration Reform (in this section referred to as the ''Commission'').

(2) COMPOSITION.—The Commission shall be composed of 9 members to be appointed as follows:

(A) 1 member who shall serve as Chairman, to be appointed by the President.

(B) 2 members to be appointed by the Speaker of the House of Representatives who shall select such members from a list of nominees provided by the chairman of the Committee on the Judiciary of the House of Representatives.

(C) 2 members to be appointed by the minority leader of the House of Representatives who shall select such members from a list of nominees provided by the ranking minority member of the Committee on the Judiciary of the House of Representatives.

(D) 2 members to be appointed by the majority leader of the Senate who shall select such members from a list of nominees provided by the chairman of the Committee on the Judiciary of the Senate.

(E) 2 members to be appointed by the minority leader of the Senate who shall select such members from a list of nominees provided by the ranking minority member of the Committee on the Judiciary of the Senate.

(3) INITIAL APPOINTMENTS.—Initial appointments to the Commission shall be made during the 45-day period beginning on May 1, 2006.

(4) VACANCY.—A vacancy in the Commission shall be filled in the same manner in which the original appointment was made.

(5) TERM OF APPOINTMENT.—Members shall be appointed to serve for the life of the Commission, except that the term of the member described in paragraph (2)(A) shall expire at noon on January 20, 2008, and the President shall appoint an individual to serve for the remaining life, if any, of the Commission.

(b) FUNCTIONS OF COMMISSION.—The Commission shall—

(1) review and evaluate the impact of this Act and the amendments made by this Act, in accordance with subsection (c);

(2) conduct a systematic and comprehensive review of this Nation's immigration laws, in accordance with subsection (c); and

(3) transmit to the Congress—

(A) not later than April 15, 2008, a first report describing the progress made in carrying out paragraphs (1) and (2); and

(B) not later than April 15, 2010, a final report setting forth the Commission's findings and recommendations, including such recommendations for additional comprehensive changes that should be made with respect to immigration laws in the United States as the Commission deems appropriate, including, when applicable, such model legislative language for the consideration of Congress.

(c) CONSIDERATIONS.—

(1) GENERAL CONSIDERATIONS.—The Commission may investigate and make recommendations upon any subject that it determines would substantially contribute to the development of an equitable, efficient, and sustainable immigration system that will facilitate border security specifically and national security generally.

(2) GUEST WORKER PROGRAM.—The Commission shall analyze and make recommendations on the advisability of modifying the requirements for admission of nonimmigrants described in section 101(a)(15)(H) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)), including increasing the number of such nonimmigrants admitted to the United States and adopting a national guest worker program, and if, in the opinion of this Commission, such a modification or program should be adopted, then the Commission shall—

(A) set forth minimum requirements for such modification or program, including—

(i) the numerical limitations, if any, on such a program; and

(ii) the temporal limitations (in terms of participant duration), if any, on such a program;

(B) assess the impact and advisability of allowing aliens admitted under such section or participating in such a program to adjust their status from nonimmigrant to immigrant classifications; and

(C) determine whether and, if appropriate, to what degree, low-skilled enterprises should be included in a national guest worker program.

(3) PROJECT SUNSHINE.—The Commission shall analyze and make recommendations on the disposition of the unlawful alien population present in the United States, and such report shall—

(A) examine the impact of earned adjustment, amnesty, or similar programs on future illegal immigration;

(B) examine the ability, and advisability, of the United States Government to locate and deport individuals unlawfully present in the United States;

(C) assess the impact, advisability, and ability of earned adjustment, amnesty, or similar programs to locate and register individuals unlawfully present in the United States; and

(D) provide alternate solutions, if any, to the realm of options otherwise mentioned in this section.

(4) JUDICIAL REVIEW.—The Commission shall examine the operation of the relevant adjudicatory structures and mechanisms and make such recommendations as are necessary to ensure expediency of process consistent with applicable constitutional protections.

(5) INTERIOR ENFORCEMENT.—The Commission shall analyze current interior enforcement efforts and make such recommendations as are necessary to ensure viable interior enforcement, including issues surrounding worksite enforcement and the impact of inadequate interior enforcement on rural communities.

(d) COMPENSATION OF MEMBERS.—

(1) IN GENERAL.—Each member of the Commission who is not an officer or employee of the Federal Government is entitled to receive, subject to such amounts as are provided in advance in appropriations Acts, pay at the daily equivalent of the minimum annual rate of basic pay in effect for grade GS–18 of the General Schedule. Each member of the Commission who is such an officer or employee shall serve without additional pay.

(2) TRAVEL EXPENSE.—While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence.

(e) MEETINGS, STAFF, AND AUTHORITY OF COMMISSION.—The provisions of subsections (e) through (g) of section 304 of the Immigration Reform and Control Act of 1986 (Public Law 99–603; 8 U.S.C. 1160 note) shall apply to the Commission in the same manner as they apply to the Commission established under such section, except that paragraph (2) of such subsection (e) shall not apply.

(f) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the Commission such sums as may be necessary to carry out this section.

(2) LIMITATION ON AUTHORITY.—Notwithstanding any other provision of this section, the authority to make payments, or to enter into contracts, under this section shall be effective only to such extent, or in such amounts, as are provided in advance in appropriations Acts.

(g) TERMINATION DATE.—The Commission shall terminate on the date on which a final report is required to be transmitted under subsection (b)(3)(B), except that the Commission may continue to function until January 1, 2012, for the purpose of concluding its activities, including providing testimony to standing committees of Congress concerning its final report under this section and disseminating that report.

SA 3549. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 243, line 3, strike ''under section 248''.

SA 3550. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC._____. EFFECTIVE DATE.

Notwithstanding any other provision in this Act, or the amendments made by this Act, titles III, IV, V, and VI of this Act, or the amendments made by such titles, shall not take effect until Congress has appropriated sufficient funds to fully implement the border security and interior enforcement provisions in titles I and II of this Act.

SA 3551. Mr. ?HATCH submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. [ ]. RECAPTURE AND REALLOCATION OF UNUSED VISAS.

If the numerical limitation for visas described in 101(a)(15)(H)(i)(b) has been reached for fiscal year 2006 or a subsequent fiscal year, such numerical limitation shall be supplemented in a number equal to the number of H–2C visas, if any, not issued during the relevant fiscal year.

SA 3552. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. RESIDENCY REQUIREMENTS FOR CERTAIN ALIEN SPOUSES.

Notwithstanding any other provision of law, for purposes of determining eligibility for naturalization under section 319 of the Immigration and Nationality Act with respect to an alien spouse who is married to a citizen spouse who was stationed abroad on orders from the United States Government for a period of not less than 1 year and reassigned to the United States thereafter, the following rules shall apply:

(1) The citizen spouse shall be treated as regularly scheduled abroad without regard to whether the citizen spouse is reassigned to duty in the United States.

(2) Any period of time during which the alien spouse is living abroad with his or her citizen spouse shall be treated as residency within the United States for purposes of meeting the residency requirements under section 319 of the Immigration and Nationality Act, even if the citizen spouse is reassigned to duty in the United States at the time the alien spouse files an application for naturalization.

SA 3553. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 346, line 4, insert ''(other than subparagraph (C)(i)(II) of such paragraph (9))'' after ''212(a)''.

On page 347, strike lines 9 through 12, and insert the following:

''(3) INELIGIBILITY.—An alien is ineligible for conditional nonimmigrant work authorization and status under this section if—

''(A) a final order of removal under section 217, 235, 238, or 240 has been entered against the alien on or before the date of enactment of this Act, or a removal proceeding pursuant to section 217, 235, 238, or 240 has been commenced on or before the date of enactment of this Act;

''(B) the alien failed to depart the United States during the period of a voluntary departure order entered under section 240B;

''(C) the Secretary of Homeland Security determines that—

''(i) the alien, having been convicted by a final judgment of a serious crime, constitutes a danger to the community of the United States;

''(ii) there are reasonable grounds for believing that the alien has committed a serious crime outside the United States prior to the arrival of the alien in the United States; or

''(iii) there are reasonable grounds for regarding the alien as a danger to the security of the United States;

''(D) the alien has been convicted of any felony or three or more misdemeanors; or

''(E) the alien willfully fails to comply with any request for information by the Secretary of Homeland Security.

SA 3554. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. NONIMMIGRANT STATUS FOR SPOUSES AND CHILDREN OF PERMANENT RESIDENTS AWAITING THE AVAILABILITY OF AN IMMIGRANT VISA.

Section 101(a)(15)(V) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(V)) is amended—

(1) by striking ''the date of the enactment of the Legal Immigration Family Equity Act'' and inserting ''January 1, 2011''; and

(2) by striking ''3 years'' each place it appears and inserting ''180 days''.

SA 3555. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. DISCRETIONARY AUTHORITY.

Section 212(i) (8 U.S.C. 1182(i)) is amended—

(1) by redesignating paragraph (2) as paragraph (3); and

(2) by inserting after paragraph (1) the following:

''(2)(A) The Secretary of Homeland Security may waive the application of subsection (a)(6)(C)—

''(i) in the case of an immigrant who is the spouse, parent, son, or daughter of a United States citizen or of an alien lawfully admitted for permanent residence, if the Secretary of Homeland Security determines that the refusal of admission to the United States of such immigrant alien would result in extreme hardship to the citizen or lawfully resident spouse, child, son, daughter, or parent of such an alien; or

''(ii) in the case of an alien granted classification under clause (iii) or (iv) of section 204(a)(1)(A) or clause (ii) or (iii) of section 204(a)(1)(B), if—

''(I) the alien demonstrates extreme hardship to the alien or the alien's parent or child; and

''(II) such parent or child is a United States citizen, a lawful permanent resident, or a qualified alien.

''(B) An alien who is granted a waiver under subparagraph (A) shall pay a $2,000 fine.''.

SA 3556. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. FAMILY UNITY.

Section 212(a)(9) (8 U.S.C. 1182(a)(9)) is amended—

(1) in subparagraph (C)(ii), by striking ''between—'' and all that follows and inserting the following: ''between—

''(I) the alien having been battered or subjected to extreme cruelty; and

''(II) the alien's removal, departure from the United States, reentry or reentries into the United States, or attempted reentry into the United States.''; and

(2) by adding at the end the following:

''(D) WAIVER.—

''(i) IN GENERAL.—The Secretary may waive the application of subparagraphs (B) and (C) for an alien who is a beneficiary of a petition filed under section 201 or 203 if such petition was filed not later than the date of the enactment of the Comprehensive Immigration Reform Act of 2006.

''(ii) FINE.—An alien who is granted a waiver under clause (i) shall pay a $2,000 fine.''.

SA 3557. Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. 234. DETENTION STANDARDS.

(a) CODIFICATION OF DETENTION OPERATIONS.—In order to ensure uniformity in the safety and security of all facilities used or contracted by the Secretary to hold alien detainees and to ensure the fair treatment and access to counsel of all alien detainees, not later than 180 days after the date of the enactment of this Act, the Secretary shall issue the provisions of the Detention Operations Manual of the Department, including all amendments made to such Manual since it was issued in 2000, as regulations for the Department. Such regulations shall be subject to the notice and comment requirements of subchapter II of chapter 5 of title 5, United States Code (commonly referred to as the Administrative Procedure Act) and shall apply to all facilities used by the Secretary to hold detainees for more than 72 hours.

(b) DETENTION STANDARDS FOR NUCLEAR FAMILY UNITS AND CERTAIN NON-CRIMINAL ALIENS.—For all facilities used or contracted by the Secretary to hold aliens, the regulations described in subsection (a) shall—

(1) provide for sight and sound separation of alien detainees without any criminal convictions from criminal inmates and pretrial detainees facing criminal prosecution; and

(2) establish specific standards for detaining nuclear family units together and for detaining non-criminal applicants for asylum, withholding of removal, or protection under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York December 10, 1984, in civilian facilities cognizant of their special needs.

(c) LEGAL ORIENTATION TO ENSURE EFFECTIVE REMOVAL PROCESS.—All alien detainees shall receive legal orientation presentations from an independent non-profit agency as implemented by the Executive Office for Immigration Review of the Department of Justice in order to both maximize the efficiency and effectiveness of removal proceedings and to reduce detention costs.

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

SA 3558. Mr. NELSON of Florida submitted an amendment intended to be proposed to amendment SA 3424 proposed by Mr. FRIST to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. 233. DETENTION OF ILLEGAL ALIENS.

(a) INCREASING DETENTION BED SPACE.—Section 5204(a) of the Intelligence Reform and Terrorism Protection Act of 2004 (Public Law 108–458; 118 Stat. 3734) is amended by striking ''8,000'' and inserting ''20,000''.

(b) CONSTRUCTION OF OR ACQUISITION OF DETENTION FACILITIES.—

(1) REQUIREMENT TO CONSTRUCT OR ACQUIRE.—The Secretary shall construct or acquire additional detention facilities in the United States to accommodate the detention beds required by section 5204(c) of the Intelligence Reform and Terrorism Protection Act of 2004, as amended by subsection (a).

(2) USE OF ALTERNATE DETENTION FACILITIES.—Subject to the availability of appropriations, the Secretary shall fully utilize all possible options to cost effectively increase available detention capacities, and shall utilize detention facilities that are owned and operated by the Federal Government if the use of such facilities is cost effective.

(3) USE OF INSTALLATIONS UNDER BASE CLOSURE LAWS.—In acquiring additional detention facilities under this subsection, the Secretary shall consider the transfer of appropriate portions of military installations approved for closure or realignment under the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) for use in accordance with subsection (a).

(4) DETERMINATION OF LOCATION.—The location of any detention facility constructed or acquired in accordance with this subsection shall be determined, with the concurrence of the Secretary, by the senior officer responsible for Detention and Removal Operations in the Department. The detention facilities shall be located so as to enable the officers and employees of the Department to increase to the maximum extent practicable the annual rate and level of removals of illegal aliens from the United States.

(c) ALTERNATIVES TO DETENTION TO ENSURE COMPLIANCE WITH THE LAW.—The Secretary shall implement demonstration programs in each State located along the international border between the United States and Canada or along the international border between the United States and Mexico, and at select sites in the interior with significant numbers of alien detainees, to study the effectiveness of alternatives to the detention of aliens, including electronic monitoring devices, to ensure that such aliens appear in immigration court proceedings and comply with immigration appointments and removal orders.

(d) LEGAL REPRESENTATION.—No alien shall be detained by the Secretary in a location that limits the alien's reasonable access to visits and telephone calls by local legal counsel and necessary legal materials. Upon active or constructive notice that a detained alien is represented by an attorney, the Secretary shall ensure that the alien is not moved from the alien's detention facility without providing that alien and the alien's attorney reasonable notice in advance of such move.

(e) FUNDING TO CONSTRUCT OR ACQUIRE DETENTION FACILITIES.—Section 241(g)(1) (8 U.S.C. 1231(g)(1)) is amended by striking ''may expend'' and inserting ''shall expend''.

(f) ANNUAL REPORT TO CONGRESS.—Not later than 1 year after the date of the enactment of this Act, and annually thereafter, in consultation with the heads of other appropriate Federal agencies, the Secretary shall submit to Congress an assessment of the additional detention facilities and bed space needed to detain unlawful aliens apprehended at the United States ports of entry or along the international land borders of the United States.

SA 3559. Mr. NELSON of Florida submitted an amendment intended to be proposed to amendment SA 3424 proposed by Mr. FRIST to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. 103. SURVEILLANCE TECHNOLOGIES PROGRAMS.

(a) AERIAL SURVEILLANCE PROGRAM.—

(1) IN GENERAL.—In conjunction with the border surveillance plan developed under section 5201 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law

108–458; 8 U.S.C. 1701 note), the Secretary, not later than 90 days after the date of enactment of this Act, shall develop and implement a program to fully integrate and utilize aerial surveillance technologies, including unmanned aerial vehicles, to enhance the security of the international border between the United States and Canada and the international border between the United States and Mexico. The goal of the program shall be to ensure continuous monitoring of each mile of each such border.

(2) ASSESSMENT AND CONSULTATION REQUIREMENTS.—In developing the program under this subsection, the Secretary shall—

(A) consider current and proposed aerial surveillance technologies;

(B) assess the feasibility and advisability of utilizing such technologies to address border threats, including an assessment of the technologies considered best suited to address respective threats;

(C) consult with the Secretary of Defense regarding any technologies or equipment, which the Secretary may deploy along an international border of the United States; and

(D) consult with the Administrator of the Federal Aviation Administration regarding safety, airspace coordination and regulation, and any other issues necessary for implementation of the program.

(3) ADDITIONAL REQUIREMENTS.—

(A) IN GENERAL.—The program developed under this subsection shall include the use of a variety of aerial surveillance technologies in a variety of topographies and areas, including populated and unpopulated areas located on or near an international border of the United States, in order to evaluate, for a range of circumstances—

(i) the significance of previous experiences with such technologies in border security or critical infrastructure protection;

(ii) the cost and effectiveness of various technologies for border security, including varying levels of technical complexity; and

(iii) liability, safety, and privacy concerns relating to the utilization of such technologies for border security.

(4) CONTINUED USE OF AERIAL SURVEILLANCE TECHNOLOGIES.—The Secretary may continue the operation of aerial surveillance technologies while assessing the effectiveness of the utilization of such technologies.

(5) REPORT TO CONGRESS.—Not later than 180 days after implementing the program under this subsection, the Secretary shall submit a report to Congress regarding the program developed under this subsection. The Secretary shall include in the report a description of the program together with such recommendations as the Secretary finds appropriate for enhancing the program.

(6) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this subsection.

(b) INTEGRATED AND AUTOMATED SURVEILLANCE PROGRAM.—

(1) REQUIREMENT FOR PROGRAM.—Subject to the availability of appropriations, the Secretary shall establish a program to procure additional unmanned aerial vehicles, cameras, poles, sensors, satellites, radar coverage, and other technologies necessary to achieve operational control of the international borders of the United States and to establish a security perimeter known as a ''virtual fence'' along such international borders to provide a barrier to illegal immigration. Such program shall be known as the Integrated and Automated Surveillance Program.

(2) PROGRAM COMPONENTS.—The Secretary shall ensure, to the maximum extent feasible, the Integrated and Automated Surveillance Program is carried out in a manner that—

(A) the technologies utilized in the Program are integrated and function cohesively in an automated fashion, including the integration of motion sensor alerts and cameras, whereby a sensor alert automatically activates a corresponding camera to pan and tilt in the direction of the triggered sensor;

(B) cameras utilized in the Program do not have to be manually operated;

(C) such camera views and positions are not fixed;

(D) surveillance video taken by such cameras can be viewed at multiple designated communications centers;

(E) a standard process is used to collect, catalog, and report intrusion and response data collected under the Program;

(F) future remote surveillance technology investments and upgrades for the Program can be integrated with existing systems;

(G) performance measures are developed and applied that can evaluate whether the Program is providing desired results and increasing response effectiveness in monitoring and detecting illegal intrusions along the international borders of the United States;

(H) plans are developed under the Program to streamline site selection, site validation, and environmental assessment processes to minimize delays of installing surveillance technology infrastructure;

(I) standards are developed under the Program to expand the shared use of existing private and governmental structures to install remote surveillance technology infrastructure where possible; and

(J) standards are developed under the Program to identify and deploy the use of nonpermanent or mobile surveillance platforms that will increase the Secretary's mobility and ability to identify illegal border intrusions.

(3) REPORT TO CONGRESS.—Not later than 1 year after the initial implementation of the Integrated and Automated Surveillance Program, the Secretary shall submit to Congress a report regarding the Program. The Secretary shall include in the report a description of the Program together with any recommendation that the Secretary finds appropriate for enhancing the program.

(4) EVALUATION OF CONTRACTORS.—

(A) REQUIREMENT FOR STANDARDS.—The Secretary shall develop appropriate standards to evaluate the performance of any contractor providing goods or services to carry out the Integrated and Automated Surveillance Program.

(B) REVIEW BY THE INSPECTOR GENERAL.—The Inspector General of the Department shall timely review each new contract related to the Program that has a value of more than $5,000,000, to determine whether such contract fully complies with applicable cost requirements, performance objectives, program milestones, and schedules. The Inspector General shall report the findings of such review to the Secretary in a timely manner. Not later than 30 days after the date the Secretary receives a report of findings from the Inspector General, the Secretary shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives a report of such findings and a description of any the steps that the Secretary has taken or plans to take in response to such findings.

(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this subsection.

SA 3560. Mr. NELSON of Florida submitted an amendment intended to be proposed to amendment SA 3424 proposed by Mr. FRIST to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 6, line 18, strike ''500'' and insert ''1,500''.

On page 7, line 2, strike ''1000'' and insert ''2,000''.

On page 7, line 10, strike ''200'' and insert ''400''.

On page 8, strike lines 9 through 15 and insert the following:

preceding fiscal year), by 4,000 for each of fiscal years 2006 through 2011.

At the appropriate place, insert the following:

(c) DETENTION AND REMOVAL OFFICERS.—

(1) IN GENERAL.—During each of the fiscal years 2007 through 2011, the Secretary shall, subject to the availability of appropriations for such purposes, designate a Detention and Removal officer to be placed in each Department field office whose sole responsibility will be to ensure safety and security at a detention facility and that each detention facility comply with the standards and regulations required by paragraphs (2), (3), and (4).

(2) CODIFICATION OF DETENTION OPERATIONS.—In order to ensure uniformity in the safety and security of all facilities used or contracted by the Secretary to hold alien detainees and to ensure the fair treatment and access to counsel of all alien detainees, not later than 180 days after the date of the enactment of this Act, the Secretary shall issue the provisions of the Detention Operations Manual of the Department, including all amendments made to such Manual since it was issued in 2000, as regulations for the Department. Such regulations shall be subject to the notice and comment requirements of subchapter II of chapter 5 of title 5, United States Code (commonly referred to as the Administrative Procedure Act) and shall apply to all facilities used by the Secretary to hold detainees for more than 72 hours.

(3) DETENTION STANDARDS FOR NUCLEAR FAMILY UNITS AND CERTAIN NON-CRIMINAL ALIENS.—For all facilities used or contracted by the Secretary to hold aliens, the regulations described in paragraph (2) shall—

(A) provide for sight and sound separation of alien detainees without any criminal convictions from criminal inmates and pretrial detainees facing criminal prosecution; and

(B) establish specific standards for detaining nuclear family units together and for detaining non-criminal applicants for asylum, withholding of removal, or protection under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York December 10, 1984, in civilian facilities cognizant of their special needs.

(4) LEGAL ORIENTATION TO ENSURE EFFECTIVE REMOVAL PROCESS.—All alien detainees shall receive legal orientation presentations from an independent non-profit agency as implemented by the Executive Office for Immigration Review of the Department of Justice in order to both maximize the efficiency and effectiveness of removal proceedings and to reduce detention costs.

(d) LEGAL PERSONNEL.—During each of fiscal years 2007 through 2011, the Secretary shall, subject to the availability of appropriations, increase the number of positions for attorneys in the Office of General Counsel of the Department by at least 200 to represent the Department in immigration matters for the fiscal year.

SEC. 102. DEPARTMENT OF JUSTICE PERSONNEL; DEFENSE ATTORNEYS.

(a) IN GENERAL.—During each of fiscal years 2007 through 2011, the Attorney General shall, subject to the availability of appropriations, add—

(1) at least 50 positions for attorneys in the Office of Immigration Litigation of the Department of Justice for the fiscal year;

(2) at least 50 United States Attorneys to litigate immigration cases in the Federal courts for the fiscal year;

(3) at least 200 Deputy United States Marshals to investigate criminal immigration matters for the fiscal year; and

(4) at least 50 immigration judges for the fiscal year.

(b) DEFENSE ATTORNEYS.—

(1) IN GENERAL.—During each of fiscal years 2007 through 2011, the Director of the Administrative Office of the United States Courts shall, subject to the availability of appropriations, add at least 200 attorneys in the Federal Defenders Program for the fiscal year.

(2) PRO BONO REPRESENTATION.—The Attorney General shall also take all necessary and reasonable steps to ensure that alien detainees receive appropriate pro bono representation in immigration matters.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Attorney General for each of fiscal years 2007 through 2011 such sums as are necessary to carry out this section, including the costs of hiring necessary support staff.

At the appropriate place, insert the following:

SEC. 234. DETENTION POLICY.

(a) DIRECTORATE OF POLICY.—The Secretary shall in consultation, with the Director of Policy of the Directorate of Policy, add at least 3 additional positions at the Directorate of Policy that—

(1) shall be a position at GS-15 of the General Schedule;

(2) are solely responsible for formulating and executing the policy and regulations pertaining to vulnerable detained populations including unaccompanied alien children, victims of torture, trafficking or other serious harms, the elderly, the mentally disabled, and the infirm; and

(3) require background and expertise working directly with such vulnerable populations.

(b) ENHANCED PROTECTIONS FOR VULNERABLE UNACCOMPANIED ALIEN CHILDREN.—

(1) MANDATORY TRAINING.—The Secretary shall mandate the training of all personnel who come into contact with unaccompanied alien children in all relevant legal authorities, policies, and procedures pertaining to this vulnerable population in consultation with the head of the Office of Refugee Resettlement of the Department of Health and Human Services and independent child welfare experts.

(2) DELEGATION TO THE OFFICE OF REFUGEE RESETTLEMENT.—Notwithstanding any other provision of law, the Secretary shall delegate the authority and responsibility granted to the Secretary by the Homeland Security Act of 2002 (Public Law 107–296; 116 Stat. 2135) for transporting unaccompanied alien children who will undergo removal proceedings from Department custody to the custody and care of the Office of Refugee Resettlement and provide sufficient reimbursement to the head of such Office to undertake this critical function. The Secretary shall immediately notify such Office of an unaccompanied alien child in the custody of the Department and ensure that the child is transferred to the custody of such Office as soon as practicable, but not later than 72 hours after the child is taken into the custody of the Department.

(3) OTHER POLICIES AND PROCEDURES.—The Secretary shall further adopt important policies and procedures—

(A) for reliable age-determinations of children which exclude the use of fallible forensic testing of children's bones and teeth in consultation with medical and child welfare experts;

(B) to ensure the privacy and confidentiality of unaccompanied alien children's records, including psychological and medical reports, so that the information is not used adversely against the child in removal proceedings or for any other immigration action; and

(C) in close consultation with the Secretary of State and the head of the Office of Refugee Resettlement, to ensure the safe and secure repatriation of unaccompanied alien children to their home countries including through arranging placements of children with their families or other sponsoring agencies and to utilize all legal authorities to defer the child's removal if the child faces a clear risk of life-threatening harm upon return.

On page 228, line 18, strike ''2,000'' and insert ''4,000''.

On page 229, line 1, strike ''1,000'' and insert ''2,000''.

SA 3561. Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. 103. SURVEILLANCE TECHNOLOGIES PROGRAMS.

(a) AERIAL SURVEILLANCE PROGRAM.—

(1) IN GENERAL.—In conjunction with the border surveillance plan developed under section 5201 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 8 U.S.C. 1701 note), the Secretary, not later than 90 days after the date of enactment of this Act, shall develop and implement a program to fully integrate and utilize aerial surveillance technologies, including unmanned aerial vehicles, to enhance the security of the international border between the United States and Canada and the international border between the United States and Mexico. The goal of the program shall be to ensure continuous monitoring of each mile of each such border.

(2) ASSESSMENT AND CONSULTATION REQUIREMENTS.—In developing the program under this subsection, the Secretary shall—

(A) consider current and proposed aerial surveillance technologies;

(B) assess the feasibility and advisability of utilizing such technologies to address border threats, including an assessment of the technologies considered best suited to address respective threats;

(C) consult with the Secretary of Defense regarding any technologies or equipment, which the Secretary may deploy along an international border of the United States; and

(D) consult with the Administrator of the Federal Aviation Administration regarding safety, airspace coordination and regulation, and any other issues necessary for implementation of the program.

(3) ADDITIONAL REQUIREMENTS.—

(A) IN GENERAL.—The program developed under this subsection shall include the use of a variety of aerial surveillance technologies in a variety of topographies and areas, including populated and unpopulated areas located on or near an international border of the United States, in order to evaluate, for a range of circumstances—

(i) the significance of previous experiences with such technologies in border security or critical infrastructure protection;

(ii) the cost and effectiveness of various technologies for border security, including varying levels of technical complexity; and

(iii) liability, safety, and privacy concerns relating to the utilization of such technologies for border security.

(4) CONTINUED USE OF AERIAL SURVEILLANCE TECHNOLOGIES.—The Secretary may continue the operation of aerial surveillance technologies while assessing the effectiveness of the utilization of such technologies.

(5) REPORT TO CONGRESS.—Not later than 180 days after implementing the program under this subsection, the Secretary shall submit a report to Congress regarding the program developed under this subsection. The Secretary shall include in the report a description of the program together with such recommendations as the Secretary finds appropriate for enhancing the program.

(6) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this subsection.

(b) INTEGRATED AND AUTOMATED SURVEILLANCE PROGRAM.—

(1) REQUIREMENT FOR PROGRAM.—Subject to the availability of appropriations, the Secretary shall establish a program to procure additional unmanned aerial vehicles, cameras, poles, sensors, satellites, radar coverage, and other technologies necessary to achieve operational control of the international borders of the United States and to establish a security perimeter known as a ''virtual fence'' along such international borders to provide a barrier to illegal immigration. Such program shall be known as the Integrated and Automated Surveillance Program.

(2) PROGRAM COMPONENTS.—The Secretary shall ensure, to the maximum extent feasible, the Integrated and Automated Surveillance Program is carried out in a manner that—

(A) the technologies utilized in the Program are integrated and function cohesively in an automated fashion, including the integration of motion sensor alerts and cameras, whereby a sensor alert automatically activates a corresponding camera to pan and tilt in the direction of the triggered sensor;

(B) cameras utilized in the Program do not have to be manually operated;

(C) such camera views and positions are not fixed;

(D) surveillance video taken by such cameras can be viewed at multiple designated communications centers;

(E) a standard process is used to collect, catalog, and report intrusion and response data collected under the Program;

(F) future remote surveillance technology investments and upgrades for the Program can be integrated with existing systems;

(G) performance measures are developed and applied that can evaluate whether the Program is providing desired results and increasing response effectiveness in monitoring and detecting illegal intrusions along the international borders of the United States;

(H) plans are developed under the Program to streamline site selection, site validation, and environmental assessment processes to minimize delays of installing surveillance technology infrastructure;

(I) standards are developed under the Program to expand the shared use of existing private and governmental structures to install remote surveillance technology infrastructure where possible; and

(J) standards are developed under the Program to identify and deploy the use of nonpermanent or mobile surveillance platforms that will increase the Secretary's mobility and ability to identify illegal border intrusions.

(3) REPORT TO CONGRESS.—Not later than 1 year after the initial implementation of the Integrated and Automated Surveillance Program, the Secretary shall submit to Congress a report regarding the Program. The Secretary shall include in the report a description of the Program together with any recommendation that the Secretary finds appropriate for enhancing the program.

(4) EVALUATION OF CONTRACTORS.—

(A) REQUIREMENT FOR STANDARDS.—The Secretary shall develop appropriate standards to evaluate the performance of any contractor providing goods or services to carry out the Integrated and Automated Surveillance Program.

(B) REVIEW BY THE INSPECTOR GENERAL.—The Inspector General of the Department shall timely review each new contract related to the Program that has a value of more than $5,000,000, to determine whether such contract fully complies with applicable cost requirements, performance objectives, program milestones, and schedules. The Inspector General shall report the findings of such review to the Secretary in a timely manner. Not later than 30 days after the date the Secretary receives a report of findings from the Inspector General, the Secretary shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives a report of such findings and a description of any the steps that the Secretary has taken or plans to take in response to such findings.

(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this subsection.

SA 3562. Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the billl S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. 233. DETENTION OF ILLEGAL ALIENS.

(a) INCREASING DETENTION BED SPACE.—Section 5204(a) of the Intelligence Reform and Terrorism Protection Act of 2004 (Public Law 108–458; 118 Stat. 3734) is amended by striking ''8,000'' and inserting ''20,000''.

(b) CONSTRUCTION OF OR ACQUISITION OF DETENTION FACILITIES.—

(1) REQUIREMENT TO CONSTRUCT OR ACQUIRE.—The Secretary shall construct or acquire additional detention facilities in the United States to accommodate the detention beds required by section 5204(c) of the Intelligence Reform and Terrorism Protection Act of 2004, as amended by subsection (a).

(2) USE OF ALTERNATE DETENTION FACILITIES.—Subject to the availability of appropriations, the Secretary shall fully utilize all possible options to cost effectively increase available detention capacities, and shall utilize detention facilities that are owned and operated by the Federal Government if the use of such facilities is cost effective.

(3) USE OF INSTALLATIONS UNDER BASE CLOSURE LAWS.—In acquiring additional detention facilities under this subsection, the Secretary shall consider the transfer of appropriate portions of military installations approved for closure or realignment under the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) for use in accordance with subsection (a).

(4) DETERMINATION OF LOCATION.—The location of any detention facility constructed or acquired in accordance with this subsection shall be determined, with the concurrence of the Secretary, by the senior officer responsible for Detention and Removal Operations in the Department. The detention facilities shall be located so as to enable the officers and employees of the Department to increase to the maximum extent practicable the annual rate and level of removals of illegal aliens from the United States.

(c) ALTERNATIVES TO DETENTION TO ENSURE COMPLIANCE WITH THE LAW.—The Secretary shall implement demonstration programs in each State located along the international border between the United States and Canada or along the international border between the United States and Mexico, and at select sites in the interior with significant numbers of alien detainees, to study the effectiveness of alternatives to the detention of aliens, including electronic monitoring devices, to ensure that such aliens appear in immigration court proceedings and comply with immigration appointments and removal orders.

(d) LEGAL REPRESENTATION.—No alien shall be detained by the Secretary in a location that limits the alien's reasonable access to visits and telephone calls by local legal counsel and necessary legal materials. Upon active or constructive notice that a detained alien is represented by an attorney, the Secretary shall ensure that the alien is not moved from the alien's detention facility without providing that alien and the alien's attorney reasonable notice in advance of such move.

(e) FUNDING TO CONSTRUCT OR ACQUIRE DETENTION FACILITIES.—Section 241(g)(1) (8 U.S.C. 1231(g)(1)) is amended by striking ''may expend'' and inserting ''shall expend''.

(f) ANNUAL REPORT TO CONGRESS.—Not later than 1 year after the date of the enactment of this Act, and annually thereafter, in consultation with the heads of other appropriate Federal agencies, the Secretary shall submit to Congress an assessment of the additional detention facilities and bed space needed to detain unlawful aliens apprehended at the United States ports of entry or along the international land borders of the United States.

SA 3563. Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. 234. DETENTION STANDARDS.

(a) CODIFICATION OF DETENTION OPERATIONS.—In order to ensure uniformity in the safety and security of all facilities used or contracted by the Secretary to hold alien detainees and to ensure the fair treatment and access to counsel of all alien detainees, not later than 180 days after the date of the enactment of this Act, the Secretary shall issue the provisions of the Detention Operations Manual of the Department, including all amendments made to such Manual since it was issued in 2000, as regulations for the Department. Such regulations shall be subject to the notice and comment requirements of subchapter II of chapter 5 of title 5, United States Code (commonly referred to as the Administrative Procedure Act) and shall apply to all facilities used by the Secretary to hold detainees for more than 72 hours.

(b) DETENTION STANDARDS FOR NUCLEAR FAMILY UNITS AND CERTAIN NON-CRIMINAL ALIENS.—For all facilities used or contracted by the Secretary to hold aliens, the regulations described in subsection (a) shall—

(1) provide for sight and sound separation of alien detainees without any criminal convictions from criminal inmates and pretrial detainees facing criminal prosecution; and

(2) establish specific standards for detaining nuclear family units together and for detaining non-criminal applicants for asylum, withholding of removal, or protection under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York December 10, 1984, in civilian facilities cognizant of their special needs.

(c) LEGAL ORIENTATION TO ENSURE EFFECTIVE REMOVAL PROCESS.—All alien detainees shall receive legal orientation presentations from an independent non-profit agency as implemented by the Executive Office for Immigration Review of the Department of Justice in order to both maximize the efficiency and effectiveness of removal proceedings and to reduce detention costs.

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

SA 3564. Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 4, line 26, strike ''250'' and insert ''1,500''.

On page 5, line 24, strike ''1000'' and insert ''2,000''.

On page 6, line 8, strike ''200'' and insert ''400''.

On page 5, strike line 17 and insert ''4000.''

At the appropriate place, insert the following:

(c) DETENTION AND REMOVAL OFFICERS.—

(1) IN GENERAL.—During each of the fiscal years 2007 through 2011, the Secretary shall, subject to the availability of appropriations for such purposes, designate a Detention and Removal officer to be placed in each Department field office whose sole responsibility will be to ensure safety and security at a detention facility and that each detention facility comply with the standards and regulations required by paragraphs (2), (3), and (4).

(2) CODIFICATION OF DETENTION OPERATIONS.—In order to ensure uniformity in the safety and security of all facilities used or contracted by the Secretary to hold alien detainees and to ensure the fair treatment and access to counsel of all alien detainees, not later than 180 days after the date of the enactment of this Act, the Secretary shall issue the provisions of the Detention Operations Manual of the Department, including all amendments made to such Manual since it was issued in 2000, as regulations for the Department. Such regulations shall be subject to the notice and comment requirements of subchapter II of chapter 5 of title 5, United States Code (commonly referred to as the Administrative Procedure Act) and shall apply to all facilities used by the Secretary to hold detainees for more than 72 hours.

(3) DETENTION STANDARDS FOR NUCLEAR FAMILY UNITS AND CERTAIN NON-CRIMINAL ALIENS.—For all facilities used or contracted by the Secretary to hold aliens, the regulations described in paragraph (2) shall—

(A) provide for sight and sound separation of alien detainees without any criminal convictions from criminal inmates and pretrial detainees facing criminal prosecution; and

(B) establish specific standards for detaining nuclear family units together and for detaining non-criminal applicants for asylum, withholding of removal, or protection under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York December 10, 1984, in civilian facilities cognizant of their special needs.

(4) LEGAL ORIENTATION TO ENSURE EFFECTIVE REMOVAL PROCESS.—All alien detainees shall receive legal orientation presentations from an independent non-profit agency as implemented by the Executive Office for Immigration Review of the Department of Justice in order to both maximize the efficiency and effectiveness of removal proceedings and to reduce detention costs.

(d) LEGAL PERSONNEL.—During each of fiscal years 2007 through 2011, the Secretary shall, subject to the availability of appropriations, increase the number of positions for attorneys in the Office of General Counsel of the Department by at least 200 to represent the Department in immigration matters for the fiscal year.

SEC. 102. DEPARTMENT OF JUSTICE PERSONNEL; DEFENSE ATTORNEYS.

(a) IN GENERAL.—During each of fiscal years 2007 through 2011, the Attorney General shall, subject to the availability of appropriations, add—

(1) at least 50 positions for attorneys in the Office of Immigration Litigation of the Department of Justice for the fiscal year;

(2) at least 50 United States Attorneys to litigate immigration cases in the Federal courts for the fiscal year;

(3) at least 200 Deputy United States Marshals to investigate criminal immigration matters for the fiscal year; and

(4) at least 50 immigration judges for the fiscal year.

(b) DEFENSE ATTORNEYS.—

(1) IN GENERAL.—During each of fiscal years 2007 through 2011, the Director of the Administrative Office of the United States Courts shall, subject to the availability of appropriations, add at least 200 attorneys in the Federal Defenders Program for the fiscal year.

(2) PRO BONO REPRESENTATION.—The Attorney General shall also take all necessary and reasonable steps to ensure that alien detainees receive appropriate pro bono representation in immigration matters.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Attorney General for each of fiscal years 2007 through 2011 such sums as are necessary to carry out this section, including the costs of hiring necessary support staff.

At the appropriate place, insert the follwing:

SEC. 234. DETENTION POLICY.

(a) DIRECTORATE OF POLICY.—The Secretary shall in consultation, with the Director of Policy of the Directorate of Policy, add at least 3 additional positions at the Directorate of Policy that—

(1) shall be a position at GS-15 of the General Schedule;

(2) are solely responsible for formulating and executing the policy and regulations pertaining to vulnerable detained populations including unaccompanied alien children, victims of torture, trafficking or other serious harms, the elderly, the mentally disabled, and the infirm; and

(3) require background and expertise working directly with such vulnerable populations.

(b) ENHANCED PROTECTIONS FOR VULNERABLE UNACCOMPANIED ALIEN CHILDREN.—

(1) MANDATORY TRAINING.—The Secretary shall mandate the training of all personnel who come into contact with unaccompanied alien children in all relevant legal authorities, policies, and procedures pertaining to this vulnerable population in consultation with the head of the Office of Refugee Resettlement of the Department of Health and Human Services and independent child welfare experts.

(2) DELEGATION TO THE OFFICE OF REFUGEE RESETTLEMENT.—Notwithstanding any other provision of law, the Secretary shall delegate the authority and responsibility granted to the Secretary by the Homeland Security Act of 2002 (Public Law 107–296; 116 Stat. 2135) for transporting unaccompanied alien children who will undergo removal proceedings from Department custody to the custody and care of the Office of Refugee Resettlement and provide sufficient reimbursement to the head of such Office to undertake this critical function. The Secretary shall immediately notify such Office of an unaccompanied alien child in the custody of the Department and ensure that the child is transferred to the custody of such Office as soon as practicable, but not later than 72 hours after the child is taken into the custody of the Department.

(3) OTHER POLICIES AND PROCEDURES.—The Secretary shall further adopt important policies and procedures—

(A) for reliable age-determinations of children which exclude the use of fallible forensic testing of children's bones and teeth in consultation with medical and child welfare experts;

(B) to ensure the privacy and confidentiality of unaccompanied alien children's records, including psychological and medical reports, so that the information is not used adversely against the child in removal proceedings or for any other immigration action; and

(C) in close consultation with the Secretary of State and the head of the Office of Refugee Resettlement, to ensure the safe and secure repatriation of unaccompanied alien children to their home countries including through arranging placements of children with their families or other sponsoring agencies and to utilize all legal authorities to defer the child's removal if the child faces a clear risk of life-threatening harm upon return.

On page 203, line 10, strike ''2,000'' and insert ''4,000''.

On page 203, line 18, strike ''1,000'' and insert ''2,000''.

SA 3565. Mr. LEVIN (for himself and Ms. STABENOW) submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. SCREENING OF MUNICIPAL SOLID WASTE.

(a) DEFINITIONS.—In this section:

(1) BUREAU.—The term '' Bureau'' means the Bureau of Customs and Border Protection.

(2) COMMERCIAL MOTOR VEHICLE.—The term ''commercial motor vehicle'' has the meaning given the term in section 31101 of title 49, United States Code.

(3) COMMISSIONER.—The term ''Commissioner'' means the Commissioner of the Bureau.

(4) MUNICIPAL SOLID WASTE.—The term ''municipal solid waste'' includes sludge (as defined in section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903)).

(b) REPORTS TO CONGRESS.—Not later than 90 days after the date of enactment of this Act, the Commissioner shall submit to Congress a report that—

(1) indicates whether the methodologies and technologies used by the Bureau to screen for and detect the presence of chemical, nuclear, biological, and radiological weapons in municipal solid waste are as effective as the methodologies and technologies used by the Bureau to screen for those materials in other items of commerce entering the United States through commercial motor vehicle transport; and

(2) if the report indicates that the methodologies and technologies used to screen municipal solid waste are less effective than those used to screen other items of commerce, identifies the actions that the Bureau will take to achieve the same level of effectiveness in the screening of municipal solid waste, including actions necessary to meet the need for additional screening technologies.

(c) IMPACT ON COMMERCIAL MOTOR VEHICLES.—If the Commissioner fails to fully implement an action identified under subsection (b)(2) before the earlier of the date that is 180 days after the date on which the report under subsection (b) is required to be submitted or the date that is 180 days after the date on which the report is submitted, the Secretary shall deny entry into the United States of any commercial motor vehicle carrying municipal solid waste until the Secretary certifies to Congress that the methodologies and technologies used by the Bureau to screen for and detect the presence of chemical, nuclear, biological, and radiological weapons in municipal solid waste are as effective as the methodologies and technologies used by the Bureau to screen for those materials in other items of commerce entering into the United States through commercial motor vehicle transport.

SA 3566. Mr. LEVIN (for himself, Mr. KENNEDY, and Ms. STABENOW) submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 42, strike lines 16 through 18 and insert the following:

(a) DENIAL OR TERMINATION OF ASYLUM.—Section 208 (8 U.S.C. 1158) is amended—

(1) in subsection (b)—

(A) in paragraph (2)(A)(v), by striking ''or (VI)'' and inserting ''(V), (VI), (VII), or (VIII)''; and

(B) by adding at the end the following:

''(4) CHANGED COUNTRY CONDITIONS.—An alien seeking asylum based on persecution or a well-founded fear of persecution shall not be denied asylum based on changed country conditions unless fundamental and lasting changes have stabilized the country of the alien's nationality.''; and

(2) in subsection (c)(2)(A), by striking ''a fundamental change in circumstances'' and inserting ''fundamental and lasting changes that have stabilized the country of the alien's nationality''.

SA 3567. Mr. LEVIN (for himself, Mr. KENNEDY, and Ms. STABENOW) submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

(a) DENIAL OR TERMINATION OF ASYLUM.—Section 208 (8 U.S.C. 1158) is amended—

(1) in subsection (b)—

(A) in paragraph (2)(A)(v), by striking ''or (VI)'' and inserting ''(V), (VI), (VII), or (VIII)''; and

(B) by adding at the end the following:

''(4) CHANGED COUNTRY CONDITIONS.—An alien seeking asylum based on persecution or a well-founded fear of persecution shall not be denied asylum based on changed country conditions unless fundamental and lasting changes have stabilized the country of the alien's nationality.''; and

(2) in subsection (c)(2)(A), by striking ''a fundamental change in circumstances'' and inserting ''fundamental and lasting changes that have stabilized the country of the alien's nationality''.

SA 3568. Mr. LEVIN (for himself and Ms. STABENOW) submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. SCREENING OF MUNICIPAL SOLID WASTE.

(a) DEFINITIONS.—In this section:

(1) BUREAU.—The term '' Bureau'' means the Bureau of Customs and Border Protection.

(2) COMMERCIAL MOTOR VEHICLE.—The term ''commercial motor vehicle'' has the meaning given the term in section 31101 of title 49, United States Code.

(3) COMMISSIONER.—The term ''Commissioner'' means the Commissioner of the Bureau.

(4) MUNICIPAL SOLID WASTE.—The term ''municipal solid waste'' includes sludge (as defined in section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903)).

(b) REPORTS TO CONGRESS.—Not later than 90 days after the date of enactment of this Act, the Commissioner shall submit to Congress a report that—

(1) indicates whether the methodologies and technologies used by the Bureau to screen for and detect the presence of chemical, nuclear, biological, and radiological weapons in municipal solid waste are as effective as the methodologies and technologies used by the Bureau to screen for those materials in other items of commerce entering the United States through commercial motor vehicle transport; and

(2) if the report indicates that the methodologies and technologies used to screen municipal solid waste are less effective than those used to screen other items of commerce, identifies the actions that the Bureau will take to achieve the same level of effectiveness in the screening of municipal solid waste, including actions necessary to meet the need for additional screening technologies.

(c) IMPACT ON COMMERCIAL MOTOR VEHICLES.—If the Commissioner fails to fully implement an action identified under subsection (b)(2) before the earlier of the date that is 180 days after the date on which the report under subsection (b) is required to be submitted or the date that is 180 days after the date on which the report is submitted, the Secretary shall deny entry into the United States of any commercial motor vehicle carrying municipal solid waste until the Secretary certifies to Congress that the methodologies and technologies used by the Bureau to screen for and detect the presence of chemical, nuclear, biological, and radiological weapons in municipal solid waste are as effective as the methodologies and technologies used by the Bureau to screen for those materials in other items of commerce entering into the United States through commercial motor vehicle transport.

SA 3569. Mr. LEVIN (for himself and Ms. COLLINS) submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 33, strike lines 1 through 15 and insert the following:

SEC. 122. SECURE COMMUNICATION.

(a) IN GENERAL.—The Secretary shall, as expeditiously as practicable, develop and implement a plan to improve the use of satellite communications and other technologies to ensure clear and secure 2-way communication capabilities—

(1) among all Border Patrol agents conducting operations between ports of entry;

(2) between Border Patrol agents and their respective Border Patrol stations;

(3) between Border Patrol agents and residents in remote areas along the international land borders of the United States; and

(4) between all appropriate border security agencies of the Department and State, local, and tribal law enforcement agencies.

(b) COMMUNICATION SYSTEM GRANTS.—

(1) DEFINITIONS.—In this subsection—

(A) the term ''demonstration project'' means the demonstration project established under paragraph (2)(A); and

(B) the term ''emergency response provider'' has the meaning given that term in section 2(6) the Homeland Security Act of 2002 (6 U.S.C. 101(6)).

(2) IN GENERAL.—

(A) ESTABLISHMENT.—There is established in the Department an International Border Community Interoperable Communications Demonstration Project.

(B) MINIMUM NUMBER OF COMMUNITIES.—The Secretary shall select not fewer than 6 communities to participate in the demonstration project.

(C) LOCATION OF COMMUNITIES.—Not fewer than 3 of the communities selected under subparagraph (B) shall be located on the northern border of the United States and not fewer than 3 of the communities selected under subparagraph (B) shall be located on the southern border of the United States.

(3) PROJECT REQUIREMENTS.—The demonstration project shall—

(A) address the interoperable communications needs of border patrol agents and other Federal officials involved in border security activities, police officers, National Guard personnel, and emergency response providers;

(B) foster interoperable communications—

(i) among Federal, State, local, and tribal government agencies in the United States involved in security and response activities along the international land borders of the United States; and

(ii) with similar agencies in Canada and Mexico;

(C) identify common international cross-border frequencies for communications equipment, including radio or computer messaging equipment;

(D) foster the standardization of interoperable communications equipment;

(E) identify solutions that will facilitate communications interoperability across national borders expeditiously;

(F) ensure that border patrol agents and other Federal officials involved in border security activities, police officers, National Guard personnel, and emergency response providers can communicate with each another and the public at disaster sites or in the event of a terrorist attack or other catastrophic event;

(G) provide training and equipment to enable border patrol agents and other Federal officials involved in border security activities, police officers, National Guard personnel, and emergency response providers to deal with threats and contingencies in a variety of environments; and

(H) identify and secure appropriate joint-use equipment to ensure communications access.

(4) DISTRIBUTION OF FUNDS.—

(A) IN GENERAL.—The Secretary shall distribute funds under this subsection to each community participating in the demonstration project through the State, or States, in which each community is located.

(B) OTHER PARTICIPANTS.—Not later than 60 days after receiving funds under subparagraph (A), a State receiving funds under this subsection shall make the funds available to the local governments and emergency response providers participating in the demonstration project, as selected by the Secretary.

(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary in each of fiscal years 2006, 2007, and 2008, to carry out this subsection.

(6) REPORTING.—Not later than December 31, 2006, and each year thereafter in which funds are appropriated for the demonstration project, the Secretary shall provide to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives a report on the demonstration project.

SA 3570. Mr. LEVIN (for himself and Ms. COLLINS) submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 42, between lines 11 and 12, insert the following:

SEC. 131. COMMUNICATION SYSTEM GRANTS.

(a) DEFINITIONS.—In this section—

(1) the term ''demonstration project'' means the demonstration project established under subsection (b)(1); and

(2) the term ''emergency response provider'' has the meaning given that term in section 2(6) the Homeland Security Act of 2002 (6 U.S.C. 101(6)).

(b) IN GENERAL.—

(1) ESTABLISHMENT.—There is established in the Department an International Border Community Interoperable Communications Demonstration Project.

(2) MINIMUM NUMBER OF COMMUNITIES.—The Secretary shall select not fewer than 6 communities to participate in the demonstration project.

(3) LOCATION OF COMMUNITIES.—Not fewer than 3 of the communities selected under paragraph (2) shall be located on the northern border of the United States and not fewer than 3 of the communities selected under paragraph (2) shall be located on the southern border of the United States.

(c) PROJECT REQUIREMENTS.—The demonstration project shall—

(1) address the interoperable communications needs of border patrol agents and other

Federal officials involved in border security activities, police officers, National Guard personnel, and emergency response providers;

(2) foster interoperable communications—

(A) among Federal, State, local, and tribal government agencies in the United States involved in security and response activities along the international land borders of the United States; and

(B) with similar agencies in Canada and Mexico;

(3) identify common international cross-border frequencies for communications equipment, including radio or computer messaging equipment;

(4) foster the standardization of interoperable communications equipment;

(5) identify solutions that will facilitate communications interoperability across national borders expeditiously;

(6) ensure that border patrol agents and other Federal officials involved in border security activities, police officers, National Guard personnel, and emergency response providers can communicate with each another and the public at disaster sites or in the event of a terrorist attack or other catastrophic event;

(7) provide training and equipment to enable border patrol agents and other Federal officials involved in border security activities, police officers, National Guard personnel, and emergency response providers to deal with threats and contingencies in a variety of environments; and

(8) identify and secure appropriate joint-use equipment to ensure communications access.

(d) DISTRIBUTION OF FUNDS.—

(1) IN GENERAL.—The Secretary shall distribute funds under this section to each community participating in the demonstration project through the State, or States, in which each community is located.

(2) OTHER PARTICIPANTS.—Not later than 60 days after receiving funds under paragraph (1), a State receiving funds under this section shall make the funds available to the local governments and emergency response providers participating in the demonstration project, as selected by the Secretary.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary in each of fiscal years 2006, 2007, and 2008, to carry out this section.

(f) REPORTING.—Not later than December 31, 2006, and each year thereafter in which funds are appropriated for the demonstration project, the Secretary shall provide to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives a report on the demonstration project.

SA 3571. Mr. KYL (for himself and Mr. CORNYN) submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 283, strike line 17 and all that follows through page 285, line 9, and insert the following:

''(n) Notwithstanding any other provision of this Act, an alien having nonimmigrant status described in section 101(a)(15)(H)(ii)(c) is ineligible for and may not apply for adjustment of status under this section on the basis of such status.''.

SA 3572. Mr. CORNYN submitted an amendment intended to be proposed to amendment SA 3311 submitted by Mr. KYL (for himself and Mr. CORNYN) and intended to be proposed to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 283, strike line 17 and all that follows through page 285 and insert the following:

''(n)(1) For purposes of adjustment of status under subsection (a), employment-based immigrant visas shall be made available to an alien having nonimmigrant status described in section 101(a)(15)(H)(ii)(c) upon the filing of a petition for such a visa by the alien's employer.

''(2) An alien having nonimmigrant status described in section 101(a)(15)(H)(ii)(c) may not apply for adjustment of status under this section unless the alien—

''(A) is physically present in the United States; and

''(B) the alien establishes that the alien—

''(i) meets the requirements of section 312; or

''(ii) is satisfactorily pursuing a course of study to achieve such an understanding of English and knowledge and understanding of the history and government of the United States.

''(3) An alien who demonstrates that the alien meets the requirements of section 312 may be considered to have satisfied the requirements of that section for purposes of becoming naturalized as a citizen of the United States under title III.

''(4) Filing a petition under paragraph (1) on behalf of an alien or otherwise seeking permanent residence in the United States for such alien shall not constitute evidence of the alien's ineligibility for nonimmigrant status under section 101(a)(15)(H)(ii)(c).

''(5) The Secretary of Homeland Security shall extend, in 1-year increments, the stay of an alien for whom a labor certification petition filed under section 203(b) or an immigrant visa petition filed under section 204(b) is pending until a final decision is made on the alien's lawful permanent residence.

''(6) Nothing in this subsection shall be construed to prevent an alien having nonimmigrant status described in section 101(a)(15)(H)(ii)(c) from filing an application for adjustment of status under this section in accordance with any other provision of law.''.

SA 3573. Mr. CORNYN (for himself and Mr. KYL) submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 347, strike line 13 and all that follows through page 350, line 3, and insert the following:

''(c) TREATMENT OF APPLICATIONS DURING REMOVAL PROCEEDINGS.—Notwithstanding any provision of this Act, an alien who is in removal proceedings shall have an opportunity to apply for a grant of status under this title unless a final administrative determination has been made.

SA 3574. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 347, strike lines 9 through 12, and insert the following:

''(6) INELIGIBILITY.—An alien is ineligible for conditional nonimmigrant work authorization and status under this section if—

''(A) the alien is subject to a final order of removal under section 217, 235, 238, or 240;

''(B) the alien failed to depart the United States during the period of a voluntary departure order entered under section 240B;

''(C) the Secretary of Homeland Security determines that—

''(i) the alien, having been convicted by a final judgment of a particularly serious crime, constitutes a danger to the community of the United States;

''(ii) there are reasonable grounds for believing that the alien has committed a serious crime outside the United States prior to the arrival of the alien in the United States; or

''(iii) there are reasonable grounds for regarding the alien as a danger to the security of the United States;

''(D) the alien has been convicted of any felony or three or more misdemeanors; or

''(E) the alien willfully fails to comply with any request for information by the Secretary of Homeland Security.

SA 3575. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 350, strike line 4 and all that follows through page 351, line 12.

SA 3576. Mr. LAUTENBERG (for himself, Mr. REID, Mr. MENENDEZ, and Mrs. CLINTON) submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE ____—FAMILY HUMANITARIAN RELIEF

SEC ____1. SHORT TITLE.

This title may be cited as the ''September 11 Family Humanitarian Relief and Patriotism Act''.

SEC. ____02. ADJUSTMENT OF STATUS FOR CERTAIN NONIMMIGRANT VICTIMS OF TERRORISM.

(a) ADJUSTMENT OF STATUS.—

(1) IN GENERAL.—The status of any alien described in subsection (b) shall be adjusted by the Secretary of Homeland Security to that of an alien lawfully admitted for permanent residence, if the alien—

(A) applies for such adjustment not later than 2 years after the date on which the Secretary promulgates final regulations to implement this section; and

(B) is otherwise admissible to the United States for permanent residence, except in determining such admissibility the grounds for inadmissibility specified in paragraphs (4), (5), (6)(A), (7)(A), and (9)(B) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)) shall not apply.

(2) RULES IN APPLYING CERTAIN PROVISIONS.—

(A) IN GENERAL.—In the case of an alien described in subsection (b) who is applying for adjustment of status under this section—

(i) the provisions of section 241(a)(5) of the Immigration and Nationality Act (8 U.S.C. 1231(a)(5)) shall not apply; and

(ii) the Secretary of Homeland Security may grant the alien a waiver on the grounds

of inadmissibility under subparagraphs (A) and (C) of section 212(a)(9) of such Act (8 U.S.C. 1182(a)(9)).

(B) STANDARDS.—In granting waivers under subparagraph (A)(ii), the Secretary shall use standards used in granting consent under subparagraphs (A)(iii) and (C)(ii) of such section 212(a)(9).

(3) RELATIONSHIP OF APPLICATION TO CERTAIN ORDERS.—

(A) APPLICATION PERMITTED.—An alien present in the United States who has been ordered excluded, deported, removed, or ordered to depart voluntarily from the United States under any provision of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) may, notwithstanding such order, apply for adjustment of status under paragraph (1).

(B) MOTION NOT REQUIRED.—An alien described in subparagraph (A) may not be required, as a condition of submitting or granting such application, to file a separate motion to reopen, reconsider, or vacate such order.

(C) EFFECT OF DECISION.—If the Secretary of Homeland Security grants a request under subparagraph (A), the Secretary shall cancel the order. If the Secretary renders a final administrative decision to deny the request, the order shall be effective and enforceable to the same extent as if the application had not been made.

(b) ALIENS ELIGIBLE FOR ADJUSTMENT OF STATUS.—The benefits provided by subsection (a) shall apply to any alien who—

(1) was lawfully present in the United States as a nonimmigrant alien described in section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)) on September 10, 2001;

(2) was, on such date, the spouse, child, dependent son, or dependent daughter of an alien who—

(A) was lawfully present in the United States as a nonimmigrant alien described in section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)) on such date; and

(B) died as a direct result of a specified terrorist activity; and

(3) was deemed to be a beneficiary of, and by, the September 11th Victim Compensation Fund of 2001 (49 U.S.C. 40101 note).

(c) STAY OF REMOVAL; WORK AUTHORIZATION.—

(1) IN GENERAL.—The Secretary of Homeland Security shall establish, by regulation, a process by which an alien subject to a final order of removal may seek a stay of such order based on the filing of an application under subsection (a).

(2) DURING CERTAIN PROCEEDINGS.—Notwithstanding any provision of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), the Secretary of Homeland Security shall not order any alien to be removed from the United States, if the alien is in removal proceedings under any provision of such Act and has applied for adjustment of status under subsection (a), except where the Secretary has rendered a final administrative determination to deny the application.

(3) WORK AUTHORIZATION.—The Secretary of Homeland Security shall authorize an alien who has applied for adjustment of status under subsection (a) to engage in employment in the United States during the pendency of such application.

(d) AVAILABILITY OF ADMINISTRATIVE REVIEW.—The Secretary of Homeland Security shall provide to applicants for adjustment of status under subsection (a) the same right to, and procedures for, administrative review as are provided to—

(1) applicants for adjustment of status under section 245 of the Immigration and Nationality Act (8 U.S.C. 1255); or

(2) aliens subject to removal proceedings under section 240 of such Act (8 U.S.C. 1229a).

SEC. ___03. CANCELLATION OF REMOVAL FOR CERTAIN IMMIGRANT VICTIMS OF TERRORISM.

(a) IN GENERAL.—Subject to the provisions of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), other than subsections (b)(1), (d)(1), and (e) of section 240A of such Act (8 U.S.C. 1229b), the Secretary of Homeland Security shall, under such section 240A, cancel the removal of, and adjust to the status of an alien lawfully admitted for permanent residence, an alien described in subsection (b), if the alien applies for such relief.

(b) ALIENS ELIGIBLE FOR CANCELLATION OF REMOVAL.—The benefits provided by subsection (a) shall apply to any alien who—

(1) was, on September 10, 2001, the spouse, child, dependent son, or dependent daughter of an alien who died as a direct result of a specified terrorist activity; and

(2) was deemed to be a beneficiary of, and by, the September 11th Victim Compensation Fund of 2001 (49 U.S.C. 40101 note).

(c) STAY OF REMOVAL; WORK AUTHORIZATION.—

(1) IN GENERAL.—The Secretary of Homeland Security shall provide by regulation for an alien subject to a final order of removal to seek a stay of such order based on the filing of an application under subsection (a).

(2) WORK AUTHORIZATION.—The Secretary of Homeland Security shall authorize an alien who has applied for cancellation of removal under subsection (a) to engage in employment in the United States during the pendency of such application.

(d) MOTIONS TO REOPEN REMOVAL PROCEEDINGS.—

(1) IN GENERAL.—Notwithstanding any limitation imposed by law on motions to reopen removal proceedings (except limitations premised on an alien's conviction of an aggravated felony (as defined in section 101(a)(43) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(43))), any alien who has become eligible for cancellation of removal as a result of the enactment of this section may file 1 motion to reopen removal proceedings to apply for such relief.

(2) FILING PERIOD.—The Secretary of Homeland Security shall designate a specific time period in which all such motions to reopen are required to be filed. The period shall begin not later than 60 days after the date of enactment of this Act and shall extend for a period not to exceed 240 days.

SEC. ___04. EXCEPTIONS.

Notwithstanding any other provision of this title, an alien may not be provided relief under this title if the alien is—

(1) inadmissible under paragraph (2) or (3) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)), or deportable under paragraph (2) or (4) of section 237(a) of such Act (8 U.S.C. 1227(a)), including any individual culpable for a specified terrorist activity; or

(2) a family member of an alien described in paragraph (1).

SEC. ___05. EVIDENCE OF DEATH.

For purposes of this title, the Secretary of Homeland Security shall use the standards established under section 426 of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001 (115 Stat. 362) in determining whether death occurred as a direct result of a specified terrorist activity.

SEC. ___06. DEFINITIONS.

(a) APPLICATION OF IMMIGRATION AND NATIONALITY ACT PROVISIONS.—Except as otherwise specifically provided in this title, the definitions used in the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), other than the definitions applicable exclusively to title III of such Act, shall apply in the administration of this title.

(b) SPECIFIED TERRORIST ACTIVITY.—For purposes of this title, the term ''specified terrorist activity'' means any terrorist activity conducted against the Government or the people of the United States on September 11, 2001.

SA 3577. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 347, strike lines 9 through 12, and insert the following:

''(6) INELIGIBILITY.—An alien is ineligible for conditional nonimmigrant work authorization and status under this section if—

''(A) the alien is subject to a final order of removal under section 217, 235, 238, or 240;

''(B) the alien failed to depart the United States during the period of a voluntary departure order entered under section 240B;

''(C) the Secretary of Homeland Security determines that—

''(i) the alien, having been convicted by a final judgment of a serious crime, constitutes a danger to the community of the United States;

''(ii) there are reasonable grounds for believing that the alien has committed a serious crime outside the United States prior to the arrival of the alien in the United States; or

''(iii) there are reasonable grounds for regarding the alien as a danger to the security of the United States;

''(D) the alien has been convicted of any felony or three or more misdemeanors; or

''(E) the alien has entered, the U.S. pursuant to section 217 and overstayed the period authorized admission, has been ordered removed under section 235 or 238, or is subject to a final order of removal under section 240.

SA 3578. Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

SEC. ___. SOUTHWEST BORDER PROSECUTION INITIATIVE

(a) REIMBURSEMENT TO STATE AND LOCAL PROSECUTORS FOR PROSECUTING FEDERALLY-INITIATED DRUG CASES.—The Attorney General shall, subject to the availability of appropriations, reimburse Southern Border State and county prosecutors for prosecuting federally initiated and referred drug cases.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $50,000,000 for each of the fiscal years 2007 through 2012 to carryout subsection (a).

SA 3579. Ms. MIKULSKI (for herself and Mr. WARNER) submitted an amendment intended to be proposed by her to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. EXTENSION OF RETURNING WORKER EXEMPTION.

Section 402(b)(1) of the Save Our Small and Seasonal Businesses Act of 2005 (title IV of

division B of Public Law 109–13; 8 U.S.C. 1184 note) is amended by striking ''2006'' and inserting ''2009''.

SA 3580. Mr. COLEMAN submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

SEC. _____. FAIRNESS IN THE STUDENT AND EXCHANGE VISITOR INFORMATION SYSTEM.

(a) REDUCED FEE FOR SHORT-TERM STUDY.—

(1) IN GENERAL.—Section 641(e)(4)(A) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1372(e)(4)(A)) is amended by striking the second sentence and inserting ''Except as provided in subsection (g)(2), the fee imposed on any individual may not exceed $100, except that in the case of an alien admitted under subparagraph (J) of section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)) as an au pair, camp counselor, or participant in a summer work travel program, the fee shall not exceed $35 and that in the case of an alien admitted under subparagraph (F) of such section 101(a)(15) for a program that will not exceed 90 days, the fee shall not exceed $35.''.

(2) TECHNICAL AMENDMENTS.—Such section 641(e)(4)(A) is further amended—

(A) in the first sentence, by striking ''Attorney General'' and inserting ''Secretary of Homeland Security''; and

(B) in the third sentence, by striking ''Attorney General's'' and inserting ''Secretary's''.

(b) RECREATIONAL COURSES.—Notwithstanding any other provision of law, not later than 60 days after the date of enactment of this Act, the Secretary of State shall issue appropriate guidance to consular officers to in order to give appropriate discretion, according to criteria developed at each post and approved by the Secretary of State, so that a course of a duration no more than 1 semester (or its equivalent), and not awarding certification, license or degree, is considered recreational in nature for purposes of determining appropriateness for visitor status.

SA 3581. Mr. COLEMAN (for himself and Ms. COLLINS) submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert:

SEC. _____. NORTH AMERICAN TRAVEL CARDS.

(a) FINDINGS.—Congress makes the following findings:

(1) United States citizens make approximately 130,000,000 land border crossings each year between the United States and Canada and the United States and Mexico, with approximately 23,000,000 individual United States citizens crossing the border annually.

(2) Approximately 27 percent of United States citizens possess United States passports.

(3) In fiscal year 2005, the Secretary of State issued an estimated 10,100,000 passports, representing an increase of 15 percent from fiscal year 2004.

(4) The Secretary of State estimates that 13,000,000 passports will be issued in fiscal year 2006, 16,000,000 passports will be issued in fiscal year 2007, and 17,000,000 passports will be issued in fiscal year 2008.

(b) NORTH AMERICAN TRAVEL CARDS.—

(1) ISSUANCE.—In accordance with the Western Hemisphere Travel Initiative carried out pursuant to section 7209 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 8 U.S.C. 1185 note), the Secretary of State, in consultation with the Secretary, shall, not later than December 31, 2007, issue to a citizen of the United States who submits an application in accordance with paragraph (4) a travel document that will serve as a North American travel card.

(2) APPLICABILITY.—A North American travel card shall be deemed to be a United States passport for the purpose of United States laws and regulations relating to United States passports.

(3) LIMITATION ON USE.—A North American travel card may only be used for the purpose of international travel by United States citizens through land border ports of entry, including ferries, between the United States and Canada and the United States and Mexico.

(4) APPLICATION FOR ISSUANCE.—To be issued a North American travel card, a United States citizen shall submit an application to the Secretary of State. The Secretary of State shall require that such application shall contain the same information as is required to determine citizenship, identity, and eligibility for issuance of a United States passport.

(5) TECHNOLOGY.—

(A) EXPEDITED TRAVELER PROGRAMS.—To the maximum extent practicable, a North American travel card shall be designed and produced to provide a platform on which the expedited traveler programs carried out by the Secretary, such as NEXUS, NEXUS AIR, SENTRI, FAST, and Register Traveler may be added. The Secretary of State and the Secretary shall notify Congress not later than July 1, 2007, if the technology to add expedited travel features to the North American travel card is not developed by that date.

(B) TECHNOLOGY.—The Secretary of Homeland Security and the Secretary of State shall establish a technology implementation plan that accommodates desired technology requirements of the Department of State and the Department of Homeland Security, allows for future technological innovations, and ensures maximum facilitation at the northern and southern border.

(6) SPECIFICATIONS FOR CARD.—A North American travel card shall be easily portable and durable. The Secretary of State and the Secretary of Homeland Security shall consult regarding the other technical specifications of the card, including whether the security features of the card could be combined with other existing identity documentation.

(7) FEE.—Except as in provided in paragraph (8), an applicant for a North American travel card shall submit an application under paragraph (4) together with a nonrefundable fee in an amount to be determined by the Secretary of State. Fees for a North American travel card shall be deposited as an offsetting collection to the appropriate Department of State appropriation, to remain available until expended. The fee for the North American travel card shall not exceed $20, of which not more than $2 shall be allocated to the United States Postal Service for postage and other application processing functions. Such fee shall be waived for children under 16 years of age.

(c) FOREIGN COOPERATION.—In order to maintain and encourage cross-border travel and trade, the Secretary of State and the Secretary of Homeland Security shall use all possible means to coordinate with the appropriate representatives of foreign governments to encourage their citizens and nationals to possess, not later than the date at which the certification required by subsection (j) is made, appropriate documentation to allow such citizens and nationals to cross into the United States.

(d) PUBLIC PROMOTION.—The Secretary of State, in consultation with the Secretary of Homeland Security, shall develop and implement an outreach plan to inform United States citizens about the Western Hemisphere Travel Initiative and the North American travel card and to facilitate the acquisition of a passport or North American travel card. Such outreach plan should include—

(1) written notifications posted at or near public facilities, including border crossings, schools, libraries, and United States Post Offices located within 50 miles of the international border between the United States and Canada or the international border between the United States and Mexico;

(2) provisions to seek consent to post such notifications on commercial property, such as offices of State departments of motor vehicles, gas stations, supermarkets, convenience stores, hotels, and travel agencies;

(3) the establishment of at least 200 new passport acceptance facilities, with emphasis on facilities located near international borders;

(4) the collection and analysis of data to measure the success of the public promotion plan; and

(5) additional measures as appropriate.

(e) ACCESSIBILITY.—In order to make the North American travel card easily obtainable, an application for a North American travel card shall be accepted in the same manner and at the same locations as an application for a passport.

(f) EXPEDITED TRAVEL PROGRAMS.—To the maximum extent practicable, the Secretary of Homeland Security shall expand expedited traveler programs carried out by the Secretary to all ports of entry and should encourage citizens of the United States to participate in the preenrollment programs, as such programs assist border control officers of the United States in the fight against terrorism by increasing the number of known travelers crossing the border. The identities of such expedited travelers should be entered into a database of known travelers who have been subjected to in-depth background and watch-list checks to permit border control officers to focus more attention on unknown travelers, potential criminals, and terrorists.

(g) ALTERNATIVE OPTIONS.—

(1) IN GENERAL.—In order to give United States citizens as many secure, low-cost options as possible for travel within the Western Hemisphere, the Secretary of Homeland Security shall continue to pursue additional alternative options, such as NEXUS, to a passport that meet the requirements of section 7209 of the Intelligence Reform and Terrorism Prevent Act (Public Law 108–458; 8 U.S.C. 1185 note).

(2) FEASIBILITY STUDY.—Not later than 120 days after the date of enactment of this Act, the Congressional Budget Office shall submit to the Committee on Homeland Security and Government Affairs and the Committee on Foreign Relations of the Senate and the Committee on Homeland Security and the Committee on International Relations of the House of Representatives, a study on the feasibility of incorporating into a driver's license, on a voluntary basis, information about citizenship, in a manner that enables a driver's license which meets the requirements of the REAL ID Act of 2005 (division B of Public Law 109-13) to serve as an acceptable alternative document to meet the requirements of section 7209 of the Intelligence Reform and Terrorism Prevention Act. Such

study shall include a description of how such a program could be implemented, and shall consider any cost advantage of such an approach.

(h) IDENTIFICATION PROCESS .—The Secretary of Homeland Security shall have appropriate authority to develop a process to ascertain the identity of and make admissibility determinations for individuals who arrive at the border without proper documentation.

(i) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as limiting, altering, modifying, or otherwise affecting the validity of a United States passport. A United States citizen may possess a United States passport and a North American travel card.

(j) CERTIFICATION.—Notwithstanding any other provision of law, the Secretary may not implement the plan described in section 7209(b) of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 8 U.S.C. 1185 note) until the date that is 3 months after the Secretary of State and the Secretary of Homeland Security certify to Congress that—

(1) North American travel cards have been distributed to at least 90 percent of the eligible United States citizens who applied for such cards during the 6-month period beginning not earlier than the date the Secretary of State began accepting applications for such cards and ending not earlier than 10 days prior to the date of certification;

(2) North American travel cards are provided to applicants, on average, within 4 weeks of application;

(3) officers of the Bureau of Customs and Border Protection have received training and been provided the infrastructure necessary to accept North American travel cards at all United States border crossings;

(4) the outreach plan described in subsection (d) has been implemented and deemed to have been successful according to collected data; and

(5) a successful pilot has demonstrated the effectiveness of the North American travel card program.

(k) REPORTS.—

(1) REPORTS ON THE ISSUANCE OF NORTH AMERICAN TRAVEL CARDS.—The Secretary of State shall, on a quarterly basis during the first year of issuance of North American travel cards, submit to Congress a report containing information relating to the number of North American travel cards issued during the immediately preceding quarter or year, as appropriate, and the number of United States citizens in each State applying for such cards.

(2) REPORT ON PRIVATE COLLABORATION.—Not later than 6 months after the date of the enactment of this Act, the Secretary of State and the Secretary shall report to Congress on their efforts to solicit policy suggestions and the incorporation of such suggestions into the implementation strategy from the private sector on the implementation of section 7209 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 8 U.S.C. 1185 note). The report should include the private sector's recommendations concerning how air, sea, and land travel between countries in the Western Hemisphere can be improved in a manner that establishes the proper balance between national security, economic well being, and the particular needs of border communities.

(l) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of State such sums as may be necessary to carry out this section.

SA 3582. Mr. COLEMAN submitted an amendment intended to be proposed to amendment SA 3424 proposed by Mr. FRIST to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 32, between lines 5 and 6, insert the following:

(b) MOBILE IDENTIFICATION SYSTEM.—

(1) REQUIREMENT FOR SYSTEMS.—Not later than October 1, 2007, the Secretary shall deploy wireless, hand-held biometric identification devices, interfaced with United States Government immigration databases, at all United States ports of entry and along the international land borders of the United States.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary $10,000,000 for fiscal year 2007 to carry out this subsection.

(3) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to the authorization of appropriations in paragraph (2) shall remain available until expended.

SA 3583. Mr. COLEMAN submitted an amendment intended to be proposed to amendment SA 3424 proposed by Mr. FRIST to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 9, strike lines 2 through 9, and insert the following:

(a) ACQUISITION.—Subject to the availability of appropriations, the Secretary shall—

(1) procure additional unmanned aerial vehicles, cameras, poles, sensors, and other technologies necessary to achieve operational control of the international borders of the United States and to establish a security perimeter known as a ''virtual fence'' along such international borders to provide a barrier to illegal immigration; and

(2) acquire and utilize real time, high-resolution, multi-spectral, precisely-rectified digital aerial imagery to detect physical changes and patterns in the landscape along the northern or southern international border of the United States to identify uncommon passage ways used by aliens to illegally enter the United States.

SA 3584. Mr. COLEMAN submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 34, between lines 8 and 9, insert the following:

(c) NORTHERN BORDER TRAINING FACILITY.—

(1) IN GENERAL.—The Secretary shall establish a northern border training facility at Rainy River Community College in International Falls, Minnesota, to carry out the training programs described in this subsection.

(2) USE OF TRAINING FACILITY.—The training facility established under paragraph (1) shall be used to conduct various supplemental and periodic training programs for border security personnel stationed along the northern international border between the United States and Canada.

(3) TRAINING CURRICULUM.—The Secretary shall design training curriculum to be offered at the training facility through multi-day training programs involving classroom and real-world applications, which shall include training in—

(A) a variety of disciplines relating to offensive and defensive skills for personnel and vehicle safety, including—

(i) firearms and weapons;

(ii) self defense;

(iii) search and seizure;

(iv) defensive and high speed driving;

(v) mobility training;

(vi) the use of all-terrain vehicles, watercraft, aircraft and snowmobiles; and

(vii) safety issues related to biological and chemical hazards;

(B) technology upgrades and integration; and

(C) matters relating directly to terrorist threats and issues, including—

(i) profiling;

(ii) changing tactics;

(iii) language;

(iv) culture; and

(v) communications.

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2007 through 2011 to carry out this subsection.

SA 3585. Mr. ENSIGN (for himself and Mr. CHAMBLISS) submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 333, strike line 10 and all that follows through page 360, line 6 and renumber all that follows accordingly.

Beginning on page 395, strike line 10 and all that follows through page 416, line 11 and insert the following:

(c) PERIOD OF AUTHORIZED ADMISSION.—

(1) IN GENERAL.—An alien may be granted blue card status for a period not to exceed 2 years.

(2) RETURN TO COUNTRY.—At the end of the period described in paragraph (1), the alien shall return to the country of nationality or last residence of the alien.

(3) ELIGIBILITY FOR NONIMMIGRANT VISA.—Upon return to the country of nationality or last residence of the alien under paragraph (2), the alien may apply for any nonimmigrant visa.

(d) LOSS OF EMPLOYMENT.—

(1) IN GENERAL.—The blue card status of an alien shall terminate if the alien is not employed for at least 60 consecutive days.

(2) RETURN TO COUNTRY.—An alien whose period of authorized admission terminates under paragraph (1) shall return to the country of nationality or last residence of the alien.

(e) PROHIBITION OF CHANGE OR ADJUSTMENT OF STATUS.—

(1) IN GENERAL.—An alien with blue card status shall not be eligible to change or adjust status in the United States.

(2) LOSS OF ELIGIBILITY.—An alien with blue card status shall lose the status if the alien—

(A) files a petition to adjust status to legal permanent residence in the United States; or

(B) requests a consular processing for an immigrant or nonimmigrant Visa outside the United States.

SA 3586. Mr. ENSIGN (for himself and Mr. CHAMBLISS) submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes: which was ordered to lie on the table; as follows:

Beginning on page 333, strike line 10 and all that follows through page 416, Line 11 and insert all that follows:

(c) MANDATORY DEPARTURE AND REENTRY.—

(1) IN GENERAL.—Chapter 5 of title II (8 U.S.C. 1255 et seq.), as amended by subsection (b)(1), is further amended by inserting after section 245B the following: ''

''SEC. 245C. MANDATORY DEPARTURE AND REENTRY.

''(a) IN GENERAL.—The Secretary of Homeland Security may grant Deferred Mandatory Departure status to aliens who are in the United States illegally to allow such aliens time to depart the United States and to seek admission as a nonimmigrant or immigrant alien.

''(b) REQUIREMENTS.—An alien desiring an adjustment of status under subsection (a) shall meet the following requirements:

''(1) PRESENCE.—The alien shall establish that the alien—

''(A) was physically present in the United States on January 7, 2004;

''(B) has been continuously in the United States since such date, except for brief, casual, and innocent departures; and

''(C) was not legally present in the United States on that date under any classification set forth in section 101(a)(15).

''(2) EMPLOYMENT.—

''(A) IN GENERAL.—The alien shall establish that the alien—

''(i) was employed in the United States, whether full time, part time, seasonally, or self-employed, before January 7, 2004; and

''(ii) has been continuously employed in the United States since that date, except for brief periods of unemployment lasting not longer than 60 days.

''(B) EVIDENCE OF EMPLOYMENT.—

''(i) IN GENERAL.—An alien may conclusively establish employment status in compliance with subparagraph (A) by submitting to the Secretary of Homeland Security records demonstrating such employment maintained by—

''(I) the Social Security Administration, Internal Revenue Service, or by any other Federal, State, or local government agency;

''(II) an employer; or

''(III) a labor union, day labor center, or an organization that assists workers in matters related to employment.

''(ii) OTHER DOCUMENTS.—An alien who is unable to submit a document described in subclauses (I) through (III) of clause (i) may satisfy the requirement in subparagraph (A) by submitting to the Secretary at least 2 other types of reliable documents that provide evidence of employment, including—

''(I) bank records;

''(II) business records;

''(III) sworn affidavits from nonrelatives who have direct knowledge of the alien's work; or

''(IV) remittance records.

''(iii) INTENT OF CONGRESS.—It is the intent of Congress that the requirement in this subsection be interpreted and implemented in a manner that recognizes and takes into account the difficulties encountered by aliens in obtaining evidence of employment due to the undocumented status of the alien.

''(iv) BURDEN OF PROOF.—An alien who is applying for adjustment of status under this section has the burden of proving by a preponderance of the evidence that the alien has satisfied the requirements of this subsection. An alien may meet such burden of proof by producing sufficient evidence to demonstrate such employment as a matter of reasonable inference.

''(3) ADMISSIBILITY.—

''(A) IN GENERAL.—The alien shall establish that such alien—

''(i) is admissible to the United States, except as provided as in (B); and

''(ii) has not assisted in the persecution of any person or persons on account of race, religion, nationality, membership in a particular social group, or political opinion.

''(B) GROUNDS NOT APPLICABLE.—The provisions of paragraphs (5), (6)(A), and (7) of section 212(a) shall not apply.

''(C) WAIVER.—The Secretary of Homeland Security may waive any other provision of section 212(a), or a ground of ineligibility under paragraph (4), in the case of individual aliens for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest.

''(4) INELIGIBLE.—The alien is ineligible for Deferred Mandatory Departure status if the alien—

''(A) has been ordered excluded, deported, removed, or to depart voluntarily from the United States; or

''(B) fails to comply with any request for information by the Secretary of Homeland Security.

''(5) MEDICAL EXAMINATION.—The alien may be required, at the alien's expense, to undergo such a medical examination (including a determination of immunization status) as is appropriate and conforms to generally accepted professional standards of medical practice.

''(6) TERMINATION.—The Secretary of Homeland Security may terminate an alien's Deferred Mandatory Departure status if—

''(A) the Secretary of Homeland Security determines that the alien was not in fact eligible for such status; or

''(B) the alien commits an act that makes the alien removable from the United States.

''(7) APPLICATION CONTENT AND WAIVER.—

''(A) APPLICATION FORM.—The Secretary of Homeland Security shall create an application form that an alien shall be required to complete as a condition of obtaining Deferred Mandatory Departure status.

''(B) CONTENT.—In addition to any other information that the Secretary requires to determine an alien's eligibility for Deferred Mandatory Departure, the Secretary shall require an alien to answer questions concerning the alien's physical and mental health, criminal history, gang membership, renunciation of gang affiliation, immigration history, involvement with groups or individuals that have engaged in terrorism, genocide, persecution, or who seek the overthrow of the United States Government, voter registration history, claims to United States citizenship, and tax history.

''(C) WAIVER.—The Secretary of Homeland Security shall require an alien to include with the application a waiver of rights that explains to the alien that, in exchange for the discretionary benefit of obtaining Deferred Mandatory Departure status, the alien agrees to waive any right to administrative or judicial review or appeal of an immigration officer's determination as to the alien's eligibility, or to contest any removal action, other than on the basis of an application for asylum or restriction of removal pursuant to the provisions contained in section 208 or 241(b)(3), or under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York December 10, 1984, or cancellation of removal pursuant to section 240A(a).

''(D) KNOWLEDGE.—The Secretary of Homeland Security shall require an alien to include with the application a signed certification in which the alien certifies that the alien has read and understood all of the questions and statements on the application form, and that the alien certifies under penalty of perjury under the laws of the United States that the application, and any evidence submitted with it, are all true and correct, and that the applicant authorizes the release of any information contained in the application and any attached evidence for law enforcement purposes.

''(c) IMPLEMENTATION AND APPLICATION TIME PERIODS.—

''(1) IN GENERAL.—The Secretary of Homeland Security shall ensure that the application process is secure and incorporates antifraud protection. The Secretary of Homeland Security shall interview an alien to determine eligibility for Deferred Mandatory Departure status and shall utilize biometric authentication at time of document issuance.

''(2) INITIAL RECEIPT OF APPLICATIONS.—The Secretary of Homeland Security shall begin accepting applications for Deferred Mandatory Departure status not later than 3 months after the date on which the application form is first made available.

''(3) APPLICATION.—An alien must submit an initial application for Deferred Mandatory Departure status not later than 6 months after the date on which the application form is first made available. An alien that fails to comply with this requirement is ineligible for Deferred Mandatory Departure status.

''(4) COMPLETION OF PROCESSING.—The Secretary of Homeland Security shall ensure that all applications for Deferred Mandatory Departure status are processed not later than 12 months after the date on which the application form is first made available.

''(d) SECURITY AND LAW ENFORCEMENT BACKGROUND CHECKS.—An alien may not be granted Deferred Mandatory Departure status unless the alien submits biometric data in accordance with procedures established by the Secretary of Homeland Security. The Secretary of Homeland Security may not grant Deferred Mandatory Departure status until all appropriate background checks are completed to the satisfaction of the Secretary of Homeland Security.

''(e) ACKNOWLEDGMENT.—

''(1) IN GENERAL.—An alien who applies for Deferred Mandatory Departure status shall submit to the Secretary of Homeland Security—

''(A) an acknowledgment made in writing and under oath that the alien—

''(i) is unlawfully present in the United States and subject to removal or deportation, as appropriate, under this Act; and

''(ii) understands the terms of the terms of Deferred Mandatory Departure;

''(B) any Social Security account number or card in the possession of the alien or relied upon by the alien;

''(C) any false or fraudulent documents in the alien's possession.

''(2) USE OF INFORMATION.—None of the documents or other information provided in accordance with paragraph (1) may be used in a criminal proceeding against the alien providing such documents or information.

''(f) MANDATORY DEPARTURE.—

''(1) IN GENERAL.—The Secretary of Homeland Security shall grant Deferred Mandatory Departure status to an alien who meets the requirements of this section for a period not to exceed 3 years.

''(2) REGISTRATION AT TIME OF DEPARTURE.—An alien granted Deferred Mandatory Departure shall—

''(A) depart from the United States before the expiration of the period of Deferred Mandatory Departure status;

''(B) register with the Secretary of Homeland Security at the time of departure; and

''(C) surrender any evidence of Deferred Mandatory Departure status at the time of departure.

''(3) APPLICATION FOR READMISSION.—

''(A) IN GENERAL.—An alien under this section may apply for admission to the United States as an immigrant or nonimmigrant while in the United States or from any location outside of the United States, but may not be granted admission until the alien has

departed from the United States in accordance with paragraph (2).

''(B) APPROVAL.—The Secretary may approve an application under subparagraph (A) during the period in which the alien is present in the United States under Deferred Mandatory Departure status.

''(C) US–VISIT.—An alien in Deferred Mandatory Departure status who is seeking admission as a nonimmigrant or immigrant alien may exit the United States and immediately reenter the United States at any land port of entry at which the US–VISIT exit and entry system can process such alien for admission into the United States.

''(D) INTERVIEW REQUIREMENTS.—Notwithstanding any other provision of law, any admission requirement involving in-person interviews at a consulate of the United States shall be waived for aliens granted Deferred Mandatory Departure status under this section.

''(E) WAIVER OF NUMERICAL LIMITATIONS.—The numerical limitations under section 214 shall not apply to any alien who is admitted as a nonimmigrant under this paragraph.

''(4) EFFECT OF READMISSION ON SPOUSE OR CHILD.—The spouse or child of an alien granted Deferred Mandatory Departure and subsequently granted an immigrant or nonimmigrant visa before departing the United States shall be—

''(A) deemed to have departed under this section upon the successful admission of the principal alien; and

''(B) eligible for the derivative benefits associated with the immigrant or nonimmigrant visa granted to the principal alien without regard to numerical caps related to such visas.

''(5) WAIVERS.—The Secretary of Homeland Security may waive the departure requirement under this subsection if the alien—

''(A) is granted an immigrant or nonimmigrant visa; and

''(B) can demonstrate that the departure of the alien would create a substantial hardship on the alien or an immediate family member of the alien.

''(6) RETURN IN LEGAL STATUS.—An alien who complies with the terms of Deferred Mandatory Departure status and who departs before the expiration of such status—

''(A) shall not be subject to section 212(a)(9)(B); and

''(B) if otherwise eligible, may immediately seek admission as a nonimmigrant or immigrant.

''(7) FAILURE TO DEPART.—An alien who fails to depart the United States prior to the expiration of Mandatory Deferred Departure status is not eligible and may not apply for or receive any immigration relief or benefit under this Act or any other law for a period of 10 years, with the exception of section 208 or 241(b)(3) or the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York December 10, 1984, in the case of an alien who indicates either an intention to apply for asylum under section 208 or a fear of persecution or torture.

''(8) PENALTIES FOR DELAYED DEPARTURE.—An alien who fails to depart immediately shall be subject to—

''(A) no fine if the alien departs not later than 1 year after the grant of Deferred Mandatory Departure;

''(B) a fine of $2,000 if the alien does not depart within 2 years after the grant of Deferred Mandatory Departure; and

''(C) a fine of $3,000 if the alien does not depart within 3 years after the grant of Deferred Mandatory Departure.

''(g) EVIDENCE OF DEFERRED MANDATORY DEPARTURE STATUS.—Evidence of Deferred Mandatory Departure status shall be machine-readable and tamper-resistant, shall allow for biometric authentication, and shall comply with the requirements under section 403 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note). The Secretary of Homeland Security is authorized to incorporate integrated-circuit technology into the document. The Secretary of Homeland Security shall consult with the Forensic Document Laboratory in designing the document. The document may serve as a travel, entry, and work authorization document during the period of its validity. The document may be accepted by an employer as evidence of employment authorization and identity under section 274A(b)(1)(B).

''(h) TERMS OF STATUS.—

''(1) REPORTING.—During the period of Deferred Mandatory Departure, an alien shall comply with all registration requirements under section 264.

''(2) TRAVEL.—

''(A) An alien granted Deferred Mandatory Departure is not subject to section 212(a)(9) for any unlawful presence that occurred prior to the Secretary of Homeland Security granting the alien Deferred Mandatory Departure status.

''(B) Under regulations established by the Secretary of Homeland Security, an alien granted Deferred Mandatory Departure—

''(i) may travel outside of the United States and may be readmitted if the period of Deferred Mandatory Departure status has not expired; and

''(ii) must establish at the time of application for admission that the alien is admissible under section 212.

''(C) EFFECT ON PERIOD OF AUTHORIZED ADMISSION.—Time spent outside the United States under subparagraph (B) shall not extend the period of Deferred Mandatory Departure status.

''(3) BENEFITS.—During the period in which an alien is granted Deferred Mandatory Departure under this section—

''(A) the alien shall not be considered to be permanently residing in the United States under the color of law and shall be treated as a nonimmigrant admitted under section 214; and

''(B) the alien may be deemed ineligible for public assistance by a State (as defined in section 101(a)(36)) or any political subdivision thereof which furnishes such assistance.

''(i) PROHIBITION ON CHANGE OF STATUS OR ADJUSTMENT OF STATUS.—

''(1) IN GENERAL.—Before leaving the United States, an alien granted Deferred Mandatory Departure status may not apply to change status under section 248.

''(2) ADJUSTMENT OF STATUS.—An alien may not adjust to an immigrant classification under this section until after the earlier of—

''(A) the consideration of all applications filed under section 201, 202, or 203 before the date of enactment of this section; or

''(B) 8 years after the date of enactment of this section.

''(j) APPLICATION FEE.—

''(1) IN GENERAL.—An alien seeking a grant of Deferred Mandatory Departure status shall submit, in addition to any other fees authorized by law, an application fee of $1,000.

''(2) USE OF FEE.—The fees collected under paragraph (1) shall be available for use by the Secretary of Homeland Security for activities to identify, locate, or remove illegal aliens.

''(k) FAMILY MEMBERS.—

''(1) IN GENERAL.—Subject subsection (f)(4), the spouse or child of an alien granted Deferred Mandatory Departure status is subject to the same terms and conditions as the principal alien.

''(2) APPLICATION FEE.—

''(A) IN GENERAL.—The spouse or child of an alien seeking Deferred Mandatory Departure status shall submit, in addition to any other fee authorized by law, an additional fee of $500.

''(B) USE OF FEE.—The fees collected under subparagraph (A) shall be available for use by the Secretary of Homeland Security for activities to identify, locate, or remove aliens who are removable under section 237.

''(l) EMPLOYMENT.—

''(1) IN GENERAL.—An alien who has applied for or has been granted Deferred Mandatory Departure status may be employed in the United States.

''(2) CONTINUOUS EMPLOYMENT.—An alien granted Deferred Mandatory Departure status must be employed while in the United States. An alien who fails to be employed for 60 days is ineligible for hire until the alien has departed the United States and reentered. The Secretary of Homeland Security may reauthorize an alien for employment without requiring the alien's departure from the United States.

''(m) ENUMERATION OF SOCIAL SECURITY NUMBER.—The Secretary of Homeland Security, in coordination with the Commissioner of the Social Security system, shall implement a system to allow for the enumeration of a Social Security number and production of a Social Security card at the time the Secretary of Homeland Security grants an alien Deferred Mandatory Departure status.

''(n) PENALTIES FOR FALSE STATEMENTS IN APPLICATION FOR DEFERRED MANDATORY DEPARTURE.—

''(1) CRIMINAL PENALTY.—

''(A) VIOLATION.—It shall be unlawful for any person—

''(i) to file or assist in filing an application for adjustment of status under this section and knowingly and willfully falsify, misrepresent, conceal, or cover up a material fact or make any false, fictitious, or fraudulent statements or representations, or make or use any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry; or

''(ii) to create or supply a false writing or document for use in making such an application.

''(B) PENALTY.—Any person who violates subparagraph (A) shall be fined in accordance with title 18, United States Code, imprisoned not more than 5 years, or both.

''(2) INADMISSIBILITY.—An alien who is convicted of a crime under paragraph (1) shall be considered to be inadmissible to the United States on the ground described in section 212(a)(6)(C)(i).

''(o) RELATION TO CANCELLATION OF REMOVAL.—With respect to an alien granted Deferred Mandatory Departure status under this section, the period of such status shall not be counted as a period of physical presence in the United States for purposes of section 240A(a), unless the Secretary of Homeland Security determines that extreme hardship exists.

''(p) WAIVER OF RIGHTS.—An alien is not eligible for Deferred Mandatory Departure status, unless the alien has waived any right to contest, other than on the basis of an application for asylum, restriction of removal, or protection under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York December 10, 1984, or cancellation of removal pursuant to section 240A(a), any action for deportation or removal of the alien that is instituted against the alien subsequent to a grant of Deferred Mandatory Departure status.

''(q) DENIAL OF DISCRETIONARY RELIEF.—The determination of whether an alien is eligible for a grant of Deferred Mandatory Departure status is solely within the discretion

of the Secretary of Homeland Security. Notwithstanding any other provision of law, no court shall have jurisdiction to review—

''(1) any judgment regarding the granting of relief under this section; or

''(2) any other decision or action of the Secretary of Homeland Security the authority for which is specified under this section to be in the discretion of the Secretary, other than the granting of relief under section 208(a).

''(r) JUDICIAL REVIEW.—

''(1) LIMITATIONS ON RELIEF.—Without regard to the nature of the action or claim and without regard to the identity of the party or parties bringing the action, no court may—

''(A) enter declaratory, injunctive, or other equitable relief in any action pertaining to—

''(i) an order or notice denying an alien a grant of Deferred Mandatory Departure status or any other benefit arising from such status; or

''(ii) an order of removal, exclusion, or deportation entered against an alien after a grant of Deferred Mandatory Departure status; or

''(B) certify a class under Rule 23 of the Federal Rules of Civil Procedure in any action for which judicial review is authorized under a subsequent paragraph of this subsection.

''(2) CHALLENGES TO VALIDITY.—

''(A) IN GENERAL.—Any right or benefit not otherwise waived or limited pursuant this section is available in an action instituted in the United States District Court for the District of Columbia, but shall be limited to determinations of—

''(i) whether such section, or any regulation issued to implement such section, violates the Constitution of the United States; or

''(ii) whether such a regulation, or a written policy directive, written policy guideline, or written procedure issued by or under the authority of the Secretary of Homeland Security to implement such section, is not consistent with applicable provisions of this section or is otherwise in violation of law.''.

(2) TABLE OF CONTENTS.—The table of contents (8 U.S.C. 1101 et seq.), as amended by this subsection (b)(2), is further amended by inserting after the item relating to section 245B the following:

''245C. Mandatory Departure and Reentry.''.

(3) CONFORMING AMENDMENT.—Section 237(a)(2)(A)(i)(II) (8 U.S.C. 1227(a)(2)(A)(i)(II)) is amended by inserting ''(or 6 months in the case of an alien granted Deferred Mandatory Departure status under section 245C)'' after ''imposed''.

(4) STATUTORY CONSTRUCTION.—Nothing in this subsection, or any amendment made by this subsection, shall be construed to create any substantive or procedural right or benefit that is legally enforceable by any party against the United States or its agencies or officers or any other person.

(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such amounts as may be necessary for facilities, personnel (including consular officers), training, technology, and processing necessary to carry out the amendments made by this subsection.

(d) CORRECTION OF SOCIAL SECURITY RECORDS.—Section 208(e)(1) of the Social Security Act (42 U.S.C. 408(e)(1)) is amended—

(1) in subparagraph (B)(ii), by striking ''or'' at the end;

(2) in subparagraph (C), by inserting ''or'' at the end;

(3) by inserting after subparagraph (C) the following:

''(D) whose status is adjusted to that of lawful permanent resident under section 245B of the Immigration and Nationality Act,''; and

(4) by striking ''1990.'' and inserting ''1990, or in the case of an alien described in subparagraph (D), if such conduct is alleged to have occurred prior to the date on which the alien became lawfully admitted for temporary residence.''.

Subtitle B—Agricultural Job Opportunities, Benefits, and Security

SEC. 611. SHORT TITLE.

This subtitle may be cited as the ''Agricultural Job Opportunities, Benefits, and Security Act of 2006'' or the ''AgJOBS Act of 2006''.

SEC. 612. DEFINITIONS.

In this subtitle:

(1) AGRICULTURAL EMPLOYMENT.—The term ''agricultural employment'' means any service or activity that is considered to be agricultural under section 3(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f)) or agricultural labor under section 3121(g) of the Internal Revenue Code of 1986 (26 U.S.C. 3121(g)). For purposes of this paragraph, agricultural employment includes employment under section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a)).

(2) BLUE CARD STATUS.—The term ''blue card status'' means the status of an alien who has been lawfully admitted into the United States for temporary residence under section 613(a).

(3) EMPLOYER.—The term ''employer'' means any person or entity, including any farm labor contractor and any agricultural association, that employs workers in agricultural employment.

(4) JOB OPPORTUNITY.—The term ''job opportunity'' means a job opening for temporary full-time employment at a place in the United States to which United States workers can be referred.

(5) TEMPORARY.—A worker is employed on a ''temporary'' basis where the employment is intended not to exceed 10 months.

(6) UNITED STATES WORKER.—The term ''United States worker'' means any worker, whether a United States citizen or national, a lawfully admitted permanent resident alien, or any other alien, who is authorized to work in the job opportunity within the United States, except an alien admitted or otherwise provided status under section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a)).

(7) WORK DAY.—The term ''work day'' means any day in which the individual is employed 1 or more hours in agriculture consistent with the definition of ''man-day'' under section 3(u) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(u)).

CHAPTER 1—PILOT PROGRAM FOR EARNED STATUS ADJUSTMENT OF AGRICULTURAL WORKERS

SEC. 613. AGRICULTURAL WORKERS.

(a) BLUE CARD PROGRAM.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary shall confer blue card status upon an alien who qualifies under this subsection if the Secretary determines that the alien—

(A) has performed agricultural employment in the United States for at least 863 hours or 150 work days, whichever is less, during the 24-month period ending on December 31, 2005;

(B) applied for such status during the 18-month application period beginning on the first day of the seventh month that begins after the date of enactment of this Act; and

(C) is otherwise admissible to the United States under section 212 of the Immigration and Nationality Act (8 U.S.C. 1182), except as otherwise provided under subsection (e)(2).

(2) AUTHORIZED TRAVEL.—An alien in blue card status has the right to travel abroad (including commutation from a residence abroad) in the same manner as an alien lawfully admitted for permanent residence.

(3) AUTHORIZED EMPLOYMENT.—An alien in blue card status shall be provided an ''employment authorized'' endorsement or other appropriate work permit, in the same manner as an alien lawfully admitted for permanent residence.

(4) TERMINATION OF BLUE CARD STATUS.—

(A) IN GENERAL.—The Secretary may terminate blue card status granted under this subsection only upon a determination under this subtitle that the alien is deportable.

(B) GROUNDS FOR TERMINATION OF BLUE CARD STATUS.—Before any alien becomes eligible for adjustment of status under subsection (c), the Secretary may deny adjustment to permanent resident status and provide for termination of the blue card status granted such alien under paragraph (1) if—

(i) the Secretary finds, by a preponderance of the evidence, that the adjustment to blue card status was the result of fraud or willful misrepresentation (as described in section 212(a)(6)(C)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(6)(C)(i)); or

(ii) the alien—

(I) commits an act that makes the alien inadmissible to the United States as an immigrant, except as provided under subsection (e)(2);

(II) is convicted of a felony or 3 or more misdemeanors committed in the United States; or

(III) is convicted of an offense, an element of which involves bodily injury, threat of serious bodily injury, or harm to property in excess of $500.

(5) RECORD OF EMPLOYMENT.—

(A) IN GENERAL.—Each employer of a worker granted status under this subsection shall annually—

(i) provide a written record of employment to the alien; and

(ii) provide a copy of such record to the Secretary.

(B) SUNSET.—The obligation under subparagraph (A) shall terminate on the date that is 6 years after the date of the enactment of this Act.

(6) REQUIRED FEATURES OF BLUE CARD.—The Secretary shall provide each alien granted blue card status and the spouse and children of each such alien residing in the United States with a card that contains—

(A) an encrypted, machine-readable, electronic identification strip that is unique to the alien to whom the card is issued;

(B) biometric identifiers, including fingerprints and a digital photograph; and

(C) physical security features designed to prevent tampering, counterfeiting, or duplication of the card for fraudulent purposes.

(7) FINE.—An alien granted blue card status shall pay a fine to the Secretary in an amount equal to $100.

(8) MAXIMUM NUMBER.—The Secretary may issue not more than 1,500,000 blue cards during the 5-year period beginning on the date of the enactment of this Act.

(b) RIGHTS OF ALIENS GRANTED BLUE CARD STATUS.—

(1) IN GENERAL.—Except as otherwise provided under this subsection, an alien in blue card status shall be considered to be an alien lawfully admitted for permanent residence for purposes of any law other than any provision of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

(2) DELAYED ELIGIBILITY FOR CERTAIN FEDERAL PUBLIC BENEFITS.—An alien in blue card status shall not be eligible, by reason of such status, for any form of assistance or benefit described in section 403(a) of the Personal

Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1613(a)) until 5 years after the date on which the Secretary confers blue card status upon that alien.

(3) TERMS OF EMPLOYMENT RESPECTING ALIENS ADMITTED UNDER THIS SECTION.—

(A) PROHIBITION.—No alien granted blue card status may be terminated from employment by any employer during the period of blue card status except for just cause.

(B) TREATMENT OF COMPLAINTS.—

(i) ESTABLISHMENT OF PROCESS.—The Secretary shall establish a process for the receipt, initial review, and disposition of complaints by aliens granted blue card status who allege that they have been terminated without just cause. No proceeding shall be conducted under this subparagraph with respect to a termination unless the Secretary determines that the complaint was filed not later than 6 months after the date of the termination.

(ii) INITIATION OF ARBITRATION.—If the Secretary finds that a complaint has been filed in accordance with clause (i) and there is reasonable cause to believe that the complainant was terminated without just cause, the Secretary shall initiate binding arbitration proceedings by requesting the Federal Mediation and Conciliation Service to appoint a mutually agreeable arbitrator from the roster of arbitrators maintained by such Service for the geographical area in which the employer is located. The procedures and rules of such Service shall be applicable to the selection of such arbitrator and to such arbitration proceedings. The Secretary shall pay the fee and expenses of the arbitrator, subject to the availability of appropriations for such purpose.

(iii) ARBITRATION PROCEEDINGS.—The arbitrator shall conduct the proceeding in accordance with the policies and procedures promulgated by the American Arbitration Association applicable to private arbitration of employment disputes. The arbitrator shall make findings respecting whether the termination was for just cause. The arbitrator may not find that the termination was for just cause unless the employer so demonstrates by a preponderance of the evidence. If the arbitrator finds that the termination was not for just cause, the arbitrator shall make a specific finding of the number of days or hours of work lost by the employee as a result of the termination. The arbitrator shall have no authority to order any other remedy, including, but not limited to, reinstatement, back pay, or front pay to the affected employee. Within 30 days from the conclusion of the arbitration proceeding, the arbitrator shall transmit the findings in the form of a written opinion to the parties to the arbitration and the Secretary. Such findings shall be final and conclusive, and no official or court of the United States shall have the power or jurisdiction to review any such findings.

(iv) EFFECT OF ARBITRATION FINDINGS.—If the Secretary receives a finding of an arbitrator that an employer has terminated an alien granted blue card status without just cause, the Secretary shall credit the alien for the number of days or hours of work lost for purposes of the requirement of subsection (c)(1).

(v) TREATMENT OF ATTORNEY'S FEES.—The parties shall bear the cost of their own attorney's fees involved in the litigation of the complaint.

(vi) NONEXCLUSIVE REMEDY.—The complaint process provided for in this subparagraph is in addition to any other rights an employee may have in accordance with applicable law.

(vii) EFFECT ON OTHER ACTIONS OR PROCEEDINGS.—Any finding of fact or law, judgment, conclusion, or final order made by an arbitrator in the proceeding before the Secretary shall not be conclusive or binding in any separate or subsequent action or proceeding between the employee and the employee's current or prior employer brought before an arbitrator, administrative agency, court, or judge of any State or the United States, regardless of whether the prior action was between the same or related parties or involved the same facts, except that the arbitrator's specific finding of the number of days or hours of work lost by the employee as a result of the employment termination may be referred to the Secretary pursuant to clause (iv).

(C) CIVIL PENALTIES.—

(i) IN GENERAL.—If the Secretary finds, after notice and opportunity for a hearing, that an employer of an alien granted blue card status has failed to provide the record of employment required under subsection (a)(5) or has provided a false statement of material fact in such a record, the employer shall be subject to a civil money penalty in an amount not to exceed $1,000 per violation.

(ii) LIMITATION.—The penalty applicable under clause (i) for failure to provide records shall not apply unless the alien has provided the employer with evidence of employment authorization granted under this section.

(c) PERIOD OF AUTHORIZED ADMISSION.—

(1) IN GENERAL.—An alien may be granted blue card status for a period not to exceed 2 years.

(2) RETURN TO COUNTRY.—At the end of the period described in paragraph (1), the alien shall return to the country of nationality or last residence of the alien.

(3) ELIGIBILITY FOR NONIMMIGRANT VISA.—Upon return to the country of nationality or last residence of the alien under paragraph (2), the alien may apply for any nonimmigrant visa.

(d) LOSS OF EMPLOYMENT.—

(1) IN GENERAL.—The blue card status of an alien shall terminate if the alien is not employed for at least 60 consecutive days.

(2) RETURN TO COUNTRY.—An alien whose period of authorized admission terminates under paragraph (1) shall return to the country of nationality or last residence of the alien.

(e) PROHIBITION OF CHANGE OR ADJUSTMENT OF STATUS.—

(1) IN GENERAL.—An alien with blue card status shall not be eligible to change or adjust status in the United States.

(2) LOSS OF ELIGIBILITY.—An alien with blue card status shall lose the status if the alien—

(A) files a petition to adjust status to legal permanent residence in the United States; or

(B) requests a consular processisng for an immigrant or nonimmigrant Visa outside the United States.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FINANCE

Mr. CRAIG. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session on Thursday, April 6, 2006, at 10:30 a.m., in 215 Dirksen Senate Office Building, to hear testimony on ''Health Care Coverage for Small Business: Challenges and Opportunities.''

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

COMMITTEE ON FINANCE

Mr. CRAIG. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session on Thursday, April 6, 2006, at 2:30 p.m., in 215 Dirksen Senate Office Building, to hear testimony on ''Saving for the 21st Century: Is America Saving Enough to be Competitive in the Global Marketplace?''.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. CRAIG. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, April 6, 2006, at 2 p.m. to hold a hearing on Nominations.

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

COMMITTEE ON THE JUDICIARY

Mr. CRAIG. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a markup on Thursday, April 6, 2006, at 10 a.m. in the Dirksen Senate Office Building Room 226.

I. Nominations

Norman Randy Smith, to be U.S. Circuit Judge for the Ninth Circuit; Steven G. Bradbury, to be an Assistant Attorney General for the Office of Legal Counsel; Timothy Anthony Junker, to be United States Marshal for the Northern District of Iowa.

II. Bills

S. 489, Federal Consent Decree Fairness Act, Alexander, Kyl, Cornyn, Graham, Hatcher;

S. 2039, Prosecutors and Defenders Incentive Act of 2005, Durbin, Specter, DeWine, Leahy, Kennedy, Feinstein, Feingold, Schumer;

S. 2292, A bill to provide relief for the Federal judiciary from excessive rent charges, Specter, Leahy, Cornyn, Feinstein, Biden;

S. 2453, National Security Surveillance Act of 2006, Specter;

S. 2455, Terrorist Surveillance Act of 2006, DeWine, Graham;

S. 2468, A bill to provide standing for civil actions for declaratory and injunctive relief to persons who refrain from electronic communications through fear of being subject to warrantless electronic surveillance for foreign intelligence purposes, and for other purposes, Schumer.

III. Matters

S.J. Res. 1, Marriage Protection Amendment, Allard, Sessions, Kyl, Hatch, Cornyn, Coburn, Brownback;

S. Res. 398, A resolution relating to the censure of George W. Bush, Feingold.

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

COMMITTEE ON THE JUDICIARY

Mr. CRAIG. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on ''Orphan Works: Proposals for a Legislative Solution'' on Thursday, April 6, 2006, at 2 p.m. in Room 226 of the Dirksen Senate Office Building.

Panel I: Jule L. Sigall, Associate Register for Policy & International Affairs, U.S. Copyright Office, Washington, DC; Victor S. Perlman, Managing Director and General Counsel, American Society of Media Photographers, Inc., Philadelphia, PA; June Cross, Documentary Filmmaker, Visiting Professor, Columbia University, New York, NY; Brad Holland, Founding Board Member, Illustrators' Partnership of America, Marshfield, MA; Maria Pallante-Hyun, Associate General Counsel and Director of Licensing, The Solomon R. Guggenheim Foundation (Guggenheim Museum), New York, NY; Thomas C. Rubin, Associate General Counsel, Microsoft Corporation, Redmond, VA; Rick Prelinger, Board President, Internet Archive, San Francisco, CA.

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

COMMITTEE ON VETERANS' AFFAIRS

Mr. CRAIG. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to meet during the session of the Senate on Thursday, April 6, 2006, for a committee hearing to examine the VA's 5-year capital construction plan. The hearing will take place in room 418 of the Russell Senate Office Building at 2 p.m.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. CRAIG. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on April 6, 2006, at 2:30 p.m. to hold a closed briefing.

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

SPECIAL COMMITTEE ON AGING

Mr. CRAIG. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet tomorrow, April 6, 2006, from 10 a.m.–12 p.m. in Dirksen 106 for the purpose of conducting a hearing.

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

SUBCOMMITTEE ON FEDERAL FINANCIAL MANAGEMENT, GOVERNMENT INFORMATION, AND INTERNATIONAL SECURITY

Mr. CRAIG. Mr. President, I ask unanimous consent that the Subcommittee on Federal Financial Management, Government Information, and International Security be authorized to meet on Thursday, April 6, 2006, at 2:30 p.m. for a hearing regarding ''The Effectiveness of the Small Business Administration.''

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

SUBCOMMITTEE ON NATIONAL PARKS

Mr. CRAIG. Mr. President, I ask unanimous consent that the Subcommittee on National Parks be authorized to meet during the session of the Senate on Thursday, April 6 at 2:30 p.m.

The purpose of the hearing is to recent testimony on the following bills: S. 1510, a bill to designate as wilderness certain lands within the Rocky Mountain National Park in the State of Colorado; S. 1719 and H.R. 1492, bills to provide for the preservation of the historic confinement sites where Japanese Americans were detained during World War II, and for other purposes; S. 1957, a bill to authorize the Secretary of Interior to convey to the Missouri River Basin Lewis and Clark Interpretive Trail and Visitor Center Foundation, Inc. certain Federal land associated with the Lewis and Clark National Historic Trail in Nebraska, to be used as an historical interpretive site along the trail; S. 2024 and H.R. 394, bills to direct the Secretary of the Interior to conduct a study to evaluate the significance of the Colonel James Barrett Farm in the Commonwealth of Massachusetts and assess the suitability and feasibility of including the farm in the National Park System as part of the Minute Man National Historic Park, and for other purposes; S. 2252, a bill to designate the National Museum of Wildlife Art, located at 2820 Rungius Road, Jackson, WY, as the National Museum of Wildlife Art of the United States; and S. 2403, a bill to authorize the Secretary of the Interior to include in the boundaries of the Grand Teton National Park land and interests in land of the Grand Teton Park subdivision, and for other purposes.

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

SUBCOMMITTEE ON SEAPOWER

Mr. CRAIG. Mr. President, I ask unanimous consent that the Subcommittee on Seapower be authorized to meet during the session of the Senate on April 6, 2006, at 2:30 p.m., in open session to receive testimony on Navy shipbuilding in review of the defense authorization request for fiscal year 2007.

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

SUBCOMMITTEE ON STRATEGIC FORCES

Mr. CRAIG. Mr. President, I ask unanimous consent that the Subcommittee on Strategic Forces be authorized to meet during the session of the Senate on April 6, 2006, at 3:30 p.m., in open session to receive testimony on military space programs in review of the defense authorization request for fiscal year 2007.

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

NATIONAL OCEAN POLICY STUDY

Mr. CRAIG. Mr. President, I ask unanimous consent that the National Ocean Policy Study be authorized to meet on Thursday, April 6, 2006, at 10 a.m., on Offshore Aquaculture.

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

EXECUTIVE SESSION

NOMINATION OF BENJAMIN A. POWELL TO BE GENERAL COUNSEL OF THE OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE

NOMINATION OF GORDON ENGLAND TO BE DEPUTY SECRETARY OF DEFENSE

Mr. FRIST. Mr. President, in executive session, I ask unanimous consent that the cloture motions with respect to executive calendar Nos. 239 and 310 be vitiated; provided further that the Senate immediately proceed to their consideration en bloc.

I further ask unanimous consent that the nominations be confirmed en bloc, the motions to reconsider be laid upon the table, the President be immediately notified of the Senate's action, and the Senate return to legislative session.

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

The nominations considered and confirmed en bloc are as follows:

EXECUTIVE OFFICE OF THE PRESIDENT

Benjamin A. Powell, of Florida, to be General Counsel of the Office of the Director of National Intelligence.

Gordon England, of Texas, to be Deputy Secretary of Defense.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to legislative session.

HONORING THE ENTREPRENEURIAL SPIRIT OF AMERICAN SMALL BUSINESSES

Mr. CRAIG. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of S. Res. 435, which was submitted earlier today.

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

The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 435) honoring the entrepreneurial spirit of American small businesses during National Small Business Week, beginning April 9, 2006.

There being no objection, the Senate proceeded to consider the resolution.

Mr. CRAIG. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

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

The resolution (S. Res. 435) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 435

Whereas America's 25,000,000 small businesses have been the driving force behind the

Nation's economy, creating more than 75 percent of all new jobs and generating more than 50 percent of the Nation's gross domestic product;

Whereas small businesses are the Nation's innovators, advancing technology and productivity;

Whereas the Small Business Administration has been a critical partner in the success of the Nation's small businesses and in the growth of the Nation's economy;

Whereas the programs and services of the Small Business Administration have time and again proven their value, having helped to create or retain over 5,300,000 jobs in the United States since 1999;

Whereas the mission of the Small Business Administration is to maintain and strengthen the Nation's economy by aiding, counseling, assisting, and protecting the interests of small businesses and by helping families and businesses recover from natural disasters;

Whereas the Small Business Administration has helped small businesses access critical lending opportunities, protected small businesses from excessive Federal regulatory enforcement, played a key role in ensuring full and open competition for Government contracts, and improved the economic environment in which small businesses compete;

Whereas, for more than 50 years, the Small Business Administration has helped more than 23,000,000 Americans start, grow, and expand their businesses and has placed almost $280,000,000,000 in loans and venture capital financing in the hands of entrepreneurs;

Whereas the Small Business Administration, established in 1953, has provided valuable service to small businesses through financial assistance, procurement assistance, business development, small business advocacy, and disaster recovery assistance;

Whereas the Small Business Administration has helped millions of entrepreneurs achieve the American dream of owning a small business, and has played a key role in fostering economic growth in underserved communities; and

Whereas the Small Business Administration will mark National Small Business Week, beginning April 9, 2006: Now, therefore, be it

Resolved, That the Senate—

(1) honors the entrepreneurial spirit of America's small businesses during the Small Business Administration's National Small Business Week, beginning April 9, 2006;

(2) supports the purpose and goals of National Small Business Week, and the ceremonies and events to be featured during the week;

(3) commends the Small Business Administration and the resource partners of the Small Business Administration for their work, which has been critical in helping the Nation's small businesses grow and develop; and

(4) applauds the achievements of small business owners and their employees, whose entrepreneurial spirit and commitment to excellence has been a key player in the Nation's economic vitality.

LOCAL COMMUNITY RECOVERY ACT OF 2006

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 4979 received from the House.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 4979) to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act, to clarify the preference for local firms in the award of certain contracts for disaster relief activities.

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. Mr. President, I ask unanimous consent that the bill be read the third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

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

The bill (H.R. 4979) was read the third time and passed.

150TH ANNIVERSARY OF THE MINNESOTA NATIONAL GUARD

Mr. FRIST. Mr. President, I ask unanimous consent that the Armed Services Committee be discharged from further consideration of S. Con. Res. 85 and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the concurrent resolution.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 85) honoring and congratulating the Minnesota National Guard, on its 150th anniversary, for its spirit of dedication and service to the State of Minnesota and the Nation and recognizing that the role of the National Guard, the Nation's citizen-soldier based militia, which was formed before the United States Army, has been and still is extremely important to the security and freedom of the Nation.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. FRIST. Mr. President, I ask unanimous consent that the concurrent resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the concurrent resolution be printed in the RECORD.

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

The concurrent resolution (S. Con. Res. 85) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, reads as follows:

S. CON. RES. 85

Whereas the Minnesota National Guard traces its origins to the formation of the Pioneer Guard in the Minnesota territory in 1856, 2 years before Minnesota became the 32nd State in the Union;

Whereas the First Minnesota Infantry regiment was among the first militia regiments in the Nation to respond to President Lincoln's call for troops in April 1861 when it volunteered for 3 years of service during the Civil War;

Whereas during the Civil War the First Minnesota Infantry regiment saw battle at Bull Run, Antietam, and Gettysburg;

Whereas during a critical moment in the Battle of Gettysburg on July 3, 1863, 262 soldiers of the First Minnesota Infantry, along with other Union forces, bravely charged and stopped Confederate troops attacking the center of the Union position on Cemetery Ridge;

Whereas only 47 men answered the roll after this valiant charge, earning the First Minnesota Infantry the highest casualty rate of any unit in the Civil War;

Whereas the Minnesota National Guard was the first to volunteer for service in the Philippines and Cuba during the Spanish-American War of 1898, with enough men to form 3 regiments;

Whereas 1 of the 3 Minnesota regiments to report for duty in the War with Spain, the 13th Volunteer regiment, under the command of Major General Arthur MacArthur, saw among the heaviest fighting of the war in the battle of Manila and suffered more casualties than all other regiments combined during that key confrontation to free the Philippines;

Whereas after the cross-border raids of Pancho Villa and the attempted instigation of a war between the United States and Mexico, the border was secured in part by the Minnesota National Guard;

Whereas the Minnesota National Guard was mobilized for duty in World War I, where many Minnesotans saw duty in France, including the 151st Field Artillery, which saw duty as part of the famed 42nd ''Rainbow'' Division;

Whereas the first Air National Guard unit in the Nation was the 109th Observation Squadron of the Minnesota National Guard, which passed its muster inspection on January 17, 1921;

Whereas a tank company of the Minnesota National Guard from Brainerd, Minnesota, was shipped to the Philippines in 1941 to shore up American defenses against Japan as World War II neared;

Whereas these men from Brainerd fought hard and bravely as American forces were pushed into the Bataan Peninsula and ultimately endured the Bataan Death March;

Whereas men of the Minnesota National Guard's 175th Field Artillery, as part of the 34th ''Red Bull'' Division, became the first American Division to be deployed to Europe in January of 1942;

Whereas when the 34th Division was shipped to North Africa, it fired the first American shells against the Nazi forces;

Whereas the 34th Division participated in 6 major Army campaigns in North Africa, Sicily, and Italy, which led to the division being credited with taking the most enemy-defended hills of any division in the European Theater as well as having more combat days than any other division in Europe;

Whereas the Minnesota National Guard served with distinction on the ground and in the air during Operations Desert Shield and Desert Storm;

Whereas Minnesota National Guard troops have helped keep the peace in the former Yugoslavia, including 1,100 troops who have seen service in Bosnia, Croatia, and Kosovo;

Whereas the Minnesota National Guard has participated in keeping America safe after September 11, 2001, in numerous ways, including airport security;

Whereas the Duluth-based 148th Fighter Wing's F–16s flew patrols over cities after September 11, 2001, for a longer time than any other air defense unit;

Whereas over 11,000 members of the Minnesota National Guard have been called up for full-time service since the September 11, 2001, terrorist attacks;

Whereas as of March 20, 2006, Minnesota National Guard troops are serving in national defense missions in Afghanistan, Pakistan, Kuwait, Qatar, Oman, and Iraq;

Whereas more than 600 Minnesota National Guard troops have been deployed to Afghanistan in Operation Enduring Freedom;

Whereas members of the Minnesota National Guard, serving in the 1st Brigade Combat Team of the 34th Infantry Division, have been a part of the State's largest troop deployment since World War II, with more than 2,600 citizen soldiers called to service in support of Operation Iraqi Freedom;

Whereas the Minnesota National Guard has greatly contributed not only to battles but to the suppressing of violent riots, such as the 1947 national meat processors strike, in which they aided helpless police officers, and the fight against natural disasters such as the Red River flood in 1997 in which they organized search and rescue missions, helped shelter people who were left homeless, ran logistics, and helped sandbagging efforts; and

Whereas on April 17, 2006, the Minnesota National Guard will celebrate its 150th anniversary along with its historical and recent accomplishments: Now, therefore, be it

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

(1) honors and congratulates the Minnesota National Guard for its spirit of dedication and service to the State of Minnesota and to the Nation on its 150th anniversary; and

(2) recognizes that the role of the National Guard, the Nation's citizen-soldier based militia, which was formed before the United States Army, has been and still is extremely important to the security and freedom of the Nation.

150TH ANNIVERSARY OF THE MINNESOTA NATIONAL GUARD

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H. Con. Res. 371, which was received from the House.

The PRESIDING OFFICER. The clerk will report the concurrent resolution.

The assistant legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 371) honoring and congratulating the Minnesota National Guard on its 150th anniversary, for its spirit of dedication and service to the State of Minnesota and the Nation and recognizing that the role of the National Guard, the Nation's citizen-soldier based militia, which was formed before the United States Army, has been and still is extremely important to the security and freedom of the Nation.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. FRIST. Mr. President, I ask unanimous consent that the concurrent resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statement relating to the concurrent resolution be printed in the RECORD.

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

The concurrent resolution (H. Con. Res. 371) was agreed to.

The preamble was agreed to.

YEAR OF THE MUSEUM

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 437, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 437) supporting the goals and ideals of the Year of the Museum.

There being no objection, the Senate proceeded to consider the resolution.

Mr. ENZI. Mr. President, I rise to support a resolution supporting the goals and ideals of the Year of the Museum. I am pleased to be joined by Senator KENNEDY and other members of the Cultural Caucus in sponsoring this resolution recognizing the vital role museums play in the fabric of our American culture.

On the occasion of the 100th anniversary of the American Association of Museums, we treasure the more than 16,000 museums in the United States that house many of our greatest treasures. Museums inspire curiosity in students of all ages and foster a greater understanding of the world around us. Museums help us connect to the past and envision the future. Today, we celebrate their contribution to the vitality of our communities and our culture over the past 100 years.

I urge my colleagues to support this resolution.

Mr. COBURN. Mr. President, today the Senate considers The Year of the Museum resolution which asks for Congress to support the goals and ideals of the Year of the Museum and asks the President to call upon Americans to observe this year with appropriate programs and activities.

I encourage citizens to utilize and support their local museums which serve as a wonderful resource for communities. There is great value for citizens in the arts, historic collections and museums. They are a reflection of our culture and people, and are important to our history and national identity. Children and young learners benefit tremendously from art programs in the schools. These activities make for well rounded citizens, tomorrow's leaders. Museums play an important role in our lives.

The Subcommittee on Federal Financial Management, which I chair, held a hearing on Federal funding of museums this week and found that Federal support of the arts and humanities, which includes museums, has increased 25 percent in the last 5 years. During a time of tremendous financial challenge, we must exercise thrift and frugality with taxpayer money.

Why not hold museum and arts funding steady at current levels? I believe that budget increases for nonessential activities during a time of great challenge to our Nation are indefensible. It is Congress that holds the purse strings and, frankly, we have been unwilling to make the tough decisions today for the future well-being of our grandchildren.

As a government we have spent over $7 billion on such programs and institutions since 2001, but where in the Constitution does it allow the Federal Government support museums and the arts by taxing citizens to pay for museums in other cities and States? Essentially taxpayers are being forced to subsidize museums they do not attend. Museums spend $21 for every visitor while only earning $5.50 in revenue per visitor according to the American Association of Museums.

I remind my colleagues that the current fiscal environment of war, Katrina and Social Security and Medicare insolvency is a very serious situation. One criticism of the President I have is that he has not asked the American people to sacrifice during wartime. We cannot, as a government, do everything we would like to do. I think the American people would be very forgiving and willing to make sacrifices if only asked. During a time of war Presidents Roosevelt and Truman slashed nondefense spending by over 20 percent. It can be done.

There are several opportunities for Federal funding of museums through competitive grants administered by the Institute for Museum and Library Services and the National Science Foundation which are peer reviewed and grantees are held accountable and must meet financial management requirements as well as other conditions.

Museum earmarks, however, proliferate, especially in the home States of members of the powerful Appropriations Committee. This year 69 percent of museum earmarks went to their home States. These museums get to cut in line and skip the competitive application. Favored projects receive money without having to compete with the other museums. These projects have not had to demonstrate their merit or worth to a community, but get a cash award nonetheless. There is something wrong with this system. What's more, several museums split their earmark requests across bills in the same year to hide the true cost. The same museums request earmarks every year, and get them. Since 2001, over 860 earmarks have been handed out to museums.

I support the ideals of the Year of the Museum, but I ask my colleagues to exercise fiscal restraint and stop focusing on political expediency and start thinking about future generations.

Given the local nature of most of the grants and earmarks, it is difficult to defend the expenditure of taxpayer dollars to benefit a small group of people in Muskogee, St. Louis, or Anchorage. If a community truly wanted such an institution or program, they would and should find a way to pay for it with local and State money, or through admission fees.

Mr. FRIST. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

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

The resolution (S. Res. 437) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 437

Whereas museums are institutions of public service and education that foster exploration, study, observation, critical thinking, contemplation, and dialogue to advance a greater public knowledge, understanding, and appreciation of history, science, the arts, and the natural world;

Whereas, according to survey data, the people of the United States view museums as one of the most important resources for educating children;

Whereas museums have a long-standing tradition of inspiring curiosity in schoolchildren that is a result of investments of more than $1,000,000,000 and more than 18,000,000 instructional hours annually for elementary and secondary education programs in communities across the United States, creative partnerships with schools, professional development for teachers, traveling exhibits to local schools, digitization of materials for access nationwide, creation of electronic and printed educational materials that use local and State curriculum standards, and the hosting of interactive school field trips;

Whereas museums serve as community landmarks that contribute to the livability and economic vitality of communities through expanding tourism;

Whereas museums rank in the top 3 family vacation destinations, revitalize downtowns (often with signature buildings), attract relocating businesses by enhancing quality of life, provide shared community experiences and meeting places, and serve as a repository and resource for each community's unique history, culture, achievements, and values;

Whereas there are more than 16,000 museums in the United States and admission is free at more than half of these museums;

Whereas approximately 865,000,000 people visit museums annually and these people come from all ages, groups, and backgrounds;

Whereas research indicates Americans view museums as one of the most trustworthy sources of objective information and believe that authentic artifacts in history museums and historic sites are second only to their families in significance in creating a strong connection with the past;

Whereas museums enhance the public's ability to engage as citizens, through developing a deeper sense of identity and a broader judgment about the world, and by holding more than 750,000,000 objects and living specimens in the public trust to preserve and protect the cultural and natural heritage of the United States for current and future generations;

Whereas museums are increasingly entering into new partnerships with community educational institutions that include schools, universities, libraries, public broadcasting, and 21st Century Community Learning Centers, and these partnerships reach across community boundaries to provide broader impact and synergy for their community educational programs;

Whereas supporting the goals and ideals of the Year of the Museum would give Americans the opportunity to celebrate the contributions museums have made to American culture and life over the past 100 years; and

Whereas in 2006, museums of the United States are celebrating 100 years of collective contribution to our communities: Now, therefore, be it

Resolved, That the Senate supports the goals and ideals of the Year of the Museum.

AUTHORIZING THE USE OF THE CAPITOL GROUNDS

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H. Con. Res. 360 which was received from the House.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 360) authorizing the use of the Capitol Grounds for the National Peace Officers' Memorial Service.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. FRIST. Mr. President, I ask unanimous consent that the concurrent resolution be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the concurrent resolution be printed in the RECORD.

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

The concurrent resolution (H. Con. Res. 360) was agreed to.

ORDERS FOR FRIDAY, APRIL 7, 2006

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 8:30 a.m, Friday, April 7. I further ask unanimous consent that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and the Senate resume consideration of S. 2454, the border security bill, with 1 hour of debate equally divided between the managers or their designees prior to the cloture vote. I further ask unanimous consent that the Senate then proceed to a vote on the motion to invoke cloture on the motion to commit, as under the previous order. Further, I ask unanimous consent that with respect to cloture motions filed yesterday on the motion to commit and the underlying bill, that the mandatory quorums under rule XXII be waived.

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

Mr. FRIST. Mr. President, as in executive session with respect to the cloture motions filed yesterday on nominations, I ask unanimous consent that the mandatory quorum under rule XXII be waived.

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

PROGRAM

Mr. FRIST. Mr. President, following the 1 hour tomorrow for closing remarks, the Democratic leader and I will make statements prior to the cloture vote on the motion to commit. The vote will therefore occur at approximately 9:45 in the morning. If cloture is not invoked, we will proceed to a cloture vote on the underlying bill. We also have two remaining cloture votes scheduled on nominations, although we are hopeful we can work out an agreement for a vote on one of those nominations. Senators can expect a busy and full day.

ADJOURNMENT UNTIL 8:30 A.M. TOMORROW

Mr. FRIST. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 10:18 p.m., adjourned until Friday, April 7, 2006, at 8:30 a.m.

NOMINATIONS

Executive nominations received by the Senate April 6, 2006:

DEPARTMENT OF STATE

JOHN CLINT WILLIAMSON, OF LOUISIANA, TO BE AMBASSADOR AT LARGE FOR WAR CRIMES ISSUES.

JOHN A. CLOUD, JR., OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF LITHUANIA.

GENERAL SERVICES ADMINISTRATION

LURITA ALEXIS DOAN, OF VIRGINIA, TO BE ADMINISTRATOR OF GENERAL SERVICES, VICE STEPHEN A. PERRY, RESIGNED.

DEPARTMENT OF HOMELAND SECURITY

R. DAVID PAULISON, OF FLORIDA, TO BE UNDER SECRETARY FOR FEDERAL EMERGENCY MANAGEMENT, DEPARTMENT OF HOMELAND SECURITY, VICE MICHAEL D. BROWN, RESIGNED.

CONFIRMATIONS

Executive nominations confirmed by the Senate Thursday, April 6, 2006:

EXECUTIVE OFFICE OF THE PRESIDENT

BENJAMIN A. POWELL, OF FLORIDA, TO BE GENERAL COUNSEL OF THE OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE.

DEPARTMENT OF DEFENSE

GORDON ENGLAND, OF TEXAS, TO BE DEPUTY SECRETARY OF DEFENSE.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AN TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

WITHDRAWAL

Executive Message transmitted by the President to the Senate on April 6, 2006 withdrawing from further Senate consideration the following nomination:

ROBERT M. DUNCAN, OF KENTUCKY, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CORPORATION FOR NATIONAL AND COMMUNITY SERVICE FOR A TERM EXPIRING JUNE 10, 2009, WHICH WAS SENT TO THE SENATE ON APRIL 4, 2005.