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Senate

The Senate met at 9:15 a.m. and was called to order by the Honorable JOHN E. SUNUNU, a Senator from the State of New Hampshire.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Almighty and eternal God, we thank You for our country. We praise You for her hills and valleys, her fertile soil, her trees, her plains and mountains.

Forgive us when we seek material power alone. Forgive us if, in our prosperity, we have been condescending to others. Forgive us, too, if we have neglected the admonition of Your word. Lord, we confess our mistakes.

Use our Senators today to keep us a great Nation, full of truth and righteousness.

We pray in Your wonderful Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable JOHN E. SUNUNU led the Pledge of Allegiance, as follows:

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, May 25, 2006.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JOHN E. SUNUNU, a Senator from the State of New Hampshire, to perform the duties of the Chair.

TED STEVENS,
President pro tempore.

Mr. SUNUNU thereupon assumed the Chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

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

COMPREHENSIVE IMMIGRATION REFORM ACT OF 2006

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of S. 2611, which the clerk will report.

The bill clerk read as follows:

A bill (S. 2611) to provide for comprehensive immigration reform and for other purposes.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from Pennsylvania is recognized.

SCHEDULE

Mr. SPECTER. Mr. President, we have a unanimous-consent agreement limiting the remaining number of amendments, with time agreements worked out. We would appreciate it if the Senators in sequence would be ready to go when the next amendment comes up.

We anticipate a long session today. There will be other votes following completion of the immigration bill, including a vote on cloture on the nomination of Brett M. Kavanaugh, U.S. circuit judge for the Court of Appeals for the District of Columbia.

We are now ready to proceed with the Cornyn amendment.

I should announce further that it is our intention to stack the votes at the conclusion of the debate on remaining amendments.

The ACTING PRESIDENT pro tempore. The Senator from Texas is recognized.

AMENDMENT NO. 4097

Mr. CORNYN. Mr. President, I call up my amendment No. 4097, which is at the desk.

The ACTING PRESIDENT pro tempore. The clerk will report.

The bill clerk read as follows:

The Senator from Texas [Mr. CORNYN] proposes an amendment numbered 4097.

Mr. CORNYN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To modify the requirements for confidentiality of certain information submitted by an alien seeking an adjustment of status under section 245B)

Beginning on page 362, strike line 4 and all that follows through page 363, line 12, and insert the following:

''(e) CONFIDENTIALITY OF INFORMATION.—

''(1) IN GENERAL.—Except as provided in paragraph (2) or (3) or as otherwise provided in this section, or pursuant to written waiver of the applicant or order of a court of competent jurisdiction, no Federal agency or bureau, or any officer or employee of such agency or bureau, may—

''(A) use the information furnished by the applicant pursuant to an application filed under paragraph (1) or (2) of subsection (a) for any purpose other than to make a determination on the application;

''(B) make any publication through which the information furnished by any particular applicant can be identified; or

''(C) permit anyone other than the sworn officers and employees of such agency, bureau, or approved entity, as approved by the Secretary of Homeland Security, to examine individual applications that have been filed.

''(2) REQUIRED DISCLOSURES.—The Secretary of Homeland Security and the Secretary of State shall provide the information furnished pursuant to an application filed under paragraph (1) or (2) of subsection (a), and any other information derived from such furnished information, to—

''(A) 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 by such entity; or

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

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''(B) an official coroner for purposes of affirmatively identifying a deceased individual, whether or not the death of such individual resulted from a crime.

''(3) INAPPLICABILITY AFTER DENIAL.—The limitation under paragraph (1)—

''(A) shall apply only until an application filed under paragraph (1) or (2) of subsection (a) is denied and all opportunities for appeal of the denial have been exhausted; and

''(B) shall not apply to use of the information furnished pursuant to such application in any removal proceeding or other criminal or civil case or action relating to an alien whose application has been granted that is based upon any violation of law committed or discovered after such grant.

''(4) CRIMINAL PENALTY.—Any person who knowingly uses, publishes, or permits information to be examined in violation of this subsection shall be fined not more than $10,000.

Mr. CORNYN. Mr. President, this amendment is one I believe is absolutely essential to the functioning of this comprehensive immigration reform plan which has been shaped over the last 2 weeks on the Senate floor. It is premised upon the concept of information sharing, and in a post-9/11 world this is the concept with which we have become familiar because the failure to share information between law enforcement and intelligence-gathering authorities and other agencies of the Federal Government was one of the causes of the terrible disaster this country sustained on September 11, 2001.

This amendment strikes an appropriate balance between confidentiality of the records of the applicant for benefits under this bill and fraud detection. The compromise we have heard and which has been carefully crafted by a bipartisan coalition here will not in any way be unraveled or hurt by this amendment.

Finally, I believe an illegal alien will not be deterred from applying because of this amendment. This amendment does not remove confidentiality per se. It applies only after an application is denied and the need for confidentiality passes. The text is modeled after the Violence Against Women Act. And I ask my colleagues, if the limitation on confidentiality is OK in the case of women who are subjected to violence, why isn't it OK for workers who are simply here illegally?

This country's early experience—about 20 years ago now—with immigration reform shows that legalization or an amnesty program is a magnet for fraud and can be exploited in a number of ways. We know that this vulnerability can be exploited, not only by common criminals but also by terrorists. Three terrorists convicted in the 1993 World Trade Center bombing obtained green cards through the 1986 amnesty, including New York City cabdriver Mohammed Abouhalima, who obtained a green card through the agricultural worker amnesty program. The New York Times has described the 1986 amnesty as ''one of the most extensive immigration frauds ever perpetrated against the United States Government.''

Within just a few years, it was reported that the Government had already identified almost 400,000 cases of possible fraud. One of the reasons there was so much fraud in the 1986 amnesty was because the law did not allow the Government to share information even after an application was denied. Yet the current bill contains the exact same text and the exact same flaws.

My amendment does not eliminate any confidentiality provisions in the bill. The workers who apply will be protected by the existing confidentiality provisions. My amendment simply allows the Government to share and use information once the worker's application and all appeals are denied.

As I mentioned, my amendment is modeled after the current legal protections provided in the Violence Against Women Act, which allows the Government to share and use information submitted in an application ''when the application for relief is denied and all opportunities for appeal of that denial have been exhausted.'' If the limitation is OK in that context, why is it not appropriate in this context?

I don't believe this amendment would deter any alien from applying for legal status. Illegal workers face deportation, a secure border, and worksite enforcement. We may hear some say that in order for undocumented individuals to come forward and take advantage of the legalization program provided by this underlying bill, we can't do anything that might cause them to second-guess or question whether they should come forward. But the fact is, I think there has to be a balance struck. I don't believe any illegal alien will be deterred from participating in the very generous provisions of this underlying bill because of concerns that if their application is denied, that information can then be shared with law enforcement personnel.

The fact is, the kinds of things we are looking out for are fraud—massive fraud—schemes which would be designed to undermine the very structure of this negotiated comprehensive immigration reform bill.

Paul Virtue, President Clinton's general counsel at the Immigration and Naturalization Service, testified before Congress that:

> The confidentiality restrictions of law [in the 1986 amnesty] also prevented INS from pursuing cases of possible fraud detected during the application process.

That was before the House Judiciary Committee on March 4, 1999.

One of our colleagues who was then in the House of Representatives, Senator SCHUMER, was quoted in the New York Times in 1989 as saying:

> One certain product of the agricultural amnesty program . . . is that in developing immigration policies in the future, Congress will be much more wary of the potential for fraud and will do more to stop it.

It has been said famously that those who refuse to learn from history are condemned to relive it. I suggest to my colleagues that we should have learned something from the massive fraud in the 1986 amnesty, and we should not relive that in this bill today.

This amendment improves the current bill by preserving the confidentiality of applicants while allowing the Government to share information, perhaps to uncover massive frauds, criminal syndicates that are designed to try to circumvent the protections in this bill and gain access to our country and our immigration system in spite of massive criminal organized crime. I ask my colleagues, do we really want to grant impunity for fraud? Do we really want to invite criminals and those who would perpetrate such fraud to do so again when we have the very tools at our command which will allow us to strike the proper balance between prosecution for fraud and yet at the same time encouraging those who would benefit from this program to come forward?

I have heard some suggestion that the only way we are going to encourage people to come forward is if we make doing so an unequivocally positive experience. In other words, it is all carrot and no stick. But I would suggest that the most practical way to deal with the current situation is for a combination of carrot and stick—the carrot being, obviously, the offer of the great benefits and very generous benefits provided by this underlying legislation, but the stick has to be things such as worksite verification. Ultimately, I believe that is the linchpin of the success of this entire program. Not even border security represents the linchpin for the success of this comprehensive immigration reform plan because 45 percent of illegal aliens currently in the United States entered legally, like the three convicted bombers of the 1993 World Trade Center explosion. But we need a combination of border security, worksite verification and enforcement, and employer sanctions for those who cheat, in order to dry up the attraction of those who want to come to the United States to work. But in doing so, we can provide a good balance for those who are here and who Congress is in the process of determining should be available for certain benefits under this bill, but I believe do so in a way that would prevent and make far less likely the massive fraud which undermined the 1986 amnesty.

I reserve the remainder of our time and yield the floor.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. KENNEDY. Mr. President, I was here in 1986. I understand the 1986 act very well. I listened to my friend from Texas describe the provisions we have for earned legalization, saying effectively it is the same as offered in 1986. Of course, it is not because in 1986 that was a real amnesty. We have had that debate for 10 days. We can have it again today.

What we are talking about in this program is recognizing the people who have violated the law are able to work

and earn their way into a position where eventually they can apply for citizenship if they pay a penalty, if they demonstrate they have paid their back taxes, have had no trouble with the law, and they are prepared to learn English. After the last person in line legitimately is able to gain entry into the United States, they can adjust their status.

The 1986 failure is entirely different than what we have now. We had a proliferation of fraudulent documents. That is the history. We understand that. We had Republican and Democrat administrations that refused to enforce the 1986 laws. That is history. We can complain about 1986, but 1986 is not 2006. What we did in 1986 is not 2006.

We can talk about how some of the terrorists got into the United States. Most of the September 11 terrorists got into the United States through Saudi Arabia. The reason they got in is because the CIA didn't talk to the FBI or the Immigration Service. The majority of those who came here and were part of September 11 were known by the CIA, and they never shared that information with the Immigration Service or the FBI. They did not need fraudulent documents. We needed the FBI and CIA to work together.

Having said that, hopefully we have a better relationship between the Central Intelligence Agency and the FBI now than we had then. However, that is the past. We have to learn from the past.

I listened to the Senator say what we need is tamper-proof documents. If we do not have tamper-proof documents, this system is not going to work. Tamper-proof documents is what we are committed to, to try and deal with the fraud.

People can come to the Senate and talk about the fraud in our immigration system, which is true. What we are trying to do with this legislation is remedy that. I don't know what the alternative is from the Senator from Texas. I know what his concerns are, but I don't know what his remedy is. We are talking about tamper-proof documents. We are talking about tamper-proof documents for guest workers. We are talking about tamper-proof documents so laws can be enforced against employers who are going to fire undocumented individuals who do not have the tamper-proof documents. We are talking about tamper-proof documents for those individuals who want to play by the rules and go by earned legalization.

The language in this legislation is very clear. That is, if you lie on your application, you lose all your rights, and you are subject to deportation. However, if you commit an innocent mistake on your application, that can be considered and not be used as a vehicle for deportation. That is the principal difference. I don't think that is unreasonable.

The Senator believes if we do not change what we have in our law to what he wants, if we accept his amendment, people will not be discouraged from coming forth. Of course they will be discouraged from coming forth. People come forth and they, in good faith, make an application. They find out that application somehow is defective. Whether it is willful, knowing, or they lied about it, they are subject to deportation. If it is an innocent mistake, we don't want them deported. If this is subject to the Cornyn amendment, why are they going to come forward and share information if they know if they share information confidentially they will be deported? We are undermining an essential aspect of this legislation—bringing people out of the shadows.

Of the millions of people who are here, we have people who have come here because they want to work hard, they want to provide for their families, they want to be part of the American dream. They are prepared to learn English. They are prepared to pay their taxes. They are prepared to pay their penalty. They want a sense of pride. They practice their faith. They want to be able to come in and be able to adjust their status so they can be legalized to have the respect of their children, their family, and their community. That is what the great majority of the people want. That is what we are trying to do.

If we follow the Cornyn amendment, people come in good faith, someone flyspecs that particular application and says: No, it is a question whether this is criminal intent—boom, you are gone; you are deported. We will have a very difficult time.

We have crafted this legislation so those who are going to lie on that application, those who are involved in criminal activity are subject to deportation—no ifs, ands or buts. But we also understand in this complicated world there will be innocent mistakes made, and we do not want to subject those people to deportation. That is not what this is about.

It seems to me honest people who submit a good-faith application to earn legalization should not be citing their own deportation orders; otherwise, why should anyone apply? That effectively is what the Cornyn amendment does. It effectively undermines the whole purpose and scope and thrust of the legislation.

I withhold the time.

The ACTING PRESIDENT pro tempore. The Senator from Texas.

Mr. CORNYN. I have enormous respect for the knowledge and passion the Senator from Massachusetts brings to this issue. He is reading more into the amendment than certainly I intend. I would like to explain that.

First of all, I don't want to get into an argument with him today about what is and what is not amnesty. We have had that debate. We will leave further discussion of that for another day.

I agree with the Senator that what undermined the 1986 amnesty, which I think we both agree was amnesty, was the proliferation, as he said, of fraudulent documents. He acknowledges, and correctly so, coming here now 5 years post-September 11, that it is important all of our law enforcement and intelligence agencies communicate with one another in a way that protects the American people.

He talks about tamper-proof documents. This bill does not provide for such tamper-proof documents. In fact, it maintains the current regime of allowing people to prove their eligibility to work by showing some combination of up to 20 different documents. That is where fraud has such great potential. We know there are document mills, there are criminal organizations that will generate a passport, a Social Security card, a driver's license—you name it. Some of the quality of their work is very high, and it easily passes for a valid document. But we do not have that tamper-proof document in this bill, and I hope in the conference committee we will agree among ourselves that is an essential part of this comprehensive immigration reform.

What I am getting is, if someone used a fraudulent document to apply for the benefits under this bill, and they are denied the benefits under this legalization program, that information ought to be shared with the FBI and with, potentially, the CIA in cases where their jurisdiction is invoked. This has the opportunity not only to lead our law enforcement personnel to shut down these fraudulent document mills, but also potentially to crack criminal syndicates engaged not only in generating false documents but trafficking in persons, in drugs, in guns, and even potentially terrorist organizations.

It is absolutely critical we have the Department of Homeland Security able to share that kind of information with the CIA and the FBI. It is important we bring down those stovepipes that prevented the information sharing that might have prevented September 11.

I am not suggesting a good-faith mistake in an application for the benefits under this bill would result in deportation. To the contrary. I am glad to hear the Senator from Massachusetts say, if you lie, you lose, you get deported. I believe we need to have a commonsense availability of this information—not on a widespread basis; we are not going to publish it on the Internet. But law enforcement ought to be able to share in some of this information on a case-by-case basis in a way designed not only to root out and prevent crime and punish crimes that already have been committed but potentially protect America against future terrorist attacks.

I cannot for the life of me understand why this is controversial, particularly coming up as we are on the fifth anniversary of September 11.

I withhold the remainder of my time.

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, first of all, under title III, there are only 4 documents, not 20 documents. Title III,

4 documents: the passports, REAL ID, the green cards, and employment authorization documents. They are basically biometric documents, 4 documents in title III, not 20.

Second, the Senator from Texas is describing the conditions we had in 1986, not in this legislation. There is the encouragement of cooperation with the Department of Homeland Security and the FBI when we have document fraud or when there is fraud. We make that extremely clear. That was not clear, as the Senator appropriately pointed out, in 1986. There was not that kind of cooperation. There was some but not nearly what there should be. We are all for that.

The confidentiality clause in the underlying bill does not protect the criminals. On the contrary, the bill requires DHS and State to disclose all information furnished by legalization applicants to law enforcement entities conducting criminal activity and national security investigations.

We learned from what we called IRKA, the 1986 act, and we have that in the legislation. On page 38 of the legislation:

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.

We have spent time on it. I am a strong believer that is what we need. This legislation is not going to work unless we have an effective system, unique, special. Other countries have this; we ought to be able to do it, many of the countries in the Far East, also Brazil, South America, and other countries. We can and should do it. We will do it. We have developed the language to do it.

We are for prime documents that have been accepted and recommended. We worked with the Department of Homeland Security on what documents they are for. We have insisted on cooperation between the FBI, the Department of Homeland Security and the Justice Department in any area of criminality.

We are all for at least what I understand the Senator has said. We are glad to clarify that. We believe we have attended to that.

There is no question in 1986 that was not the case. We were rife with fraudulent documents, failure to enforce the law against employers, separation between the INS at that time and the FBI. We did not have the Department of Homeland Security. All of that we have learned from. We have addressed the principal issues and questions the good Senator has outlined.

I withhold the remainder of my time.

The ACTING PRESIDENT pro tempore. The Senator from Texas.

Mr. CORNYN. Mr. President, I appreciate the comments of the Senator from Massachusetts, but looking at the page he refers to on page 38 of the bill, it says:

Not later than October 26, 2007, every document, other than an interim document, issued by the Secretary of Homeland Security . . . shall be machine-readable and tamper-resistant. . . .

I certainly applaud that aspirational goal. I would just note that just within the past few days, though, we have postponed the implementation of the Western Hemisphere Travel Initiative card for another 18 months. There is no certainty that will happen by that date. What happens in the interim?

Let me just provide a couple of examples.

In 1995, Jose Velez, was found guilty of immigration fraud after he filed fraudulent applications under the 1986 amnesty. Let me just parenthetically note, in talking to Emilio Gonzalez, the current head of Citizenship and Immigration Services, he tells me there is still litigation over some of the cases covered by the 1986 amnesty—still in litigation.

But getting back to Mr. Velez's case, he said the task force that brought down Velez resulted in the guilty pleas or convictions of 20 individuals who together are responsible for filing false legalization applications for in excess of 11,000 unqualified aliens. Between March of 1988 and January of 1991, Velez and his coconspirators submitted approximately 3,000 fraudulent applications.

In connection with the 1986 legalization program, there were 920 arrests, 822 indictments, and 513 convictions for fraud and related criminal activity.

I would just return to something I said at the outset.

What we are talking about in this amendment is essentially the same language contained in the Violence Against Women Act.

The language in that act, which was designed to protect battered women and family members, states that the confidentiality provisions end "when the application for relief is denied and all opportunities for appeal of the denial have been exhausted."

I would suggest, if that language is good enough for the protection of women against whom violence has been committed, isn't it good enough for a worker who is simply out of status?

This amendment is not designed to undercut the compromise or the overall structure of the plan that is on the floor. This is designed to make it work. I want to make sure we are committed not only to comprehensive immigration reform but that we are actually going to make it work. That is all this amendment does.

I ask for the support of my colleagues.

Mr. President, I yield the floor and retain the remainder of our time.

The ACTING PRESIDENT pro tempore. Who yields time?

The Democratic leader.

Mr. REID. Mr. President, I yield 1 hour of my time postcloture to the Senator from Massachusetts, Mr. KENNEDY.

The ACTING PRESIDENT pro tempore. The Senator has that right.

The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, early this morning, as we do every morning before coming to the floor to debate the immigration bill, a group of Senators sat down to consider and analyze the amendments which are on the list for today. In discussing the amendment by the Senator from Texas, there was, candidly, more confusion than I have seen on any of the amendments which we have analyzed so far.

When the Senator from Texas says the immunity is eliminated only after the application is denied, then the reason for confidentiality ends, I disagree with him about that because the reason for the confidentiality is to get the applicant to be candid and complete and honest about all of the information in the application. So if the applicant knows that at some point the confidentiality is gone, there is no longer the motivation to be completely open and completely candid in making out the application.

What we are really seeking, as a public policy matter, is to get the applicants to be candid and forthright and complete in the information they are providing. If there is evidence of fraud in the application, or if there is evidence of crime, that will be provable by evidence outside the scope of the application.

There is another aspect of the confidentiality; that is, the confidentiality or safe harbor which applies to the employer. When the immigrant makes an application, there is material which has to be supplied by the employer—illustrative of which is a check stub, which authenticates that the applicant has a job.

Now, the confidentiality applies to what the employer provides as well. The safe harbor or confidentiality protects the employer so the employer does not run the risk of providing some information which ends up on the application, then is disclosed, that could be used against the employer in a variety of contexts.

Now, it is possible that the amendment by the Senator from Texas could be adopted and that aspect could be cured in conference. But it is my thought, after reflecting on it considerably, that the issues ought to be weeded out and resolved in conference as opposed to having the adoption of the Cornyn amendment.

The value of confidentiality to encourage the immigrant to make full disclosure, and the value of confidentiality that the employer has, outweighs the advantages which the Senator from Texas articulates. And when the immigrant is faced with a situation where the confidentiality ends at some point—it is hard enough for Senators and experienced lawyers to figure it all out, and expecting an immigrant to be able to figure it out—I think the consequence for the immigrant will be to

be hesitant and unwilling or chilled, if you will, to provide all the information.

My sense is that our system will work better if there is no ambiguity or no uncertainties to the confidentiality being maintained throughout the entire process beyond when the application and appeals have all run out.

But this is an important issue. I thank the Senator from Texas for focusing our attention on it. I do believe it is better addressed in conference.

Mr. President, how much time remains on this amendment?

The ACTING PRESIDENT pro tempore. The amendment's sponsor retains 12½ minutes. The opponents retain 14 minutes.

Mr. SPECTER. Mr. President, I had announced earlier that in the management of the bill we would stack the five votes we have remaining on the immigration bill. I think that is the most efficient way to handle the matter because we know when we have a 15-minute vote, and 5 minutes more, they frequently extend far beyond that time, not wanting to cut off Senators.

We had two Senators out last night. We went to about close to 30 minutes, and I did not want to call for regular order. Evenings are a little more difficult. But it is very difficult to cut off Senators when the Senator is on the way. The Senator can be on the way for a very long period of time.

But I cannot control the stacking of votes because it requires unanimous consent to set aside the Cornyn amendment before going to the next amendment. Anybody can object. So we are going to have a vote after the Cornyn amendment. We will then try to see if we cannot get consent to stack the remainder of the votes. But the earlier announcement that the votes would be stacked will not take place because objections have been raised to that procedure.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I will take just a few minutes.

Mr. SPECTER. Mr. President, may I, before the Senator from Massachusetts continues, ask that the proponent of the next amendment come to the—well, he will be in the vote, so I withdraw that suggestion. We will have just one vote.

Mr. KENNEDY. Mr. President, just along those lines, I think our colleagues ought to be alerted we can anticipate a vote fairly shortly.

Mr. President, just in response to my friend from Texas, he is familiar with the fact that we passed the Border Security Act in 2002. The idea was to understand everybody coming into this country, to know where they were, and when they were leaving. We have not completed that kind of circle, but we have made dramatic progress. As of now, every green card, every work permit, every visa is machine readable and biometric—every single one that we have working today. So this is a dramatic shift in terms of dealing with the issue of fraud, which has been talked about here.

Now, in order for immigration reform—we have talked with security officials who have all told us it is in our interest, in our national security interest, to bring people out of the shadows. They have all indicated that. We have so many individuals here whose names we do not know. We do not know their locations. They are living in a shadowy world that can more often than not—or at least sometimes can—be connected with crime. And many of these people, obviously, want a different life and a different future.

To be able to make that progress and isolate those individuals who pose a threat to us, our security officials who came before our committee said that a real confidentiality clause is necessary—absolutely necessary—for the earned legalization to succeed, in order to have immigration reform. Current undocumented immigrants will have to be persuaded it is safe to come forward to an agency they have come to mistrust, and they will need to feel comfortable the information they provide on their applications about their histories, their employers, and their families will not be used against them or their loved ones.

Churches, community agencies, and attorneys who will be helping people apply will also need confidence they are not exposing their clients to immigration enforcement by encouraging them to apply for legalization.

I believe the change in the Cornyn amendment would make the confidentiality clause worthless. Hundreds of thousands of immigrants who qualify for earned legalization will likely be dissuaded from participating, undermining the effectiveness of our entire reform effort. And hundreds of thousands of immigrants would be encouraged to remain in the shadows rather than risk coming forward under these conditions.

The confidentiality clause in the underlying bill does not protect criminals. On the contrary, the bill requires DHS and State to disclose all information—it is at the bottom of page 362 of the bill—unlike the provisions the Senator referred to in the Violence Against Women provisions. The penalties for the disclosure of information, and the exceptions: The Attorney General may provide, in the discretion of the Attorney General, the disclosure of information to law enforcement officials to be used solely for law enforcement purposes.

Our legislation says:

> The Secretary of Homeland Security and the Secretary of State shall provide the information furnished pursuant to an application filed under [the] paragraph . . . 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. . . .

Mr. President, I do not think you can do better than that. We are even stronger on this issue. I have mentioned the other reasons for it. I agree with the Senator from Texas. We have to put in place a very effective biometric system. We have a real downpayment for it. We want to strengthen that. But we are making very dramatic and significant progress, and we will continue to do so.

We have indicated, in this most strenuous way, why we have drafted these provisions the way they have been drafted. We think they best serve the interests of the innocent and the prosecution of the guilty.

The PRESIDING OFFICER (Mr. ENSIGN). Who yields time?

The Senator from Texas.

Mr. CORNYN. Mr. President, it really boggles my mind we are having a debate over such a commonsense and straightforward amendment coming up on the anniversary of 9/11. To say the Department of Homeland Security cannot share information about potential fraud and crime and potentially disclose organized criminal activity and potentially even terrorist activity because of the provisions of this underlying bill—I cannot believe we are having that debate. But we are.

Hopefully, our colleagues will join us in accepting this amendment which will reconcile this bill with other provisions of the law that we have amended and reformed over the last few years, which have improved information sharing between our intelligence community and our law enforcement agencies, which have made us safer. I don't think it is any accident that while there have been terrorist activities taking human life in places such as Madrid and London and Beslan and other places, we have been fortunate enough to avoid another travesty such as occurred on September 11. Part of it is because of information sharing.

This amendment would not deter any alien from applying for legal status. If we are going to say that once that application is denied for whatever reason that it can't be used to investigate potential crimes and fraud and potential terrorist links, that doesn't do anything to encourage or discourage people from coming forward. This is somebody whose application has already been denied. They already have come forward.

If we are going to have any criteria at all for taking 12 million people and moving them from an illegal status to some sort of legal status, we ought to be willing to enforce that criteria. That requires access to information and facts that will inform whether or not an individual satisfies the criteria that Congress has put in place.

I suggest to my colleagues that the American people are profoundly skeptical of taking 12 million people from undocumented or illegal status and all of a sudden putting them on a path to legalization and citizenship. That skepticism comes from many different directions. One of those is because they

saw the tremendous fraud associated with the 1986 amnesty. The language here is precisely the same as was contained in that legislation.

What we are saying by refusing to adopt this amendment is, we haven't learned any lessons, either from the mistakes that were made in the 1986 amnesty and the fraud that occurred in connection with that, or from the terrible tragedies of 9/11.

There is not a lot more that can be said about it that we haven't already said. I hope my colleagues are listening. I hope they will consider this carefully. I hope they will consider the fact that all we are doing is something that is contained in established laws such as the Violence Against Women Act. This does not undermine the ability of people to take advantage of the benefits of this program. What it does is help make that program work, work for people who are actually qualified to receive the benefits of the program while eliminating those who are not and those who engage in fraud and criminal activities to facilitate the immigration into this country of people who are not legally authorized to be here.

May I ask how much time I have remaining?

The PRESIDING OFFICER. The Senator has 8 minutes 20 seconds.

Mr. CORNYN. I will reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. How much time do I have?

The PRESIDING OFFICER. The Senator has 7 minutes.

Mr. KENNEDY. Mr. President, I am glad the Senator from Texas invited our colleagues to listen carefully. I hope they will listen carefully to what I am reading from the underlying bill. No matter how many times the Senator from Texas says he doesn't believe there will be reporting, prosecution, and cooperation between the agencies, I suggest that any of our colleagues who are in question read page 362 of the bill:

> Required disclosures—The Secretary of Homeland Security and the Secretary of State shall—

Not may, shall—

> provide the information furnished to an application filed under the paragraph (1) or (2) of subsection (a), and any other information derived from such furnished information, to a duly recognized law enforcement entity in connection with a criminal investigation or prosecution or a national security investigation or prosecution, in each instance about an individual suspect or group of suspects, when such information is requested in writing by an entity.

I can't make it any clearer than that, with all respect. That was not the way it was done previously. That is the way it is now. It has been mentioned, let's have the Violence Against Women Act legislation. I have that in my hand. For our colleagues to understand, it says:

> The Attorney General may provide, in the discretion of the Attorney General, for the disclosure of information to law enforcement officials.

We say ''shall provide.'' The Violence Against Women Act says ''may provide.'' We have a much stronger provision.

We are not defending actions of the past. We are talking about learning from the past. We have. Tamper-proof documents, we are strongly committed to that, and fair and effective enforcement at the employer level and, when we discover criminal activity—lying, deceit—on these applications, prosecution. But let's not wrap the innocent into that package as well.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. Mr. President, I think we have said about all there is to say. Maybe we said it several times. I appreciate the Senator from Massachusetts pointing out page 362 of the bill. This is a voluminous bill, but my reading of this bill says that the section the Senator quoted only applies to the applicant and that application. In other words, if somebody fills out an application and is denied, then a criminal prosecution investigation may be had only against that applicant, but there are limitations which prohibit its distribution to third parties for purposes of investigating an organized crime syndicate or potentially terrorist links. There seems to be no commonsense reason why we would limit the availability of a document and that information, when it could well root out crimes involving hundreds and maybe even thousands of instances of fraud.

I believe the amendment strikes a balance. It is not designed to undermine the compromise that we have heard so much about. Indeed, this is to make sure that the underlying bill actually has a chance to work and isn't undermined by the fraud that has been so well documented underlying the 1986 amnesty but, rather, to fight that fraud and help build public confidence that we are serious about making this work.

Much of the problem with the 1986 amnesty was that it granted amnesty to 3 million people. The tradeoff was supposed to be effective work site verification to make sure that people who are qualified to work legally could work and those who were not could not and to sanction employers who cheat. But unless we have a system in place that will actually make it work, then all of the discussion about a comprehensive plan is a ruse. It will not work.

While I do have some differences with the Senator from Massachusetts about what this comprehensive immigration reform plan ought to look like, I trust we will be able to work on that some more when we get to conference with the House. My goal is to actually make sure it will work. He and I share that common goal, I believe. The amendment I have offered helps make that more likely.

I am prepared to yield back.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I will make a brief comment. On page 119, immigration and visa fraud, it says:

> Any person who knowingly—completes, mails, prepares, presents, signs, or submits any document knowing it to contain any materially false statement or representation [is subject to prosecution].

It continues on page 120:

> . . . transfers or furnishes an immigration document to a person without lawful authority for use . . .

Any lawyer or social service agency, advocacy group, or notary, or any other agent who assists an immigrant in making a fraudulent claim is subject to criminal prosecution and also unprotected by confidentiality language.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. Mr. President, the provisions in the underlying bill are the same as those contained in the 1986 act that was the subject of so much fraud. I suggest that while we are all entitled to our own opinion, we are not entitled to our own set of facts. The facts are that the same provisions in this underlying bill are in the 1986 act. We can do better, and we can make this work. We can avoid the 400,000 fraudulent applications that tarnished the concept behind the 1986 bill.

I see the Senator from Alabama. May I inquire how many more minutes we have on this side?

The PRESIDING OFFICER. The Senator from Texas has 4 minutes remaining.

Mr. CORNYN. I am prepared to yield to the Senator from Alabama 3 minutes and retain 1 minute as the balance of my time.

The PRESIDING OFFICER. The Senator from Alabama is recognized for 3 minutes.

Mr. SESSIONS. Mr. President, I thank the Senator from Texas for his exemplary and hard work on this legislation. From the beginning, had we listened to him, we would not be in the fix we are. With regard to this amendment, I have to tell my colleagues, it is a defining amendment. It defines us as a nation, as a Senate.

The question is, Are we going to continue to allow lawlessness to operate at the border? If we don't pass the Cornyn amendment, we will be saying we have no more intention to see that we have lawfulness in the immigration system in the future than we had in the past.

I was a Federal prosecutor for almost 15 years. What do you mean you can file a document and Federal investigators can't look at it to determine whether you committed fraud when you filed it? They are not going to be looking at people in the millions who are going to file to try to find some innocent mistake. How silly is that? They are not going to be able to prosecute blatant fraud, frankly, in large numbers. But we don't want them to be incapable of doing so. We don't want to set a policy that would prohibit criminal investigators of the United States

to examine an application for amnesty under this bill and not be able to prosecute, if it has fundamental fraudulent statements in it, or even be able to use it to build some larger investigation that may relate to coyotes or organizing rings. That is what we are most likely to come up with, in my experience.

Most likely they will be investigating rings of illegal aliens who have used false identification or come across the border illegally. And you are trying to put that together, and you go back and look at these applications which will be critical in establishing that case. They are barred from doing that. This is really a big deal because one of the weaknesses I have seen in our whole approach to immigration and, frankly, other issues is that we as a nation are becoming so soft that we are incapable of drawing a line anywhere. We are incapable of drawing a line anywhere. So the proponents of this legislation are saying it is somehow wrong that we could hold people to account if they file an application to become a beneficiary of amnesty. We cannot even investigate that and prosecute them, or prosecute other people who brought them in illegally in some sort of conspiracy, and deny the investigators that.

I thank the Senator from Texas, who is a former attorney general and a former justice on the Texas Supreme Court. We should listen to him.

I yield the floor.

Mr. KENNEDY. Mr. President, I am prepared to yield back our time. I think all time has expired.

The PRESIDING OFFICER. There is 30 seconds.

Mr. CORNYN. We will yield back our time.

The PRESIDING OFFICER. All time is yielded back.

Mr. KENNEDY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The question is on agreeing to the amendment of the Senator from Texas.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MCCONNELL. The following Senator was necessarily absent: the Senator from Wyoming (Mr. ENZI).

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

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

The result was announced—yeas 49, nays 49, as follows:

[Rollcall Vote No. 151 Leg.]

YEAS—49

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

NAYS—49

Akaka	Graham	McCain
Baucus	Hagel	Menendez
Bayh	Harkin	Mikulski
Biden	Inouye	Murray
Bingaman	Jeffords	Nelson (FL)
Boxer	Johnson	Obama
Brownback	Kennedy	Pryor
Cantwell	Kerry	Reed
Carper	Kohl	Reid
Chafee	Landrieu	Salazar
Clinton	Lautenberg	Sarbanes
Dayton	Leahy	Schumer
DeWine	Levin	Specter
Dodd	Lieberman	Stabenow
Durbin	Lincoln	Wyden
Feingold	Lugar	
Feinstein	Martinez	

NOT VOTING—2

Enzi	Rockefeller

The amendment (No. 4097) was rejected.

Mr. MCCAIN. Mr. President, I move to reconsider the vote.

Mr. KENNEDY. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, we have an amendment, and I think it is that of our friend and colleague from New Mexico. So we want to let our colleagues know there is 40 minutes on this, and we expect to have a rollcall vote on this next amendment, just for the awareness of our colleagues at this time.

AMENDMENT NO. 4131

Mr. BINGAMAN. Mr. President, I call up amendment No. 4131 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Mexico [Mr. BINGAMAN] proposes an amendment numbered 4131.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To limit the total number of aliens, including spouses and children, granted employment-based legal permanent resident status to 650,000 during any fiscal year)

On page 316, strike lines 1 through 5, and insert the following:

''(2) VISAS FOR SPOUSES AND CHILDREN.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), 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).

''(B) NUMERICAL LIMITATION.—The total number of visas issued under paragraph (1)(A) and paragraph (2), excluding such visas issued to aliens pursuant to section 245B or section 245C of the Immigration and Nationality Act, may not exceed 650,000 during any fiscal year.

''(C) CONSTRUCTION.—Nothing in this paragraph may be construed to modify the requirement set out in 245B(a)(1)(I) or 245C(i)(2)(A) that prohibit an alien from receiving an adjustment of status to that of a legal permanent resident prior to the consideration of all applications filed under section 201, 202, or 203 before the date of enactment of section 245B and 245C.

Mr. BINGAMAN. Mr. President, the purpose of my amendment is to put some type of limits on the number of new legal permanent residents we approve each year in this country, and that is the question. It is sort of a philosophical question and a practical question: Should we limit this number or should we leave it unlimited as the current bill provides?

We have two large categories under which we approve new legal permanent residents in this country. Let me put one chart up here to show these two categories.

One is called family preference. That is essentially where if a person is already a legal resident in the United States and wants to bring in family members, that is family reunification, and we think that is a good thing and we provide in the law so that can occur. Each year, there can be 480,000 people who gain legal permanent residency in our country under that proposal, and that is right here in the bottom half of this chart.

The other main category we use for establishing legal permanent residency is what we call employment-based, and that is where an employer essentially brings someone to this country to work, along with their family. We have always had a limit on that. The limit in the law today is 140,000.

Let me go through some of the history of where we have been on this issue.

In the law that is applicable today, we allow 140,000 legal permanent residents to be approved each year under the employment-based system. The bill Senator KENNEDY and Senator MCCAIN proposed last May, on which I compliment them—they put a great deal of work into it—that bill said, let's increase that number from 140,000 to 290,000, and I think that makes some good sense. The 290,000 was to include the workers and their families, just as current law was to include the workers and their accompanying families.

Then, 2 months ago, when the Judiciary Committee began its deliberations, the chairman presented his chairman's mark, and it said: OK, the 290,000 is a good number, but let's only apply it to workers, and then any accompanying family will be extra and not count. So on this chart, you can see that this area at the top is the estimated number of family that might actually come to the country.

Now, the estimate is that there would be 1.2 family members accompanying each worker, and that estimate came from the Congressional Research Service. They said they didn't

really know because it is a very different mix of people we would have immigrating into this country under this legislation than under current law. But historically, it has been 1.2 people per employee, so let's just assume that, and that gets you up to 638,000, was the Congressional Research Service's estimate of the number of employment-based visas that would be offered under Senator SPECTER's chairman's mark in the Judiciary Committee.

Well, then, of course, we had some additional deliberations here, and we now have the Hagel-Martinez bill. The Hagel-Martinez bill said the 290,000 figure is wrong; let's go to 450,000. And of course the Congressional Research Service said, OK, let's make the same calculation here: 1.2 family members will accompany each of those 450,000 workers, so you add those in and that gets you to 990,000. That is for the first 10 years. After the first 10 years, this legislation calls for that number to drop back down.

At this point, let me pause and make a point about this assumption which is built in here. Let me show one other chart. This is a very different group of immigrants we are approving to come into the country under this legislation than is currently approved under existing law. If, in fact, there are more family members who accompany these workers, then these numbers go up pretty dramatically. If, for example, instead of 1.2 people—a spouse and two-tenths of a child—coming in with each worker you had a spouse and 1 child coming in with each worker, then it is 1,350,000. If, in fact, there were 2 children, the spouse and 2 children, it would be 1.8 million people under the assumptions that are built into this legislation.

So all I am saying is, we don't know. Under the legislation pending, we don't know whether there are going to be 500,000 employment-based visas issued or a million employment-based visas issued for legal permanent residency or 1.5 million. I think we ought to fix that. My amendment says, let's pick a number.

Let's go back to this other chart, and I will show you how we came up with the specific number in the amendment. The number in the amendment tries to be a rounded-off number from what the Judiciary Committee started with and says, look, if they had kept a cap in the Judiciary Committee, as I believe they should have—we have had a cap in this country, a cap on the number of legal permanent residents historically—if we kept a cap, then it should be about 650,000. That is the estimate we came up with.

Some people say that is a very high number. That is a high number. That is over four times what we currently permit. It is more than twice what Senators KENNEDY and MCCAIN recommended in their legislation, the McCain-Kennedy bill or Kennedy-McCain bill. We have tried to be generous in this and say we should have a lot of new immigrants transferring over to legal permanent status, but we should have some limit on those.

The real question for each Senator is going to be whether you agree there ought to be a cap. Do you agree there ought to be a limit? I believe very strongly we should have a limit. I believe the limit we have chosen here is a generous one. To leave this bill with no cap at all would be a mistake. To send this bill out of the Senate without knowing whether we are increasing the legal permanent residents under the employment-based system 4 times or 8 times or 12 times, which is very possible, I think would be a very big mistake. So we need to get some certainty into this. We need to try to be somewhat prudent in what we are doing.

Let me just mention one other thing. Mr. President, how much time remains?

The PRESIDING OFFICER. Twelve minutes, twenty seconds.

Mr. BINGAMAN. Mr. President, let me just mention that this cap I am trying to put on is just for one of the categories vailable for people who want to become legal permanent residents, and I need to underscore that.

There is still the opportunity to become a legal permanent resident as part of this family preference category. That is 480,000 per year, and we are not in any way affecting that with my amendment. There is still the opportunity, if you are already here in this country and you have been here 2 years under this legislation and you are undocumented, you can go through the earned legalization provisions in the bill and become a legal permanent resident. We are not in any way affecting any of that or trying to limit that. If you are an agricultural worker, there are 1.5 million blue card agricultural workers who are provided with an opportunity to become legal permanent residents in this bill, but we are not in any way affecting that. There are various categories in the bill for highly skilled workers who are able to become legal permanent residents without being subject to any numerical cap. I have supported those provisions. I am not suggesting we put a cap on those provisions. These are highly skilled workers, in many cases people involved in science and engineering and other skills that are important to our economy.

Of course, there is provided in the bill an additional estimated 141,000 visas which have been recaptured from the last 5 years because they were unused. We are not doing anything to affect that. That is fine. I have no problem with that.

All we are saying is that this large category that we call employment-based legal permanent residents, we should have an annual limit on that. We have had one for over 100 years. We have always limited that. Every country in the world limits that. We should not be the only exception in the world to this general, prudent rule as I see it.

We can argue about exactly what the right limit ought to be, but I don't think we should give up on having any cap at all, and that, unfortunately, is what the present bill provides.

How much time remains, Mr. President?

The PRESIDING OFFICER. There remains 9 minutes and 50 seconds.

Mr. BINGAMAN. I see my colleague from Arizona wishes to speak. I yield the floor and reserve my time.

The PRESIDING OFFICER. Who seeks time in opposition?

Mr. MCCAIN. Mr. President, I ask that I be allowed 5 minutes in opposition.

The PRESIDING OFFICER. The Senator from Arizona is recognized for 5 minutes.

Mr. MCCAIN. Mr. President, I rise, obviously, in strong opposition to the amendment. The Senator from New Mexico just made my arguments for me. He wants us to be like other countries in the world—maybe France, maybe Germany, maybe those countries where there has been no assimilation, no ability to become part of the society and therefore they have ended up with serious situations—riots, car burnings. It is clear he wants to be like other countries in the world.

He also made my argument in that he pointed out there are lots of ways for highly skilled workers, highly educated people to come in. There is virtually no restraint on them. So he is going to focus on the lower skilled workers. Those are the ones on whom we are going to put the cap. Right.

The overwhelming number of people who have come to this country have started out as low-skilled workers, I remind my colleague from New Mexico, and have worked their way up the economic ladder. If you are rich and educated and highly skilled, come on in. There is no problem with you coming to the United States of America. But if you are low skilled, we are going to make sure that not only you but your children are not admitted.

My parents had three children. I am glad we didn't have that kind of proposal for my family—either I or my sister or my brother may have stayed someplace else, if my parents were immigrants. This is against family. This is against everything that America stands for.

I point out to my colleagues, this is just one in a series of amendments that basically would restrict people's ability to come to this country to not only work but also, over time, raise families and become part of our society. The Bingaman amendment clearly discriminates against people who are low skilled. He wants us to be like every other country in the world. I tell the Senator from New Mexico, I don't want America to be like every other country in the world. He made my argument against his own amendment. I don't want us to be like that.

Mr. BINGAMAN addressed the Chair.

Mr. MCCAIN. Mr. President, I believe I have the floor. If the Senator from

New Mexico—by the way, this amendment is opposed by the Chamber of Commerce and the majority of the unions and certainly by every major Hispanic and immigrant group in the United States of America. The Senator from New Mexico may prevail. But lately these amendments have, obviously—they have a tenor and an effect that I don't think is healthy for this country and I don't think is good for America.

I yield the remainder of my time.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. MCCONNELL. Mr. President, if the Senator will yield for just a moment, I yield my 1 hour postcloture to the Senator from Pennsylvania, Mr. SPECTER.

I thank my friend.

The PRESIDING OFFICER. The Senator has that right. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I was seeking recognition to ask the Senator from Arizona—he says this is unfair to low-income, low-skilled workers because we are putting a cap of 650,000 on this employment base. His proposal, the McCain-Kennedy bill, limited it. It had a cap of 290,000. I am proposing more than twice the admissions under the employment-based system than his proposal had. I don't understand why mine is unfair to anybody whereas his 290,000 was appropriate. He was proposing 290,000 as a limit on the number of people who could transition to legal permanent status, and that is when the guest worker program was being proposed at 400,000 per year. We have now reduced the guest worker program to 200,000 per year, and I am saying legal permanent residents should not exceed 650,000 per year under the employment-based system, in addition to the family preference, in addition to all the other ways that you can become a legal permanent resident. So I don't think this is that unfair. It is more than twice what he and Senator KENNEDY proposed and more than four times the current law.

But it does impose some cap. I understand there are people, particularly inside the beltway, who do not want any cap. A lot of the immigrant groups have indicated very clearly they are opposed to any cap, any limit in this category. Of course, the Chamber of Commerce is opposed to any limit in this category. They would prefer to be able to bring in anybody without limit. I think that is not a responsible course, and for that reason I have offered this amendment.

I reserve my time.

Mr. KENNEDY. The answer is very simple, I say to the Senator. We had one figure when we came out of committee and then we had the Martinez legislation which forced individuals to go on back. We want to make sure the people who have been working here from 2 to 5 years would be able to go back and then come back in employment. So we increase that.

I will just continue——

Several Senators addressed the Chair.

Mr. KENNEDY. I just want to make another point. Here is the legislation, the immigration act. It points out where the priorities for the green cards are. If the Senator offered that amendment and had a fair distribution of the green cards, I would support him. But he does not. Under this he gives the priority to workers, aliens with extraordinary ability. That is No. 1. Outstanding professors and researchers, they will get their green cards; certain multinational executives and managers, they are going to get their green cards; aliens who are members of professions, they are going to get their green cards; skilled workers and professionals, they will get their green cards. But the people we have talked about, to try to make this kind of balance, the ones who have been coming across the border, the ones for whom we are trying to get a legal system so they can come through as guest workers, under this they are the ones who will be left out.

Fair ought to be fair. We have tried to work with the Senator from New Mexico to get a fair distribution so people will be treated fairly, and we have not gotten it. This is why we have this dilemma.

If you wanted to try to work with us to try to get a fair distribution—but that has not been the case. We tried to do that. As a result, the point the Senator from Arizona makes has credit.

I will withhold our time.

The PRESIDING OFFICER. Who seeks time? The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, can I respond? First, on the last point Senator KENNEDY makes about fair distribution, I am accepting the distribution that is in the Hagel-Martinez legislation, the distribution that was in the chairman's mark, the distribution that was in the McCain-Kennedy bill. I am not changing that in any respect. I am not proposing to make any change in that. Whatever the distribution was that they thought was appropriate, that is exactly what I accept. My amendment doesn't affect that.

Let me make this other point because Senator KENNEDY made a point that somehow or other the Hagel-Martinez legislation caused the need for no cap in this area, and for the very large number we are, in my amendment, excluding—we are saying, in calculating this 650,000, we are excluding such visas as are issued to anyone under this 245–B and –C program, which is all of those people who are going to come in under this deferred mandatory departure system, the people who have been here at least 2 years but not a full 5 years, or not more than 5 years.

We are saying let's not count those people. Those folks are home free. Anyone who has been here over 2 years is home free. They are on their way to legal permanent status and I have supported that aspect of the bill and I continue to support that aspect of the bill.

All I am saying is that once you exclude that group and say, OK, they are home free, then you still have the question: How many new employment-based legal permanent residents are we going to admit each year? Senator MCCAIN, Senator KENNEDY said it ought to be 290,000. I am saying let's make it 650,000, but let's put on a cap. Let's not leave it the way the bill now stands, which is totally uncontrolled.

Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator controls 5 minutes 45 seconds.

Mr. BINGAMAN. Mr. President, I will reserve my time at this point.

Mr. KENNEDY. I will just take a minute.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. The problem is that there is a limitation with the cap. Under the existing legislation the children and the wives were not counted. You are counting them now. The way the law works is going to be the squeeze. That is the effect. If the Senator wanted to—we tried to work this out. The Senator can say we are not changing anything, but, yes, we are changing it. We are changing it because you are moving numbers around. People will be able to come into this country. There will be a job out there, a person will be able to apply for it and come in here, but they can't get the green card because we only have a certain number of green cards. So that person will not be able to get the green card. So they will never be able to make an application for permanent residency. That is the effect of it.

If the Senator wanted to work with us—which we indicated we were going to—and put in that kind of cap and work this around so we could still maintain that aspect in the legislation, we were glad to do it. But once you have that limitation which is in effect now—is in effect now—this skews this whole process in terms of green card and normalization to the highest skilled individual and says to those people we have been trying to deal with—there is pressure on the border. We spend an enormous amount of time with guest workers saying: You are going to be treated with respect, no Braceros. You are going to work hard for 4 years, and there is going to be a green card out there, and you can work 5 more years, work hard, play by the rules, pay your taxes, and get citizenship.

Can the Senator give us assurance that under his proposal someone who comes as a guest worker and works 4 years is going to be able to get the green card and go for citizenship?

Mr. BINGAMAN. Mr. President, I am glad to respond. I can't give assurance of that. But I can say they are much more likely to get the green card under my proposal than they were under McCain-Kennedy. McCain-Kennedy

contemplated 400,000 guest workers every year coming in and said the total number of green cards we are going to issue to these people is 290,000, including family.

What I am saying is, we should increase that to 650,000, including family, since we have half as many guest workers coming in each year under the bill that we have agreed to on the Senate floor.

I think my proposal, frankly, is much more generous in giving green cards to people who have come here legally than was McCain-Kennedy. It is more than twice as generous. It is more than four times as generous as current law. But I am saying we ought to have some cap. We should not just leave it uncapped entirely.

Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from New Mexico has 5 minutes 35 seconds.

Mr. BINGAMAN. Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who seeks time? The Senator from South Carolina.

Mr. GRAHAM. Mr. President, I think this has been a very good debate. Why is the Chamber opposed? Why are the groups backing the bill opposed? Do they want just anybody and everybody? Some probably do. I don't believe that is what motivates the authors of the bill.

We are trying to marry up needs, and the numbers we are picking do change because of the politics and because of projected needs.

What I would say to my good friend from New Mexico is, if you think you are helping, you are not. I am not questioning your motives. I will never question the motive of any Senator who votes differently than I do because they are all intelligent people, and I don't claim to know more about any particular area than any other of my colleagues. But what we are doing is trying to create order out of chaos because we live in a chaotic world when it comes to immigration. The numbers change every time the bill changes.

Hagel and Martinez was a new proposal, a new idea that broke people into different groups. The 2-to-5 year group of people was treated differently. Senator BINGAMAN was right, we tried to exclude that. Whether it is 290,000 or 600,000—whatever, what I don't want to do is artificially deny my country the ability to assimilate hard-working people I think we need.

The fundamental disagreement between me and the Heritage Foundation and Senator BINGAMAN is I believe that immigration is going to be regulated by the needs of our economy. When our economy gets to the point that we can't tolerate more people, the numbers are going to change. The Heritage Foundation assumed escalations in numbers apart from supply and demand. To my good friend from New Mexico, the 11 million to 12 million—whatever number it is—have already been assimilated into our workforce without damage to our workforce because we have historically low unemployment, and the economy is humming, from a Republican sound bite point of view. This is about as good as it will ever get.

When you change the formula, when you introduce the family element of having to choose between family status and work status in a different kind of way than the base bill, then you are going to create a chaotic political event, a chaotic assimilation event.

What I am trying to urge my colleagues to do is let us not create disorder in a way that just doesn't reflect what we want to be as a society. We need the workers. I think we need more than 290,000. But when you start looking at counting the children and family members and they are not workers, you are hurting our business community, and you are putting a burden down the road on people. That just really makes me feel uncomfortable.

I respect Senator BINGAMAN's approach to this problem. He has limited the number of people that can come in. I fundamentally disagree with him. I think 5 years from now we are going to need more people, not less. Japan is our model in this regard. The Japanese demographics have changed. There are more older people there than younger people. They have a closed society. They don't assimilate people from outside their culture, and their gross domestic product has slowed down. Their workforce needs are being unmet.

Whatever number we pick—and we can all talk about what the right number is—to make this change at this stage in the proceedings to introduce family status versus work status is a new concept, something we haven't all thought about and worked through before. That does more harm than good.

I hope we can march forward, work with the numbers based on what we think the economic needs of the country will be in a way that is fair to people.

We have changed the bill fundamentally from Hagel-Martinez. We are trying to accommodate business needs; we are trying to accommodate the needs of our society in terms of people violating the law.

But this idea that we are going to flood America with people who can't add value to America, my colleagues, is contrary to what this bill is about.

If you come here under this bill, whether you are a future flow or you are with the 11 million, you will have to prove to us over time that you are worthy of staying here. You will have to earn your way into working in this country and staying in this country. You are not getting anything for free. As a matter of fact, the future flow people and the 11 million people are going to be asked to do more than any generation that has ever come to this country.

I think there is a point in time where we need to stop and try to have assimilation rules that bring about order, not chaos.

I hope that we will reject this attempt to change the bill in the eleventh hour because it will create political and economic chaos.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I yield to the Senator from North Dakota.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, I have great respect for the Senator from South Carolina. But when he says to the Senator from New Mexico that you think you are helping and you are not, I come down on the other side. I am one of those people who has not decided how I am going to vote on this final bill. But this will help make up my mind. If there are no caps, that would have significant bearing on how I might vote on final passage.

I have great respect for those who have managed this bill. I think this bill has been improved substantially since it came to the floor. We have actually gone through a legislative process for once around here. For the first time in a long time, we are actually legislating. This bill has been improved as a result.

The provisions to strengthen and protect the border have been dramatically improved.

The credibility of the plan to deal with the 11 million or 12 million illegal immigrants that are already here has been substantially improved. This bill is still very imperfect.

I want to conclude by saying that the Senator from New Mexico is I think casting a lifeline out to sponsors of this bill. If this bill has no caps, I think you will find a strong public reaction against this bill.

The PRESIDING OFFICER. Who seeks time?

Mr. BINGAMAN. Mr. President, I yield 2 minutes to the Senator from Alabama.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, once again Senator BINGAMAN is correct and has a very, very important amendment.

My staff was the first to alert the country to the huge numbers that are involved in this bill and the extraordinary increases in legal immigration that will occur. We ran the numbers also.

Senator BINGAMAN's previous amendment helps fix some of those problems. This one will further help.

Under current law for employment-based green cards, 140,000 people are allowed in the country each year, and spouses and children count against that 140,000. Under the bill that is on the floor today, that number goes to 450,000, and spouses and children do not count. Utilizing the numbers of the Congressional Research Service, as the

Senator said, 1.2 children and a spouse per worker coming in, that would total 990,000 under this simple provision alone. It goes from 140,000 to 990,000. It could be more that come in under the spouse and family provisions. Let's just say go to 650,000. That is about four times the current rate.

How reasonable is that? I have not seen any economist, I have not seen hearings in which we have ever had official testimony that increasing by fivefold or sixfold the amount of legal immigration in this country is the right approach to take. So we don't have a necessary basis to assert this.

There is not really a tenor here. It is not a question of evocative, emotional feelings. It is a question of what does this bill do. It is fatally flawed, and the Senator is correct.

I support his amendment.

The PRESIDING OFFICER. Who seeks time?

Mr. BINGAMAN. Mr. President, how much time remains on the two sides?

The PRESIDING OFFICER. The Senator from New Mexico has 1 minute 56 seconds, the Senator from Massachusetts has 7 minutes 20 seconds.

Mr. KENNEDY. Mr. President, just so that our colleagues and friends understand exactly what we have done over the course of the development of this legislation, we have increased dramatically opportunities for high-skilled people to come here to the United States, probably two or three times, and the best estimate is about 600,000. That has been increased dramatically.

Under the basic immigration law, the people who get the first crack at the green card—what is the green card? The green card is the path towards citizenship. That really is key in terms of their future and their family's future.

Under existing law, of all the green cards that are going to be available, 70 percent of those are going to go to the high skills and only 30 percent to what I call the low skills.

We have recognized in the development of the legislation the pressure that is on the border, people coming across the border illegally, the pressure that is on companies that need the unskilled individuals to work in American industry for jobs that virtually no Americans will take. So we set up the process. They have to go out and ask. Americans have to advertise for those jobs and indicate what the pay will be. If they can't get it, they are able to bring in a foreign worker.

In this legislation, since we have found that farm workers have been so exploited over the period of the past we have given the assurance that we are going to have a tamper-proof card. They will able to come here and be able to be treated with respect, with decent wages and decent working conditions.

We have put into effect a program which will enable enforcement in the legislation for employers. We know that there are demands for these low-skill workers. That is what we have done. That is the pressure at the border—for people who want to come here and be part of the American dream and provide for their family.

We said to the lower-skilled individuals that we are going to treat you the same as the higher-skilled individuals because we believe in equity and fairness. We value the work of lower-skilled persons. We value the work of minimum-wage workers as we do the presidents of universities. That is an essential part of our country and our system. They provide indispensable work.

We said to them, Look, you come to the United States as a temporary worker; you work hard for 4 years. Then you have the opportunity to get a green card; 5 years later, if you pay your taxes and behave yourself, you can earn your citizenship. But they have to be able to earn the green card.

With the numbers that have been increased over the course of the debate on McCain-Kennedy, the effect of this is going to eliminate the possibility also of those low-income people to be able to obtain a green card over the time that they are here in the 6-year period.

That is effectively capping what you do. We tried to work out with the Senator from New Mexico a way to kind of deal with this disparity so we could have a fair distribution. We haven't been able to do that. But what we have done effectively is a dramatic alteration and change in this bill. At the end of the day there will not be the opportunity nor will we be able to represent the guest workers when they come to the United States. After 6 years, you have no alternative but to return home.

I know that is not the intention of the Senator from New Mexico. But that is the effect of his amendment on this legislation.

As I said to the Senator from New Mexico, we tried over the course of yesterday to say, OK, I understand the appeal of trying to get a definitive number of people, including children. It always involves some give-and-take. Some families have larger numbers of children than others, and we have always tried to be responsive to these family needs. We were trying to work out a process so that would not happen.

The Senator from New Mexico points out that there is a difference in the underlying bill. Our underlying bill was changed both in the Judiciary Committee and on the floor. One of the principal reasons it changed on the floor is because we took the Martinez-Hagel amendment that said we are going to treat people who are here 5 years differently than we are going to treat the people that are here longer. Those who are going to be here only for 2 years are going to be deported. But they will know there is a guest worker program out there. If they want to go out and become a part of a guest worker program, they can find ways to be able to do it, play by the rules and be able to probably find a way to come back in and do it legally.

Those who are here between 2 and 5 years are going to have to be certain of the other requirements. They will have to go back to the port of entry and come back in—and they are treated differently.

I suggest the absence of a quorum, and I ask unanimous consent that the time not be charged.

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

The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. SPECTER. Mr. President, I regret being absent for part of this debate on the issue, but the Judiciary Committee has been meeting in a rather heated session to decide what to do about getting information from the telephone companies on the NSA program. I want to comment very briefly in opposition to the amendment by the Senator from New Mexico.

This amendment will substantially limit the ability of members of a family to accompany those who come into the United States and take jobs where they will be productive. I believe having family present is a very high value. This amendment, in putting a cap on, leaving no flexibility for family members to accompany the immigrant, is just basically a bad idea.

We have sufficient room to accommodate the immigrants who are permitted to come in under the guest worker program, and accommodating the guest worker ought to include their family. They ought not to be separated from their family. We ought not to have a statute on this important subject which has that very undesirable family result.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I understand all the time has expired. We ask for the yeas and nays on the Bingaman amendment.

The PRESIDING OFFICER. The Senator from New Mexico has 1 minute 54 seconds remaining.

Mr. KENNEDY. Excuse me. I apologize.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. BINGAMAN. Thank you, Mr. President.

Let me respond to that point which was just made by the chairman of the Judiciary Committee. There is nothing in my amendment that limits the ability of families to accompany workers. All my amendment does is to say there should be a cap on the total number of workers with accompanying family, just as there is today, just as there was under the McCain-Kennedy proposal. We are saying there should be some limit. It should not be open-ended, as the current bill pending on the Senate floor provides.

We are saying this limit should be 650,000. Now, why did we choose that? Because that is what the Congressional Research Service says they estimated would actually be happening under Chairman SPECTER's proposed mark to the Judiciary Committee when they started. To do something other than what we are proposing in this amendment is to leave it totally unknown as to how many people we are going to have coming in under this employment-based legal permanent residency program, how many green cards we are going to be giving out. It could be 500,000. It could be 1 million. It could be 1.5 million. This is every year I am talking about. That is not an acceptable arrangement.

Now, I want to make clear this one point, which I said before; that is, this amendment in no way limits the number of people who can come in and become legal permanent residents under the family preference. That is 480,000. It does not affect the number of people who can have their situation, their status changed under the undocumented earned legalization provisions. That is 11 or 12 million. It is left alone. It does not affect the 1.5 million blue card agricultural workers. It does not affect the shortage occupation groups and other high-skilled workers. It does not affect the 141,000 visas that we are bringing back from the last 5 years.

This amendment will improve the bill. It is not an effort to undermine the bill. It is an effort to improve the bill. I urge my colleagues to support the amendment.

The PRESIDING OFFICER. All time has expired.

Mr. SPECTER. Mr. President, I ask unanimous consent that the Feingold amendment and debate precede the Sessions amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. SPECTER. Mr. President, so that our colleagues will know the schedule, Senator BYRD has asked to speak to the body following this vote on his 69th wedding anniversary. He will be recognized for that purpose.

I yield the floor.

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

Mr. BYRD. Mr. President, I thank the distinguished Senator. I want to do that at a time that will accommodate him and the Senate. So if the Senator would let me know right now, if he might, when might be the best time to accommodate him and the Senate.

Mr. SPECTER. Mr. President, I thank the distinguished Senator from West Virginia. We will see if we can find a more convenient time.

Mr. BYRD. I thank the Senator.

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

The question is on agreeing to the Bingaman amendment.

Mr. SANTORUM. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The bill clerk called the roll.

Mr. MCCONNELL. The following Senator was necessarily absent: the Senator from Wyoming (Mr. ENZI).

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

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

The result was announced—yeas 51, nays 47, as follows:

[Rollcall Vote No. 152 Leg.]

YEAS—51

Alexander	Cornyn	Lincoln
Allard	Craig	Lott
Allen	Crapo	Mikulski
Baucus	DeMint	Nelson (FL)
Bayh	Dodd	Nelson (NE)
Biden	Dole	Pryor
Bingaman	Domenici	Reed
Bond	Dorgan	Roberts
Boxer	Ensign	Santorum
Bunning	Feinstein	Sessions
Burr	Grassley	Shelby
Byrd	Hutchison	Sununu
Carper	Inhofe	Talent
Chambliss	Isakson	Thomas
Coburn	Jeffords	Thune
Cochran	Johnson	Vitter
Conrad	Kyl	Voinovich

NAYS—47

Akaka	Hagel	Menendez
Bennett	Harkin	Murkowski
Brownback	Hatch	Murray
Burns	Inouye	Obama
Cantwell	Kennedy	Reid
Chafee	Kerry	Salazar
Clinton	Kohl	Sarbanes
Coleman	Landrieu	Schumer
Collins	Lautenberg	Smith
Dayton	Leahy	Snowe
DeWine	Levin	Specter
Durbin	Lieberman	Stabenow
Feingold	Lugar	Stevens
Frist	Martinez	Warner
Graham	McCain	Wyden
Gregg	McConnell	

NOT VOTING—2

Enzi	Rockefeller

The amendment (No. 4131) was agreed to.

Mr. KENNEDY. Mr. President, I move to reconsider the vote.

Mr. BINGAMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. KENNEDY. Mr. President, we are making progress. I see the Senator from Wisconsin on his feet. He has an amendment. We have two amendments following that. Then, hopefully, we will be ready for final passage. I understand we have an hour of time evenly divided.

Mr. FEINGOLD. Mr. President, I hope it will be shorter, but it depends on the response.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

AMENDMENT NO. 4083

Mr. FEINGOLD. Mr. President, I call up amendment No. 4083.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Wisconsin [Mr. FEINGOLD] proposes an amendment numbered 4083.

Mr. FEINGOLD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To strike the provision prohibiting a court from staying the removal of an alien in certain circumstances)

On page 167, strike lines 17 through 20.

Mr. FEINGOLD. Mr. President, this amendment will ensure that asylum seekers, victims of trafficking, and other immigrants are able to secure meaningful judicial review of removal orders. It would strike from the bill a provision that would have the really absurd result of making it harder in many cases for an immigrant to get a temporary stay of removal pending appeal than to actually win on the merits of the case.

Before I go further, I thank Senator BROWNBACK for cosponsoring this amendment. He has been tireless in his efforts to help asylum-seekers and trafficking victims, and I am very pleased that we could work together on a bipartisan basis on this effort.

Under section 227(c) of the bill, a court cannot grant a temporary stay of removal pending appeal to an asylum applicant or other individual unless the immigrant proves by clear and convincing evidence that the order is prohibited as a matter of law. That, as we all know, is an extremely difficult standard to satisfy, particularly in the preliminary stage of an appeal. It is so difficult that the Chicago Bar Association called this provision a ''potentially devastating threat to due process.''

This draconian provision could have a particularly harmful effect on asylum-seekers. It could effectively deny all judicial review to many asylum applicants who might otherwise have successful appeals by allowing them to be sent back to countries where they can face persecution or even death before a Federal court can even rule on their cases.

Section 227(c) would overturn the decisions of seven different courts of appeal that have determined that the Immigration and Nationality Act does not currently require immigrants to meet the very high ''clear and convincing evidence'' standard for temporary stays of removal pending appeal. I will explain in a bit more detail, as these courts already have, why this very stringent standard would be such bad policy.

First of all, as I have said, in many cases this provision would result in an immigrant having to meet a higher standard of review to get a temporary stay of removal than to prevail on the merits of it. Federal courts review legal issues in asylum and other immigration cases de novo, and they review issues, such as credibility questions in asylum cases, using a lower, ''substantial evidence'' standard. These standards are nowhere near as difficult to

satisfy as a ''clear and convincing evidence'' standard that the decision ''prohibited as a matter of law.'' Indeed, courts of appeal have pointed out that the only individuals who could satisfy such a high standard would be U.S. citizens and individuals who hold visas of ''unquestioned validity.''

I will read a quick passage from a decision of the First Circuit Court of Appeals that I think goes right to the heart of the issue:

> Perhaps most important, we recognize that extending [the] stringent clear and convincing evidence standard to stays pending appeal . . . would result in a peculiar situation in which adjudicating a stay request would necessitate full deliberation on the merits of the underlying case and, in the bargain, require the alien to carry a burden of proof higher than she would have to carry on the merits. This Kafkaesque design is counterintuitive.

Let's pause for a moment to consider that—''this Kafkaesque design is counterintuitive.'' A panel of the First Circuit Court of Appeals, in a decision written by a judge appointed by President Reagan, has called the very provision that is in the bill ''Kafkaesque.'' Surely, the Senate does not want to include such an extreme provision in this bill.

Even in situations where the issue on appeal is subject to a very deferential standard of review, it makes no sense to require an immigrant to meet the stringent ''clear and convincing evidence'' standard of review at such a preliminary stage of the case. As one court has pointed out, the appellant may not even have obtained a copy of the administrative record that early in the case. How can appellants prove by clear and convincing evidence that they will win their appeal when they may not even have a copy of the administrative record?

Kafkaesque, indeed.

This standard would also be out of line with analogous situations in other civil cases. Typically, when an appellant seeks temporary relief at the beginning of a case, the goal, as many of us know, is to preserve the factual situation for the duration of the appeal, and the goal of that is to ensure that the ultimate relief, if granted, will still be meaningful. That is why many courts of appeals reviewing removal orders rely on the same standard of review that applies to requests for temporary restraining orders in civil litigation. That test is well known to so many who have studied the law. They apply a four-part test that evaluates the likelihood of success on the merits: whether there will be irreparable injury if a stay is denied; whether there will be a substantial injury to the party opposing a stay if one is issued; and the fourth criterion, the public interest. This flexible standard allows a court to assess whether a stay is needed early in the case without having to delve into the detail required to determine the final outcome.

But if this provision were to become law, the entire case would have to be litigated in full twice—once to meet the requirements for a stay of removal and then again on the merits. At least in some courts of appeals, that would mean the case would first have to be presented to a motions panel on the stay application and then again before the merits panel. As the American Bar Association has argued in urging the Senate to reject this provision, such a duplicative process would be a significant waste of resources, particularly at a time when the immigration caseload of the Federal courts is growing.

I wish to speak for a moment about the individuals who would most likely be harmed by this new provision, and they are, of course, asylum seekers.

As one Federal court has explained, imposing this new stringent standard ''would mean that 'thousands of asylum seekers who fled their native lands based on well-founded fears of persecution will be forced to return to that danger under the fiction that they will be safe while waiting the slow wheels of American justice to grind to a halt.'''

Similarly, Judge Easterbrook of the Seventh Circuit noted that stays pending appeal ''remain vital when the alien seeks asylum or contends he would be subject to torture if returned. The ability to come back to the United States would not be worth much if the alien has been maimed or murdered in the interim. Yet under [the clear and convincing evidence standard] . . . an alien who is likely to prevail in this court, and likely to face serious injury or death if removed, is not entitled to remain in this Nation while the court resolves the dispute.'' Just to give that example.

The stakes are high. This provision has the potential to be devastating for asylum seekers; so devastating, in fact, that the provision was rejected by Congress just last year when it was taken out of the REAL ID Act in the conference process, and it is not even included in the current House bill. I hope the Senate will support my amendment to strike this troubling provision from the bill.

Let me put a personal face on this debate. I received earlier this week a letter from the National Network to End Violence Against Immigrant Women. This is a very compelling letter, and I ask unanimous consent that it be printed in the RECORD.

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

MAY 22, 2006.

Re Comprehensive Immigration Reform Act of 2006 [Hagel-Martinez compromise] (S. 2611), Biden Amendment 4077 (amends section 403(a)(1)), and Feingold Amendment 4083 (amends section 227[c]).

DEAR SENATOR: On behalf of the National Network to End Violence Against Immigrant Women, we write to urge you to preserve access to longstanding, life-saving legal protections embodied in the Violence Against Women Act (''VAWA'') for immigrant victims of domestic abuse, sexual assault, or human trafficking. The National Network to End Violence Against Immigrant Women is comprised of over 3,000 professionals nationwide including police, sheriffs, district attorneys, probation officers, prosecutors, health providers, churches, rape crisis centers, domestic violence shelters, mental health professionals, child protective services workers, and immigrant rights' groups. The Network's members are all joined by a common purpose—working towards the eradication of all forms of violence perpetrated against immigrant women and children including domestic abuse, sexual assault, human trafficking, and stalking.

The National Network to End Violence Against Immigrant Women urges you to support:

(1) Biden Amendment 4077 [amends section 403 (a)(1)]: preserves access to VAWA cancellation of removal (family violence), T visas (trafficking), and U visas (violent crimes); and

(2) Feingold Amendment 4083 [amends section 227[c]]: preserves access to judicial stays of removal for immigrants, including victims of violence or persecution, who are appealing their cases to the federal courts.

I. S. 2611, section 403(a)(l) endangers thousands of immigrant women and children by cutting off victims of domestic abuse, sexual assault, or human trafficking from the VAWA immigration remedies created by Congress in 1994 and 2000.

S. 2611, section 403(a)(1) adds a new subsection to the Immigration and Nationality Act (''INA''), 218A(i), which would bar individuals who enter or remain in the U.S. without authorization from obtaining cancellation of removal, voluntary departure, or nonimmigrant status for 10 years. Section 218A(i) does not contain an exception for victims of domestic abuse, sexual assault, or human trafficking who qualify for VAWA cancellation of removal (family violence), T visas (human trafficking), or V visas (violent crimes). Without a specific amendment to exempt these victims, section 403(a)(1) will undo over a decade of progress in fighting domestic abuse, sexual assault, and human trafficking started with the enactment of the Violence Against Women Act (''VAWA'') in 1994.

Since passing VAWA 1994, Congress has continually reaffirmed the nation's commitment to granting special humanitarian relief to immigrant victims of domestic abuse, sexual assault, or human trafficking. In 2000 Congress created the T visa and V visa in the Victims of Trafficking and Violence Protection Act. As recently as last December, Congress expanded VAWA and trafficking immigration relief in the VAWA Reauthorization Act of 2005. If the Senate does not now carve out a limited exception to S. 2611, section 403(a)(1), it will be undercutting the very protections created by Congress in VAWA 1994 and 2000.

We, therefore, respectfully urge you to support Biden Amendment 4077 which would carve out a limited exception for victims of family violence, sexual assault, or human trafficking from S. 2611, section 403(a)(1) to ensure they have continued access to VAWA cancellation of removal, T visas, and U visas.

II. S. 2611, section 227[c] endangers immigrant women and children who will be deported into the hands of human traffickers, batterers, and persecutors, thereby facing certain harm and possible death.

S. 2611, section 227[c] would bar federal courts from staying the deportation of any immigrant with a final removal order unless she shows by ''clear and convincing evidence'' that deportation is prohibited as a matter of law. This heightened standard would make it virtually impossible for most victims of domestic abuse, sexual assault, or human trafficking to obtain stays of deportation while their cases are on appeal to the

federal courts. Section 227[c] poses grave risks to many immigrant women and children who, in the absence of a stay of removal, will be deported and delivered into the hands of human traffickers, batterers, and persecutors.

Why is preserving access to temporary judicial stays of removal critical for immigrant victims of violence or persecution? Because it is not uncommon for the federal courts to reverse illegal deportation/removal orders that were issued by immigration judges and subsequently affirmed by the Board of Immigration Appeals (''BIA''). For many immigrant women and children, the federal courts are the ultimate protectors of justice, and it is not until their case reaches the federal courts that they are given due process, as required by the Constitution. All immigrants, but especially victims of violence or persecution, need to have continued access to request judicial stays of removal/deportation while their cases are being reviewed by the federal courts. A temporary judicial stay of removal does not allow an immigrant to remain indefinitely in the U.S.; it merely prevents the Department of Homeland Security from deporting her while the federal court reviews her case.

Real-life immigrant women who obtained judicial stays of removal during the pendency of their appeals and were ultimately granted immigration relief by the federal courts:

Laura Luisa Hernandez endured years of brutal violence at the hands of her husband. He slammed her head against the wall, smashed a fan on her head, savagely beat her, attacked her with a knife, and denied her access to medical care for her injuries. Ms. Hernandez applied for VAWA suspension of deportation, a special form of relief for abused spouses and children that Congress created in VAWA 1994. An immigration judge denied Ms. Hernandez's VAWA suspension of deportation application and ordered her deported. The BIA affirmed the immigration judge's denial of VAWA suspension of application. Ms. Hernandez then appealed the BIA decision to the U.S. Court of Appeals and obtained a temporary stay of deportation while her appeal was being reviewed by the U.S. Court of Appeals. The U.S. Court of Appeals eventually reversed the BIA decision and concluded that she qualified for VAWA suspension of deportation. *See Hernandez* v. *Ashcroft*, 345 F.3d 824 (9th Cir. 2003).

Lioudmila Krotova and her children Anastasia and Aleksandra fled Russia after they were assaulted by skinheads and their synagogue was stormed. Ms. Krotova reported both attacks to the police, but the police failed to take any meaningful action. After the Krotovas fled Russia, skinheads beat a close family friend to death, and also beat the Krotovas' relative so brutally that they broke his hip. After entering the U.S., Ms. Krotova applied for asylum. An immigration judge denied her application, and the BIA affirmed the judge's decision. Ms. Krotova then appealed to the U.S. Court of Appeals and obtained a temporary stay of removal. The U.S. Court of Appeals eventually reversed the BIA decision and concluded that the harassment, discrimination, and violence experienced by Ms. Krotova on account of her being Jewish compelled the finding that she suffered past persecution. *See Krotova* v. *Gonzales*, 416 F.3d 1080 (9th Cir. 2005).

Ralitsa Nedkova, a Roma (gypsy) woman from Bulgaria, was brutalized by the police for many years. She was repeatedly arrested, detained, beaten, and threatened with rape by the police for doing nothing wrong other than being Roma. She suffered numerous injuries including cracked ribs as a result of police brutality. She was also brutalized by her ethnic Bulgarian husband who savagely beat her while screaming ''Whore! Gypsy!'' When she was pregnant, he beat and kicked her in the stomach yelling, ''Gypsies don't have a right to have children!'' He beat her so violently that she miscarried in her second trimester. Ms. Nedkova eventually fled for her life and attempted to enter the U.S. She was arrested by immigration authorities and remained in detention for years. While in detention, she applied for withholding of removal. An immigration judge denied her application, and the BIA affirmed the decision. Ms. Nedkova appealed her case to the U.S. Court of Appeals and obtained a temporary stay of removal during the pendency of her appeal. The U.S. Court of Appeals reversed the BIA decision, and Ms. Nedkova was eventually granted withholding of removal. *See Nedkova* v. *Ashcroft*, 83 Fed. Appx. 909 (9th Cir. 2003).

Juanita Sauceda was ordered removed by an immigration court while her husband was fighting in the Middle East with the Texas National Guard. Together they have several U.S. citizen children. Ms. Sauceda was ordered removed, despite the fact that she was eligible to immigrate based on her husband's petition as well as her mother's petition. Ms. Sauceda appealed her removal order to the BIA which affirmed the immigration court's decision. She then appealed her case to the U.S. Court of Appeals for the Fifth Circuit and obtained a judicial stay of removal during the pendency of her appeal. Because she was granted a stay of removal, she was able to continue caring for her U.S. citizen children while their father fought in the Middle East. If she had been denied a judicial stay of removal, she would have been deported during the pendency of her appeal, and her U.S. citizen children would have been abandoned in the U.S., with no parent to care for them. *See Sauceda* v. *Gonzales* (5th Cir. 2005).

These real-life cases illustrate why all immigrant women and children, especially victims of violence or persecution, need to have continued access to judicial stays of removal while their cases are being reviewed by federal courts. We, therefore, respectfully urge you to support Feingold Amendment 4083 which would preserve access to judicial stays of removal, thereby ensuring that victims are not illegally deported into the hands of human traffickers, batterers, and rapists.

Sincerely,

JOANNE LIN,
Legal Momentum Immigrant Women Program.
GAIL PENDLETON,
ASISTA.
LENI MARIN,
Family Violence Prevention Fund.

Mr. FEINGOLD. Mr. President, I would like to read from this letter to give my colleagues a better understanding of whom this provision of the bill will affect. According to this letter:

Section 227(c) poses grave risks to many immigrant women and children who, in the absence of a stay of removal, will be deported and delivered into the hands of human traffickers, batterers, and persecutors.

Let me read one example the National Network provided in its letter of a case in which the availability of a stay of removal was essential. Let me tell you about Lioudmila, Anastasia, and Aleksandra Krotova. According to the letter:

Lioudmila Krotova and her children Anastasia and Aleksandra fled Russia after they were assaulted by skinheads and their synagogue was stormed. Ms. Krotova reported both attacks to the police, but the police failed to take any meaningful action. After the Krotovas fled Russia, skinheads beat a close family friend to death and also beat the Krotovas' relative so brutally that they broke his hip.

After entering the U.S., Ms. Krotova applied for asylum. An immigration judge denied her application, and the [Board of Immigration Appeals] affirmed the judge's decision. Ms. Krotova then appealed to the U.S. Court of Appeals and obtained a temporary stay of removal. The U.S. Court of Appeals eventually reversed the BIA decision and concluded that the harassment, discrimination and violence experienced by Ms. Krotova on account of her being Jewish compelled the finding that she suffered past persecution.

This is just one example.

The letter also talks about a woman who was ordered removed while her husband was serving overseas in the Texas National Guard and whose deportation would have left her U.S. citizen children no parent to care for them. And there are others.

If my amendment is not adopted, these are the types of people who will be affected, who will be sent back to countries where they could be killed or torn from their families.

I assume those who support this provision want to ensure immigrants cannot file frivolous appeals in order to delay their deportation, and I wholeheartedly agree with that goal. But this provision is not necessary to accomplish that worthy goal. The Federal courts do not grant stays of removal when immigrants have little likelihood of success. In fact, several of the appellate decisions that have rejected the clear and convincing evidence standard at issue here have gone on to apply the four-part test I discussed earlier and denied stays of removal pending appeals. Nonetheless, they have denied these stays in some cases because the immigrants had little likelihood of success or because the immigrant could safely return to their home countries and await the outcome. So this provision is really just a solution in search of a problem.

This amendment is about basic due process and fairness. It is about giving individuals who have been turned down at the administrative level the opportunity to seek meaningful judicial review. And it is about making sure that those who seek asylum in this country and who have meritorious claims are not returned to persecution or even murder in their home countries before they can present their case to a Federal court.

That is why a long list of organizations have come out in support of this amendment, including the U.S. Conference of Catholic Bishops, World Relief, the Leadership Conference on Civil Rights, the National Council of La Raza, and more than 50 others.

Mr. President, I ask unanimous consent that a full list of the organizations that support this amendment be printed in the RECORD immediately following my statement.

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

(See exhibit 1.)

Mr. FEINGOLD. Mr. President, everybody in this Chamber, I hope, will consider supporting this amendment. I urge its adoption.

I reserve the remainder of my time.

EXHIBIT 1

LIST OF ORGANIZATIONS THAT SUPPORT FEINGOLD-BROWNBACK AMENDMENT NO. 4083

American Bar Association
American Civil Liberties Union
American Immigration Lawyers Association
American Jewish Committee
Amnesty International
Asian American Justice Center
Asian Pacific American Legal Center, Los Angeles, CA
Bernardo Kohler Center, Inc., Austin, Texas
Casa de Esperanza, Bound Brook, New Jersey
Catholic Charities USA
Center for Gender and Refugee Studies, Univ. of California, Hastings College of the Law
Center for National Security Studies
Chicago Bar Association
Church WorId Service Immigration and Refugee Program
Episcopal Church
Episcopal Migration Ministries
Families for Freedom, Brooklyn, NY
Hebrew Immigrant Aid Society
Hispanic National Bar Association
Human Rights First
Human Rights Watch
Immigrant Law Center, St. Paul, MN
Immigrant Legal Advocacy Project, Portland, ME
Immigrant Legal Resource Center
Immigration Unit of Greater Boston Legal Services
Institute of the Sisters of Mercy of America
Jubilee Campaign USA, Inc.
Leadership Conference on Civil Rights
Legal Momentum
Mexican American Legal Defense and Education Fund
National Advocacy Center of the Sisters of the Good Shepherd
National Council of La Raza
National Immigration Forum
National Immigration Law Center
National Immigration Project
National Network to End Violence Against Immigrant Women
New York State Defenders Association Immigrant Defense Project
Open Society Policy Center
Opening Doors Immigration Services, Denton, TX
Presbyterian Church (USA), Washington Office
Refugee Resource Project
Service Employees International Union
Sisters of Mercy of the Americas
Sikh American Legal Defense and Education Fund
Sikh Coalition
South Asian American Leaders of Tomorrow
Tahirih Justice Center
Union for Reform Judaism
United Methodist Church, General Board of Church and Society
Unitarian Universalist Service Committee
U.S. Committee for Refugees and Immigrants
U.S. Conference of Catholic Bishops
Washington Defenders Association Immigrant Defense Project, Seattle, WA
World Relief, the humanitarian arm of the National Association of Evangelicals USA

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I have been advised that the objection to setting aside amendments has been withdrawn, so we will be able to stack the votes on the remainder of the amendments.

While I have recognition, I would like to comment briefly in support of the amendment offered by the Senator from Wisconsin. The standard of clear and convincing evidence, unless prohibited as a matter of law, is a very tough standard and I don't think ought to be imposed here. It is preferable to use the regular four-part standard, which includes a requirement that the petitioner is likely to succeed on the merits.

This particular matter has been commented on by a number of very distinguished jurists. Judge Frank Easterbrook, appointed by President Reagan, said that the interpretation in the current bill—the interpretation that this amendment is designed to change—could require removal of an alien who was both likely to prevail in court and likely to face serious injury or death if deported.

Judge Bruce Selya from the First Circuit, appointed by President Reagan, said that the very situation the current bill would create is, in his words, ''absurd'' and ''Kafkaesque.''

Judge Jerry Smith, another Reagan appointee on the Fifth Circuit Court of Appeals, said that the situation the bill would create is ''peculiar, at best.''

I believe the interest of justice would be promoted by allowing the courts to utilize the current standards for granting stays and not imposing this extraordinary standard.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, I am deeply grateful to the chairman, especially for his support of this amendment but also for his leadership on this legislation. It is extremely important to this country. I know he worked so hard in committee to come up with a good package that I am able to support. I particularly thank him for his support of the amendment.

I yield such time as the Senator from Kansas requires. I thank him for his tremendous help on this amendment.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. Mr. President, I thank my colleague from Wisconsin for bringing forward this amendment and for highlighting the issue. I hope we can get a strong vote from all of our colleagues on the amendment.

We heard about the issue of clear and convincing evidence that one has to meet to keep from being sent home even though the standard is lower for one to actually win the case. I don't know anywhere else in the law where one has to meet a higher standard at that point in the system than one would on final adjudication. This is really backward in that particular situation.

I don't want to talk about that in particular, as I do the specific situations that can arise and we can see easily enough happen. I have been to one of the detention facilities in New York, a place called Wackenhut—an incredible name for a detention facility. I have been to detention facilities on the border. I met with people who sought asylum.

I recognize the problem a number of people are targeting on this issue—and I think it is a legitimate concern to raise—that too many people are claiming asylum status who are not legitimate asylees, and they are not going to win in the system and are flooding the system with requests. That is a legitimate concern. One can go into some of these detention facilities and find a lot of people who are saying they are seeking asylum and asylum status, and on its face one can question whether it is a legitimate case. That is a proper issue to raise, and I think the people who put forward this amendment are targeting a correct issue.

Having said that, I have also worked with a number of people who, if you take them in this situation and say: You can't meet clear and convincing on the initial status, you are going home and wait there before you can come here for asylum status, and we send them home, they are going to prison or they are likely to disappear. They are likely to disappear in that situation. I say disappear as in being killed in those host countries to which they would go back. We can think of some pretty easy ones. I had six refugees from North Korea in my office last week. If they go home, they are in the Gulag and probably will not survive.

What about Iran? What happens if someone from Iran comes to this country and seeks asylum status, and we say it doesn't look clear and convincing to us? How about Zimbabwe under Mugabe? That could happen in this situation. If you are in a family that has been opposed to his leadership in that country, and we say: Well, I don't know, and you are saying it is an uncle who caused a situation about which Mugabe is concerned, and we say: I don't know, did the uncle do much; we don't have a factual record on this—he doesn't have a factual record at all because they didn't let him leave with any factual record; you are going on his testimony, and he has to meet clear and convincing evidence—it would be very logical for a judge to say: You don't meet clear and convincing evidence. It is your word on this. We don't have a factual record. We can't get to a factual record. You are going back to Zimbabwe. And if he goes back to Zimbabwe, it is highly likely he will disappear, as in being killed. This guy isn't going to make it, isn't going to survive.

In that situation, we should have the standard the same on the stay as on the final injunction, particularly at this early stage in the process and particularly when somebody's physical life is in jeopardy.

I am afraid to say there are quite a few places in this world today where there are dictatorships or narrow one-party rule where if somebody is sent back and they have been opposed or now even perceived as opposed, now that they have traveled outside the United States and tried to get away, or if someone is sent back to Syria or somewhere else, there is a high likelihood they are going to disappear, they are going to be killed. They not going to be seen again in their home country. in this particular case, while I think the people who propose the base portion of this text are accurate in seeing a problem that has grown wide in this litigation, the narrow impact of this and the backwardness of the adjudication process, having the final order being a lower standard than this initial one, and the likelihood of physical harm, if not death, to the individual being sent home, we shouldn't be doing that. We shouldn't be allowing that to happen. I would hope that we could pass this amendment to change that standard so the final order and the temporary order are the same adjudication status and we don't get people killed inadvertently because we have put in a different status. This is important, and I think lives are at stake with this one.

In far too many places around the world that I have been, you can think and you can articulate a number of them that would come forward, be it the case in Burma, or be it the case in a number of countries that are dictatorships throughout Africa. You could look at Turkmenistan. I met yesterday with some human rights activists from Turkmenistan; a real question there is what happens to you. China, some real questions in that country, particularly if you are a member of Falun Gong and you come here, or you are a student activist or knew somebody who was a student activist. Again, most of it is on your word at this point in time and you can't meet the clear and convincing steps.

So I would hope we could pass this amendment. I am fearful that if we don't, we are going to see people sent back, sent back to death, and I don't want to see us doing something like that.

I thank my colleague for proposing this amendment. I appreciate those who are dealing with this issue. I do think this would be a good amendment for us to pass.

I yield the floor.

The PRESIDING OFFICER. Who yields time? The Senator from Oklahoma is recognized.

Mr. COBURN. Mr. President, months ago in the Judiciary Committee markup I offered an amendment that codified the process of expedited removal and extended it to include criminal aliens. We have to remember, this is about criminal aliens. What we do know from one of the Judiciary Committee hearings is somewhere between 6 and 8 percent of the people coming across our southern border have a criminal history.

There are valid points to the questions that have been raised by the Senator from Wisconsin, who I have the utmost respect for, but I think this is a question about what could happen versus what is getting ready to happen. What is getting ready to happen is instead of 28 percent of our Federal prisons today being filled with illegal aliens, it is going to become 45 and 50 percent, because they are going to stay here. We are going to give them 27 months. They are going to use stays to stay here, and what we are trying to do is have a balance.

Is it possible that somebody could be denied entry into this country and have a negative consequence? Yes. But it is far more likely there is going to be a tremendous negative consequence to us in costs and to our children as we allow this system to continue to go on and be perpetuated the way that it is.

I also remind my colleagues that current law under what we call expedited removal is law, and it is being carried out. What this amendment does will get rid of the expedited and ultimately will get rid of the removal, and what we are going to see on criminal aliens is we are going to see our prisons not having 28 percent illegal aliens who are criminals, but we are going to have 50 percent. The cost right now is $7 billion a year to our country, and $1.7 billion of that is associated with Federal prison costs for illegal immigrants. So we are talking about expedited removal.

The other thing to remember that we are talking about is this is only going to be applied to people who have been here less than 14 days and within 100 miles of the border.

The administration opposes this amendment, and for good reason. The Feingold amendment would allow aliens to remain in the United States and would perpetuate the incentive for aliens to pursue even the most meritless appeals. That is what happens when we allow this. I am not a lawyer, but I know that the obligation for clear and convincing evidence is a high standard, and that is a difficult thing. But we have to measure it against all the other consequences of not having that standard.

The arguments that the Senator from Wisconsin makes are real. They are true. But he doesn't talk about what the downside is, and the costs and the lost opportunity and actually human grief that comes from having that process for those who are going to bear the cost of it.

The section that the Senator from Wisconsin focused on in his amendment is already law. It is already U.S. Code, Section 242(f) 28 USC 1252(f2). All my amendment did to this section of the Code was to add the judicial injunction being amended to include stays. What is happening is that 90 percent of these stays are overturned right now. Ninety percent of them are overturned at the appellate division. So what we are doing is comparing what could happen to what is happening and what is the cost of that.

The heart of the Senator from Wisconsin is good. The heart of the Senator from Kansas is good. The question is, How do we balance that with the human costs of carrying out this sacrifice of not being 100 percent? We could be 100 percent. What we would do is not allow anybody to return to their country until we know that they are going to be adequately clothed and adequately fed. Forget abused and incarcerated. What about the standard of making sure they have the same opportunities that people in America have. We are not applying that standard to these people, the 90 percent where the stays are denied.

So I don't challenge what could happen to somebody who was denied the basis of asylum. What I ask is, where is the common sense on how we handle these thousands and thousands and thousands of cases that allow somebody 27 months here, who uses the claim of asylum, which, in fact, has nothing to do with why they are here, but allows them to stay another 27 months? It also raises a tremendous cost for us, because they not only have to be held, they have to be defended, and we are paying for that as well.

As to the points made by the Senators from Kansas and Wisconsin on the possibilities of what could happen, it is true; they could. But it doesn't consider what is going to happen if we continue to allow this abuse of the system where an injunction is forbidden by Federal law and a stay is issued because they can't offer an injunction, because it is illegal to do so.

So is it a difficult issue? Yes. Do I see the problem of abuse of this much greater than they? Yes. Do I balance the scales differently? Yes. Because the undetermined cost and the undetermined consequence of the way that we are doing it now is just as dangerous in the long-range measure of humanity as of the potential dangers of one person—even if it is one—if only one person was denied asylum, if it is just one, should we go even further? The fact is we can't be perfect. Even without clear and convincing evidence, we are not perfect. Even 90 percent of those that are—the stays are overturned. Some of those we decided wrongly. So it is not as clear-cut as the Senator would make it seem. And it is not just the issue of some people who might be interested, because some are going back now after a denial of the stay, using a better standard of evidence.

So I would hope that we would keep this in the bill. It is not in the House bill. It may not stay in the complete bill. But it is certainly something that will turn resources that are today wasted tremendously and turn those resources to help those people who get here and have gotten asylum to have a better life.

Mr. President, with that, I yield the floor.

Mr. FEINGOLD. Mr. President, how much time remains?

The PRESIDING OFFICER. Eleven and a half minutes.

Mr. FEINGOLD. I would like to use the time to respond to the Senator from Oklahoma, whom I greatly respect. He is right, we can't be perfect about this. This is a complicated situation. He is also right that our goal here should be to achieve the right balance, and that is the challenge before us.

My amendment certainly doesn't strike all the changes that are made in the bill; it just tries to address one particular mistake that was made that I think was almost borderline unintended. The bill as it now reads greatly expands expedited removal. I am not objecting to that, and I am not suggesting that we should not do so. I want to do exactly what the Senator from Oklahoma has suggested, which is to introduce another element of common sense and balance into this. So I want to respond to a couple of things he said.

He began his remarks by saying this is about expedited removal; we wouldn't have a problem here if we were only talking about expedited removal.

That is not the point. As I understand this provision, it goes well beyond expedited removal to all removals. So that is the problem. In fact, we even suggested at the staff level on the floor in recent days, we wouldn't have a problem if this change was honed and limited to expedited removals. So it is simply incorrect—and I want the record corrected on this—to suggest that this somehow deals with expedited removals.

Secondly, the Senator says, Well, all we are doing here is broadening the concept and expanding it to stays. That is a big deal. It is not a minor thing. What we are talking about here, and Senator BROWNBACK and I gave real, human examples of what we are talking about, is situations where if somebody can't get a stay so they can stay in this country and not be rushed to a situation where they may be harmed, that stay may be definitive for them in the form of death or serious injury or persecution. What we are talking about here is what is the standard for that temporary stay so that they get the opportunity to make their substantive case on whether they should stay here on the merits.

Finally, the Senator suggested that this would lead to approvals of meritless claims. Our judges know how to handle this sort of thing. Under the current system, they don't just hand out injunctions on no basis. As I read the standard for injunctions, they evaluate four factors: No. 1, the likelihood of success on the merits; No. 2, whether there will be irreparable injury if the stay is denied; No. 3, whether there will be a substantial injury to the party opposing a stay if the stay is issued; and No. 4, the public interest. If those standards aren't met, these judges don't just hand out stays. It is based on a long-standing tradition in the law in this area. So the idea that somehow this change would lead to meritless or automatic granting of stays is simply incorrect under the law.

So I hope that responds to the points that my friend from Oklahoma made, and I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time? If no one yields time, time will be charged equally to both sides.

Mr. KYL. Mr. President, I rise in opposition to this amendment. This amendment is not just some little amendment that is seeking to cure some outlying kind of case. It amends existing law, as well as to strike a provision that was added in the Judiciary Committee. It is opposed by the administration. The reason is because the administration today is using the part of the law that would be stricken here to remove, in an expedited fashion, illegal immigrants who come here, and—using the figures that are more current—over 10 percent of whom, by the way, are criminals, to their home country, the other-than-Mexican illegal immigrant. Last year, there were over 135,000 of these people who were apprehended, and they were from countries all over the world, including a lot of countries that won't take them back, especially won't take them back very quickly.

So the question becomes, What happens? If they are from Mexico, of course, you can simply put them back on the bus and take them to the border. But if they are from China or Russia or Vietnam or some other country, you can't do that. First of all, you have to work with the other country to ensure they can be removed to the other country, and then you have to keep them in custody until they can be removed. In the meantime, if they want to make a case for asylum, they may do so, and the only standard is the usual standard of credible fear.

So let's not labor under the assumption that this outlying case, this person who will be subject to abuse if the person is returned home, can't make an asylum claim. You can, and it is resolved just like the other asylum claims are resolved: If you can establish a credible fear so that you are put in a separate category over here, and you are not removed to your home country.

But what about those who do not? Today there aren't sufficient detention spaces for these individuals, and so many of them are simply asked to report back in a few days and they don't show up, obviously. So they melt into our society.

It was to solve this problem that Secretary Chertoff invoked the expedited removal plan, which originally just applied to two of the sections on the border and now will apply to all of the border. The people are detained until they can be removed and the period for removal is reduced from about a month down to about 2 weeks, so detention space is adequate.

What happens if the Feingold amendment passes? Secretary Chertoff's promise to us that he would invoke expedited removal and be able to remove these people from the country—those who can't make a credible asylum claim—will be destroyed, because every one of them can file an appeal.

The law that currently exists says that you can't get an injunction. The reason is clear. We passed this because it is obvious that everybody simply files an appeal, gets an injunction, and they stay. It is years before you get them out—if you can ever re-contact them after they have been released. You can't keep them in detention for that period of time, so they are released and the chances are they never show up. That is the experience we had.

Congress decided we can't do that, that it is just a free pass to be illegal. So we said, once you made your claim for asylum and it is denied, and you have a final order for removal, and that can be made by an immigration judge—actually, it can go all the way through the Immigration Board of Appeals or, in certain cases, it can be by an immigration official, but once that order is final you are on your way and you cannot appeal and enjoin your removal.

The ninth circuit decided in its wisdom that ''enjoined'' didn't include ''stay.'' So they said Congress may have said we can't enjoin the removal, but we can stay it. As the Senator from Wisconsin pointed out, it is pretty much the same thing. So the ninth circuit got around congressional intent. Nonetheless, the Secretary of Homeland Security believes that he can use expedited removal to remove most of these illegal immigrants, many with criminal records, from the United States.

What the amendment does is to strike both the injunction language in the existing law and the stay language in the amendment by the Senator from Oklahoma, which was intended to overturn that ninth circuit decision and get back to the original intent of Congress. But the net result is not to speak with a fine sieve or filter here, but to enable everybody against whom a final order of removal has been made to appeal and get injunctive relief from the final order of removal.

In the effort to solve a few outlier cases which could be solved by other means—and certainly the motivations of the Senator from Wisconsin and the Senator from Kansas who spoke with respect to that are important, and I think we would all agree with those motivations, but there is a better way to solve that outlier problem than to simply say, for all of the people who come here illegally and get an order of final removal, they don't have to go; they can appeal, and they can enjoin the order of removal.

I am not sure if the Senator from Wisconsin would agree to this, but one of the ways that you could begin to

limit the application of this, not to destroy Secretary Chertoff's program of expedited removal, would be to ensure that the amendment of the Senator did not apply to expedited removal. I am not sure whether the Senator would be willing to do that, but that would be one start.

The Senator says it is not just expedited removal we are talking about here, and that is very true. But we are also talking about expedited removal and that is something we need to move forward with and not stop dead in its tracks. The problem is that the experience with absconders is significant.

Mr. President, 90 percent of these appeals, when there are appeals, are resolved against the person making the appeal. So most of these are not outlier cases. They are cases that were brought for the purpose of delaying, to allow the individual to stay in the country longer and, in many cases, to simply forget the judicial process once the injunction has been granted or the stay has been granted, so that the individual did simply meld into our society and never show up again. That is the concern that we have, and this amendment sweeps with too broad a brush here.

To deal with the outlier situation we do not have to remove the remedy of the final order of removal for the hundreds of thousands of people who came here illegally and need to be expeditiously removed.

I urge my colleagues to understand that this amendment is serious. It is far-reaching. It is overly broad. It strikes existing law. It is opposed by the administration and it is unnecessary with respect to the underlying purposes of the immigration problem that we are trying to resolve today. My colleagues should defeat this amendment.

The PRESIDING OFFICER (Mr. VITTER). The Senator from Wisconsin is recognized.

Mr. FEINGOLD. Mr. President, I would like to use a couple of minutes of my time to respond to my friend from Arizona. I want to be clear there is no intention here to get in the way at all of the expedited removal cases or Secretary Chertoff's program. That is exactly what I was saying a few minutes ago. Were this limited to expedited removal, I probably would not be offering this amendment. In fact, we tried at staff level to suggest that this kind of change be made. It was rejected. We were forced to do this, which I do not think involves, as the Senator from Arizona suggests, outlier cases. These are dramatic, serious matters that could involve life-or-death situations for people all over the world who have come to this country and fear returning to their own countries or the countries where they may be persecuted—which the Senator from Kansas and I illustrated.

The Senator began his remarks by suggesting his position was existing law. Obviously, it couldn't be existing law if you had to propose it in committee. More important, he neglected to mention it wasn't just the ninth circuit, which of course is frequently held up as somehow a court we should not listen to—it is not just the ninth circuit that agrees with my interpretation of this, it is the first, second, third, fifth, six, seventh and ninth circuit that have all said this standard should not apply to stays.

This is not some renegade court. It is an amazing array of courts of appeals around the United States. Only one circuit has taken the other position, and here is why.

The Senator suggests that somehow these courts have inappropriately interpreted the statute. But there is absolutely nothing in the legislative history that suggests that this was supposed to apply to stays. So let's talk about what existing law is. The vast majority of circuits in the country have done a proper job of interpreting the statute. It was not supposed to apply to stays. So I again urge my colleagues to support my amendment.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. KYL. Mr. President, I wonder if the Senator from Wisconsin would answer a question that I have regarding his amendment.

The PRESIDING OFFICER. The Senator is recognized.

Mr. KYL. It is my understanding that current law—this is the Immigration Nationality Act—states:

> No court shall enjoin the removal of any alien pursuant to final order unless the alien shows by clear and convincing evidence that the entry or execution of such order is prohibited as a matter of law.

Is that provision of existing law impacted by the amendment of the Senator from Wisconsin?

Mr. FEINGOLD. I don't believe that is impacted because that refers to the actual proceeding. It does not, according to the interpretation of the circuits, apply to the standard for stays. That is what the circuits have all said, except for one. That language, of course, applies to the main cases but does not apply in the case of stays. There is nothing in the legislative history that supports the notion that it would apply to stays, and that is how the circuits have come down.

Mr. KYL. Mr. President, in view of that answer, which is greatly confusing to me, it is clear that the effort is not simply to eliminate the stay language that Senator COBURN was successful in inserting in the Judiciary Committee, but also the injunction language that is in the existing statute. I don't know that you can read it any other way. If the Senator from Wisconsin would like to clarify, I will certainly stand to be corrected.

Mr. FEINGOLD. There is no intention to remove the language, or the requirement of the injunction standard. I said repeatedly here that I believe, on the stays, the person who is trying to avoid removal and trying to get the stay has to meet the standard for injunction. That is not the intent of the amendment.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SESSIONS. Mr. President, how much time is remaining on this side?

The PRESIDING OFFICER. Eleven minutes remain on the Senator's side.

Mr. SESSIONS. Mr. President, this is a very real problem in the American court system today. In fact, one of our Senators wants us to add 9 new Federal district judges as a result of immigration, and we are having surges of cases involving immigration appeals to the courts of appeals, where people can take their appeals directly if they are unhappy with the system that has been set up where administrative judges, through the immigration department, make adjudications within their sphere of influence as to whether someone is here in this country legally or not.

We are a great Nation. We are a nation of laws. Our strength is that we provide a good legal system. That is why a lot of people come here, because they are tired of being abused in their home country. They know they will be fairly treated here in our legal system. It is a key to our growth and prosperity and liberty.

These appeals are increasing in large, large numbers. Under this amendment it would have the possibility of accelerating those increases of appeals, a great deal of it.

I want to say a couple of things. A person who comes to our country, to any country, comes at that country's sufferance. They are here subject to the pleasure of that country and can only stay here according to the laws of our country. The laws of our country give adjudicative immigration courts the power and responsibility to adjudicate those questions about whether or not a person can stay here or has to be removed because they violated some law.

One of the things that is wrong with immigration today is we have so muddled and so complicated and so confused our thinking that we don't understand what has happened. So a person is here. They are here illegally—or at least on appeal and a second appeal and a trial and appeal with the immigration courts they have been adjudicated as not being here legally. What should happen then, I ask you? They have a right to appeal to the U.S. court of appeals—not even a Federal district judge, the court of appeals of Federal judges, where we have had a number of appointments recently, and it is one step below the U.S. Supreme Court.

They get a right to have that, but they do not get the right to remain here unless that court of appeals allows them to. In fact, the law is clear. In the vast, vast majority of the cases, they ought not remain here. They have no constitutional right to remain here after the adjudicative branch of the Government has concluded they are

not supposed to be here. Their appeal can continue. They are not denied the right to continue their appeal. But they are allowed to go back home to their home country and to pursue their appeal otherwise through their lawyers in the appropriate way.

They say this focuses on asylum. I would say asylum represents the best argument that can be made against the provisions of the bill that is now before us, but it does not apply just to asylum cases. It applies to all cases. Any immigrant who can maintain an appeal can get to stay in the country. We had testimony in the Judiciary Committee from the second circuit, a fine circuit court of appeals, that it takes them on average 27 months to decide one of these cases. What happens to that person during the 27 months, may I ask you? Two things happen. We have to take extremely precious bed space and leave them in custody for 27 months—remember, these could be people with terrorist connections or other connections—or we have to allow them out on bail. We have one area in our country where it was reported that 95 percent of the people who were released on bail pending an immigration decision absconded.

That means they will go on, decide their appeal and some adjudication, and order that he is supposed to leave. Where has he been? He broke into the country, presumably illegally. Is he waiting around? Is he now going to show up so they can deport this person? They have already melded into the community in an illegal fashion. It is part of the problem that we deal with and which is making our system ineffective.

We have to simply understand that there is no right to be here after a final adjudication has occurred while your case is on appeal in the court of appeals. But we allow them to. We give them a right, if they can show sufficient evidence under the standards that the Senator mentioned, that a court can approve that and allow them to stay if they think they have, according to the law, convincing evidence that they are rightly here. The court of appeals can override the adjudicating authority of the Immigration Service and allow the person to stay if they choose. We have had an abuse of that. We have had 10,000 such cases. With this amendment, we are going to see even more such cases.

I suggest that we must get serious about immigration. The more we create appellate possibilities, the more we can confuse the law. The more we create exception after exception after exception, the more unable we are to operate a system effectively and fairly.

The fair principle is, if you are adjudicated not to be here, you have no right to be here. But we give you a generous right to appeal to a court one step below the U.S. Supreme Court, but you have to go home until that court decision. If they override it, he can come back.

I think that is preciously generous. I think that is fair and right, and it also provides that court, in narrow areas, to extend and allow a person to stay if they feel it is necessary to do so.

I think this is a good amendment. The Department of Justice, I think, understands it.

Senator COBURN offered a good provision to the bill which was adopted in the Judiciary Committee. It should not be overturned here on the floor.

We can be sure that those who have a good case to stay will be able to stay. But overwhelmingly, if you have been found not to be here legitimately, you are not entitled to stay, you should go home. This amendment undermines that principle.

I yield the floor and reserve the remainder of my time.

Mr. LEAHY. Mr. President, I applaud Senators FEINGOLD and BROWNBACK for proposing an amendment to correct a seriously flawed provision that remains in the immigration bill that we are likely to pass. Under section 227(c) of the bill, Federal courts of appeals would be prohibited from granting an asylum seeker a temporary stay of deportation unless the alien could prove by clear and convincing evidence that the order of deportation is unlawful. In many cases, this is the same or an even a higher standard than an alien would be required to meet in order to win his or her case on the merits. This result has been described by one Federal court as ''Kafkaesque.'' It is also fundamentally unfair.

Judicial review is the failsafe that guarantees the rights of men and women when the law is interpreted incorrectly or when human emotion or bias overcomes impartiality. Judicial review helps define our constitutional democracy and is a value that is deeply embedded in our system of government. It would be a grave mistake for us to accept the provision in section 227(c) and to ignore the wisdom of the distinguished Federal judges who oppose this curtailment of their authority to decide these difficult cases with care and consistent with the traditional practices of the Federal judiciary.

A number of Federal courts of appeal are in agreement that the standard contained in section 227(c) is inequitable and unworkable. The Second Circuit has said that requiring this standard ''would lead to the anomalous result that . . . an alien would have to make a more persuasive showing to obtain a stay than is required to prevail on the merits, thereby permitting the removal of some aliens with meritorious claims against removal.'' The Seventh Circuit has said that ''[t]he ability to come back to the United States would not be worth much if the alien has been maimed or murdered in the interim. Yet under the [clear and convincing evidence standard] an alien who is likely to prevail in this court, and likely to face serious injury or death if removed, is not entitled to remain in this nation while the court resolves the dispute.''

Some will argue that this provision will prevent aliens from abusing the system by filing frivolous appeals simply to gain the stay of deportation. But it is unwise for us to sweep aside decent and humanitarian treatment for many meritorious petitioners to prevent a few from abusing the system. I think we need to consider very carefully whether we want to mandate that our Federal courts get into the business of remanding even one potentially meritorious petitioner back to certain torture or death before his or her appeal is finally decided. I hope others share my faith in the integrity with which our Federal judges carry out their duties and that these men and women are eminently capable of identifying and rejecting fraudulent or abusive cases without the need for the restrictive provision contained in the bill.

We cannot live up to our American values, which abhor torture and human rights abuses, and at the same time allow this provision to remain in this bill. I urge my fellow Senators to join me in supporting the amendment Senators FEINGOLD and BROWNBACK propose.

Mr. FEINGOLD. Mr. President, if the Senator is agreeable, I would be willing to yield all time. I yield my time.

Mr. SESSIONS. I yield our time.

The PRESIDING OFFICER. All time is yielded.

Mr. FEINGOLD. Mr. President, I ask unanimous consent that this amendment be set aside and be voted on later.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. SESSIONS. Mr. President, what is the time agreement at this point? How much time do I have remaining on this issue?

The PRESIDING OFFICER. Once the amendment is called up, the unanimous consent agreement states that there will be 1 hour equally divided.

Mr. SESSIONS. I thank the Chair. 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. Without objection, it is so ordered.

AMENDMENT NO. 4108

Mr. SESSIONS. Mr. President, I call up amendment No. 4108 on the earned income tax credit.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Alabama [Mr. SESSIONS] proposes an amendment numbered 4108.

Mr. SESSIONS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To limit the application of the Earned Income Tax Credit)

On page 364, line 22, after ''an'' insert the following—

''alien who is unlawfully present in the United States, or an alien receiving adjustment of status under section 408(h) of this Act who was illegally present in the United States prior to January 7, 2004, section 601 of this Act, or section 613(c) of this Act, shall not be eligible the Earned Income Tax Credit. With respect to benefits other than the Earned Income Tax Credit, an alien''.

Mr. SESSIONS. Mr. President, before I get into that, I would like to take one brief moment to note that in an election which took place last night the winner got 63 million votes, more than anybody who has ever run for President. The winner is a fine Alabaman, Taylor Hicks, who was crowned ''American Idol'' winner last night. I have to tell you I am proud of him. We watched it closely and with enthusiasm. If my wife were voting in a normal election, she would be in jail because she voted more than once for him, I can tell you. And we are thrilled. Taylor is Alabama's third finalist in the show, and after last night's finale, he became the second person from Birmingham to be crowned ''American Idol.'' Of course, that followed Rubin Studdard's victory 2 years ago, and Bo Bice as a runner up last year. We are proud of that fact and we are proud of Taylor Hicks being crowned ''American Idol.''

Mr. President, I am also pleased that the sponsors of the immigration bill we are debating accepted my preemption amendment that I originally offered in committee. That provision, which was included in the current bill, relates to day labor centers and is included in title III. My amendment makes clear that the provisions of title III which regulate the recruiting, referring and hiring of undocumented aliens, preempt any State or local laws. The laws it preempts are those that require business entities, as a condition of conducting, continuing or expanding a business, to provide, build, fund or maintain a shelter, structure or designated area for use by day laborers at or near their place of business or take other steps that facilitate the employment of day laborers by others. Language identical to this preemption provision in the current Senate bill was included in H.R. 4437, the bill passed by the House of Representatives.

Empirical research proves that day laborers in the United States are used overwhelmingly by undocumented migrants. I would like to enter into the RECORD along with this statement, an extensive January 2006 study of the day labor issue in this country entitled: ''On the Corner: Day Labor in the United States,'' by Abel Valenzuela Jr. and Ana Luz Gonzalez of the UCLA Center for the Study of Urban Poverty; Nik Theodore of the University of Illinois at Chicago, Center for Urban and Economic Development; and Edwin Melendez of the New School University, Milano Graduate School of Management and Urban Policy. The findings in the study are based on a national survey of day laborers drawn from 264 hiring sites in 139 municipalities in 20 states and the District of Columbia. A critical finding of this national survey, page 17, is that three-quarters of the day labor work force is comprised of undocumented migrants.

The scope of title III goes beyond the prohibition of the direct hiring of an unauthorized worker or the requirement that employers electronically verify the validity of the work authorization documents they are provided by applicants. It also prohibits persons from recruiting and referring undocumented workers and facilitating the employment of undocumented workers. A number of local governments have taken actions or sought to impose ordinances that facilitate the employment of day laborers, many of whom are not authorized to work in this country. Local governments have done this by providing public funding of day laborer centers that act as gathering places where employers can hire day laborers, and by requiring, as a condition of conducting their businesses, that business entities build and maintain day laborer centers on or near their property to facilitate the employment of day laborers by customers or contractors.

In some instances, these local governments even force employers, as condition of doing business, to hand out to day laborers a written description of their employment rights under the law. There is no doubt that these local governments are directly or indirectly forcing these businesses to attract and recruit these day laborers to their property and facilitate their employment by customers and contractors. They are forcing these businesses to create what amounts to hiring halls in the form of day labor shelters. These ordinances or proposed ordinances expose these businesses to liability under the employer sanctions provisions of title III by forcing them, as a condition of conducting business, to act as agents of the day laborers in facilitating their employment. While these businesses may not hire the day laborers, they are forced to be parties to the hiring process, for which they face potential exposure to liability under section 205 and title III of the Senate bill, and the harboring provisions of section 274 of the Immigration and Nationality Act.

These local ordinances and practices put businesses in an untenable position. Businesses oppose ordinances that provide for the accommodation of day laborers on their property, particularly when these laborers are undocumented workers. Some local governments deny licensing essential to expand or maintain their business if they do not. It is a no win situation that Congress must address consistent with the overall purpose of this legislation.

Without the preemption provisions I have offered to this bill, there would be a gaping hole that would allow public entities to foster the employment of day laborers, whom the recent study I have cited shows to be largely undocumented workers, and force, through their regulatory and licensing authority, businesses to be their agents in this process. This flies in the face of the overall intent of this bill, which is to control our borders and eliminate the job magnet for undocumented workers to enter this country. Through the preemption language that I have added to title III, we have exercised the uniquely federal role given to the Congress under the Constitution to regulate illegal immigration into the U.S. and to prohibit State and local governments through local regulatory authority to thwart the intent of Congress to prohibit the hiring and facilitation of hiring of undocumented workers.

Mr. President, let me share a couple of thoughts fundamentally about the immigration bill that is now before us.

The question of immigration is clearly one of the most important issues of our time. This vote will be one of the most momentous of our decade. The American people know that. That is why they are engaged in this debate. That is why they are watching it. That is why your phones are ringing in your offices and mail is pouring in. They care about it. They are focused on it, and they want something done.

A lot of people say, Well, they are angry at immigrants, they are mad at immigrants, they want to punish them, and they are not fair and generous. That is not so.

You know who the American people are mad at. I will tell you who they have a right to be mad at, and that is the governmental officials they sent to Washington who refuse to create a lawful system of immigration to enforce the laws that have been passed by this Congress. That is what they are mad about. They have every right to be mad about it.

They were angry in 1986. What did we do? We passed an amnesty bill that promised enforcement in the future. It was utterly not so. The amnesty took place immediately, and the enforcement never occurred. They have been asking, What is going on?

In 1986, we found that there were 3 million people who came forward to claim amnesty, and now they tell us 20 years later that there are 11 million people here illegally. Why shouldn't they be frustrated? They are not against immigration. The American people are not against immigration. They are worried about a system that is lawless, unprincipled, and indeed makes a mockery of law. And they

have every right to be so. They should not be forgiving if we try to pull another fast one by passing a deeply flawed bill. I don't think they will be forgiving. The problem is, this is a deeply flawed bill. It is not going to accomplish what the goals are for immigration in America. That is a plain fact.

It is amusing now to see the sponsors of the bill when confronted with the problems, and those who say they are going to vote for it, and say they do not like it, a lot of them, but they are going to vote for it. Do you know why they say they are going to vote for it? Because maybe the House will save us in conference.

What a weak argument, that the great Senate of the United States, dealing with one of the most important issues of our time, is reduced to saying, We know this bill is flawed, we know we have problems, maybe somebody in the House can fix it, but I am going to sign my name and I am going to cast my vote to pass it. First of all, immigration will not end if this bill is not passed. There is not going to be mass deportation of people from America if this bill is not passed.

We should do what I suggested several months ago when they tried to run this bill through. Remember, about a month ago, they tried to move this bill through this Senate without any amendments. HARRY REID, the Democratic leader, said we are not going to have any amendments. They tried to move it through, just slide it through, so the American people did not know about it. Senator FRIST finally said, no, we will pull the bill, and they reached an agreement that we would have some amendments. But the bill that hit the floor, as I said at the time, was so deeply flawed, it would never be able to be fixed by the amendments we could bring up. I know Members care about this issue, as do I. They want immigration to continue, and so do I. I can support an increase in legal immigration.

What I am saying is we are voting on a bill, not some vague picture, not some emotional deal. We have legislation before the Senate. Will it do what we tell the American people we are going to do? Will we be honest and faithful with the American people when we say this piece of legislation is a comprehensive fix of immigration problems in America? I submit not.

As time has gone by, more and more people have seen this is a totally flawed bill. People are getting more and more worried. They had no idea and I am not sure the sponsors knew of a lot of the weaknesses and problems with the legislation. Some have been changed by amendment but, trust me, there are many more.

Briefly, I will mention the fundamental flaws in the legislation. These are fundamental. What I am going to talk about today is not some nitpicking over the error of a draftsman. I am talking about fundamental flaws in the bill that make it unpassable, legitimately, in my view. It should not be passed. That is why I have said it should never, ever become law.

First, the people now here illegally, the 11 to perhaps 20 million people here illegally, will be given, over a period of years, every single benefit this Nation can bestow on its citizens. That is amnesty. In my mind, that is amnesty. I have tried not to use the word ''amnesty'' in the sense that is automatically disqualifying. What I have tried to say is we should not give those who violate our laws to get here every single right we give the people who wait in line and come lawfully. That is a very important moral and legal principle.

In 1986, those who opposed that amnesty, warned that if we do so, more people will come and they, too, will expect amnesty. We will have increased numbers in our country, and we will be forced to grant more amnesties in the future. That is exactly what they said. Go back and read the debate. Who proved correct? The other side said it is a one-time amnesty, we will enforce the law in the future, and the result was 3 million people were given amnesty. The laws were not enforced. Twenty years later, we have 11 million people here, and we are talking about another amnesty. We should not do that. Whatever word you want to use, amnesty or not, we should not do that.

Second, the border is not secured by this legislation. We have not worked out the difficulties on the border. T.J. Bonner of the Border Patrol Agents Association, as reported in the paper on Monday in the Washington Times, said the House bill will not work and the Senate bill is ineffective. Why should we pass a bill the experts say will not work?

Now, under our procedures, we can authorize fencing. My amendment to add some fencing passed. We can authorize electronic equipment. We can authorize more agents. We can authorize more bed spaces. But will we fund it? Will we maintain a determination in the years to come to make this system work?

I submit that without the Isakson amendment, which simply says that until the Congress fulfills its authorization requirements under the bill, the amnesty cannot take effect. When it was voted down in this Senate, every American had to know right then there was no commitment to make this system work. If not, why didn't they vote for it? All it said was if we fulfill the things we authorize, amnesty can be given, if they choose to do amnesty, which remains in the bill.

The US–VISIT system is not working. The agents and beds and fences are not up. What about the workplace? That is a critical component in our legal system. The workplace verification system is not in place. There is only a pilot system. We have not worked out the Social Security number problem. It is not fixed. We voted down an amendment so weak in dealing with that. We have not fixed that problem. So the workplace is not fixed.

They say it is a temporary guest worker program, but it is not. The bill does not have temporary guest workers. People come into this country, and they ask for a green card as soon as they get here. We vastly increased the number of green cards that can be issued. And everyone comes in under the rubric, the big print in the bill that says ''temporary guest worker'' and will be able to file for a green card through their employer the first day they get here. Soon they will get that green card unless they get in some sort of trouble, and that entitles them to legal, permanent residence. Within 5 years of that, they can become a citizen.

This idea that it is a temporary guest worker program is as phony as a three-dollar bill. I hope we never hear that word mentioned in the Senate anymore. We should have one. That is what the President says he wants. The American people understand that and would be more supportive of that. That is precisely what we need: a good, temporary guest worker program and another program to allow people to come into the country to citizenship. But we do not have that. They sold this as a ''temporary worker program'' when it is not.

The bill will increase immigration legally by at least three times the current level. We have had no study which justifies that. Three times the current level? Has anyone heard a national discussion or discussion in the Senate about that? No.

We have conducted no official study of the huge adverse financial impact this bill will have in the outyears. Any legislative body serious about this issue would have known of this problem long ago. Even before the bill was drafted, they should have known we would have these consequences. The Heritage Foundation has estimated that in the 10th, 11th year, through the next 20 years, this bill will cost $50 billion a year. That is more than the budget of Homeland Security. It has tremendous financial costs. We will have some increased taxes, yes, but in the outyears it will not compensate for this. The reason is, the people who will be given amnesty, a certain high percent of them, unfortunately, do not have a high school diploma. Once they become a legal permanent resident, once they become a citizen, they are entitled to all the panoply of welfare and social benefits our country has.

We have taken no steps to ensure this country's immigration policies reflect our Nation's needs. Canada, England, Australia, France, Switzerland, and the Netherlands are working on that. Canada has a point system. They evaluate people based on what they can contribute to the Canadian economy, and then they decide whether to let them in. We have nothing like that.

We know, from my analysis of the bill, it will allow in three times as many people, legally, as we allow in today, and that 70 percent of those will be admitted without regard to what skills, education, or English language capabilities they have. That is not a good principle. That is not what Canada does. Is Canada a backward nation? I submit they are smarter.

There are a number of reasons we need to vote down this bill. One of them is the huge financial cost. I will talk about one of the most dramatic costs this bill will impose on the American taxpayer.

I offer an amendment to deal with the extraordinary financial impact that will accrue to the American taxpayers as a result of the legalization of 11 million people here today. I asked the CBO, the Congressional Budget Office, what the score would be with regard to earned income tax credits. They scored that over 10 years. It would cost the taxpayers of this country, this single program alone, $29 billion. As soon as we allow people into our country who are here illegally now, to convert to legal status under the language of this bill, they will immediately become eligible for the earned income tax credit. Most of these are low-skilled workers. They are not high school graduates. They are making the lower wages. They will qualify for that.

Hold your hat. The average person who receives an earned income tax credit check from the Federal Government receives $1,700 a year. The maximum amount you can receive under it is $4,700 a year. These are huge welfare payments designed to help working families, American working families. It started in the 1970s. It cost about $1 billion then. The figure today is closer to $39 billion, one of our largest welfare programs. It has a lot of fraud, a lot of criticism, but it was designed with good intent, and it remains a good part of how we assist lower income people in America. These people will immediately become eligible for that benefit.

When they become citizens, they are entitled to all the benefits. If they go through this process and we provide a path to citizenship, they will get that, and we cannot prohibit that. I would not want to prohibit that. I don't intend to prohibit that. We would not want to. But prior to that time, they are not entitled to it.

Let me state why. As a matter of law and as a matter of fairness, we should not reward them with this. People who come to the country illegally want to work here, we are told. They do not want to be on welfare. They are not asking for anything special. They just want to be able to work in our country. We have allowed them to do that. They have not asked for, in my view, welfare; they are not asking for it and are not entitled to it. So what happens when they convert to a legal status? Are they then entitled to this gratuitous, generous program of the United States of America that was designed to help American families who have workers trying to get ahead, they get a little extra money each year? Should they be able to participate in that program? I say no. I say there is no moral or legal reason that requires us to provide this benefit as a reward and an inducement for those who have come here in violation of our laws. It is just not required of us. And it is not smart of us.

People ask: How are we going to afford the fences and the several billions for the cost to enforce the border? They cannot find the money for it. I can tell you where we can find the money. They say that if you built a fence all the way across the border, 2,000 miles—our bill has 370 miles of fences—it would cost $4 billion or $6 billion. You have heard them say that.

This legislation, under the earned income tax credit alone over 10 years, will increase, according to the Congressional Budget Office, our outlays by $29 billion.

We can pay for the whole enforcement system on our border by not giving this gratuitous benefit to people who come here in violation of the law. They will be able to stay. They will be able to work. They will have medical care. They will have education for their children. They will have all those things provided to them free from the Federal Government or State governments, if need be. They get all those things, but they are not entitled and should not be provided the earned-income tax credit, in my view.

They say: Well, they will pay taxes in the future. OK. Well, how long have they been here not paying taxes? It is just not possible for us to do everything. And this Government ought to ask: Why should we—out of fidelity to the taxpayers of our country, who already see that we are spending recklessly, and already have a major deficit—why should we provide this benefit? I do not think we should.

The entire concept of earned legalization is muddled in this bill, in my view. But that aside, what should we do about the cost and the benefit that could be given to these people? Do we need to provide them an extra welfare benefit that they have no expectation of ever getting?

By the way, I told you earlier, that the amount of money this benefit would cost over the next ten years was projected to be $29 billion by CBO. That was based on their estimate a few days ago that we would have 6 million to 7 million people who would be given amnesty under this bill. Just yesterday, we received a letter from them that said those numbers were wrong. They are now estimating it would be 11 million people coming in. So I would submit, if you take that increased number and you apply it to the $29 billion estimate we have, we are talking about at least a $40 billion outlay over the next 10 years. But $29 billion, $40 billion, $39 billion, whatever the figure is, it is very large.

It is not necessary we provide this transfer payment, this outlay from our Treasury, directly to people who have come here illegally, and reward them in that fashion. What we should do is proceed forward. And if they move their way on to the path of citizenship, they would be entitled to it.

I thank the Chair and retain the remainder of my time.

The PRESIDING OFFICER. Who yields the time?

Mr. McCAIN. Mr. President, I yield myself such time as I may use.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. McCAIN. Mr. President, here we go again. We have before us another amendment that says legal workers under this bill must play by our rules—by our laws—but they will not be allowed to live by those same rules.

I know that my colleagues know that illegal immigrants are ineligible for the earned-income tax credit. The legislation before us does not change that fact. But this amendment incredibly—incredibly—would deny the earned-income tax credit to taxpayers who will be working in this country legally as a result of this legislation. Remarkable.

I want to point out again, it would deny an important tax credit to some low-income workers who have legal status who are playing by the rules, meeting all the requirements of the legislation, who might otherwise be eligible for the earned-income tax credit.

Some things are within a certain area that I can probably understand the rationale behind it and legitimately respect and argue against. But what is the rationale behind saying people who have attained a legal status here, who are living by all our other laws and rules and are paying taxes—sales taxes, Social Security, et cetera, every other tax—are going to be denied a tax credit that is available to all other persons? We are not saying in the legislation that anyone who is here illegally would make themselves available to that. We are only talking about people who are here in a legal status.

The legislation is designed, rightly, to ensure that legalized workers and new guest workers would largely be taxed in the same manner as U.S. citizens. If they have attained a legal status, then clearly they should pay the taxes. They would pay payroll taxes, income taxes, excise taxes. They would pay back taxes for the period of time they had been working in this country prior to the enactment of this bill. Payment of back taxes is a very important part of this bill.

The CBO and Joint Tax Committee estimate that bringing these legal immigrants into the Federal tax system would substantially increase Federal revenue collections overall. It is patently unfair to make them abide by our tax rules yet deny any legal workers equal treatment under these same rules.

I am having a hard time understanding amendments as this which

would really impose an indefensible double standard on legalized workers. What is next? Are we going to say work-authorized immigrants have to ride in the back of the bus? Some of these amendments are sending a very troubling message to the American public about what direction we want our country to go. We need to be going forward and not backward.

I wonder, do some of my colleagues really think there is an underground movement afoot plotting and scheming plans for how foreign workers can gain legal work status solely so they can freeload off of the taxpayers? These people are here to work, and they are doing jobs that most of us do not have the will to do. These are workers. They are not risking their lives to come into this country with the goal of freeloading off of us. They are here to earn a wage for the betterment of themselves and their families, the same reason our forebears came here to this country. They aren't looking for a handout. They are looking for a chance, a chance for a better life. And they are willing to work harder than most of us to have just a few of the opportunities most of us take for granted.

This amendment, if adopted, would result in highly inconsistent treatment of legal workers—legal workers. On the one hand, they would be subject to income and payroll taxes in the same manner as other workers, but on the other, they would be denied the use of a key element of the U.S. Tax Code that can mean the difference of whether or not food gets put on a child's table.

About 98 percent of the earned-income tax credit goes to working families with children. Census data shows that the EITC lifts more children out of poverty than any other Federal program. This amendment to deny the EITC to legalized workers would harm children, including many children who are U.S. citizens. Many of the children in these low-income families are citizens who live in families that experience hunger and other hardships.

This amendment, if adopted, would mean that a large number of children would be thrust into, or deeper into, poverty. An Urban Institute study found that 56 percent of young, low-income children of immigrant parents live in families that experience hunger or other food-related problems. It seems to me there is an issue of humanity here on this issue.

We have spent a week and a half debating amendments to this bill. Most of the amendments that were designed to alter substantially the comprehensive approach to immigration reform have failed. But they were debated on and voted on. I think that has been a good showing for the Senate. I think we have shown we can debate honestly and openly and reach conclusions. Some of these issues have been complex and some fairly simple. We have been conducting business the way the place is meant to have it conducted.

I hope that after all this effort, we will not now adopt such a questionable amendment to a bill that provides a comprehensive solution to our broken immigration system—a solution that is based on sound judgment, honesty, common sense, and compassion.

Mr. President, I really, on this one, would like to see not just victory in this vote but a significant signal that we would not engage in this kind of treatment of people who have come to this country and are in a legal status.

I urge my colleagues to defeat this amendment.

I reserve the remainder of my time for Senator SPECTER.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, I anticipate this amendment will not require too much longer. Our final amendment in the sequence is the Ensign amendment. So I alert our colleagues to the fact that we should be starting on that amendment fairly soon.

Senator SESSIONS has, I believe, 7 minutes left. Senator KENNEDY and I will take just a few minutes in opposition to the amendment and then yield the remainder of the time back.

Mr. President, it seems to me this is a fairly fundamental issue. We have the earned-income tax credit designed to provide tax relief for low-income families and individuals. And if you qualify for it, as a taxpayer, it seems to me, when you are obligated to pay the taxes and bear the burdens of the tax system, you ought to be entitled to the tax credit, and the fact that they are undocumented immigrants should not impose a penalty on them.

We are dealing here with people of very limited means. We are dealing with people who ordinarily may—probably do—have large families. They are fighting rising costs of living and fighting to maintain their sustenance, and they are at the bottom end of the economic ladder.

So if they are in line to get a modest earned-income tax credit, which, as the language says, they have earned, it is a tax credit that is an income tax credit they have earned. Just as they have to pay their taxes, they ought to get the benefits from the tax system. Therefore, I oppose the amendment.

Mr. President, I yield the floor.

Mr. BINGAMAN. Mr. President, I rise today in strong opposition to the amendment being offered by my colleague from Alabama, Senator SESSIONS. As drafted amendment would prevent legalized workers and guest workers from receiving the earned-income tax credit even though these same workers are required to pay both income and payroll taxes. I remind my colleagues that, under current law, illegal workers are not entitled to the earned-income tax credit and S. 2611 does not change that. Instead, this amendment denies people who are paying both income and payroll taxes a tax credit that other similarly situated taxpayers receive simply because these people are legalized workers and guest workers and not naturalized citizens. This is distinction that should have no relevance for purposes of receiving the earned-income tax credit. To deny these legalized taxpayers the right to the earned-income tax credit is unjustified and grossly inequitable.

It is my understanding that CBO recently estimated that the workers affected by this amendment will be paying more than $62 billion in taxes over the next 10 years. This will result in a net of more than $33 billion in revenue after the costs associated with all refundable credits are taken into account. Mr. President, we haven't seen a $33 billion revenue raiser in this Chamber in quite some time.

Earlier this month, we passed a tax cut that provides a significant tax cut to the wealthiest in our country. The reconciliation bill was passed in spite of the fact that it provides little to no tax relief to the majority of the families in our country while raising our Nation's debt by roughly $70 billion. The proponents of this legislation were quick to defend this bill even though it employed a series of budget gimmicks that would make Enron proud. Those of us who spoke out in opposition of this bill were repeatedly told that allowing the capital gains and dividends tax cuts to expire amounted to a tax increase—one that would surely cripple our economy if not passed this year even though the provisions didn't expire until the end of 2008. I find it truly astonishing that a few short weeks later, we are debating an amendment that denies hardworking taxpayers a tax break that they so desperately need and are entitled to under current law. Clearly those who argued that allowing the capital gains and dividends tax cuts to expire is essentially the equivalent of raising someone's taxes, have to agree that taking away the earned-income tax credit from a working taxpayer is a tax increase. Unfortunately, the target of this tax increase is on hard working, lower income families—people who truly need this tax break to get by.

The eanred-income tax credit is one of the few remaining tax provisions in our code that provide significant tax relief to working families. As my colleagues know, it is one of the greatest tools we have to fight poverty and allow working families to have a roof over their head and food on their table. It is a way to ensure that those earning minimum wage jobs are able to put clothes and shoes on their children so that they can go to school. This is not a hand out. In order to get the earn-income tax credit, you have to work. Pure and simple. To deny this credit to legalized workers and guest workers who pay income and payroll taxes is not what this country is all about. It is certainly not in keeping with the bipartisan way this Chamber has defended the earned-income tax credit and its recipients from misguided attacks.

I hope that all of my colleagues will join me in defeating this amendment.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, I will just take a few minutes. I know the Senator from South Carolina wants a few minutes. And then we will be prepared to move ahead.

Mr. President, as has been pointed out during this debate, all of the men and women who would become legal residents of the United States under the terms of this legislation are required to pay income tax, like every other worker in America.

What the Sessions amendment would do, is really quite extraordinary and grossly unfair. It would arbitrarily deny those immigrants who have become legal residents one of the tax benefits available to every taxpayer under the Internal Revenue Code. That provision is the earned-income tax credit, a provision designed to reduce the tax burden on low-income families with children.

It is fundamentally wrong to subject immigrant workers to a different, harsher Tax Code than the one that applies to everyone else in the country. An immigrant worker should pay exactly the same income tax that every other worker earning the same pay and supporting the same size family pays—no less, no more. We should not be designing a special punitive Tax Code for immigrants that makes them pay more than everyone else. Yet that is exactly what the Sessions amendment seeks to do.

The Sessions amendment would result in highly inconsistent treatment of legal immigrant residents and would drastically increase the amount of tax that many of these families had to pay. They would be subject to income and payroll taxes in the same manner as other workers, but would be denied the use of a key element of the Tax Code that is intended to offset the relatively heavy tax burdens that low-income working families, especially those with children, otherwise would face.

Most of the EITC is simply a tax credit for the payment of other taxes, especially regressive payroll taxes. The EITC was specifically designed to offset the payroll tax burden on low-income working parents. The Treasury Department has estimated that a large majority of the EITC merely compensates for a portion of the Federal income, payroll, and excise taxes paid by the low-income tax filers who qualify to receive it.

The earned-income tax credit is not welfare; it is an earned benefit in the Tax Code that is available to all tax paying, low-income working families with children.

Immigrant families who are legal residents are subject to the same tax as other workers in America. They have the same tax burdens, the same tax benefit as everyone else under current law. The Sessions amendment would change that, depriving legal immigrant families of one of the primary tax benefits for low-income families with children in the Tax Code. To do so would be terribly unjust. I urge my colleagues to reject the amendment.

I yield 4 minutes to the Senator from South Carolina.

The PRESIDING OFFICER (Mr. ALEXANDER). The Senator from South Carolina.

Mr. GRAHAM. This amendment is important in this regard. When is it enough? When does the punishment fit the crime and when does it go too far? What role should tax policy play in punishing a violation of the law, whether it be a misdemeanor or a felony? I can tell you the role the Tax Code plays when it comes to felonies. If you are a drug dealer and you have been convicted and you are on probation or in jail, once you get out or off probation, you are not denied the earned-income tax credit. If you are a convicted child molester, the Tax Code doesn't change because of your crime.

I would argue that for the crime we are dealing with, coming across the border illegally, jumping in line, a nonviolent offense, we need to have some reasonable punishment and not go too far. If we change the Tax Code because they violated our law, then how do we look people in the eye in the category of illegal immigrants and tell them that they are being punished through the Tax Code in a way a rapist, murderer, or drug dealer is not? That is not proportional.

It is a misdemeanor under our law to cross the border illegally with no specified crime, a maximum of 6 months in prison. I have been a prosecutor. Senator SESSIONS has been a prosecutor. I can assure you, there are people who do really bad things that don't have to go through what the illegal immigrants are going to go through to earn their way back into our good graces. They have to pay a fine consistent with a misdemeanor offense. They have to learn English. If you have committed a felony outside of immigration law, you are not eligible to get in the program. If you have committed three misdemeanors outside of immigration violations, you are not eligible to get in the program. If you fail the English test, if you are out of work for over 45 days, you are subject to being deported.

What is left will be hard-working people who are trying to pay their debt back to society and, on top of all that, have to pay all of our taxes. And they should. It would be great if everybody working in America paid their fair share of taxes. It would be unfair, after you try to pay your debt to society by making it right after violating the immigration laws, which is a misdemeanor, to throw on top of that Tax Code treatment that no other felon would get.

There is a point in time here where we are going to not just punish people for a violation of the law but declare war on who they are. I don't want to cross that line as a nation.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. How much time remains?

The PRESIDING OFFICER. The Senator from Massachusetts has 14 minutes remaining, and there is 7 and a half minutes remaining for the Senator from Alabama.

Mr. KENNEDY. I yield 5 minutes to the Senator from Connecticut.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. LIEBERMAN. I thank the Chair. I thank Senator KENNEDY.

Mr. President, I rise respectfully to oppose this amendment. Under it, workers who are in this country legally, as a result of the underlying reform bill before us, would be prohibited from receiving the Federal earned income tax credit. Yet these same workers would be required to pay both income and payroll taxes. That seems unfair. In other words, we are going to bring them out of the shadows. We are going to get them to pay taxes. But we will not allow them access to the EITC.

Once they have earned legal status, these workers would be no different from citizens or other legal residents who pay the same taxes and, if they have low incomes, qualify for the EITC.

Some have expressed concern that the underlying bill would increase Federal spending for programs such as EITC. It would. But you have to consider the pluses and minuses. In fact, the Congressional Budget Office recently completed a cost estimate of S. 2611, the underlying bill, and found that the legislation as a whole would raise Federal tax revenues. New tax filers, people who come out of the shadows and become tax-paying citizens, are required by this proposal, as part of their path to citizenship—I call it probation, not amnesty—are projected to pay more than $60 billion in payroll and income taxes over the next 10 years. Once you factor in the cost of refundable credits provided to these workers, such as the child tax credit and the EITC, the net increase in revenues is still a significant $33 billion over the next 10 years. It would be unreasonable for us to force these new workers, who are legal and many of whom will be in the process of becoming American citizens, to pay all these taxes and not be allowed to claim the earned-income tax credit.

As has been acknowledged, undocumented immigrants are already ineligible for the EITC. If you are here illegally, you can't qualify for the EITC. We should not deny this tax credit to low-income taxpayers who are working in this country legally.

One particularly troublesome effect of this amendment, I fear, were it to be enacted into law, is that it would further impoverish some of our Nation's poorest children. Because the fact is, 98 percent of earned income tax credit payments go to working families with children.

Let me briefly recite the history of this remarkable program. The earned-income tax credit was first proposed by President Richard M. Nixon. It was signed into law by President Ford. Since then, it has been expanded, because it has worked, by Presidents Reagan, Clinton, and Bush. These Presidents saw the program as a way to help promote work and offset regressive payroll tax burdens on low-wage workers. That is the point. We know that on so many average, lower-income, middle-income workers, the great increase in Federal taxes has not been the income tax. It has been the payroll tax deductions. The EITC was created to help even that out.

It also has an effect on wages or effective wages. The Federal minimum wage has not been raised in more than 8 years. By one standard, the minimum wage is valued at its lowest level since the Truman administration. Many of the immigrants who earn legal residency under the Senate bill will have earnings around the minimum wage. I hope we will act to raise the minimum wage this year. But in the interim, particularly if we don't, we certainly should not adopt legislation that will condemn large numbers of low-wage legal workers to work effectively below the poverty level, even though they are getting the minimum wage.

This Senate bill does not create an immediate path to citizenship. Because of that, the amendment before us would subject millions of low-income workers to a regressive tax burden for as much as 11 years before they become eligible to receive the EITC. It is probably a minimum of 11 years.

I urge my colleagues to consider the administrative burden this amendment would impose on the IRS which would have to determine the immigrant status of many tax filers. The IRS is not currently equipped to make such determinations; that is, to determine the immigrant status of tax filers. It would be costly to implement new procedures. The amendment would probably add to the heavy paperwork burden already faced by those who file for the EITC.

The point of this comprehensive immigration reform is to bring people out of the shadows, to end the exploitation that some of them have lived under, to make them part of the American economy and give them the ability to compete fairly at prevailing wage rates with American workers, to offer them the equal protection of the law—I stress that, the equal protection of the law—requiring them to live by the law, requiring them to pay taxes, but also promising them that they will receive the equal protection of the law. That must include our tax laws, including the EITC. I urge my colleagues to vote against this amendment.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, I think we are prepared to yield back the remaining time on this amendment.

Mr. SESSIONS. I would like to speak further.

Mr. KENNEDY. Then I will withhold.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, let's talk about the question of whether these ''legal'' workers have followed the rules and are entitled to this benefit. Those granted amnesty under this bill entered the country illegally, and have not followed the rules. At this very moment, the law says they are illegal and subject to deportation from the United States. Many of them have filed false Social Security numbers and committed crimes of that kind. We are not going to deport them. We are going to allow them to stay here. We are going to be generous to them. We are going to figure out a way that under this bill the vast majority of them will be on a path to full citizenship. Anybody that becomes a full naturalized citizen would be entitled to the earned income tax credit.

My colleagues have said we are punishing these individuals by giving them amnesty. They don't say we are punishing them by saying they have to pay a penalty. They are not saying we are punishing them by saying they have to pay taxes if they owe them. One said we are declaring war on who they are.

Those kinds of words and phrases indicate the bankruptcy of the argument that is being put forth. Under current law, they are not eligible for the earned income tax credit. Under current law, they should not be here. They are here illegally. We are now going to pass a law that is going to allow them to stay here, that will give them free medical care, that will give free education for their children, and allow them to utilize all the services this Nation has put together through the taxpayers of America. Then we are prepared, under this bill, to give these illegal aliens, prior to the time they become a citizen when we change the rules, $40 billion of the taxpayers' money. What offsets do we have? What efforts or plans have been made to pay for that over the next 10 years?

Let me ask my colleagues: If we change the rules and we say we are not going to enforce the criminal laws against you or the immigration laws, why can't we say: you can stay here and, for the overwhelming majority under this bill, you are on a path to citizenship, but you do not get to claim the tax credit? This is a transfer payment. It is classified as an outlay by the U.S. Treasury.

I was disappointed to hear a Senator try to compare this to having to go to the back of the bus. I introduced and was pleased to see passed a resolution that gave the Congressional Gold Medal to Rosa Parks. It was given to her in the rotunda of the Capitol before she died. She is from Montgomery, AL. She was mistreated simply because of the color of her skin, and she was required to go to the back of the bus because of the color of her skin. I don't appreciate the suggestion that this amendment is against civil rights. These people broke the law by entering the country illegally, and should not be able to take advantage of this tax credit. This is a fair response of the American people. Let me ask this question: What about Rosa Parks' descendants who are paying taxes today? Their wages may be reduced this very day because of a large surge of illegal immigrants. This bill would increase that by threefold. Who cares about their wages perhaps being reduced as a result? And it is their money that will be paid to fund this $40 billion transfer payment to people who come here illegally. We are simply not required to give that benefit.

Now, what about taxes? They say they pay taxes. The truth is that lower-wage people—and most of these are lower-wage people—don't pay income taxes. They pay Social Security taxes, but they will get Social Security under this proposal. They don't pay income taxes because they are low-wage. If they have children, they don't pay. Most of the people that get the earned income tax credit don't pay any federal income taxes. At the end of the year when they file a tax return they get, on average, $1,700 per person. Some get as much as $4,700. It is not just families that are eligible for this credit. Single people get it, too, though not as much. It is an income tax credit. It is a payment to them.

I suggest that this is an important issue and that we think about our responsibility. We could pay for the entire enforcement mechanism for the border of the U.S. by simply not rewarding those who have come here illegally, who never expected to receive this benefit, with $40 billion in transfer payments. That is not punishing them. They are free. They are able to go back if they choose. They are able to work if they choose. They are able to carry on their own activities and make choices. But they are not entitled because we give them the benefit of legal status to receive this transfer payment that is provided for our people under current law.

I yield the floor and reserve the remainder of my time.

Mr. McCAIN. Mr. President, I ask the Senator for 3 minutes.

Mr. SPECTER. Yes, I yield 3 minutes to the Senator from Arizona.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. McCAIN. Mr. President, as I understand the remarks of the Senator from Alabama, these people are not mistreated, as others in our society have been mistreated. Wouldn't an objective observer view mistreatment as giving someone legal status in the United States, forcing them to earn citizenship, a whole program to bring people out of the shadows, and yet say you are ineligible for perhaps the most important tax incentive for the poorest of Americans, called the earned income tax credit? I call that mistreatment,

Mr. President. I would call that mistreatment.

We are going to make you pay a fine, we are going to do a background check, we are going to make you work for 6 years before you can get a green card and, yet, while you are doing that—and most of you are low-income people—we are going to deprive you of the benefit that was absolutely designed to help low-income families. That is what it was all about. If you have a lot of children, I am sorry, but this benefit that was specifically designed for low-income people, which is the majority of the people we are talking about, just as all of our forefathers who came here were usually at the lowest wrung of the ladder, and we are going to say you cannot have that benefit.

Why? Why is that? Then what we are really saying is that we are going to give you legal status, but not really, because under a Republican administration, a way to try to help low-income families was designed, instead of a handout to give them a credit, instead of welfare to give them some extra income, but we are not going to give that to you. We may cause your children to go hungry because you are low-income people. I don't get it.

It is mistreatment by any objective view. It is mistreatment. As the Senator from Alabama said, this is an important issue. Maybe for the first time since we have debated this on the floor I agree with him. I totally agree that this is an important issue. It has a lot to do with what kind of country we are.

I reserve the remainder of my time.

Mr. KENNEDY. Mr. President, I yield myself 3 minutes.

Mr. President, the CBO and Joint Tax Committee estimates show that the increase in refundable credits resulting from S. 2611 would be more than offset by the income and payroll taxes new filers would pay. The net effect of the increased costs and revenues would be a gain of more than $30 billion between 2007 and 2016. So their estimate is that the new legal residents would pay over $62 billion in income and payroll taxes, while the costs of refundable tax credit, the EITC, and the child tax credit would only be $29 billion.

Thus, the Federal Treasury would clearly benefit from these immigrant workers becoming legal residents by about $30 billion. So only legal residents are eligible for the EITC. Undocumented workers are not eligible for the EITC today and will not be under the terms of this legislation. However, when they become legal residents, under the process created by S. 2611, they will be eligible for the EITC going forward under the same terms of all other legal workers.

The Sessions amendment would deny these legal immigrant families with children the same rights to this tax credit as other low-income families with children, and it is wrong and unfair. I hope it will be defeated.

I withhold the balance of my time.

The PRESIDING OFFICER. Who yields time? The Senator from Texas is recognized.

Mrs. HUTCHISON. Mr. President, I had originally thought I was going to have 5 minutes to speak. As I understand it, we are kind of running behind. I wondered if there is a 5-minute window that I could have perhaps after Senator ENSIGN speaks or at some point in this debate. Would 5 minutes be OK now?

Mr. KENNEDY. Mr. President, I think we are just about to vote on the Sessions amendment and the Ensign amendment. That concludes the amendments. Then we are going to have final passage. I think Senator BYRD wanted to speak and others wanted to speak, too. I think the leaders said they hoped we would be able to move forward on these amendments. So that is what we have been doing.

Mrs. HUTCHISON. Would there be any time between now and the vote?

Mr. MCCAIN. Perhaps the Senator from Alabama would grant the Senator some time.

The PRESIDING OFFICER. The Senator from Alabama has 1 minute 27 seconds. The Senator from Massachusetts has 3 minutes.

Mr. SESSIONS. I think I need that time.

Mrs. HUTCHISON. I will not ask for that time. Thank you, Mr. President.

The PRESIDING OFFICER. Who yields time?

Mr. SESSIONS. Mr. President, I will wrap up. Although it is my amendment, I suppose I will give my colleagues the chance to have a final word. This bill would not prohibit those who come here legally in the future from being entitled to the earned income tax credit even before they become a citizen. It would say, with regard to those who came here illegally and have no entitlement whatsoever to this outlay payment from the U.S. Treasury, that they should not be able to get it until they become a naturalized citizen. That is not a punishment to them. We are rewarding them with legality in our country. We are rewarding them with the health care benefits of our country and educational benefits of our country, and it is not required that we spend, I believe, what is a fair estimate of $40 billion over the next 10 years to fund this program. That money alone would be enough to fund almost the entire immigration enforcement system we need to put into place. Maybe it would fund all of the one-time costs and much of the continuing costs of that program.

Why would we want to get into this argument that suggests that somehow we are discriminating against people because we don't give them a benefit to which they are clearly not entitled? We are giving them a number of benefits. We simply do not have to give this benefit. It has huge implications for our Treasury. Any way you spin it, our deficit would be $40 billion higher than if we don't adopt my amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator's time has expired. The Senator from Massachusetts has 3 minutes remaining.

Mr. KENNEDY. Mr. President, I am prepared to yield that time back.

Mr. SPECTER. We yield back our time as well, so now we can go to the amendment by the Senator from Nevada.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. ENSIGN. I yield myself 5 minutes.

The PRESIDING OFFICER. Would the Senator call up the amendment?

AMENDMENT NO. 4136

Mr. ENSIGN. Mr. President, I call up amendment 4136.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada (Mr. ENSIGN) proposes an amendment numbered 4136.

Mr. ENSIGN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

(To ensure the integrity of the Earned Income Tax Credit program by reducing the potential for fraud and to ensure that aliens who receive an adjustment of this status under this bill meet their obligation to pay back taxes without creating a burden on the American public)

On page 351, line 13, strike ''The alien'' through ''which taxes are owed.'' on page 351, line 22, and insert the following:

''(i) IN GENERAL.—The alien may satisfy such requirement by establishing that—

(I) no such tax liability exists;

(II) all outstanding liabilities have been met; or

(III) the alien has entered into an agreement for payment of all outstanding liabilities with the Internal Revenue Service and with the department of revenue of each State to which taxes are owed.

(ii) LIMITATION.—*Provided further*, That an alien required to pay taxes under this subparagraph, or who otherwise satisfies the requirements of clause (i), shall not be allowed to collect any tax refund for any taxable year prior to 2006, or to file any claim for the Earned Income Tax Credit, or any other tax credit otherwise allowable under the tax code, prior to such taxable year.''

Mr. ENSIGN. Mr. President, I will speak very briefly on this amendment. It is different than Senator SESSIONS' amendment. It does deal with some of the very same programs, including the earned income tax credit. Senator SESSIONS' amendment addresses the tax credit prospectively. In other words, when somebody is given legal status under this bill they would be prohibited for the first 5 years from benefitting from the earned income tax credit.

My amendment is different. It looks back. When people have worked here illegally, many used a stolen or a false Social Security number. That is a felony. Our amendment says that under those circumstances, someone would

not be able to qualify for the earned income tax credit. So my amendment is looking retrospectively instead of prospectively. My amendment would also disallow other tax credits that are meant for low-income American citizens and legal residents.

Mr. President, I believe that I need to explain why this is issue is important. During this debate, the American people have heard, again and again, that people are going to earn citizenship. The supporters of this bill reminded us of that every day. One of the things that they have consistently talked about is the requirement to pay a $2,000 fine and they are also going to pay back taxes.

During the debate on my Social Security amendment, several people stated that immigrants have paid into the system. Most people who are here illegally—and I think the statistics bear this out—are low-income folks. Under our taxation system, most low-income people will qualify for the earned income tax credit. Which is a way to supplement a person's income, like welfare, but through the tax code. With the earned income tax credit, a family that makes up to $36,000 a year can qualify for EITC. In 2005, they could be paid about $4,400 and in 2006 a refundable tax credit of $4,500. So if we are making these folks pay a ''penalty''—in other words, they have to pay back taxes—these folks will qualify for this tax credit. In fact, many will get a refund instead of paying their back taxes. So what will happen is that the U.S. taxpayers will actually write them a check.

This amendment will stop that from happening. It will stop people from receiving a retroactive tax refund while they were here working illegally. Senator SESSIONS does it prospectively. Mine does it retrospectively. I think it is only right, especially for those folks who are here and have stolen an American identity and ruined someone's credit history.

Last week, I spoke about Audra, a woman whose identity was stolen. She had 218 illegal immigrants fraudulently using her identity. The IRS sent her a bill for a million dollars in back taxes. She cannot get a job. Her financial future is ruined. But what happens to the perpetrators of these crimes? Under this bill, those same 218 illegal immigrants will not only qualify for Social Security, because our amendment failed by 1 vote, but they could collect tax benefits too. If this amendment is not adopted, they will be able to qualify for the earned income tax credit, up to $4,500 per year, for years when they were, at the same time, ruining somebody else's credit and identity.

So, Mr. President, I think this is an amendment that should be adopted. It is a commonsense amendment. Even if one cannot support Senator SESSIONS's amendment, I think we should all at least be able to support this amendment.

Mr. President, does the other side want to go first?

The PRESIDING OFFICER. Who yields time?

Mr. ENSIGN. I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. There is 15 minutes remaining.

Mr. KENNEDY. I yield myself 5 minutes.

Mr. President, the Ensign amendment does more than prohibit the immigrants from claiming the EITC when they file tax returns for the years in which they were undocumented. The amendment would prohibit immigrant workers from receiving refunds of their own money when more of their wages were withheld than they owe in taxes—do my colleagues understand? But under the Ensign amendment, when more is withheld than they owe, they cannot recover the money.

What could be more unfair? The IRS is holding their money. It was withheld from their wages and sent to the Government by their employer. So these immigrant workers have now filed tax returns, like millions of American workers each year. They have overpaid, and are entitled to refunds. The Ensign amendment would prohibit them from receiving these refunds. They cannot get their money back under the Ensign amendment. The Government arbitrarily decides to keep it.

Beyond that—listen to this, Mr. President—on page 2 ''or any other tax credit otherwise allowable under the Tax Code.'' What could that be? The child tax credit. This amendment also prohibits immigrant workers from receiving the child tax credit. The Tax Code permits families to take a $1,000 tax credit for each minor child. This is one of the most important provisions in the entire Internal Revenue Code for working families. It recognizes how expensive it is to raise children today, and it reduces a family's tax liability by $1,000 for each child. It allows these families to pay less income tax so that the money can be used to help them meet the child's basic needs. But the Ensign amendment says to immigrant families struggling on meager wages, trying to provide a better life for their children: You can't use the child tax credit to reduce your tax liability, even though every other family can. It does not matter that in many cases your children were born in the United States and are American citizens. Your children still cannot receive the benefit of the child tax credit because you were an undocumented worker.

As a result, an immigrant family with two youth children, maybe American citizens, will have to pay $2,000 more in taxes each year than any other family in America who has the same income, same number of dependent children.

That is an incredibly harsh penalty to impose on these families. The Ensign amendment would impose a special punitive Tax Code on immigrants who were once undocumented, making them pay higher taxes than anyone else with comparable incomes, denying them the basic right to a refund of their own money when the employer withholds more than they owe.

I urge my colleagues to look closely at this unjust amendment and reject it.

I reserve the remainder of my time.

Mr. ENSIGN. Mr. President, I yield the Senator from South Carolina 4 minutes.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. DEMINT. Mr. President, I rise in support of Senator ENSIGN's amendment. I very much appreciate him offering it on behalf of the American people. I also appreciate the efforts of all my colleagues who I know have worked in good faith to try to create a better immigration system that works for Americans and our heritage of welcoming immigrants.

As we have gone through this process, I think it has been a good, civil, and constructive debate, but some of us are just coming down on different sides.

My hope was as we went through this debate that we would recognize the urgent sense that Americans have what we need to secure our borders and that we need to stop illegal immigration before we expand legal immigration or increase benefits to those who are here illegally.

I had hoped that when Senator ISAKSON offered his amendment that included comprehensive reform but created a commonsense sequence, that we in America would see that we need to control our borders before we add additional legal immigrants. But when that amendment failed, I think it discouraged a lot of us, that perhaps everyone wasn't working in a way that would be constructive for America's future.

We also saw when Senator ENSIGN offered an amendment that had some commonsense ideas if someone had come here illegally and stolen someone's Social Security number, certainly they should not be rewarded by receiving Social Security benefits for the time they were using a stolen Social Security number. I think most of us thought that commonsense amendment would have been adopted overwhelmingly. Unfortunately, it failed, which discouraged many of us who wanted to work as part of a team toward comprehensive reform.

Now we see with this amendment a recognition that we don't need to continue to add reward on top of reward for those who have been working here illegally. While we need to struggle to find a system that works for America, we should not use taxpayer dollars, American taxpayer dollars to give tax credits to folks who have been working here illegally. This does not make sense.

Again, I encourage my colleagues to consider this because it is not only unjust to Americans, I think it is unfair

to immigrants. This bill is ultimately going to create such a level of resentment for our immigrants. Once Americans see that this bill creates rewards for those who have come here illegally, not just Social Security benefits but tax credits, citizenships, wages that in many cases are better than Americans', guaranteed wages, Americans are going to see this as unfair and resent the immigrants, and I think it will hurt our heritage of immigration in this country.

I appreciate Senator ENSIGN offering this amendment.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I believe the immigrants who are here 5 years or more ought to be treated like everybody else. It raises very similar considerations to the arguments which I raised on the amendment by Senator SESSIONS.

Where they have overpaid in taxes, like any other taxpayer, they ought to be able to get it back. Where they have children who are entitled to the child tax credit, children born in the United States would be excluded under the Ensign amendment. They ought to be treated like anyone else.

When Senator DEMINT talks about resentment and fairness, I believe there would be a lot of resentment and a lot of questioning of the fairness of treating the immigrants who have been here for more than 5 years in a discriminatory fashion, not giving them back money they overpaid in taxes, or not according their children the child tax credit.

I yield the Senator from Texas 5 minutes on my time.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, we have been debating for the last 2 weeks a bill that is going to change the course of our country. The debate has been good. We have had the ability to offer amendments. Yet, the bill has not changed to the degree it needs to change, to do the job that we must do to assure that we secure our borders. This bill has not yet changed to ensure that we have a temporary worker program that works, that does not discriminate against American workers, and that is fair. If this bill had gone through that process, we could then start dealing with the people who are here in a fair and responsible way.

Mr. President, we have benefitted from the immigrants in our country for hundreds of years—people who come here legally and work hard. They make better lives for themselves and their families, and they contribute to our country in the process. They have assimilated into America the ''E Pluribus Unum'' motto: Out of many, one. That has been the factor that has brought us together for all of these years.

In the last 10 years, we have watched as millions have ignored our laws. They have come into our country illegally, leaving those who have waited their turn, who have waited for the legal process to work, to wonder if, in fact, they would ever be rewarded for their correct behavior.

After 9/11, we all knew that our security was at risk. We have been forced to reexamine the laws of our country as they relate to our borders. Yet nearly 5 years after our country was attacked by people who came in through a porous border, we still have a porous border. We need immigration reform, and we must do it right.

There are some good points in this bill. Securing our borders is a part of this bill. I voted against the Budget Act point of order yesterday because I want to spend the money on border security, and it is going to cost money. But that is not the only part of this bill. The rest of the bill has caused an imbalance that cannot stand if we are to look at the big picture for our country.

Edwin Meese, the former Attorney General of the United States, warned in a New York Times editorial op-ed that we are in danger of repeating the mistakes of 20 years ago when Congress passed the Immigration Reform and Control Act of 1986, granting amnesty to those who were in this country. We are in danger of making the same mistake today.

Temporary workers are very important for our country. They provide U.S. companies with labor that keeps our economy thriving, and the workers have the opportunity to make better lives for themselves. We also need to make sure that we have some path for people who want to work in this country, but do not want to be citizens. It is important that we balance the rights of American workers' as we take this major step.

The Hagel-Martinez guest worker program does grant amnesty, and it forces guest workers into a citizenship track after 6 years, even if that is not what the worker wants or what they intended. In the polls that I have seen, most of the people coming to this country to work do not want to give up allegiance to their home countries, and they still love America. They don't have hostility toward America because they are not citizens. The arguments that I have heard indicating that we want every temporary worker to be a citizen so that they will be loyal to our country, I believe does not hold water. You can be friendly to our country, appreciate and respect our country but not have to go into the citizenship track to do that. People have been doing it for a long time.

We do not have the capability in this bill that I tried to put in it yesterday with my amendment that would allow another choice—a choice for people who do want to work in our country, go home, and who do not want the citizenship track.

Mr. President, I will not be able to vote for the bill before us today, but I do hope I can vote for a bill that comes out of conference committee, one that will be balanced and one that represents the interests of the American people, as well as treating fairly the foreign workers who come to our country.

I thank the Senator from Pennsylvania.

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

Mr. ENSIGN. I yield myself 3 minutes.

Mr. President, the 1996 historic welfare reform bill signed into law by President Clinton clearly stated illegal immigrants, people who were unlawfully in this country, would not be able to receive the benefits of the earned-income tax credit and would not be able to benefit from any of the other tax credits the law provides. That is right and that is fair. We should reserve those benefits for citizens and permanent residents.

This bill undoes that. The bill says: We know what the law says, but now we forgive you and, therefore, go ahead and claim those credits retroactively. Without my amendment, that is exactly what will happen in this bill.

The idea of stealing somebody's identity, stealing their Social Security number, ruining their credit, ruining everything that many folks have worked so hard to achieve, and then rewarding the person who stole the identity seems to me to be unfair, it seems wrong. If you have fraudulently used someone's social security number that—by the way—is a felony. We are forgiving that felony under this bill. So we are giving amnesty for that felony. It would seem to me that amnesty should be enough. We shouldn't, at the same time, allow the person who committed a felony to collect Social Security benefits and to claim the earned-income tax credit.

I want to put up a chart here because people have been talking about the earned-income tax credit. Senator COBURN earlier this year had a hearing on the earned-income tax credit. This program—and this is pretty consistent with what I have seen over the years—has somewhere between a 23 percent and 28 percent error or fraud rate. That is the error rate that currently exists each year without regard to persons affected by this bill. That fraud—according to best estimates—costs us over $10 billion a year. Just in errors and fraud. Now we want people who are here illegally to be able to go back and claim a tax credit adding more burden to the U.S. taxpayer, adding more to the deficit.

It was said by some that our amendment doesn't allow people to get refunds. That is absolutely true. If they paid into the system, and they overpaid, you are correct, we do not allow tax refunds. One of the reasons for this provision is because it is impossible to determine whether people using multiple social security numbers, as is the case with so many illegal immigrants, have overpaid. In that regard, there

would be no way to match a W–2 with the person who earned the wages on that document. This bill places a huge burden on the IRS, forcing the service to prove if someone has used 13 different Social Security numbers. Sorting out who actually messed up the system. Having to prove what someone owes and if they have overpaid, if they have overclaimed or overdeducted, it is a huge burden. By the way, we are not solely placing the burden on the IRS; we are also placing a huge burden on the American taxpayer. How? The American taxpayers have to fund the IRS. So it will be very difficult to prove whether someone has overpaid or not, and whether they are due a refund. We take care of all of that. We say, No, you don't get a refund and you cannot claim the tax credits that I believe are due for American citizens, and they certainly weren't due for people who are here illegally.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. How much time do I have remaining?

The PRESIDING OFFICER. Five minutes and 36 seconds.

Mr. KENNEDY. Mr. President, I yield to the Senator from South Carolina.

Mr. GRAHAM. Mr. President, I thank the Senator for yielding. I don't know how to say it other than just to say it. We are beginning to take tax policy focusing on one group of people and tying it to criminal behavior disproportionate to the crime, and we are beginning to set the stage for a different kind of America. Not only is it ill-conceived, it is dangerous. You can rape someone, you can murder someone, you can be a convicted child molester, and our tax laws allow you to get a refund.

What kind of crime are we talking about here? Coming across the border illegally, breaking in line to try to get ahead, because here you can do really well and on the other side of the border you do really poorly. I am sorry people did that. They need to pay for their crime of coming across the border, which is a misdemeanor with no specific fine set, with a 6-month cap on punishment.

But what are we going to do to those people who come here and we have allowed them to sit here—not sit here, work here, for our benefit, doing things we don't want to do for years—we are going to say to the children who are American citizens, You are an American citizen as much as I am, but when it comes to your parents who came across that border for you and your future, we are not going to just punish them, we are going to take the whole Tax Code and turn it upside down and do to your parents what we don't do to a drug dealer or a rapist or a murderer.

To my good friend from Nevada: Enough is enough. You have gone way too far. We need to get a grip on who we are as people. Punishment, yes. Revenge, no.

You want to talk about fairness? I have been a prosecutor, I have been a defense attorney, and I know you have to pay your debt, but this is a place where you can start over—at least it used to be. It is a place where you have a chance to right your wrongs. Under this bill, you do pay a fine; you do go through a very long process to earn your way back into our good graces. It is a misdemeanor. You pay a fine. You have to learn English. If you are out of work for over 45 days, off you go. If you commit a felony or misdemeanor unrelated to immigration, off you go. We need the workers. We don't need bad people. We need good people.

Every now and then, good people do bad things. At least I have found it to be so. Count me in that category. I hope you will forgive me if I do a bad thing, because I have done plenty of bad things. It is because people have seen the good in me, allowed me to start over and do right. That is why I am in the Senate today, because people saw in me some things I didn't deserve to have seen. So yes, let's give them punishment, make them do right, make them learn our language, make them pay taxes and pay a fine, make sure they don't commit crimes. But once you pay taxes, let's don't turn the Tax Code upside down just to kick you around after you have done what we have asked you to do.

Please vote no. I yield back.

EARNED INCOME CREDIT

Mr. GRASSLEY. Mr. President, Senator ENSIGN has proposed amendment No. 4136 to this immigration bill.

Mr. ENSIGN. My amendment is designed to accomplish two purposes: one, deny the earned income credit, EIC, to undocumented workers; and two, to ensure that applicants under section 601 are not manipulating their tax attributes to generate refunds that would not otherwise be due.

Mr. GRASSLEY. I agree with the objectives of Senator ENSIGN's amendment. I note that the Finance Committee report welfare reform bill, known as the PRIDE Act, contains a technical correction to ensure that Senator ENSIGN's and my objective with respect to the EIC is met.

Secondly, I will work with Senator ENSIGN and other interested members of the conference to achieve our second objective. We recognize this amendment is our first attempt to make sure the applicants are fully compliant with our Nation's tax law. As such, the underlying bill's provisions and Senator ENSIGN's amendment will need to be further examined in conference.

Mr. ENSIGN. I thank the chairman and look forward to working with him in conference.

The PRESIDING OFFICER. Who yields time?

Mr. ENSIGN. Mr. President, I yield myself the remaining time.

The Senator from South Carolina just talked about how coming across the border illegally is a misdemeanor. What he didn't address was that stealing somebody's Social Security number is a felony. In this bill, we forgive that felony. We forgive it.

What we are saying is, if somebody who has operated under false pretenses—the 1996 welfare reform bill signed by President Clinton said that they would not qualify for earned-income tax credits or any other tax credits that we have for the low-income folks in this country—this bill will reward them and reverse the welfare act. They will be able to go back and say, Well, here is where I worked, and present some W–2 forms, maybe falsified, but they can go back and try to claim that, and then qualify for the earned-income tax credit. I fundamentally think that is wrong. We are already forgiving a felony; I think that is enough.

All of the things that the Senator from South Carolina said about people coming here and working—and I am a big supporter of immigration—I think it is the strength of our country: The diversity that it brings, the hard-working people who make us appreciate America. I am as pro-immigration as anybody in this Chamber. What I want, though, is folks who, when they are coming here, are coming here for the right reasons. They are coming here to work hard. They are coming here to do the things that make America great. I think that is wonderful. They are saying in this bill that people will pay restitution, to earn legal status by paying back taxes. I don't know how many times I have heard those words from the people who are supporting this bill. In fact, under this bill, when immigrants go back to pay back taxes, to pay restitution, many actually get money from the federal government solely because of the earned-income tax credit.

America is a compassionate country. We want to embrace people who are coming—we always have—from around the world. But I don't think it is right to ask the American people, OK, forgive them for the felony of stealing Social Security numbers, we are going to give you amnesty as far as citizenship and things like that, and on top of that, we are going to write you a check. We are going to write you a check courtesy of the American taxpayers. Yes, some may pay a fine and back taxes, but the EITC and other tax credits will actually operate so that the American people are going to write the illegal immigrant a check. Without my amendment, that is exactly what can happen to financially reward millions of the folks who are going to be legalized under this bill.

Mr. President, is there any time remaining?

The PRESIDING OFFICER. Forty-two seconds.

Mr. ENSIGN. I yield back my time.

Ms. MIKULSKI. Mr. President, there has been a lot of talk over the last 2 weeks about immigration and the need for immigration reform. I agree our immigration system is broken. We

need to secure our borders, protect American jobs and make sure those immigrants in this country are treated with dignity. I rise today to talk about two provisions that I fought hard to include in the immigration bill.

First, the H–2B visa program, which rewards those immigrants who play by the rules while protecting American jobs. And second, the Kendell Frederick Citizenship Act. This act rights a wrong and corrects a terrible injustice. It makes sure those who are not U.S. citizens but who are fighting to protect this country and have a green card can be a U.S. citizen quickly and easily.

My H–2B visa provision protects our borders by rewarding immigrants and employers who play by the rules. We are talking about workers who come here on a seasonal basis but return to their families when they are finished with their job. Workers who honor their legal commitment to come here, work legally at a job and return home when finished with their work.

This provision protects American workers by requiring employers to recruit American workers before hiring immigrant workers. It makes sure small business can continue to operate and pay their U.S. workers 12 months out of the year. It keeps small and seasonal businesses open for business and guarantees the labor supply small businesses need during their peak seasons when they can't find American workers to take the jobs.

This provision does not raise the cap. It allows employers who hire good guy workers, workers who have played by the rules and returned home after the work was done. These workers can be hired for another 3 years and not count against the annual cap of 66,000 H–2B visas. It provides a helping hand to businesses by letting them apply for workers they have already trained to come back again, year after year and return home after the work is done. And it only applies to those who have already successfully participated in the H–2B visa program—immigrants who have received a visa and have returned home to their families after their employment with a U.S. company.

Small businesses across this country count on the H–2B visa program to keep their businesses afloat when they cannot find local American workers to fill their seasonal needs. They can then turn to the H–2B visa program. Without being able to get the seasonal workers they need, these businesses would not survive. These businesses try to hire American workers. They would love to hire American workers. Under the law, they are required to hire American workers. These businesses have to prove that they have vigorously tried to recruit American workers. They have to advertise for American workers and give American workers a chance to apply. They have to prove to the Department of Labor that there are no American workers available. Only then are they allowed to fill their vacancies with seasonal workers.

The workers these businesses bring in participate in the H–2B visa program year after year, often working for the same companies. This has been the experience of the Maryland seafood industry. Yet they cannot and do not stay in the United States. They play by the rules, and return to their home countries, to their families. After the worker goes home, the U.S. employer must go through the whole visa process again the next year to get them back. That means an employer must prove again to the Department of Labor that they cannot get U.S. workers. The program also requires that the employers pay these workers the prevailing industry wage.

This is not just a Maryland issue. This is not even a coastal issue. It is an issue that affects everyone. Every State uses H–2B workers, from ski resorts out West and in the Northeast to quarries in Colorado, from landscapers who hire most of their workers in spring and summer to shrimpers in Texas and Louisiana. And of course the seafood industry on both coasts.

Being able to hire seasonal workers is critical to the State of Maryland. We have a lot of summer seasonal businesses in Maryland, on the Eastern Shore, in Ocean City or working the Chesapeake Bay. Many of our businesses use the program year after year. First, they hire all the American workers they can find, but they need additional help to meet seasonal demands. Without this program they can't meet their needs and many will be forced to limit services, lay off permanent U.S. workers or, worse yet, close their doors. These are family businesses and small businesses in Maryland. Take for example J. M. Clayton. What they do is a way of life. Started over a century ago and run by the great grandsons of the founder, J.M. Clayton works the waters of the Chesapeake Bay, supplying crabs, crabmeat and other seafood, including Maryland's famous oysters, to restaurants, markets, and wholesalers all over the Nation. It is the oldest working crab processing plant in the world. By employing 65 H–2B workers, the company can retain over 30 full time American workers.

But it is not just seafood companies that have a long history on the Eastern Shore. It is also S.E.W. Friel Cannery, which began its business over 100 years ago. Friel's is the last corn cannery left from 300 that used to operate on the shore. Ten years ago, when the cannery could not find local workers, it turned to the new H–2B visa program. Since then, many workers come each season and then go home year after year. They have helped this country maintain its American workforce and have paved the way for local workers to return to the cannery. Friel's now employs 75 full-time and 190 seasonal workers, along with 70 farmers and additional suppliers.

Last summer, I went over to the Eastern Shore after the victory of getting an extension to the H–2B visa program to meet with Latina women who come to Maryland every year under this program. I asked them ''What does this program mean to you?'' They told me that coming here year after year is hard work, but it means they can provide for their families. They come in April and stay until late September when the crab pots are packed up until the next season. During one summer here, they earn more than they could earn in their home countries in 5 years. They take this money back to their families and children who have been waiting for them and build a well in their native village or build a home or even pool their money to build a community center. Each year these women come back to Maryland because they know the shore and they know Clayton, they know Phillips; and they know they will have a place to live, a bus that will take them to church, access to translators and in some places they are even able to learn English. First, it is one sister and then another sister coming to the Eastern Shore for a few months a year to make money so they can take care of their families and communities back home.

Some of you may ask, ''why do we need this extension since the bill has a temporary guest worker program?'' We need to make sure we do not forget the needs of small and seasonal businesses in this immigration debate. I welcome the guest worker program that is before the Senate. Once the program is up and running, it will help augment the H–2B program. But that is going to take time. We need to make sure that there is no interruption so that companies can meet their hiring needs. When American workers don't apply for the job, the lack of workers could mean a missed season. That doesn't just mean a loss of profit. It means a loss of a family business, because these businesses will be forced to close their doors.

Again this year, we have already reached the cap on the H–2B visa program. The first half of the cap—33,000 visas—was reached less than 3 months after employers could begin applying. These businesses relied on the exemption of returning workers to fill vacancies that were open after trying to recruit American workers. We know how important it is to protect our borders, protect American workers and make sure small and seasonal businesses continue to operate. I don't need to tell you how important our seasonal industries are to our State economies and our local communities. This provision in the immigration bill does all of this. Every Member of Senate who has heard from their constituents, whether they are seafood processors, landscapers, resorts, timber companies, fisheries, pool companies or carnivals knows the need for this H–2B program to continue.

I also want to talk about another provision in the immigration bill meant to fix a broken bureaucracy and help noncitizens who are serving in our military become citizens of the United

States. There are over 40,000 non-U.S. citizens serving in the U.S. military today. Many want to become U.S. citizens but are caught up in red tape and paperwork, bureaucratic run-a-rounds and backlogs. And that is wrong.

Many of these young people are on the front lines in Iraq, Afghanistan and throughout the world fighting terrorists. They are focused on fighting the enemy, they shouldn't also have to fight the bureaucracy just to become a citizen of the country they are fighting for. This provision in the immigration bill makes sure that it is easier and quicker for non-U.S. citizens serving in our military to become citizens.

This provision was inspired by a young man from Maryland who was in the Army serving our country. Though not a citizen, he had a green card and was killed in Iraq on October 19, 2005. He was 21 years old. Kendell Frederick was killed by a road side bomb on his way to be fingerprinted to become a U.S. citizen. But he was also killed by the botched bureaucracy of the U.S. government, by their incompetence, by their indifference, by their ineptitude. This is inexcusable.

Every military death in Iraq is a tragedy, but this one did not need to happen. A Trinidad citizen, but fighting for America, Kendell Frederick was a terrific young man who came to this country when he was 15 years old. He joined his mother here in the U.S. and wanted so much to be a part of this country. He wanted to serve this country and joined the ROTC while at Randallstown High School. After graduation, he joined the Army and went off to serve this country. In the Army, he was a generator mechanic assigned to a heavy combat battalion. His job was to keep all of the generators running, which kept his battalion running. Kendell wanted to become an American citizen, yet a series of bureaucratic screw ups and unnecessary hurdles prevented that.

Kendell had been trying for over a year to become a U.S. citizen. He started working on it when he joined the Army. While he was training and learning how to become a soldier, Kendell sent his citizenship application in and checked the wrong box. Specialist Frederick was busy training for war, packing to go to Iraq, saying good bye to his mother, his brother, his two sisters—all the while worrying which box to check to become a U.S. citizen.

After that, his application was derailed by Immigration three times. First, after his mother checked the correct box saying Kendell was in the military, the Citizenship and Immigration Service, CIS, sent the application to the wrong office, not the office that handles military applications. Second, CIS rejected the fingerprints he had submitted—with no explanation. Kendell had his fingerprints taken when he joined the military. He had an FBI background check for the military. We have high standards to be in the U.S. military. But there was no explanation. His mother did not know why the fingerprints had been rejected. Third, and finally, Kendell was told to get his fingerprints retaken in Maryland. But he was in Iraq fighting a war. His mother called 1–800–Immigration—that's supposed to be the HELP line. She told them—my boy is in Baghdad, he can't come to Baltimore to get fingerprinted. She would have loved for son to come to Baltimore, but he was fighting in a war, fighting for America. And CIS told her there was nothing they could do. They were wrong. That was the wrong information. They were no help.

Finally, an arrangement was made. Kendell's staff sergeant made arrangements for him to be fingerprinted at a nearby air base so he could complete his application. On October 19, SPC Kendell Frederick was traveling in a convoy to a base to get fingerprinted. He did not usually go on convoys, but that day he was in the convoy to get his fingerprints to become an American citizen and he was killed by a roadside bomb. Kendell was granted his U.S. citizenship a week after he died. He was buried in Arlington National Cemetery.

Kendell was trying to do the right thing, yet he was given wrong information. He got the run-a-round. His staff sergeant tried to help, but he didn't know all the rules, it was not his job to know the rules—he was fighting a war. His mother did the right thing. She tried to cut through the bureaucracy, making phone calls, sending letters, she was diligent and relentless. The system failed—again and again. And a wonderful young man lost his life.

Kendell's mother—Michelle Murphy—could have just sat there, could have boiled in her rage. She wanted to do something with her grief. When I spoke with her, she told me she didn't want any mother to have to go through what she went through, what her son went through. Servicemembers and their mothers should not be worrying about what box to check on a citizenship application, which of many addresses is the right address to mail it to, where to get fingerprints taken when the servicemember is fighting for America. Mothers have enough to worry about. Servicemembers have enough to worry about.

It took me introducing a bill to get Immigration's attention about the problems servicemembers and their families face. The Department of Homeland Security is working with me and Kendell's mother to try and make sure this does not happen again. They are working to get rid of the red tape. This provision will make sure that no mother has to go through what Mrs. Murphy went through.

The Kendell Frederick Citizenship Act that is part of the immigration bill makes it easier for military servicemembers to become citizens. The provisions of the legislation cut through the red tape. First, the act requires CIS to use the fingerprints the military takes when a person enlists in the military, so a servicemember doesn't have to keep getting new fingerprints. Second, it requires the creation of a military citizenship advocate to inform the servicemembers about the citizenship process and help with the application. Third, this legislation requires CIS to set up a customer service hotline dedicated to serving military members and their families. And fourth, it requires the Government Accountability Office to conduct an investigation into what is wrong with immigration services for our military.

No one should ever again have to go through what Kendell and his mother went through. The Kendell Frederick bill will make sure that anyone in the military who wants to be a U.S. citizen will be able to do so, quickly and easily. If you are willing to fight and die for America, you should be able to become an American.

Mr. BUNNING. Mr. President, I rise to speak about why I will vote against the immigration reform bill now before the Senate.

This is the worst piece of legislation that I have seen in my 20 years in Congress. It grants amnesty to 11 million or more illegal immigrants. It puts American workers at risk. It does little to enforce our immigration laws in the interior of the country, and worst of all, it does not even secure our border. It ignores the will of the majority of the American people. I cannot vote for such a dangerous bill.

In 1986, the year before I first joined the House of Representatives, Congress passed the immigration reform bill that got us into the situation we are in now. Ed Meese, who was President Reagan's Attorney General at the time, called it what it was—an amnesty for 3 million illegal aliens. Unfortunately, after that amnesty little attention was paid to securing our borders and interior enforcement, and the illegal immigrant population grew to over 11 million.

The 1986 amnesty was a signal to illegal immigrants that if they came here and kept their heads down, eventually they would have their crimes forgiven. The amnesty told them there was no reason to wait in line, no reason to follow our laws, just sneak into the United States, do not get caught, and eventually Congress would make them a citizen.

Well, that is exactly what happened. Earlier this week, former Attorney General Meese pointed out that Congress did not learn the lesson of 1986 and we are poised to repeat that mistake by passing a new amnesty. I suspect that 20 years from now a future Congress will talk about yet another amnesty.

A few weeks ago I came to the floor to talk about what kind of immigration reform I support. I support, first and foremost, securing our borders. If we cannot control our borders, we might as well give up on stopping the next terrorist attack.

I support strong enforcement of our immigration laws inside the country. That means punishing employers who hire illegal immigrants. We must provide employers the tools they need to make sure workers are legal and hold them responsible when they turn a blind eye to who they are hiring.

I support an immigration reform bill that protects American workers. That means a temporary worker program for when we need more workers, such as in our current rapidly expanding economy. But any worker program must make sure Americans are not being denied jobs in favor of cheap foreign labor. If there is a real need we should fill it, but foreign labor should never be a substitute for American workers.

Finally, I support continuing our long tradition of welcoming new immigrants to America. Within reasonable limits, we should continue to welcome people from around the world who want to become Americans. We should not lock the doors to new immigrants, but anyone who wants to become an American must learn our language and assimilate into our society.

Because this bill does not follow those principles, I will not support it. The bill will not secure our border. It ties the hands of law enforcement inside the country to catch illegal immigrants. It is an amnesty for illegal immigrants that not only puts them ahead of the millions who are already waiting in line, but in some ways it also treats them better than American workers. Finally, the bill does not protect American jobs, instead it encourages businesses to use cheap foreign labor.

I have heard a lot of talk the last few weeks from my colleagues supporting this bill that say we must choose from either blanket amnesty or mass deportation. That is wrong. If we passed a real border security bill with tough interior enforcement, the illegal population would shrink through attrition; in other words, the illegal immigrants would deport themselves. After we secure our borders, we can put in place a temporary worker program that protects American workers.

But that is not the path the Senate will choose today. I hope my colleagues in the House of Representatives will stay strong with their bill when we get to conference. The other body passed a strong bill that would make this country safer. That bill is not an amnesty bill. It will make sure we get our border under control before opening the door to millions of temporary workers.

Again, Mr. President, I cannot support this bill. It is the worst legislation I have ever had to vote on, and I will vote against it when the roll is called. I put securing our borders ahead of amnesty, and I am confident the American people do too.

Mr. SANTORUM. Mr. President, the Senate is scheduled to vote today on a comprehensive immigration reform bill. With thousands of illegal immigrants rushing across our borders every day, straining every sector of our society, congressional attention to this issue is appropriate and overdue. Unfortunately, S. 2611 is not the right way to reform our immigration system.

As the son of an Italian immigrant who came to the United States in 1930, I understand the important and valuable contributions immigrants have made and continue to make to our country. I have great respect for those who have legally come to our Nation seeking a better life for their families, just as my grandfather and father did.

However, as the Senate comes to a vote on S. 2611, I firmly believe that the rule of law and our safety and security must be given by importance. Who is traveling across our borders and why they are doing so is as important as any issue we currently face. It is a complicated issue, with far-reaching implications that will impact our national security, our economy, and our culture.

Securing our borders is and must be our first priority. It is a basic responsibility of a sovereign nation. An immigration policy that does not control who is entering our Nation is not an immigration policy at all. The best way we can do this is by strengthening and supporting our Border Patrol, both through greater numbers and technological advancements. To this end, I cosponsored and voted for a successful amendment that authorizes the Department of Homeland Security to construct 370 miles of triple-layer fence and 500 miles of vehicle barriers at strategic locations along our southern border.

I also cosponsored the Ensign amendment which provides reimbursement for the temporary use of the National Guard to secure the southern border of the United States. With the approval of the Secretary of Defense, the Governor of any State may order the use of the National Guard for not more than 21 days in a year to provide ''command, control and continuity of support'' such as ground and airborne reconnaissance, logistical, tactical, and administrative support, communications services, and emergency medical services. I was pleased to see both of these amendments pass as they are solid first steps towards border security.

But the reason I voted against cloture and why I simply cannot vote for this bill is that it gives amnesty to the immigrants who came to this country illegally. I believe those who have entered this country illegally must return to their native land and move through the legal process just like everyone else. The idea that those who have been here illegally for an arbitrary number of years—a number that is, frankly, undeterminable as their time here is by nature undocumented—should be able to stay in America simply by paying back taxes is an insult to all those who have waited, patiently and lawfully, for their chance to come here and pursue the American dream.

There were many opportunities to fix this throughout Senate debate, but I am afraid many of my colleagues have not truly heard the call of their constituents to oppose amnesty. I was disappointed that 58 of my colleagues rejected a reasonable amendment offered by Senators KYL and CORNYN to ensure that the temporary worker program was actually temporary and not a shortcut to legalization or citizenship. I also voted against the Feinstein amendment earlier this week which would have given all illegal immigrants in the United States a path to citizenship without having to leave the country.

I cannot support an amnesty proposal now because amnesty has failed in the past. In 1986, Congress attempted to address this same issue, though on a much smaller scale. Estimates of the size of the illegal-immigrant population in the United States in 1986 placed the total number close to 1 million; today we are dealing with around 12 million. If providing amnesty to 1 million illegal immigrants yielded 12 million over the course of 20 years, with how many additional millions will we be burdened in 2026 by offering amnesty now?

But this is not the only way S. 2611 rewards illegal immigrants. I cosponsored an amendment offered by Senator JOHN ENSIGN that would ensure illegal immigrants have a valid Social Security number before they can accumulate credit to qualify for Social Security. This amendment was intended to reduce document fraud, prevent identity theft, and preserve the integrity of the Social Security system by ensuring that persons who receive an adjustment of status under this bill are not able to receive Social Security benefits as a result of unlawful activity. In other words, this prevents illegal immigrants from getting Social Security benefits based on their illegal work history, often with an invalid number. Unfortunately, a majority of my colleagues voted to kill this amendment. By doing so, the Senate has rewarded illegal immigrants by putting our current elderly beneficiaries, who paid into the Social Security system for decades in order to collect the benefits they receive today, further at risk in an already stretched system.

I would like to speak briefly on an amendment offered by Senator SESSIONS that would prohibit aliens unlawfully present in the United States with a green card from the H–2C visa program from claiming the earned income tax credit, EITC, when filing annual tax returns. This amendment has good intentions, but I reluctantly must oppose it. The cost of EITC for the illegal-turned-legal population is steep. However, this amendment goes further than I am comfortable with by treating these resident aliens different from others. In my mind, a better option is another amendment offered by Senator ENSIGN that would limit illegal aliens from any kind of tax refund or an EITC claim on back taxes for the time that they were here illegally. I believe this amendment strikes the right balance.

America is a nation of immigrants, a nation that derives much of our strength from those who come here to live the american dream. But the immigrants who have contributed so much to the character of our Nation came here legally. We devalue their sacrifices and hardships if we fail to ask the same of today's immigrants. This bill does not do that. It rewards illegal behavior, threatens our social welfare system, devalues the legal immigration process, and provides amnesty to illegal immigrants. I will vote against S. 2611, and I urge my colleagues to do the same.

Mr. DOMENICI. Mr. President, I rise today to express my dismay that my amendment No. 4022 to S. 2611 is not part of the bill the Senate will vote on.

At first glance, the immigration bill we are considering takes into account that if we put more border patrol agents and immigration personnel on the border, other Federal agencies that deal with immigration will need more resources. The bill adds new Department of Homeland Security and Department of Justice attorneys, public defenders, and immigration judges. But the bill fails to account for that fact that while immigration cases typically go before immigration judges, repeat offenders can be charged with felonies and tried in Federal district court.

As part of this bill, we should have considered the increased federal criminal immigration caseload we will have as a result of increased border security and immigration enforcement, and we should have added new District judges to hear those cases.

Specifically, my amendment would implement the recommendations of the 2005 Judicial Conference for U.S. district courts that have immigration caseloads totaling more than 50 percent of their total criminal filings. There are four districts that have such caseloads; unsurprisingly, all of them are on the Southwest border. Those courts' immigration caseloads vastly outweigh the immigration caseloads of northern border district courts that the 2005 Judicial Conference recommended new judgeships for.

For example, in the Southern District of Texas there were 5,599 criminal filings in fiscal year 2004, and 3,688 of them were immigration cases. By comparison, the Western District of Washington had only 539 criminal filings, and only 78 of those were immigration cases. Similarly, in the District Court for Arizona there were 4,007 criminal filings in fiscal year 2004; 2,404 of them were immigration cases. But in Idaho, there were only 213 criminal filings, and only 71 of those were immigration cases. In fiscal year 2004, the Southern District of California had 3,400 criminal filings, and 2,206 of them were immigration cases. On the northern border, in the Western District of New York, there were only 497 criminal filings; only 35 of those were immigration cases. Lastly, in the District of New Mexico, there were 2,497 criminal filings in fiscal year 2004, and 1,502 of them were immigration cases. In the District of Minnesota, there were 431 criminal filings, and only 15 of them were immigration cases.

With so many figures, the significance of those numbers may be lost, so let me sum those numbers up. In fiscal year 2004, my home state of New Mexico, which shares a border with Mexico, had 100 times more Federal criminal immigration cases than a state that shares a border with Canada.

The Albuquerque Tribune wrote an article about this issue in March. That article, ''Judges See Ripple Effect of Policy on Immigration,'' said:

> U.S. District Chief Judge Martha Vazquez of Santa Fe oversees a court that faces a rising caseload from illegal border crossings and related crime. And help from Washington is by no means certain . . . Most typical immigration cases go before an immigration judge, and the subjects are deported. But people deported once and caught crossing illegally again can be charged with a felony. And that brings the defendant into federal district court. Those are the cases driving up New Mexico's caseload . . . Some days as many as 90 defendants crowd the courtroom in Las Cruces, said Vazquez . . . The same problems are afflicting federal border courts in Arizona, California, and Texas.

Mr. President, I will ask that this April 17, 2006 article be printed in the RECORD.

I would also like to read portions of a letter written to me earlier this month by the New Mexico District's Chief Judge, Martha Vazquez. About the Senate's immigration bill, Judge Vazquez wrote:

> As with past legislation aimed at improving border security, this bill will significantly increase the number of felony immigration and drug cases in the federal courts in districts on the southwest border. The bill, in recognition of this fact, provides funding for at least 20 additional full-time Administrative Immigration Judges. The bill, however, inexplicably fails to provide funding for additional Article III judges despite the fact that Article III judges will be as burdened, if not more, by the increased caseload that will result from the bill's implementation . . . In fiscal year 1997, there were 240 immigration felony filings in the District of New Mexico. By fiscal year 2005, the number of immigration filings increased to 1,826, which is an increase of 661 percent . . . Increasing the number of immigration judges will do nothing to reduce the increasing caseload in the border states' federal courts.

Judge Vazquez was appointed to the Federal bench by President Clinton. Clearly this is not a partisan issue, as Judge Vazquez and I agree that the Senate's failure to address the needs of our border district courts in inexplicable. I will ask that this May 16, 2006, letter from Chief Judge Vazquez be printed in the RECORD.

Lastly, I would like to quote an article written this week. On May 23, 2006, Reuters posted an article titled ''Bush Border Patrol Plan to Pressure Courts: Sources.'' That article said:

> President George W. Bush's plan to send thousands of National Guard troops to the U.S.-Mexico border could spark a surge in immigration cases and U.S. courts are ill prepared to handle them, according to congressional and courts sources . . . Even without the stepped-up security at the border, federal courts in southern California, Arizona, New Mexico and Texas have been overburdened. Carelli [a spokesman for U.S. federal courts] said those five judicial districts, out of 94 nationwide, account for 34 percent of all criminal cases moving through U.S. courts . . . Most immigrants caught crossing illegally are ordered out of the country without prosecution. But that still leaves a growing pile of cases involving illegals who are being prosecuted after being caught multiple times or those accused of other crimes . . . Nationwide, each U.S. judge handles an average of 87 cases a year. But along the southern border, even before Bush's plan moves forward, the average is around 300 per judge, Carelli said.

Clearly, there is already a crisis regarding our Southwest border district courts' immigration caseload. As we worked on S. 2611 to provide more resources to the Departments of Homeland Security and Justice, we should have also addressed the related needs of our U.S. district courts. Senators KYL, CORNYN, and HUTCHISON understood that, and I thank them for their cosponsorship and strong support of my amendment.

Unfortunately, our other colleagues were unwilling to recognize this problem or address this need. I was told that this amendment, with an annual cost of $11 million, was too expensive. But this bill authorizes billions of new spending for homeland security and judiciary resources. I was informed that every State needs new judges. But not every State has thousands of immigration cases filed each year.

I am disheartened that the Senate did not act on amendment 4022. I am disappointed that my colleagues were unwilling to address the judicial crisis along the Southwest border. I am dismayed that this body is turning a blind eye towards the need of our U.S. district courts. As a result of such action, my State, and other States on the southwest border, will not be able to enforce the border security and immigration enforcement provisions in the Comprehensive Immigration Reform Act because we will not have the necessary resources to prosecute immigration cases.

Mr. President, I ask unanimous consent that the aforementioned materials be printed in the RECORD.

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

[From Scripps Howard News Service, April 17, 2006]

JUDGES SEE RIPPLE EFFECT OF POLICY ON IMMIGRATION

(By James W. Brosnan)

WASHINGTON.—A rising number of immigration cases has New Mexico's top federal judge keeping an anxious eye on Congress' attempts to deal with border issues.

U.S. District Chief Judge Martha Vazquez of Santa Fe oversees a court that faces a rising caseload from illegal border crossings and related crime. And help from Washington is by no means certain.

Left in limbo when the Senate adjourned April 7 was a pending amendment to the

stalled immigration bill that would authorize one new permanent federal judge for New Mexico and another temporary judge.

Sen. Pete Domenici, Albuquerque Republican, plans to renew the effort for his amendment when and if the Senate takes up the bill again.

''As it stands now, we won't see any needed comprehensive border security improvements in our state,'' Domenici said in a recent statement. ''Our law enforcement won't get any new and sustained help. We won't be adding any new federal judges in New Mexico to take on the immigration cases that are overwhelming our courts.''

New Mexico now has seven full-time district judges and three judges on ''senior status'' who are supposed to hear cases only occasionally.

But Vazquez said those three judges, James Parker, C. LeRoy Hansen and John Conway, all in their 60s, still travel to courthouses in Albuquerque, Las Cruces, Roswell and Santa Fe and take a full load of cases.

''We would be dying without them,'' said Vazquez.

From Sept. 30, 1999, to Sept. 30, 2004 (the end of the federal fiscal year), the caseload in the New Mexico federal district court increased 57.5 percent, from 2,804 to 4,416.

In the 2004 fiscal year alone, 2,126 felony cases were heard, almost half of all cases in the entire 10th Circuit, which includes Colorado, Kansas, Oklahoma, Utah and Wyoming. Most typical immigration cases go before an immigration judge, and the subjects are deported.

But people deported once and caught crossing illegally again can be charged with a felony. And that brings the defendant into federal district court.

Those are the cases driving up New Mexico's caseload, along with smuggling and drug cases, said Vazquez.

Some days as many as 90 defendants crowd the courtroom in Las Cruces, said Vazquez. Pre-sentence reports have to be prepared by district probation officers for every defendant.

Federal taypayers also bear the cost of housing the prisoners in jails and transporting them to the courthouse, as well as the travel and pay of their lawyers.

The same problems are afflicting federal border courts in Arizona, California and Texas. Last summer, the federal judges from those courts met and then appealed for help to their senators.

The result is the amendment Domenici is sponsoring with other border-state senators that would add nine permanent and two temporary federal judgeships in the Southwest border states.

Domenici also is sponsoring amendments to authorize $585 million to improve the infrastructure for security on the border and to add 250 deputy United States marshals.

But the burden on the federal court system could grow dramatically if Congress decides to make it a crime to be in the United States without proper documentation.

People caught crossing the border illegally face a misdemeanor and are deported only if it is a first offense.

An illegal immigrant caught inside the United States has committed a civil offense and is deported unless he or she has committed another crime.

(An estimated 40 percent of illegal immigrants are people who overstayed the limit on a legal visa, not border jumpers.)

Last year, the House voted to make illegal presence in the United States a felony, potentially creating 11 million to 12 million new. The bill pending in the Senate has no criminal penalty.

Last week, House Speaker Dennis Hastert, an Illinois Republican, and Senate Majority Leader Bill Frist, a Tennessee Republican, said they would ensure the final legislation reduced the felony charge to a misdemeanor.

Ever a misdemeanor charge can carry up to a six-month jail sentence, which would require the appointment of a taxpayer-funded lawyer for the indigent, unless the prosecutor waived any possibility of jail time, said Jeanne Butterfield, executive director of the American Immigration Lawyers Association.

''What's the point? Deport them.'' said Butterfield.

Federal courts processed only 9,343 misdemeanors in fiscal year 2004 compared with 53,441 felonies.

Said Vazquez, ''Any time we criminalize behavior we have to consider the consequences all the way down to additional jail cells.''

Making illegal presence a misdemeanor also would conflict with a bipartisan compromise in the Senate that would allow 80 percent of illegal immigrants—those here more than two years—to obtain a visa.

A Frist aide, Elie Teichman, said any undocumented worker who qualifies for a guest-worker program would be excluded from the illegal presence provisions.

U.S. DISTRICT COURT,
DISTRICT OF NEW MEXICO,
Santa Fe, NM, May 16, 2006.

Sen. PETE V. DOMENICI,
Washington, DC.

DEAR SENATOR DOMENICI: I understand that this week the Senate will be debating the Border Security and Immigration Reform Bill. As with past legislation aimed at improving border security, this bill will significantly increase the number of felony immigration and drug cases in the federal courts in districts on the southwest border. The bill, in recognition of this fact, provides funding for at least 20 additional full-time Administrative Immigration Judges. The bill, however, inexplicably fails to provide funding for additional Article III Judges despite the fact that Article III Judges will be as burdened, if not more, by the increased caseload that will result from the bill's implementation. The bill's failure to provide for critical resources is greatly concerning to those involved in the administration of justice in these districts.

The Judicial Conference of the United States determines the need for new judgeships and has established the standard of 430 weighted filings per judgeship. As of September 30, 2005 the weighted filing per judgeship in the District of New Mexico is 586. That figure is 36 percent higher than the established standard and justifies a minimum of two additional Article III judgeships. The Judicial Conference does not use projected filings when requesting additional judgeships from Congress. Without question, the expected increase in filings that will result from the pending legislation will only further burden the Article III Judges in this District.

As it is, the burden on Article III Judges in this District is considerable. This District ranks first among all districts in criminal filings per judgeship: 405 criminal filings compared to the national average of 87. As in all federal districts along the southwest border, the majority of cases filed in this District relate to immigration offenses under United States Code, Title 8 and drug offenses arising under Title 21. Immigration and drug cases account for 85 percent of the caseload in the District of New Mexico. And the numbers of filings have increased exponentially in recent years. In fiscal year 1997, there were 240 immigration felony filings in the District of New Mexico. By fiscal year 2005, the number of immigration felony filings increased to 1,826, which is an increase of 661 percent. During this same period drug cases have increased by 87 percent (298 to 558). Since 1997, the overall felony filings in the District of New Mexico has increased by 287 percent. Of course, the court cannot control the volume of cases that are filed. The United States Attorney is responsible for bringing criminal cases to federal court.

Administrative Immigration Judges and Article III Judges perform entirely different tasks in the process of adjudicating immigration cases. Immigration Judges decide civil immigration questions. Article III Judges, on the other hand, are responsible for the trials and sentencings of those who are accused or convicted of immigration and border security offenses. Article III Judges oversee an extensive background check on every felony defendant who appears before them on immigration charges to insure that the defendant does not pose a national security threat. This critically important task requires time and great deal of resources. Increasing the number of Immigration Judges will do nothing to reduce the increasing caseload in the border states' federal courts. The consequences of failing to add more Article III Judges will create an even greater burden in this District, cause a backlog and imperil the court's ability to fulfill the ''Speedy Trial Act.''

Further frustrating the District's ability to handle its criminal docket is the fact that, even as the District recently added to Magistrate Judges in Las Cruces, other court related resources have remained static, or worse. have declined. While law enforcement resources have increased, there has been no corresponding increase in the number of defense attorneys, Assistant United States Attorneys, Deputy United States. Marshals, Probation and Pretrial officers, interpreters, or courtroom space. Simply put, the District of New Mexico desperately needs increased resources—across the board—to enable it to keep pace with increasing border-related demands.

I truly appreciate all you have done and continue to do for the District of New Mexico. If you have any questions, please do not hesitate to contact me or my staff at (505) 988–6330.

Sincerely,

MARTHA VÁZQUEZ,
Chief Judge.

[From Reuters, May 23, 2006]

BUSH BORDER PATROL PLAN TO PRESSURE COURTS: SOURCES

(By Richard Cowan)

President George W. Bush's plan to send thousands of National Guard troops to the U.S.-Mexico border could spark a surge in immigration cases and U.S. courts are ill prepared to handle them, according to congressional and court sources.

The administration failed to plan for the surge in court cases and did not consult the judicial branch on the impact more arrests would have on federal courts in the region, said Dick Carelli, a spokesman for U.S. Federal courts.

Bush asked for $1.9 billion in emergency funds for the border plan, including $20 million to help the Justice Department deal with its increased caseload, but that did not include the courts.

''We were left out of the process,'' Carelli said. He added that since Bush unveiled his proposal to increase border patrols, federal judiciary officials have had to quickly cobble together a proposal to Congress for $20.3 million in emergency funds to hire three full-time judges and about 240 support staff for the Southwest.

Even without the stepped-up security at the border, federal courts in southern California, Arizona, New Mexico and Texas have

been over burdened. Carelli said those five judicial districts, out of 94 nationwide, account for 34 percent of all criminal cases moving through U.S. courts.

''It's irresponsible to think that you can take care of the border security problem without also addressing the justice enforcement problem, which federal courts are indispensable in,'' said a congressional aide.

Most immigrants caught crossing illegally are ordered out of the country without prosecution. But that still leaves a growing pile of cases involving illegals who are being prosecuted after being caught multiple times or those accused of other crimes.

Public defenders, pretrial services and probation officers are all provided by the federal courts. ''And obviously, those hearings have to take place in federal courts. The border courts and the judiciary are just being swamped,'' the congressional aide said.

A Bush administration official said that emergency funds requested for the Justice Department will help hire immigration attorneys and other support staff. ''By increasing the Department of Justice's ability to hear and process immigration-related cases, the belief is that the impact on the judicial branch will be mitigated,'' the official said.

Just five months before congressional elections, public opinion polls show immigration concerns are at the top of voters' list of worries.

The U.S. Senate is trying to pass a bill this week that would further tighten border security and give some illegals already in America a route toward citizenship.

But it is unclear whether the House of Representatives, which has passed a tougher border security bill, will work out a compromise with the Senate.

Congress and the White House have been arguing over whether Bush's plan for more border guards is the best short-term fix or whether the limited amount of emergency funds should be dedicated to buying vehicles, aircraft and other supplies for existing patrols.

Nationwide, each U.S. judge handles an average of 87 cases a year. But along the southern border, even before Bush's plan moves forward, the average is around 300 per judge, Carelli said. He added that the two federal judges in Laredo, Texas now carry 1,400 cases apiece.

Mr. LIEBERMAN. Mr. President, I rise to speak on behalf of the Senate's historic accomplishment, our imminent passage of bipartisan immigration reform legislation.

The immigration reform legislation we are about to pass enhances our national security, promotes our economic well being and creates a fair and compassionate path to citizenship for those who came here to work hard, pay taxes, respect the law and learn English.

The legislation addresses serious problems that have festered for years. Our immigration system has been broken far too long. Some thought it was broken beyond repair, but it is not. This Senate reform bill stands for the principle that we in government can work together, on a bipartisan basis, to craft detailed and pragmatic solutions, and that we can avoid strident rhetoric that ultimately gets us nowhere.

There are difficult realities we must face. Despite huge increases in spending on border security since 1993, the numbers of undocumented immigrants living in the United States has more than doubled, and now stands at an estimated 11 million. That number increases significantly every year as more people come here looking for work.

We must continue to improve border security. That will require more Border Patrol officers, better technologies, more effective border security strategies, and greater expenditures. The bill we are passing ensures that all of those things will happen. But the flow of illegal migration into the country would continue indefinitely, if our only solution was to continue to increase border security spending.

Immigration enforcement is also an essential component of a reform package. Unscrupulous employers who continue to hire and exploit undocumented workers must be punished. Once adequate verification systems are in place, employers will have no excuse for hiring undocumented workers. The Senate legislation will implement an effective verification system, and it will result in the hiring of additional immigration enforcement officers and funding for thousands of additional detention beds.

But enforcement alone will not solve the major challenges we face. Last December the House of Representatives passed a punitive and unworkable bill. Their legislation would criminalize the 11 million undocumented immigrants living in the U.S., pushing deeper into the darkness those who already live in the shadows and turning Samaritans who offer humanitarian aid into outlaws. Such draconian measures would create a class of people within our own borders who would live and work without the protection of law and would be open to exploitation and crime. They would be forced to suffer in silence or risk being imprisoned if they came forward.

How would that solve the problem? We could never imprison or deport more than a tiny fraction of these millions of people—people who have laid down roots in our communities. If we were to even try, the cost would be prohibitive and would turn our society into something approaching a police state.

Virtually all of the undocumented immigrants living in this country came here to work hard and support their families. They pay taxes and they respect our laws. They would like nothing better than to become members of our society, on an equal footing, and pursue the American dream like so many immigrants before them. The alternative is keeping millions of families in the shadows, where they can be preyed upon and exploited. And by welcoming those hard working and law abiding people, we free up resources we need to seal our borders and pursue the real dangers of terrorists, drug traffickers, and other criminals.

Undocumented immigrants will not get a free pass to legal residency and citizenship. They must earn it. Under the bill, undocumented immigrants who have been present in the U.S. for at least 5 years will be able to apply for a work visa lasting 6 years. They would have to pay thousands of dollars in fines, clear background checks and then must remain gainfully employed and law abiding. After 6 years of working in the U.S. on a temporary visa, an immigrant could apply for permanent residency a process that takes 5 years provided he or she paid an additional fee, proved payment of taxes and could show a knowledge of English and United States civics. Only after a combined period of 11 years could the immigrant apply for U.S. citizenship. Those who have been here between 2 to 5 years would have to apply through a stricter guest worker program, and would have to wait even longer before they could win legal residency.

None of these undocumented immigrants would earn legal residency before we cleared the backlog of people waiting to receive visas to enter the U.S. Immigrants living in the U.S. legally have been waiting far too long to be reunited with their spouses and young children. This bill will clear those family reunification backlogs, and undocumented immigrants will have to get in the back of the line.

Each component of the plan depends on the others for any of them to be effective, and the new guestworker program that the bill creates is an essential component. Even with the provisions I have already outlined, we would still face the prospect of future illegal immigration. Currently hundreds of thousands enter the country illegally. This illegal migration has fueled a lucrative and extremely dangerous market for human smugglers. These smuggling rings war violently against each other, on both sides of the border, and they indulge in other illicit traffic. They prey on their human cargo. This has to stop.

We are accomplishing nothing if our legislation does not contain provisions addressing future migration flows. The guestworker program will channel future flows through legal avenues. People who want to come here to work will first be screened to ensure that they have committed no crimes. They can only come if they have legitimate jobs waiting for them.

If we don't include a guestworker program, we will continue to see high rates of illegal immigration in the future. We will have temporarily addressed the large numbers of undocumented immigrants in the U.S., only to see that problem resurface again over time. But with the verification and enforcement provisions I have already described, opportunities for undocumented workers will dry up. People will have no incentive to illegally enter the U.S. if they know that working here will not be a viable option.

Let me address concerns about American workers. I would not support any bill that undercuts American workers, and the Senate legislation contains safeguards to protect American workers. Temporary workers will not replace U.S. workers. Employers may

only hire temporary workers after they spend 60 days attempting to recruit U.S. workers at the prevailing wage being offered. Temporary workers must be paid at prevailing wages, as defined by the Davis-Bacon Act, the Service Contract Act, or collective bargaining agreements. The bill contains strong protections to make sure that guestworkers are not exploited by labor contractors.

These provisions, as well as the wage and working condition protections, are backed up by strong complaint procedures and whistle-blower protections. Temporary workers will not be hired in the midst of a labor dispute and will not be recruited in areas where unemployment rates are high. Finally, these protections will be backed up by the authorization of 2,000 new Department of Labor inspectors charged with enforcing them.

This legislation is far from perfect. The underlying legislation already contained unnecessarily punitive provisions, provisions that have been retained. During Senate consideration of the bill our bipartisan majority successfully beat back many measures that would have gutted the bill or unfairly punished immigrants, although I was disappointed by several of the votes on the Senate floor. One example was the adoption of an amendment offered by Senator INHOFE which would undermine efforts to provide services for non-English speakers in a wide variety of essential governmental functions.

I was also disappointed by a setback Senator BROWNBACK and I suffered in our attempt to improve our nation's treatment of asylum seekers. In February of 2005, the congressionally established U.S. Commission on International Religious Freedom issued a report that raised serious concerns about insufficient protections for asylum seekers arriving in this country.

The problems raised by the Commission's report should shock us, given our nation's historic mission as a bastion for those fleeing persecution in their home country. The Commission found an unacceptable risk that genuine asylum seekers were being returned to their home countries where they faced repression and worse. This was occurring because aliens stopped at our airports and borders were not properly questioned about the dangers they would face if they were sent back. This failure to follow procedures required by law resulted in the inability of asylum seekers to plead their case.

The Commission also found that while asylum seekers are having their applications considered, they were often detained for months in maximum-security prisons and jails, without ever having a chance to appear before an immigration judge to request bail. While being held, some were subjected to mistreatment or arbitrary punishments, including solitary confinement and the denial of basic medical needs.

This kind of treatment of people trying to escape war, oppression—even torture—is unacceptable in America. The U.N. High Commissioner for Refugees has repeatedly criticized our detention of asylum seekers as inconsistent with U.S. treaty obligations.

Since the Commission's report was issued more than a year ago, I have routinely asked officials from the Department of Homeland Security what is being done about the problems the Commission identified. For more than a year, I have been assured that the Department was reviewing the report's findings. But in that time the Department did not act to address these shortcomings, nor did it respond to the recommendations as I had requested on so many occasions.

Because of that long period of inaction, Senator BROWNBACK and I introduced an amendment that would have implemented the Commission's most important recommendations. It called for sensible reforms that would have safeguarded the nation's security while ensuring that people fleeing persecution are treated in accordance with this nation's most basic values.

Unfortunately, moments before we were to begin debate on our amendment, the Department of Homeland Security disseminated a position paper objecting to our amendment. The Department claimed that implementing the Commission's recommendations would have adverse repercussions on its operational capabilities. These were claims that I had never heard previously, despite my repeated inquiries to the highest Department officials, and they were claims that I believe are not supported by the facts. Nevertheless, we entered into days of negotiations, in which we attempted to address all of the Department's concerns. The negotiations were unavailing.

Although unsuccessful on this occasion, Senator BROWNBACK and I intend to introduce our amendment as freestanding legislation, so that we can continue to fight to ensure that people who flee oppression and seek freedom in America are treated in accordance with our cherished values. After all, we often say that we are a nation built by immigrants, and that is true, but in many ways we are also a nation founded by refugees.

As we pass this historic legislation it is essential that we remember that we are a nation of immigrants and refugees. Throughout the decades new waves of immigrants have arrived. They came from many cultures and countries, they came speaking many different languages, and as they settled here they enriched the nation. All four of my grandparents came to this country to pursue a better a life, as did the family of my wife Hadassah, who was born in Czechoslovakia and arrived here as an infant. The recent immigrants about whom we have been debating these last two weeks have come to our country for the same reason that my grandparents came for freedom, opportunity, and a better life for their children.

This legislation we pass today will enhance our border security, improve our ability to enforce our immigration laws, and fuel economic growth. But beyond these reasons, it is also fully in keeping with our history as a nation of immigrants.

Mr. LEAHY. Mr. President, when the Senate resumed its consideration of comprehensive immigration reform last week, I began by expressing my hope that we would finish the job the Judiciary Committee started in March and the Senate began in April. We need to fix the broken immigration system with tough reforms that secure our borders and with reforms that will bring millions of undocumented immigrants out of the shadows. I have said all along that Democratic Senators cannot pass a fair and comprehensive bill alone. Over the last 2 weeks we finally got some help. I would like to especially thank Senators KENNEDY and MCCAIN, as well as Chairman SPECTER and the Democratic leader, for their tireless work on this bill.

We got some words of encouragement from President Bush last week when he began speaking out more forcefully and in more specific terms about all of the components needed for comprehensive legislation. For the first time, he expressly endorsed a pathway to earned citizenship for the millions of undocumented workers now here. I thank him for joining in this effort. But his work is far from done. We will need his influence with the recalcitrant members of his party here in the House if we are ultimately to be successful in our legislative effort. Without effective intervention of the President, this effort is unlikely to be successful and the prospects for securing our borders and dealing with the hopes of millions who now live in the shadows of our society will be destroyed. Those who have peacefully demonstrated their dedication to justice and comprehensive immigration reform should not be relegated back into the shadows.

Yesterday we were able to begin to draw to a close the Republican filibuster against comprehensive immigration reform. When Republicans filibustered two cloture votes last month, including one on a motion by the Republican leader, I was disappointed. I had hoped we would recognize the lawful, heartfelt protests of millions against the harsh House-passed criminalization measures. While they waved American flags, some of those fueling anti-immigrant feelings burned flags of other countries. I am encouraged that through the course of this debate we have been able to convince enough Senate Republicans to join us in our efforts and to appreciate the contributions of immigrants to our economy and our Nation.

This bill is not all that it should be in my view. By incorporating the Hagel-Martinez formulation, we have compromised from the initial compromise. I have made no secret that I

preferred the better outline of the Judiciary Committee bill. The bill the Senate is now considering is a further compromise. Debate and amendments have added some improvements as well as some significant steps in the wrong direction. I thank Senators BINGAMAN, KERRY, OBAMA, SALAZAR, and others for their important and constructive amendments. I was delighted that after some initial opposition, working with Senator STEVENS and others, we were able to add flexibility to the Western Hemisphere Travel Initiative by extending its deadline another year and one-half through our amendment.

The Senate unwisely rejected efforts by some of us to make it more flexible for those persecuted around the world. This country has had a history of being welcoming to refugees and those seeking asylum from persecution. The Senate turned its back on that history by refusing to allow the Secretary of State the flexibility needed after restrictive language was added to our laws by the REAL ID Act. I remain hopeful that Senators will reconsider these issues with more open minds and hearts and a fully understanding of the lives being affected. Sadly, too many were spooked by false arguments.

Besides the Senate's failure to readjust asylum provisions to take into account the realities of oppressive forces in many parts of the world, I was most disappointed that the Senate appeared to be so anti-Hispanic in its adoption of the Inhofe English language amendment.

Senator SALAZAR and I wrote to the President following up on this provision and the comments of the Attorney General last week and weekend. We asked whether the President will continue to implement the language outreach policies of President Clinton's Executive Order 13166. A prompt and straightforward affirmative answer can go a long way toward rendering the Inhofe English amendment a symbolic stain rather than a serious impediment to immigrants and Americans for whom English at this moment in their lives is a second language.

I deeply regret that the Senate took such a divisive act. Over my strong objection and that of the Democratic leader, Senator SALAZAR, and others, a modified version of the Inhofe amendment was adopted. I understand why this amendment provoked a reaction from the Latino community as exemplified by the May 19 letter from the League of United Latin American Citizens, the Mexican American Legal Defense and Educational Fund, the National Association of Latino Elected Officials Educational Fund, the National Council of La Raza, the National Puerto Rican Coalition, and from a larger coalition of interested parties from 96 national and local organizations.

Until this week, in our previous 230 years we have not found it necessary or wise to adopt English as our official or national language. I believe it was in the Commonwealth of Pennsylvania that the State legislature shortly after the Revolutionary War authorized official publication of Pennsylvania's laws in German as well as English to serve the German-speaking population of that State. We have been a confident Nation unafraid to hear expressions in a variety of languages and willing to reach out to all within our borders. That tradition is reflected in President Clinton's Executive Order 13166.

We demean our history and our welcoming tradition when we disparage Spanish and those who come to us speaking Spanish. I have spoken about our including Latin phrases on our official seal and the many States that include mottos and phrases in Latin, French, and Spanish on their State flags. We need not fear other languages. We would do better to do more to encourage and assist those who wish to be citizens to learn English, but we should recognize English, as Senator SALAZAR's amendment suggested, as our common and unifying language.

Yesterday, once we had overcome the previous Republican filibuster, we were faced with a budget point of order supported by some Senators who oppose the bill and who added significantly to the costs of the bill through their amendments. Rather than continue their efforts to delay or derail Senate action on comprehensive immigration reform, I had hoped that they would join with us in a constructive way to enact comprehensive immigration reform. We do not need more divisiveness, derision, and obstruction.

This bill is not the bill I would have designed. It includes many features I do not support and fails to include many that I do. The bill that won the bipartisan support of a majority of the Judiciary Committee was a compromise that contained the essential components that are required for comprehensive immigration reform. Before the last recess I was willing to support a further compromise that incorporated the principles of the Hagel-Martinez bill because it was proposed by the majority leader as a ''breakthrough'' that would allow us to pass immigration reform.

I want to express my appreciation to the Democratic leader, Senator REID. He was right to insist that the original version of the Kyl-Cornyn amendment and the Isakson amendment not be rushed through the Senate to score political points. As the significantly revised version of the Kyl-Cornyn amendment attests, the Democratic leader was right. With a little time, and thanks to a lot of hard work, the amendment has been significantly changed, narrowed, and accepted. With a little time and bipartisan commitment the Isakson amendment was defeated.

We have proceeded to consider dozens of amendments. Most have been offered by Republican Senators. Some have been approved; some have been tabled or rejected. The Senate has worked its will.

Immigration reform must be comprehensive if it is to lead to real security and real reform. Enforcement-only measures may sound tough, but they are insufficient. The Senate has a responsibility to pass a bill that addresses our broken system with comprehensive reform and puts the pieces in place to secure the Nation.

Just a few weeks ago, I went to the White House with a bipartisan delegation of Senators to speak with the President. The need for a fair and comprehensive immigration bill was the consensus at that meeting, and I believe the President was sincere when he told us that we had his support. I trust that he will urge comprehensive immigration reform on the Republican House leadership who has yet to endorse our bipartisan comprehensive approach. Without the President following through on his words with actions, the effort for comprehensive immigration reform is unlikely to be successful.

Last week the Senate made progress. We made progress because Democratic and Republican Senators working together rejected the most strident attacks on the comprehensive bill. We joined together in a bipartisan coalition in the Judiciary Committee when we reported the Judiciary Committee bill. Democratic Senators were ready to join together in April and supported the Republican leader's motion that would have resulted in incorporating features from the Hagel-Martinez bill, but Republicans balked at that time and continued to filibuster action. Last week, Republicans joined with us to defend the core provisions of that bill, and we defeated efforts by Senators KYL and CORNYN to gut the guest worker provisions and to undermine the pathway to earned citizenship. Instead, we adopted the Bingaman amendment to cap the annual guest worker program at 200,000 and the Obama amendment regarding prevailing wages in order to better protect the opportunities and wages of American workers.

I spoke last week about the need to strengthen our border security after more than 5 years of neglect and failure by the Bush-Cheney administration. A recent report concluded that the number of people apprehended at our borders for illegal entry fell 31 percent on President Bush's watch, from a yearly average of 1.52 million between 1996 and 2000, to 1.05 million between 2001 and 2004. The number of illegal immigrants apprehended while in the interior of the country declined 36 percent, from a yearly average of roughly 40,000 between 1996 and 2000, to 25,901 between 2001 and 2004. Audits and fines against employers of illegal immigrants have also fallen significantly since President Bush took office. Given the vast increases in the number of Border Patrol agents, the decline in enforcement can only be explained by a failure of leadership.

Meanwhile, once again the administration is turning to the fine men and

women of National Guard. After our intervention turned sour in Iraq, the Pentagon turned to the Guard. After the Government-wide failure in responding to Hurricane Katrina, we turned to the Guard. Now, the administration's longstanding lack of focus on our porous southern border and failure to develop a comprehensive immigration policy has prompted the administration to turn once again to the Guard. I remain puzzled that this administration, which seems so ready to take advantage of the Guard, fights so vigorously against providing this essential force with adequate equipment, a seat at the table in policy debates, or even adequate health insurance for the men and women of the Guard.

I have cautioned that any Guard units should operate under the authority of State Governors. In addition, the Federal Government should pick up the full costs of such a deployment. Those costs should not be foisted onto the States and their already overtaxed Guard units.

Controlling our borders is a national responsibility, and it is regrettable that so much of this duty has been punted to the States and now to the Guard. The Guard is pitching in above and beyond, balancing its already demanding responsibilities to the States, while sending troops who have been deployed to Iraq. The Guard served admirably in response to Hurricane Katrina when the Federal Government failed to prepare or respond in a timely or sufficient manner. The Vermont Guard and others have been contributing to our national security since the immediate aftermath of 9/11. After 5 years of failing to utilize the authority and funding Congress has provided to strengthen the Border Patrol and our border security, the administration is, once again, turning to the National Guard.

It was instructive that last week President Bush and congressional Republicans staged a bill-signing for legislation that continues billions of dollars of tax cuts for the wealthy. Instead of a budget with robust and complete funding for our Border Patrol and border security, the President has focused on providing tax cuts for the wealthiest among us. Congress has had to step in time and again to create new border agent positions and direct that they be filled. Instead of urging his party to take early and decisive action to pass comprehensive immigration reform, as he signaled he would in February 2001, the President began his second term campaigning to undercut the protections of our Social Security system, and the American people signaled their opposition to those undermining steps. While the President talks about the importance of our first responders, he has proposed 67 percent cuts in the grant program that supplies bulletproof vests to police officers.

Five years of the Bush-Cheney administration's inaction and misplaced priorities have done nothing to improve our immigration situation. The Senate just passed an emergency supplemental appropriations bill that allocated nearly $2 billion from military accounts to border security. The Democratic leader had proposed that the funds not be taken from the troops. But last week the President sent a request for diverting a like amount of funding, intended for capital improvements for border security, into operations and deployment of the National Guard. The Republican chairman of the Senate Appropriations Subcommittee on Homeland Security came to the Senate Floor last week to give an extraordinary speech in this regard.

Border security alone is not enough to solve our immigration problems. We must pass a bill—and enact a law—that will not only strengthen the security along our borders, but that will also encourage millions of people to come out of the shadows. When this is accomplished we will be more secure because we will know who is living and working in the United States. We must encourage the undocumented to come forward, undergo background checks, and pay taxes to earn a place on the path to citizenship.

In addition, last week the Senate adopted a billion-dollar amendment to build fencing along the southern border without saying how it would be funded. We also adopted amendments by Senators BINGAMAN, KERRY, and NELSON of Florida to strengthen our enforcement efforts.

Last week we defeated an Ensign amendment to deny persons in legal status the Social Security benefits to which they are fairly entitled. I believe that most Americans will agree with that decision as fair and just. It maintains the trust of the Social Security trust fund for those workers who contribute to the fund. This week we defeated a Sessions amendment that would have unfairly stripped immigrants of earned-income tax credits. I am pleased that in both cases the Senate agreed not to unfairly withhold these benefits from hard-working immigrants who will benefit immensely from them.

The opponents of our bipartisan bill have made a number of assaults on our comprehensive approach. Senators KYL, SESSIONS, and CORNYN opposed the Judiciary Committee bill. Senators VITTER, ENSIGN, CHAMBLISS, and INHOFE have been very active in the amendment process, as well. I hope that they recognize how fairly they have been treated and the time they have been given to argue their case against the bill and offer amendments. We have adopted their amendments where possible. A narrowed version of the Kyl-Cornyn amendment disqualifying some from seeking legalization was adopted. The Sessions amendment on fencing was adopted. The Vitter amendment on documents was adopted. The Ensign amendment on the National Guard was adopted. The Cornyn amendment imposing additional costs on immigrants was adopted.

I trust that with so many of their amendments having been fairly considered and some having been adopted, those in the opposition to this measure will reevaluate their previous filibuster. It may be too much to think that they will support the bill as amended.

Mr. DURBIN. Mr. President, I rise in support of S. 2611, the Comprehensive Immigration Reform Act of 2006.

This is not a perfect bill. It is a compromise. I strongly support some provisions of this bill and I have serious concerns about others, but, on balance, I believe it is worthy of support.

If we want to solve the problem of illegal immigration, we must take a comprehensive approach. We must secure our border, strengthen enforcement of our immigration laws, and address the situation of approximately 12 million undocumented immigrants who live and work in our country. In the final analysis, this bill does all of these things and that is why I will support it.

I want to express my gratitude to Senator MCCAIN and Senator KENNEDY for their steadfast leadership of our bipartisan coalition for immigration reform. I also want to salute Senator SPECTER, the chairman of the Judiciary Committee, and Senator LEAHY, the ranking member of the Judiciary Committee, for shepherding this bill to the verge of passage.

As a member of the Judiciary Committee, and a supporter of the bipartisan McCain-Kennedy immigration reform legislation, I have been very involved in the debate over this bill for the past several months.

The process of drafting this bill began in the Judiciary Committee in early March. We engaged in a serious, substantive debate. There was disagreement on some points, but the discussion was always respectful. We considered dozens of amendments during several marathon committee meetings. At the end of the process, we approved a tough, fair, and comprehensive bill on a strong bipartisan vote.

We have seen a similar process on the floor of Senate. We have debated this legislation for several weeks. By my count, we have had over 30 roll call votes on amendments to this bill. It is rare for us to devote this much time and energy to a single piece of legislation. It demonstrates that the Senate takes the subject of immigration very seriously. And it is reflected in the quality of the final product.

As I said earlier, this bill includes provisions that I oppose and those that I support. Let me first mention some of the provisions of this bill that concern me most.

This bill includes an Inhofe amendment that declares English to be the national language of the United States. Unfortunately, the amendment goes beyond that. It includes sweeping language that some fear will call into question the validity of controlling Executive Orders and regulations.

I am especially concerned that we not undermine Executive Order 13166,

which requires Federal agencies to provide meaningful access to Government services for people who have limited proficiency in English. This Executive Order protects all of our safety and well-being by ensuring that limited English proficient Americans understand vital information that the Government provides, particularly in the event of a natural disaster or a threat to national security. The threat to Executive Order 13166 is one reason why dozens of national Latino and civil rights organizations oppose the Inhofe amendment.

Senator SALAZAR and I authored an amendment declaring that, ''English is the common and unifying language of the United States that helps provide unity for the people of the United States.'' In contrast to the Inhofe amendment, the amendment that Senator SALAZAR and I offered makes it explicit that nothing in our amendment ''shall diminish or expand any existing rights under the law of the United States.'' The Senate approved our amendment on a strong bipartisan vote.

There is no disagreement on this principle. It is very difficult to be successful in this country if you do not speak English. Throughout American history, immigrants have come to the United States and learned English. That process continues. According to the Urban Institute, nearly 40 percent of immigrant children have limited proficiency in English, but by the second generation, only about 20 percent have limited proficiency, and by the third generation children, that number falls to .5 percent. The U.S. Census found that 92 percent of Americans ''had no difficulty speaking English;'' 82 percent of Americans speak only English at home; and most people who speak a language other than English also speak English ''very well.''

Unfortunately, many immigrants who want to learn English have few opportunities to do so. There are waiting lists of thousands of immigrants for English as a second language classes in cities around the country. We should be creating more opportunities for immigrants to learn English. The Inhofe amendment would not do that. Instead, it has the potential to marginalize immigrants and make it more difficult for them to access vital government services.

Both the Inhofe and the Salazar-Durbin amendments are in this bill. In the conference committee, we must clarify that Congress does not intend to overturn controlling Executive Orders or regulations, particularly Executive Order 13166.

I am disappointed that my Republican colleagues rejected an amendment that I offered that would have authorized the Attorney General or Secretary of Homeland Security to grant a humanitarian waiver to an immigrant if deportation of the immigrant would create extreme hardship for an immediate family member of the immigrant who is a U.S. citizen or legal permanent resident.

We need to strengthen enforcement of our immigration laws in order to restore integrity to our immigration system. As we make our laws tougher, we must ensure that we stay true to American values. I am concerned that some of the enforcement provisions in this bill are so broad that they will have unintended consequences. These provisions have the potential to sweep up long-term legal permanent residents and separate them from their immediate family members.

My amendment would have created a limited waiver that would have applied only in the most compelling cases—where deportation of an immediate family member would create extreme hardship for an American citizen or legal permanent resident.

The waiver would not be automatic. In every case, the immigrant would have to demonstrate that he meets the ''extreme hardship'' standard. In every case, the government would have ''sole and unreviewable discretion'' to deny a waiver.

This is the same strict standard that Senators KYL and CORNYN used in an amendment we approved last week by a unanimous vote. The Kyl-Cornyn waiver would apply in cases where undocumented immigrants are seeking legal status. The waiver in my amendment would apply in cases where an immigrant who was previously in legal status is subject to deportation because of a change in the law made by this bill.

It seems inconsistent to give a chance for a humanitarian waiver to an undocumented immigrant and not give the same chance to a legal immigrant. I hope that the conference committee will revisit this issue and resolve this inconsistency by extending the humanitarian waiver for undocumented immigrants to legal immigrants who face deportation because of changes in the law made in this bill.

We already give the Government broad discretion to apprehend, detain and deport immigrants. We should also give the Government some limited discretion to show mercy in the most compelling cases.

I am also very disappointed that the Senate approved a Gregg amendment that would effectively gut the Diversity Visa Program, threaten the jobs of Americans, and exacerbate the ''brain drain''—the migration of talent from the poorest countries in the world to the richest.

Congress created the Diversity Visa Program to provide immigration opportunities for people from countries with low levels of immigration to the United States. Diversity visas open the door to thousands of people from around the world who could otherwise never aspire to the American Dream. The program helps to ensure that the United States continues to be the most diverse country in the world.

The Gregg amendment would fundamentally alter the Diversity Visa Program by setting aside two-thirds of diversity visas for immigrants who hold advanced degrees in science, mathematics, technology, and engineering. These set-asides would favor immigrants from wealthier countries and reduce the diversity of future immigration to our country.

By bringing more high-skilled immigrants to the United States, the Gregg amendment will also increase competition for highly sought-after American jobs. For the same reason, I am concerned that this bill would increase the annual number of H–1B visas to 115,000 and allow that cap to increase every year if American companies use all of the available visas in a given year. Some experts argue that the H–1B program is already taking jobs away from Americans.

I am also very concerned that the Gregg amendment would exacerbate the ''brain drain.''

And unfortunately, this bill includes another provision that will increase the brain drain by lifting the annual cap on the number of nurses who can immigrate to our country every year. A story in yesterday's New York Times on this provision, headlined, ''U.S. Plan to Lure Nurses May Hurt Poor Nations,'' reports:

> A little-noticed provision in [the Senate] immigration bill would throw open the gate to nurses and, some fear, drain them from the world's developing countries . . . The exodus of nurses from poor to rich countries has strained health systems in the developing world, which are already facing severe shortages of their own. . . . Public health experts in poor countries, told about the proposal in recent days, reacted with dismay and outrage, coupled with doubts that their nurses would resist the magnetic pull of the United States, which sits at the pinnacle of the global labor market for nurses.

Later I will address a provision in this bill that will take modest but important steps to begin to address this brain drain, but we must do much more.

I am also disappointed that the Senate approved an amendment requiring construction of a 370-mile wall on the Southern border. We need to secure our border, and this bill includes literally dozens of provisions to do so. Among other measures, we double the size of the border patrol and we mandate the use of new technology to create a ''virtual fence'' at the border.

A wall will not secure our border. The reality is that no wall will prevent illegal immigration. There will always be a way around, over, or under a wall. In fact, experts estimate that 40 percent of undocumented immigrants enter the country legally and then overstay their visas. No wall will stop visa overstays.

Constructing a wall will be very expensive. It will make life more difficult for innocent Americans in border communities, including noise and light pollution. It has the potential to do great harm to environmentally sensitive border areas. Most important, a wall will send the wrong message to the rest of the world about the United States.

Now I would like to focus on the positive in this bill, especially measures with which I was personally involved.

This legislation includes the DREAM Act, a narrowly-tailored, bipartisan measure that I sponsored with Senator HAGEL and Senator LUGAR. The DREAM Act would give undocumented students the chance to become permanent residents if they came here as children, are long-term U.S. residents, have good moral character, and attend college or enlist in the military for at least 2 years.

Currently our immigration laws prevent thousands of young people from pursuing their dreams and fully contributing to our Nation's future. They are honor-roll students, star athletes, talented artists, valedictorians, and aspiring teachers and doctors. These young people have lived in this country for most of their lives. It is the only home they know. They are assimilated and acculturated into American society. They are American in every sense except their technical legal status.

And they have beaten the odds in their young lives. The high school dropout rate among undocumented immigrants is 50 percent, compared to 21 percent for legal immigrants and 11 percent for native-born Americans. These children have demonstrated the kind of determination and commitment that makes them successful students and points the way to the significant contributions they will make in their lives. These children are tomorrow's doctors, nurses, teachers, policemen, firefighters, soldiers, and Senators.

The DREAM Act would help these students. It is not an amnesty. It is designed to assist only a select group of young people who have done nothing wrong and who would be required to earn their way to legal status.

The DREAM Act offers no incentive for undocumented immigrants to enter the country. In fact, it requires beneficiaries to have been in the country for at least 5 years on the date of enactment.

The DREAM Act would also repeal a provision of Federal law that prevents States from granting in-State tuition rates to undocumented students. It would not create any new tuition breaks. It would not force States to offer in-State tuition to undocumented immigrants. It would simply return to States the authority to determine their own tuition policies.

The DREAM Act is not just the right thing to do, it is good for America. The DREAM Act would allow a generation of immigrant students with great potential and ambitions to contribute more fully to our society.

The DREAM Act is supported by a broad bipartisan coalition in the Senate, and by religious leaders, immigrant advocates, and educators from across the political spectrum and around the country. Our coalition will fight to ensure that the DREAM Act is included in the conference report.

I am also very pleased that we were able to remove some of the bill's harshest provisions during the Judiciary Committee markup.

The original version of this bill would have taken the unprecedented step of criminalizing people based solely on their immigration status. That is not the way we should treat immigrants in our country. And that is not the way our criminal justice system works. We punish people for their conduct, not their status.

Criminalizing immigrants will not help us to combat illegal immigration. Our Government does not have the time or resources to prosecute and incarcerate 12 million people. Enacting yet another law that would not be enforced will not solve the problem of illegal immigration. In fact, it would make the problem worse.

If we make undocumented immigrants into criminals, we will drive them further into the shadows. This will harm our national security because we will be unable to identify who is in our country.

This is also a moral issue. We are measured by how we treat the most vulnerable among us. It is not right to make criminals of millions of people who go to work every day cooking our food, cleaning our hotel rooms, and caring for our children and our parents. It is not right to make criminals of those who worship with us in our churches, send their children to school with our own and love this great and free land as much as any of us.

During the Judiciary Committee markup, I offered an amendment to strike the provision that would have criminalized undocumented immigrants. My amendment was approved by a strong bipartisan vote, and as a result that provision is not in the bill we are considering today.

The original version of this bill also included a provision that would make it a crime for innocent Americans to provide humanitarian assistance to undocumented immigrants. This provision stated that it would constitute alien smuggling, an aggravated felony to ''encourage or induce a person to . . . remain in the United States, knowing or in reckless disregard of the fact that such person is an alien who lacks lawful authority.''

This language is so broad and vague that it could conceivably constitute an aggravated felony for a priest to counsel an undocumented mother to stay in the United States with her U.S. citizen children, rather than abandoning them to return to her home country. And a domestic violence shelter that takes in a battered immigrant spouse without asking whether or not she has a green card could be guilty of alien smuggling.

Americans honor our heritage as a Nation of immigrants by welcoming and caring for new arrivals in our country. We should thank them for their service, not prosecute them.

The original version of the bill included an exception for humanitarian assistance, but it was far too narrow. It only would have protected individuals, not organizations, like churches, hospitals, schools, or unions. It would only have applied to ''emergency humanitarian assistance,'' not aid that is provided in non-emergency situations. It only would apply to assistance that is ''rendered without compensation or the expectation of compensation.'' And it would only cover humanitarian assistance, not other types of lawful activity like labor organizing.

Charitable organizations, like individuals, should be able to provide humanitarian assistance to immigrants without fearing prosecution. Churches, shelters, and schools should not be limited to providing only ''emergency'' assistance. A domestic violence shelter should not be forced to decide whether the Government would regard a situation as ''an emergency'' before they take in a battered woman. A non-profit hospital should not be required to provide medical care without compensation in order to avoid criminal prosecution. And labor unions should be able to organize workers without checking their green cards.

During the Judiciary Committee markup, I offered an amendment to this provision which was approved on a strong bipartisan vote. My amendment expanded the humanitarian exception to cover organizations. It made it explicit that humanitarian assistance includes, but is not limited to, housing, counseling, and victim services. It eliminated the provisions that limit the humanitarian assistance exception to emergency situations and to assistance that is rendered without compensation.

My amendment also eliminated the provision that would have made it a crime to encourage or induce an undocumented immigrant to ''remain in'' this country. As a result, the law remains the same: it is not a crime to engage in activities like labor organizing with undocumented immigrants, which could conceivably be construed by an overzealous prosecutor to constitute encouraging someone to remain in the United States.

Unfortunately, H.R. 4437, the immigration bill passed by the Republican-controlled House of Representatives, still includes provisions that would criminalize hard-working immigrants and good Samaritans who provide humanitarian assistance to immigrants. This is an issue that I will monitor very closely. A conference report that criminalizes millions of undocumented immigrants and the innocent Americans who care for them will be unacceptable to me and many other Senators on both sides of the aisle.

This bill includes an amendment I offered to address a critical international problem: the dire shortage of healthcare personnel in the least developed nations of the world. Shortages of healthcare personnel are a global problem, but the brain drain of doctors, nurses, and other health workers from

the poorest countries in the world to the richest is an urgent problem. According to the World Health Organization, Africa loses 20,000 health professionals a year as part of this brain drain. In Ethiopia, for example, there are now only 3 doctors and 20 nurses per 100,000 people. By comparison, there are 549 doctors and 773 nurses per 100,000 people in the United States. Experts say the shortage of health care personnel is the single biggest obstacle to fighting HIV/AIDS in Africa.

My amendment would take two measured steps to address the brain drain.

In exchange for financial support for their education or training, some foreign doctors, nurses, and other healthcare workers have signed voluntary bonds or made promises to their governments to remain in their home countries or to return from their studies abroad and work in the healthcare profession.

The Durbin amendment will require people who are applying for legal permanent residency or for visas to work as health care workers in the United States to attest that they do not have an outstanding commitment to perform healthcare work in their home country that they have incurred in exchange for support for their education or training.

If an applicant has made such a commitment as part of a voluntary agreement, the applicant would be inadmissible until he or she has fulfilled this commitment. This will enable underdeveloped countries to benefit from the investments they have made in their citizens' medical education and training, and it will ensure that U.S. immigration policy respects commitments that immigrants have made. The Secretary of Homeland Security would be able to waive this requirement in certain compelling circumstances.

The amendment will also allow healthcare workers who are legal permanent residents of this country to provide healthcare assistance in developing countries for up to 36 months without prejudicing their own immigration status. During the period when the healthcare worker is providing assistance, he or she would be deemed to be physically present in the U.S. for purposes of naturalization.

Many immigrants who have come to this country would like to participate in the fight against global AIDS and other health crises. Under my amendment, they could lend their skills to developing nations without sacrificing their own American dreams.

These small but important steps will not stop the brain drain, but they will signal American leadership in the effort to help stem the migration of talent from the poorest countries in the world to the richest.

I am also pleased that this bill includes important reforms to the immigration court system that will improve the quality of judicial decision-making and help to protect due process.

Just as important, the bill does not include provisions from the original version of this bill that would have undermined judicial review of immigration appeals.

One provision would have stripped Federal appellate courts of their jurisdiction over immigration appeals and redirected these appeals to the Federal Circuit Court, a small specialized court whose caseload consists largely of patent Federal personnel, and Government contract cases.

Another would have assigned all immigration appeals to a single Federal Circuit judge, who would have acted as a gatekeeper to full appellate review. Unless this single judge issued a so-called ''certificate of reviewability,'' the appeal would be denied.

In recent years, Federal appeals courts judges around the country have been outspoken about the serious problems with our immigration court system.

Take the example of Judge Richard Posner, a highly-respected conservative who sits on the 7th Circuit in my home state of Illinois. Last year, Judge Posner issued an opinion in which he concluded, quote, ''the adjudication of [immigration] cases at the administrative level has fallen below the minimum standards of legal justice.''

After I reviewed the troubling provisions in the original version of this bill, I asked Judge Posner for his reaction to them. Judge Posner sent me a letter, which I circulated to the members of the Judiciary Committee. In his letter, Judge Posner concludes, ''Funneling all petitions for judicial review of [immigration] orders to the Federal Circuit and authorizing single judges of that court to deny petitions without further review are neither just nor effective solutions.''

In the aftermath of Judge Posner's letter, others stepped forward. The Judicial Conference, the policy-making arm of the Federal Judiciary, expressed their opposition to these provisions. John Walker, a Republican appointee who is the Chief Judge of the 2nd Circuit wrote in opposition to these provisions, concluding, ''Reassigning petitions for review to the Federal Circuit and allowing their disposal by only one judge will neither reduce the backlog more efficiently, nor protect the aliens' entitlement to adequate review. Indeed the reverse is likely.'' Dozens of other sitting and retired appellate judges, law school deans and professors expressed similar views.

In fact, as the Judicial Conference explains, the Fed. appeals courts are making progress in clearing the existing backlog of immigration appeals: ''These courts have worked diligently to establish court management procedures to assist them in effectively and efficiently handling these cases. These measures are enabling the courts to process significantly larger numbers of cases than in prior years.''

Judges and scholars have concluded that the solution to the problems in our immigration courts is to increase their capacity. As Judge Posner says, ''The only just and effective way of alleviating the burden of immigration appeals is by greatly augmenting the decisional capacity of the Immigration Court and the Board of Immigration Appeals.''

Similarly, Judge Walker concludes, ''The principal problem with the current system is that both the Immigration Judges and the BIA are impossibly overtaxed... I firmly believe the most effective and sound way of addressing this problem is by allocating sufficient resources to expand the capability of the Department of Justice, rather than altering the procedures for judicial review.''

After considering the input of Judge Posner and other judges and scholars, I decided to offer an amendment to strike the provisions that would consolidate immigration appeals to the Federal Circuit Court and give a single judge the power to deny an immigration appeal. In response, Chairman Specter decided to remove these provisions from the original bill and they are not in the bill that we are considering today.

As judges and scholars advised us, the bill does include provisions that would bolster the capacity of the immigration courts by, among other things, increasing the number of immigration judges and members of the Board of Immigration Appeals. I hope that the conference committee retains these improvements.

Most important, this bill takes a comprehensive approach that is tough but fair. We would improve our border security by increasing manpower and deploying new technology. We would crack down on the employers that are hiring millions of undocumented workers.

We need tougher enforcement, but in this bill we acknowledge something that the House of Representatives' bill does not: A strategy that focuses only on enforcement is doomed to failure.

In the last decade, we have doubled the number of Border Patrol agents and they have spent eight times as many hours patrolling the border. During the same period, the number of undocumented immigrants has doubled.

We need a realistic and reasonable approach to address the 12 million undocumented immigrants living here today.

As the Department of Homeland Security acknowledges, mass deportation is not an option. It is impractical and too expensive. Experts estimate that deporting all of the undocumented would cost over $200 billion—that's five times the annual budget of DHS.

Amnesty is not an option. It is not right to reward those who have broken the law with automatic citizenship.

If we are serious about reform, we need to offer a chance for immigrants who work hard and play by the rules to earn their way to citizenship over the course of many years.

Some people claim this is an amnesty. But under the Judiciary Committee bill, undocumented aliens can earn their way to citizenship only if they have a clean criminal record, have been employed since before January 2004, remain continuously employed going forward, pay a large fine, pass a security background check, pass a medical exam, learn English, learn U.S. history and government, pay all back taxes, and go to the ''back of line'' behind all applicants waiting for green cards.

This is an II-year path to earned citizenship, not an amnesty.

Frankly, if we do not give people the chance to earn their way to citizenship, we will not solve the problem of illegal immigration. People who are living here illegally will stay in the shadows instead of coming forward to register. This would hurt our national security and hurt American workers, who are being undercut by illegal labor.

And it is not the American way. It is important to remember that this is not just a national security issue and an economic issue—it is also a moral issue. Scripture teaches us to treat immigrants as we would like to be treated: ''The strangers who sojourn with you shall be to you as the natives among you, and you shall love them as yourself, for you were strangers in the land of Egypt.'' That is why the Catholic Church and so many other faith communities support comprehensive immigration reform that includes a path to citizenship for hardworking immigrants who play by the rules.

Today is a historic day in the United States Senate, but there is still one more bridge to cross. We must reconcile this bill, which takes a comprehensive approach, with the harsh enforcement-only legislation passed by the Republican-controlled House of Representatives. The President says he supports comprehensive reform. Now he must exercise leadership to make it a reality.

Mr. KOHL. Mr. President, I rise in support of the comprehensive immigration reform bill today. This bill appreciates the importance of addressing the problem of illegal immigration and border security while at the same time proposing an intelligent solution to the issue of the millions of people here without documentation today.

First and foremost, we need to control our borders and enforce our laws. This bill adds thousands of additional border patrol agents and authorizes the use of the National Guard to help secure our borders. It wisely increases the use of technology—including unmanned aerial vehicles, UAVs, cameras, and motion sensors—so we can succeed in controlling our borders. It also enhances the authority of our immigration enforcement officials to deport criminals and others who may seek to do us harm. This will significantly enhance our ability to catch people before they enter the country, and deport those who do. I could not support a bill that I did not believe could secure our borders.

Border security alone is not sufficient. We must also enforce our laws in our interior. This bill includes a strong employment verification system, so that employers can determine who in this country is eligible to work, and will be punished when they employ those who are here illegally. If we do not dry up the demand for illegal workers among employers, it will remain difficult to control the supply of illegal immigrants trying to enter our country.

Law enforcement alone, however, is not the entire solution. We must be realistic about how to deal with the millions of undocumented immigrants currently in this country. It is not realistic to deport them all. For those hardworking, law-abiding people who have been here for years and set down roots in our communities, it is reasonable to allow them to earn citizenship over a significant time period. This is not amnesty, and it is not automatic legalization. Under this bill, if they pay thousands of dollars in fines for violating our immigration laws, work for a number of years, learn English, and pay any taxes they may owe, only then do they go to the back of the citizenship line. They are asked to earn their legalization over the course of eleven or twelve years and demonstrate that they deserve to be an American.

We have succeeded in creating a comprehensive bipartisan solution, one that I believe effectively addresses each of the many complex issues that plague our immigration system today. There are few issues as important as immigration facing this country today, and I am glad that we have put the time and effort into crafting a solution we can be proud of: one that is both tough and fair.

Mrs. FEINSTEIN. Mr. President, I wish to comment on amendment No. 4084, which was tabled yesterday.

The Chambliss amendment would modify the eligibility requirements for blue card and green card status under AgJOBS, as drafted in the Comprehensive Immigration Reform Act.

The Chambliss amendment would make the AgJOBS earned legalization program unworkable by denying most farm workers access to it.

Just yesterday, my staff received an e-mail from the California Canning Peach Association, which produces 80 percent of the peach volume in California. They said that the Chambliss amendment would eliminate at least 90 percent of their workers from pursuing earned adjustment under the current AgJOBS language.

When I look at the Chambliss amendment, I find it to be counter to the language in AgJOBS.

One reason I believe the Chambliss amendment is counter to providing American farmers with a legal work force is the work day requirement he proposes.

Senator CHAMBLISS' amendment would change the definition of ''workday'' to 8 hours per day. This change would essentially gut the bill because agricultural workers simply wouldn't be able to demonstrate 8-hour workdays.

Under his amendment, in order to get a blue card, agricultural workers would have to prove that they worked at least 150 work days per year during the 24-month period ending on December 31, 2005.

Anything short of an 8-hour day wouldn't count.

This is just unworkable and impractical. There are many reasons why a farm worker might not be able to demonstrate 8-hour workdays, such as:

Weather conditions—maybe it is raining or too cold, there's hail. For instance, oranges can't be picked wet nor can table grapes. So if it rains and workers have only worked 6 hours, they have to call it a day. That wouldn't count under the Chambliss amendment.

Transportation issues—workers may not be able to catch a ride one day, or their ride may leave after only 7 hours. That wouldn't count under the Chambliss amendment.

Market demands—workers can only pick what growers ask of them, and if the market only demands x number of oranges in 1 day and that only takes 6 hours, then that is all the work they will have in that day. That wouldn't count under the Chambliss amendment.

Sickness—a worker may have a cold or other ailment that might keep them from working for a few days. In agriculture, given the seasonal nature of work, a few days lost are precious to a worker.

Labor shortages—one condition that growers tell me about are labor shortages and how they impact how many hours workers put in. For instance, a crew of workers might be in such demand that they only put in 7 hours each per day. That wouldn't count under the Chambliss amendment.

All of these are reasons why workers may not put in 8-hour workdays. And if they don't, then that doesn't count toward their eligibility and they remain here illegally.

The average number of hours that California agricultural workers log daily is 5.97 hours per day. And that's for crops like citrus, vegetables, tree fruit.

Many farm workers do not work 8 hours per day even when working full-time and 6 days a week.

Frequently, agricultural workers work 3 to 7 hours per day. This amendment would deny workers credit for their farm work on such days, and deprive them of the chance to enter the program.

Many jobs in agriculture result in fewer than 8 hours per day, particularly at times other than the peak of the harvest.

Luawanna Hallstrom with Harry Singh & Sons, which is the largest single vine ripe tomato grower in the

country, explained the following to my staff about the average hours worked in a season, and how they may vary in a typical year or season at their farm in San Diego, CA.

She said that work hours and days can change from one year to the next because of reasons beyond their control—weather, production, changes to timing of harvest, fluctuation in number of employees available at any point in time, disease and more.

Ms. Hallstrom noted that agriculture is extremely fluid and vulnerable and a typical work week for them can consist of anything from 0 to 10 hours.

Another grower, Benny Jefferson, a large vegetable grower in Monterey, CA told my staff that his average worker works 6 hours per day and that 8-hour days would be a serious problem for him.

By way of example, the following job offers were posted in America's Job Bank of the U.S. Department of Labor:

Seeking farm worker for ''harvesting fruits such as blueberries, cherries, strawberries, grapes, oranges, and pecans'' in Georgia for ''full time'' work of 32 hours per week.

Seeking Citrus Harvest Worker in Florida for a contract period from April 30, 2006, to June 30, 2006, Monday through Saturday. Hours: 36 hours per week, 6 hours per day.

Florida employers seek nursery labor in West Virginia for 40 hours week, 7 hours per day Monday through Friday and 5 hours on Saturdays.

What do these job postings show? That even ''full time'' work often means less than 8 hours per day.

So I believe that the Chambliss amendment, if successful, would deprive most farm workers of the chance to enter the earned legalization program, or if they entered, the chance to earn a green card.

The Chambliss amendment is an effort to destroy the AgJOBS compromise. It is not only unfair but counterproductive.

One purpose of AgJOBS is to stabilize the workforce by encouraging undocumented workers to come forward and work in agriculture in return for the opportunity to earn a blue card and eventually, after additional hard work in the fields, a green card.

By depriving many farm workers of this opportunity, the Chambliss amendment would perpetuate the unstable farm labor force that contains so many undocumented workers.

Mr. OBAMA. Mr. President, on May 1, I was in Chicago to witness a monumental event. There were close to half a million people marching for comprehensive immigration reform. They were mostly people of Mexican origin, but among them were also Nigerians, Polish, Irish, Central American immigrants, and their American-born friends, family, and supporters.

By now, most Americans are familiar with the issues surrounding immigration. We have a system of legal immigration under which 1 million people apply for legal residency each year and eventually pursue citizenship if they choose. Another 500,000 come across the border illegally and evade our border patrol.

There are an estimated 12 million undocumented persons here working mostly in backbreaking jobs in agriculture, construction, packing plants, restaurants, and elsewhere. Some in the media have presented them as an invading hoard.

But I spoke to the marchers who gathered 3 weeks ago, and what I saw was nothing to fear. They have come here for the same reason other immigrants have come for generations: to pursue the notion that they can make a better life for themselves, and most importantly for their children, if they work hard and apply themselves.

Our country is ambivalent about this influx of undocumented immigrants. Many Americans, including myself, believe that these people are doing what many of us would do for our own children in the same situation. They take immense risks to get here and would not have come illegally if they could have come legally through the limited visas we issue each year.

But while Americans understand the human desire to pursue a better life, they know we do not have an infinite capacity to absorb everyone who would like to come here. Ours is a nation of laws. And we cannot perpetuate a system that continues to have people coming here outside the law.

Economists debate the effect undocumented workers have on the economy and opportunities available to Americans. There are areas where immigrants are doing jobs Americans would not do. But there are other circumstances where employers are bringing in workers for jobs that Americans would fill if employers paid fair wages. In the African-American community, where unemployment rates often remain high, there is some tension about whether we should be importing large numbers of workers to compete with American workers.

What I say to them is that immigrants in illegal status have no ability to fight for fair pay and fair treatment. African-American workers and Latinos at the bottom of the wage ladder will all be better off if these workers can come out hiding and defend themselves.

Today, under Chairman SPECTER, Senator LEAHY, Senator MCCAIN, and Senator KENNEDY's leadership, we will pass a bill that provides stronger border security, meaningful enforcement in the workplace, and a long, earned pathway to citizenship. The idea for the undocumented is that they would jump through multiple hoops over an 11-year period to earn the right to stay and eventually become citizens of the United States.

The Senate bill upholds our tradition as a nation of immigrants and proposes reforms in a comprehensive, commonsense manner, and it imposes new, strict but sensible enforcement mechanisms.

The opponents of this effort have called it amnesty. They would prefer a punitive House bill that builds a wall across our southern border, deports the 12 million people here illegally, and makes any undocumented worker a felon.

That kind of approach is not realistic. We are not going to deport 12 million people. Millions of them have American children. Many have been here for many years and have deep roots. It is hard to imagine that we would have police and immigration officials invading people's homes, separating families, and forcibly sending people home. But Americans are right to demand that we end illegal immigration going forward.

The draconian House legislation led to the marches. But what started as marches of fear on the part of immigrant workers has turned into a movement of hope. People are hoping they have an opportunity to legalize their status in some way. Their hope and our hope is that we can move forward together.

This was and will continue to be an emotional debate. What we saw in the marches was the face of a new America. The face of our country is changing, and we cannot be threatened by it. I strongly believe that we are going to be better off united than divided.

But I also believe in a common culture. I told the immigrants at the marches that citizenship involves a common language, a common faith in the country, a common sense of purpose, and a loyalty to a common flag. I believe that this is what the immigrant community wants. They want to follow in the steps of the millions who came before them and helped our country meld from many peoples into one Nation. In diversity we come together as one.

To those who fear immigrants, I say we cannot have a country in which you have a servant class picking our lettuce, mowing our lawns, and caring for our children, but who never have the full rights and obligations of citizenship.

Today, the Senate will respond to the call for action from not only these marchers but all Americans who want to uphold our finest traditions. It has been a tough few weeks, but I am proud of this body today. We worked hard, conducted a civil debate, and have taken a big step toward fixing our immigration system. My hope is the conferees will put their stamp of approval on the Senate bill we are passing today.

Let me say that while I support this bill, it is not perfect. I have serious reservations about several of the provisions in the bill, most notably the guest worker provision. I voted for two amendments offered by Senator DORGAN that would have eliminated or sunsetted the provision, but these amendments failed. I am pleased, however, that the Senate adopted an

amendment by Senator BINGAMAN that lowers the number of guest workers that could enter the country under this bill.

I also am concerned about the changes we have made to the diversity visa program that will end up disadvantaging potential immigrants from underrepresented countries, such as African countries.

On balance, however, this is a very good bill. It gives us strong border security, makes hiring illegal workers virtually impossible, and provides all those families, children, mothers, and fathers I saw in that amazing march with the opportunity to become full members of the American community.

I was pleased that two amendments I offered were included in the bill. One amendment strengthened the prevailing wage requirements in the bill for all American workers and all jobs. It also ensured that communities where the American unemployment rate is high will not experience unnecessary competition from guest workers.

The second amendment was a collaborative effort with Senators GRASSLEY, KENNEDY, and BAUCUS to create a new employment eligibility verification system. We are making it simple but mandatory for employers to verify that their employees are legally eligible to work here. This amendment will have a far greater impact on stopping the flow of illegal immigrants into this country than simply building a fence along the border.

I commend my colleagues for their work on this legislation. Together, with faith in the values that unite our country, we are moving forward true to our tradition as a nation of immigrants that is capable of coming together to resolve difficult challenges.

I urge my colleagues to support this bill.

Mr. CONRAD. Mr. President, I am voting for the immigration reform bill today because it is urgent that we act to secure our borders. And we must find a way to deal with the 11 or 12 million illegal immigrants already living in the United States. As imperfect as this bill is, it is at least a beginning on strengthening our borders and dealing with those who are here illegally.

Currently, we have 500,000 new illegal immigrants entering our country every year. That is an unacceptable security risk. If we cannot control our border, we cannot control our future.

This bill dramatically strengthens border security. It provides for triple-layered fencing, adds thousands of additional Border Patrol agents, and cracks down on employers who hire illegal aliens.

The bill also begins to deal with the 11 to 12 million illegal immigrants who are currently in this country. The bill provides a path to earned legalization for those who pay a fine, pay back taxes, learn English, and fulfill other requirements. We need some process like this; the alternative of deporting 11 million people who do not want to leave is simply unrealistic.

Finally, the Congressional Budget Office has concluded that this bill will have a positive effect in reducing the deficit.

However, there are serious flaws in this bill. I think that asking the millions of illegal aliens who have been in this country fewer than 5 years to return home before getting on a path to citizenship is unworkable. And, although the bill was improved by cutting in half the number of new guest workers who will be able to enter the country next year, I still cannot support the guest worker provisions. Finally, overall, the bill will result in millions of new immigrants entering the country over the next decade. In my view, we need to consider very carefully the effects on our society of trying to assimilate such a large number of additional immigrants in a relatively short period of time.

But at the end of the day, we are faced with one question: will this bill help secure our borders and deal with the people who are here illegally? I have concluded that, although deeply flawed in many respects, it does make improvements over the current failed system.

This is not the end of the process. During the negotiations between the House and the Senate, there will be opportunities to address the serious flaws and produce a better bill. If, at the end of the process, the bill is not substantially improved, I will not be able to support the final product.

Mr. HATCH. Mr. President, although I rise today in opposition to S. 2611, the Comprehensive Immigration Reform Act of 2006, I would like to take a moment to commend its proponents.

The task of reforming this Nation's broken immigration system is Herculean. As my colleagues know all too well, the issue of immigration riles—justifiably so—the public like nothing else. I cannot think of any piece of legislation that has provoked a prolonged national debate such as this one. I cannot think of a day in recent months that I have not turned on the television or picked up a newspaper and read about or listened to a discussion of immigration reform.

This bill consisted of roughly 616 pages when we began this debate last week, and I have no doubt that the legislation is now over 700 pages. This undertaking has been truly monumental, and while I do not agree with the result, I must acknowledge and commend the sincerity, the diligence, and the good faith of the bill's architects.

The majority leader, the distinguished Senator from Tennessee, should be recognized for his leadership on this pivotal issue. The fact that Senator FRIST has managed to get an immigration bill through the Senate despite a splintered caucus and a hotly partisan atmosphere is a tribute to his abilities as a leader.

While I believe Senator FRIST deserves a great deal of the accolades for the passage of this bill today, I would be remiss if I did not mention Judiciary Committee Chairman ARLEN SPECTER. The senior Senator from Pennsylvania has once again achieved the impossible. This bill, regardless of what one thinks of the policies it contains, is a tribute to his daunting work ethic, intelligence, and remarkable ability. Time and time again, Chairman SPECTER has overcome the odds both personally and professionally—to make sure the people's work is done, and done well.

There are many others who deserve recognition—Senators MEL MARTINEZ and CHUCK HAGEL were critical to this effort, and we cannot ignore the tireless efforts of Senators JOHN MCCAIN and TED KENNEDY. I must also thank Senators JOHN KYL, JEFF SESSIONS, and JOHN CORNYN for their vigilance and conscientious objections to this legislation. Their work has been invaluable and will continue to be so as we move to conference.

It is with great regret that I cannot endorse the substance of the bill before us despite the best efforts of many in this body. There are many laudable aspects of this bill—particularly the enforcement provisions—and, as many believe, the DREAM Act, upon which we worked so hard through the years, but at the end of the day this bill amounts to an amnesty that is several orders of magnitude larger than the one undertaken in 1986.

I would like to provide some perspective to this debate. In 1982, award-winning journalist Mr. Theodore W. White stated the following in his book, America in Search of Itself: ''The United States has lost one of the cardinal attributes of sovereignty—it no longer controls its own borders. Its immigration laws are flouted by aliens and citizens alike, as no system of laws has been flouted since Prohibition.'' These words were true nearly a quarter of century ago, and they are true today. Some may ask what Congress has done to address the issue during this time well, I will tell you. In 1986, Congress passed, among other things, the Immigration Reform and Control Act, or IRCA, and we passed stringent enforcement measures in the 1990s. I submit that neither the IRCA amnesty policy nor the previous enforcement measures have worked. Moreover, I submit that the current legislation amounts to the combination of two failed policies that will yield nearly identical results today and in the future.

We are all aware that we have lost control of our own borders. The President of the United States has made statements to that effect. Something has to be done. Illegal immigration has also been tied in with the enormous flow of illegal drugs into this country and to international terrorist violence being imported here from abroad. Something must be done, but this bill is not the answer.

The idea that a legalization or amnesty can be given to potentially millions of illegal immigrants, who arrived illegally in this country before

January of 2004, is to undermine the very principles of legality upon which our entire immigration system is founded. In the words of my former colleague, Senator Richard Schweiker, the so-called legalization or amnesty ''puts the Government squarely behind the lawbreaker, and in effect, says 'Congratulations, you have successfully violated our laws and avoided detection—here is your reward.' '' In clear language, granting amnesty rewards the lawbreaker, pure and simple.

To highlight the scope of this problem and the dangers of charting the wrong course yet again, I must point out to my colleagues that a significant portion of the comments I just made are over 20 years old. I changed a few names and a few numbers, but the substance remains the same.

It took the proponents of the Immigration Reform and Control Act of 1986 3 years to put a bill together. This effort took 3 months. Despite the rhetoric to the contrary, the bill before us today constitutes a massive amnesty one several orders of magnitude larger than the one undertaken 20 years ago. I do not understand how this body has failed to learn from its mistakes.

I commend the sincerity, the diligence, and the good faith of this bill's proponents, but I cannot agree in its result.

I fail to understand how a massive guest worker program that constitutes an end run around our immigration system is a good idea.

I fail to understand how an amnesty for millions of illegals is a good idea.

I fail to understand how a bill that does not address the root causes of our immigration crises is a good idea.

I ask my colleagues, why does this legislation ignore the recommendations of the U.S. Commission on Immigration Reform—an entity that spent 7 years examining the issue of immigration and making recommendations for this august body? Why do we insist on pursuing failed policies? We have an obligation to the American people to leave no stone unturned in this debate, but we have failed to live up to that obligation.

The time has come to undertake truly comprehensive reform. We must start from the ground up. We must secure our borders. We must identify the problems with the current immigration system with certainty. We must, in turn, develop meaningful solutions. I submit that the bill before us today builds upon a faulty foundation—we may have renovated a few rooms, we may have updated a few appliances, but it will all come to naught unless we fix the basic structure.

My colleagues know the extent of my commitment to my Hispanic friends. I founded and I have chaired the U.S. Senate Republican Conference Task Force on Hispanic Affairs for years now—I know the immigration issue is not solely a Latino issue, but we all know that the vast majority of the illegal aliens in this country are Hispanic. I say to my friends that my opposition to this bill has nothing to do with a lack of support or dedication to the Latino community but, rather, a fundamental and principled opposition to widespread amnesty. We have been down that road, and that road led us to this moment.

There is no question that the millions of people who are here illegally broke the laws of the land and further that they should not be rewarded for that conduct. We gave over three million illegals amnesty 20 years ago. Today, we are poised to grant amnesty to three times that number. When will we learn? What will we do when we are faced with this exact situation in another 20 years? Enough is enough.

We must take the time to craft real legislation with real solutions to real problems. We cannot afford another failure. Our children cannot afford another failure. And our Nation cannot afford another failure.

We must restructure our visa system. We must determine—affirmatively—what policies should guide admission to this country. We must provide for a truly temporary guest worker program. We must create a realistic and effective employer verification system. And we must find a humanitarian, just, and equitable solution to the millions of people in this country illegally.

This bill does nothing to address the underlying flaws in the current immigration system. This bill does not fix the current visa system. This bill does not create a truly workable employer verification system. This bill does not create a truly temporary guest worker program. Instead, this bill creates more visa categories. It increases the numbers in existing visa categories. It creates a shell of an employer verification regime. It creates a guest worker program that is an end run around the immigration system. And finally, it grants the largest amnesty ever undertaken in any country, at any time.

I wish I could support this bill. I wish we had taken more time in Committee, I wish we had taken more time before the Committee process, and I wish we crafted a comprehensive reform bill that actually lived up to its name.

I am fully aware of the hard work on both sides of these very important issues. It is important that we get this bill to conference where I hope we can correct the many deficiencies therein, and I am aware some are voting for it with that in mind despite their severe reservations.

I believe it is absolutely critical that the Congress address the issue of immigration, and I look forward to working to improve this bill during the course of our negotiations with the House. The real work lies before us, and I believe the men and women of both bodies have the mettle, the tenacity, the intelligence, and the drive to do what is right for the American people.

Mr. KERRY. Mr. President, I am proud to cast my vote today in support of S. 2611, the immigration reform bill. This legislation has strong bipartisan support—something we don't see enough of these days in the Senate. Time and time again, amendments were offered and motions were made in order to derail this bill, yet time and time again, our strong bipartisan coalition stuck together to fend off every single attack. As a result, we're able to pass comprehensive immigration reform—reform that has a real chance of solving the immigration crisis that we face today.

The bill addresses what I consider to be the four cornerstones of successful immigration reform: (1) strengthening our Nation's borders; (2) providing a path to legalization for the approximately 11 million undocumented workers currently living and working in the United States; (3) addressing future flow needs by adjusting visa caps and creating an effective guestworker program with strong labor protections; and (4) implementing a reliable employment verification program. Thus, not only will this bill prevent people from illegally crossing our borders, it will eliminate incentive for coming illegally in the first place.

I am particularly happy that the bill included an amendment I offered to strengthen our border security. My amendment increases the number of border patrol agents by an additional 1,000 this year, bringing the total number of agents in fiscal year 2006 to 3,000. It also gives border State Governors the ability to request up to 1,000 more border patrol agents from the Secretary of Homeland Security in times of international border emergencies. We need more agents on the border, and we need to make sure they have the tools to get the job done. That is why my amendment provides more helicopters, power boats, patrol vehicles, GPS devices, encrypted 2-way radios, night vision equipment, high-quality border armor; and reliable and effective weapons.

The bill also includes my amendment to the performing artist visa, which will ensure that international artists will have their visa petitions processed in a timely manner. U.S. Citizenship and Immigration Services, USCIS, delays are making it increasingly difficult for international artists to appear in the United States. Currently nonprofit arts organizations confront uncertainty in gaining approval for visa petitions for foreign guest artists and inconsistent policies in processing artist visa petitions which result in delays, expense, and unwarranted requests for further evidence. USCIS practice compounds the growing risk that foreign guest artists will be unable to enter the U.S. in time for their engagements, causing financial burdens on nonprofit arts organizations, and potentially denying the American public the opportunity to experience international artistry due to delays and cancellations. My amendment requires the UCIS to review these visa

applications in a timely fashion—and consistent with protocols that ensure our security would never be compromised.

Of course, the bill contains some things that I do not agree with. For example, I would prefer that the bill not include Senator INHOFE's English language amendment not because I do not believe that English should be our national language but because I think the amendment will have some unintended, negative consequences. I believe everyone who aspires to be a part of our country should learn English. I was proud to support Senator SALAZAR's amendment declaring English is our common language. Yet I felt compelled to oppose Senator INHOFE's amendment because it would prevent critical services—including health, public safety, or education services—from being provided in more than one language. I believe that in some instances it may be important for the government to communicate in a language other than English.

However, I accept these provisions as part of the compromise. Take the temporary worker provisions, for example. They represent a true compromise between the need to protect American workers and the need to meet the future labor demands of the U.S. marketplace. Thus, the bill allows a certain number of temporary workers into the country every year, but only after the employers seeking to hire them have made serious efforts to hire an American worker. The bill also includes significant labor protections to ensure that temporary workers receive the same wages, benefits, and working conditions as similarly-employed U.S. workers. Thus, the bill does everything possible to prevent temporary workers from becoming a secondary class of citizens or from depressing American worker wages.

Passing this immigration bill is just the first step. The House passed a punitive, enforcement-only immigration bill that I believe will exacerbate rather than ameliorate the immigration crisis. The House bill sparked protests across the country. Millions of people took to the streets to call for a comprehensive and humane approach to immigration reform. I hope that the House has heeded their calls. I hope that the President can rally support for a comprehensive solution. And I sincerely hope that the conference comes back with a bill I can support.

Mr. BAUCUS. Mr. President, I rise today to commend the Senate for accepting my amendment to the Immigration Reform Bill which addresses an area that needs more attention—the northern border of the United States. We have 5,526 miles of border between the United States and Canada. This is over double the size of our southern border. Along Montana's 560-mile portion of the border we have remote terrain which is mountainous and difficult to patrol. My amendment will help our Border Patrol cover this vast area by requiring the Department of Homeland Security to conduct a pilot program using unmanned aerial vehicles along the northern border.

In his immigration speech last week, President Bush emphasized that in addition to personnel and training we must also employ the latest technologies. The Border Patrol has already conducted successful tests using UAVs along the southwestern border in Arizona. This was done for surveillance and detection of individuals attempting to enter the U.S. illegally. My amendment requires that some of the UAVs already in the bill be used to run a pilot program on the northern border similar to the program which was conducted on the southern border.

We don't want to compete with our friends along the U.S. border with Mexico, but I want to make it clear that the northern border also needs increased attention. As you can imagine, as the southern border of the U.S. is tightened, our northern border—which used to be America's back door—is quickly becoming the front door.

Customs and Border Patrol reports that their number one concern on the southern border is illegal immigration. What is their number one concern on the northern border? Terrorism. We are all aware that some of the 9/11 highjackers made their way into this country through Canada. In 1999 the ''Millennium Bomber'', Ahmed Ressam, was apprehended on the northern border with a trunk full of explosives. His plan was to blow up Los Angeles International Airport. Now border gangs are going international and admitting having ties to Al-Qaeda and smuggling Al-Qaeda members into the United States. In Montana markings from these gangs have been found in the corrections system—within the walls of our jails and detention facilities.

Surveillance of our ports is being conducted from the Canadian side of the border. It appears that our procedures for checking out vehicles both leaving and entering the United States are being looked at by criminals and it has been reported that these ''dry runs'' are being conducted near Glacier National Park.

All of these activities are made easy due to the wide open space and insufficient numbers of law enforcement along the border. Yet the bill that has been before us has many provisions which are stacked against the security of the northern border. For example, one provision in this bill provides border States with additional Immigration and Customs Enforcement field agents to help with necessary background checks. However, it stipulates that these allocations are not available to States with populations under two million. This makes northern border States Montana, North Dakota, Idaho, Alaska, Vermont, New Hampshire, and Maine ineligible for assistance.

Now the President has proposed sending our National Guard troops to the southern border. We rely greatly on our National Guard and at a time they are already stretched too thin, it is dangerous for us to lose that resource from our States. More importantly, this is being done at a time when we currently have border patrol agents being detailed from the northern border to the southern border.

The ability of our Border Patrol to successfully carry out their daily duties is of critical importance to the safety of all Americans. This amendment will give us the tools we need to protect our borders. UAVs are a safe alternative to placing civilians in harm's way and by introducing a pilot program that helps us patrol our northern border, we are getting on the right track to fighting the war on terrorism and keeping the home front safe.

Mr. BROWNBACK. Mr. President, I wish to speak to the very important issue of interior worksite enforcement in the context of the debate over comprehensive immigration reform legislation.

One of the most important elements of this bill, that is crucial to the successful implementation of the guest worker and earned legalization programs, is interior worksite enforcement. Only a serious commitment to enforcing our immigration laws against employers who knowingly hire illegal immigrants will actually deter illegal immigration because the number one reason people enter the United States illegally is to find a job.

Looking back on the history of immigration reform, one of the key elements that has been missing, and is still missing, is successful interior enforcement. However, thanks to hard work of Senators GRASSLEY, OBAMA, KENNEDY, and BAUCUS, this bill contains worksite enforcement that can work.

The original language in the underlying bill, S. 2611, concerned me in several ways, particularly with respect to certain contractor liability provisions that would have created a de facto ''rebuttable presumption'' for contractors whose subcontractors hired undocumented immigrants, even if the principal contractor had no knowledge of such hiring. In essence, the contractors would be guilty until proven innocent, even if the offense of hiring unauthorized workers was committed without their direct knowledge.

Before I continue, let me be clear—I am in full support of cracking down on employers who knowingly hire unauthorized workers because doing so is the key to having a lawful and successful immigration system. However, we should not cast the net so broadly that innocent contractors are punished for the independent actions of a subcontractor.

It is somewhat clear that the contractor liability provisions in the underlying bill were targeted at ''bad actor'' construction contractors, but I interpret the legislation to impact all employers, not just those in construction. In fact, any employer using suppliers or contractors involving labor in

the normal course of their operations are impacted. A broad interpretation of the language covers companies that contract with, for example, suppliers of refreshments, including beverage companies that supply coffee, sodas and bottled water. What about the suppliers of copier services that come to fix the copy machine? Certainly they are suppliers of contracts involving labor. Can all companies contracting for such labor be responsible for ensuring that all of its suppliers employ persons of legal status? Such a requirement is unrealistic and unfairly penalizes employers.

There exists somewhat of a defense for these companies, a ''knowing'' standard, but what concerned me most was how a company could defend itself against accusations that it knew that its supplier employed illegal immigrants.

With the understanding that the original language applied to all employers, the construction industry nevertheless represents a good example of how unworkable these provisions are. The construction industry is a system which includes general or prime contractors with subcontractors ranging from plumbing to roofing to electrical specialty contractors. On any given project, a general contractor may have contractual relationships with as many as 50 different subcontractors. Ensuring that these prime contractors are not liable for the independent, illicit behavior of one or more of the subcontractors was the focus of my amendment.

I was also troubled by the original language, which involved a presumption of guilt before the company was able to prove its innocence.

Therefore, in effort to correct these dangerous provisions, I offered amendment number 4096 which would protect employers from being liable for the illegal behavior of their suppliers and subcontractors. This amendment resembled one that was offered during the consideration of H.R. 4437, the Border Protection, Antiterrorism, and Illegal Immigration Control Act, legislation that focused on securing the border and increased internal enforcement. Offering this amendment was freshman congressman, LYNN WESTMORELAND of Georgia's 8th district. I should point out that when the House debated immigration legislation in December 2005, Westmoreland's amendment was so popular that it received more votes of support than that on final passage of the legislation.

Though the language in the Grassley title III amendment does not include the language in my amendment, Senator GRASSLEY's amendment is much more reasonable than the provisions in the underlying bill. Senator GRASSLEY's amendment replaces the ''guilty until proven innocent'' rebuttable presumption with a standard of ''knowing or with reckless disregard,'' which goes a long way to protect innocent contractors from being held liable for actions of a subcontractor that are out of their control.

In closing, I respectfully request that the House-Senate conferees pay careful attention to the provisions in both the House and Senate regarding unlawful employment of aliens. I hope the conferees will engage in a discussion regarding the differences between the various standards for holding contractors liable for the actions of their subcontractors. I understand that there exists ample case law regarding the definitions of these terms, yet I ask that the conferees further define these terms for the sake of employers who will quickly be required to abide by the new provisions under this bill.

In addition, it is important for the conferees to clarify how the Electronic Employment Verification System will communicate with contractors regarding the hiring practices of their subcontractors. This relationship is yet unclear as the bill is currently written and should be clarified before the bill becomes law.

I reiterate my wholehearted support for a strict worksite enforcement system that cracks down on ''bad actor'' employers who thumb their nose at the law by knowingly hiring unauthorized workers. These employers should be punished for their actions; however, they should not be punished for actions taken by their subcontractors without their direct knowledge.

The PRESIDING OFFICER. The Democratic leader.

Mr. REID. Mr. President, I will use leader time so as not to interfere with the schedule on the floor.

I said at the beginning of this debate 2 weeks ago that this was a blockbuster. I said that this is the summer season for movies and this is the time for blockbuster movies. ''The DaVinci Code'' and ''Mission Impossible III'' came out, but I said we had our own blockbuster here in the Senate: part 2 of immigration. Prior to the Easter recess we know how immigration fared. It didn't. It stopped for a lot of different reasons. But now we start part 2. I said that 2 weeks ago, and now for me, this has been such a reminder of how the Senate used to be. We held a number of votes. I was on the prevailing side of some and I was not on the prevailing side of others. Coalitions were built here in the Senate, Democrats with Republicans and vice versa. That is the way we used to legislate.

In this most important bill, no one got everything they wanted. There were compromises made in the committee and certainly compromises made here on the Senate floor. But we have had bipartisan cooperation. This is comprehensive immigration reform, focusing first on border security.

This legislation will do so much to make our borders more secure. We have done a lot of things that have never been tried before to improve the security of our Nation by doing something about our borders. I have gone to the borders and I have seen the hard-working Border Patrolmen. They work so hard with so little attention. And this legislation is the opportunity for them to do their jobs better, because we are going to give them more resources. I would hope that we will do that. We certainly need to.

Before we finish, I would caution everyone from confusing what we are doing here today—we are going to complete passage of this bill shortly—with ultimate victory. This is not the final scene of this blockbuster that we have on the Senate floor. There is another act to go. But I want to express my appreciation to the two managers, Senator SPECTER and Senator KENNEDY. They have done yeomen's work to sort through all of the hurt feelings that people have in offering these amendments and not getting the votes they wanted when they wanted them. This is a big bill to manage, and I think these two very senior Members of the Senate have done a tremendous job. I also want to express my appreciation to Senator MCCAIN.

I also want to focus attention on someone who I think has done a great job on this bill, who is behind the scenes always trying to grow the compromises that the managers and Senator MCCAIN haven't been able to work out, and that is the senior Senator from South Carolina, LINDSEY GRAHAM. I really have appreciated the work he has done on this bill. He has been a tremendous asset to Senator KENNEDY, Senator SPECTER, and Senator MCCAIN.

I want to also say that my assistant whip of the Senate has done a great job. We all know that Senator DURBIN legislates so much with his heart. He is a good person and has a good sense of what is right and what is wrong. He was heavily involved in this legislation, being a member of the Judiciary Committee, and I want the RECORD spread with my appreciation for the work that he has done, being our counterpart to LINDSEY GRAHAM, working through different issues that we have had.

For all of the good that we are going to be able to accomplish by passing this bill, there is a lot more work to do.

I want to say something about someone who opposes this legislation. No one has been a bigger opponent of this legislation than JEFF SESSIONS of Alabama. If there has been a bigger opponent, I haven't seen him. I have told him this personally and I will say it publicly. JEFF SESSIONS and I don't agree on too much politically, in the political spectrum, but I admire how he approaches issues, because every time he came to the floor to talk about an issue, he believed sincerely what he was doing was right, and I admire that and appreciate it. Now, the fact that I disagreed with him doesn't make me any more right than he is. That is the purpose of legislation. We present our cases to this body and the body decides. But I want the Senator from Alabama to know that I appreciate his adversarial efforts.

Finally, Mr. President, for all the good work that we have done here over the past 2 weeks, it can be eliminated in a heartbeat when we go to conference with the House. We have seen it happen so much these last few years where the minority is eliminated from decisions made, public conferences are not held, items that the Senate supports are stripped, and there is nothing to prevent the same thing from happening on this bill but for the good faith we have in moving forward.

We should know the dark clouds are forming on the horizon. Influential Members of the House of Representatives in the Republican leadership are still pushing for the bill they passed, a bill that makes felons out of millions of immigrants and those who assist them, such as a member of the clergy, a health care worker, a social worker. In fact, the House Majority Leader, my friend, JOHN BOEHNER, yesterday, was quoted as saying:

> Trying to find a pathway that is acceptable to the House and Senate is going to be very difficult.

I acknowledge and say that is true. But the words we have heard from the House leadership are not encouraging.

The one thing we fought for was to have a fair balance on the conference committee, and we have gotten that. I express my appreciation to the majority leader. We have the ability to name conferees on our side who I think are going to be just fine. Knowing the Republicans who are going to be part of this conference committee, it is going to work out well. We have people who are going to work hard to uphold the position of the Senate.

But we also need the active involvement of the President. I appreciate what he has done to this point. I said that on a number of occasions before. But his biggest work is ahead of him if he wants comprehensive immigration reform.

Yes, this bill includes border security. It includes help for guest workers. Mr. President, 45,000 to 50,000 hotel rooms are going to be built in Las Vegas in the next 4 to 5 years. I just had a meeting in my office with the head of the MGM Hotel, a man who has 80,000, 90,000 employees and was part of the group who got me interested in this legislation. The hotel owners, the Chamber of Commerce in Las Vegas, and the unions have said unless we get some help on guest worker programs, we can't find people to work in those 45,000 to 50,000 hotel rooms. That is in this bill.

Another thing that is in it I am proud of, and we should be proud of, is a pathway to legalization for people who are in America and are undocumented: Pay your taxes, have a job, learn English, stay out of trouble, pay your penalties and fines, go to the back of the line—but you can come out of the shadows.

Then, finally, what we have in this legislation is better—better employer sanction enforcement, and we need that.

We are authorizing things, but they are not worth anything unless we appropriate the money to do them. All the measures we have relating to security, they must be favored with appropriations bills, as with everything else in this bill. I hope we will have the carry-through to do that. This is a two-step process from this point forward. We have to have a conference and then we have to have appropriators who will do the right thing.

Again, I feel so good today. This is what the Senate is all about. I spent 24 years of my life in the Congress of the United States, 20 of them here in the Senate. This is the way it used to be. This is the way it should be in the future. I have every hope and belief that we can make it that way.

I appreciate the courtesy of all my colleagues here allowing me to have this time.

The PRESIDING OFFICER (Mr. COLEMAN). Two minutes remain in opposition to the Ensign amendment. Who yields time? The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I ask unanimous consent that the votes occur in the order in which the amendments were offered, provided further that following the disposition of amendments, the Senate proceed to an immediate vote on the managers' amendment. I also ask that there be 2 minutes equally divided between the votes and that all votes after the first be limited to 10 minutes each.

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

The Senator from Nevada.

Mr. ENZI. Reserving the right to object, Mr. President, from what I understand we just got the managers' amendment. It is 115 pages. I think the Senator from Arizona is one of the first ones to acknowledge getting a managers' amendment with 115 pages, and then agreeing to a time agreement would be a little unreasonable. So if you would take out the agreement to have a vote directly on the managers' amendment until we have a little bit of time to go through it, I think the unanimous consent would be agreeable.

Mr. SPECTER. I modify the unanimous consent request to that effect.

The PRESIDING OFFICER. Is there objection to the modified request? Without objection, it is so ordered.

Mr. SPECTER. Mr. President, I now ask unanimous consent Senator MCCAIN be recognized for 7 minutes, the managers be recognized for 7 minutes, and the leader will speak at the conclusion on leader time.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from Arizona.

Mr. MCCAIN. Mr. President, after several weeks of extensive debate and consideration of numerous and complicated amendments, the Senate is about to move to final passage of S. 2611, the Comprehensive Immigration Reform Act. This legislation addresses comprehensively one of the most important and complex issues facing our country. Our Nation's immigration system is broken. I don't think there was one Member of the Senate to argue that fact. Without enactment of comprehensive immigration reform as provided for under this bill, our Nation's security will remain vulnerable.

That is why we must pass this bill and reach a meaningful final product through conference deliberations. Our failure to produce a final comprehensive measure is an unacceptable proposition.

I want to first thank the President for his leadership on this issue. The President's speech to the Nation last week, which I thought was inspired, was greeted by 74 percent of the American people overnight favorably, including his absolute determination to see the Congress send him a bill which has a comprehensive approach to the issue which we as a Congress and a Federal Government have ignored for too long.

I also commend the Senate leadership on both sides of the aisle for their efforts to ensure that the Senate address this important issue and give us more than adequate time for a thorough debate.

I think this is a proud moment for the Senate, as we have conducted good work and returned to orderly traditions of the legislative process as envisioned by our Founding Fathers.

I also again recognize Chairman SPECTER for his work in leading us to this point in the legislative process. He and all the members of the Judiciary Committee deserve our appreciation for the considerable effort they have taken on this issue during this Congress.

Of course, I commend Senator KENNEDY, who is perhaps the leading expert on this difficult issue. He and I spent many months working to develop a comprehensive, reasonable, workable legislative proposal, much of which is contained in the bill before us.

I also thank Senators BROWNBACK and LIEBERMAN and GRAHAM and SALAZAR, MARTINEZ, OBAMA and DEWINE for their shared commitment to this issue, in working to ensure this bill moves successfully intact through the legislative process.

Throughout this debate we were reminded that immigration is a national security issue, and it is. It is also a matter of life and death for many living along the border. We have hundreds of people flowing across our borders every day, coming here only in search of better lives for themselves and their families. They come to fill the vacant jobs at businesses and farms that struggle with real labor shortages that impact our economy negatively.

This Nation is calling for our borders to be secure, for an overhaul of our immigration system, and that it be done in a humane and comprehensive fashion. Vote after vote after vote taken in this body reaffirms that fact.

The new policies as provided for in this legislation will increase border security and provide for a new temporary worker program to enable foreign workers to work legally in this country when there are jobs that Americans will not fill, and will acknowledge and address in a humanitarian and compassionate way the current undocumented population.

As many have noted, there are over 11 million people in America today who came here illegally. They live in our cities and towns and rural communities. They harvest our crops, tend our gardens, work in our restaurants, and clean our houses. They came as others before them came, to grasp the lowest rung of the American ladder of opportunity, to work the jobs others won't, and by virtue of their own industry and dreams to rise and build better lives for their families and a better America.

Some Americans believe we must find all these millions, round them up, and send them back to the country they came from. I don't know how you do that, and I don't know why you would want to. Yes, in this post-9/11 era America must enforce its borders. There are people who wish to come here to do us harm, and we must vigilantly guard against them, spend whatever it takes, devote as much manpower to the task as necessary. But we must also find some way to separate those who have come here for the same reasons every immigrant has come here from those who are driven here by their hate for us and our ideals.

We must concentrate our resources on the latter and persuade the former to come out from the shadows. We won't be able to persuade them if all we offer is a guarded escort back to the place of hopelessness and injustice that they have fled.

Why not say to those undocumented workers who are working the jobs the rest of us refuse: Come out from the shadows, earn your citizenship in this country. You broke the law to come here, so you must go to the back of the line, pay a fine, stay employed, learn our language, pay your taxes, obey our laws, and earn the right to be an American.

SSgt Riayen Tejada immigrated to New York from the Dominican Republic. He came with two dreams, he said, to become an American citizen and to serve in the U.S. Marine Corps. He willingly accepted the obligations of American citizenship before he possessed all the rights of an American. Staff Sergeant Tejada, from Washington Heights by way of the Dominican Republic, father of two young daughters, died in an ambush on May 14, 2004. He had never fulfilled his first dream, to become a naturalized American citizen. But he loved this country so much that he gave his life to defend her.

Right now, at this very moment, there are fighting for us in Iraq and Afghanistan soldiers whose parents are not yet American citizens but who have dreamed the dream that their sons and daughters risked their lives to defend. They should make us proud to be Americans. These people have come for the very same reason immigrants have always come to America. They came to grasp the lowest rung of the ladder, and they intend to rise. Let them rise. Let them rise. We will be better for it.

For America—blessed, bountiful, beautiful America—is still the land of hope and opportunity, the land of the immigrant's dreams. Long may she remain so.

I yield the remainder of my time.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, when Oscar Handlin, the eminent historian at Harvard, won the Pulitzer Prize in 1952 for his history of immigration ''The Uprooted,'' he said he had set out to write a history of immigrants in America, but ''discovered that the immigrants were America.''

With passage of this legislation, we reclaim that America. We lift once again the lamp beside the golden door.

This is the most far-reaching immigration reform in our history. It is a comprehensive and realistic attempt to solve the real-world problems that have festered for too long in our broken immigration system.

It strengthens our security and reflects our humanity. It is intended to keep out those who would harm us and welcome those who contribute to our country. It has the potential to build a stronger, better, fairer America for the 21st century.

It protects our security through stricter enforcement, tamper-proof immigration cards, and high-tech border controls.

It protects American jobs and wages by bringing immigrants out of the shadows and requiring employers to pay fair American wages.

And it enables decent men and women who work hard and play by the rules to earn the privilege of American citizenship.

That has been America's story. And it's a story we must live anew with each new generation if we hope to continue as a vibrant land of liberty, progress and opportunity—a land of people who want to do better, who love their families, embrace our Nation, and are proud to be American citizens.

Wisdom in immigration policy doesn't just happen. It is a choice between a future of progress as a nation of immigrants or a future defined by high walls and long fences.

Clearly, we still have much to do before this legislation becomes the new law of the land. Some believe that enforcement is the only path to take.

I would urge them to remember that from the beginning to the present day, immigrants helped build our country, and made us strong.

They worked in our factories and toiled in our fields, and we are stronger for it.

They built the railroads that took America to the West. Even today, it is said that under every railroad tie, an Irishman is buried.

Immigrants have loved America and fought under our flag, and we are stronger for it.

And if we enact this bipartisan comprehensive reform, we will be stronger for it too.

As we close this debate, I commend our two leaders, Senator FRIST and Senator REID, for their skill in enabling this debate to take place. At a time of heated political division in Congress, the debate we have seen these past 2 weeks is unique in recent times. Senators of both parties have come together for the common good. This opportunity would not have been possible without our leaders, and I hope it is a precedent for other major issues in the weeks ahead.

I commend President Bush for putting this issue before the country and for helping Americans understand the need for comprehensive reform.

I commend the chairman and ranking member of our Judiciary Committee, Senator SPECTER and Senator LEAHY, for their strong support throughout this process.

I thank those of our bipartisan group who stood together to make this legislation possible—Senator GRAHAM, Senator SALAZAR, Senator MARTINEZ, Senator HAGEL, Senator DURBIN, Senator LIEBERMAN, Senator BROWNBACK, Senator OBAMA, and Senator DEWINE.

And most of all, I express my appreciation to my colleague, Senator MCCAIN, who made all this possible from the start. He'd probably prefer I didn't say this, but he's been a profile in courage once again, and I commend him for his leadership.

I'm also grateful to the many staff members who helped to get us to this point. I'm grateful to Ron Weich and Serena Hoy of Senator REID's staff; to Bruce Cohen, Tara Magner and Matt Virkstis of Senator LEAHY's staff; to Joe Zogby of Senator DURBIN's staff; to Jennifer Duck and Montserrat Miller of Senator FEINSTEIN's staff; to Felicia Escobar of Senator SALAZAR's staff; to Tom Klouda and Alan Cohen of Senator BAUCUS' staff; to Kevin Landy of Senator LIEBERMAN's staff; to Danny Sepulveda of Senator OBAMA's staff; and to Chris Schloesser of Senator MENENDEZ' staff.

This was a truly bipartisan effort, and I'm grateful to staff from the other side of the aisle as well: Juria Jones, Joe Jacqot, and Michael O'Neill of Senator SPECTER's staff; to Clay Deatherage, Brian Walsh, and Nilda Pedrosa of Senator MARTINEZ' staff; to Jill Konz and Steve Taylor of Senator HAGEL's staff; to Matt Rimkunas of Senator GRAHAM's staff; to Steve Robinson of Senator GRASSLEY's staff; to Ajit Pai and Bryan Clark of Senator BROWNBACK's staff; and to Brook Roberts of Senator CRAIG's staff.

And special thanks, of course, to Senator MCCAIN's staff, with whom we've

worked so closely over the past year—Ann Begeman and Brook Sikora. And I'd like to express my deep appreciation for Becky Jensen. Without her vision and determination, this bill would never have happened.

On my own staff, I'm very very grateful to the many who worked so long and hard as well to make this day possible—Jeffrey Teitz, James Flug, James Walsh, Laura Capps, Missy Rohrbach, Lauren McGarity, Guarav Laroia, Charlotte Burrows, Christine Leonard, and Michael Myers.

My special thanks go to two on my staff who worked so hard over so many months on this bill, Janice Kaguyutan and Marc Rosenblum.

Finally, and certainly not least, there's our hero of the hour—a remarkable person with extraordinary talent, skill and compassion. We've all come to rely on her knowledge and judgment in moving this bill forward—Esther Olavarria.

Some say the easy part of this debate is over, and now we face the hard part reconciling the Senate bill with the House bill. We'll do our best, and I'm optimistic we can resolve our differences again.

Mr. SPECTER. Mr. President, the U.S. Senate is on the verge of passing landmark legislation. It has had a long, tortuous path. The McCain-Kennedy bill was the core proposition and went through very substantial hearings in the Judiciary Committee and a complex markup. It came to the floor at a moment when it was foundering, and we added to it Hagel-Martinez and their ideas to break a very complex logjam at that time.

We have labored under the competing principles of rule of law and concern for immigrants who have come to the United States without complying with the law.

On the other side, the rich tradition of the formation and development of the greatest country in the history of the world, the United States of America, made up of immigrants. Some came here illegally and some did not. But we are the melting pot, and the immigrants have contributed enormously and have made this the great country which it is today.

As we approach the final moments of action in the Senate, we are aware that there are still very strident competing concerns, strident competing interests of those who continue to insist that our legislation is amnesty, contrasted with those of us who point to the facts. The definition of amnesty is forgiveness of some wrongdoing, which is not the case.

There is a rigorous ladder which these undocumented immigrants have to pass through. They have to pay a fine, and that $2,000 fine in the underlying bill has now been increased to $3,250. They have to undergo a criminal background check, they have to pay back taxes, they have to learn English, they have to work for 6 years, and they go to the back of the line. It is genuinely earned citizenship by any measure.

We have had a very constructive debate here. We have improved the bill. The bill has been improved not only by the bipartisan coalition in favor of it, but it has been improved by the critics.

In committee we had a very rigorous debate. Objections were raised by Senator KYL, by Senator COBURN, and by Senator SESSIONS. Their concerns have been taken into account in structuring the final product which we have.

There has been a real balance for those who say that there ought to be border security before we consider a guest worker program or before we consider placing undocumented immigrants on the path to citizenship. We have provided very rigorous border safeguards.

We have provided for enforceable employer sanctions to see to it that immigrants who do not qualify do not get jobs. There has been a reduction in the number of green cards, 325,000 to 200,000. We have made major concessions to those who have been looking for enforcement by itself.

At the same time, we have structured a complex arrangement giving those here 5 years or more of the path to citizenship. We made a distinction based upon how deep their roots were here. Those who were here 5 years or more have an easier path, although they go to the back of the line. Those here 2 to 5 years have to touch back before coming back to a guest worker program and then on the path to citizenship. Those here for less than 2 years have to return to their native country and get in line if they want to come back to the United States.

That cutoff was made on January 7, 2004, the date the President made a speech outlining immigration reform. So they were on notice that they would be in a different category.

This is a practical approach. When we have 11 million people who are undocumented immigrants, we obviously do not want to create a fugitive class in America—an underclass.

If anybody has a better idea, we have been open to it, and we are still open to it as this bill will go to conference.

I am not pessimistic about the prospects of the conference. We have a bicameral legislature. We have to have agreement between both the House and the Senate. There is a genius in the American constitutional form of government in the separation of powers. No one has too much power.

We have worked out differences in the past, complicated problems on the PATRIOT Act, complicated problems on other legislation where we have gone to conference with the House Judiciary Committee under the able leadership of Chairman SENSENBRENNER.

We have had the leadership of the President on his nationwide speech at a critical moment in the progress of their bill. The President has been commended by all of those who have been in the leadership role on this bill.

We look forward to the President's more intense participation. He is the leader.

We have the House and Senate controlled by the Republican Party. There is an important political issue about the ability of Republicans to govern and whether we can do that. There is an election in November. Our leadership position as Republicans is on the line. I think that will weigh heavily in the conference.

But most of all, I credit the bipartisan nature of what has been done.

Every morning during the course of the 2 weeks of debate a group of Senators met, Democrats and Republicans, to work through the issues and to be prepared for the debate of the day. I am pleased to see the complex issues debated in the best traditions of the Senate.

I look forward to a productive, constructive and successful conference with the House of Representatives, and ultimately a day when there will be a signing by the President of the United States of this important landmark legislation.

I yield the floor.

We are awaiting the arrival of the majority leader who should be here momentarily.

Mr. DODD. Mr. President, will the manager withhold?

Mr. President, I rise today to share my views on the work that the Senate has undertaken over the last several weeks on a very difficult and complex issue—comprehensive immigration reform. Before I start, I would like to acknowledge the work of many of my colleagues, who have spent years attempting to address various aspects of this issue and who have worked in good faith to get us to the place we find ourselves as we conclude debate on the legislation before us.

Last month when the Senate first began consideration of this matter, the process fell apart rather suddenly because of procedural issues regarding which and how many amendments would be offered. These were legitimate concerns, since nearly 400 amendments were introduced, and since many of those amendments were intended to gut that measure.

In order to get this reform right, we need to address all three components of immigration—border security and enforcement, guest worker programs and, for undocumented workers who are currently in the U.S., a path to ''earned'' citizenship. We need to also reconcile the fact that we are nation of immigrants with ongoing legitimate economic, social and national security concerns related to the undocumented individuals currently within our borders and the impact of continuing to welcome newcomers to our Nation has on those concerns.

But let me be clear from the outset. Immigration reform must first and foremost be about protecting America's national security, economy, and citizens from the myriad challenges we face in the 21st century. We must have

no higher priorities than these. Fundamentally protecting our national security means securing our borders.

I believe that the bill before us, with all the additions we have made as the Senate has worked its will on this measure, is an imperfect document, but probably the best we are going to achieve given the polarizing nature of many of the issues that have been debated, adopted and rejected.

On a positive note, the bill does set the stage for the United States to greatly increase control over our borders and help prevent individuals from illegally entering our country. Among other things, it would provide advanced border security technologies to assist those tasked with protecting our borders. And it would improve our ability to enforce our immigration laws by making structural reforms and increasing personnel and funding levels where they are needed most. It would also double the size of the border patrol over 5 years, adding 12,000 new agents to patrol our borders. It would expand the number of interior enforcement officers by 1,000 per year over each of the next 5 years. It would utilize advanced technologies to improve surveillance along the border, creating a ''virtual fence'' to detect and apprehend people who are illegally attempting to enter this country. And it would create new and increased penalties for individuals trying to subvert our borders with tunnels, or who attempt to smuggle people into the U.S.

These are all critical measures. I support them. Other measures adopted in the name of better controlling our borders, will in my view have less than optimum results. I am thinking of the vote that occurred last week to unilaterally construct a 370-mile fence in border areas in California and Arizona. I believe that no fence or wall or other barrier is going to stop desperate people from entering our country unless we do something about the conditions on the other side of the border and the historic unwillingness of Mexican authorities to take steps to dissuade its citizens from illegally crossing the border. That is why I opposed this initiative and have sought to strengthen the likelihood that we will get more rather than less cooperation from Mexican authorities by proposing an amendment to require advance consultations at the federal, state and local levels of government on both sides of the border before fence construction moves forward. I am grateful to the managers for their willingness to accept this amendment.

Securing our borders, while necessary is only one part of the bigger immigration equation. Were we to deal with that issue, while ignoring two other goals—bringing 11 to 12 million undocumented workers out of the shadows, and putting in place limited and carefully regulated guest worker programs to fill jobs when no Americans are available or willing to take them, we would not have fundamentally confronted the national security implications of immigration. In my view, turning our backs on this reality is the same as turning our backs on real and lasting immigration reform.

I would say the following with respect to the 11 to 12 million undocumented individuals living within our borders.

These are predominantly hard-working individuals, who are not here to flood the welfare rolls or collect our charity. They are here to work and to contribute. They want what all of our families wanted when they came to the U.S.—a piece of the American dream.

However, I understand the concerns of those who rightly state that these undocumented workers came here illegally. The pending bill recognizes that fact. And so it wouldn't give them a free ride. Instead, it would penalize illegal immigrants by requiring undocumented workers to pay fines. It would require them to pay all back taxes, submit themselves to background checks, and learn English. And for those who are eligible, this process would take an average of 11 years.

Yet even with these tough measures, it provides an incentive for undocumented workers to come out into the open. Frankly, we need to be honest with ourselves that they're not going to come out of the woodwork if they face deportation. No rational person would do that.

Why is getting them to come out into the open so important?

Because the presence of so many individuals without documentation in our country creates enormous challenges for law enforcement and undermines worker protections. It is bad for our security, bad for the American worker, and bad for undocumented immigrants themselves.

But not all people seek to come permanently to the U.S. Many seek temporary work here and desire to return home when that work is complete. The pending proposal contains extensive provisions related to guest workers.

There are legitimate concerns that temporary workers might displace American workers who are available and willing to take a job. That should never be the case. American jobs should always be filled first and foremost with American workers. Only after serious efforts to find American applicants to fill vacancies have been exhausted are guest worker programs justifiable. Much has been done in the course of consideration of this legislation to ensure more due diligence on the part of employers to look first to Americans to fill jobs.

Moreover, we need to be judicious when it comes to determining the number of guest worker visas that are needed. This shouldn't be an excessively high number that increases automatically every year. Instead, it should match actual needs. That's why I supported a number of amendments by my colleagues to place certain caps on the number of guest worker visas that are granted. As I've already said, the numbers of visas should match needs. If at any point in the future the U.S. government determines that needs aren't being met, then we can always change the numbers to reflect the facts on the ground. But we need to turn to American workers first, not foreign workers.

Some of my other concerns with the outlines of the guest worker programs have been addressed in the course of our consideration of the bill. Worker portability and the right to unionize were key deficiencies that have been remedied during the amendment process. These fixes were important, because if done incorrectly, guest worker provisions could produce a permanent underclass and downward pressure on wages for American workers.

I remain concerned about a number of the provisions that have been adopted in the course of consideration of this legislation—some by very close votes. Among these are conflicting provisions on the nature and role of the English language, one of which could result in some of our own citizens being denied full participation in our society and opportunities to improve English proficiency. The other amendment recognizes the importance of the English language as a unifying force in our society without eliminating the many safeguards in law to ensure that those Americans with imperfect language skills can still participate in society.

Before concluding, I would like to speak briefly of two provisions in the bill which have gotten very little attention but which are very important and constructive additions to the overall package.

First, I am pleased that it includes provisions of the DREAM Act. I've long supported the DREAM Act, which in my view is a common sense measure, allowing undocumented students under the age of 16—who were brought into this country illegally through no fault of their own—a chance to complete higher education.

Qualifying students, however, will have had to live in the U.S. for at least 5 years prior to the date of enactment of this legislation. If they earn an advanced degree or serve our country in the Armed Forces, they would then be granted permanent status and allowed to petition for citizenship. Every student deserves a chance to learn and to serve a cause greater than him- or herself. This measure will give many deserving children that opportunity.

The second provision would establish programs to help our neighbors to the south, including Guatemala and Belize to fight human smuggling and gain control of their tenuous borders. It would also encourage strategic coordination across the hemisphere to fight the growing problem of gang violence. In my view, these are critically important areas because in reality we cannot solve our problems here without also addressing the roots of the problems abroad.

It remains to be seen what will happen to this bill when Senate conferees

sit down with our House colleagues to work out the considerable differences between the House and Senate versions of the bill. Speaking as one Senator, the measure as it has passed the Senate is a very delicate package of compromises that just barely makes it acceptable. Any significant diminutions from the Senate package will make this measure unacceptable to me, and I suspect, to many of my colleagues. I urge the Senate conferees to stand fast to the Senate position.

The PRESIDING OFFICER. The assistant Democratic leader.

Mr. DURBIN. Mr. President, are we under unanimous consent agreement as to the speaking order?

The PRESIDING OFFICER. We finished with all the speakers on the unanimous consent order.

Mr. DURBIN. Mr. President, I seek recognition, then, in reference to the bill before the Senate.

In the 200-plus year history of the Senate, there have been few moments when Senators were called to reflect on an issue of this gravity. This issue of immigration goes to the heart and soul of this Nation in which we live. It is an issue which has called forth from each side of the aisle the very best in debate, the very best in consideration, to tackle one of the most complicated issues that has ever faced our Nation.

But it is not a new debate. It is not a new issue. Almost from its outset, America has grappled with this issue of immigration. We are a nation of immigrants. We are a diverse nation. Look around your own neighborhood, at your church, at the gallery, look around at your place of business, and you will see people from all over the world who at one time or another came to this great Nation to call it home. With the exception of those Native Americans who were here when Christopher Columbus arrived, we are all newcomers to America. We are all strangers to this land. God has blessed us with this great opportunity to live in this land of opportunity.

That immigrant spirit has meant so much to what we are today and why we are different in this world, the courage of individual immigrants to leave behind everything—their home, their church, their relatives, their language, their culture, their friends—and to strike out for America, to find that opportunity which meant so much to them.

I am a product of that immigrant spirit. My mother was an immigrant to this country. She came to the United States 95 years ago as a 2-year-old infant, brought by her mother with her brother and sister. They came from Lithuania and landed in Baltimore, MD. They found their way across the United States by train to St. Louis and then by wagon across the Mississippi River on the old Eades Bridge to go to East St. Louis, IL, to join with other Lithuanian immigrants, immigrants who worked in the packinghouses, in the steel mills, in some of the hardest jobs you could find.

Our family's story is a story that has been repeated millions of times over. I am sure my mother never would have dreamed in those early times when she was struggling with her family to make an immigrant home that her son would one day represent the great State of Illinois. But that is the story of America. And it is a story we should honor.

When I consider this debate and everything that has come to it—and I understand there are serious differences of opinion—I know this great Nation cannot absorb every person who wants to come and live here. We are trying to find a reasonable way to deal with that yearning and spirit which drives so many people to our borders. I think we have a good bill. It is not perfect by any means, but it is a good bill, with enforcement at the borders, enforcement in the workplace, and a fair process for people to earn their way, over a long period of time, facing many obstacles, to legal status in America.

We would never have had that bill before the Senate were it not for the bipartisan leadership in the Senate. I especially commend Senator TED KENNEDY on our side of the aisle. What a warhorse. Whenever there is a battle in the Senate, you will find TED KENNEDY in the midst of it, bringing his special spirit, his special determination, as he has to this bill. His great ally in this cause has been Senator JOHN MCCAIN of Arizona of the opposite political faith but joining with him in this effort to come up with a good bill. And so many others whom I could go through the list and name, including Senator SPECTER, who led this effort in the Senate; Senator LEAHY—without his help, we never would have brought this bill out of the Senate Judiciary Committee; the four Republicans, Senators who stood up in the Senate Judiciary Committee and said they would join the Democrats, did make this a bipartisan effort. When I look at those people and what they brought to this debate, I see the best of the Senate.

It is rare—rare—that we come together, as we will see this afternoon, to face one of the most complicated and controversial issues in America and to do it in a bipartisan fashion, knowing full well that many people think our efforts are futile, that it will fall on deaf ears when we go over to conference with the House of Representatives.

I do not have that negative feeling. I really believe our friends in the House of Representatives can also rise to the occasion and can understand this special moment in history that should not be lost.

Within the pages of this bill is a special provision I have worked on for years, first with Senator ORRIN HATCH of Utah, and then with Senator CHUCK HAGEL of Nebraska. It is known as the DREAM Act. The DREAM Act is a provision which says if you were a child who came to the United States at least 5 years ago, and you graduate from high school and you are prepared to do one of two things—serve in the U.S. military or go on to work toward a college degree—we will give you a chance, a chance to become an American citizen over a long period.

We call it the DREAM Act because that is what it is. I have seen these young men and women in the city of Chicago and across the United States. They did not select the United States as a home. They were brought here by their parents. Many of them—most of them—are undocumented, but they still believe in their hearts they are Americans and can make this a better nation. The DREAM Act, which is included in this bill, will give them that chance.

When I go to visit Cristo Rey High School in the city of Chicago and see these wonderful young men and women who are defying the odds by completing their high school education, who want to go to college, who want to be our doctors and engineers and scientists and businesspeople and lawyers and elected officials, I think to myself: America cannot afford to waste this great talent and this great resource.

This bill gives them a chance. This bill gives them hope. This bill allows them to have dreams that will be fulfilled.

This is a great moment in the Senate. I look forward to this vote and the passage of this legislation. We will once again validate the American dream that, yes, we are a Nation of immigrants, and, yes, we are an accepting and welcoming Nation that understands the people who come to our shores and bring us diversity bring us strength, as Abraham Lincoln once said, to replenish the stream. These are the people who will build America's tomorrow. And these are the ones we serve with this legislation.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. FRIST. Mr. President, we are down to the final few minutes of what has been a long and complicated process but a very civil process—as some of my colleagues have referred to the process which has been a very civil process in the best spirit of the Senate.

The Senate is about to vote at last on an issue that bears directly on our core responsibility to make America a better place by making it a safer place, a more secure place. It is an issue that focuses on our identity as a nation, a bill that rises to the challenge of solving the problem of illegal immigration with a plan that not only secures our border but is a comprehensive plan that balances the needs of a growing economy with our heritage as a land of proud immigrants.

This debate has been conducted in the Senate's finest tradition. Since I announced last October that the Senate would act this year, the understanding of this issue has increased, and increased every day we have debated and discussed and voted. The

conversation both in Congress, in the Senate, and throughout the country has become more mature, more sophisticated, has led to a better understanding of the complexity of the challenge before us.

With this better understanding, the fact has become clearer and clearer: true border security combines energetic border enforcement with a realistic program, a practical program which identifies who is in America today, which lays out firm but fair requirements for those who want to be part of our great country.

Last fall, I had the opportunity, as so many have, to go to the border. I went then to the Rio Grande border in Texas. The night before Senator HUTCHISON and I arrived, 800 illegal immigrants were arrested there and were in detention the next morning, and over 200 pounds of marijuana was seized. But you had to wonder how many more people slipped through unseen. Another 400, 500, 1,000, another 1,500, just through that one sector? Who were they? Where were they headed? What were their intentions? What were their names? You had to wonder how many might die crossing the desert, not knowing exactly where they were going to end up. How many pounds of drugs, in addition to that 200 pounds of marijuana we witnessed, were making their way to the streets of Tennessee, New York, and California?

When I returned from Texas, I told the American people the Senate was going to act to make those borders more secure, to make our country safer, to stop that hemorrhaging coming across every night. As one of the major first orders of business in 2006, the Senate took up a strong border security bill. I specifically outlined when we took up that bill that over the ensuing days we would expand that bill to comprehensive immigration reform.

First, the Senate needed to demonstrate we were going to fortify our borders. Next, we would strengthen worksite enforcement where the magnet is attracting people across those borders. Third, we would establish a strong, accountable temporary worker program. Fourth, we would offer a plan for a path to citizenship that deals with the 12 million people, the diversity, that range of people, many who are fully assimilated into our society, some who over the last 6 months just snuck across the border.

Today, I am proud to say the Senate has acted. We will vote here in a few minutes. We have addressed what had seemingly started as an almost insurmountable problem. We are acting with a comprehensive solution. It is not a perfect bill—we all understand that—but a bill that will accurately reflect the will of this Senate, the 100 Members in this Senate.

We took a bill to the Judiciary Committee and in a short period of time, several months, generated a comprehensive bill. We took that bill to the Senate, amended it, and made it better. We have taken a bill that the American people would have concluded was amnesty and, at least by my lights, we took the ''amnesty'' out while putting the ''security'' in.

This bill we are about to pass has a 6-year plan to dramatically increase the number of agents along that southern border, agents who are hired, who are trained, and who are deployed along that border to stop that hemorrhaging. With the amendment by Senator SESSIONS, we have agreed to build at least 370 miles of triple-layered fence, with another 500 miles of vehicle barriers at strategic locations. This adds to provisions in the underlying bill which give the Border Patrol the technology and tools, the sophistication of technology we know they need to make that border less porous. At last, we will have a long-term border control strategy that will work and give us results to make America safer, to make America more secure.

To further bolster border security, we approved an amendment to authorize the National Guard to temporarily support border patrol operations. Coupled with the almost $2 billion in funds we approved in the Senate last month to beef up that border patrol and building on the money we appropriated last year—almost $10 billion—to begin hiring new agents, Americans should know the Senate is serious about stopping that hemorrhaging coming across our borders.

We also moved to tackle another commonsense issue of national cohesion. The Senate voted in favor of an amendment by Senator INHOFE to require that English be declared the national language of the United States. Learning to speak English is a necessary step for each and every aspiring American to be successful and to join in the mainstream of American society.

If the American experiment is to succeed, built on common principles and civic duties, every person making their life in this country—all of them, all of us, native born and otherwise—needs to learn the language, needs to learn the culture, needs to learn the history that binds us as a people, as an American people.

As Americans, we are also bound by our right to vote in free and democratic elections. The bill before the Senate provides substantial reinforcement to our border and to the laws on the books. It also provides a means for some to earn citizenship, while enforcing necessary restrictions.

Illegal immigrants who have been in this country less than 2 years must return home. Those who have been here 2 to 5 years would be required to come out of the shadows and leave the country, with the opportunity to legally return as temporary workers. Those who have been here for 5 years or more will be eligible to begin an 11-year process to become citizens without uprooting and returning home. No one who comes here illegally will reap the benefit of citizenship without first demonstrating the commitment to earning, and no one who breaks our laws should gain advantage over those who heeded them.

As I mentioned, this product is not perfect. Much more refinement needs to be done. That can be done in conference. But without a doubt, the amendments and the debate of the past 2 weeks have strengthened the core of this bill. We have had at least 20 Republican amendments, at least 18 Democrat amendments. A number of other amendments will be part of the managers' package. I am grateful to my colleagues for insisting those amendments be heard.

I thank Senator SPECTER, who shepherded this bill through the Judiciary Committee, and Senators HAGEL, MARTINEZ, KYL, CORNYN, and MCCAIN for standing with us all to insist on a fair process that allowed for free and open debate in amendments so we could move forward. I thank Senator KENNEDY for helping all of us set a tone for a civil, healthy debate. And I thank Senator REID for, again, agreeing to open and full debate. We have been in full agreement as to how amendments would come forward; thus, both of us can be proud that, working together, the bill we will be voting on in a few minutes does accurately reflect the spirit and the will of this Senate.

I do hope, as others have suggested this morning, as we turn to other issues, the same spirit with which this debate has been conducted will continue and will characterize our future deliberations in the Senate.

I also thank President Bush for his strong leadership for a comprehensive solution to these challenging problems. From day one, he staked out a position that was tough, not particularly popular when we started but one that was tough as well as compassionate, a position that acknowledges the rich contributions of America's immigrants while recognizing the need, first and foremost, to buttress our borders, that respects our heritage as an immigrant nation while upholding the laws of the land.

Early on in this debate, I said:

> This debate, and our effort, is about the American dream and the hope that this country holds for so many hard-working people.

But I should add, it is also an issue about what it means to be a nation. Every nation must keep its citizens safe and its borders secure. We should not have to choose between respect for our history and respect for our laws. With hard work and responsible debate, we can have both.

In this Senate, we have engaged in responsible debate over the last several months. We have worked hard. And with the bill before the Senate today, we do have both.

In closing, we are practical people. We are here to solve problems, applying the very best of my conservative principles, learning about the best ways to act, setting deadlines, seeking action, not giving up just because

things turn tough. That is the job of leadership in the Senate.

So much has been said and done in relation to this bill now, there is only one thing left for us to do: vote, up or down. I will be voting yes, and I hope my 99 colleagues will also vote their conscience but also in the affirmative. We are ready for the clerk to call the roll.

AMENDMENT NO. 4083

The PRESIDING OFFICER. Under the previous order, there will now be 2 minutes of debate equally divided on the Feingold amendment.

Who yields time?

The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, I urge my colleagues to support the Feingold-Brownback amendment. This amendment will ensure that asylum seekers, victims of trafficking, and other immigrants can have meaningful judicial review of removal orders.

The amendment would strike from the bill a provision that would have the absurd result of making it harder, in many cases, for an immigrant to get a temporary stay of removal pending appeal than to actually win on the merits of the case.

Let me state this in very clear terms. If this provision is not struck from the bill, people with meritorious asylum claims will be sent back to countries where they will face persecution or even death before a Federal court can even hear their arguments.

Current law allows courts to deny stays to people with frivolous claims who are using delay tactics. This provision, then, is a solution in search of a problem, and one that creates potentially devastating problems of its own. The Senate should strike it from the bill.

Thank you, Mr. President.

The PRESIDING OFFICER. Who yields time?

Mr. FEINGOLD. Mr. President, I yield back all time.

The PRESIDING OFFICER. The question is on agreeing to the Feingold amendment No. 4083.

Mr. DURBIN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays have been requested.

Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. The following Senator was necessarily absent: the Senator from Wyoming (Mr. ENZI).

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. ROCKEFELLER) and the Senator from Colorado (Mr. SALAZAR) are necessarily absent.

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

The result was announced—yeas 52, nays 45, as follows:

[Rollcall Vote No. 153 Leg.]

YEAS—52

Akaka	Durbin	McCain
Baucus	Feingold	Menendez
Bayh	Feinstein	Mikulski
Biden	Hagel	Murray
Bingaman	Harkin	Nelson (FL)
Boxer	Inouye	Obama
Brownback	Jeffords	Reed
Cantwell	Johnson	Reid
Carper	Kennedy	Sarbanes
Chafee	Kerry	Schumer
Clinton	Kohl	Snowe
Coleman	Landrieu	Specter
Collins	Lautenberg	Stabenow
Conrad	Leahy	Sununu
Dayton	Levin	Voinovich
DeWine	Lieberman	Wyden
Dodd	Lincoln	
Dorgan	Martinez	

NAYS—45

Alexander	DeMint	McConnell
Allard	Dole	Murkowski
Allen	Domenici	Nelson (NE)
Bennett	Ensign	Pryor
Bond	Frist	Roberts
Bunning	Graham	Santorum
Burns	Grassley	Sessions
Burr	Gregg	Shelby
Byrd	Hatch	Smith
Chambliss	Hutchison	Stevens
Coburn	Inhofe	Talent
Cochran	Isakson	Thomas
Cornyn	Kyl	Thune
Craig	Lott	Vitter
Crapo	Lugar	Warner

NOT VOTING—3

Enzi	Rockefeller	Salazar

The amendment (No. 4083) was agreed to.

AMENDMENT NO. 4108

The PRESIDING OFFICER. There will now be 2 minutes of debate equally divided on the Sessions amendment.

Mr. SPECTER. Mr. President, the Senate is not in order.

The PRESIDING OFFICER. The Senate will be in order.

Who yields time?

Mr. KENNEDY. Mr. President, is the Sessions amendment pending?

The PRESIDING OFFICER. Yes.

Mr. KENNEDY. A minute for and a minute against, is that correct?

The PRESIDING OFFICER. Yes.

Mr. SESSIONS. Mr. President, the earned-income tax credit is a major transfer of wealth that we provide to American workers and their families. It is a plan that has grown extraordinarily. The people who are illegally here now are not entitled to that plan. Just because they are legalized, they should not have an automatic right to obtain those benefits. If they are here until citizenship, they are entitled to those benefits. As a matter of law, they would be entitled to that. It amounts to, I believe, $40 billion over the next 10 years. It is something that we need to take seriously.

This $40 billion will increase our debt by that much in the next 10 years. We are generous with health care and with education and to allow overwhelmingly these people to stay in our country. But they are not entitled to this welfare benefit.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, what we are saying is when immigrants are going to be legal immigrants, they are going to pay income tax, and under the Sessions amendment they are going to say you are going to pay your taxes, but you are not going to be able to take the earned-income tax credit. Your two children may be American citizens, but under the Sessions amendment, you will not be able to take the earned-income tax credit because you have not effectively became a citizen, even though you are legally here and paying taxes.

This is a special punitive tax provision that will be unique only to those individuals. It is wrong and it is unfair, and this amendment should be defeated.

Mr. SESSIONS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The question is on agreeing to the amendment of the Senator from Alabama, Mr. SESSIONS.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MCCONNELL. The following Senator was necessarily absent: the Senator from Wyoming (Mr. ENZI).

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. ROCKEFELLER) and the Senator from Colorado (Mr. SALAZAR) are necessarily absent.

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

The result was announced—yeas 37, nays 60, as follows:

[Rollcall Vote No. 154 Leg.]

YEAS—37

Allard	DeMint	McConnell
Allen	Dole	Nelson (NE)
Bennett	Ensign	Roberts
Bond	Frist	Sessions
Bunning	Grassley	Shelby
Burns	Gregg	Stabenow
Burr	Hatch	Sununu
Byrd	Hutchison	Talent
Chambliss	Inhofe	Thomas
Coburn	Isakson	Thune
Cochran	Johnson	Vitter
Cornyn	Kyl	
Craig	Lott	

NAYS—60

Akaka	Dorgan	McCain
Alexander	Durbin	Menendez
Baucus	Feingold	Mikulski
Bayh	Feinstein	Murkowski
Biden	Graham	Murray
Bingaman	Hagel	Nelson (FL)
Boxer	Harkin	Obama
Brownback	Inouye	Pryor
Cantwell	Jeffords	Reed
Carper	Kennedy	Reid
Chafee	Kerry	Santorum
Clinton	Kohl	Sarbanes
Coleman	Landrieu	Schumer
Collins	Lautenberg	Smith
Conrad	Leahy	Snowe
Crapo	Levin	Specter
Dayton	Lieberman	Stevens
DeWine	Lincoln	Voinovich
Dodd	Lugar	Warner
Domenici	Martinez	Wyden

NOT VOTING—3

Enzi	Rockefeller	Salazar

The amendment (No. 4108) was rejected.

Mr. KENNEDY. I move to reconsider the vote.

Mr. DURBIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 4136

The PRESIDING OFFICER. Under the previous order, there will now be 2 minutes equally divided on the Ensign amendment. Who yields time?

The Senator from Nevada.

Mr. ENSIGN. Mr. President, just so people understand the difference between this amendment and the amendment we just voted on, when folks were here illegally, a lot of them used fraudulent Social Security numbers, some of them had stolen IDs and ruined lives with these stolen identifications. This amendment says that even though that is a felony and this bill gives them amnesty for that felony, we think that is enough. We don't think one of these illegal immigrants should be able to come back, instead of paying back taxes and qualify for EITC and all the other tax credits available to them.

Uncle Sam is saying: We are going to give you citizenship, permanent residency, we are going to forgive the felony of using a Social Security number fraudulently, and also, now you qualify for tax credits, and so the American taxpayers are going to have to write you a check. I think that is wrong. That is why my colleagues should support this amendment.

The PRESIDING OFFICER. Who yields time in opposition?

Mr. KENNEDY. Mr. President, I yield 1 minute to the Senator from South Carolina.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. GRAHAM. Mr. President, my very good friend from Nevada is driven by what he thinks is fair and right. I have a totally different view. Here is what I think is fair and right: Punish people appropriate to the crime; don't take tax policy and connect it to criminal law.

What we are saying people right now is: pay your taxes, learn English, pay a fine. But let's not come up with tax policy for one group of people who are now legal and say: You have to pay, but you don't get what anybody else in the country legally gets, and we have made you legal.

What damage are we going to do? We are going to take the tax law and turn it upside down and focus on one group and kick them around after they do everything else that everybody else has to do. That is not the best of this country. That is not consistent with the punishment versus the crime. Why would we ask somebody to pay their taxes and then say: Thanks for the money; you don't get any other benefits in the Tax Code. Rapists, murderers, and thieves go to jail, but they get refunds if the Tax Code says so. The only people who are not going to get a refund after they pay the taxes is this group of people working hard? That is not right.

Mr. ENSIGN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to amendment No. 4136. The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. The following Senator was necessarily absent: the Senator from Wyoming (Mr. ENZI).

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. ROCKEFELLER) and the Senator from Colorado (Mr. SALAZAR) are necessarily absent.

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

The result was announced—yeas 50, nays 47, as follows:

[Rollcall Vote No. 155 Leg.]

YEAS—50

Alexander	Craig	Murkowski
Allard	Crapo	Nelson (FL)
Allen	DeMint	Nelson (NE)
Baucus	Dole	Roberts
Bennett	Ensign	Santorum
Bond	Frist	Sessions
Bunning	Grassley	Shelby
Burns	Gregg	Smith
Burr	Hagel	Snowe
Byrd	Hatch	Stabenow
Carper	Hutchison	Stevens
Chambliss	Inhofe	Sununu
Coburn	Isakson	Talent
Cochran	Johnson	Thomas
Coleman	Kyl	Thune
Collins	Lott	Vitter
Cornyn	McConnell	

NAYS—47

Akaka	Feingold	Martinez
Bayh	Feinstein	McCain
Biden	Graham	Menendez
Bingaman	Harkin	Mikulski
Boxer	Inouye	Murray
Brownback	Jeffords	Obama
Cantwell	Kennedy	Pryor
Chafee	Kerry	Reed
Clinton	Kohl	Reid
Conrad	Landrieu	Sarbanes
Dayton	Lautenberg	Schumer
DeWine	Leahy	Specter
Dodd	Levin	Voinovich
Domenici	Lieberman	Warner
Dorgan	Lincoln	Wyden
Durbin	Lugar	

NOT VOTING—3

Enzi	Rockefeller	Salazar

The amendment (No. 4136) was agreed to.

Mr. ENSIGN. Mr. President, I move to reconsider the vote.

Mr. SANTORUM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

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

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

The Senate is not in order.

AMENDMENT NO. 4188

Mr. SPECTER. Mr. President, I think we have finally cleared away all of the underbrush on the managers' package. All I can say with the managers' package is it makes sausage look very good, but I think we are ready to proceed to a vote on a managers' package. People have asked for it.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, I have an inquiry through the Chair. I thought it was possible, though I would not need 10 minutes, not having spoken on the bill, to ask for 10 minutes simply to point out a couple of things in the managers' package, including the fact that the U.S. Government would be required to consult with the Mexican Government before building any fences on the border.

Would I be able to ask for time to discuss anything in the managers' package at this time?

The PRESIDING OFFICER. The Senator could seek approval by unanimous consent.

Mr. KYL. I ask unanimous consent to speak for 1 minute.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. KYL. Mr. President, I thank my colleagues for that courtesy.

The managers' amendment has been negotiated right up to the last second. It is hard to know exactly everything that is in it. I am told by staff that among the provisions is one which:

> . . . requires Federal, State and local representatives in the United States to consult with their counterparts in Mexico concerning the construction of additional fencing and related border security structures along the U.S.-Mexico border before the commencement of any such construction to, No. 1, solicit the views of affected communities; No. 2, lessen tensions; and, No. 3, foster greater understanding and stronger cooperation on this and other important security issues of mutual concern.

I am all for consulting with the Mexican Government on matters of mutual concern, but I do not think it is necessary for us to put as a precondition into the building of any fencing structures the requirement that the U.S. Government consult with the Government of Mexico. For that reason among others, I will be voting against the managers' package.

I thank my colleagues.

Mr. DODD. Mr. President I listened to the remarks of Senator KYL concerning the inclusion in the managers' package of the holding of consultations at Federal, State and local levels on both sides of border before fence construction occurs. I think I know something about this issue because it was my amendment. Senator KYL suggested in his remarks that consultations would give the Mexican Government veto power over the building of a fence. Nothing could be farther from the truth, and nothing in that amendment would impede the ability of the U.S. Government to construct a fence in manner the of our choosing.

But it is simply common sense and common courtesy to consult those individuals in our own communities and

in affected communities on the other side of the border before constructing a fence. Why? Because the fence alone is not going to stop the flow of illegal immigration into the United States. It is going to take a cooperative effort between the United States and Mexico. My amendment seeks to foster the kind of cooperation that is vital if we are going to once and for all secure our borders.

I thank the President for the opportunity to clarify this matter.

Mr. SPECTER. Mr. President, I send the managers' package to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Pennsylvania [Mr. SPECTER], for himself and Mr. KENNEDY, proposes an amendment numbered 4188.

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

Mr. KYL. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The question is on agreeing to the amendment. 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) and the Senator from Colorado (Mr. SALAZAR) are necessarily absent.

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

The result was announced—yeas 56, nays 41, as follows:

[Rollcall Vote No. 156 Leg.]

YEAS—56

Akaka	Durbin	McCain
Baucus	Feingold	Menendez
Bayh	Feinstein	Mikulski
Bennett	Graham	Murkowski
Biden	Hagel	Murray
Bingaman	Harkin	Nelson (FL)
Bond	Inouye	Obama
Brownback	Jeffords	Reed
Cantwell	Johnson	Reid
Carper	Kennedy	Sarbanes
Chafee	Kerry	Schumer
Clinton	Kohl	Snowe
Coleman	Landrieu	Specter
Collins	Lautenberg	Stabenow
Craig	Leahy	Stevens
Dayton	Levin	Voinovich
DeWine	Lieberman	Warner
Dodd	Lugar	Wyden
Domenici	Martinez	

NAYS—41

Alexander	Dole	McConnell
Allard	Dorgan	Nelson (NE)
Allen	Ensign	Pryor
Bunning	Enzi	Roberts
Burns	Frist	Santorum
Burr	Grassley	Sessions
Byrd	Gregg	Shelby
Chambliss	Hatch	Smith
Coburn	Hutchison	Sununu
Cochran	Inhofe	Talent
Conrad	Isakson	Thomas
Cornyn	Kyl	Thune
Crapo	Lincoln	Vitter
DeMint	Lott	

ANSWERED ''PRESENT''—1

Boxer

NOT VOTING—2

Rockefeller Salazar

The amendment (No. 4188) was agreed to.

Mr. REID. I move to reconsider the vote.

Mr. SPECTER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEVIN. Mr. President, I thank the chairman, Senator SPECTER, and Senator LEAHY for accepting my amendment, which would help thousands of religious minorities who have come to the United States seeking relief from the persecution they faced in Iraq.

Currently in the United States, approximately 3,000 Christian Iraqis—about 2,000 of whom are in the metropolitan Detroit area—are in jeopardy of being deported. These are persons with no criminal record who came to the United States seeking asylum during the regime of Saddam Hussein. Due to the long delays in the immigration system, however, their cases were not heard before April 30, 2003, when the United States declared victory in Iraq. When these individuals finally had their day in court, the immigration judge denied their application because the government in Iraq that persecuted these individuals was no longer in power.

These Iraqi Christians had valid claims for asylum when the came here, they have been hard-working, law abiding residents over many years, and they have put down roots and raised families here. They should not be punished for the bureaucratic backlogs of the immigration judicial system.

My amendment would protect persecuted religious minorities who fled Saddam Hussein's oppressive government in Iraq and came to the United States with valid claims of asylum and for whom, despite the change in government regime, it is not safe to return to their homeland. The persecuted religious minorities are defined as someone who is or was a national or resident of Iraq, is a member of a religious minority in Iraq, and shares common characteristics with other minorities in Iraq who have been targets of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion. My amendment would make these individuals eligible for legal permanent residency status and would supersede all previous judicial action on their cases.

I am pleased that we are able to provide relief to these individuals who deserve legal permanent residency on the merits of their cases but were unfairly denied it because of bureaucratic delays that were beyond their control.

The PRESIDING OFFICER. The Senator from Louisiana.

CHANGE OF VOTE

Ms. LANDRIEU. Mr. President, on rollcall vote No. 131, I voted yea. It was my intention to vote nay. Given this does not change the outcome of the vote, I ask unanimous consent that I be permitted to change my vote. This will in no way change the outcome of the vote.

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

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. SPECTER. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The bill having been read the third time, the question is, Shall it pass?

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. ROCKEFELLER) and the Senator from Colorado (Mr. SALAZAR) are necessarily absent.

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

The result was announced—yeas 62, nays 36, as follows:

The result was announced—yeas 62, nays 36, as follows:

[Rollcall Vote No. 157 Leg.]

YEAS—62

Akaka	Feingold	McCain
Baucus	Feinstein	McConnell
Bayh	Frist	Menendez
Bennett	Graham	Mikulski
Biden	Gregg	Murkowski
Bingaman	Hagel	Murray
Boxer	Harkin	Nelson (FL)
Brownback	Inouye	Obama
Cantwell	Jeffords	Pryor
Carper	Johnson	Reed
Chafee	Kennedy	Reid
Clinton	Kerry	Sarbanes
Coleman	Kohl	Schumer
Collins	Landrieu	Smith
Conrad	Lautenberg	Snowe
Craig	Leahy	Specter
Dayton	Levin	Stevens
DeWine	Lieberman	Voinovich
Dodd	Lincoln	Warner
Domenici	Lugar	Wyden
Durbin	Martinez	

NAYS—36

Alexander	Crapo	Lott
Allard	DeMint	Nelson (NE)
Allen	Dole	Roberts
Bond	Dorgan	Santorum
Bunning	Ensign	Sessions
Burns	Enzi	Shelby
Burr	Grassley	Stabenow
Byrd	Hatch	Sununu
Chambliss	Hutchison	Talent
Coburn	Inhofe	Thomas
Cochran	Isakson	Thune
Cornyn	Kyl	Vitter

NOT VOTING—2

Rockefeller Salazar

The bill (S. 2611), as amended, was passed.

(This bill will be printed in a future edition of the RECORD.)

Mr. LEVIN. I move to reconsider the vote.

Mr. INOUYE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEVIN. Mr. President, our immigration system is broken and needs to

be repaired. This bill is a strong step in the right direction. We need to protect our borders and look out for American workers, and we also need a responsible way to meet the need for temporary workers, particularly in the agricultural area, where they represent about 70 percent of the U.S. agricultural workforce, with a path to earned citizenship for hard-working, law abiding temporary workers. This bill, the product of bipartisan compromise, takes a commonsense approach to all of these issues.

The comprehensive immigration reform bill before us today would strengthen security at our borders through increased border patrol and heavier fines for employers who violate the law. It would create a sustainable temporary worker program to help fill the lowest wage jobs. It would enforce labor protections for U.S. workers by ensuring that the temporary workers who are certified do not adversely impact them. And it would provide a path to earned citizenship that does not bump anybody who has applied through the legal channels and has been waiting. Undocumented immigrants who have been here for years, set down roots, worked hard, and paid their taxes would go to the end of the line and earn citizenship after perhaps as many as 10 to 15 years.

I am pleased that we were able to include additional protections for U.S. workers in the bill. I supported an amendment introduced by Senator OBAMA that strengthens labor protections for U.S. workers and bars employers from hiring guest workers in areas with a high unemployment rate. This and other amendments will help ensure that we have a well-balanced, and workable guest worker program. In addition to these amendments, I am also pleased that we have maintained the AgJOBS provision within the bill. This provision is a commonsense fix to major problems being faced by those who have the least access to resources: low wage agricultural workers from exploitation which would adversely impact American workers.

I was pleased that the Senate recognized the significant implementation challenges associated with the Western Hemisphere Travel Initiative and accepted an amendment that would extend its deadline. The WHTI requires anyone entering the United States via a U.S.-Canadian land border to have a passport or other acceptable alternative document by January 1, 2008. The amendment accepted by the Senate extends this deadline by 18 months to June 1, 2009.

My home State of Michigan, like other northern border States, enjoys a close economic and social relationship with Canada. The WHTI will play an important role in securing our borders, but it must be implemented in a reasonable, fair, and well thought out manner that minimizes negative impacts on trade, travel, and tourism. By voting to extend the deadline, we are giving the Departments of State and Homeland Security additional time to study and correct the various implementation issues related to the WHTI.

I am also pleased that the immigration bill addresses another key border issue: the security problem that is posed by trash trucks entering this country. My amendment, which was accepted by the bill managers, would stop the importation of Canadian waste if the Department of Homeland Security can not show that the methodologies and technologies used to screen these trash trucks for the presence of chemical, nuclear, biological, and radiological weapons are as effective as those used to screen for such materials in other items of commerce entering the United States by commercial vehicle.

Finally, I want to thank the managers of this bill for accepting my amendment that would protect thousands of individuals who fled religious persecution in Iraq under Saddam Hussein. Due to delays in the immigration bureaucracy, many of these individuals have not yet had their day in court, and, of those who have, many have been denied asylum based on changed country conditions since the war. My amendment would make these individuals eligible for legal permanent residency if they would have received that status but for the bureaucratic delays.

The comprehensive immigration bill before us will make our borders more secure while creating a workable temporary worker program that protects U.S. jobs. I will support this bill and hope that the conference committee will return a final bill similar to it.

EXECUTIVE SESSION

NOMINATION OF BRETT M. KAVANAUGH TO BE UNITED STATES CIRCUIT JUDGE FOR THE DISTRICT OF COLUMBIA CIRCUIT—Resumed

The PRESIDING OFFICER. Under the previous order, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on Executive Calendar No. 632, the nomination of Brett M. Kavanaugh, of Maryland, to be United States Circuit Judge for the District of Columbia Circuit.

Bill Frist, Arlen Specter, Saxby Chambliss, Larry Craig, Mel Martinez, Elizabeth Dole, Johnny Isakson, Pat Roberts, Ted Stevens, Craig Thomas, Thad Cochran, Chuck Grassley, Judd Gregg, Tom Coburn, Richard Shelby, Lindsey Graham, Orrin Hatch.

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

The question is, Is it the sense of the Senate that debate on the nomination of Brett M. Kavanaugh, of Maryland, to be United States Circuit Judge for the District of Columbia Circuit 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 North Dakota (Mr. CONRAD), the Senator from West Virginia (Mr. ROCKEFELLER), and the Senator from Colorado (Mr. SALAZAR) are necessarily absent.

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

The yeas and nays resulted—yeas 67, nays 30, as follows:

[Rollcall Vote No. 158 Ex.]

YEAS—67

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

NAYS—30

Akaka	Durbin	Levin
Baucus	Feingold	Menendez
Bayh	Harkin	Mikulski
Bingaman	Inouye	Murray
Boxer	Jeffords	Reed
Cantwell	Johnson	Reid
Clinton	Kennedy	Sarbanes
Dayton	Kerry	Schumer
Dodd	Lautenberg	Stabenow
Dorgan	Leahy	Wyden

NOT VOTING—3

Conrad	Rockefeller	Salazar

The PRESIDING OFFICER. On this vote, the ayes are 67, the nays are 30. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Parliamentary inquiry: Is it appropriate now to begin debate on the confirmation of Brett Kavanaugh?

The PRESIDING OFFICER. It is appropriate.

Mr. SPECTER. Mr. President, I support the confirmation of Brett Kavanaugh to the Court of Appeals for the District of Columbia because of his academic achievements, professional work, and potential to be an outstanding Federal judge.

Brett Kavanaugh was an honors graduate from Yale University, was a graduate of the Yale Law School, and a member of the Law Journal there. That is a strong indication of intellectual achievement. He then clerked for

Judge Walter Stapleton of the Court of Appeals for the Third Circuit and then Judge Alex Kozinski of the Court of Appeals for the Ninth Circuit and then clerked for Justice Kennedy on the Supreme Court of the United States. Those are really outstanding credentials, academically and for the beginning career of a young lawyer. He then worked in the Solicitor General's Office, argued a case before the Supreme Court of the United States, and then worked as associate White House counsel and has been Secretary to President Bush.

He had a second hearing which was requested by the Democrats so that he could respond to questions which had arisen in the 2-year interim since his first hearing, and he responded by allaying any concerns about any involvement which he may have had on the subject of interrogation of detainees.

He was asked about any potential participation in the administration's electronics surveillance program. He answered that in the negative.

He responded to questions with respect to the subject of rendition, again with no knowledge on his part of any of that.

He was subject to close questioning about his work with Kenneth Starr on the impeachment proceeding, and he was not in a position of leadership. He was one of several down the tier, with Mr. Starr being Independent Counsel. Mr. Kavanaugh was a deputy, with as many as nine other such deputies on his level.

He was candid in some criticism of the handling of the matter; the public release of the report was not the choosing of Independent Counsel. He testified that he believed that the Independent Counsel statute ought to be changed materially if it was to be revised and that having Mr. Starr both on Whitewater and the impeachment of the President was too much.

He wrote a law review article on the issue of peremptory challenges for Black jurors and took the position that it was inappropriate, should not be done, and displayed in that scholarly aptitude on the journal.

One of the objections raised to Mr. Kavanaugh involved how close he was to the President. But it is hardly a surprise that Brett Kavanaugh would be close to the President because the President selects people in whom he has confidence and who share his approach to jurisprudence, to strict construction, and to not legislating from the bench. That prerogative of the President is what Presidential elections are about.

Some of Mr. Kavanaugh's answers were hesitant, and I think he was very concerned about being very precise in what he had to say. He might have been a little forthcoming, but in a context where there is a question about subsequent investigations, if the control of the Senate changes, in the context of witnesses appearing before grand juries on five occasions, looking for inconsistencies, it is understandable that he was very cautious in his comments.

I believe that on this record, Brett M. Kavanaugh ought to be confirmed, and I urge my colleagues to vote in the affirmative.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. Mr. President, I have some remarks I would like to make on this nomination.

Mr. LEAHY. Will the Senator yield for just a moment? He does have the floor, I fully understand. I assume we would follow the normal order that after the chairman spoke, the ranking member would be allowed to speak.

Mr. CORNYN. I will be glad to defer to the ranking member.

Mr. LEAHY. The Senator from Texas has the floor. He does have the floor.

Mr. CORNYN. Mr. President, I recognize I have the floor and the right to the floor, but I will be glad to accommodate the ranking member and, if I can, by unanimous consent, request that I be recognized after he speaks, I would be happy to relinquish the floor to him.

Mr. LEAHY. I certainly have no objection to that. I assume what we will probably do for the rest of the evening, and I suspect we probably will do the same thing tomorrow—hopefully by tomorrow night or early Saturday we will finish—we will go back and forth. I make a request I be recognized, and upon the completion of my remarks, the distinguished Senator from Texas be recognized.

Mr. DURBIN. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Only for the purpose of being in the queue after the Senator from Texas, if I can amend the unanimous consent request.

Mr. LEAHY. I ask unanimous consent that Senator DURBIN follow the Senator from Texas.

The PRESIDING OFFICER. Is there objection?

Mr. LOTT. Reserving the right to object, Mr. President, and I do not wish to object, I presume this is a discussion on the nominee. Senator DAYTON and I have a bill we want to introduce. It will take just 3 or 4 minutes to comment on the introduction.

Mr. LEAHY. Mr. President, I ask unanimous consent that before I am recognized—the Senator from Texas still has the floor—before I am recognized and the Senator from Texas is recognized and then the Senator from Illinois is recognized and then the Senator from Idaho is recognized, that 10 minutes be divided between the Senator from Mississippi and the Senator from Minnesota.

Will that give Senator LOTT and Senator DAYTON enough time?

Mr. LOTT. That will be more than enough time. That is very generous.

Mr. LEAHY. That upon yielding back of the time of the Senator from Mississippi and the Senator from Minnesota, the Senator from Vermont be recognized following the chain we talked about.

The PRESIDING OFFICER. Is there objection?

Mr. CORNYN. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. May I just add to that unanimous consent request that Senator HATCH be added as the next speaker on our side of the aisle in the queue?

Mr. LEAHY. I have no objection to that. I think it is quite appropriate.

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

Mr. LOTT. Mr. President, I believe Senator DAYTON will actually introduce the legislation, and I join as a cosponsor. He will lead off with his remarks, and then I will be honored to follow.

THE PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. DAYTON. I thank the Chair.

(The remarks of Mr. DAYTON and Mr. LOTT pertaining to the introduction of S. 3239 are printed in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, I thank the Senator from Minnesota and the Senator from Mississippi, and I thank again the distinguished Senator from Texas, who has shown his usual and normal courtesy in allowing me to go next.

The Senate has just passed bipartisan comprehensive immigration reform. I think that is an achievement for all Americans, present and future, who want to keep our country safe, and it fixes what most will acknowledge is a broken system. I mention that because the Senate, Republicans and Democrats, worked together to speak about one of America's top priorities, and it worked. I think the American public understands that. We ought to continue that. We ought to continue that on the path of addressing Americans' top priorities.

We ought to be debating the war in Iraq. None of us can go home without hearing a debate on the war in Iraq, either for or against it. We ought to be debating it on the floor of the Senate. We are, after all, the conscience of the Nation. We should be debating the war in Iraq.

We should debate the rising gas prices. You can't go into a diner in America without hearing a debate on that. They ask the same thing: Why aren't you debating it on the floor of the Senate?

How about the health care costs, which are going up at a time when seniors are faced with what for many of them is an incomprehensible prescription medicine plan. We ought to be talking about that. You can't go to the senior center anywhere in the country without hearing that being debated.

What is wrong with the Senate, the conscience of the Nation, debating it?

How about stem cell research? So many parents of children with diabetes, those who have had paralyzing injuries, they say: Why aren't you at least determining a way to have stem cell research?

What about the reauthorization of the Voting Rights Act? Not only has the Voting Rights Act worked to help those minorities in this country who were denied the right to vote before, but let us make sure that it works in the future for children today, Hispanic children today, African-American children today, the children of all races? How will we guarantee they will have the right to vote? We should reauthorize the Voting Rights Act.

These are all things on which the Senate could come together in a bipartisan fashion. We could have a bipartisan debate. The country would benefit by it. We would be a better body. The country would be better. But instead, it appears that because it is an election year, then we have to go to controversial, polarizing judicial nominations.

This nomination, like the difficult and controversial nominations of Judge Terrence Boyle and Michael Wallace, signifies that the Bush-Cheney administration and those who support it here in the Senate, are more interested in playing partisan election-year politics by heeding the siren call of special interest groups rather than tackling the pressing issues facing Americans today.

Local and national law enforcement have called upon the President to withdraw the nomination of Judge Boyle, as I have, and he would be well advised to do so. The nomination of Michael Wallace received the first ABA rating of unanimously ''not qualified'' for a circuit court nominee in more than 20 years. The last one to get that rating didn't go through. And the nomination before us today of Brett Kavanaugh is one of the few judicial nominations to be downgraded over time by the ABA.

The Senate's job is to fulfill our duty under the Constitution, not to advance a political agenda. No matter what our political affiliation, we are supposed to consider the interests of all Americans. We have to be able to assure the American people that the judges confirmed to lifetime appointments to the highest courts in this country are being appointed fairly to protect their interests, rather than to be a rubberstamp for whichever President nominated them. Mr. Kavanaugh is a nice young man who was nominated for the U.S. Court of Appeals for the District of Columbia Circuit after working for most of his career in behalf of the Bush-Cheney administration and the Republican Party in partisan, political jobs. Since helping to author the Kenneth Starr Report, he has worked in the office of the White House Counsel and as staff secretary to the Bush-Cheney administration. He was involved in the administration's use of 750 Presidential signing statements to try to reserve to the President the power to pick and choose which laws passed by Congress he wanted to follow. In other words, he allowed the President to sign a bill but then say: This law may apply to others, but it is not going to apply to the President or anybody else to whom I don't want it to apply. It is the first time in my lifetime a President has stated so emphatically, 750 times: I am above the law. He has helped the President pack the Federal bench with right-wing ideologues.

He has helped design the White House's overbearing secrecy policy. So now we are spending billions of dollars in marking things ''top secret,'' some of which were on Government Web sites for long periods of time until they realized it was pointing out embarrassing mistakes in the Bush-Cheney administration. So they yanked it off the Web sites and marked it ''top secret.'' We even have now the FBI going to a dead journalist—to a dead journalist, Jack Anderson—and pressuring his elderly widow to give up his notes of 20 and 30 years ago because it might prove embarrassing to some in their party.

So my question for this nominee, which is the same question I have asked of all nominees of either party, is whether you will be an independent check and balance.

I recall recommending to President Clinton a well-known Republican from my State for a seat on the Second Circuit Court of Appeals. I did that even though the man is certainly more conservative than I and belonged to the other party. I did it because I knew he would be independent; he would not be a rubberstamp for any President, Republican or Democratic.

Regrettably, Mr. Kavanaugh has failed through two hearings to establish that he has the capacity to be an independent check on his political patron, in this case a President who is asserting extraordinary claims of power. In fact, despite his close ties to the White House's inner circle, he wouldn't even tell us what issues he would recuse himself from hearing as a judge. We asked him specifically: Here is a case where you designed the legal basis for something, and now it comes before you as a judge; would you recuse or rule on work you have done? He wouldn't even acknowledge that he would. Instead we heard from a nominee who parroted the Bush-Cheney administration's talking points on subject after subject. I don't think the Senate should confirm a Presidential spokesperson to be a judge of the second highest court in the land.

After carefully evaluating Mr. Kavanaugh's record and his answers at two hearings, it is clear that he is a political pick being pushed for political reasons. His nomination is a continuation of the Republicans' decade-long attempt to pack the DC Circuit.

You can go all the way back to President Clinton's first term when the Republicans started playing politics with the DC Circuit. They blocked President Clinton's nominees so they could make sure they had a majority of Republican appointees on the court. They were among the 61 of President Clinton's nominees that the Republicans pocket filibustered. And their plan succeeded. After confirming two other nominees last year whom I strongly opposed—Janice Rogers Brown and Thomas Griffith—Republican nominees now comprise a 2-to-1 majority on the second most important court in the land. This is not a court which needs another rubberstamp for this President's assertions of Executive power.

The Republican majority who chose to shrink the court when there was a Democratic President is now bent on packing this court. They want this up-or-down vote even though they didn't apply that standard or anything near it to President Clinton's nominees to the DC Circuit. As I say, they denied 61 of President Clinton's nominees an up-or-down vote. When they stalled the nomination of Merrick Garland to the DC Circuit beyond the 1996 election, even Senator HATCH as chairman of the committee became frustrated. He claimed the way the Republicans were opposing judicial nominees was playing politics with judges, was unfair, and he was sick of it. I wish he had followed through instead of joining with his fellow Republicans in denying 61 judges an up-or-down vote. We did finally get Merrick Garland through, but he was the last one the Republicans were willing to consider for confirmation to this important circuit.

Here we have a person with no real experience other than being willing to take political orders.

Let me tell you about two of the nominees of President Clinton whom the Republicans would not allow to have a vote, a so-called pocket filibuster. One was Elena Kagan. They wouldn't allow her to come to a vote. Some even said: We are not sure of her qualifications. She is now dean of the Harvard Law School. These are the same people pushing a nominee for the Fifth Circuit, as I mentioned earlier, who is rated unanimously unqualified. And they pocket filibustered Alan Snyder. He had served as a clerk to Justice Rehnquist—no screaming liberal he, God rest his soul. Mr. Snyder was an experienced and respected litigator, but he was pocket filibustered. The fact is, for the rest of President Clinton's second term, they blocked all nominees to the DC Circuit, pocket filibustered them all with impunity.

I will give a little background. During the 17 months I was chairman of the Judiciary Committee, I tried to stop the poisonous pocket filibustering. I am a Democrat, and the Bush-Cheney administration is Republican. In 17 months, I moved through, and the Democratic-controlled Senate moved through, 100 of President Bush's nominees. We actually moved them faster than the Republicans had moved them for a Republican President.

But I don't want to say they rubberstamped everybody. They, the Republicans, actually did treat one nominee the same way they treated President Clinton's. It is the way they treated White House Counsel Harriet Miers when the President nominated her.

She is a woman who has not gone to Ivy League schools but has a more impressive background and experience than this nominee—certainly much more legal experience than this nominee. Republicans questioned her qualifications. They demanded answers about her work at the White House and her legal philosophy. They would meet on an off-the-record basis with the press and say what a terrible nomination this was for President Bush to make.

I said: At least let her have a hearing. All Democrats on the committee said: Out of fairness to the President, we ought to let his nominee have a hearing. The Republicans said: She is not going to get a hearing, and they forced the President to withdraw her nomination.

Despite the political battle, as I said when I moved through 100 of President Bush's nominees, I approached the nomination of Mr. Kavanaugh with an open mind. I gave him the chance that Elena Kagan and Alan Snyder never received. In fact, he has had more opportunities than they. He has had an opportunity to demonstrate at not one but two hearings that he could be an independent nominee who deserved to be confirmed.

The Washington Post noted in 2003, when President Bush nominated Mr. Kavanaugh, that he had nominated somebody ''who will only inflame further the politics of confirmation to one of this country's highest-quality courts'' and concluded that it was ''too bad Mr. Bush is too busy playing politics to lead.'' I agree. Instead of being an uniter, he is being a divider.

I kept an open mind, even though only 1 of the 22 judges appointed to the D.C. Circuit since the Nixon administration, Kenneth Starr, had even less legal experience at the time of his nomination than Kavanaugh. Throughout all Republican and Democratic Presidents, only Kenneth Starr had less experience since President Nixon's time than Mr. Kavanaugh.

I even kept an open mind after Mr. Kavanaugh's nomination was one of the few to be downgraded by the ABA. I can't recall anyone being confirmed after such a development.

But after I saw Mr. Kavanaugh at his recent hearing, I could appreciate one judge interviewed by the ABA peer review subcommittee describing Mr. Kavanaugh as ''less than adequate'' and someone who ''demonstrated experience on the level of an associate.'' Others interviewed recently raised concerns about Mr. Kavanaugh's ability to be balanced and fair, given his years in partisan positions, working to advance a particular partisan political agenda. He was described by interviewees as ''sanctimonious,'' ''immovable and very stubborn and frustrating to deal with on some issues''—not the qualities that make for a good judge.

Despite the word put out falsely by the Bush-Cheney defenders, it was not a change in membership in the ABA peer review committee that led to his downgrading. Three-quarters of those who previously reviewed this nomination, and continued on the committee, voted to downgrade the rating based on the recent interviews and review.

His response to one very simple question I asked during his most recent hearing spoke volumes. I asked the nominee why he had taken 7 months to answer the written questions submitted to him following his initial hearing in 2004. He repeated the meaningless phrase that he ''took responsibility'' for such dismissive and irresponsible conduct and, implicitly, for his lack of seriousness about the confirmation. When he did that, it actually elicited laugher from the hearing room but not laughter from me because I felt it was not the first time he ''dissembled'' in response to my questions.

I suspect the truth is, he made a political calculation and decided to expend his time and effort at his benefactor's reelection campaign during the spring, summer, and fall of 2004 rather than answering the questions legitimately asked by Senators on the Judiciary Committee. He may be brilliant at politics and have powerful supporters, but that doesn't mean he will be a good judge. This is, after all, a vote to determine not who your supporters are or not how good you have been at partisan politics but how good a judge you will be.

In my opening statement at his hearing, I raised a key question regarding this nomination: Will he demonstrate his independence and show he can serve in the last independent branch of the Government? One party controls the White House, the Senate, the House of Representatives. There is only one body left to be independent. That is the courts. Can we look to him to be a check and balance on the President, who is asserting extraordinary claims of power, or on any President?

He could have told us something about his responsibilities as staff secretary or as an associate White House counsel, giving us examples when he showed independence and good judgment, but he didn't. Instead, he appeared at his confirmation hearing to be a spokesman and representative for the administration. Instead of speaking about how independent he would be, he basically over and over again acted like a spokesman for the administration.

Courts are not supposed to be owned by the White House. I don't care which administration is in control of the White House, they are not supposed to control the courts. Over and over he answered our questions by alluding to what the President would want and what the President would want him to do. We are going to confirm somebody who, in sworn statements, talks about how he would try to make sure he ruled as the President would want him to rule? Have we really sunk that low in the Senate on judicial nominations?

We heard from a nominee who responded not with independent answers but with the administration's talking points. We heard from a young man who, when invited by the chairman to introduce his family, began his remarks not by introducing the family but by thanking the President for nominating him and later emphasized—as if that was a qualification—that he had ''earned the trust of the President'' and his ''senior staff.''

I have no problem with the President nominating Republicans—although that seems to be all he will nominate, unlike other Presidents of both parties who have nominated people from both parties—but I expect him to nominate somebody who can be independent and will not have his strings pulled by the White House. It may be useful for advancement within the Bush-Cheney administration in Republican circles, but they are not qualifications for a judge who can be independent if he is asked to rule on this President's or the Bush-Cheney administration's policies.

Senator GRAHAM put the question this way during the course of the hearing: ''There is a fine line between doing your job as a White House counsel and being part of the judicial selection team and being a judge yourself. There is a line between being an advocate and being a judge.'' I don't believe he showed he knows that line. The DC Circuit is too important to pack with those who would merely rubberstamp the Bush-Cheney administration or any administration, Democratic or Republican. We can't rubberstamp an administration's policies.

We had the sudden and basically forced resignation of the President's handpicked head of the CIA, Porter Goss. America witnessed another ''heck of a job'' accolade to an administration insider leaving a critical job undone. This administration insider—we saw what a great job he did. So, like administration insiders who ran FEMA right after Hurricane Katrina, the President said they had done a heck of a job. I think virtually all Americans, Republican and Democratic, would disagree. In fact, for that matter, this week we learned that the President's Secretary of the Veterans' Administration was in charge when there was the largest theft of private information from the Government ever—the largest theft ever, the loss of information on more than 26 million American veterans.

Compounding the incompetence is the misguided decision by the Veterans' Administration for secrecy in trying to cover it up for the last 3 weeks. Boy, if we don't talk about it, if we cover it up, maybe nobody will know that we lost the critical private information of 26 million veterans.

This is falling on the heels of last year's debacle of the $1 billion shortfall in the VA's budget for veterans health care by the same leadership, who said: Oh, we have plenty of money when they want to make political points, then quietly to the Congress after, saying: Whoops, we don't. It is a heck of a job. It is just one more heck of a job by this administration.

Maybe we should have a ''heck of a job'' medal to give to all of these people who get fired for incompetence—give them a ''heck of a job'' medal—great big thing, you have done a heck of a job. It is a heck of a job on Katrina; it is a heck of a job on rubberstamping nominees for the courts; it is a heck of a job when you lose 26 million records and put these veterans at great risk. Oh, wait a minute. They did say they would have an 800 number. If you are 1 of the 26 million now facing identity theft, maybe lose your car, maybe lose your house, maybe lose your pension, maybe lose your life savings, we have an 800 number for you.

Anybody try to get through to that 800 number? If you do, they tell you go out and buy protection. Whatever happened with ''the buck stops here''? It has to be more than photo-ops when you run operations.

What is desperately lacking throughout this administration is accountability. The attack on 9/11 happened on their watch. You don't see accountability. The faulty intelligence, the years of fundamental mistakes in Iraq, hundreds of billions of dollars spent in the war in Iraq, and we were told that we were going to be greeted as liberators and that it would be over in a matter of days. The lack of preparation, the horrific aftermath of Katrina, and on and on—billions spent on homeland security.

First, a crony of the President was going to be put in to run the Department of Homeland Security until they found out the very disturbing things about his personal life; found out things that the administration knew about, that they were trying to keep secret. But when the press found out about it, somebody had an excuse not to go there.

Be ready on a moment's notice if we are ever attacked again, like we were attacked early on in the Bush-Cheney administration. Well, with Katrina, we had days and days and days of notice. It didn't do any good.

I think, speaking in behalf of the President for a moment, it is not all his fault. He has not been helped by the Republican-controlled Congress that won't provide any checks and balances. The Republican controlled Congress won't raise the questions that might be asked, and that, had they been asked, might have forced the administration to do a better job. But the Republican-controlled Congress won't serve as a check and balance, when there are colossal failures of homeland security, or at the VA, or anywhere else. Can we at least ask for the courts to be a check and balance to preserve our rights and our way of life? If our Government overreaches, at least we can count on the courts to be there to check and balance.

In fact, now that the administration is raiding congressional offices, the Republican leadership in Congress is finally protesting. When ordinary Americans' telephone calls and Internet use is being wiretapped without warrants, that same Republican leadership looked the other way. I guess they had to tread on the toes of Members of Congress before the Republican Congress will say anything.

Last year, when the President nominated Harriet Miers, Republicans questioned her qualifications and demanded answers about her work at the White House and her legal philosophy. They defeated her nomination without a hearing. Now it appears that they are back to their rubberstamping routine with every Senate Republican ready to approve this nomination without question or pause.

Then we ask the question: The President's counsel, the staff secretary, did that nominee act as a check and balance, or will he continue, as he said at his hearing, to do whatever the President wanted?

At his hearing, Senator FEINSTEIN and I gave him another opportunity to answer concern about his loyalty to the President. We asked about recusal. He could have said he would not hear any matter that raised questions about the President's claims of executive power insofar as was involved with the development of the policies and practices of the Bush-Cheney administration. It is almost judicial ethics 101 in the first year of law school. The easy answer is: Of course, I will not rule on that. Of course, I would recuse myself on something I have developed in the White House. He could have walled off matters covered by the Presidential signing statement—750 of them. This President has shown unchecked Executive power exceeding that of Richard Nixon. He could have said that given his role in the development of this administration's secrecy policies he would recuse himself from those questions regarding the right of the American people to know about their Government. It would not only be the right answer, but it would be an easy answer. After all, the administration stacked that court with so many Republicans, he should feel comfortable, but even there he didn't say he would follow basic judicial ethics.

At a time when the Senate should be addressing America's top priorities, the President and his Senate allies instead are trying to divide and distract from fixing real problems by pressing forward with this controversial unqualified nomination.

We showed in the recent debate that at least among senior Members—Republican and Democratic Members—we could be uniters and not dividers.

Unfortunately, in this case, the White House wants to be dividers not uniters. And the leadership is ready to cater to the extreme right-wing and special interest groups agitating for a fight on judicial nominations. They made no secret of the reason for pushing nominations to the Senate. They are even willing to hold up confirmation of the new Director of the CIA to vote now instead of a week from now on a nomination that has waited 3 years anyway. They just want to stir up a fight.

Mr. Kavanaugh is a young, relatively inexperienced but ambitious person who, in two hearings, has failed miserably to demonstrate his capacity for independence. I have voted for an awful lot of Republican nominees, and I expect I will in the future. I am not going to vote for any nominee—Republican or Democrat—who has failed to demonstrate his capacity for independence. This nominee has not, and I cannot in good conscious support action on this nomination to one of the Nation's highest courts.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. Mr. President, almost 3 years have passed since Brett Kavanaugh was nominated to the U.S. Court of Appeals for the DC Circuit. I am glad that the time has finally come for an up-or-down vote on his nomination.

Despite the threats of a filibuster and the unwarranted attacks on the nominee's qualifications and character, Brett Kavanaugh will soon be confirmed by a bipartisan majority of this body.

I fully support his nomination, and believe that he will be a valuable addition to the Federal bench. In just a moment, I will outline the reasons why.

But, first, I must say I am troubled that his confirmation has been needlessly protracted and contentious. It is the contentiousness that concerns me most.

Brett Kavanaugh's nomination has routinely been described in the press as ''controversial''—not because of any legitimate quality or characteristic of the nominee, but simply because my colleagues on the other side have declared it so.

These individuals have demeaned Kavanaugh as a ''crony,'' a ''partisan warrior,'' and have characterized his nomination as ''among the most political in history'' and ''judicial payment for political services rendered.'' Yet, a leading Democrat critic during a recent hearing conceded that Brett Kavanaugh has ''blue-chip credentials.'' I don't understand how these comments can be squared with one another.

Mr. President, I have deep concerns about the tenor of many recent debates over this President's judicial nominees. I fear that this confirmation battle is just the latest in a series of bad precedents set in recent years when it comes to confirmation votes on a President's nominees.

The fight over Justice Samuel Alito's nomination is the first example that comes to people's minds, but there are many others. You will recall that during the Alito debate, one of his opponents said, ''You name it, we'll do it,'' to defeat the Alito nomination. Sadly, that statement captured the tone of the Alito confirmation debate—where we saw a distinguished public servant subjected to unwarranted, baseless attacks.

Fortunately, a bipartisan Senate rejected the attempt to filibuster Samuel Alito. Any attempt to filibuster Brett Kavanaugh would surely meet the same fate.

I don't think that I am going out on a limb when I say that neither the Alito nor the Kavanaugh confirmation debates could be considered the Senate's ''finest hour.'' Taken together with many others, these confirmation battles have the potential to paint for the public a distorted picture of our Federal judiciary—and further erode the confidence in our legal system.

The U.S. Senate should take the lead and give the public a more accurate understanding of the judge's role in our constitutional democracy. To achieve that, the judicial confirmation process must be more civil, respectful, and free of partisan politics.

There are many reasons I support this fine nominee.

Brett Kavanaugh is, by any reasonable measure, superbly qualified to join the Federal bench. His legal resume is as impressive as they come—one with a demonstrated commitment to public service. After law school at Yale, where he was an editor of the Yale Law Journal, Kavanaugh held prestigious clerkships for three Federal appellate judges—including U.S. Supreme Court Justice Anthony Kennedy. He also served in the Solicitor General's office, the Office of Independent Counsel, and was a partner at Kirkland & Ellis, one of the Nation's elite law firms. Most recently, he was Associate White House Counsel, and is currently Staff Secretary to President Bush, a job whose title belies the very serious and important responsibilities that that individual performs.

Earlier this month, the Judiciary Committee had the good fortune of hearing from Kavanaugh's mentors, two men who know him best. Neither of these men recognized the critics' demeaning description of Brett Kavanaugh as a partisan or as someone with an agenda.

Ninth Circuit Judge Alex Kozinski told the Committee that he ''never sensed any ideology or agenda'' when Kavanaugh served as his law clerk—perhaps the most important job other than the job of the judge in judicial chambers. Third Circuit Judge Robert Stapleton urged Kavanaugh to consider the judiciary as a career because, in addition to this young clerk's legal acumen, he displayed ''no trace of arrogance and no agenda.''

Judge Stapleton praised the nominee for appreciating the ''crucial role of precedent in a society that is committed to the rule of law.''

Brett Kavanaugh clearly understands the impartiality and independence required of an article III judge. At his first hearing in April of 2004, Mr. Kavanaugh described it best when he said: ''I firmly disagree with the notion that there are Republican judges or Democrat judges. There is only one type of judge. There is an independent judge under our Constitution. And the fact they may have been a Republican or a Democrat or an independent in a past life is completely irrelevant to how they conduct themselves as judges.''

The independence of our Federal judiciary is, again, using Brett Kavanaugh's words, ''the crown jewel'' of our constitutional democracy. But I worry that the Senate—perhaps inadvertently—is giving the American people a distorted view of our system. I regret that at the root of these harsh and unfair attacks may be a deep-seated cynicism, namely, that Federal judges are somehow just another branch of the legislature, that they are merely politicians in black robes who are somehow able to inject their own policy agendas into court decisions, thereby rendering the popular phrase ''legislating from the bench.''

But nothing could be further from the Founders' vision of our judiciary under the Constitution; Federal judges are given life tenure without salary reduction, precisely because we want to ensure they will decide each case, big or small, on its own merit according to the law, according to the facts and not with any agenda.

Judicial independence requires faithful application of the Constitution and the law to each case. I supported Chief Justice John Roberts and Justice Sam Alito because I believe they will respect our Constitution and respect our laws. And I believe Brett Kavanaugh will do the same.

Brett Kavanaugh is a dedicated public servant who will serve this Nation with distinction as a Federal judge. I urge my colleagues to confirm him.

I yield the floor.

The PRESIDING OFFICER. Under the unanimous consent, the Chair recognizes the Senator from Illinois.

Mr. DURBIN. Mr. President, we are considering the nomination of Brett Kavanaugh to the United States Court of Appeals for the DC Circuit. Why are we taking extra time on this nomination? Why are Members coming to the Senate on both sides, some expressing support and others opposition? Why is this different from any judicial nomination? There are two reasons. This is not your normal Federal court. The United States Court of Appeals for the DC Circuit is the second highest court in America. It has been the launching pad for Supreme Court Justices. They consider some of the most complex and technical litigation that faces the Federal bench. It is not just another court.

Second, Brett Kavanaugh is not just another judicial nominee. Brett Kavanaugh comes to this nomination with not the weakest credentials in the history of this bench, but the second weakest credentials.

Earlier this month, Senator KENNEDY called the Kavanaugh nomination a triumph of cronyism over credentials. Unfortunately, I must agree. The nomination of Brett Kavanaugh is a political gift for his loyal service to this President and his political party. Mr. Kavanaugh is not being given an engraved plaque for his fine service; he is being given a lifetime appointment to the second highest court in the land. By every indication, Brett Kavanaugh will make this judgeship a gift that keeps on giving to his political patrons who have rewarded him richly with a nomination coveted by lawyers all over America.

In light of his thin professional record, Mr. Kavanaugh bears a particularly high burden of proof. I have sat through the hearings with Mr. Kavanaugh. In my estimation, he has not met that burden. He has so little experience as a practicing lawyer, no experience as a judge. He had a special obligation when it came to these nomination hearings to tell us what he believes and what he would do on this important judicial assignment. He failed.

As I said about the DC Circuit, it is not just any court of appeals. It is the first among equals. It is based in Washington, but its rulings affect Americans from coast to coast. It is the court of last resort in some cases involving the air that every American breathes, the water that we give our children, the right of labor organizations to collectively bargain, whether Americans will have access to telecommunications, and even the price we pay for electricity.

The significance of the DC Circuit is seen in the way it has become the farm team for the Supreme Court. Over half of all the Supreme Court nominees during the past quarter century were judges on the DC Circuit where President Bush wants to send his staff secretary, Brett Kavanaugh. If Mr. Kavanaugh is confirmed for the DC Circuit, it would not surprise me if the Republicans would try to elevate him to the highest court in America.

Let's take a look at his experience for this job. Compared to others who have served on this important court, Mr. Kavanaugh's track record just does not stand up. He has never had a jury trial in his life. And he has never had a trial before a judge. I don't believe he has ever taken a deposition. I don't know if he has ever filed a motion in court. There is no evidence that he has any understanding, basic understanding, of trial practice in civil or criminal courts in America.

Think of that for a moment. Though this man has graduated from outstanding schools, he has clerked for important judges, he has never had to roll up his sleeves and represent the client or represent the United States of America or any State or local jurisdiction at a trial.

He has very little experience, of course, on the issues that come before this court. Nearly half of the cases in the DC Circuit Court involve Federal agencies dealing with the environment, electricity, labor unions and telecommunications. Mr. Kavanaugh was asked: Now, in this field of expertise that you want to be a judge in, tell us, what kind of cases have you handled? What kind of experience do you have? What did you bring to this? What kind of wisdom as a judge will you bring to this? He could identify only one case in his entire life that he had ever been involved in that related to any of those four important agencies.

During the 113-year history of the DC Circuit Court there has only been one judge, only one in its history, who has been nominated who had fewer years of legal experience than Brett Kavanaugh. That judge was a man by the name of Ken Starr. No other DC Circuit Court judge in the past 113 years has had less experience than Brett Kavanaugh.

Is that the best we can do? Is that the best the President and the White House can do for the people of America? Give us young men who may have great promise, but little experience? People who may be right on the political issues for this White House but have not demonstrated the wisdom or life experience that qualify them to stand in judgment on critical issues that affect the lives of every single American?

At his second hearing Mr. Kavanaugh tried to assure us that his career in government service was similar to others who have served in the DC Circuit. He compared his background in government service to a former DC Circuit judge by the name of Abner Mikva, who served with distinction on the DC Circuit Court from 1979 to 1995. It was truly a Lloyd Bentsen/Dan Quayle moment that Brett Kavanaugh would suggest that he was in Abner Mikva's league. That comparison is such a stretch.

Judge Mikva had 28 years of legal experience before he was nominated to the DC Circuit. Abner Mikva served for 9 years in Congress, 10 years in the Illinois legislature. He had worked for over 12 years in private practice. As the late Senator Lloyd Bentsen, who just passed away, said, to paraphrase, I know Abner Mikva; Abner Mikva is a friend of mine, and Brett Kavanaugh is no Abner Mikva.

Because of his thin track record as a lawyer, Mr. Kavanaugh had a special burden of proof to be candid and forthcoming with the committee, to tell us who he is and what he stands for. He did not meet that burden. Every time he came close to answering a hard question, he quickly backed away. But he was well-schooled in the process because he spent his time in the White House coaching judicial nominees not to answer questions. Well, he learned as a teacher, and he demonstrated it before the Senate Judiciary Committee.

For example, he would not tell us his views on some of the most controversial policy decisions of the Bush administration—like the issues of torture and warrantless wiretapping. He would not comment. He would not tell us whether he regretted the role he played in supporting the nomination of some judicial nominees who wanted to permit torture as part of American foreign policy, who wanted to roll back the clock on civil rights and who wanted to weaken labor and environmental laws. It would have been so refreshing and reassuring if Brett Kavanaugh could have distanced himself from their extreme views. But a loyal White House counsel is not going to do that. And that is how he came to this nomination. That is how he addressed the Senate Judiciary Committee with his loyalty to the President.

He would not tell us what role he played in the White House's unprecedented efforts to give the President virtually unchecked power at the expense of congressional oversight.

In light of Mr. Kavanaugh's failure to open up to the committee, we have to just guess about his brief career. He coauthored the Ken Starr Report; he represented Elian Gonzales; he worked in Florida on the Bush 2000 recount; he worked with Karl Rove and the Federalist Society to pick ideological judicial nominees. He has been the go-to lawyer time and time again for the far right in American politics. And now he is being handsomely rewarded for his loyalty, for his service to his political party.

Other than his judicial clerkships, Mr. Kavanaugh has only worked for two people during his entire legal career: President George Bush and Ken Starr.

Given this background, I asked Mr. Kavanaugh if he would agree to recuse himself in cases involving the Republican Party or the Bush administration. Clearly, he has a conflict of interest, at least the appearance of a conflict of interest, from all of the years he spent as a loyal Republican attorney. I asked him, Would you step away from cases that directly impact the Republican Party and the Bush administration policies? He refused.

The real question is whether Judge Kavanaugh would be fair and open-minded. And there are new concerns that have been raised about Mr. Kavanaugh's judicial temperament. I saw him at the last hearing with his wife and baby. He looks like a fine father—a beautiful young family. To all appearances, a good person coming from a good family. But those who have watched him in the courtroom have come to different conclusions.

Last month the American Bar Association downgraded Mr. Kavanaugh's rating after conducting additional interviews with judges and lawyers who had actually seen him in the courtroom and worked with him in the limited exposure he has had to America's courtrooms. A judge who was interviewed by the American Bar Association stated that Mr. Kavanaugh's oral presentation at the hearing was ''less than adequate'' and that he had been ''sanctimonious.'' That is not a great send-off if a person who is being nominated for a lifetime appointment to the bench, a person who will now stand in judgment not only of other judges but of the counsels and attorneys that appear before him.

A lawyer interviewed by the American Bar Association also said: ''Mr. Kavanaugh did not handle the case well as an advocate and dissembled.'' That doesn't sound very promising for someone seeking a lifetime appointment to the second highest court in the land with some of the most technical and difficult arguments and issues to consider.

One interviewee called Mr. Kavanaugh ''insulated.'' Another person said Mr. Kavanaugh is ''immovable and very stubborn and frustrating to deal with on some issues.''

Is that what we are looking for in a judge, an insulated person, immovable and stubborn, who dissembles when he is in the courtroom and has a sanctimonious way about him? I can tell you, as a practicing lawyer, that is a judge I would avoid, and most people would avoid nominating that kind of lawyer to become a judge.

The ABA also stated they were disappointed that Mr. Kavanaugh seemed to have a ''lack of interest'' in the Manual Miranda ''memogate'' scandal and that he failed to conduct an internal White House investigation as to whether the scandal had tainted the Bush administration's judicial nomination process.

This issue is one I know pretty well. I was one of two Senators whose computers were hacked into by Mr. Manny Miranda, who at the time was a Republican staff member, who worked at various times for the Senate Judiciary Committee and for the Senate Republican leadership. Mr. Miranda hacked into my computer, my staff computer, and stole hundreds if not thousands of legal documents—memoranda that had been prepared by my staff analyzing issues, analyzing nominees. Mr. Miranda stole these documents and then turned them over to organizations that were sympathetic with his political point of view. There was some question as to whether those documents somehow migrated to the White House decision process—legitimate questions because those were times when many of these nominees were very controversial.

When Mr. Kavanaugh was asked about these things, he was not that interested—either when the ABA asked the questions or when the questions were asked in the Senate Judiciary Committee. Those questions went to the integrity of the process of naming men and women to our Federal judiciary for lifetime appointments. You would believe that Mr. Kavanaugh, in his capacity as White House Counsel,

would have taken that issue much more seriously than he obviously did.

This nominee is not the best person for an important job. Michael Kavanaugh does not deserve a lifetime appointment to the second highest court in the land.

I believe he has a bright future in some other setting. I think after practicing law, actually finding out what it means to represent a client, perhaps going into a courtroom someday, maybe sitting down before a judge, maybe taking a deposition, understanding what it means to file a motion in court, and what that means to go to argue for a hearing, maybe to prepare a legal brief, to argue a point of view, maybe win a few or lose a few, actually go into a courtroom with a client, pick a jury in a civil case, be a prosecutor in a criminal case, watch as the case unfolds before the judge and the jury, watch it go through to verdict, consider whether or not to launch an appeal—the things I have just described are not extraordinary.

This is the ordinary life of practicing attorneys across America. But my life experience, as limited as it was in practicing law, included all of these things. They helped me to understand a judge's responsibility—a trial court judge, even an appellate court judge. This is like sending Mr. Kavanaugh into a setting where he has no familiarity and no experience.

You might say: Well, maybe he will learn on the job. Maybe he will turn out not only to be a good law student but a heck of a judge. Well, it is not a question of trial and error here. It is a question of lifetime appointment. We do not get a makeover on this decision. If this Senate approves Brett Kavanaugh for the second highest court in the Federal judiciary in America, he is there for life.

Maybe he will learn on the bench. Maybe he will turn out to be objective on the bench. Maybe he will move away from a solid legal political background to understand the law. Maybe he will have some on-the-job training as a judge in the second highest court in the land. But is that the best we can do? Doesn't that harken back to other things in this administration that have troubled us—people being appointed to positions they clearly were not qualified for because they were well connected, they knew the right people? That should not be the test for the Federal judiciary. It certainly should not be the test for the second highest court in the land.

I believe the White House, I believe the Republican party, could have done better. There are so many quality judges across America who are Republicans, in my home State of Illinois and in Federal district courts, who could have been nominated for this important and prestigious position. Instead, this nominee falls short. It is no surprise to me that the American Bar Association downgraded his nomination.

I hope if he is approved that in the years to come he will prove me wrong. At this point, there is little evidence to base that on. But I hope for the sake of this court and for the Federal judiciary that is the case.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. HATCH). The Senator from Idaho.

Mr. CRAIG. Mr. President, we are in a kind of a unique procedure this evening as we debate three nominees who will be voted on tomorrow morning, obviously, the nomination of Brett Kavanaugh being one of them. But another one that is critical to the United States and critical to the public lands domain of our United States and critical to this western Senator and to the western Senator who is presiding at this moment is the nominee for the new position of Secretary of the Interior.

Tonight, I stand to support the nomination of Governor Dirk Kempthorne of my State of Idaho, who will be considered and voted on tomorrow by the Senate. I was extremely proud that our President would recognize, as Secretary Gale Norton stepped down, that it would be right and appropriate to nominate another westerner with the kind of experience westerners uniquely have in the capacity that Governor Kempthorne has had to serve not only as a U.S. Senator but as a Governor in a very large public lands State.

The Department of Interior, of course, is the largest landlord in my State, as is true in the State of Utah. It is through that experience, and working with the Federal Government and working with the Department of Interior, that I believe Dirk Kempthorne, as our new Secretary of the Interior, will do extremely well.

When he came before the Energy and Natural Resources Committee, on which I serve, he came with the support, the bipartisan support, of 40 current sitting Governors of the States of the United States. I am not quite sure I have ever seen that before, that 40 Governors—Democratic and Republican—would step up and say, in behalf of one of their colleagues, that he is qualified and they support him without condition to become the new Secretary of the Interior. Governor Kempthorne developed a close working relationship with these Governors as he served as chairman of the National Governors Association just a few years ago.

I have watched Governor Kempthorne for two terms, or 8 years in my State of Idaho, take very difficult situations and sometimes competing sides and bring them together to resolve a problem and to come out whole and smiling in behalf of their interests and in behalf of the State of Idaho. It is with that kind of style and capacity that Governor Kempthorne comes to the position of Secretary of the Interior.

Dirk Kempthorne has successfully resolved one of the largest tribal water disputes in Idaho history, if not in the West—a tribal dispute we dealt with here on the floor, just a year ago, after he and others had spent well over 5 years working through all the fine and difficult points of negotiation between very opposing and sometimes conflicting parties as they dealt with that.

When you live in the arid West, as I and the Senator from Utah do, you know how important water is. We find it, obviously, life-sustaining. And if it is not managed well, it can create great conflict or it can change the whole character of an environment or a State. And certainly for the wildlife of our great States, it is critically important habitat.

Here in the East, we worry about too much water. Out in the arid West, we worry about not enough water. And it is with that kind of experience that the Governor comes to the Secretary's position to become one of the Nation's largest water landlords, presiding over the Bureau of Reclamation and all that they do in the Western States and across the Nation in the management of critical water resources and the infrastructure that sustains those resources.

As a U.S. Senator, both the Presiding Officer, the Senator from Utah, and I served with Governor Kempthorne. He introduced and won passage of S. 1, the Unfunded Mandates Reform Act, critical and necessary as we work on legislation here to make sure we do not impact States and create and demand certain things from States that are, if you will, demanded but unfunded as a part of a Federal jurisdiction or responsibility. That is the law of the land today, and it certainly showed his skills as a legislator.

Under the leadership of Governor Kempthorne, the Western Governors' Association developed a 10-year strategy to increase the health of America's forests. Out of that collaborative process, and working with us here, we created the Healthy Forests Act, with the guidance and the assistance of the Bush administration, working cooperatively with public land timber State Senators.

It was one of the first major pieces of legislation passed to manage our forested lands of the Nation in a right and appropriate fashion, to restore health-damaged ecosystems, and to protect and promote the collaborative community effort where community watersheds were involved and at risk as a result of fire. So I was pleased to work with the Governor in his capacity at that time as chairman of the Forestry Subcommittee here in the Senate, and we were able to successfully bring that to conclusion. That is the law of the land today.

Knowing the West, as I said earlier, is critically important to the Secretary of the Interior because he is the landlord for much of the western landscape of our Nation, let alone our crown jewels, our national parks and all that they bring for the citizens of our country.

When he was nominated and we had our first visit, he said: Larry, what

should some of our priorities be? And I said: You come at a unique time to the Department of Interior. Because there is no question, in my mind, at least, this Senator—and in looking at the new energy policy we passed a year ago and all that we have done to get this Nation to producing energy once again—the Governor is the landlord of one of the largest storehouses of energy in this Nation.

The kind of drilling for gas in the Overthrust Belt in the West today that we are now reengaging in, with new environmental standards, to bring billions of cubic feet of gas on line in the upper Rocky Mountain States, is presided over by the Secretary of the Interior.

A debate that has gone on here, somewhat quietly, on the floor of the Senate but will take shape in the very near future dealing with the drilling of gas down in the Gulf of Mexico, off the coast of Florida, in lease sale 181, once again, dealing with offshore resources, is in part if not in whole the responsibility of the Secretary of the Interior.

The oil shales of Colorado that we are working to develop now—a lot of it on our public lands West—is the responsibility of the Bureau of Land Management and the Secretary of Interior.

I believe in the next 2½ years Dirk Kempthorne presides over the Department of Interior as the second Secretary of the Interior of this Bush administration, he will, by his presence and the efforts currently underway, actually produce more energy for this Nation and our Nation's energy consumers than will the Secretary of Energy. It is that kind of uniqueness and the domain over which he presides that makes this position tremendously important.

(Mr. MARTINEZ assumed the Chair.)

Mr. CRAIG. Lastly, the Governor leaves Idaho with a legacy of growing and expanding the Idaho State park system that I know he is very proud of, as am I. And now he steps into the role of really being the caretaker of all of our National Park System. That is so phenomenally important to our country.

The parks we have oftentimes called the crown jewels of the great outdoors of our country. And they truly are that. Whether it is Yellowstone in the West or whether it is the Great Smokies south of us here and slightly to the west or whether it is down in the Everglades of Florida—of which the Presiding Officer is so proud of that great park system—Dirk Kempthorne, as Secretary of Interior, will have a tremendous responsibility over that domain.

Tomorrow, we will vote on Governor Kempthorne, and he will become the next Secretary of the Interior for the Bush administration and for the United States of America. My guess is that vote will be a resounding vote because when he left here as a Senator, he left in a tremendous state of good will with his colleagues. He has returned as a nominee to visit with, I believe, nearly all of us to assure us that he will be here to listen and to work with us in his role and responsibility as our new Secretary of the Interior.

So as an Idahoan and as a U.S. Senator, I am tremendously proud that our President has nominated and we, tomorrow, will confirm Dirk Kempthorne as our next Secretary of Interior.

I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I rise in strong support of the confirmation of Brett Kavanaugh to serve on one of the most important courts in our judicial system, the U.S. Court of Appeals for the District of Columbia Circuit. Brett Kavanaugh is an extremely bright, hard-working, ethical lawyer. I have known him for many years.

His father Ed Kavanaugh served as head of a major trade association here in Washington for many years, and he is known by my colleagues in Congress as a straight shooter. In this case, the apple did not fall far from the tree. Brett's mother Martha served for many years as a State court judge in Montgomery County, MD, and I am sure serves as a great model of judicial temperament and jurisprudential excellence and fairness for her son.

Brett Kavanaugh was nominated to the DC Circuit Court of Appeals in July of 2003. That is almost 3 years since he was nominated. Due in large part to the delay tactics employed by some earlier this month, Mr. Kavanaugh was the subject of a highly unusual second hearing on his nomination. Interestingly, when he was the nominee for the same court, Chief Justice Roberts was also subjected to a second hearing before the Judiciary Committee. Frankly, it may be the case that in each of these two circumstances, the second hearing tells us more about the partisan nature of the judicial confirmation process than it reveals about the qualifications of the nominees.

I might add that in both second hearings, both of these people, now Chief Justice Roberts and Brett Kavanaugh, came off very well, without one touching by anybody who was trying to do away with them.

I hope that the 14-year time period between Chief Justice Roberts' first nomination and confirmation to the DC Circuit is not matched or exceeded by the Kavanaugh nomination. Since he was nominated almost 3 years ago, Mr. Kavanaugh has become a husband and father. Let us pray that he does not become a grandfather before he gets a vote in the Senate.

This is a good day because not only can we see the light at the end of the tunnel, but we can actually get through the tunnel and complete action on this nomination that has languished for nearly 3 years. Now that Mr. Kavanaugh has once again answered questions at the unusual second hearing—and as was the case with his first hearing, some of the questions were not posed to him in the most civil fashion—and now that he has been reported to the floor by the Judiciary Committee, it is my hope he will soon have the up-or-down vote he deserves on the floor of the Senate.

I commend the manner in which Chairman SPECTER has brought this nomination through the Judiciary Committee and on to the floor. In the sunshine of the hearing room, it became ever more apparent that there are no serious objections to this nomination. Brett Kavanaugh is a highly qualified nominee and a proven public servant. Mr. Kavanaugh's education, employment history, and record of public service should speak for themselves.

Brett Kavanaugh is a local guy. He went to high school at Georgetown Prep in Bethesda, MD, where he was educated by the Jesuits. From what I can tell, he heard the call of St. Ignatius to be a true man for others. I suspect that many of my colleagues, especially those Jesuit-educated Members, appreciate that background.

He went to Yale University for college. Having excelled there, he went on to Yale Law School, where he was editor of the ''Law Review.'' That is no small achievement. It shows that he was an excellent student, one of the best.

He went on to not one but two circuit court clerkships. You don't get those clerkships unless you are one of the best. A judge really gets to know his clerks. They work in close quarters together. The judge has a true opportunity to get the measure of the man. Brett Kavanaugh's former employers, these judges, his mentors, thought so much of Brett that they came to Washington to testify at his confirmation hearing earlier this month. That is the second confirmation hearing. They did not mince their words.

This is what Judge Walter Stapleton, one of most respected judges in the Third Circuit Court of Appeals, had to say about his former clerk:

> I am confident that Mr. Kavanaugh's perspectives on both life and the law will result in his becoming what I regard as a ''judge's judge.'' His personal confidence is matched by his humility, and his legal acuity by his good, common sense judgment. When he served as my clerk, no case was too small to deserve his rapt attention and, without exception, he initiated his evaluation of a case with no predilections. His ultimate recommendation resulted from a careful case-by-case analysis of the facts and an objective application of the relevant precedents. He is firmly committed to the proposition that there must be equal justice for all and that this can be a reality only if all of our courts faithfully and objectively apply the statutory declarations of Congress and the teachings of the Supreme Court.

That is what I would call a ringing endorsement, a refutation of everything that has been said by the other side—and by a great judge, by the way, who knows a lot about judging and knows a lot about character.

Judge Alex Kozinski on the Ninth Circuit Court of Appeals had a similar

experience during Mr. Kavanaugh's time with him. This is what he had to say at his hearing:

I must tell you that in the times that I had Brett clerk for me, I found him to be a positive delight to have in the office. Sure . . . he is really bright, and he is really accomplished, and he is a really excellent lawyer. But most, virtually all, folks who qualify for a clerkship with a circuit judge these days have those qualities.

. . . Brett brought something more to the table. He, first of all, brought what I thought was a breadth of mind and a breadth of vision. He didn't look at the case from just one perspective . . .

Brett was very good in changing perspective. Sometimes I'd take one position and he'd take the opposite, and sometimes we'd switch places. He was very good and very flexible that way. I never sensed any ideology or any agenda. His job was to serve me and to serve the court, and to serve the people of the United States in achieving the correct result at the court. He always did it with a sense of humor and a sense of gentle self-deprecation.

These are strong words of support from another great circuit court of appeals judge on the Ninth Circuit Court of Appeals which is on the far west of this country. And these words describe precisely the type of qualities we want in members of the Federal judiciary.

Mr. Kavanaugh went on from those clerkships with these great circuit courts of appeal judges to bigger and better things. He worked in the office of the Solicitor General of the United States. There is hardly any one in this body who can claim that experience. He clerked for Supreme Court Justice Anthony Kennedy. Only the best and brightest lawyers win these types of challenging and prestigious assignments.

Mr. Kavanaugh went on to become a partner in one of the greatest law firms in the country, Kirkland & Ellis, a leading national law firm. That doesn't happen to somebody who is as described by some of my partisan colleagues on the other side.

Brett Kavanaugh left the no doubt financially lucrative practice at Kirkland & Ellis and returned to public service. He is a public servant. For the last 6 years, he has worked at the White House, first in the White House Counsel's Office—you don't get there unless you are really good—and currently as staff secretary to the President of the United States. Pretty impressive stuff. Some people say just a secretary. Come on, this is a person who vets the documents the President sees. It is a person you trust, whom the President trusts. It is a person with wisdom and decency and magnanimity. Nevertheless, some opponents of this nomination are suggesting that somehow Mr. Kavanaugh is unqualified to serve on the DC circuit. Come on.

Let us be clear. Mr. Kavanaugh has been practicing law for 16 years. He has argued civil and criminal matters before trial courts, appeals courts, and even the U.S. Supreme Court. I have heard Senators on this floor criticizing him for not having been a judge, not having been on the court, not having argued all kinds of cases. He has. I don't know what they have been reading, but they sure as heck haven't been reading the transcript or don't know what is going on here. Very few lawyers ever argue a case before the Supreme Court. Mr. Kavanaugh has done so.

The vast majority of his legal practice has been as a public servant. I remember a time when public service was applauded and valued, as it should be. My colleague from Arizona, Senator MCCAIN, should be commended for reminding young men and women how crucial it is for citizens to transcend their own immediate needs and wants and to serve something larger than themselves. That is what Brett Kavanaugh has done with his life. Yet instead of applauding him, some attack him. For some, his public service has become a liability. I wish I was kidding, but I am not making this up. You have heard it here tonight. Apparently some believe Mr. Kavanaugh is just too political.

His great, alleged sins were to work for the Office of the Independent Counsel in the investigation of the Whitewater matter and later to work for President Bush. Although I think most fair observers would have to say that both of these demanding jobs are professional achievements, some are trying unfairly to use political innuendo to tar and feather this fine young lawyer. But that dog just won't hunt.

As a lawyer in the Office of the Independent Counsel, an office created by Democrats in the wake of Watergate, he worked on an investigation initiated by a Democratic President and his Attorney General. Nobody has ever suggested that his work was anything but professional. He was not a political partisan. Yet some people are hyperventilating as though the President nominated some partisan hack to a lifetime position on the Federal bench. I know Brett Kavanaugh. I have known him for years. I can tell you, he will be neither a partisan nor a hack on the bench. He has all the capacities and qualities to become a great judge.

This false charge of partisanship should be recognized for what it is—an absolute fabrication. You heard what two Federal judges for whom he clerked had to say about Mr. Kavanaugh. It doesn't get much better than that.

Another variation on this attack against Brett is the claim that he does not have adequate judicial experience. We need to put this in perspective. On the DC Circuit, only 4 of the 20 judges confirmed since President Carter's election served previously as judges. Then, all of a sudden, it is a bad thing because Brett Kavanaugh has not had experience as a judge. President Clinton nominated and the Senate confirmed—this is a Democratic President—32 lawyers with no prior judicial experience, including Judges David Tatel and Merrick Garland to the DC Circuit. Good judges. Are we to believe that those who make these arguments also believe that Chief Justice Earl Warren, Justice Hugo Black, and even Chief Justice Marshall were somehow lacking because they had not been involved in politics and had no prior judicial experience?

I could go on and name a whole bunch of other Supreme Court Justices who never had any prior judicial experience, some of whom are revered as the greatest Supreme Court Justices in history. It is very unfair to use that argument, as has been used in countless numbers of cases for President Bush's nominees and, I might add, President Reagan's as well. It was not that long ago that the minority leader publicly urged the President to nominate individuals with a diversity of experience rather than just looking to prior judicial service. Well, Brett Kavanaugh fits this bill.

His background as staff secretary may prove to be particularly good judicial training. In a letter signed by eight individuals who served as either counsel or deputy counsel to the President, this is how they described that role he fulfilled:

The importance of this position, as well as its substantive nature, is not always well known or understood outside the White House. As Staff Secretary, Mr. Kavanaugh is responsible for ensuring that all relevant views are consistently and accurately presented to the President. The ability to assess presentations of differing arguments on a wide range of topic areas is a skill that would serve him well on the D.C. Circuit.

I concur. I ask unanimous consent that the full letter be printed in the RECORD.

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

WILEY REIN & FIELDING LLP,
Washington, DC, May 5, 2006.

Hon. ARLEN SPECTER,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR CHAIRMAN SPECTER: We are writing to offer our strong support for the confirmation of Brett Kavanaugh to the United States Court of Appeals for the D.C. Circuit. We have each served as Counsel or Deputy Counsel to the President, and believe that Mr. Kavanaugh has the qualifications and experience necessary for the D.C. Circuit.

As former Counsel and Deputy Counsel to the President, we understand the importance of judicial appointments, particularly those to the federal courts of appeals. In our view, Mr. Kavanaugh possesses all of the requisite qualifications for such an appointment, including outstanding academic credentials, keen intellect, a calm and thoughtful demeanor, and exceptional analytical skills. He has extensive relevant professional experience, including arguments before the Supreme Court of the United States and the federal courts of appeals.

We would also like to emphasize the critical nature of the position that Mr. Kavanaugh currently holds as Staff Secretary. The importance of this position, as well as its substantive nature, is not always well known or understood outside the White House. As Staff Secretary, Mr. Kavanaugh is responsible for ensuring that all relevant views are concisely and accurately presented

to the President. The ability to assess presentations of differing arguments on a wide range of topic areas is a skill that would serve him well on the D.C. Circuit.

Mr. Kavanaugh would be a fair and impartial judge, dedicated to the rule of law. He possesses the highest personal integrity and is exactly the type of individual this country needs on the federal appellate bench. We urge the Senate to act promptly to confirm him to the U.S. Court of Appeals for the D.C. Circuit.

Sincerely,

FRED F. FIELDING,

On behalf of: Arthur B. Culvahouse, Jr., Peter J. Wallison, Phillip D. Brady, Richard A. Hauser, Timothy E. Flanigan, David G. Leitch, John P. Schmitz, Jay B. Stephens.

Mr. HATCH. So with few rounds left, some activist groups opposing this nomination claim that Mr. Kavanaugh is too young and too inexperienced. It really is time for these folks to get a grip. Brett was nominated when he was 39 years of age. Today, as a result of several years—actually 3—of delay and obstruction, he is 41. All three of the judges Brett clerked for were nominated before the age of 39. Justice Kennedy was 38, sitting on the Supreme Court today. Judges Kozinski and Stapleton were 35 when they were put on the bench.

Several of my colleagues on the Judiciary Committee were elected in their early thirties. I don't think they would allow others to charge that they were too immature for the work. If James Madison could be the principal drafter of the Constitution in his midthirties, I think a man in his early forties, with 16 years of legal practice, and tough legal practice at that, is sufficiently mature to serve on the Federal bench.

I believe it is clear that most of the arguments marshaled against Mr. Kavanaugh are nothing more than a combination of hokum and downright hogwash. So it is not a surprise that the American Bar Association has repeatedly found him qualified for this position. Let me explain what that means.

After an extensive review, the American Bar Association gives ratings to all of the President's judicial nominees, and the judicial committee factors in these ratings when evaluating judicial nominees. A rating of qualified means this from the ABA:

The nominee meets the committee's very high standards with respect to integrity, professional competence, and judicial temperament, and that the committee believes that the nominee will be able to perform satisfactorily all of the duties and responsibilities required by the high office of a Federal judge.

What qualified nominee has demonstrated more professional excellence? Brett Kavanaugh has been reviewed by the ABA on three separate occasions. On each occasion, he has been found qualified to serve in this position. Twice he received a rating of majority well qualified, minority qualified. In his most recent rating, he received a rating of majority qualified and minority well qualified. Much has been made of that, some calling it a downgrade. Come on. Over the last 3 years, he received 42 individual ratings by members of the American Bar Association, and all, with no exceptions in these 42 ratings, found him—all of them found him qualified for this position.

Some will try to make hay out of his most recent rating. Keep your focus on the fact that everybody from the ABA who ever evaluated Kavanaugh's ability to serve on the Federal bench found him fully qualified to do the job. Some of those doing the rating gave him the highest rating of well qualified. Nobody from the ABA ever found him to be not qualified to be a Federal judge. There is good reason for that. They would not dare do that with a person of his ability—although they did in one other case recently.

Frankly, I have always been skeptical of the ABA ratings. We have had some great committee ratings and some lousy ones. The lousy ones are where they allow politics to enter into it. Many Democrats consider the ratings of the American Bar Association their gold standard. Whenever the Democrats have called something their gold standard, I have found it useful to scratch beneath the surface because you will find that it is only goldplated. Nevertheless, the Judiciary Committee looks to the evaluations of the American Bar Association because these evaluations can often provide useful information.

I would like to commend the many men and women of the ABA who volunteer their time and energy to compile these ratings. These are volunteers. In my experience, however, the system is not infallible. For example, Judges Richard Posner and Frank Easterbrook received mixed qualified/not qualified ratings when they were nominated by President Reagan. This was a great and unpleasant surprise to those of us who were confident they would do excellent work on the bench, and many were convinced that those ratings were issued for ideological reasons. Today, these two judges are among the most frequently cited members of the Federal judiciary, and their work is widely admired all over the legal profession and all over the Federal courts.

Just recently, to show you how bad it can get, Michael Wallace, a nominee to the Fifth Circuit, seems to have fallen victim to an ideological review process by the ABA. He graduated at the top of his class at Harvard and went on to the Virginia Law School, where he distinguished himself. He clerked not only for the Mississippi Supreme Court but also for the late Chief Justice Rehnquist—positions that the average lawyer can only dream about. Yet he was given a unanimously not qualified rating. I am very curious about the facts surrounding that rating, and I suspect that part of that comes from the fact that he was chairman of one of the major legal entities in this country and they didn't like the way he chaired it, even though he is a brilliant man.

I also looked at every person on the rating committee for Brett Kavanaugh, and all rated him qualified, and most rated him well qualified, and there were a number who were partisan Democrats. There is no question about it, as shown by their schedule of donations. Maybe that had something to do with the downgrading that some on the other side have talked about, even though he was found qualified by every one of those 42 raters.

I understand that some are suggesting that past battles over particular public policy issues might have something to do with Wallace's rating and also with Kavanaugh's rating. In practice, it is sometimes hard to see clearly because the ABA rating system generally operates under a principle of anonymity. It is virtually impossible to find out who said what about whom, and try to figure out whether it was fair and objective or with an eye toward evening up old scores.

While the ABA rating system is murky in some respects, the bottom line with respect to the ABA rating of Brett Kavanaugh is that he was rated three times and found qualified by everybody who rated him each time—even though some of them on the present committee are very partisan.

Remarkably, some are trying to distort Mr. Kavanaugh's positive ABA rating and recommendation into a negative rating. As Tom Sawyer remarked in Huckleberry Finn, you can't pray a lie.

This is an important nomination because the DC Circuit Court of Appeals is such an important court. It reviews many matters relating to the actions of powerful Federal agencies. Many of its decisions will never be reviewed by the Supreme Court.

It is important to have judges on the DC Circuit Court, like Brett Kavanaugh, who understand the proper role of judges and the judiciary. For too long, some Federal judges have been permitted to run roughshod over the traditions of the American people.

My colleague from West Virginia, Senator BYRD, recently introduced a constitutional amendment that would reestablish the Constitution's traditional meaning on school prayer. In recent years, some Federal judges have taken such a radical view of the Constitution's establishment clause—one that is not only at odds with the views of the Founders but with the current views of a majority of Americans in nearly every State—that the Constitution's commitment to the free exercise of religion is now endangered. The results of this corrupted constitutional interpretation were manifest most prominently in the decision in Santa Fe Independent School v. Doe, where the court determined that a voluntary student-led prayer before a high school football game somehow violated the Constitution. A voluntary school prayer. We should applaud Senator BYRD for seeking to reestablish the Constitution's traditional meaning.

The meaning of our constitutional and statutory laws has been twisted by some judges on issue after issue. It happened when the Supreme Court discovered rights to abortion and later to burn the American flag and completely overturned the statutes of almost every State in the Union—certainly 49 of them. It can happen again today, as liberal activist groups are urging judges to promote same-sex marriage in State and Federal courts. That is another illustration.

Our judges must show a proper respect for the Constitution. The Constitution is not owned by the courts or controlled by judges. No less than judges, Members of this body take an oath to support the Constitution. The judiciary is a creature of the people and their Constitution, and the judiciary should not be a forum for wholesale social changes initiated by special interest groups and opposed by ordinary Americans.

I have no doubt that Brett Kavanaugh understands that fundamental distinction between judging and lawmaking. Let me read for the record what was said by Neal Katyal, a Georgetown University Law Center professor, former attorney to Vice President Gore, and former Clinton administration official. Let me read his expressed strong support for Mr. Kavanaugh. He says:

> I do not believe it appropriate to write to you unless I feel strongly about a particular nominee. I feel strongly now: Brett Kavanaugh should be confirmed to the United States Court of Appeals for the DC Circuit. . . . Mr. Kavanaugh would be a welcome, terrific addition to the United States Court of Appeals.

He didn't allow his own partisan feelings to be interjected into this very important decision of whom we should support for the court.

I am fully supportive of Brett Kavanaugh's nomination. I look forward to his long career on the bench. I urge my colleagues to give his nomination the support it deserves.

NOMINATION OF DIRK KEMPTHORNE

Mr. President, having spoken about Mr. Kavanaugh, I wish to take a minute or two to speak about my friend, Dirk Kempthorne, who will be voted upon tomorrow, as I understand it, as well.

Dirk Kempthorne served with us in the Senate. I have been here for 30 years, and I have to say that he was one of the finest people with whom I have ever served. He was decent, honorable, and hard-working. He was a person who was honest. This is a man who became a great Governor. He did a great job while he was here. He was only here a short time in the Senate, but it was long enough for those of us who knew him to establish in our minds and in our experience the fact that he was and is a great human being.

He is nominated now for Secretary of the Interior, and I hope everybody in this body will vote for him tomorrow. You cannot do better. The man is honest, decent, honorable, and will work with all of us in the Senate, not just Republicans. And he is from the West. He understands the problems of Federal lands. He understands the problems that confront the West. He understands the problems of energy. He understands the problems of the environment. He understands the problems of national parks. You can go right down the list.

This man has tremendous experience and has been a wonderful Governor of Idaho, our neighboring State. He and his wife are two of the best people I know. I hope everybody will vote unanimously in his favor tomorrow, or whenever we have that vote.

NOMINATION OF MICHAEL V. HAYDEN

Finally, I thank the leadership for expeditiously scheduling the confirmation vote for General Michael V. Hayden of the U.S. Air Force to be Director of the Central Intelligence Agency. In particular, I thank Intelligence Committee Chairman ROBERTS for organizing the open and closed hearings last week before our committee. The committee has a heavy work schedule, but nothing should be more important than moving forward an important nomination like this one.

I also recognize the work of my other colleague, Senator WARNER, for expediting this nomination through his committee. Air Force GEN Michael Hayden has spent his life in the service of our great country. I honor his dedication. He has honored us with his dedication.

In my opinion, he brought enormous distinction to the uniform he wears, and his contributions have served the security of this Nation, particularly since the attacks of 9/11. They have made a profound difference in our ability to defend ourselves in a war unlike any we have been forced to fight.

He was before us last year, and he is well known to this body. When last we saw him, he was to become the first deputy of an organization formed by the Congress, the Office of the Director of National Intelligence. In the legislation that created this office, we tasked it and its first officeholders with the enormous job of weaving together the disparate but impressive elements of the American intelligence community. Our concept was to create a whole that would be greater than the sum of its parts, but we left the work in the hands of the first Director, Ambassador Negroponte, and his deputy, the man whom the President now nominated to head the CIA.

As a longtime military officer, as one who spent most of his life as an intelligence consumer and a distinct part of his life in both the human and technical practices of intelligence, and now as an architect of the new intelligence structure, General Hayden is an individual exceptionally prepared to take on the responsibility of transforming the CIA.

It is my hope and expectation that, under the leadership of General Hayden, the talents and capabilities of the CIA not only make the difference in winning this current war on global terrorism but remain central to facing all of the challenges that loom before us once this particular conflict is won.

We have the very real possibility of conflicts with Iran and North Korea. We must face the fact that the day may come when we are faced with the threat of armed groups from Latin America.

What the CIA does today, if the lessons and experience it gathers from its contributions are conveyed to its new cadres, will play a key role in managing the conflicts of tomorrow. Let's hope none of these potential conflicts become such, and I really don't believe we need to allow them to become such.

Reform of the intelligence community, in which the CIA has and should maintain a central position, is already well underway, in part due to the creation of the Office of the Director of National Intelligence and also due to the oversight by the Senate Intelligence Committee in insisting that the flaws in the intelligence process we have revealed be redressed.

The DNI was created to coordinate the elements of the community, as well as to advance a reform agenda for the community as a whole, and in each of its elements.

Reform, particularly in time of war, is never easy, and it is much more complicated than creating a new bureaucratic structure. It requires creating a new culture that brings a common, professional set of doctrines and values to all components of the community that builds on the extraordinary capabilities that exist, while assembling new hybrid excellencies within an entity whose effectiveness must become greater than the sum of its parts.

General Hayden comported himself with great probity in his confirmation hearing last week and rendered honest and detailed answers to a great range of questions in both the open hearing and in the executive hearing. The general's lifetime experience has prepared him for taking this post, and I have the highest regard for him.

I might add that one of the first decisions that he will have made will be choosing Mr. Kappas to be his Deputy. I have been checking with many leaders in the CIA and elsewhere, and they say Mr. Kappas is an outstanding person who can help bring about an esprit de corps that may be lacking.

Having said all this, I want to praise Director Goss. I served with Porter Goss when he was chairman of the Intelligence Committee in the House. He is a wonderful man. He did a great job in helping to change some of the mindsets at the CIA. He made a very distinct imprint on the CIA for good, and we will miss him as well. But it should not be construed that General Hayden is replacing him because he didn't do the job. Porter said he wasn't going to stay there an excessively long time.

I have to say that I believe that as great as Porter Goss is and was, General Hayden will be a good replacement. He is one of the best people who has ever served this country. He has spent a lifetime in intelligence. He is one of the few people who really understands it all, and he is a straight shooter. He tells the truth; he tells it the way it is. He is an exceptionally decent, honorable man, and his wife is a very honorable and good person as well, as are his children.

So I hope all of us will consider voting for General Hayden. He is worth it. We should vote for him. We should be unanimous in the selection of a CIA Director, but even if we are not, I hope the overwhelming number of Senators will vote for this great general, this great intelligence officer, this great person who we all know is honest, decent, and capable.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, I have been waiting some time to talk about General Hayden. I note the presence of the distinguished chairman of our committee, a committee on which I am proud to serve. Given the fact we are starting a discussion of General Hayden to head the Central Intelligence Agency, I ask unanimous consent that Chairman ROBERTS be allowed to speak at this time and that I be able to follow the chairman after he has completed his remarks.

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

The Senator from Kansas.

Mr. ROBERTS. Mr. President, I thank the Senator from Oregon for allowing me to go first as chairman of the committee. Senator WYDEN is a very valued member of the committee with very strong and independent views but has always contributed in a bipartisan way on behalf of our national security.

Good evening, Mr. President. The hour is a little late. Actually, the night is young, but I am not. Nevertheless, I am going to try to be pertinent on a matter that is of real importance, and that is, in fact, the nomination and hopefully what we expect to be the confirmation of GEN Michael V. Hayden to serve as Director of the Central Intelligence Agency.

As chairman of the Select Committee on Intelligence, I rise tonight and associate myself with the remarks made by Senator HATCH, who is another very valued member of the committee, in strong support of the nomination of General Hayden to be the next Director of the Central Intelligence Agency.

He is eminently qualified for this position. He is a distinguished public servant, as has been noted, who has given more than 35 years of service to his country.

Senator HATCH referred to our hearings both open and closed that we held last week. It was my goal as chairman to ensure that every Senator had enough time to ask any question they wanted or to express any concern they had on their mind in regards to this nomination and the qualifications of this man. I think we accomplished that. We gave every Senator 20 minutes and then another 20 minutes, and then in a regular order, additional time.

I might add, Senator WYDEN certainly took advantage of that. After over 8 hours, the general, the chairman, and other members of the committee finally concluded.

I think it was a good hearing. I think it was a good open hearing and a good closed hearing. General Hayden certainly distinguished himself, and he showed the committee that he will be an outstanding choice for CIA Director.

General Hayden entered active duty, in terms of background, with the U.S. Air Force in 1969 after earning both his bachelor's and master's degree from Duquesne University in his hometown of Pittsburgh.

He has had a lengthy and diverse career. He has served as Commander of the Air Intelligence Agency and as Director of the Joint Command and Control Warfare Center. He has been assigned to senior staff positions at the Pentagon, at the headquarters of the U.S. European Command, the National Security Council, and at the U.S. Embassy in the People's Republic of Bulgaria. General Hayden has also served as the Deputy Chief of Staff for the United Nations Command and U.S. Forces in Korea and, more importantly, he has served most recently at the highest levels of the intelligence community. From 1999 to 2005, General Hayden was Director of the National Security Agency.

Finally, in April of last year, following intelligence reform and a great deal of committee action in regards to the Intelligence Committee to determine the accuracy of our 2002 NIE, National Intelligence Estimate, and then we went through intelligence reform, we had the 9/11 Commission, we had the WMD Commission appointed by the President, he was unanimously confirmed by this body to serve in his current position as the Principal Deputy Director of National Intelligence. He had that kind of background, had that kind of expertise, had that kind of experience.

Given his experience at NSA and the Office of the Director of Intelligence, I don't think there is any question General Hayden is well known to the Intelligence Committee. He has briefed us many times. I don't know of anybody in any hearing or briefing who has done any better. It is because of his qualifications and my experience working with him that I support his nomination.

This nomination comes before the Senate at a very crucial time. We are a nation fighting a war in which the intelligence community is on the front lines. The CIA is an integral and very vital part of the intelligence community. We need strong leadership in order to protect our national security.

When General Hayden takes the helm at the Agency, he is going to find a number of issues that will demand his attention. These are the same issues that we touched on and asked the general to respond to during his confirmation hearings.

First, he must continue to improve the Agency's ability to provide public policymakers with high-quality analytic products.

The Senate Intelligence Committee's July 2004 report on intelligence related to Iraq's WMD programs did conclude that the agencies of the intelligence community did not explain to policymakers the uncertainties behind their Iraq WMD assessments.

Analysts must also observe what I refer to as the golden rule of intelligence analysis, and we asked this specifically of the general: Tell me what you know, tell me what you don't know, tell me what you think and, most importantly, make sure that we understand the difference.

It will be up to General Hayden to ensure that the CIA analysts adhere to this rule in the future.

Second, General Hayden must improve the CIA's ability to collect what we call humane intelligence. He can begin by ensuring that the Agency is more aggressive in its efforts to penetrate hard targets and in the use of very innovative collection platforms.

Third, General Hayden, it seems to me, must improve information access—not information sharing, information access. There is a big difference. We on the Intelligence Committee will look to the general to ensure that appropriately cleared analysts community-wide, with a need to know and the proper training have access to the CIA's intelligence information in its earliest form, while at the same time protecting sensitive sources and methods.

No doubt the general will face a number of significant tasks, but based on his record as a manager, his qualifications, and his demonstrated leadership, I believe he is the right choice to lead the CIA. The Senate should expeditiously confirm him and let him get to work over at Langley.

Mr. President, I strongly support the nominee, and I urge my colleagues to do the same.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, I am next in line, but I understand the majority leader and the distinguished Senator from Nevada wish to have a brief colloquy. I will defer to them and pick up when they are finished.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. FRIST. Mr. President, I ask unanimous consent that during this evening's session, it be in order for Senators to speak in executive session on the Kavanaugh nomination No. 632, or the Hayden nomination No. 672; provided further, that following disposition of the Kavanaugh nomination, the

Senate proceed to a vote on the Hayden nomination No. 672; further, if No. 672 is confirmed, then the Senate immediately proceed to a vote on the confirmation of Calendar No. 693; I further ask unanimous consent that following those votes, Senator NELSON of Florida be recognized to speak up to 5 minutes, and the Senate then proceed to a cloture vote with respect to Executive Calendar No. 630, Dirk Kempthorne to be Secretary of the Interior; provided further, that if cloture is invoked, Senator LANDRIEU be recognized for up to 10 minutes, and the Senate then proceed to an immediate vote on the confirmation of the nomination of Dirk Kempthorne.

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

Mr. FRIST. Mr. President, what all this means is that by this agreement, we will allow Senators to speak tonight on either the Kavanaugh nomination or the Hayden nomination. We will convene tomorrow morning at 8:45. It is our hope that we will be able to vote on the confirmation of the Kavanaugh nomination after convening. We will then proceed to the votes on the Hayden nomination and the cloture vote on the Kempthorne nomination. Senators, therefore, can expect three early rollcall votes during Friday's session.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, before he leaves the Chamber, I simply wish to say to the distinguished chairman of our committee that I thank him for his kind and gracious introductory remarks to me. As he knows, sometimes we agree, as we did in the effort to make public the CIA inspector general's report on 9/11. I appreciated working with the distinguished chairman on that matter. Sometimes we disagree, as we do tonight with respect to the nomination of General Hayden, but Chairman ROBERTS has always been courteous and fair in our committee and essentially to every member. I thank him for that as he leaves the Chamber tonight. Clearly, Chairman ROBERTS and Senator HATCH, two distinguished members of our Intelligence Committee, want no part of it, but there are those who want to turn the Hayden nomination into a referendum on who is toughest on terrorism, Republicans or Democrats. These people do America a disservice. I know of no Senator who sympathizes with a terrorist. I know of no Senator who wishes to coddle al-Qaida. I know of no Senator who is anything other than a patriot.

Unfortunately, this nomination is being used to divide the Senate and the American people on the issue of terrorism. Just this past Monday, the Washington Post newspaper reported that the White House:

> Seems eager for a battle over the nomination of Air Force GEN Michael V. Hayden as CIA Director.

The article goes on to say:

> The White House hopes voters will see the warrantless surveillance program Hayden started as head of the National Security Agency as tough on terrorism rather than a violation of civil liberties.

I believe the American people deserve better than the White House agenda of false choices. I believe one can fight the terrorists ferociously and protect the liberties of law-abiding Americans. I believe the Senate should not be bullied into thinking that security and liberty are mutually exclusive, and I believe that millions of Americans share that view. From the days of Ben Franklin, security and liberty in America have been mutually reinforcing, and it is our job to maintain this sacred balance.

This is harder to do now because across America there is less trust and there is more fear. The lack of trust has been fed by the Bush administration telling the public that they have struck the right balance between security and liberty, but then we have had one media report after another that contradicts that claim.

When the media reports come out, the administration says it can't say anything because responding would help the terrorists, but then the administration responds in multiple forums to get out the small shards of information that they believe is helpful to their point of view.

The increased fear among our people is nourished by the fact that there are no independent checks on the Government's conduct, as there have been for more than 200 years in America. Law-abiding Americans have no reason to be confident that anyone is independently verifying reports about the administration's reported surveillance of their personal phone calls, e-mails, and Internet use.

All of this mistrust and fear has translated into a lack of credibility. The administration has given us, by words and deeds, a national security routine: Do one thing, say another.

An absolute prerequisite to running intelligence programs successfully is credibility. Despite the scores of talented, dedicated, patriotic people working at Langley today, the failings of the Agency's recent leadership have left the Agency's credibility diminished.

The Agency is now looking at the prospect of its fourth Director since 9/11. The last Director brought partisanship and lost talented professional staff as a result. The Agency's No. 3 man, who resigned this month, is being investigated by the FBI for links to the bribing of a former Congressman. It is long past time to get it right at the CIA.

This will be the second time I have voted on a Hayden nomination. The first time around, when he was nominated to serve as Deputy National Intelligence Director, I voted for the General. In my view, General Hayden's technical knowledge is not in question. He has always been personable in any discussions the two of us have had, and he has always been extremely easy to talk to.

But since I last voted for him, information has come to light that has raised serious questions about whether the General is the right person to lead the CIA. There are serious questions about whether the General will continue to be an administration cheerleader; serious questions regarding his credibility; serious questions about his understanding of and respect for constitutional checks and balances, and the important accountability in Government that they create.

Here are the facts: Last December, the New York Times reported that since 9/11, the National Security Agency, which General Hayden was in charge of at the time, initiated a warrantless wiretapping program. General Hayden, reported once more in the media to be the architect of the program, became the main public spokesperson in its defense. At a White House press conference in December of 2005 and at subsequent events, including a speech at the National Press Club this past January, the General vigorously defended the administration's warrantless wiretapping program.

Even before the war in Iraq, I was concerned about politicizing intelligence. Since then, I think they are only additional grounds for concern.

At his confirmation hearing, General Hayden said he wants to get the CIA out of the news. To me, this was a curious statement, given all the time he has spent on the bully pulpit defending the President's warrantless wiretapping program. Inevitably, any political appointee will have an allegiance to the White House that appointed him or her. But when it comes to positions in the intelligence community, I believe that this allegiance, regardless of whether a Republican or a Democrat is in the White House, should go only so far.

It is not good for our great country to have a CIA Director who jumps into every political debate that comes up here in Washington, D.C. It is not good for our great country to have a CIA Director who willingly serves as an administration cheerleader. It is not good for our great country to have a CIA Director who gets trotted out again and again and again to publicly argue for the President's controversial decisions. Politicizing the position renders the CIA Director less effective and less credible.

Inevitably, Americans will begin to see the Director as an administration defender rather than a conveyor of the unvarnished truth. And in our next CIA Director, we need more truth and we need less varnish.

My second concern rises out of the first. Not only has General Hayden raised questions through his words and actions about politicizing intelligence, but, unfortunately, even when he says something, you cannot trust, based on his words, that what he says is credible.

At the National Press Club speech he gave in January defending the NSA warrantless wiretapping program, the General repeatedly stated that the program was limited to international to domestic, or domestic to international calls. For instance, he said:

There is always a balancing between security and liberty. We understand that this is a more—I'll use the word ''aggressive''—program than would be traditionally available under FISA. It is also less intrusive. It deals only with international calls.

Later, General Hayden said:

That is why I mentioned earlier that the program is less intrusive. It deals only with international calls.

He explained:

The intrusion into privacy—the intrusion into privacy is significantly less. It is only international calls.

He added:

We are talking about here communications we have every reason to believe are al-Qaida communications, one end of which is in the United States.

At the conclusion of the Press Club address, he was asked by a reporter:

Can you assure us that all of these intercepts had an international component, and that at no time were any of the intercepts purely domestic?

The General said:

The authorization given to NSA by the President requires that one end of the communications has to be outside the United States. I can assure you by the physics of the intercept, by how we actually conduct our activities, that one end of these communications are always outside the United States of America.

With those final words, the speech and the press conference concluded.

But then, just weeks ago, Americans read in the USA Today newspaper that the NSA, according to the paper, was also gathering basic information concerning hundreds of millions of innocent Americans' domestic phone calls. I cannot confirm or deny what was in that article, but I can tell you when I opened the paper that morning and read the article, it raised serious concerns for me about whether the General had been misleading.

Unfortunately, this is not a single incident in an otherwise perfect record. There is a pattern of saying one thing and doing another when it comes to the General. For instance, General Hayden said he received legal authority to tap Americans' phone calls without a warrant in 2001. A year later, in 2002, the General testified before Congress's joint 9/11 inquiry that he had no authority to listen to Americans' phone calls in the United States without first obtaining enough evidence for a warrant. As conceded by the General himself, at the time he made these statements to Congress, the NSA was in fact doing the very thing he led us to believe it could not: engaging in warrantless wiretapping on persons here in our country.

When I asked the General to explain these contradictions at his confirmation hearing, I didn't get much of a response. At best, I got a nonanswer that reflected the General's skill in verbal gymnastics, but not the type of candor that America needs in its next CIA Director.

There is another example that I want to talk briefly about, Mr. President. When General Hayden came before the Senate Intelligence Committee last year in conjunction with his nomination to serve as a deputy to Ambassador Negroponte, I asked him about the NSA Trailblazer Program. This had been one of the General's signature NSA management initiatives, one that had been again reported as one designed to modernize the Agency's information technology infrastructure. In response to my questions—I want to be specific about this because there has been a lot of discussion about it—among a variety of other comments the General made about the Trailblazer Program, at page 44 of the transcript of that 2005 hearing that was held to approve General Hayden to be the deputy to Mr. Negroponte, the General said with respect to the Trailblazer Program:

A personal view, now—looking back—we overachieved.

Now, I cannot go into detail here on the Senate floor because of the classified nature of the information involved, but suffice it to say today the press is reporting that the program is belly-up and the press is reporting that it is a billion dollars worth of junk software.

I take my constitutional responsibility to give advice and consent to the President's nominations very seriously. Last Monday, after the hearing, I did something that I do not customarily do. I reached out to the general once more in an effort to try to find grounds for supporting his nomination. In my office I asked that he keep the Senate Intelligence Committee fully and currently informed of all intelligence activities other than covert actions.

In writing, the general responded:

Regarding communications with Congress on critical issues, if confirmed as Director of the Central Intelligence Agency I intend to have an open and complete dialog with the full membership of the committee, as indicated by 501(C) 502 and 503 of the National Security Act as amended.

So far, so good. But then the general added:

As you understand, there will continue to be very sensitive intelligence activities and operations such as covert actions that, consistent with legislative history and longstanding practice, is briefed only to leadership of the committee. On those rare occasions, communications with those Members will be exhaustive.

So once again the bottom line, General Hayden's response is ambiguous. If confirmed he intends to sometimes inform Congress and at other times only inform certain Members, without explaining how this will be decided or what his role in the decision will be.

Read his response from Monday and you still can't determine when he will brief members of the Senate Intelligence Committee on the activities of the CIA, and when they will be learning about them by reading the morning newspaper.

As I stated, the CIA is looking at the prospect of its fourth Director in this dangerous post-9/11 world. Serious reform is needed to get the Central Intelligence Agency headed in the right direction. To make this happen, America needs a CIA Director who says what he means and means what he says. Unfortunately, time and time again, General Hayden has demonstrated a propensity for neither. His words and acts on one occasion cannot be reconciled with words and acts on another. He is a man with a reputation for taking complicated questions and giving simple answers.

Unfortunately and repeatedly, when I have asked him simple questions, he has given me complicated answers, or nothing at all.

Americans want to believe that their Government is doing everything it can to fight terrorism ferociously and to protect the legal rights and civil liberties of law-abiding Americans. But right now millions of Americans are having trouble locating the checks and balances on Executive power. They don't know what the truth is and they are very concerned about what is next.

I believe it is time for the Senate to break that cycle. I remain concerned that what has happened at the National Security Agency under General Hayden will be replicated at the Central Intelligence Agency. For that reason, I oppose the nomination.

I yield the floor.

The PRESIDING OFFICER (Mr. DEMINT). The Senator from Illinois.

Mr. DURBIN. Mr. President, let me commend my colleague from the State of Oregon, a member of the Senate Intelligence Committee, a committee on which I served for 4 years. Senator WYDEN's statement is consistent with his service on that committee. It shows that he takes that assignment very seriously, he does his homework on a very challenging committee assignment, and that he has given great thought and reflection to this important decision about whether General Hayden should be named to head the CIA.

Senator WYDEN and I have discussed this nomination. There are some things he cannot share with me because they were learned behind closed doors in the Senate Intelligence Committee, but I have become convinced, as well, that General Hayden, despite his many great attributes and good qualifications, is not the right person for this appointment.

When we reflect on America since 9/11, there are many things that are very clear. First, this country was stricken in a way that it has never been stricken since the War of 1812, when the British invaded the United States, invaded this Capitol building, sacked and burned it. We found 3,000 in-

nocent Americans destroyed on American soil—a gut-wrenching experience that we will never forget. It changed America and it called on the President, on the leadership in Congress, to summon the courage to respond.

In the days that followed that horrible event, there were some inspiring images. We can recall the videotape of firefighters ascending the stairway into the World Trade Center, to certain death, braving what they knew was a terrible disaster to try to save innocent lives.

We can recall the President of the United States going to the rubble of the World Trade Center in New York and in a few brief moments rallying America and the world behind our cause.

We can remember Members of Congress standing just a few feet away from this Senate Chamber, Members of Congress who hours before had been locked in partisan combat, who put it all aside after 9/11, sang ''God Bless America,'' and said: What can we do to save America?

After that, the response around the world; this great, giant, the United States of America, having suffered this terrible loss, was able to count its friends and allies very quickly. So many nations stepped forward and said: We are with you. We will help you. We understand that you must bury your dead and grieve your losses, but then you must defend yourself and your Nation for its future, and we will be there.

It was an amazing outpouring of support for our great country. It was a wonderful, encouraging moment.

The President came to this Congress and gave a speech shortly after 9/11 that I will say was one of the best I had ever heard, summoning us to gather together as a nation to defend ourselves against this threat of terrorism. Then, of course, we considered the PATRIOT Act. We changed the laws of America so our Government would have new tools to pursue the terrorists. It passed with an overwhelming bipartisan vote, very quickly, and we started to roll up our sleeves and take on this task.

At the time I was a member of the Senate Intelligence Committee. I realized then more than ever how important that committee was. Intelligence is the first line of defense, and good intelligence used wisely can protect America from terrorism and from enemies who would inflict great casualties and pain on us.

Then, a few months later, came a new challenge, a challenge we had not anticipated on 9/11. The President and this administration told us that the real battle was against Saddam Hussein in Iraq. I remember sitting in that Senate Intelligence Committee just days before the vote on the Senate floor about the invasion of Iraq and turning to a staffer who said to me: Senator, something is unusual here. This is the first time we have ever considered any kind of effort of this magnitude without asking the intelligence agencies of the United States to tell us what they know so we can gather information from every source and make a conscious and sensible judgment about what we should do. It is called a National Intelligence Estimate, an NIE.

So at my staffer's prompting, I requested a National Intelligence Estimate, as did Senator GRAHAM of Florida. It turned out it was routine to produce them, but no one had taken the time to do that before the invasion of Iraq.

In very short order, just a few weeks, a National Intelligence Estimate was submitted to the Intelligence Committee. There were claims in that NIE that turned out to be false, but at the time we didn't know it. There were claims about weapons of mass destruction that threatened the safety of the United States of America. There were claims of capacities and capabilities by Saddam Hussein in Iraq that were greatly exaggerated. There were claims that Saddam Hussein and the Iraqis were producing nuclear weapons which could be used against the United States. Leaders in the White House were telling us they were fearful of mushroom clouds that could result in a nuclear holocaust. All of this was given to the American people and the Intelligence Committee.

The sad reality was when we sat in the Intelligence Committee behind closed doors, we knew that the American people were not getting the full story, that in fact even within this administration there was a dispute as to the truth of these statements, statements given every day and every night by the leaders of this administration.

We know what happened. We invaded Iraq. Saddam Hussein, in a matter of weeks, was gone as their dictator, and we came to learn that all of the claims about weapons of mass destruction were false, totally false. The American people had been misled.

There is nothing worse in a democracy than to mislead the people into war, and that is what happened. We learned, as well, that there were no nuclear weapons. All those who claim there was a connection between 9/11 and Saddam Hussein could find no evidence. The statements made by the President in his State of the Union Address that somehow or another Saddam Hussein was obtaining yellowcake or the makings of nuclear weapons from Africa turned out to be false, and the President had to concede that point.

Then, in light of it, we decided it was time to take a look. The Intelligence Committee on which I served decided to ask two questions: First, did our intelligence agencies fail us? Did they come up with bad information when they should have given us good information and good advice? Were we, in fact, misled into this war by that information? And second: Did any member of this administration misuse that intelligence information, use it in a fashion that did mislead or deceive the American people? Those were two specific assignments accepted by the Senate Intelligence Committee. I served on the committee while we were in the process of meeting that obligation. We came to learn the first assignment was exactly right. The Senate Intelligence Committee concluded, as did the House, that our intelligence agencies had failed us. Our first line of defense had failed us, giving us information that was totally flawed, information which was not reliable, information which never should have resulted in the invasion of Iraq.

The administration had argued that we have a new foreign policy, a preemptive foreign policy. We can't wait to be attacked, the President said, we have to attack first if there is a threat. It turns out the information used to measure that threat was wrong, in the invasion of Iraq.

Mr. President, 23 of us in the Senate voted against the use of force in Iraq, 22 Democrats and 1 Republican. We believed then, most of us, that the information being given to the American people was misleading, the intelligence information was not accurate.

It turns out that our estimate was true. It turns out that our invasion of Iraq was based on false pretenses and on intelligence information that was fatally flawed.

The second investigation to be undertaken by the Senate Intelligence Committee, promised more than 2 years ago, was that we would look into the misuse of this intelligence by members of this administration. That is a tough thing to ask a Senate Intelligence Committee, led by a Republican chairman, to do, because it is likely to bring some embarrassment to the administration of the President.

Unfortunately, as I stand here today, the promise of almost 2 years ago to complete this second phase has not been completed. We still don't know if members of this administration misused the intelligence.

But there are things that we do know, things that are very clear. It is clear that in the lead-up to the invasion of Iraq and afterwards there was a separate intelligence agency created in the Department of Defense by a man named Douglas Feith that became virtually a renegade, independent operation. It was not working in concert with other agencies of our Government gathering intelligence. That is inconsistent with what we hoped to be a coordinated intelligence effort in our Government. But Secretary Rumsfeld, who enjoyed the confidence of the President, was able to initiate this intelligence operation in defiance of many other intelligence agencies. We know that for a fact.

Then we came to learn several other things. We learned that after 9/11, the Bush administration, for the first time in modern history, decided that they needed to rewrite the standards of interrogation for detainees. For decades we had held to the standard of the Geneva code, which basically said that we

would not engage in torture, cruel, inhuman, or degrading treatment. But the infamous Bybee memo, exchanged at the time with Alberto Gonzales, then-White House Counsel, and many others, was at least a suggestion that we could breach those rules and change those rules. That conversation, in closed sections of the White House, took place without the knowledge of the American people. But then the terrible disclosure at Abu Ghraib torture, inhuman treatment perpetrated, sadly, by those who were in the service of the United States.

It was clear then that the issue of torture was one that was front and center for us as a Nation to face during this time of terror. So with this torture issue before us, we also had other things to consider.

Not long thereafter came the news that this administration was engaging in activities which clearly were beyond the law—the so-called warrantless wiretaps of Americans. You see, under the laws of the United States and under our Constitution, one cannot invade through a wiretap the privacy of another without court approval. No executive branch office, Department of Justice, or FBI can engage in a wiretap without the approval of a court order or, when it comes to questions of international security, foreign intelligence gathering, through the FISA court, a special court created for that purpose. Those are the two options.

But this administration said that it was above the law; that it didn't have to answer to those courts; that it didn't have to work through those courts; it could engage in warrantless wiretaps through the National Security Agency, an agency administered by General Hayden.

Several weeks ago, USA Today disclosed more information indicating an invasion of privacy where the telephone records of innocent American people are being gathered by the same agency, the National Security Agency, in an effort I cannot describe in detail because I have not been briefed, but in an effort to find some intelligence information.

Now comes the nomination of General Hayden to become Director of the Central Intelligence Agency after all of this experience.

Let me say at the outset that I respect General Hayden. He is a man who has served his country with distinction for over three decades. Many say—and I cannot disagree—that he is one of brightest minds when it comes to intelligence, and the agencies that he has worked with in the past are clear evidence of that.

I honor and appreciate his service. I know he is a man of considerable knowledge and formidable intellect. He is well versed in the questions of intelligence, particularly in the most technical areas. However, I have three primary reservations about this nomination.

First, I am concerned about the role of General Hayden in the NSA's warrantless wiretapping of American citizens.

Second, I am concerned about how the CIA will treat detainees in their custody and how they will implement the clear prohibition on torture and cruel, inhuman, or degrading treatment standard that was passed last year in the McCain amendment, which I cosponsored, by a vote of 90–9 on the floor of the U.S. Senate.

I am also concerned about the issue of the General's independence, not merely his independence as an individual but his ability to stand up to the Department of Defense and the likes of Secretary Rumsfeld, and separate defense intelligence operations under Douglas Feith. I raised these concerns when I met with General Hayden, and they we were echoed by many members of the committee during the hearings.

First, I would like to address the issue of surveillance of American citizens.

As Director of the NSA, General Hayden presided over a program that carried out warrantless wiretaps on innocent Americans. Those wiretaps did not have judicial approval, nor did they have meaningful congressional oversight. Precious few Members of Congress were briefed about the wiretaps, and they were sworn to secrecy about this procedure.

General Hayden has stated that the Attorney General and other legal authorities within the administration had concluded that such actions were proper and legal. In fact, I have seen no evidence of that whatsoever.

We created the FISA court to issue warrants for such surveillance. If the administration believes the FISA court is not sufficient in this age of terrorism and high technology, the administration should come to Congress and ask us to change the laws, as we did with the PATRIOT Act.

In addition to warrantless wiretaps, General Hayden reportedly oversaw a program that assembled an enormous database, the largest in the history of the world, of literally millions of calls made by Americans to Americans in the United States. Tens of millions of Americans appeared to have been included in this database. And most of us in Congress learned about it on the front page of USA Today.

I am disturbed about the role that General Hayden played in overseeing these practices. It is certainly critical that the Director of the CIA protect our security but also not endanger our liberties.

Second, I am concerned about the way the CIA will treat detainees. When the McCain amendment was pending, it was opposed openly by Vice President RICHARD CHENEY who said that he believed intelligence agents—those working for the CIA—should not be bound by the provisions of the McCain amendment. We disagreed. We passed, on the floor of the Senate, as I said earlier, by a vote of 90–9, clear standards barring torture, cruel, inhuman and degrading treatment. I believe that we should never engage in that treatment—and that is what the McCain amendment requires. Senator MCCAIN said it well last year, and I quote him. He said, ''It's not about who they are. It's about who we are.''

I believe we should have one clear, uniform interrogation standard that applies to all United States personnel—those in uniform and those in a civilian capacity.

I was disturbed when General Hayden was meeting with me and did not appear to share that view. He was evasive. While he said that we must establish clear guidelines, he indicated he might prefer to have one standard for the military and another standard for intelligence personnel. He said he wanted to study the question, but that two sets of rules might be appropriate.

I disagree. There is only one standard. It should be clear and unequivocal.

Finally, there is the question of independence. The Pentagon controls an estimated 80 percent of the intelligence budget. That fact alone makes it critical for the CIA to vigorously defend its independence over the Department of Defense. We need an independent voice at the CIA.

I note that last year's intelligence authorization bill, as passed by the Senate Intelligence Committee, stated that the Director of the CIA should be appointed from ''civilian life.''

That bill in the end never reached the floor of the Senate for a vote, but we should nevertheless consider that recommendation seriously.

General Hayden assured me that he stood up to Secretary Rumsfeld in the FISA operation when he disagreed with him, and that he will continue to do so.

Colleagues on the Intelligence and Armed Services Committee, whom I deeply respect, including Senator LEVIN of Michigan, have concluded that General Hayden will assert that independence and stand up to the Pentagon. I certainly hope he does.

Within the Bush administration, the question of the independence of intelligence agencies is particularly important. That is because the intelligence process has been abused.

This administration clearly politicized and distorted the use of intelligence to promote the false premise that Saddam Hussein was tied to the 9/11 attacks and that Iraq was developing weapons of mass destruction, including nuclear weapons. We know now that was false.

In 2002, the administration undermined the independence and credibility of the intelligence process by creating the Office of Special Plans at the Pentagon under the leadership of Under Secretary of Defense Douglas Feith. Several of us addressed this issue as part of the Intelligence Committee's 2004 Report on the Prewar Intelligence Assessments on Iraq. And Senator LEVIN joined me in this.

We wrote:

The Intelligence Community's findings did not support the link between Iraq and the 9/11 plot [that] administration policy officials wanted [in order] to help galvanize support for military action in Iraq. As a result, officials under the direction of Under Secretary Feith took upon themselves to push for a change in the intelligence analysis so that it bolstered administration policy statements and goals.

I asked General Hayden about Douglas Feith and the Office of Special Plans. To his credit, he was critical of that operation. He said it was not legitimate ''alternative analysis,'' and he described the troubling pattern in which preconceptions shaped the search for intelligence.

General Hayden reiterated his discomfort with the Feith approach in testifying before the Intelligence Committee. I hope that when he is confirmed, as I am certain he will be, that General Hayden will go even further in opposing efforts to subvert the intelligence process.

Today, we face even graver dangers than we did in 2003 when Under Secretary Feith was operating his own intelligence shop.

The war in Iraq has claimed over 2,400 American lives, and there is no end in sight.

Iran has pursued three different methods of enriching uranium and has experimented with separating plutonium, moving closer to the possible development of nuclear weapons.

Osama bin Laden is still at large; al-Qaida has splintered in different and dangerous directions, and North Korea is expanding its nuclear arsenal.

All these issues make it extremely important that our intelligence community conduct independent, accurate, trustworthy analysis. And it is critical that we operate within the bounds of our own Constitution and our laws.

We should not have one standard for the military and another for the intelligence community, a position once argued as high in this administration as Vice President CHENEY. We should not engage in torture or hold detainees indefinitely without of charging them with a crime.

Just 2 weeks ago, the President of the United States said it would soon be time to close Guantanamo. That certainly is something that many of us believe is in order. Those who are dangerous to the United States should be charged and imprisoned. Those who have no value to us from an intelligence viewpoint should be released, if they are not a danger to the United States.

We cannot ignore the fundamental privacy rights of American citizens and the moral values and rights reflected in the treatment of those detainees.

General Hayden will be taking charge of the CIA, by many reports at a time when the Agency is demoralized. He will have to oversee critical reforms.

Last December, members of the 9/11 Commission handed out report cards on reform for the Bush administration. They gave the CIA an ''incomplete'' in terms of adapting to its new mission.

I hope General Hayden can change that. I hope that he will be the independent voice that we need.

I yield the floor.

(At the request of Mr. REID, the following statement was ordered to be printed in the RECORD.)

VOTE EXPLANATION

• Mr. SALAZAR. Mr. President, I was necessarily absent during the vote on final passage of S. 2611, the comprehensive immigration reform bill, because I was traveling to Colorado to attend my youngest daughter's high school graduation. I want the RECORD to reflect that had I been here, I would have voted in favor of the bill. The legislation that passed the Senate will help this country to reestablish meaningful control of our borders. It will promote real law and order at ports of entry and in the interior, improving employer verification mechanisms and establishing a tough but fair path to citizenship for qualified immigrants. It rejects the idea that America can be the country we wish to be while tolerating a permanent underclass, a shadow society, within our midst. It is my hope that the most important elements of this comprehensive bill will be retained in conference with the House, and will be sent to the President's desk for signature.

Mr. President, I was also necessarily absent during the cloture vote on the nomination of Brett Kavanaugh to be a U.S. Circuit Judge for the DC Circuit. I want the RECORD to reflect that had I been here, I would have voted in favor of invoking cloture.•

HONORING OUR ARMED FORCES

LIEUTENANT ROBERT KENNETH THOMPSON
STAFF SERGEANT GREGORY WAGNER

Mr. THUNE. Mr. President, in the spirit of Memorial Day, which is fast approaching, I rise today to pay tribute to two sons of South Dakota who dedicated and ultimately sacrificed their lives for their country. These men died on battlefields far from home, to protect us and to advance the cause of freedom. LT Robert Kenneth Thompson and SSG Gregory Wagner both died in service to this great nation at very different times in America's history. They fought in conflicts many years apart, but both understood the importance of preserving and promoting freedom. On this Memorial Day, it is appropriate to remember not only those who have fallen in the present conflict in Iraq, but those who have fallen in previous conflicts as well.

LT Robert Kenneth Thompson of Flandreau, SD, was inducted into the United States Army on December 27, 1948. At the time of his death, LT Thompson was on assignment fighting in the Korean conflict. He was killed in action on February 12, 1951 north of Hoengsong, Korea while serving as a member of Battery A, 503rd Field Artillery.

Lieutenant Thompson had served in the United States Army for just over 2 years before his life was cut tragically short. LT Thompson dedicated his life to his country. He selflessly answered when duty called, even though it meant leaving his family behind. LT Thompson's patriotism and courage will not be forgotten.

Lieutenant Thompson is survived by his wife Doris and daughter Vicki. Today we remember his selfless dedication and service to all Americans, and his sacrifice will always have meaning to all future generations of Americans, as long as our Republic exists.

SSG Gregory Wagner of Alexandria, SD, was a full-time heavy mobile equipment repairer for the National Guard in Mitchell's Battery A, 147th Field Artillery and was deployed with the Yankton, SD unit. As a member of the Battery C, 1st Battalion, 147th Field Artillery, he was chosen as the Task Force 519th Military Police Battalion ''Hero of the Week'', having distinguished himself with his remarkable achievements. His mission in Iraq involved training and educating the Iraqi police force.

SSG Wagner made the ultimate sacrifice on May 8, 2006 during his service in Iraq. He was honored with a Bronze Star and a Purple Heart. He will be remembered for his loyalty and dedication to his family, friends, fellow service-members, and his country.

SSG Wagner was a devoted, small-town guy who graduated from Hanson High in 1989. He was an admirer of his father, Charles Wagner, who served in the military as a sergeant in the U.S. Army. Each year at the Memorial Day services in Alexandria, SD, Charles would read the roll of soldiers. When he passed away, Greg stood in his place. My heart goes out to his mother, Velma, to all his siblings, and to his community as SGT Wagner's name is read at this year's Memorial Day service.

LT Thompson and SSG Wagner both laid down their lives for their country, and to free others from tyranny. While we are currently engaged in a very different kind of war, nothing has changed in that which we are ultimately trying to protect. For my freedom and for your freedom and to spread this freedom across the globe, our soldiers have risked and sacrificed their lives. On this Memorial Day, as we pause to reflect on those who have died so that we all might live in freedom, we can do no more to honor them than to remain dedicated to the same principles for which they stood and devoted their lives.

MEMORIAL DAY 2006

Mr. DOMENICI. Mr. President, I would like to pay tribute to those men and women of the United States Armed Services who have given their lives to defend our Nation and the ideals it represents.

Numerous times in the history of our Nation, the men and women of our

Armed Forces have been called upon to defend the freedom we hold so dear. Sadly, many of those brave individuals never returned to the homes and families they selflessly left behind. Today, we honor their sacrifice and ensure that we as a nation will never forget the debt of gratitude that is owed them.

New Mexicans have a long and notable history of military service. During the Spanish American War, New Mexico guardsmen served with Teddy Roosevelt and his Rough Riders at the Battle of San Juan Hill. New Mexicans of the 1st Infantry Regiment fought with the 40th Infantry Division in France after the U.S. entered the First World War. While participating in the Italian campaign of the Second World War, new Mexicans of the 104th Tank Destroyer battalion were awarded 8 Silver Stars, 60 Bronze Stars, and 135 Purple Hearts. Of course no one will forget the contribution Navajos from my home state made as ''code talkers'' or the bravery of the ''New Mexico Brigade'' in the Philippines during World War II. During the Vietnam War, the 188th Tactical Fighter Squadron of the New Mexico Air National Guard flew over 6,000 combat sorties and amassed over 630 medals and decorations before its release from Federal active duty in June 1969. These are just a few examples of the distinction with which New Mexicans have served our Nation. From the swamps of Cuba to the jungles of Vietnam and the deserts of Iraq, many New Mexicans have given their lives on behalf of America, and for these reasons on Memorial Day we honor these brave men and women.

We must never forget the sacrifices of our solders, sailors, airmen and marines. I encourage New Mexicans and all Americans on this Memorial Day to take a moment to remember and honor the brave men and women who have fallen in our defense. I ask that New Mexicans think of them and their families, and give thanks that we are blessed with such heroic men and women.

On this Memorial Day, let us not overlook the men and women of our armed forces who since September 11, 2001 have been called away from home to fight the Global War on Terror. Many of these individuals are National Guardsmen like the members of Task Force Phoenix serving in Afghanistan, the 1116th Transportation Company serving in Iraq and Task Force Cobra serving in Kuwait. I would like to thank them and all the men and women of our State who have returned from previous deployments overseas. Not only have they made their family and state proud, they have made their country proud as well.

Today I would like to make special mention of those New Mexicans of the active and reserve military who have given their lives in Operation Iraqi Freedom and the Global War on Terror. They, like Americans of generations past, answered the call to defend this great Nation from those who would do it harm. In the spirit of the efforts put forth by such individuals, it is imperative America forever remain the land of the free and the home of the brave.

Mr. HAGEL. Mr. President, Memorial Day is a time for solemn remembrance and reflection. We remember the brave men and women who gave their lives in defense of our Nation. At cemeteries and memorials across America, in tributes both public and private, we gather to honor those who died in service to our country. On May 12, members of the SGT John Rice family of Winnebago, NE, paid final tribute to his wife Evelyn who was buried at Arlington National Cemetery next to her husband. The history of John and Evelyn Rice serves as an important reminder of the sacrifices soldiers and their families make in defense of freedom.

Sergeant Rice, a Winnebago Native American, was born on Nebraska's Winnebago reservation in 1914. After high school, he began looking for an opportunity outside of reservation life. He found that opportunity by serving in the U.S. Army during World War II. Rice received a Purple Heart after being wounded and was discharged from the Army in 1945. Rice reenlisted in the Army in 1946, and among the many duties Rice performed were escorting the bodies of war casualties being brought back to the U.S. to be buried.

Rice's service again brought him into battle in 1950 during the Korea war, where he was killed in combat early in the conflict. It wasn't until almost a year later that his body was finally returned home to Winnebago. Evelyn arranged for the burial to be at Memorial Park Cemetery in Sioux City, IA, because it was close to the family and near Winnebago.

Sergeant Rice's funeral proceeded as planned on August 28, 1951. It wasn't until after Evelyn and the family left the funeral service that cemetery personnel discovered that Rice was Native American. Evelyn was told that Sergeant Rice's burial would not be completed due to a cemetery rule that only Caucasians could be buried there. In an effort to try and solve the situation, the cemetery personnel proposed to Evelyn that she could sign a document stating that Rice was Caucasian and they would finish the burial. Evelyn rejected that offer and later stated that, ''When these men are in the army, they are all equal and the same. I certainly thought they would be the same after death . . .''

Two military officers who were present at the funeral alerted Army officials in Washington of the funeral's disruption. The day after Rice's funeral, news of what happened reached President Harry S. Truman, and he offered Evelyn a space for her husband to be buried at Arlington National Cemetery. Evelyn accepted the President's offer and arrangements were made a few days later for a ceremony to take place at Arlington National Cemetery with full military honors. Sergeant Rice is believed to be the first Native American soldier to be buried in Arlington National Cemetery.

Evelyn Rice passed away last year at the age of 83 and was buried earlier this month next to her husband at Arlington National Cemetery. Her courage in refusing to accept anything less than respect and honor for her husband's service and sacrifice is an example all Nebraskans can be proud of. Evelyn Rice embodied the best of America's spirit by standing up to injustice during a very difficult time for her and her family, community and country.

We must be vigilant in our efforts to remember the sacrifices of those we honor on Memorial Day. I authored a Senate resolution, which is now law, to observe a National Moment of Remembrance at 3 p.m. local time each Memorial Day. Reserving this moment to reflect on Memorial Day is one way to honor those who died in service to our country. I ask everyone to join me this Memorial Day in honoring America's fallen heroes and their families, like SGT John and Evelyn Rice, and thank all those who have served their country in uniform.

Mr. CORNYN. Mr. President, Memorial Day is a day we have set aside to remember those who have given their lives—''the last full measure of devotion''—in service to our country.

As President Abraham Lincoln looked out across the cemetery at Gettysburg, he honored the sacrifice of the soldiers who had died there and how their sacrifices preserved the Union and advanced the cause of freedom.

For more than 200 years, men—and later, women—have donned the uniform and met the many challenges of serving our great Nation and the ideals on which it was founded. Countless numbers of them have paid the ultimate price—and we honor them today.

Our freedom was not free. It was bought and paid for by the sacrifices of generations that have gone before. We honor these heroes for their courage and for ensuring that our own freedom is more than a dream—that it is indeed a reality.

Those who fought in our country's Civil War are long passed. And many of those brave men who served in our World Wars too have passed. Members of what we fondly call the ''greatest generation'' are leaving our midst in record numbers, and we mourn their passing—these brave men who liberated so many from tyranny. They are gone, but they certainly are not forgotten.

Memorial Day is not merely the opportunity for a 3-day weekend. It is our duty—indeed, it is our privilege—to reflect on the sacrifices that have paid the price for our freedoms.

We must also acknowledge the heroism and sacrifice of our brave men and women currently serving in the Armed Forces. I know I speak for the people of my State of Texas, and for all Americans, when I thank our soldiers,

sailors, airmen and marines—and their loved ones waiting patiently at home—for their service and their dedication to duty.

As a member of the Armed Services Committee, it is my job and my honor to look after the interests of all of our military personnel. We must ensure that the military continues to have the tools it needs to remain the most powerful fighting force the world has ever known.

Our Texas military bases are some of the strongest components of our military readiness in the current global war against terror. These valuable assets help to maintain our status as the world's lone superpower, even as we transform our military to face the challenges of the future.

Soldiers are not just numbers or statistics. These are real Americans. True patriots. They have real families. When someone leaves home to fight for American interests abroad, it affects their entire community; it affects their friends and, most profoundly, it affects their families.

And so while we must remember the sacrifices of the brave men and women who fight on the battlefield, we must also be mindful of the sacrifices of those they leave behind—and so on behalf of a grateful nation, I thank them today, as well.

The difference our military is making in the world is undeniable. Just a short while ago, the idea that the Iraqi people could live free was a concept that many would not treat seriously. But the Iraqi people are forging ahead and have formed a unity government and are firmly embracing the opportunities that freedom provides.

I wish there were more balance in this discussion about Iraq. There are so many good things happening there—so many good things. And largely, unfortunately, they are left unreported.

Recently, Jack Kelly, former marine, Green Beret, and deputy assistant secretary of the Air Force during the Reagan administration, highlighted some of these important stories—for example, the account of marine Sgt Rafael Peralta, who has been posthumously recommended for the Medal of Honor.

I quote: ''Sgt. Peralta was killed on Nov. 15, 2004, during the second battle of Fallujah. His squad was clearing a house. Sgt. Peralta was the first into a room where at least three insurgents lay in ambush. He was shot in the chest and the face, but still had the presence of mind to jump into an adjoining room to give the marines behind him a clear field of fire.

Four marines maneuvered into the room where Sgt. Peralta lay when an insurgent tossed a grenade into it. Sgt. Peralta pulled the grenade to him and smothered it with his body, saving the others from death or serious injury.

Sgt. Rafael Peralta died for a country he loved, but of which he was not yet a citizen. A Mexican immigrant who lived in San Diego, Sgt. Peralta enlisted in the marines the day he received his green card.

''Be proud of being an American,'' Sgt. Peralta had written to his younger brother in the only letter he ever sent him.

While this is only one story, there are hundreds more that should be acknowleged.

In recent correspondence, Iraqi Freedom veteran Major Mark McDaniel of the 301st Fighter Wing in Fort Worth wrote these words: ''Our efforts there in providing security enabled these courageous people to work through the sectarian issues that existed . . . I believe that this weekend has vindicated our presence and our sacrifices in Iraq. I, and the other members of the 301st Fighter Wing . . . believe in our mission there.''

And we here at home believe in our men and women in uniform—in their courage and the cause of freedom they defend. We must always remember our Nation's heroes and live in a manner worthy of their sacrifice.

ASSISTING PEOPLE AFFECTED BY HUNGER AND POVERTY AROUND THE WORLD

Mr. JOHNSON. Mr. President, 850 million people around the world go hungry every day. Famine and hunger destroy the lives of those who already suffer from extreme poverty, violence, and loss. Each instance is heartbreaking, but all too often we turn a blind eye to those in need. As a person of faith, and a board member of Bread for the World, I believe we can do more to help the most vulnerable throughout the world, and I want to draw the Senate's attention to a handful of countries devastated by poverty and hunger.

For over 40 years, Colombia has been engaged in an armed conflict between insurgent guerrilla groups and the Colombian military. This violence, exacerbated by decades of political instability and illegal drug trafficking, has subjected thousands of innocent civilians to human rights abuses. Since taking office in 2002, President Alvaro Uribe Velez has made strides in boosting the Colombian economy and stabilizing the political process. However, crime and widespread violence continue to undermine these efforts.

Colombia has the third largest internally displaced population in the world. Between 2 to 3 million people, out of a total population of 43 million, have been forced from their homes. On average, 350,000 people become internally displaced each year. Many flee to escape kidnappings, assassination attempts, and local violence linked to drug trafficking and the civil conflict.

Colombia's displaced population is in a dire state of need. Eighty percent of internally displaced people live in extreme poverty and lack access to sufficient food. In fact, Colombian insurgents have increasingly employed roadblocks and isolation tactics to stop food shipments from reaching vulnerable locations. All too often, internally displaced persons are forced to eat fewer meals, each of which consists of low nutritional value. The average daily caloric intake of an internally displaced person is 1,752 calories—well below the recommended minimum of 2,100 calories.

Another country ravaged by poverty and hunger is Haiti. Haiti is the poorest country in the Western Hemisphere, with 80 percent of the population living in poverty. In 2004, political unrest, coupled with social and economic instability and natural disasters, crippled a nation already in a state of extreme food insecurity.

The poor are particularly susceptible to chronic malnourishment. Almost half of Haiti's 8.3 million citizens are undernourished. Even more troubling, due to chronic malnourishment nearly half the children under the age of five suffer from moderate to severe stunted growth. Haiti, along with Afghanistan and Somalia, experience the worst daily caloric deficit per person in the world. The average Haitian consumes only 460 kilocalories each day.

The United Nations World Food Program provides food assistance to 600,000 Haitian people. While humanitarian relief programs like the World Food Program are a step in the right direction in eradicating hunger in Haiti, a number of factors are impeding efforts. Looting, poor road conditions, and a lack of security continue to hinder the delivery of food aid in the country.

Africa has long battled systemic poverty, violence, and hunger. The Democratic Republic of Congo, DRC, has been engulfed in political turmoil for over 8 years, resulting in the death of nearly 4 million people. While the DRC is moving toward reunification and increased political stability, parts of the country remain highly volatile. Widespread violence, particularly in the eastern part of the country, has resulted in the internal displacement of more than 3.4 million people.

Civil conflict has also wreaked havoc on the country's agriculture industry. In some areas, there is a lack of secure farmland, and severe labor shortages and constant looting by combatants contribute to the crisis. Oftentimes, raiders slaughter livestock, causing scarcity of meat. In addition, efforts to increase the food supply have been thwarted by a widespread lack of basic education, job opportunities, and weak local implementing partners.

We cannot continue to ignore the current situation in the DRC while nearly 1,000 people die each day from war-related hunger and disease. Seventy-one percent of the Congolese population is undernourished and the mortality rate has climbed to more than 50 percent due to starvation.

In addition to the crisis in the DRC, Ethiopia is on the verge of a humanitarian catastrophe. Ethiopia has the poorest human development indicators in the world. More than three-quarters

of Ethiopians live on less than $1 per day, and almost half the population is undernourished. Drought has plagued Ethiopia for decades, leaving the country stripped of the natural resources required to feed its citizens. During the past 20 years, five major droughts have destroyed crops and livestock, and have left many people with few personal belongings.

Ethiopia is of strategic importance to the United States, and its stability is crucial to the Horn of Africa and our efforts in the global war on terrorism. Ethiopia shares borders with nations plagued by civil war and government instability, which impede famine relief efforts. In response to the famine in Ethiopia, USAID is transitioning its emergency response famine program to be more proactive. Revamping this program will help stimulate economic growth in the country. The hope is to permanently reduce famine-related poverty and hunger by increasing the government's capacity to respond effectively to these crises. In addition, famine relief efforts will be assisted by nongovernmental organizations, the private sector, and local communities and households.

Finally, years of internal armed conflict and political instability have caused severe food shortages in Sudan. Southern Sudan, ravaged by civil war, may face the return of millions of internally displaced people following the signing of the Comprehensive Peace Agreement in January 2005. A quarter of the Sudanese population is undernourished, and an estimated 3 million people will be in need of food assistance as they return to their homes.

In western Sudan, the violence in the Darfur region has culminated in the first genocide of this century. In February 2003, fighting erupted between rebel groups and government backed militias. The United Nations estimates that more than 70,000 people have been killed in this conflict, while other organizations believe the actual number is three to four times higher. As a result of ongoing ethnic violence, approximately 2 million people have been internally displaced, and 220,000 refugees have fled to neighboring Chad.

Famine remains a distinct possibility, with need far outweighing the ability of government and nongovernment agencies to deliver food aid. Prior to the crisis in Darfur, an estimated 18 percent of Sudanese suffered from natural malnutrition. Today, 3.5 million people in Darfur are hungry, with numbers expected to skyrocket until the conflict is resolved. Relief efforts have slowed considerably due to widespread violence. Furthermore, refugees and internally displaced people are not expected to return to their homes for the next planting season. As the rainy season approaches, flooding will likely hamper our ability to adequately distribute food aid. Finally, the World Food Program recently announced that it must reduce daily rations in Darfur and eastern Sudan to as little as 1,050 kilocalories, or 50 percent of the daily minimum requirement, due to funding shortfalls.

I briefly described the food shortage crises facing five impoverished and vulnerable countries. This is a snapshot of the reality millions face each day—including those who live in the United States. Each statistic represents a person struggling to survive, not knowing where their next meal will come from—if it will come at all. In many situations, people remain poor and powerless with virtually no hope of breaking the cycle of despair. We can no longer use ignorance as an excuse for our inaction.

Without question, assisting fellow human beings in need is a moral issue. However, in many of these war-torn and troubled nations it is also an issue of national security. Countries that are politically unstable and ravaged by hunger and disease are often breeding grounds for terror and violence. After all, it wasn't long ago that Osama bin Laden based his operations in Sudan in order to export terrorism and attack innocent civilians.

As our world becomes increasingly interconnected, poverty abroad cannot be ignored. Political instability and infectious disease know no border and can affect us at home. Sadly, too often instances of extreme hunger and famine do not invoke action among the world's most powerful nations until it is too late—leaving millions dead or forever suffering from the consequences of chronic malnutrition. Our inaction is not because we don't care, but I do believe the United States should be more proactive, and not reactive, in ending hunger and poverty.

The Federal budget is a reflection of our Nation's values and priorities. The Bush administration has made clear its priorities by extending tax cuts to the fabulously wealthy, while deeply cutting funds for hunger prevention and poverty programs. Less than half of 1 percent of our budget goes to fighting poverty, hunger, and disease. The United States is the most powerful and wealthy nation in the world. We should be a leader in ending hunger and poverty, and we can begin by standing up for those at home and abroad who are in dire need of assistance.

DARFUR PEACE AGREEMENT AND SUDAN

Mrs. CLINTON. Mr. President, for nearly 3 years, the Government of Sudan has conducted genocide in Darfur. The United Nations, the African Union, the U.S. State Department, and many other organizations possess detailed descriptions of these crimes against humanity. This enormous body of evidence demonstrates unequivocally that the Government of Sudan and its jingaweit proxies have attacked, uprooted, raped, starved, enslaved, and killed millions of civilians.

In Congress, we have written letters, introduced and adopted legislation, and spoken out strongly. We have supported the African Union peacekeepers, the international relief workers, and the people of Darfur. In March, I sent a letter to President Bush detailing 13 steps that should be taken to address the crises in Sudan. I reiterate the steps that are suggested. These include appointment of a Presidential Envoy to Sudan; rapid preparation and deployment of additional, well-equipped, robustly-mandated international peacekeepers to Darfur; urgent assistance to the African Union, including by NATO; and multilateral enforcement of existing U.N. resolutions that establish a no-fly zone over Darfur and hold accountable those who have committed crimes.

Thousands of Americans, including many New Yorkers, have taken a strong and personal interest in the crisis in Darfur. I have heard their voices and frustration. The situation on the ground is still dire. As we lament this crisis today, four million people in Darfur and eastern Chad now depend on relief organizations for survival—one million more than a year ago.

The alarm issued on May 19 by the United Nations Under Secretary General for Humanitarian Affairs, Jan Egeland, is therefore especially distressing. Despite the hopeful signing of the Darfur Peace Agreement on May 5 by the Government of Sudan and one of the main Darfur rebel groups, the work of aid workers remains sharply constrained by violence, funding shortfalls, and restrictions being imposed by the Government of Sudan. Civilians continue to be attacked and sexually-brutalized by Sudanese armed forces, the jingaweit, and rebel groups. On May 19, Mr. Egeland warned, ''We can turn the corner towards reconciliation and reconstruction, or see an even worse collapse of our efforts to provide protection and relief to millions of people.'' In eastern Chad, Mr. Egeland said, ''we are confronted with a very dangerous vacuum that is being filled by rebels, militia and others, leaving civilians, internally displaced persons, refugee camps and relief workers utterly exposed.''

In the context of Sudan's history, this post-peace agreement reality is not unique. Nor is it surprising. The genocide in Darfur, in the west, began just as the Government of Sudan concluded a horrific, 20-year campaign of violence in the south—a campaign that laid waste to the institutions and infrastructure of southern Sudan. That conflict was brought to an end more than 1 year ago through the Comprehensive Peace Agreement (CPA)—but conditions in southern Sudan remain grim. Deputy Secretary of State Robert Zoellick said recently that the challenge in southern Sudan is not one of re-construction, but rather of basic construction; years of conflict have destroyed nearly everything.

Even so, the National Congress Party in Khartoum—the signatory to the CPA with the means and the mandate

to implement many of its provisions—has moved ahead very slowly and selectively. Khartoum is failing to deliver on some of the most important provisions of the CPA, including those related to the resolution of disputed boundaries, the sharing of oil wealth, and the timely withdrawal of armed forces. Displaced and enslaved southerners are not being returned as promised to their homes. Incursions by the Lord's Resistance Army and other armed groups continue, often with impunity. Amidst these circumstances, the Government of Southern Sudan faces great challenges in providing basic goods to the people—basic goods such as roads, electricity, schools, hospitals, food, and clean water. By dragging its feet and turning a blind eye, Khartoum is abdicating its commitments under the CPA, and perpetuating the suffering of the southern Sudanese.

If things do not change quickly in southern Sudan, today's fragility may tomorrow become chaos, with grave and deadly consequences for millions of civilians. The United States can, and must, do more. We should support the continued development of the Government of Southern Sudan, and urgently assist its provision of food, health care, shelter, and security to the southern peoples. In addition, we should expedite the safe, voluntary return of displaced southerners to their homes and families.

More broadly, we should closely monitor security conditions, humanitarian access, and implementation of the peace agreements in both southern Sudan and Darfur. We must hold the signatories to their word and bring other groups on board. The Government of Sudan must fulfill its pledges to desist from military offensives; accept international peacekeepers; disarm the jingaweit by mid-October, 2006; and take clear steps to share power and wealth with the south and west. Members and sponsors of the jingaweit should be held accountable for their gruesome crimes, and not simply integrated into the national army. Relief workers and supplies must immediately be provided free and safe access to the peoples of Sudan—by the rebels, the jingaweit, and the Government of Sudan. If the National Congress Party in Khartoum fails to uphold its commitments or its broader obligations under international law, it must face consequences—especially if its failure erodes the security of civilians or aid workers. The possible sanctions and no-fly zone that have been authorized by the U.N. Security Council can compel compliance. In the meantime, to transform the Darfur Peace Agreement into peace, we need to immediately strengthen the African Union's ability to protect civilians and aid workers.

Even with the commendable field work of the African Union, the United Nations, and many relief organizations, we must not lose focus on the current problems in Sudan. We must urgently support the work of these partners and together ensure that peace and justice prevail for the peoples of Sudan.

I ask unanimous consent that the letter to which I referred be printed in the RECORD.

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

MARCH 15, 2006.

Hon. GEORGE W. BUSH,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: I write with great concern about the crisis in Sudan. Despite the work of the African Union, violence against civilians and aid workers in Darfur is increasing and spilling across the border into Chad. Between 200,000 and 400,000 people have been killed, and United Nations Secretary-General Kofi Annan and other credible experts continue to warn that three million civilians are displaced and at risk in Darfur and in eastern Chad. The situation in eastern Sudan is also of concern.

The United States and United Nations (U.N.) now possess extensive, official accounts of the violence and, through a U.N. Panel of Experts and other sources, we also know who may be responsible. The Government of Sudan—reported by the U.S. State Department on March 8, 2006 to be responsible for the genocide in Darfur—continues to deny the existence of a crisis. It continues to threaten retaliation against an international intervention, and, according to a U.N. report dated January 30, 2006, it continues to introduce additional military aircraft into Darfur. The United States can and must do more. Below are 13 ways in which you can take action.

Convene a meeting of world leaders to address the crisis in Darfur. For 100 weeks, the international community has watched, with little meaningful response, as the first genocide of this millennium has been carried out by the Government of Sudan against the people of Darfur. I urge you to convene, without delay, a meeting between leaders of the United Nations, the North Atlantic Treaty Organization (NATO) and the African Union, and other interested world leaders, to map out an action-plan for Darfur. The millions of displaced victims in Darfur deserve at least this much.

Appoint a Presidential Envoy to Sudan. To promote lasting peace in both Darfur and eastern Sudan, and to demonstrate U.S. commitment to peace negotiations and agreements, I urge you to consider the appointment of a Presidential Envoy to Sudan. Like Senator Danforth, your previous Envoy to Sudan, a new Envoy should participate personally in peace talks, oversee and coordinate U.S. engagement in Sudan, and report directly to you on these efforts.

Lead the U.N. Security Council in authorizing a peacekeeping mission in Darfur. To protect civilians from continued violence—much of which is documented explicitly in a 42-page U.N. report published on January 27 and the U.N. Secretary-General's monthly reports to the Security Council—I urge you to push the U.N. Security Council to authorize, under Chapter VII, a U.N. peacekeeping mission in Darfur.

On January 12 and March 10, 2006, the African Union endorsed this mission in principle. U.N. Secretary-General Kofi Annan has begun planning this mission, in accordance with the U.N. Security Council's Presidential Statement of February 3, 2006.

Efforts to broker a peace agreement for Darfur must not forestall efforts to protect civilians. Our continued inaction will enable the killings to continue. This fact cannot be ignored.

A U.N. mission in Darfur must now be authorized with a clear and robust mandate to protect civilians; and be supplied with the troops, air- and ground-mobility, and communications network required to fully implement that mandate.

The Government of Sudan must either cooperate with this mission or face sanctions, in accordance with the existing U.N. Security Council Resolutions that are described below.

Support the African Union. According to U.N. officials, deployment of U.N. peacekeepers to Darfur may take six to nine months. To protect civilians in the interim, I urge you to support the African Union peacekeeping mission in Darfur in two ways. First, I urge you to support the funding needs of the African Union mission for the next nine months. As you know, the United States' share of these costs is estimated at $10 million per month.

Second, in accordance with United States Senate Resolution 383, which I co-sponsored, I urge you to lead NATO in providing assistance to the A.U. peacekeepers in Darfur, particularly in the areas of command and control, logistics, intelligence, and airlift. I called for NATO assistance in Darfur more than 12 months ago, at the Munich Conference on Security. Since then, NATO has been helpful, particularly with airlift, but it can and should do more.

Third, to improve the ability of the existing African Union peacekeepers to deter violence, I urge you to explore mechanisms that would provide African Union commanders in Darfur with specific, timely, standardized information about imminent attacks against civilians in Darfur.

Enforce the no-fly zone that has been established by the U.N. Security Council and endorsed by the U.S. Congress. Despite the enactment of a no-fly zone by the U.N. Security Council in March 2005—nearly one year ago—the Government of Sudan continues its aerial assaults against civilians in Darfur. This is unacceptable, and I urge you to work with members of NATO, the U.N. Security Council, and the African Union to immediately enforce the ban on offensive overhead flights in Darfur that was established by Security Council Resolution 1591.

On March 2, 2006, the U.S. Senate adopted Resolution 383 calling on you to take steps to enforce the no-fly zone in Darfur. Senator Biden and others have suggested that enforcement of the flight ban would require no more than 12 to 18 fighter planes and a handful of AWACs. I urge you to work with other countries to mobilize these resources, and to ensure that the Government of Sudan ceases its overhead assaults. Our continued failure on this issue is unacceptable.

Similarly, I urge you to raise with Khartoum the findings of a U.N. report dated January 30, 2006, which suggest that the Government of Sudan continues to introduce additional offensive military aircraft into Darfur.

Lead the U.N. Security Council in enforcing Resolution 1591, to freeze the assets and travel of certain dangerous individuals. I urge you to work with other members of the U.N. Security Council to fully implement Resolution 1591, which authorized the Security Council to impose travel bans and asset freezes on any individuals believed by a Panel of Experts to constitute a threat to stability, to violate international human rights law, to impede the peace process, or to conduct offensive overhead military flights.

The Panel of Experts has identified several individuals who have perpetrated such violations of international law, and these individuals must be prevented from organizing or perpetrating additional violence, and be sanctioned in full accordance with Resolution 1591. At the very least, the Security

Council should call the named individuals to the United Nations for dialogue and questioning.

Lead the U.N. Security Council in enforcing Resolution 1564, to hold accountable the Government of Sudan for its documented failure to meet its international obligations to end violence and protect civilians in Darfur. I urge you to work with the U.N. Security Council to fully implement Resolution 1564, which calls on the Security Council to consider ''additional measures as contemplated in Article 41 of the Charter of the United Nations, such as actions to affect Sudan's petroleum sector and the Government of Sudan or individual members of the Government of Sudan,'' if the Government of Sudan fails its previous obligations under international law, including U.N. Security Council Resolution 1556 and the Joint Communique dated July 3, 2004.

Several official reports, including a U.N. report published on January 27, 2006, demonstrate unequivocally that the Government of Sudan has failed its obligations. It has failed to protect civilians in Darfur, and it has failed to punish members of the military and the Janjaweed for violations of international human rights law. These realities and Resolution 1564 should now compel the Security Council to consider Article 41 measures against the Government of Sudan.

Ensure that the U.N. Security Council listens to the experts. I urge you to convene a briefing for members of the Security Council by experts who can describe the situation in Darfur, eastern Chad, and eastern Sudan. The Security Council should hear testimony from Juan Mendez, Special Advisor to the Secretary-General on the Prevention of Genocide. As you know, the Security Council did not allow Mr. Mendez to present his observations in October 2005.

Stop the violence from spreading into Chad. I urge you to monitor tensions along the Chad-Sudan border and to focus the U.N. Security Council on this important issue. The U.N. Secretary-General noted in his January 30 report to the Security Council that ''there has been a worrying build-up of armed forces of the two States and local militias on both sides of the border,'' and that ''it is vitally important that the situation in the border areas of Chad and the conflicts in the Sudan do not combine to propel the two countries and the whole region towards confrontation and conflict.''

More specifically, I urge you to work with the Security Council and the African Union to monitor implementation of the February 8, 2006 accord between the Presidents of Chad and Sudan, and to deter all parties from escalating the conflict. The safety of at least three million civilians along the Chad-Sudan border depends on your attention to this issue.

Call publicly for better behavior from Khartoum. Using Resolutions 1591 and 1564 and other points of leverage, I urge you to call on the Government of Sudan—particularly the National Congress Party in Khartoum—to immediately desist from violence against civilians; protect safe passage for aid workers; cooperate fully with international peacekeepers; engage constructively in the peace talks in Abuja; diffuse tensions along the Chad-Sudan border; and disarm and punish the Janjaweed and other groups responsible for genocidal violence in Darfur.

I urge you to call similarly on the Government of Sudan to implement the Comprehensive Peace Agreement without delay and in full consultation with the Government of Southern Sudan, and to protect civilians and peacefully address the situation in eastern Sudan.

Work with the U.N. Security Council to address attacks by rebel groups in Darfur. I urge you to work with the Security Council to make it clear to all rebels and perpetrators of violence in Sudan and Chad that attacks against civilians and aid workers are violations of international law; and that continued international consideration of their grievances depends directly upon their immediate cessation of violence against civilians.

Plan for reconstruction in Darfur. Through a new Presidential Envoy or other U.S. officials, I urge you to begin working with the World Bank and other stakeholders on a Joint Assessment Mission to plan for reconstruction in Darfur. This may help to accelerate the peace process by demonstrating to the Darfur rebels and the Government of Sudan that peace can bring financial dividends, and, once peace has been established, it will help to speed reconstruction and promote stability.

Support reconstruction in southern Sudan. I urge you to provide strong, material support to the Government of Southern Sudan as it builds a stable state, economy, and society in the wake of decades of conflict. Similarly, I urge you to encourage the Government of Southern Sudan to engage constructively in the Darfur peace negotiations.

During the last century, in Nazi Europe, Cambodia, and elsewhere, the international community failed to protect millions of innocent people from genocide and horrific crimes. We look back and wonder how the world allowed those killings to continue. We must find a way to protect civilians in Darfur, without further delay.

As you know, I and other members of the U.S. Congress recognized the genocide in Darfur in July 2004. In September 2004, then Secretary of State Colin Powell did the same. A few months later, in January 2005, a U.N. International Commission of Inquiry established by U.N. Security Council Resolution 1564 also found strong evidence of genocide in Darfur. In February 2006, Secretary of State Rice said that ''genocide was committed and in fact continues in Darfur.'' Even so, international agreement on the existence of genocide has little connection to the need or basis for action.

Hundreds of acts of violence in Darfur, many constituting crimes against humanity and war crimes—along with specific descriptions of the perpetrators—have been recorded in detail by the U.S. State Department, the United Nations, the African Union, the NGO community, and other organizations. I urge you to read these gruesome accounts, and to also review the list of individuals who have been identified by the U.N. Panel of Experts established by U.N. Security Council Resolution 1591. In the case of Darfur, we are now obligated by the U.N. Charter, the Responsibility to Protect, several statutes of international human rights law, and existing U.N. Security Council resolutions to transform our awareness into action.

Therefore, I urge you, as President of the United States, to remind the international community of its commitments and to work urgently with the United Nations, the African Union, and NATO to protect civilians and address the growing crises in Darfur, eastern Chad, and eastern Sudan. Thank you for your attention to these urgent matters.

Sincerely,

HILLARY RODHAM CLINTON.

DISSENT TO THE UNITED STATES COMMISSION ON CIVIL RIGHTS REPORT ON S. 147

Mr. AKAKA. Mr. President, I rise today to share information about S. 147, the Native Hawaiian Government Reorganization Act of 2005. Some of my colleagues have made reference to a recent report issued by the U.S. Commission on Civil Rights which characterizes my bill as race-based legislation. The report itself, however, does not contain any substantive analysis. Rather, it outlines the testimony that was presented to the commission.

I have already shared with my colleagues my dismay and displeasure with the manner in which the Commission considered S. 147. Not once did they contact the Hawaii Advisory Committee to the Commission, which is composed of experts on Hawaii's history, Federal Indian Law, and Federal policies toward indigenous peoples. In addition, during the briefing upon which this report is based, it was clear that certain Commissioners lacked a general understanding of Federal Indian law, a necessary context to understand the existing political and legal relationship between native Hawaiians and the United States.

Commissioner Michael Yaki understood both the history of Hawaii and Federal Indian Law and he, along with Commissioner Arlen Melendez, dissented from the Commission's position that S. 147 is race-based legislation. I ask unanimous consent that Commissioner Yaki's dissent be printed in the RECORD.

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

DISSENTING STATEMENT OF COMMISSIONER YAKI

COMMISSIONER MELENDEZ CONCURS IN THE DISSENT

PREFACE

As a person quite possibly with native Hawaiian blood running through his veins, it is quite possible to say that I cannot possibly be impartial when it comes to this issue. And, in truth, that may indeed be the fact. Nevertheless, even before my substantive objections are made known, from a process angle there were serious and substantial flaws in the methodology underlying the report.

First, the report relies upon a briefing from a grand total of 4 individuals, on an issue that has previously relied upon months of research and fact gathering that has led to 2 State Advisory Commission reports, 1 Department of Justice Report, and Congressional action (the ''Apology Resolution''), not to mention testimony before the Congress on the NHGRA bill itself that was never incorporated into the record.

The paucity of evidence adduced is hardly the stuff upon which to make recommendations or findings. Even though the Commission, to its credit, stripped the report of all its findings for its final version, does that not itself lend strength and credence to the suggestion that the briefing was flawed from the inception? And if so flawed, how can the Commission opine so strongly upon a record that it could not even find supported now non-existent findings?

Second, aside from ignoring the volumes of research and testimony that lie elsewhere and easily available to the Commission, we ignored soliciting advice and comment from our own State Advisory Commission of Hawai'i. Over the past two decades, the Hawai'i Advisory Committee to the United States Commission on Civil Rights (HISAC) has examined issues relating to federal and state

relations with Native Hawaiians. As early as 1991, HISAC recommended legislation confirming federal recognition of Native Hawaiians. A mere five years ago, the HISAC found that ''the lack of federal recognition for native Hawaiians appears to constitute a clear case of discrimination among the native peoples found within the borders of this nation.'' The HISAC concluded ''[a]bsent explicit recognition of a Native Hawaiian governing entity, or at least a process for ultimate recognition thereof, it is clear that the civil and political rights of Native Hawaiians will continue to erode.'' The HISAC found that ''the denial of Native Hawaiian self-determination and self-governance to be a serious erosion of this group's equal protection and human rights.'' Echoing recommendations by the United States Departments of Justice and Interior, the HISAC ''strongly recommend[ed]'' that the federal government ''accelerate efforts to formalize the political relationship between Native Hawaiians and the United States.'' The HISAC's long-standing position of support for legislation like S. 147 to protect the civil rights of native Hawaiians belies recent assertions that such legislation discriminates on the basis of race and causes further racial divide.

The HISAC could and would have been a key source of information, especially updated information, on the state of the record. To exclude them from the dialogue I believe was indefensible and a deliberate attempt to ensure that contrary views were not introduced into the record.

Third, the report as it stands now makes no sense. The lack of findings, the lack of any factual analysis, now makes the report the proverbial Emperor without clothes. The conclusion of the Commission stands without support, without backing, and will be looked upon, I believe, as irrelevant to the debate. Such if the risk one runs when scholarship and balance are lacking.

Substantively, the recommendation of the Commission, cannot stand either. It is not based on facts about the political status of indigenous, Native Hawaiians, nor Native Hawaiian history and governance or facts about existing U.S. policy and law concerning Native Hawaiians. It is a misguided attempt to start a new and destructive precedent in U.S. policy toward Native Americans. The USCCR recommendation disregards the U.S. Constitution that specifically addresses the political relationship between the U.S. and the nations of Native Americans. The USCCR disregarded facts when the choice was made not to include HISAC in the January 2006 briefing on NHGRA, and not utilizing the past relevant HISAC reports concerning Native Hawaiians based on significant public hearing and facts. Spring-boarding from trick phrasing and spins offered by ill informed experts, and at least one who has filed suit to end Native Hawaiian programs established through Congress and state constitution, the USCCR majority recommendation is an obvious attempt to treat Native Hawaiians unfairly in order to begin the process of destroying existing U.S. policy towards Native Americans.

FACTS ABOUT INDIGENOUS NATIVE HAWAIIANS, NATIVE HAWAIIAN AND U.S. HISTORY AND THE DISTINCT NATIVE HAWAIIAN INDIGENOUS POLITICAL COMMUNITY TODAY

Native Hawaiians are the indigenous people of Hawai'i, just as American Indians and Alaska Natives are the indigenous peoples of the remaining 49 states. Hawai'i is the homeland of Native Hawaiians. Over 1200 years prior to the arrival of European explorer James Cook on the Hawaiian islands, Native Hawaiians self-determined their form of governance, culture, way of life, priorities and economic system to cherish and protect their homelands, of which they are physically and spiritually a part, and did so continuously until the illegal overthrow of their government by agents and citizens of the U.S. government in 1893. In fact the U.S. engaged in several treaties and conventions with the Native Hawaiian government, including 1826, 1842, 1849, 1875 and 1887.

Though deprived of their inherent rights to self-determination as a direct result of the illegal overthrow, coupled with subsequent efforts to terminate Native Hawaiian language, leaders, institutions and government functions, Native Hawaiians persevered as best they could to perpetuate the distinct vestiges of their culture, institutions, homelands and government functions maintaining a distinct community, recognizable to each other.

Today, those living in Hawai'i recognize these aspects of the distinct, functioning Native Hawaiian political community easily. For example: the Royal Benevolent Societies established by Ali'i (Native Hawaiian chiefs and monarchs) continue to maintain certain Native Hawaiian government assigned and cultural functions; the private Ali'i Trusts, such as Kamehameha Schools, Queen Lili'uokalani Trust, Queen Emma Foundation and Lunalilo Home, joined by state government entities established for indigenous Hawaiians, including the Office of Hawaiian Affairs and the Department of Hawaiian Homelands, and Native Hawaiian Serving institutions such as Alu Like, Inc. and Queen Lili'uokalani Children's Center continue the Native Hawaiian government functions of caring for Native Hawaiian health, orphans and families, education, elders, housing economic development, governance, community wide communication and culture and arts; the resurgence of teaching and perpetuation of Native Hawaiian language and other cultural traditions; Native Hawaiian civic participation in matters important to the Native Hawaiian community are conducted extensively through Native Hawaiian organizations including, the Association of Hawaiian Civic Clubs, the State Council of Hawaiian Homestead Associations, the Council for Native Hawaiian Advancement, Ka Lahui and various small groups pursuing independence; Native Hawaiian family reunions where extended family members, young and old, gather to talk, eat, pass on family stories and history, sometimes sing and play Hawaiian music and dance hula and pass on genealogy.

Indeed, if the briefing had been as consultative with the HISAC as it could have been, there would have been testimony that, for example, the Royal Order of Kamehameha, or the Hale O Na Ali'I O Hawai'i, or the Daughters of Ka'ahumanu continue to operate under principles consistent with the law of the former Kingdom of Hawai'i. There would have been testimony that these groups went ''underground'' due to persecution but remained very much alive during that time.

The distinct indigenous, political community of Native Hawaiians is recognized by Congress in over 150 pieces of legislation, including the Hawaiian Homes Commission Act and the conditions of statehood. Native Hawaiians are recognized as a distinct indigenous, political community by voters of Hawai'i, as expressed in the Hawai'i State Constitution.

The notion introduced by opponents to the NHGRA that the Native Hawaiians don't ''fit'' Federal Regulations governing recognition of Native American tribes because they lacked a distinct political identity or continuous functional and separate government would ignore all manifestations of such identity, existence, and recognition noted above.

THE NHGRA DOES NOT SET NEW PRECEDENT IN U.S.

The Native Hawaiian Government Reorganization Act of 2005 (NHGRA) is in fact a measure to establish fairness in U.S. policy towards the 3 groups of Native Americans of the 50 United States, American Indians, Alaska Natives and Native Hawaiians. The U.S. already provides American Indians and Alaska Natives access to a process of federal recognition, and the NHGRA does the same for Native Hawaiians based on the same Constitutional and statutory standing.

I. LEGAL AUTHORITIES ESTABLISHING OHA! PURPOSE OF OHA

Hawai'i became the 50th State in the union in 1959 pursuant to Pub. L. No. 86–3, 73 Stat. 5 (''Admission Act''). Under this federal law, the United States granted the nascent state title to all public lands within the state, except for some lands reserved for use by the federal Government. These lands (''public lands trust'') ''together with the proceeds from the sale or other disposition of any such lands and the income therefrom, shall be held by [the State] as a public trust for the support of the public schools, . . . the conditions of native Hawaiians'' and other purposes.

In 1978, the multicultural residents of Hawai'i voted to amend its state Constitution to (1) establish the Office of Hawaiian Affairs (''OHA'') to ''provide Hawaiians the right to determine the priorities which will effectuate the betterment of their condition and welfare and promote the protection and preservation of the Hawaiian race, and . . . [to] unite Hawaiians as a people;'' and (2) to establish the public lands trust created by the Admission Act as a constitutional obligation of the State of Hawaii to the native people. The constitutional mandate for OHA was implemented via the enactment of Chapter 10, Hawaii Revised Statutes, in 1979. OHA's statutory purposes include ''[a]ssessing the policies and practices of other agencies impacting on native Hawaiians and Hawaiians,'' conducting advocacy efforts for native Hawaiians and Hawaiians,'' ''[a]pplying for, receiving, and disbursing, grants and donations from all sources for native Hawaiian and Hawaiian programs and services,'' and ''[s]erving as a vehicle for reparations.'' OHA administers funds derived for the most part from its statutory 20% share of revenues generated by the use of the public lands trust.

Several legal challenges to the existence of OHA based upon the 14th Amendment to the United States Constitution have been filed by various Plaintiffs, some of whom are represented by Mr. Burgess. Mr. Burgess has thus far failed to win the relief he has sought, including injunctive relief, either in the United States District Court for the District of Hawaii or the United States Court of Appeals for the Ninth Circuit. The denial of injunctive relief to Mr. Burgess's clients presents a powerful rebuttal to their claims that OHA's administration of its constitutional and statutory obligations to native Hawaiians and Hawaiians deprives all Hawaii's citizens of equal protection of law.

Mr. Burgess describes the ''driving force'' behind the NHGRA as ''discrimination based upon ancestry''. Nothing could be further from the truth or more illogical. The ''driving force'' behind the creation and passage of NHGRA is the desire of the Hawaiian people, and virtually every political representative in the State of Hawaii to achieve legal parity and federal recognition as with the other two native indigenous peoples of America, namely American Indian Nations and Native Alaskans. There is no constitutional impediment to congressional federal recognition of the Hawaiian people.

Then-United States Solicitor John Roberts (now Chief Justice Roberts) argued in his prior legal briefs to the United States Supreme Court in Rice v. Cayetano: ''[t]he Constitution, in short, gives Congress room to

deal with the particular problems posed by the indigenous people of Hawaii and, at least when legislation is in furtherance of the obligation Congress has assumed to those people, that legislation is no more racial in nature than legislation attempting to honor the federal trust responsibility to any other indigenous people.'' It is, in sum, ''not racial at all.''

Roberts went on to say: Congress is constitutionally empowered to deal with Hawaiians, has recognized such a ''special relationship,'' and—''[i]n recognition of th[at] special relationship''—has extended to Native Hawaiians the same rights and privileges accorded to American Indian, Alaska Native, Eskimo, and Aleut communities.'' 20 U.S.C. §7902(13) (emphasis added). As such, Congress has established with Hawaiians the same type of ''unique legal relationship'' that exists with respect to the Indian tribes who enjoy the ''same rights and privileges'' accorded Hawaiians under these laws. 42 U.S.C. §11701(19). That unique legal or political status—not recognition of ''tribal'' status, under the latest executive transmutation of what that means—is the touchstone for application of Mancari when, as here, Congress is constitutionally empowered to treat an indigenous group as such.

NHGRA IS A MATTER OF INDIGENOUS POLITICAL STATUS AND RELATIONSHIP BETWEEN THE U.S. AND THE NATIVE HAWAIIAN GOVERNMENT. AND NOT A RACIAL MATTER.

Under the U.S. Constitution and Federal law, America's indigenous, native people are recognized as groups that are NOT defined by race or ethnicity, but by the fact that their indigenous, native ancestors exercised sovereignty over the lands and areas that subsequently became part of the United States. It is the pre-existing sovereignty, sovereignty that pre-existed the formation of the United States which the U.S. Constitution recognizes and on that basis, accords a special status to America's indigenous, native people.

The tortured attempts by persons such as Mr. Burgess to distinguish Native Hawaiians from Native Americans ultimately fail by simple historical comparison. Like the Native Americans, the Native Hawaiians predated the establishment of the United States. Like the Native Americans, the Native Hawaiians had their own culture, form of government, and distinct sense of identity. Like Native Americans, the United States stripped them of the ownership of their land and trampled over their sovereignty. The only distinction—one without a difference—is that unlike the vast majority of Native American tribes, the Native Hawaiians were not shipped off, force-marched, and relocated to another area far from their original homelands.

It is somewhat disingenuous that the opponents of NHGRA are suggesting that extending this same U.S. policy to Native Hawaiians, the indigenous, native people of the 50th state would lead to racial balkanization. There are over 560 federally recognized American Indian and Alaska Native governing entities in 49 of 50 states, coexisting with all peoples and federal, state and local governments. There is absolutely NO evidence to support this notion, and seems to be spread simply to instill unwarranted fear and opposition to the NHGRA.

NHGRA IS CONSTITUTIONAL

In United States v. Lara, the Supreme Court held that ''[t]he Constitution grants Congress broad general powers to legislate in respect to Indian tribes powers that we have consistently described as plenary and exclusive.'' In 1954, Congress terminated the sovereignty of the Menominee Indian Tribe in Wisconsin. In 1973, Congress exercised its discretion, changed its mind, and enacted the Menominee Restoration Act, which restored sovereignty to the Menominee Tribe.

NHGRA does little more than follow the precedent allowed by Lara and exercised in the Menominee case. Reliance on federal regulations as gospel ignores the fact that the plenary authority of Congress has resulted in restoration of tribal status, in the case of the Menominee, and the retroactive restoration of tribal lands, as in the case of the Lytton Band in California. The Attorney General of Hawaii, many distinguished professors, and the American Bar Association all firmly believe that Congress has the authority to recognize Native Hawaiians.

All that NHGRA seeks is parity in U.S. policies towards the three indigenous, native people in the 50 states, American Indians, Alaska Natives and Native Hawaiians. Under the U.S. Constitution and Federal law, America's indigenous, native people are recognized as groups that are not defined by race or ethnicity, but by the fact that their indigenous, native ancestors, exercised sovereignty over the lands and areas that subsequently became part of the United States. It is the pre-existing sovereignty, sovereignty that pre-existed the formation of the United States which the U.S. Constitution recognizes and on that basis, accords a special status to America's indigenous, native people.

If one accepts the Commission's pronouncement against subdividing the country into ''discrete subgroups accorded varying degrees of privilege,'' then the Commission should immediately call for an end to any recognition of additional Indian tribes. Since that would clearly contravene the Constitutional authority of Congress, that would seem to be an unlikely—and illegal—outcome. Given that the authority for NHGRA stems from the same constitutional source as that for Native Americans, then the Commission majority has chosen to ignore the constitutionality of the proposed law.

NHGRA HAS THE SUPPORT OF THE RESIDENTS OF HAWAI'I AS REFLECTED IN TWO SCIENTIFIC POLLS, THE FACT THAT THE MAJORITY OF OFFICIALS ELECTED BY THE VOTERS OF HAWAI'I SUPPORT NHGRA

The results of a scientific poll in Hawaii showed 68 percent of those surveyed support the bill. The statewide poll was taken Aug. 15–18 by Ward Research, a local public opinion firm. The results are consistent with a 2003 poll. While polls alone do not a mandate make, the consistency between the two polls shows that despite the best efforts of opponents such as Mr. Burgess, the multicultural, multiethnic residents of Hawaii support the recognition of Native Hawaiians and allowing them to take the first, tentative, steps toward recognition and sovereignty.

More importantly, the elected officials of Hawaii have almost unanimously thrown their support to the NHGRA. The NHGRA is supported by most of the elected officials of Hawai'i, including the entire Hawai'i Congressional Delegation, Governor Linda Lingle, the Senate and House of the State Legislature (except two members), all 9 Trustees of the Office of Hawaiian Affairs and the mayors of all four counties of Hawai'i.

CONCLUSION

The NHGRA is about justice. It is about righting a wrong. It is about recognition of the identity and sovereignty of a people who survived attempts by our government to strip them of these precious rights over a hundred years ago. Far from the racial balkanization spread by its opponents, NHGRA is simply a step—a baby step at that—towards potential limited sovereignty and self-governance.

Most who live in Hawai'i know the distinct Native Hawaiian community, with its own language and culture, is the heart and breath of Hawai'i. Hawai'i, and no other place on earth, is the homeland of Native Hawaiians.

On one thing the proponents and opponents of NHGRA seem to agree: Hawai'i is a special place in these United States, a multicultural society and model for racial and ethnic harmony that is unlike anywhere else in our country and, increasingly, the world. It is also a place where its multicultural residents recognize the indigenous Native Hawaiian culture as the host culture with a special indigenous political status where there are state holidays acknowledging Native Hawaiian monarchs, and the Hawaiian language is officially recognized.

Perhaps it is the ''mainlanders'' lack of context and experience that creates a debate where, in Hawai'i, there is practically none. In the mainland, we think of ''Aloha'' as Hawaii Five-O, surfing, and brightly colored shirts that remain tucked away in the back of our closets. In Hawai'i, however, Aloha and the Aloha spirit is more than just a slogan. It is proof positive of the influence and power of the Native Hawaiian people and culture that exists and thrives today. In my lifetime, I have seen growing awareness, acceptance and usage of Hawaiian culture, symbols, and language. It is now almost mandatory to use pronunciation symbols whenever Hawaiian words are printed, whereas twenty years ago it was ignored. Multiculturalism in modern Hawai'i means that non-Native Hawaiians respect and honor the traditions of a people who settles on these volcanic paradises after braving thousands of miles of open ocean. The least we can do, the ''we'' being the American government which took away their islands, is to accord them the basic respect, recognition, and privileges we do all indigenous peoples of our nation. NHGRA will give meaning to the Apology Resolution; it will begin the healing of wounds.

That same aloha spirit that imbues the multicultural islands of Hawai'i will, in my opinion, ensure that the processes contained in NHGRA will inure to the benefit of all the people of Hawaii. Perhaps more than any other place in our Union, fears of racial polarization, discrimination, or unequal treatment resulting from the passage of NHGRA should be seen as distant as the stars which the Hawaiians used to navigate their wa'a, their canoes, across the vastness of the seas.

Mr. INHOFE. Mr. President, I am submitting for inclusion in the RECORD a letter from the Congressional Budget Office providing cost estimates for two bills ordered reported from the Committee on Environment and Public Works on May 23, 2006 and reported without written report to the full Senate on May 24, 2006, S. 801 and S. 2650. I ask unanimous consent that the letter be printed in the RECORD.

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

MAY 24, 2006,

Hon. JAMES M. INHOFE, CHAIRMAN,
Committee on Environment and Public Works, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed the following legislation, as ordered reported by the Senate Committee on Environment and Public Works on May 23, 2006:

S. 801, a bill to designate the United States courthouse located at 300 North Hogan Street, Jacksonville, Florida, as the ''John Milton Bryan Simpson United States Courthouse'';

S. 2650, a bill to designate the Federal courthouse to be constructed in Greenville,

South Carolina, as the ''Carroll A. Campbell, Jr. Federal Courthouse.''

CBO estimates that enactment of these bills would have no significant impact on the Federal budget and would not affect direct spending or revenues. These bills contain no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on State, local, or tribal governments. If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

DONALD B. MARRON,
Acting Director.

INTELLIGENCE AUTHORIZATION ACT REFERRAL

Mr. WARNER. Mr. President, I ask unanimous consent that the following letter be printed in the RECORD.

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

COMMITTEE ON ARMED SERVICES,
Washington, DC, May 25, 2006.

Hon. BILL FRIST,
Majority Leader,
U.S. Senate, Washington, DC.

DEAR MR. LEADER: Pursuant to paragraph 3(b) of S. Res. 400 of the 94th Congress, as amended by S. Res. 445 of the 108th Congress, I request that the Intelligence Authorization Act for Fiscal Year 2007, as ordered reported by the Select Committee on Intelligence on May 23, 2006, be sequentially referred to the Committee on Armed Services for a period of 10 days. This request is without prejudice to any request for an additional extension of five days, as provided for under the resolution.

S. Res. 400, as amended by S. Res. 445 of the 108th Congress, makes the running of the period for sequential referrals of proposed legislation contingent upon the receipt of that legislation ''in its entirety and including annexes'' by the standing committee to which it is referred. Past intelligence authorization bills have included an unclassified portion and one or more classified annexes.

I request that I be consulted with regard to any unanimous consent or time agreements regarding this bill.

With kind regards, I am

Sincerely,

JOHN WARNER,
Chairman.

IN HONOR OF ASIAN PACIFIC AMERICAN HERITAGE MONTH

Mrs. FEINSTEIN. Mr. President, I rise today in recognition of Asian Pacific American Heritage Month. It is a time to recognize the immeasurable contributions in service, commerce, and cultural diversity made by Americans of Asian and Pacific Islander descent who continue to strengthen our great Nation's character and influence.

I believe that the United States draws its strength from a proud history of immigration.

The Asian Pacific American community is an essential part of that tradition and it boasts an extremely vibrant and diverse population.

Places such as Chinatown, Korea Town, Little Tokyo, Little Saigon, and Filipino Town only enhance the richness of the American urban landscape.

Today, more than 14 million Asian Pacific Americans live in the United States.

I am proud to come from the State that has the highest population of Asian Pacific Americans, nearly 5 million.

In particular, Los Angeles County is home to the country's single largest Asian community, with 1.4 million individuals.

California owes a great deal to the tradition of Asian Pacific Americans who have made their home in the Golden State since the 1800s.

To help honor that legacy, last year, Congress authorized the Angel Island Immigration Station Restoration and Preservation Act. Known as the ''Ellis Island of the West,'' over 1 million immigrants, including 175,000 Chinese immigrants, passed through its gateways to establish new lives on the west coast. Now, this location can continue to provide us with a vital link to our Nation's history and culture.

Let me take a moment to pay tribute to the visionaries who helped to create the Asian Pacific Heritage Month: Secretary of Transportation Norman Mineta; U.S. Senator DANIEL INOUYE; Former U.S. Senator Spark Masunaga; and Former Congressman Frank Horton.

Thanks to the leadership of these fine individuals, a joint resolution established Asian Pacific American Heritage Week in 1978, initially designating the first 10 days of May as the annual time of recognition. That was later expanded to a month-long celebration in 1992.

The month of May holds special significance for the Asian Pacific American community. It coincides with two important milestones: The arrival in the United States of the first Japanese immigrants on May 7, 1843; and the completion of the transcontinental railroad on May 10, 1869 thanks in large part to the contributions of thousands of Chinese workers. This year, the theme chosen to represent this year's Heritage Month is ''Dreams and Challenges of Asian Pacific Americans.'' It is designed to recognize the struggle of Asian Americans and Pacific Islanders who continue to stand firm against adversity in the pursuit of the American dream.

Sadly, the Asian Pacific American community understands all too well this struggle.

Their story has been entangled with several dark chapters of America's history.

It began in the 1800s, when people of Asian Pacific ancestry were prohibited from owning property, voting, testifying in court, or attending school.

This story of persecution regrettably continued throughout much of the 19th and 20th centuries: the Chinese Exclusion Act of 1882, which prohibited the immigration of Chinese to the United States; a 1913 California law, which prohibited immigrant aliens from owning land; the repatriation of Filipino immigrants in 1935; and the mandatory internment of Japanese Americans during World War II. This particular story remains a blight on the conscience of this great Nation.

Nevertheless, the Asian Pacific American community found a way to endure and persevere over these injustices and indignities.

In so doing, they to create a tradition of triumph over adversity that personifies the best of this Nation's character.

But our Nation cannot afford to overlook their sacrifice and struggle.

For this reason, I am proud that in the 109th Congress, Tule Lake—the largest internment camp of the 10 that existed—was designated as a National Historic Landmark. This will help future generations acknowledge and understand the painful legacy of the Japanese Americans who endured the shame of the forced internment camps used during the bleak days of World War II.

I would also like to take a moment to commend the 300,000 Asian Pacific American veterans who established the practice of military service for the thousands of Asian Pacific American men and women currently serving in our Armed Forces.

One such individual is my distinguished colleague, U.S. Senator DANIEL INOUYE of Hawaii.

Even though his loyalties to our Nation and that of many other Japanese Americans—were falsely and wrongly questioned during World War II, Senator INOUYE proudly participated in our Nation's most highly decorated unit, the Army's 442nd ''Go for Broke'' regiment combat team.

Since then, Senator INOUYE has continued to serve this country as a devoted public servant and exemplary citizen.

His story of boldness and aspiration is not unique. Throughout the decades, countless numbers of Asian Pacific Americans have worked tirelessly to build better lives for themselves and their families.

But although many Asian Americans have achieved success, we cannot forget the hardships of the Southeast Asian and Pacific Islander communities that were forced out of their homelands and who are now struggling to prosper here in America.

According to the 2000 Census, Southeast Asian Americans have the lowest percentage of education, with most possessing less than a high school education. They also have the lowest proficiency of English and one of the highest rates of receiving public assistance.

We cannot allow these individuals to be ignored or overlooked. I will do everything I can to help this community prosper.

In closing, as we reflect on many individual stories of achievement and success during this month of May, we are steadily inspired by the standards Asian Pacific Americans set in our schools, in the business world, and our neighborhoods. I am confident that their dynamic initiative and entrepreneurship will only continue to inspire us to greatness in the years to come.

VOTING RIGHTS ACT REAUTHORIZATION

Mr. LEAHY. Mr. President, today for the second week in a row the Senate Judiciary Committee's agenda included a proposed amendment to the Constitution, to its fundamental purpose and to our rights as Americans. I understand that Republicans are trying to keep to a political timetable for raising divisive matters in the runup to the November elections.

I know that in election years they love to wave the flag amendment, rather than work on veterans health care or protecting veterans' privacy. We have just witnessed the largest theft of private information from the Government ever, the loss of information on more than 26 million American veterans. Compounding the incompetence was the misguided decision by the Veterans' Administration for secrecy in trying to cover this up for the last 3 weeks. This follows on the heels of last year's debacle of a billion-dollar shortfall in VA's budget for veterans health care, after repeated denials. It all adds up to a ''heckuva bad job'' for America's veterans.

The President should call Secretary Nicholson into the woodshed for a serious shakeup in how the VA is run. In the meantime, Secretary Nicholson needs to answer why this information was left vulnerable to such a breach, why such a delay in notification was allowed to occur, and what specific steps he is taking to ensure such a breach does not happen again. The Nation's veterans—who have been willing to make the ultimate sacrifice for their country—deserve to have the best tools available to protect themselves and their families from identity theft.

Rather than work on our privacy and identity theft legislation, including the Specter-Leahy Personal Data Privacy and Security Act of 2005, or the Kerry-Salazar legislation to provide credit checks and monitoring to those veterans whose private information was compromised, we are being directed to another divisive debate on a proposed constitutional amendment.

In that regard, I noticed that earlier this week, the White House Press Secretary was asked about this constitutional amendment and had no knowledge of it existing. I would like to include that exchange in the RECORD:

> Question. [C]ould you tell us if the President also supports the proposed amendment to protect the United States flag from public desecration?
>
> Mr. SNOW. Do we have a flag desecration—I apologize; this is something that, believe it or not, in the last two weeks has not come up. So I'm afraid——
>
> Question. Flag burning.
>
> Mr. SNOW [continuing]. Flag burning. I'll just have to get back [to you].

The White House Press Secretary has yet to become familiar with the talking points on how much more important this is than national security, the war in Iraq, unprecedented gas prices, the lack of a Federal budget, the penalties on seniors who may now wish to sign up for Medicare drug prescription, comprehensive immigration reform, emergency supplemental appropriations, preparations for the hurricane season, preparations for a possible avian flu pandemic, privacy legislation, and completing our work on reauthorizing the Voting Rights Act.

FEDERAL HOUSING ENTERPRISE REGULATORY REFORM ACT OF 2005

Mr. MCCAIN. Mr. President, this week Fannie Mae's regulator reported that the company's quarterly reports of profit growth over the past few years were ''illusions deliberately and systematically created'' by the company's senior management, which resulted in a $10.6 billion accounting scandal.

The Office of Federal Housing Enterprise Oversight's report goes on to say that Fannie Mae employees deliberately and intentionally manipulated financial reports to hit earnings targets in order to trigger bonuses for senior executives. In the case of Franklin Raines, Fannie Mae's former chief executive officer, OFHEO's report shows that over half of Mr. Raines' compensation for the 6 years through 2003 was directly tied to meeting earnings targets. The report of financial misconduct at Fannie Mae echoes the deeply troubling $5 billion profit restatement at Freddie Mac.

The OFHEO report also states that Fannie Mae used its political power to lobby Congress in an effort to interfere with the regulator's examination of the company's accounting problems. This report comes some weeks after Freddie Mac paid a record $3.8 million fine in a settlement with the Federal Election Commission and restated lobbying disclosure reports from 2004 to 2005. These are entities that have demonstrated over and over again that they are deeply in need of reform.

For years I have been concerned about the regulatory structure that governs Fannie Mae and Freddie Mac—known as Government-sponsored entities or GSEs—and the sheer magnitude of these companies and the role they play in the housing market. OFHEO's report this week does nothing to ease these concerns. In fact, the report does quite the contrary. OFHEO's report solidifies my view that the GSEs need to be reformed without delay.

I join as a cosponsor of the Federal Housing Enterprise Regulatory Reform Act of 2005, S. 190, to underscore my support for quick passage of GSE regulatory reform legislation. If Congress does not act, American taxpayers will continue to be exposed to the enormous risk that Fannie Mae and Freddie Mac pose to the housing market, the overall financial system, and the economy as a whole.

I urge my colleagues to support swift action on this GSE reform legislation.

TRIBUTE TO GEORGIA'S 48TH BRIGADE COMBAT TEAM

Mr. CHAMBLISS. Mr. President, it is my honor and privilege today to pay tribute to the Georgia National Guard's 48th Brigade Combat Team. The 48th Brigade is an integral part of Georgia's widely respected National Guard and is comprised of more than 4,000 of Georgia's 9,000 guardsmen. The Georgia National Guard is the thirteenth largest in the Nation, with nearly 60 percent of its forces classified as ''high priority units'' which would be among the first to deploy during a national crisis.

The 48th Brigade has a long and proud history. The 48th was originally organized on April 23rd, 1825, in Macon, and served in some capacity during the Civil War, WWII, the Gulf War, and the Iraq War. The unit was mobilized into Federal service on November 30th, 1990 at Fort Stewart in order to participate in Desert storm.

During Desert Storm, the 48th Brigade successfully completed intense combat training at the Army's National Training Center at Fort Irwin, CA. Upon completion of this training, the 48th received the distinguished honor of being the first and only National Guard combat unit deemed combat-ready for the Gulf War. Later in 2001, the 48th was deployed to Bosnia-Herzegovina for a period of 8 months. This deployment established Georgia's 48th as one of the first National Guard units of its size to assume such a large multinational peacekeeping mission.

The 48th Brigade recently joined the 3rd Infantry Division in Iraq, making it the first unit to utilize the Army's new concept of integrating reserve units with active units in order to form a highly effective and efficient active-reserve team. The 48th Brigade was mobilized under the Presidential Selective Reserve Call Up in October 2004 and in January 2005, under the leadership of Brigadier General Stewart Rodeheaver, the 48th was ready to serve our country in Iraq. As a ''Combat Ready'' force, the 48th was deployed to Iraq on May 22nd, 2005, after undergoing brief training in Kuwait. On June 14, 2005, the 48th Brigade officially took over its assigned area of responsibility in southern Baghdad. They were responsible for conducting full-spectrum counter-insurgency operations in an attempt to defeat anti-Iraqi insurgents. The 48th also played in important role in developing the newly formed Iraqi Security Forces.

During their deployment to Iraq, Georgia's 48th Brigade was known for its bravery, effectiveness, and commitment to getting the job done. During a 12 month deployment, the 48th Brigade completed numerous missions and was responsible for offensive and defensive victories throughout Iraq. The Brigade was involved in a multitude of operations conducted over nearly 1,900 square kilometers throughout southern Baghdad. These missions were in conjunction with 5 larger U.S. operations

including: Operation Safe Skies, Operation Warning Track, Operation Patriot's Call, Operation Dragon's Fire, and Operation Thunder. In total, the 48th Brigade conducted 12,647 combat patrols, 792 cordon and search missions, established 6,219 traffic control points, and conducted 3,782 convoy security missions.

The soldiers of the 48th captured and detained over 500 Anti-Iraqi insurgents, trained over 2,460 Iraqi Soldiers, and established two Iraqi forward operating bases in Sunni-dominated areas of Iraq. The Brigade introduced more than 11 million dollars' worth of new and vital essential services as well as set the conditions to create over 621 new jobs in southern Baghdad. One of the most historical highlights was the Brigade's ability to work with the International Elections Commission of Iraq to establish 22 polling sites across Iraq. Due to the 48th's involvement, nearly 63,000 Iraqi citizens were able to vote on their new Constitution during the ''first ever'' Iraqi national elections.

On October 2005, the 48th Brigade officially took over security operations for the Logistics Support Area, LSA, Anaconda base. LSA Anaconda is the largest operating base in Iraq and is located in the north-central Iraq province of Salah al Din. The 48th Brigade was simultaneously responsible for convoy security escort missions near Camp Adder, Iraq—located in the southern province of Nasiriyah. The 48th's ability to successfully complete these two missions located in two different areas of the country was instrumental to the success of all Multi-National Forces operating in Iraq. The 48th Brigade Combat Team successfully conducted operations throughout an area of over 1,192 miles while conducting 1,500 patrols and successfully securing the largest military operations base in Iraq.

It is my great honor to commend the 48th Brigade and welcome them home as honorable Soldiers who served our country courageously. The last of the 4,200 members of the 48th Brigade arrived back in Georgia on May 11th, 2006. Following their return, they outprocessed at Fort Stewart and were released from active duty to return to their hometowns throughout the State of Georgia. While we welcome the 48th Brigade back from their mission, we need to also honor the 26 soldiers who made the ultimate sacrifice. My heart goes out to the families of these soldiers. They are true heroes and our Nation will be forever in debt to their sacrifice.

I know I speak on behalf of our Nation, the State of Georgia, and the American people when I thank the 48th Brigade for living up to the calling of our National Guard ''Citizen Soldiers'' and making everyone in Georgia, and in America, extremely proud and grateful for their contribution.

HONORING IGNACY JAN PADEREWSKI

Ms. MIKULSKI. Mr. President, I am honored to have joined my colleagues Senator HAGEL, Senator DURBIN and Senator MURKOWSKI to submit S. Res. 491 commemorating the 65th anniversary of Ignacy Jan Paderewski's death on June 29, 1941 and recognizing his accomplishments as a musician, composer, statesman, and philanthropist.

I.J. Paderewski was a brilliant pianist who played hundreds of concerts in the United States and Europe. Paderewski always gave back to his society. As a pianist Paderewski donated a bulk of the proceeds from his concerts to charitable causes and helped establish the American Legion's Orphans and Veterans Fund.

When he decided to enter into politics, Paderewski continued to work for the betterment of society. He worked hard to bring independence to Poland, served his country as the first Premier of Poland during World War I and fought against the Nazi dictatorship in WWII.

During his time in politics one of Paderewski's main goals was to build a strong relationship between Poland and the United States. This is why it is so fitting that this resolution acknowledges Poland as an ally a strong partner in the war against global terrorism. The strong relationship that exists today is due in part to the foundations laid by I.J. Paderewski.

Ignacy Jan Paderewski's contributions to music, democracy, and humanity—as a renown pianist, composer, humanitarian and great Polish statesman—make him one of the most deeply valued and appreciated figures in the Polish American community. His close and friendly relationship with his contemporary U.S. social, cultural and political leaders, including many U.S. Presidents, made him a real friend of the American people. That is why it is an exciting opportunity for me, an American of Polish heritage to honor Ignacy Jan Paderewski by acknowledging his work, his accomplishments and all that he contributed to the world with this resolution.

NATIONAL PUBLIC WORKS WEEK

Mr. INHOFE. Mr. President, as chairman and on behalf of my colleagues on the Environment and Public Works Committee, I would like to recognize the dedicated public works professionals, engineers, and administrators who represent State and local governments throughout the United States and was pleased to introduce S. Res. 475 proclaiming the week of May 21–May 27, 2006, as National Public Works Week.

As we celebrate the contributions of the tens of thousands of men and women in America who provide and maintain the infrastructure and services that Americans rely on every day, let us not forget these same people are our first responders too. More often than not, they are on the scene before police, fire, and medical personnel. They can be found clearing roads, restoring water and power as well as critical infrastructure lifelines following disasters. Only in the absence of these dutiful public servants, would we truly recognize how valuable their tireless efforts are in providing and maintaining the basic infrastructure that many Americans often take for granted.

America's public infrastructure is the lifeblood of every community. It includes the roads, bridges, public transportation and airports, the drinking water and wastewater treatment systems, the solid waste services and facilities and other important utilities essential to our quality of life. These structures and services help sustain community life, safeguard the environment, protect our health, support our economy and allow people and goods to move safely and efficiently. These structures and services are truly public goods.

Because of my work on the most recent transportation law, SAFETEA–LU, Public Law 109–59, I have a better appreciation of just how important a reliable, well maintained and fully functioning network of interstate highways and transportation infrastructure is to the Nation. America's transportation system is one of the world's most expensive, with more than 3.9 million miles of roads, 5,300 public-use airports, 26,000 miles of navigable waterways, and more than 173,000 route-miles serviced by buses and rail in urban areas.

Transportation-related goods and services contribute more than $1.3 trillion to U.S. gross domestic product, about 11 percent of the total.

Furthermore, every $1 billion invested in roads and bridges generates approximately 47,500 jobs. Not only are infrastructure investments of the most fundamental and important functions of government, but they are also financially wise.

The Nation's 54,000 community drinking water systems supply drinking water to more than 250 million Americans, and municipal wastewater treatment systems each year prevent billions of tons of pollutants from reaching our rivers, lakes, stream, and coastlines. By keeping water supplies free of contaminants, these water utilities protect human health and preserve the environment. Additionally, our water infrastructure supports a $50 billion a year water-based recreation industry, at least $300 billion a year in coastal tourism, a $45 billion annual commercial fishing and shell fishing industry, and hundreds of billions of dollars a year in basic manufacturing which rely on clean water.

Clearly, public works professionals play a vital role in protecting the environment, improving public health and safety, contributing to economic vitality and enhancing the quality of life of every community of the United States.

I am delighted to use this National Public Works Week to thank them for their diligent and continued service.

NAMING OF THE JACK C. MONTGOMERY HOSPITAL

Mr. COBURN. Mr. President, I am proud as we approach this Memorial Day that we will have occasion to celebrate the renaming of the Department of Veterans Administration Hospital in Muskogee, OK, after a true American hero—Congressional Medal of Honor winner, and Cherokee, Jack C. Montgomery.

I would first like to thank a fellow member of the Oklahoma congressional delegation, Congressman DAN BOREN of Oklahoma's 2nd District, for his diligent work in bringing this important matter to a successful conclusion. This legislation has been cosponsored by the rest of the Oklahoma delegation and also has garnered the strong support of Oklahoma's major veterans' service organizations.

H.R. 3829 pays tribute to the heroism of Mr. Montgomery, who was awarded the highest honor bestowed by our Nation upon a member of the armed services for his courageous actions on February 22, 1944, during the Italian campaign of the Second World War. On this date, Montgomery's platoon had sustained intense fire near Padiglione, Italy, from three echelons of enemy forces, at which point Montgomery displayed a singular act of courage by attacking all three positions himself and taking prisoners in the process. After witnessing this tremendous display of courage, Montgomery's men rallied and defeated the enemy.

In addition to being only one of five Native Americans to be awarded the Medal of Honor, Lieutenant Montgomery was also awarded the Silver Star, the Bronze Star, and the Purple Heart with an Oak Leaf Cluster. Upon his release from the U.S. Army, Montgomery continued his service to our Nation by beginning work with the Veterans Administration in Muskogee where he remained for most of his life.

Mr. Montgomery is survived by his wife Joyce, and I am hopeful the President can sign this bill into law in swift fashion.

In conclusion, as we do pause this Memorial Day to remember those who sacrificed so that we may remain free, I can think of no veteran more worthy of our gratitude than Jack C. Montgomery.

ADDITIONAL STATMENTS

KENYON COLLEGE GRADUATION

• Mr. KERRY. Mr. President, this month I was lucky to have the chance to address the 178th graduating class of Kenyon College in Gambier, OH.

I wanted to introduce my remarks into the CONGRESSIONAL RECORD because it was such an honor to be there to share in this graduation ceremony.

In Gambier I met some of the most passionate, dedicated, involved young Americans out there, and I know that as graduates they will go from being student activists to citizen activists.

In advance of my speech, I also had the chance to meet in my office with many recent Kenyon alumni who shared a deep pride and genuine excitement about the role Kenyon plays in their lives even to this day. I was lucky to spend this time with young people—Democrats, Republicans, and Independents—who affirm anyone's faith in the vibrancy of our democracy and the young people who will shape its future. Mr. President, I ask unanimous consent that my remarks be printed in the RECORD.

The remarks follow.

Class of 2006—fellow survivors of November 2, 2004. I'm happy to be here at this beautiful school, which had my admiration long before that night when the country wondered whether I would win—and whether you would vote.

Your website has a profile of a very smart math major in the class of 2006. Joe Neilson. He said that once, after a statistics course here, he realized ''the probability of any event in our lives is about zero.'' ''I probably spent a week,'' Joe said, ''annoying my friends by saying: 'What are the odds?' '' Well Joe, what were the odds that we'd be linked by those long hours—not that I keep track—560 days ago? Like everyone that night, I admired the tenacity of Kenyon students. But what you did went far beyond tenacity.

My wife, Teresa, is honored by the degree you grant her, today. But she's also here to honor you because when you grow up in a dictatorship as she did, when you don't get a chance to vote until you're thirty-one, when you see your father voting for the first time in his seventies, you know what a privilege it is to cast a ballot.

Through that long night, we in Massachusetts watched you in Gambier. We were honored. We were inspired. We were determined not to concede until our team had checked every possibility. If you could stay up all night to vote, we could certainly stay up that next day to make sure your vote would count. In the end, we couldn't close the gap. We would have given anything to have fulfilled your hopes.

And I also thank those who cast a ballot for my opponent. I wish all Republicans had been just like you at Kenyon—informed, willing to stand up for your views—and only 10 percent of the vote. Actually, all of you, through your patience and good humor showed Americans that politics matters to young people. And so I really do thank every student here.

I especially want to thank someone who isn't a student. Because at the meeting Hayes was kind enough to mention—and I did take notes—the alums made it clear how much they'd been influenced by great friends, great teachers. Or a great coach.

I know what it's like to be on a team before an important game. I know how crucial that last practice can be. For the field hockey team, that November 2nd was the last day before the Oberlin game. Winning meant getting into the league championship—and from there to the NCAAs. So I can understand why players were upset after hours waiting in line at the polling place that afternoon. When Maggie Hill called her coach to ask if she should come back to practice—you'd expect the coach to say ''you better believe it.''

This coach had a different reaction. ''I'll cancel practice,'' she said, ''and I'm sending the whole team to vote.'' In that one moment she became a hero to me, and an example to many. It takes a special coach to know there are more important things than a big game. We should all express our gratitude to Robin Cash. Her values are the values of Kenyon.

By the way, for parents who may not remember—Kenyon played brilliantly—and won that Oberlin game 3-zip.

Now, it's not as if seeing brilliance here at Kenyon is a surprise. Like everybody, I know that when you look at a resume and see a Kenyon degree, you think, ''Smart. Committed. Good writer.'' And maybe, ''Likes to see a lot of stars at night.''

But there's more. The Kenyon alums I met with were so eloquent about what it meant to be here, where all your friends live, study, and play along a one mile path in a town surrounded by cornfields. One said, ''I came here on a cold, rainy October, but after my interview I saw professors having coffee at the deli, and heard everybody so excited about the Tom Stoppard play they were putting on—I fell in love with the place.'' Someone else said, ''Intelligent conversation permeates the whole campus.'' Another said—and I don't think he was kidding—''Nobody gets drunk at Commencement.''

We talked until I got dragged into an intelligence briefing from the White House. Believe me, I learned more at the Kenyon meeting.

What they said sounded very familiar. And important. Because there are other places where you can find a small community—where the bonds you forge will never dissolve. You can find it on a tiny boat in the rivers of Vietnam's Mekong Delta. You can even find it in the Senate—sometimes.

Someone described to me what it's like walking into Gund for dinner after your girl friend breaks up with you. You see every single person staring to make sure you're all right. I thought, ''Sounds like walking into the Democratic Caucus after that first New Hampshire poll.''

The fact is, the Kenyon grads in Washington didn't agree on everything. But they agreed that Kenyon is a place where you have the luxury of examining an idea not for whether it sounds good but for whether it is good.

Actually, one Kenyon parent told me something that bothered him. His son took Quest for Justice his first semester here. That's not what bothered him. But, the class met early in the morning, and his son made every class. After years of pushing his kid to get out of bed, the father wanted to know, ''What changed?'' His son said, ''Dad, I could disappoint you. But not Professor Baumann.''

And that brings up one of the things I want to talk about. For the Election Day event that united us was a disappointment. There's no way around it. Even as we flew in over Columbus this morning, I was looking down at the Ohio landscape, thinking: we came so close. So what. You cannot go through life without disappointment. No team, no politician, no writer, no scientist—no one avoids defeat.

The question is: what do you do next?

It's simple: you pick yourself up and keep on fighting. Losing a battle doesn't mean you've lost the war. Whether it's a term paper, an experiment or a race for President, you will learn from experience, and experience breeds success.

That's important, because frankly there are so many things to fight for. By that, I don't just mean the things we fight over in the halls of Congress. Kenyon produces graduates that produce our literature and drama—like E.L. Doctorow did with The March, 54 years after leaving Gambier. Or

Allison Janney did on West Wing—the first show ever to portray politics with something approaching the complexity it deserves. Your challenge is to produce and perform the rich imaginative works that move and illuminate your time.

Kenyon has vastly expanded its science programs. And your challenge is to fight in laboratories against enemies like the tiny HIV virus that has created the most devastating epidemic in human history—killing more people every two hours than there are in this graduating class.

At a time when we read about the high-tech jobs of a globalized world, your challenge is to find a way to educate the millions of Americans who can't get those jobs because they can't read well enough to understand how to get online.

And now, we are engaged in a misguided war. Like the war of my generation, it began with an official deception. It's a war that in addition to the human cost—the tragedy of tens of thousands of Iraqis and Americans dead and wounded—will cost a trillion dollars. Enough to endow 10,000 Kenyons. Money that could fight poverty, disease, and hunger. And so, your challenge is also to find a way to reclaim America's conscience. I have no doubt you will.

For one thing you have great role models. Like your parents, sitting out there under the trees. You may laugh looking at the old photos of your dad in a ponytail, and your mom in bellbottoms and that crazy, tie-dyed shirt. But their generation too faced the task of ending a war. And they did.

And went on to invent Earth Day, march against racism, bring women into the workplace and become the first generation to usher in an acceptance for all people regardless of race, religion, gender or sexuality.

They honored democracy by making government face issues of conscience—and I ask you to applaud them for making the world better BEFORE they made it better by making you what you are!

And of course, in addition to those sitting behind you—you have great role models sitting among you. Students from this class who had a dream, took a chance, and have already achieved great things.

I know, because sitting here is a student who dreamed of being published, and felt ambitious enough to send a poem he'd written for class to the Chatauqua Literary Journal. And so Sam Anderson became a published poet at the age of 21.

I know, because sitting here is a student who, watched a cousin struggle with Duchenne Muscular Dystrophy, dreamed of finding a way to help—and designed a project that involved her with the leading DMD researcher in the world. Now Amy Aloe's been invited to work in his ground-breaking lab.

I know, because sitting here is a student who dreamed of returning to the country of her birth, the country that shaped a part of my life. And in Vietnam, Nhu Truong could examine not just issues, but the more difficult job of examining herself.

They all took a chance. If you ever despair of making a difference you'll have Kenyon people to remind you of what's possible if you take that chance.

And not just from the class of '06.

One of the alums mentioned that every week, a group of them meet to talk about issues. They don't think alike about every idea, he said. But they share a passion for ideas they learned here. Another asked me to tell those of you suspicious of government, that "it's made up of a lot of people like us, trying to make things better."

The group included one alum who's well known here—and getting well known in Washington. But a while back he was just a nervous 24-year old, sitting silently in a meeting with a new Secretary of State. Until he got up the nerve to raise his hand and make a point. "Who's that young, red-haired kid?" Condoleeza Rice said afterward, to an aide. "Keep your eye on him." No, she didn't mean he was a security risk. He'd said something that, as a Washington Post reporter put it, "crystallized her thoughts about foreign policy." And now Chris Brose, Kenyon 2002, travels everywhere with Secretary Rice, not just crafting her speeches but talking about policy. I wish the policies were a little different, but he's making a mark. He's making a difference.

You know, during World War II, my father was flying planes in the Army Air Corps. While he was away on duty, my mother was volunteering to care for the sick and wounded. She sent him a letter about it. "You have no idea of the ways in which one can be useful right now," she wrote. "There's something for everyone to do." She was right about her time. And what she wrote is right about yours too.

In a few minutes you will walk across this stage for your diploma. You'll line up on the steps of Rosse Hall to sing for the last time. You'll turn in your hoods, go back and finish packing. Maybe sell that ratty sofa to somebody from the class of 2007. And then you'll watch the cars pull away.

I know you've heard too many times the old saying that commencement is not an end but a beginning. The truth is, it's both. It is a day to feel sad about leaving Gambier. It's a day to feel eager about what lies ahead.

Because you have a special mission. Those who worked to end a war long ago, now ask you to help end a war today. Those who worked to end poverty ask you to finish what we have left undone. We ask you to take a chance. We ask you to work for change. Promise yourselves, promise your parents, promise your teachers that you will use what you have learned. Don't doubt for an instant that you can. Only doubt those pessimists who say you can't. For all along the way, I promise, that while you leave the campus, Kenyon will never leave you.

You will be linked by the experiences vividly brought to life today by Hayes Wong, who experienced them with you.

As you fight for justice in this world, you will be linked by the insights you all had in courses like Quest for Justice. You will be linked to classmates whose success you predict will take the world by storm—and to some whose success takes you by surprise. You will be linked by the times you sat on a bench in Middle Path and argued about politics with people whose views you opposed—and learned you could disagree and still be friends. At some point you'll see that this small campus that changed you has already produced enormous change in the world.

But much more is urgently needed.

Remember that the bedrock of America's greatest advances—the foundation of all we take for granted today—was formed not by cheering on things as they were, but by taking them on and demanding change. No wonder Thomas Jefferson himself said that "dissent is the highest form of patriotism."

So if you're not satisfied with the dialogue today, if you feel your issues are being ignored, speak out, act out, and make your issues the voting issues of our nation.

You might say, "who's he kidding? We can't do that." Well, I remember when you couldn't even mention environmental issues without a snicker. But then in the '70s people got tired of seeing the Cuyahoga River catch on fire from all the pollution. So one day millions of Americans marched. Politicians had no choice but to take notice. Twelve Congressmen were dubbed the Dirty Dozen, and soon after seven were kicked out of office. The floodgates were opened. We got The Clean Air Act, The Clean Water Act and Safe Drinking Water. We created the EPA. The quality of life improved because concerned citizens made their issues matter in elections.

So it's up to you now to take up the challenge of your times if you want to restore a politics of big ideas, not small-minded attacks.

Make no mistake—you'll meet resistance. You'll find plenty of people who think you should just keep your mouths shut or that by speaking out you're somehow less than patriotic. But that's not really new either. When we protested the war in Vietnam some would weigh in against us saying: "My country right or wrong." Our response was simple: "Yes, my country right or wrong. When right, keep it right and when wrong, make it right."

Graduates of the Class of 2006, you know how to make it right—and you will see that it came from what you learned here: from a class so compelling you were awake at the crack of dawn to learn . . . from that night Teresa and I will never forget when you waited patiently till 4:15 at a polling place in Gambier . . . or from a coach who knew that her mission was to teach you how to win on and off the field.

Congratulations—and God Bless.●

HONORING THE COMMITMENT OF PUBLIC SERVICE

● Mr. AKAKA. Mr. President, earlier this month I had the honor of joining Linda Springer, the director of the Office of Personnel Management, and John E. Potter, the Postmaster General of the United States, at a breakfast to kick off the four-day celebration on the National Mall celebrating Public Service Recognition Week. The annual Mall event is part of the yearly, week-long observance to celebrate and recognize public employees sponsored by the Public Employees Roundtable at the Council for Excellence in Government. While Director Springer and I gave brief remarks to the distinguished guests at the breakfast hosted by GEICO, I was extremely impressed by the words of the Postmaster General who gave the keynote address. I want my colleagues to have the opportunity to read Mr. Potter's words, which so eloquently explain why the millions of public servants at all levels of government should be recognized for the work they do daily on our behalf.

Mr. President, I ask that the address of Mr. Potter be printed in the RECORD.

The address follows.

KEYNOTE ADDRESS—POSTMASTER GENERAL/CEO JOHN E. POTTER, MAY 4, 2006

Thank you, Chairman Harper, President McGinnis and our special guest, Director Springer.

I'd also like to take a moment to recognize and thank Tony Nicely, Chairman of GEICO, the sponsor of today's event.

Tony recently wrote about the efforts of Louisiana GEICO employees to serve their customers in the aftermath of Hurricane Katrina. The local claims office was flooded and many employees lost everything. But they showed up at work to process claims and get those checks to policyholders as quickly as possible—through the mail, of course!

I know exactly what Tony has experienced. I was in New Orleans the week after the

storm and again, last month. If I learned nothing else, I learned about the frailty of the things we build. In the span of a few hours, Katrina broke open levees and brought down entire neighborhoods. Its winds dropped houses on highways and tossed ships on shore.

In the days and months since, we have seen repeatedly the one thing that could not be conquered by even this unprecedented storm—the human spirit.

One of the postal employees I talked with told me that the members of his extended family lost eight homes in and around New Orleans.

Yet, like him, hundreds of our people were back at work almost immediately. Within days of the storm, they set up temporary locations to get social security checks into the hands of thousands of local residents. Where they could, our carriers were back on the streets delivering mail. I know our customers appreciated their efforts to bring normalcy back to a very difficult situation.

So, let me welcome all of you and let me congratulate the millions of employees from every federal agency, the military, every state, every county, every city, every village—and volunteers everywhere throughout America.

Wherever you are, you serve your communities and your nation in so many ways. Public Service Recognition Week celebrates each and every one of you. It's an honor you've earned through outstanding efforts—and I salute you.

When I was asked to join you here, I didn't know that the Postal Service would be at the center of the news. By now, I'm sure you've heard that the Postal Service plans to adjust rates next spring.

Why? Well, our charter requires us to operate like a business—and to break even. But the Postal Service doesn't receive any tax money to pay for its operations—and we haven't for 25 years. When you boil it down, the American people pay for the operation of the world's largest and most efficient mail delivery system every time they buy a stamp.

Like each of you, and like every business and government agency in America, the Postal Service is not immune to rising costs. And given our size those costs can really add up. Each year, our 700,000 employees deliver 212 billion pieces of mail to 145 million homes and businesses—and that's growing by about 2 million new addresses every year.

They work from more than 37,000 Post Offices and drive more than 260,000 vehicles while delivering the mail. Every time the price of gas goes up just a penny, our costs go up $8 million a year. And the price of gas has doubled since 2002, the last time we changed rates to offset growing operational costs. You can do the math.

Our people have a big job and they're doing it better than ever. Through their efforts, service and customer satisfaction have reached record levels. They've helped us improve efficiency six years running—and this year, we're expecting a seventh.

And by the time the price of a First-Class stamp goes up—one year from now—the average increase for that five year period will be exactly one penny a year—and be below the rate of inflation.

As I said, the Postal Service is required to operate like a business. And we're not alone. Across the board, all government agencies are working to become more business-like. There's a drive for efficiency. There's a drive for keeping costs down. There's a drive for measurable results. There's a drive to provide continuously improving service.

And that puts us all on the horns of a dilemma.

That's something I thought about when I had a conversation with Bill Russell a few years ago. Most of you remember Bill as the cornerstone of the Boston Celtics back in the 60's. He was an incredible shot blocker who revolutionized defense in the NBA.

Bill is still active, although he's traded in his jersey with the big number 6 on it for a suit and tie. He's very involved in mentoring—helping children develop basic skills so they can turn their dreams into reality.

Bill joined us at a dedication for a stamp we issued to honor and encourage mentoring. When I was talking to Bill, he had a question for me.

''Jack, you're part of the government, but there's a lot of business in what you do, right?''

''That's right,'' I told him.

Then he asked me, ''What kind of government do we have?''

I paid attention in school, so I was pretty confident when I said that we're a democracy.

But the quiz wasn't over yet. ''What does that mean?'' he asked.

''It means one person, one vote, equal rights for everybody, and we elect fellow citizens to represent us.''

Then Bill told me that our government has evolved over time. It's a function of compromise—everyone comes to the table with their own interests.

So, at the end of the day, as a government entity, your mission is a dual mission. It's not just to deliver service. It's really much broader than that. It's about compromise. It's about change. It's about focus on mission. But it's about carrying out that mission with a very different perspective than others might bring to it.

There's an important message there. As Postmaster General, I have to stay focused on numbers—on-time delivery, cost per delivery, customer satisfaction, productivity, and, of course, making money or losing money. That's something everyone in government has to focus on, too.

That's the business end of things. But, as Postmaster General, I can never forget that my job is about more than just numbers. As a government agency, we can never operate like a pure business—and we shouldn't. There's a social aspect to everything we do.

We provide a useful and needed service—from the biggest cities to the smallest towns. We keep people in touch. We keep them connected. And we have to make sure we treat everyone equally. After all, our government doesn't belong to us, it belongs to everybody, no matter who they are, no matter where they are, no matter what their circumstances. So, when we make decisions, we have to keep that in mind.

Yes, we have to manage our budgets. Yes, we have to consider things like return on investment. Yes, we have to make our departments and our agencies more efficient than ever. Yes, we have a lot of scrutiny. And, yes, we answer to a lot of bosses—in my case, 280 million of them—and one boss who can really tell me how I'm doing—my wife Maureen.

But we can never forget one thing. Behind every program we propose or implement, there are people. There are families. There are businesses—large and small—providing jobs and opportunity for those families.

Each of them is relying on their government for the services that make so much else possible. And those services don't always lend themselves to a pure profit and loss statement. That's why government is different. And that's at the heart of public service.

When you choose a career in public service, there are tradeoffs. You'll never make the Forbes list of America's billionaires—unless you hit the Powerball a few times. And if you're like me, you've probably got a ticket in your pocket! You'll never get to exercise a stock option as part of your benefit program. And that corporate jet? Well, I've always found that the Metro is pretty reliable.

But the satisfaction is priceless. How does it feel to give a child a head start by teaching her to read her first sentence? How do you put a price on the joy of the family whose idea you helped turn into a business? How do you measure the lives saved by the research grant that helped someone find a cure for a terrible disease? And how can you not be moved by the smile of a grandmother when she receives a birthday card from her first grandchild—whether she's in the next town, in a village in the Alaskan bush, or halfway across the ocean in Hawaii?

You do all of this, and more. As public employees, you have a tremendous responsibility. You have a tremendous record of performance. You represent the very best in public service. You—and everyone in public service—should be proud.

And at the Postal Service, that's something we think about every day. We have to. That's because we're the one government service that makes a personal visit to just about everyone in the nation, just about every day. For many Americans, we're the daily face of their government.

So, when they're judging us, they're also judging their government and, to a certain extent, they're judging you. Believe me, that's a powerful motivator for the Postal Service. We don't want to let you down—and we won't.

We're all about service—and it will stay that way. Service is part of our DNA. It's what we do. It's who we are. I'm proud to say that our people have remained focused on service and brought it to record levels. And that's been reflected in customer satisfaction ratings that are the envy of just about any organization.

Our history has been about service. We've helped build a great nation and bring its people together. We've been an important part of new business development—something we still do today.

Think about eBay, think about Netflix, think about Amazon. They're all smart, modern, internet-based companies that have become powerful economic engines that rely on the mail.

But, as I said, what we do—what we all do—is about more than just a simple business equation. I think of that every day when I hear about quiet heroes, like Mike Miller, a letter carrier from a suburb of New Orleans.

Mike rode out Hurricane Katrina in his houseboat. After the storm, he saw total destruction everywhere. With a friend, Mike took his inflatable, motorized boat and responded to cries of help for four straight days, ferrying hundreds of people from rooftops to higher ground.

In one case, Mike stopped when he thought he heard sounds coming from a house that was almost completely submerged. With no way in, he pulled his boat to the roof, yanked off a vent pipe and yelled down. He heard a faint response and, with his friend, frantically pulled off roof tiles, cut through the beams, and dropped into the attic.

Groping through the darkness, heat and water, he discovered an elderly woman, barely alive. They lifted her through the opening in the roof and brought her to safety. Looking back, Mike said, ''I was just doing what had to be done.''

To Mike Miller, and to so many others like him, I say, ''Thank you!''

When I think about people like Mike, and every one of our employees who bring their best to the job every day, I know we can meet just about any challenge that comes our way. And Mike's not alone. There are

people like him all across the government. People serving people. People willing to do what it takes—and then some.

In closing, let me recognize the men and women of the Postal Service, and every government employee, from the smallest villages, to the largest cities; from every county, every state and every federal agency.

You make our nation and your community a better place with all that you do. You have earned the recognition you are receiving this week. I salute you and I am honored to be one of you.

Thank you.●

CONGRATULATING THE WINNERS OF THE NEW HAMPSHIRE EXCELLENCE IN EDUCATION AWARDS

● Mr. SUNUNU. Mr. President, I rise today to congratulate the 2006 recipients of the New Hampshire Excellence in Education Awards. These prestigious awards, commonly called the EDies, are presented each year to individuals and schools who demonstrate the highest level of excellence in education.

The recipients of the EDies are chosen based on certain criteria, including student achievement, leadership, and decisionmaking; community and parental involvement; school climate, curriculum, and instruction; and the teaching and learning process. I am proud to recognize the 34 individuals, 3 schools, 1 department, and 1 school board who will receive this distinctive honor on June 10, 2006.

The EDies awarded in various categories, including school board, principal, and superintendent of the year, as well as schools of excellence at the elementary, middle, and high school levels. In addition, individuals are recognized for their contributions in specific subject areas, such as social studies, music, and business education. There is also an award in memory of New Hampshire's own Christa McAuliffe, whom we lost 20 years ago as she courageously embarked on her journey to be the first teacher in space.

As an elected official, parent, and former student of the New Hampshire public school system, I have had the opportunity to meet and learn from many educators across the Granite State, including some of this year's award recipients. Their dedication to providing students with the tools they need to become productive and engaged citizens is commendable and the basis for the superior achievement of New Hampshire's schools. I am personally grateful to the teachers at every level of my own education who provided me with the guidance necessary to succeed.

The EDies provide us with an opportunity to acknowledge the tremendous contributions of our State's educational community. I am pleased to recognize them here today and to convey the gratitude of my State for the role each of this year's recipients have played in the lives of New Hampshire's children.

Mr. President, I ask that the list of the 2006 New Hampshire Excellence in Education Award winners and school finalists be printed in the RECORD.

The list follows.

2006 NEW HAMPSHIRE EXCELLENCE IN EDUCATION AWARD RECIPIENTS

Rebecca Albert, Deborah Boisvert, Norma J. Bursaw, Marcia B. Connors, Meoghan B. Cronin, Richard Dunning, James N. Elefante, Nancy Frantz Clough, Kathleen Frick, CarolAnn Gregorious, Kimberly Kenney, Phillip K. Martin, Kathleen C. McCabe, Carole A. Smart, Emily K. Spear, Linda A. Vincent, Bruce R. Wheeler, David Alcox, Gregg M. Brighenti, Jaffrey Caron, W. Michael Cozort, Elizabeth M. Curran, Carol A. Dupuis, Mary E. Fay, Deborah Franzoni, Rick Glatz, Esther Kennedy, Lisa MacLean, Dr. Dennise Maslakowski, Thomas Prive, Deanne Soderberg, Gregory S. Superchi, Richard C. Walter, Jr., Doris E. Williams.

Academy of Learning and Technology: Nashua High School North, Pennichuck Middle School Technology Department, Lafayette Regional School, Oyster River Coop. School Board.

SECONDARY SCHOOL FINALISTS

Goffstown High School, Pembroke Academy, Prospect Mountain High School.

MIDDLE SCHOOL FINALISTS

Indian River School, Oyster River Middle School.

ELEMENTARY SCHOOL FINALISTS

Hollis Primary and Upper Elementary School, South Londonderry Elementary School.●

TRIBUTE TO THOMAS W. TAYLOR

● Mr. LEVIN. Mr. President, I rise today to recognize and pay tribute to Thomas W. Taylor, the Senior Deputy General Counsel of the Army, for his exceptionally meritorious service to our country. Mr. Taylor will retire on June 3, 2006, having completed 36 years of superb military and Federal civilian service with the Department of the Army, the last 19 of which have been as a member of the Senior Executive Service. As such, he has been at the forefront of the most critical issues affecting our Nation and the military today. His commitment to upholding the rule of law in the service of the national defense has been the bedrock grounding many of the Army's mission successes. We owe him a particular debt of gratitude for the genuine and enduring concern he has demonstrated for the welfare of our men and women in uniform and their families, particularly in the face of the many sacrifices our Nation has demanded of them over the last decades.

Mr. Taylor's remarkable career as a selfless and committed servant of the public trust culminated in his appointment in 1997 as Senior Deputy General Counsel, the Department's senior career civilian attorney. Mr. Taylor has long been the foundation of strategic leadership, vision, and continuity for the Army legal community. Over the course of his distinguished career, he has provided sage policy and legal advice to six Secretaries of the Army, seven Army General Counsel, and numerous other senior officers in the Army Secretariat, and Headquarters, Department of the Army, on a wide variety of operational issues, including military support to civilian authorities: during special events of national significance, such as the Olympic Games and Presidential Inaugurals; in responding to domestic disasters and civil disturbances; and in fighting drugs and weapons of mass destruction. His personnel law portfolio covered the full range of military and civilian personnel law: mobilization, recruitment, promotions, discharges, medical care issues, sexual harassment, and equal employment opportunity. Other practice areas included select aspects of criminal law, implementation of the Goldwater-Nichols Department of Defense Reorganization Act as applied to the Army, Secretarial and command authority, and application of the Federal Vacancies Reform Act, as well as policies governing the release of information under the Freedom of Information and Privacy Acts in response to public, Congressional, and media requests for information about Army activities and investigations. Further, Mr. Taylor discharged the Department's legal responsibility for intelligence oversight, monitoring Army intelligence and counterintelligence operations worldwide and overseeing legal and policy aspects of special access programs and intelligence support to other Federal agencies. In 2001, he was the senior Army lawyer at the Pentagon site on September 11, providing advice enabling immediate on-scene military support to security and recovery operations. He has represented the Army and DoD in matters with Congress and other Federal agencies, as well as to foreign countries. Beginning in the Reagan administration and during extended transitional periods between successive administration appointees, Mr. Taylor often has been selected personally by Secretaries of the Army to discharge the duties of the General Counsel. Most recently, he has served in that capacity since July of 2005.

Mr. Taylor was raised in Pilot Mountain, NC, and is a graduate of public schools in North Carolina. He earned a B.A. in history with high honors from Guilford College, Greensboro, NC, in 1966, and a J.D. with honors in 1969 from the University of North Carolina at Chapel Hill, where he was inducted into the Order of the Coif and a staff member of the law review, which published three of his notes. After graduating from law school, he was commissioned as a Captain in the Judge Advocate General's Corps of the Army. He first served at Fort Wainwright, AK, followed by tours at Fulda and Darmstadt, Germany. Returning to the United States, Mr. Taylor taught from 1975 to 1978 in the law department of the U.S. Military Academy at West Point, serving as professor to many of the Army's future leaders. Later, after tours of duty in the office of the Judge Advocate General in the Pentagon and in a nominative position as an Assistant to the Army General Counsel, he

left active duty to accept a civilian position with the office in 1982. In 1987 he graduated from the Industrial College of the Armed Forces. Throughout his years of civilian service, he continued to serve as an individual mobilization augmentee in the reserve component of the Army Judge Advocate General's Corps, retiring in 2000 in the grade of Colonel, having last served as the Director of the Academic Department of The Judge Advocate General's School.

In his 26 years of selfless and dedicated Federal civil service, Mr. Taylor has received numerous honors and awards, including, on three occasions, the Army's Decoration for Exceptional Civilian Service. He received the Presidential Rank Award as a Distinguished Executive in 1996 and as a Meritorious Executive in 1993 and 2002. Notably, he has received honorary awards for lifetime contributions to his client communities including: the Knowlton Award for Excellence in Intelligence, presented by the Military Intelligence Corps; the Chief of Public Affairs Award for outstanding support and advice to the Chief of Public Affairs; designation as a distinguished member of The Judge Advocate General's Corps Regiment; and induction into the Order of the Marechaussee for service to the Military Police Corps Regiment.

On leaving Federal service, Mr. Taylor will become a professor of the Practice of Public Policy Studies at Duke University. I know that he will continue to inspire others with his sense of honor, his love of the law, and his abiding belief in the nobility of public service and values for which our Nation stands. I join with all my colleagues in saluting Thomas W. Taylor and his wife Susan for their many years of outstanding service to the U.S. Army and to our country.●

100TH ANNIVERSARY OF HARVEY, NORTH DAKOTA

● Mr. CONRAD. Mr. President, I rise today to recognize a community in North Dakota that will be celebrating its 100th anniversary. On June 29 to July 2, the residents of Harvey will gather to celebrate their community's history and founding.

Harvey holds an important place in North Dakota's history. Harvey was founded in 1892 and named for COL James S. Harvey, a stockholder from Wisconsin. It became a city in 1906, with Aloys Wartner serving as its first mayor.

Today, Harvey is a vibrant community in central North Dakota. Situated at the head waters of the beautiful Sheyenne River and in close proximity to the Lonetree Wildlife Management Area and the North Country National Scenic Trail, Harvey has great appeal for recreation and wildlife enthusiasts alike. The people of Harvey are enthusiastic about their community and the quality of life it offers. The community has a wonderful centennial planned that includes a street dance, golf tournament, demolition derby, lumberjack show, centennial games, parade, and many other activities for all ages.

Mr. President, I ask the Senate to join me in congratulating Harvey, ND, and its residents on their first 100 years and in wishing them well through the next century. By honoring Harvey and all the other historic small towns of North Dakota, we keep the great pioneering frontier spirit alive for future generations. It is places such as Harvey that have helped to shape this country into what it is today, which is why this fine community is deserving of our recognition.

Harvey has a proud past and a bright future. ●

A TRIBUTE TO MARY COPPER

● Mr. BIDEN. Mr. President, I rise today to pay tribute to Mrs. Mary Copper, who passed away February 22, at the age of 55 in Wilmington, DE. A mother, wife, sister, activist, trailblazer, and trusted friend, Mary will be missed by the countless people whose lives she touched before her time on this Earth was cut short.

Mary graduated from Wellesley College and the Boston University School of Law, and almost immediately began a rapid ascent that took her to the pinnacle of the legal field. Through her hard work and keen instincts, she quickly made herself known across Delaware as one of the hardest working and brightest female attorneys in the State's history. She dedicated 8 years to the DuPont Company before becoming the first female partner at Potter Anderson & Corroon LLP, where she was beloved by clients and coworkers alike.

But perhaps the most indelible image of Mary is that of a philanthropist with an enormous heart. She never shied away from the opportunity to help others, and devoted countless hours to numerous charitable organizations throughout the State, volunteering, serving on boards, and giving every ounce of her being to the people who needed it the most.

She was a founding member and past chair of the Advisory Committee of the Fund for Women of the Delaware Community Foundation. She also served as an enthusiastic member of the Delaware Bar Foundation and a helpful supporter of the Democratic Party within Delaware. Her absence will be sorely felt by all who knew her, but the vast reach of her acts of charity and kindness will continue to touch people's lives for years to come.

My thoughts and prayers are with Mary's family, her husband William, and daughters Mary (Lucy) and Ellen. ●

100TH ANNIVERSARY OF PEKIN, NORTH DAKOTA

● Mr. CONRAD. Mr. President, I rise today to honor a community in North Dakota that is celebrating its 100th anniversary. On June 22, 2006, the residents of Pekin will celebrate their community's history and founding.

Pekin is a community of 80 people located in northeastern North Dakota. Nestled between the winding Sheyenne River and beautiful Stump Lake, the Pekin area offers recreational opportunities and scenic vistas. This charming location is the setting for Pekin Days, an annual citywide celebration that features the Nelson County Art Show. Known as the Littlest Town with the Biggest Art Show in North Dakota, Pekin also boasts the largest annual juried art show and sale in the State of North Dakota.

The area was homesteaded as early as 1881 but not established until 1906 when the Great Northern Railroad brought railroad workers and their families. The community was named by settlers from Pekin, IL, a town itself named due to the belief that it was located on the opposite side of the globe from Peking, China.

Mr. President, I ask the Senate to join me in congratulating Pekin, ND, and its residents on their first 100 years. By honoring Pekin and all of the other historic small towns of North Dakota, we keep the pioneering frontier spirit alive for future generations. It is places such as Pekin that have helped to shape this country into what it is today, which is why Pekin is worthy of our recognition.●

100TH ANNIVERSARY OF BUTTE, NORTH DAKOTA

● Mr. CONRAD. Mr. President, I rise today to recognize a community in North Dakota that will be celebrating its 100th anniversary. On June 23 to 25, the residents of Butte will gather to celebrate their community's history and founding.

Butte holds an important place in North Dakota's history. When it was founded in 1906, this Soo Line Railroad townsite was named Dogden. About 20 years later, the name was changed to Butte. Both names come from the nearby landmark, Dogden Butte, which was discovered by the explorer David Thompson in 1797.

Butte is located within minutes of excellent game and waterfowl hunting. Nearby Cottonwood Lake is a great fishing site for northern pike. Butte is home to several businesses including Butte Manufacturing and the Northern Tier Federal Credit Union, to name a few. The community has a wonderful centennial planned that includes a street dance, pitchfork fondue, parade, picnic, and much more.

Mr. President, I ask the Senate to join in me congratulating Butte, ND, and its residents on their first 100 years and in wishing them well through the next century. By honoring Butte and all the other historic small towns of North Dakota, we keep the great pioneering frontier spirit alive for future generations. It is places such as Butte that have helped to shape this country into what it is today, which is why this

fine community is deserving of our recognition.

Butte has a proud past and a bright future.●

125TH ANNIVERSARY OF HILLSBORO, NORTH DAKOTA

● Mr. CONRAD. Mr. President, I rise today to recognize a community in North Dakota that will be celebrating its 125th anniversary. On June 29 to July 2, the residents of Hillsboro will gather to celebrate their community's history and founding.

Hillsboro is a growing community located in the ''heart of the Red River Valley,'' and it is proud of its heritage. The city was started by a group of German and Norwegian settlers in 1869–1870. The Crown Prince of Norway visited the city in 1942. In 1971, the city was the recipient of the All-American City Award. This award is given to communities that exhibit civic excellence in times of crisis. It recognizes grassroots communities that work together to overcome challenges in innovative and collaborative ways.

Hillsboro has plenty to offer its residents and visitors. There are numerous outdoor activities to partake in, such as volleyball, golfing, fishing, snowmobiling, and snowshoeing. The Plummer House, home to the Traill County Historical Society Museum, is another site to see while in Hillsboro. There are also the Centennial and Pioneer Buildings, a log cabin, and St. Olaf Church.

The community has planned a wonderful weekend celebration to commemorate its 125th anniversary. The celebration includes an all-school reunion, a golf tournament, an antique tractor pull, concerts, and much more.

Mr. President, I ask the Senate to join me in congratulating Hillsboro, ND, and its residents on their first 125 years and in wishing them well through the next century. By honoring Hillsboro and all the other historic small towns of North Dakota, we keep the great pioneering frontier spirit alive for future generations. It is places such as Hillsboro that have helped to shape this country into what it is today, which is why this fine community is deserving of our recognition.

Hillsboro has a proud past and a bright future.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 9:31 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House agree to the amendment of the Senate to the bill (H.R. 5037) to amend titles 38 and 18, United States Code, to prohibit certain demonstrations at cemeteries under the control of the National Cemetery Administration and at Arlington National Cemetery, and for other purposes.

ENROLLED BILL SIGNED

At 10:55 a.m., a message from the House of Representatives, delivered by Ms. Chiappardi, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 5037. An act to amend titles 38 and 18, United States Code, to prohibit certain demonstrations at cemeteries under the control of the National Cemetery Administration and at Arlington National Cemetery, and for other purposes.

The enrolled bill was subsequently signed by the President pro tempore (Mr. STEVENS).

At 12:27 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 5427. An act making appropriations for energy and water development for the fiscal year ending September 30, 2007, and for other purposes.

At 5:55 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 5429. An act to direct the Secretary of the Interior to establish and implement a competitive oil and gas leasing program that will result in an environmentally sound program for the exploration, development, and production of the oil and gas resources of the Coastal Plain of Alaska, and for other purposes.

The message also announced that pursuant to 14 U.S.C. 194(a), and the order of the House of December 18, 2005, the Speaker appoints the following Member of the House of Representatives to the Board of Visitors to the United States Coast Guard Academy: Mr. TAYLOR of Mississippi.

At 9:39 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 resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 418. 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. 4681. An act to promote the development of democratic institutions in areas under the administrative control of the Palestinian Authority, and for other purposes; to the Committee on Foreign Relations.

H.R. 5427. An act making appropriations for energy and water development for the fiscal year ending September 30, 2007, and for other purposes; to the Committee on Appropriations.

MEASURES READ THE FIRST TIME

The following bill was read the first time:

S. 3064. A bill to express the policy of the United States regarding the United States relationship with native Hawaiians and to provide a process for the recognition by the United States of the Native Hawaiian governing entity.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, May 25, 2006, she had presented to the President of the United States the following enrolled bill:

S. 1736. An act to provide for the participation of employees in the judicial branch in the Federal leave transfer program for disasters and emergencies.

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–6929. A communication from the Director, Regulatory Review Group, Commodity Credit Corporation, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Grains and Similarly Handled Commodities—Marketing Assistance Loans and Loan Deficiency Payments for the 2006 through 2007 Crop Years; Cotton'' (RIN0560–AH38) received on May 24, 2006; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6930. A communication from the Director, Regulatory Review Group, Commodity Credit Corporation, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Percentages for Direct and Counter-Cyclical Program Advance Payments'' (RIN0560–AH49) received on May 24, 2006; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6931. 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 ''Pesticides; Minimal Risk Tolerance Exemption'' (FRL No. 8062–3) received on May 24, 2006; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6932. 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 ''Terbacil; Pesticide Tolerance'' (FRL No. 8057–9) received on May 24, 2006; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6933. A communication from the Under Secretary of Defense (Personnel and Readiness), transmitting, pursuant to law, a report entitled ''Transition Assistance and Disabled Transition Assistance Programs (TAP/DTAP)''; to the Committee on Armed Services.

EC–6934. A communication from the Under Secretary of Defense (Acquisition, Technology and Logistics), transmitting, pursuant to law, a report entitled ''Department of Defense Fiscal Year 2005 Purchases of Supplies Manufactured Outside the United States'' to the Committee on Armed Services.

EC–6935. A communication from the Fiscal Assistant Secretary, Department of the Treasury, transmitting, pursuant to law, the annual report relative to material violations or suspected material violations of regulations relating to Treasury auctions and other Treasury securities offerings; to the Committee on Banking, Housing, and Urban Affairs.

EC–6936. A communication from the Fiscal Assistant Secretary, Department of the Treasury, transmitting, pursuant to law, a report relative to any significant modifications to the auction process for issuing United States Treasury obligations; to the Committee on Banking, Housing, and Urban Affairs.

EC–6937. A communication from the Fiscal Assistant Secretary, Department of the Treasury, transmitting, pursuant to law, a report that during the period of January 1, 2005, through December 31, 2005, no exceptions to the prohibition against favored treatment of a government securities broker or dealer were granted by the Secretary of the Treasury; to the Committee on Banking, Housing, and Urban Affairs.

EC–6938. A communication from the Assistant Secretary, Transportation Security Administration, Department of Homeland Security, transmitting, pursuant to law, the report of the Administration's intent to award a contract to FirstLine Transportation Security, Inc. for screening services at Kansas City International (MCI); to the Committee on Commerce, Science, and Transportation.

EC–6939. A communication from the Deputy Assistant Secretary for Export Administration, Bureau of Industry and Security, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Revised Appeal Procedure for Persons Designated as Related Persons to Denial Orders'' (RIN0694–AD60) received on May 24, 2006; to the Committee on Commerce, Science, and Transportation.

EC–6940. A communication from the Acting Deputy Assistant Administrator for Regulatory Programs, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries Off West Coast States; West Coast Salmon Fisheries; 2006 Management Measures and a Temporary Rule for Emergency Action for Klamath River Chinook Area Fisheries'' (RIN0648–AT34) received on May 24, 2006; to the Committee on Commerce, Science, and Transportation.

EC–6941. A communication from the Assistant Administrator for Fisheries, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Target Total Allowable Catch Levels, Trip Limits, and Days-at-Sea Restrictions for the Monkfish Fishery for the 2006 Fishing Year'' (RIN0648–AT22) received on May 24, 2006; to the Committee on Commerce, Science, and Transportation.

EC–6942. A communication from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Yellowfin Sole by Vessels Using Trawl Gear in the Bering Sea and Aleutian Islands Management Area'' (I.D. 041906C) received on May 24, 2006; to the Committee on Commerce , Science, and Transportation.

EC–6943. A communication from the Administrator, Environmental Protection Agency, transmitting, pursuant to law, the Agency's 2004 Toxics Release Inventory (TRI) data; to the Committee on Environment and Public Works.

EC–6944. A communication from the Assistant Administrator, Office of Administration and Resources Management, Environmental Protection Agency, transmitting, pursuant to law, the Agency's Fiscal Year 2005 Buy American Act Report; to the Committee on Environment and Public Works.

EC–6945. A communication from the Associate Administrator, Office of Congressional and Intergovernmental Relations, Environmental Protection Agency, transmitting, pursuant to law, a report entitled ''U.S. - Mexico Border Environment: Air Quality and Transportation & Cultural and Natural Resources, Ninth Report of the Good Neighbor Environmental Board''; to the Committee on Environment and Public Works.

EC–6946. 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; New Mexico; Albuquerque/Bernalillo County'' (FRL No. 8175–6) received on May 24, 2006; to the Committee on Environment and Public Works.

EC–6947. 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 Implementation Plans; Michigan'' (FRL No. 8167–2) received on May 24, 2006; to the Committee on Environment and Public Works.

EC–6948. 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 Implementation Plans; Wisconsin; Wisconsin Construction Permit Permanency SIP Revisions; Correction'' (FRL No. 8171–1) received on May 24, 2006; to the Committee on Environment and Public Works .

EC–6949. 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; Indiana'' (FRL No. 8166–9) received on May 24, 2006; to the Committee on Environment and Public Works .

EC–6950. 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 Implementation Plans; Kentucky; Redesignation of the Boyd County SO2 Nonattainment Area'' (FRL No. 8174–1) received on May 24, 2006; to the Committee on Environment and Public Works.

EC–6951. 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 the Printing and Publishing Industry'' ((RIN2060–AI66)(FRL No. 8174–5)) received on May 24, 2006; to the Committee on Environment and Public Works.

EC–6952. A communication from the Assistant Secretary of the Army (Civil Works), transmitting, pursuant to law, a report relative to the Administration's position on the budgeting of the Arkansas River Navigation Study—McClellan-Kerr Arkansas River Navigation System, Arkansas and Oklahoma; to the Committee on Environment and Public Works.

EC–6953. A communication from the Assistant Secretary of the Army (Civil Works), transmitting, pursuant to law, a report relative to the Miami Harbor Navigation Project, Miami-Dade County, Florida ; to the Committee on Environment and Public Works.

EC–6954. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report entitled ''Medicare Clinical Laboratory Competitive Bidding Demonstration Draft Design Report: Executive Summary''; to the Committee on Finance.

EC–6955. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, a Certification to the Congress Regarding the Incidental Capture of Sea Turtles in Commercial Shrimping Operations; to the Committee on Finance.

EC–6956. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, a report relative to the Taiwan Relations Act; to the Committee on Foreign Relations.

EC–6957. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed authorization for the export of significant military equipment in the amount of $100,000,000 or more (export of 3 DIRECT TV commercial communications satellites to international waters for the purpose of launch on the Sea Launch platform and to transfer ownership in orbit to a U.S. company); to the Committee on Foreign Relations.

EC–6958. A communication from the General Counsel, Department of the Treasury, transmitting, the report of a draft bill ''To authorize United States participation in, and appropriations for the United States contribution to, the first replenishment of the resources of the Multilateral Investment Fund''; to the Committee on Foreign Relations.

EC–6959. A communication from the Assistant Secretary for Administration and Management, Chief Acquisition Officer, Department of Labor, transmitting, pursuant to law, the Department's Fiscal Year 2005 Buy American Act Report; to the Committee on Health, Education, Labor, and Pensions.

EC–6960. A communication from the Secretary of Labor, transmitting, pursuant to law, the Department's annual report to Congress on the Fiscal Year 2003 operations of the Office of Workers' Compensation Programs; to the Committee on Health, Education, Labor, and Pensions.

EC–6961. A communication from the Deputy Solicitor for National Operations, Office of the Secretary, Department of Labor, transmitting, pursuant to law, the report of a rule entitled ''Production or Disclosure of Information or Materials'' (RIN1290–AA17) received on May 24, 2006; to the Committee on Health, Education, Labor, and Pensions.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Ms. COLLINS, from the Committee on Homeland Security and Governmental Affairs, with amendments:

H.R. 2066. A bill to amend title 40, United States Code, to establish a Federal Acquisition Service, to replace the General Supply Fund and the Information Technology Fund with an Acquisition Services Fund, and for other purposes, (Rept. No. 109–257).

By Mr. INHOFE, from the Committee on Environment and Public Works, without amendment:

S. 2127. A bill to redesignate the Mason Neck National Wildlife Refuge in the State of Virginia as the ''Elizabeth Hartwell Mason Neck National Wildlife Refuge'' (Rept. No. 109–258).

By Mr. ROBERTS, from the Select Committee on Intelligence, without amendment:

S. 3237. An original bill to authorize appropriations for fiscal year 2007 for the intelligence and intelligence-related activities of the United States Government, the Intelligence Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes (Rept. No. 109–259).

By Mr. LUGAR, from the Committee on Foreign Relations, without amendment and with an amended preamble:

S. Res. 312. A resolution expressing the sense of the Senate regarding the need for the United States to address global climate change through the negotiation of fair and effective international commitments.

By Mr. LUGAR, from the Committee on Foreign Relations, with amendments:

S. 559. A bill to make the protection of vulnerable populations, especially women and children, who are affected by a humanitarian emergency a priority of the United States Government, and for other purposes.

S. 1950. A bill to promote global energy security through increased cooperation between the United States and India in diversifying sources of energy, stimulating development of alternative fuels, developing and deploying technologies that promote the clean and efficient use of coal, and improving energy efficiency.

By Mr. SPECTER, from the Committee on the Judiciary, without amendment:

S. 2039. A bill to provide for loan repayment for prosecutors and public defenders.

By Mr. LUGAR, from the Committee on Foreign Relations, with amendments:

S. 2200. A bill to establish a United States-Poland parliamentary youth exchange program, and for other purposes.

By Mr. SPECTER, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 2560. A bill to reauthorize the Office of National Drug Control Policy.

By Mr. LUGAR, from the Committee on Foreign Relations, with an amendment in the nature of a substitute:

S. 2566. A bill to provide for coordination of proliferation interdiction activities and conventional arms disarmament, and for other purposes.

By Mr. LUGAR, from the Committee on Foreign Relations, with amendments and an amendment to the title:

S. 2697. A bill to establish the position of the United States Ambassador for ASEAN.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of nominations were submitted:

By Mr. SHELBY for the Committee on Banking, Housing, and Urban Affairs.

Jon T. Rymer, of Tennessee, to be Inspector General, Federal Deposit Insurance Corporation.

*William Hardiman, of Michigan, to be a Member of the Board of Directors of the National Institute of Building Sciences for a term expiring September 7, 2006.

*Armando J. Bucelo, Jr., of Florida, to be a Director of the Securities Investor Protection Corporation for a term expiring December 31, 2008.

*Todd S. Farha, of Florida, to be a Director of the Securities Investor Protection Corporation for the remainder of the term expiring December 31, 2006.

*Todd S. Farha, of Florida, to be a Director of the Securities Investor Protection Corporation for a term expiring December 31, 2009.

*John W. Cox, of Texas, to be Chief Financial Officer, Department of Housing and Urban Development.

By Ms. COLLINS for the Committee on Homeland Security and Governmental Affairs.

*Lurita Alexis Doan, of Virginia, to be Administrator of General Services.

*R. David Paulison, of Florida, to be Under Secretary for Federal Emergency Management, Department of Homeland Security.

By Mr. SPECTER for the Committee on the Judiciary.

Sandra Segal Ikuta, of California, to be United States Circuit Judge for the Ninth Circuit.

Gary D. Orton, of Nevada, to be United States Marshal for the District of Nevada for the term of four years.

Erik C. Peterson, of Wisconsin, to be United States Attorney for the Western District of Wisconsin for the term of four years.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

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. SMITH (for himself and Mrs. MURRAY):

S. 3035. A bill to direct the Secretary of the Interior to conduct a study to determine the feasibility of establishing the Columbia-Pacific National Heritage Area in the States of Washington and Oregon, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. GRAHAM:

S. 3036. A bill to suspend temporarily the duty on Vulcuren UPKA 1988; to the Committee on Finance.

By Mr. GRAHAM:

S. 3037. A bill to suspend temporarily the duty on Vullcanox 41010 NA/LG; to the Committee on Finance.

By Mr. GRAHAM:

S. 3038. A bill to suspend temporarily the duty on Vulkazon AFS/LG; to the Committee on Finance.

By Mr. GRAHAM:

S. 3039. A bill to suspend temporarily the duty on Cohedur RL; to the Committee on Finance.

By Mr. GRAHAM:

S. 3040. A bill to extend the temporary suspension of duty on Vulkalent E/C; to the Committee on Finance.

By Mr. GRAHAM:

S. 3041. A bill to suspend temporarily the duty on Benzoyl Chloride; to the Committee on Finance.

By Mr. BAYH (for himself and Mr. SMITH):

S. 3042. A bill to amend the Public Health Service Act to improve preparedness for and response to bioterrorism and other public health emergencies, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. FEINSTEIN:

S. 3043. A bill to suspend temporarily the duty on certain refracting and reflecting telescopes; to the Committee on Finance.

By Mr. HATCH:

S. 3044. A bill to suspend temporarily the duty on hydraulic control units; to the Committee on Finance.

By Mr. HATCH:

S. 3045. A bill to suspend temporarily the duty on converter asy; to the Committee on Finance.

By Mr. HATCH:

S. 3046. A bill to suspend temporarily the duty on module and bracket asy-power steering; to the Committee on Finance.

By Mr. HATCH:

S. 3047. A bill to reduce temporarily the duty on unit asy-battery hi volt; to the Committee on Finance.

By Mr. HATCH:

S. 3048. A bill to reduce temporarily the duty on certain transaxles; to the Committee on Finance.

By Mr. HATCH:

S. 3049. A bill to suspend temporarily the duty on shield asy-steering gear; to the Committee on Finance.

By Mr. HATCH:

S. 3050. A bill to suspend temporarily the duty on booster and master cyl asy-brake; to the Committee on Finance.

By Mr. CARPER:

S. 3051. A bill to suspend temporarily the duty on synthetic staple fiber of polyester; to the Committee on Finance.

By Mr. CARPER:

S. 3052. A bill to suspend temporarily the duty on synthetic staple fiber of polyester having a scalloped oval cross section; to the Committee on Finance.

By Mr. CARPER:

S. 3053. A bill to suspend temporarily the duty on synthetic elastic staple fiber; to the Committee on Finance.

By Mr. CARPER:

S. 3054. A bill to suspend temporarily the duty on synthetic staple fiber; to the Committee on Finance.

By Mr. TALENT:

S. 3055. A bill to amend the Public Health Service Act regarding residential treatment programs for pregnant and parenting women, a program to reduce substance abuse among nonviolent offenders, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DEWINE:

S. 3056. A bill to extend temporarily the suspension of duty on 4,4'-Oxydiphthalic Anhydride; to the Committee on Finance.

By Mr. DEWINE:

S. 3057. A bill to extend temporarily the suspension of duty on 4,4'-Oxydianiline; to the Committee on Finance.

By Mr. DEWINE:

S. 3058. A bill to extend temporarily the suspension of duty on 3,3',4,4'-Biphenyltetracarboxylic Dianhydride; to the Committee on Finance.

By Mr. DEWINE:

S. 3059. A bill to extend temporarily the suspension of duty on difenoconazole; to the Committee on Finance.

By Mr. DEWINE:

S. 3060. A bill to extend temporarily the suspension of duty on Pyromellitic Dianhydride; to the Committee on Finance.

By Mr. TALENT:

S. 3061. A bill to extend the patent term for the badge of the American Legion Women's Auxiliary, and for other purposes; to the Committee on the Judiciary.

By Mr. TALENT:

S. 3062. A bill to extend the patent term for the badge of the American Legion, and for other purposes; to the Committee on the Judiciary.

By Mr. TALENT:

S. 3063. A bill to extend the patent term for the badge of the Sons of the American Legion, and for other purposes; to the Committee on the Judiciary.

By Mr. AKAKA:

S. 3064. A bill to express the policy of the United States regarding the United States relationship with native Hawaiians and to provide a process for the recognition by the United States of the Native Hawaiian governing entity; read the first time.

By Mr. CORNYN:

S. 3065. A bill to reduce temporarily the duty on (IPN) Isophthalonitrile; to the Committee on Finance.

By Mr. CORNYN:

S. 3066. A bill to reduce temporarily the duty on Paraquat Dichloride; to the Committee on Finance.

By Mr. CORNYN:

S. 3067. A bill to reduce temporarily the duty on NOA 446510 Technical; to the Committee on Finance.

By Mr. THUNE:

S. 3068. A bill to amend title 38, United States Code, to provide for annual cost-of-living adjustments to be made automatically by law each year in the rates of disability compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for survivors of certain service-connected disabled veterans; to the Committee on Veterans' Affairs.

By Mr. DODD (for himself, Mr. BYRD, Mr. CONRAD, Mr. DEWINE, Mr. DORGAN, Mr. JOHNSON, Mr. KENNEDY, and Mr. LEAHY):

S. 3069. A bill to amend section 2306 of title 38, United States Code, to modify the furnishing of government markers for graves of veterans at private ceremonies, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. ALLARD:

S. 3070. A bill to suspend temporarily the duty on certain aramid chopped fiber; to the Committee on Finance.

By Mr. ALLARD:

S. 3071. A bill to suspend temporarily the duty on fabric woven with certain continuous filament wholly nylon type-66 textured yarns; to the Committee on Finance.

By Mr. SESSIONS:

S. 3072. A bill to extend temporarily the suspension of duty on Ethyl pyruvate; to the Committee on Finance.

By Mr. SESSIONS:

S. 3073. A bill to suspend temporarily the duty on Indoxacarb; to the Committee on Finance.

By Mr. SESSIONS:

S. 3074. A bill to suspend temporarily the duty on Dimethyl carbonate; to the Committee on Finance.

By Mr. SESSIONS:

S. 3075. A bill to reduce temporarily the duty on Polyethylene HE1878; to the Committee on Finance.

By Mr. SESSIONS:

S. 3076. A bill to suspend temporarily the duty on 5-Chloro-1-indanone (EK179); to the Committee on Finance.

By Mr. SESSIONS:

S. 3077. A bill to suspend temporarily the duty on Mixtures of famoxadone and Cymoxanil; to the Committee on Finance.

By Mr. SESSIONS:

S. 3078. A bill to extend temporarily the suspension of duty on Methylthioglycolate (MTG); to the Committee on Finance.

By Mr. SESSIONS:

S. 3079. A bill to extend temporarily the suspension of duty on Methyl-4-trifluor-1 omethoxyphenyl-N-(chlorocarbonyl) carbamate); to the Committee on Finance.

By Mr. BROWNBACK:

S. 3080. A bill to suspend temporarily the duty on other footwear with outer soles of rubber, plastics, leather or composition leather and uppers of leather, valued not over $2.50 per pair; to the Committee on Finance.

By Mr. BROWNBACK:

S. 3081. A bill to suspend temporarily the duty on high accuracy, metal, marine sextants, used for navigating by celestial bodies; to the Committee on Finance.

By Mr. BROWNBACK:

S. 3082. A bill to suspend temporarily the duty on step up padded potty seats; to the Committee on Finance.

By Mr. BROWNBACK:

S. 3083. A bill to suspend temporarily the duty on traveler padded potty seats; to the Committee on Finance.

By Mr. BROWNBACK:

S. 3084. A bill to suspend temporarily the duty on bath tub safe-er-grips; to the Committee on Finance.

By Mr. BROWNBACK:

S. 3085. A bill to suspend temporarily the duty on Brotje upper heads and lower rams for skin fastener machines; to the Committee on Finance.

By Mr. BROWNBACK:

S. 3086. A bill to suspend temporarily the duty on Brotje nose wheel well machines; to the Committee on Finance.

By Mr. BROWNBACK:

S. 3087. A bill to suspend temporarily the duty on Brotje automated frame riveter machines; to the Committee on Finance.

By Mr. BROWNBACK:

S. 3088. A bill to suspend temporarily the duty on Brotje IPAC (integrated panel assembly cell) machines; to the Committee on Finance.

By Mr. BROWNBACK:

S. 3089. A bill to suspend temporarily the duty on Serra automated guided vehicles; to the Committee on Finance.

By Mr. BROWNBACK:

S. 3090. A bill to suspend temporarily the duty on M. Torres laser scribe machines; to the Committee on Finance.

By Mr. BROWNBACK:

S. 3091. A bill to suspend temporarily the duty on Okuma horizontal milling machines; to the Committee on Finance.

By Mr. BROWNBACK:

S. 3092. A bill to suspend temporarily the duty on Okuma double column drilling machines; to the Committee on Finance.

By Mr. BROWNBACK:

S. 3093. A bill to suspend temporarily the duty on M. Torres multi-axis routing machines with univeral holding fixtures; to the Committee on Finance.

By Mr. BROWNBACK:

S. 3094. A bill to suspend temporarily the duty on Handtmann multi-axis drilling and routing machines; to the Committee on Finance.

By Mr. BROWNBACK:

S. 3095. A bill to suspend temporarily the duty on pedestal assembly, positive pressure relief valves; to the Committee on Finance.

By Mr. BROWNBACK:

S. 3096. A bill to suspend temporarily the duty on valve assemblies (vacuum relief); to the Committee on Finance.

By Mr. BROWNBACK:

S. 3097. A bill to suspend temporarily the duty on seals, aerodynamic, fireproof; to the Committee on Finance.

By Mr. BROWNBACK:

S. 3098. A bill to suspend temporarily the duty on seals, rear spar, wing center section; to the Committee on Finance.

By Mr. BROWNBACK:

S. 3099. A bill to suspend temporarily the duty on seal assemblies, rear spar; to the Committee on Finance.

By Mr. BROWNBACK:

S. 3100. A bill to suspend temporarily the duty on fabric covered aerodynamic seals; to the Committee on Finance.

By Mr. BROWNBACK:

S. 3101. A bill to suspend temporarily the duty on seals, ECS door, front spar; to the Committee on Finance.

By Mr. BROWNBACK:

S. 3102. A bill to suspend temporarily the duty on seals, seals, vertical, horizontal stabilizer to body gap; to the Committee on Finance.

By Mr. BROWNBACK:

S. 3103. A bill to suspend temporarily the duty on seals, outboard, trailing edge; to the Committee on Finance.

By Mr. BROWNBACK:

S. 3104. A bill to suspend temporarily the duty on numerous other seals made of rubber or silicone, and covered with, or reinforced with, a fabric material; to the Committee on Finance.

By Mr. BROWNBACK:

S. 3105. A bill to suspend temporarily the duty on seals, aerodynamic, balance bay, aileron; to the Committee on Finance.

By Mr. REID (for Mr. ROCKEFELLER (for himself and Mr. BYRD)):

S. 3106. A bill to extend the temporary suspension of duty on 2-(Methoxycarbonyl)benzylsulfonamide; to the Committee on Finance.

By Mr. REID (for Mr. ROCKEFELLER (for himself and Mr. BYRD)):

S. 3107. A bill to suspend temporarily the duty on ESPI; to the Committee on Finance.

By Mr. ROCKEFELLER (for himself and Mr. BYRD):

S. 3108. A bill to suspend temporarily the duty on CMBSI; to the Committee on Finance.

By Mr. BROWNBACK:

S. 3109. A bill to suspend temporarily the duty on contoured padded infant potty seats; to the Committee on Finance.

By Mr. BROWNBACK:

S. 3110. A bill to suspend temporarily the duty on bulb seals, slat cove; to the Committee on Finance.

By Mrs. FEINSTEIN:

S. 3111. A bill to suspend temporarily the duty on certain printed circuit assemblies and other parts of measuring equipment for telecommunications; to the Committee on Finance.

By Mr. BROWNBACK:

S. 3112. A bill to suspend temporarily the duty on automated robotic drill systems; to the Committee on Finance.

By Mr. BROWNBACK:

S. 3113. A bill to suspend temporarily the duty on wing illumination lights; to the Committee on Finance.

By Mr. NELSON of Florida:

S. 3114. A bill to establish a bipartisan commission on insurance reform; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. NELSON of Florida:

S. 3115. A bill to amend the Internal Revenue Code of 1986 to create Catastrophe Savings Accounts; to the Committee on Finance.

By Mr. NELSON of Florida:

S. 3116. A bill to amend the Internal Revenue Code of 1986 to provide for the creation of disaster protection funds by property and casualty insurance companies for the payment of policyholders' claims arising from future catastrophic events; to the Committee on Finance.

By Mr. NELSON of Florida:

S. 3117. A bill to establish a program to provide more protection at lower cost through a national backstop for State natural catastrophe insurance programs to help the United States better prepare for and protect its citizens against the ravages of natural catastrophes, to encourage and promote mitigation and prevention for, and recovery and rebuilding from such catastrophes, to better assist in the financial recovery from such catastrophes, and to develop a rigorous process of continuous improvement; to the Committee on Banking, Housing, and Urban Affairs.

By Mrs. FEINSTEIN:

S. 3118. A bill to liquidate or reliquidate certain entries of frozen fish; to the Committee on Finance.

By Mr. BROWNBACK:

S. 3119. A bill to suspend temporarily the duty on exterior emergency lights; to the Committee on Finance.

By Mrs. FEINSTEIN:

S. 3120. A bill to suspend temporarily the duty on certain parts and accessories of measuring or checking instruments; to the Committee on Finance.

By Mr. ALLARD (for himself and Mrs. FEINSTEIN):

S. 3121. A bill to limit the reduction in the number of personnel of the Air Force Space Command, and for other purposes; to the Committee on Armed Services.

By Ms. SNOWE (for herself and Mr. CRAIG):

S. 3122. A bill to amend the Small Business Act to improve loans for members of the Guard and Reserve, and for other purposes; to the Committee on Small Business and Entrepreneurship.

By Mr. LEAHY:

S. 3123. A bill to suspend temporarily the duty on ski and snowboard pants; to the Committee on Finance.

By Mr. LEAHY:

S. 3124. A bill to suspend temporarily the duty on ski boots, cross country ski footwear and snowboard boots; to the Committee on Finance.

By Mr. LEAHY:

S. 3125. A bill to suspend temporarily the duty on ski and snowboard pants; to the Committee on Finance.

By Mr. LEAHY:

S. 3126. A bill to suspend temporarily the duty on ski and snowboard pants; to the Committee on Finance.

By Mr. LEAHY:

S. 3127. A bill to suspend temporarily the duty on ski and snowboard pants; to the Committee on Finance.

By Mr. BURR (for himself, Mr. NELSON of Nebraska, and Mr. ROBERTS):

S. 3128. A bill to amend the Federal Food, Drug, and Cosmetic Act to provide for uniform food safety warning notification requirements, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. CHAMBLISS:

S. 3129. A bill to clarify the classification of certain high-density fiberboard, and for other purposes; to the Committee on Finance.

By Mr. CHAMBLISS:

S. 3130. A bill to provide for the liquidation or reliquidation of certain entries relating to high-density fiberboard-core, laminate panels exceeding 0.8 grams per cube centimeter entered from 2001 through 2003; to the Committee on Finance.

By Mr. CHAMBLISS:

S. 3131. A bill to provide for the liquidation or reliquidation of certain entries relating to high-density fiberboard-core, laminate panels exceeding 0.8 grams per cubic centimeter entered from 2001 through 2002; to the Committee on Finance.

By Mr. CHAMBLISS:

S. 3132. A bill to provide for the liquidation or reliquidation of certain entries relating to high-density fiberboard-core, laminate panels exceeding 0.8 grams per cubic centimeter entered in 2002; to the Committee on Finance.

By Mr. CHAMBLISS:

S. 3133. A bill to extend temporarily the suspension of duty on 3,3′,4-4′-Biphenyltetracarboxylic; to the Committee on Finance.

By Mr. CHAMBLISS:

S. 3134. A bill to suspend temporarily the duty on methyl acrylate; to the Committee on Finance.

By Mr. CHAMBLISS:

S. 3135. A bill to suspend temporarily the duty on 40-piece carbide router bit set for woodworking; to the Committee on Finance.

By Mr. CHAMBLISS:

S. 3136. A bill to suspend temporarily the duty on grass shears with rotating blade; to the Committee on Finance.

By Mr. CHAMBLISS:

S. 3137. A bill to provide for the liquidation or reliquidation of certain entries relating to canned pineapple fruit entered between July 1, 1997, and June 30, 1998; to the Committee on Finance.

By Mr. CHAMBLISS:

S. 3138. A bill to to provide for the liquidation or reliquidation of certain entries relating to canned pineapple fruit entered between July 1, 1996, and June 30, 1997; to the Committee on Finance.

By Mr. CHAMBLISS:

S. 3139. A bill to extend temporarily the suspension of duty on 4,4N-Oxydiphthalic anhydride; to the Committee on Finance.

By Mr. CHAMBLISS:

S. 3140. A bill to suspend temporarily the duty on certain sulfide pigments; to the Committee on Finance.

By Mr. CHAMBLISS:

S. 3141. A bill to extend and modify the suspension of duty on Methyl N-(2-[[1-(4-chlorophenyl)-1H-pyrazol-3-yl]-oxymethyl]phenyl)-N-meth oxycarbanose (Pyraclostrobin); to the Committee on Finance.

By Mr. CHAMBLISS:

S. 3142. A bill to suspend temporarily the duty on Mixtures containing 50% of Methyl (E)-methoxyimino-2(2-o-tolyoxymethyl)phenyl) acetate (Kresoxim methyl); to the Committee on Finance.

By Mr. CHAMBLISS:

S. 3143. A bill to suspend temporarily the duty on Diuron; to the Committee on Finance.

By Mr. CHAMBLISS:

S. 3144. A bill to suspend temporarily the duty on N,N-Dimethylpiperidinium chloride (Mepiquat chloride); to the Committee on Finance.

By Mr. CHAMBLISS:

S. 3145. A bill to suspend temporarily the duty on Linuron; to the Committee on Finance.

By Mr. CHAMBLISS:

S. 3146. A bill to reduce temporarily the duty on formulated product Krovar I DF; to the Committee on Finance.

By Mr. CHAMBLISS:

S. 3147. A bill to clarify the article description and rate of duty for certain tractor body parts; to the Committee on Finance.

By Mr. CHAMBLISS:

S. 3148. A bill to suspend temporarily the duty on household one-step, two-step, and three-step steel ladders; to the Committee on Finance.

By Mr. CHAMBLISS:

S. 3149. A bill to suspend temporarily the duty on 4-piece or 5-piece fireplace tools of iron or steel; to the Committee on Finance.

By Mr. CHAMBLISS:

S. 3150. A bill to suspend temporarily the duty on tarpaulins measuring 9-feet by 12-feet with polyvinyl chloride (PVC) coating; to the Committee on Finance.

By Mr. CHAMBLISS:

S. 3151. A bill to suspend temporarily the duty on 120-piece, 90-piece, and 60-piece drill bit sets for woodworking; to the Committee on Finance.

By Mr. CHAMBLISS:

S. 3152. A bill to suspend temporarily the duty on 120-piece drill and driver bit sets for woodworking; to the Committee on Finance.

By Mr. CHAMBLISS:

S. 3153. A bill to suspend temporarily the duty on certain copper lawn sprinklers; to the Committee on Finance.

By Mr. CHAMBLISS:

S. 3154. A bill to suspend temporarily the duty on garden hoses measuring 150 feet or 50 feet in length, manufactured from non-recycled materials, having polyvinyl chloride interior tubing, and having a minimum burst pressure of 27.6 MPa spray nozzle; to the Committee on Finance.

By Mr. OBAMA:

S. 3155. A bill to suspend temporarily the duty on RSD 1235; to the Committee on Finance.

By Mr. OBAMA:

S. 3156. A bill to suspend temporarily the duty on N6-Benzyladenine; to the Committee on Finance.

By Mr. OBAMA:

S. 3157. A bill to suspend temporarily the duty on MCPB acid and MCPB sodium salt; to the Committee on Finance.

By Mr. OBAMA:

S. 3158. A bill to suspend temporarily the duty on 2-Methyl-4-chlorophenoxyacetic acid, salts, and esters; to the Committee on Finance.

By Mr. OBAMA:

S. 3159. A bill to suspend temporarily the duty on gibberellic acid; to the Committee on Finance.

By Mr. OBAMA:

S. 3160. A bill to suspend temporarily the duty on triphenyltin hydroxide; to the Committee on Finance.

By Mr. OBAMA:

S. 3161. A bill to suspend temporarily the duty on certain sebacic acid; to the Committee on Finance.

By Mr. OBAMA:

S. 3162. A bill to suspend temporarily the duty on bromoxynil octonoate; to the Committee on Finance.

By Mr. OBAMA:

S. 3163. A bill to extend temporarily the suspension of duty on certain epoxy molding compounds; to the Committee on Finance.

By Mr. BOND:

S. 3164. A bill to amend the Trade Act of 1974 to extend trade benefits to certain tents imported into the United States; to the Committee on Finance.

By Mr. BOND:

S. 3165. A bill to extend temporarily the suspension of duty on 5-MPDC; to the Committee on Finance.

By Mr. BOND:

S. 3166. A bill to suspend temporarily the duty on Methyl 3-(trifluoromethyl)benzoate; to the Committee on Finance.

By Mr. BOND:

S. 3167. A bill to suspend temporarily the duty on Bentazon; to the Committee on Finance.

By Mr. BOND:

S. 3168. A bill to suspend temporarily the duty on 1,3-Dibromo-5,5-dimethylhydantoin; to the Committee on Finance.

By Mr. BOND:

S. 3169. A bill to suspend temporarily the duty on 4-(Trifluoromethyoxy)phenyl isocyanate; to the Committee on Finance.

By Mr. BOND:

S. 3170. A bill to suspend temporarily the duty on 4-Methylbenzonitrile; to the Committee on Finance.

By Mr. BINGAMAN (for himself and Mr. LUGAR):

S. 3171. A bill to establish at the Department of Commerce an Under Secretary for United States Direct Investment, and for other purposes.

By Mrs. CLINTON (for herself and Mr. SALAZAR):

S. 3172. A bill to establish an Office of Emergency Communications, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

By Mrs. CLINTON:

S. 3173. A bill to modernize the Federal Housing Administration to meet the housing needs of the American people; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. BYRD (for himself and Mr. ROCKEFELLER):

S. 3174. A bill to suspend temporarily the duty on diamino decane; to the Committee on Finance.

By Mr. LEAHY:

S. 3175. A bill to amend title 35, United States Code, with respect to establishing procedures for granting authority to the Under Secretary for Commerce for Intellectual Property and Director of the Patent and Trademark Office to grant compulsory patent licenses for exporting patented pharmaceutical products to certain countries consistent with international commitments made by the United States, and for other purposes; to the Committee on the Judiciary.

By Mr. REID (for Mr. ROCKEFELLER):

S. 3176. A bill to protect the privacy of veterans and spouses of veterans affected by the security breach at the Department of Veterans Affairs on May 3, 2006, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. BUNNING:

S. 3177. A bill to suspend temporarily the duty on certain compounds of lanthanum phosphates; to the Committee on Finance.

By Mr. BUNNING:

S. 3178. A bill to suspend temporarily the duty on certain compounds of yttrium europium oxide co-precipitates; to the Committee on Finance.

By Mr. BUNNING:

S. 3179. A bill to suspend temporarily the duty on certain compounds of lanthanum, cerium, and terbium phosphates; to the Committee on Finance.

By Mr. BUNNING:

S. 3180. A bill to suspend temporarily the duty on certain compounds of yttrium cerium phosphates; to the Committee on Finance.

By Mr. BUNNING:

S. 3181. A bill to extend the duty suspension on ORGASOL polyamide powders; to the Committee on Finance.

By Mrs. FEINSTEIN:

S. 3182. A bill to suspend temporarily the duty on canned, boiled oysters, not smoked; to the Committee on Finance.

By Mr. LOTT:

S. 3183. A bill to provide that certain vessel repairs done by United States crews are not subject to duty; to the Committee on Finance.

By Ms. LANDRIEU:

S. 3184. A bill to extend temporarily the suspension of the duty on 2-Mercaptoethanol; to the Committee on Finance.

By Ms. LANDRIEU:

S. 3185. A bill to extend temporarily the suspension of the duty on Bifenazate; to the Committee on Finance.

By Ms. LANDRIEU:

S. 3186. A bill to extend temporarily the suspension of the duty on Terrazole; to the Committee on Finance.

By Mr. REED (for himself and Mr. CHAFEE):

S. 3187. A bill to designate the Post Office located at 5755 Post Road, East Greenwich, Rhode Island, as the ''Richard L. Cevoli Post Office.''; to the Committee on Homeland Security and Governmental Affairs.

By Mrs. FEINSTEIN:

S. 3188. A bill to amend the Forest Service use and occupancy permit program to restore the authority of the Secretary of Agriculture to utilize the special use permit fees collected by the Secretary in connection with the establishment and operation of marinas in units of the National Forest System derived from the public domain, and for other purposes; to the Committee on Energy and Natural Resources.

By Mrs. FEINSTEIN:

S. 3189. A bill to allow for the renegotiating of the payment schedule of contracts between the Secretary of the Interior and the Redwood Valley Country Water District, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. MENENDEZ (for himself and Mr. LAUTENBERG):

S. 3190. A bill to clarify the classification of certain high-density fiberboard and for other purposes; to the Committee on Finance.

By Mr. MENENDEZ (for himself and Mr. LAUTENBERG):

S. 3191. A bill to provide for the reliquidation of certain entries of certain small diameter carbon and alloy seamless standard line and pressure pipe from Romania; to the Committee on Finance.

By Mr. MENENDEZ (for himself and Mr. LAUTENBERG):

S. 3192. A bill to provide for the liquidation or reliquidation of certain entries relating to high-density laminate panels entered from 1997 through 2005; to the Committee on Finance.

By Mr. MENENDEZ (for himself and Mr. LAUTENBERG):

S. 3193. A bill to provide for the liquidation or reliquidation of certain entries relating to high-density laminate panels entered from 1998 through 2004; to the Committee on Finance.

By Mr. MENENDEZ (for himself and Mr. LAUTENBERG):

S. 3194. A bill to provide for the liquidation or reliquidation of certain entries relating to high-density laminate panels entered from 2000 through 2005; to the Committee on Finance.

By Mr. MENENDEZ (for himself and Mr. LAUTENBERG):

S. 3195. A bill to provide for the liquidation or reliquidation of certain entries relating to high-density laminate panels entered from 1998 through 2000; to the Committee on Finance.

By Mrs. MURRAY:

S. 3196. A bill to provide for the duty-free entry of certain tramway cars and associated spare parts for use by the city of Seattle, Washington; to the Committee on Finance.

By Mrs. MURRAY:

S. 3197. A bill to modify the provisions of the Harmonized Tariff Schedule of the United States relating to returned property; to the Committee on Finance.

By Mrs. MURRAY (for herself and Ms. CANTWELL):

S. 3198. A bill to suspend the duty on certain boots; to the Committee on Finance.

By Mrs. MURRAY (for herself and Ms. CANTWELL):

S. 3199. A bill to suspend temporarily the duty on modified steel leaf spring leaves; to the Committee on Finance.

By Mrs. MURRAY (for herself and Ms. CANTWELL):

S. 3200. A bill to suspend temporarily the duty on steel leaf spring leaves; to the Committee on Finance.

By Mrs. MURRAY (for herself and Ms. CANTWELL):

S. 3201. A bill to suspend temporarily the duty on suspension system stabilizer bars; to the Committee on Finance.

By Mr. LAUTENBERG:

S. 3202. A bill to suspend temporarily the duty on vinylidene chloride-methyl methacrylate-acrylonitrile copolymer; to the Committee on Finance.

By Mr. LAUTENBERG:

S. 3203. A bill to suspend temporarily the duty on 1-propene, 1,1,2,3,3,3–hexafluoro-oxidized, polymerized, reduced hydrolyzed; to the Committee on Finance.

By Mr. LAUTENBERG:

S. 3204. A bill to suspend temporarily the duty on 1-Propene, 1,1,2,3,3,3-hexafluoro-oxidized, polymerized; to the Committee on Finance.

By Mr. LAUTENBERG:

S. 3205. A bill to suspend temporarily the duty on 1, propene, 1,1,2,3,3,3-hexafluoro-, telomers with chlorotrifluoroethene, oxidized, reduced, ethyl ester, hydrolyzed; to the Committee on Finance.

By Mr. LAUTENBERG:

S. 3206. A bill to suspend temporarily the duty on a certain infrared absorbing dye; to the Committee on Finance.

By Mr. LAUTENBERG:

S. 3207. A bill to suspend temporarily the duty on 1,1,2-2-Tetrafluoroethene, oxidized, polymerized; to the Committee on Finance.

By Mr. LAUTENBERG:

S. 3208. A bill to suspend temporarily the duty on Methoxycarbonyl-terminated perfluorinated polyoxymethylene-polyoxyethylene; to the Committee on Finance.

By Mr. LAUTENBERG:

S. 3209. A bill to suspend temporarily the duty on Ethene, tetrafluoro, oxidized, polymerized, reduced, decarboxylated; to the Committee on Finance.

By Mr. LAUTENBERG:

S. 3210. A bill to suspend temporarily the duty on Ethene tetrafluoro-oxidized, polymerized reduced, methyl esters, reduced, ethoxylated; to the Committee on Finance.

By Mr. LAUTENBERG:

S. 3211. A bill to suspend temporarily the duty on Oxiranemethanol, polymers with reduced methyl esters of reduced polymerized oxidized tetrafluoroethylene; to the Committee on Finance.

By Mr. LAUTENBERG:

S. 3212. A bill to suspend temporarily the duty on Ethene, tetrafluoro-oxidized, polymerized reduced, methyl esters, reduced; to the Committee on Finance.

By Mr. LAUTENBERG:

S. 3213. A bill to suspend temporarily the duty on certain light-absorbing photo dyes; to the Committee on Finance.

By Mr. LAUTENBERG:

S. 3214. A bill to suspend temporarily the duty on certain specialty monomers; to the Committee on Finance.

By Mr. CRAIG:

S. 3215. A bill to amend the Harmonized Tariff Schedule of the United States to remove the 100 percent tariff imposed on Roquefort cheese; to the Committee on Finance.

By Mr. MENENDEZ:

S. 3216. A bill to provide for the liquidation or reliquidation of certain apparel articles entered from February 7, 2005, to March 16, 2005, under the United States-Caribbean Basin Trade Partnership Act; to the Committee on Finance.

By Mr. MENENDEZ:

S. 3217. A bill to suspend temporarily the duty on certain viscose rayon yarn; to the Committee on Finance.

By Mr. MENENDEZ:

S. 3218. A bill to reduce temporarily the duty on certain pepperoncini prepared or

preserved by vinegar or acetic acid in concentrations at 0.5 percent or greater; to the Committee on Finance.

By Mr. MENENDEZ:

S. 3219. A bill to suspend temporarily the duty on certain pepperoncini prepared or preserved otherwise than by vinegar or acetic acid; to the Committee on Finance.

By Mr. MENENDEZ:

S. 3220. A bill to suspend temporarily the duty on certain Giardiniera prepared or preserved otherwise than by vinegar or acetic acid in concentrations less than 0.5 percent; to the Committee on Finance.

By Mr. MENENDEZ:

S. 3221. A bill to suspend temporarily the duty on Ecoflex F BX7011; to the Committee on Finance.

By Mr. MENENDEZ:

S. 3222. A bill to suspend temporarily the duty on triphenol phosphine; to the Committee on Finance.

By Mr. MENENDEZ:

S. 3223. A bill to suspend temporarily the duty on certain capers; to the Committee on Finance.

By Mr. MENENDEZ:

S. 3224. A bill to extend the duty reduction on artichokes, prepared or preserved by vinegar or acetic acid; to the Committee on Finance.

By Mr. MENENDEZ:

S. 3225. A bill to extend temporarily the reduction of duty on artichokes prepared or preserved otherwise than by vinegar or acetic acid, not frozen; to the Committee on Finance.

By Mr. MENENDEZ:

S. 3226. A bill to suspend temporarily the duty on certain capers in containers; to the Committee on Finance.

By Mr. MENENDEZ:

S. 3227. A bill to suspend temporarily the duty on certain twisted yarn of viscose rayon; to the Committee on Finance.

By Mr. MENENDEZ:

S. 3228. A bill to provide for the liquidation or reliquidation of certain entries relating to palm fatty acid distillate; to the Committee on Finance.

By Mr. LOTT:

S. 3229. A bill to clarify the classification of certain high-density fiberboard and for other purposes; to the Committee on Finance.

By Mr. BURR:

S. 3230. A bill to reduce temporarily the duty on Mesotrione Technical; to the Committee on Finance.

By Mr. BINGAMAN (for himself and Mr. DOMENICI):

S. 3231. A bill to suspend temporarily the duty on certain structures, parts, and components for use in an isotopic separation facility; to the Committee on Finance.

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

S. 3232. A bill to extend and modify duty suspensions relating to wool, and for other purposes; to the Committee on Finance.

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

S. 3233. A bill to make technical corrections relating to duties on wool products; to the Committee on Finance.

By Mr. BAUCUS:

S. 3234. A bill to suspend temporarily the duty on lug bottom boots for use in fishing waders; to the Committee on Finance.

By Mr. BAUCUS:

S. 3235. A bill to suspend temporarily the duty on felt bottom boots for use in waders; to the Committee on Finance.

By Mr. BAUCUS:

S. 3236. A bill to suspend temporarily the duty on certain golf bag bodies; to the Committee on Finance.

By Mr. ROBERTS:

S. 3237. An original bill to authorize appropriations for fiscal year 2007 for the intelligence and intelligence-related activities of the United States Government, the Intelligence Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes; from the Select Committee on Intelligence; to the Committee on Armed Services pursuant to section 3(b) of S. Res. 400, 94th Congress, as amended by S. Res. 445, 108th Congress, for a period not to exceed 10 days of session.

By Mr. CORNYN (for himself, Mr. NELSON of Florida, and Mrs. HUTCHISON):

S. 3238. A bill to require the Secretary of the Treasury to mint coins in commemoration of the 50th anniversary of the establishment of the National Aeronautics and Space Administration and the Jet Propulsion Laboratory; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. DAYTON (for himself and Mr. LOTT):

S. 3239. A bill to require full disclosure of insurance coverage and noncoverage by insurance companies and provide for Federal Trade Commission enforcement; to the Committee on Commerce, Science, and Transportation.

By Mr. CHAFEE (for himself and Mr. REED):

S. 3240. A bill to amend the Harmonized Tariff Schedule of the United States to clarify that tariff treatment of textile parts of seats and other furniture; to the Committee on Finance.

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 (for himself, Mr. LAUTENBERG, Mr. COLEMAN, and Mr. DURBIN):

S. Res. 494. A resolution expressing the sense of the Senate regarding the creation of refugee populations in the Middle East, North Africa, and the Persian Gulf region as a result of human rights violations; to the Committee on Foreign Relations.

By Mr. GRASSLEY (for himself, Mr. BIDEN, Mr. HATCH, Mr. SPECTER, Mr. DURBIN, Mr. TALENT, Mr. BAUCUS, Mr. DODD, and Ms. MURKOWSKI):

S. Res. 495. A resolution designating June 8, 2006, as the day of a National Vigil for Lost Promise; considered and agreed to.

ADDITIONAL COSPONSORS

S. 190

At the request of Mr. HAGEL, the name of the Senator from Arizona (Mr. MCCAIN) was added as a cosponsor of S. 190, a bill to address the regulation of secondary mortgage market enterprises, and for other purposes.

S. 236

At the request of Mr. NELSON of Nebraska, the name of the Senator from Alaska (Ms. MURKOWSKI) was added as a cosponsor of S. 236, a bill to amend title XVIII of the Social Security Act to clarify the treatment of payment under the medicare program for clinical laboratory tests furnished by critical access hospitals.

S. 438

At the request of Mr. ENSIGN, the name of the Senator from South Carolina (Mr. DEMINT) was added as a cosponsor of S. 438, a bill to amend title XVIII of the Social Security Act to repeal the medicare outpatient rehabilitation therapy caps.

S. 506

At the request of Mr. HAGEL, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 506, a bill to amend the Public Health Service Act to establish a scholarship and loan repayment program for public health preparedness workforce development to eliminate critical public health preparedness workforce shortages in Federal, State, local, and tribal public health agencies.

S. 635

At the request of Mr. SANTORUM, the names of the Senator from Florida (Mr. NELSON) and the Senator from South Dakota (Mr. JOHNSON) were added as cosponsors 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. 841

At the request of Mrs. CLINTON, the name of the Senator from New Jersey (Mr. MENENDEZ) was added as a cosponsor of S. 841, a bill to amend the Fair Labor Standards Act of 1938 to provide more effective remedies to victims of discrimination in the payment of wages on the basis of sex, and for other purposes.

S. 1035

At the request of Mr. INHOFE, the names of the Senator from Ohio (Mr. VOINOVICH), the Senator from Colorado (Mr. SALAZAR) and the Senator from Connecticut (Mr. DODD) were added as cosponsors of S. 1035, a bill to authorize the presentation of commemorative medals on behalf of Congress to Native Americans who served as Code Talkers during foreign conflicts in which the United States was involved during the 20th century in recognition of the service of those Native Americans to the United States.

S. 1064

At the request of Mr. COCHRAN, the name of the Senator from Kentucky (Mr. BUNNING) was added as a cosponsor of S. 1064, a bill to amend the Public Health Service Act to improve stroke prevention, diagnosis, treatment, and rehabilitation.

S. 1321

At the request of Mr. SANTORUM, the name of the Senator from Missouri (Mr. TALENT) was added as a cosponsor of S. 1321, a bill to amend the Internal Revenue Code of 1986 to repeal the excise tax on telephone and other communications.

S. 1353

At the request of Mr. REID, the names of the Senator from California (Mrs. FEINSTEIN), the Senator from Ohio (Mr. DEWINE) and the Senator from South Carolina (Mr. GRAHAM) were added as cosponsors of S. 1353, a

bill to amend the Public Health Service Act to provide for the establishment of an Amyotrophic Lateral Sclerosis Registry.

S. 1417

At the request of Mr. CRAIG, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 1417, a bill to impose tariff-rate quotas on certain casein and milk protein concentrates.

S. 1509

At the request of Mr. JEFFORDS, the name of the Senator from New Jersey (Mr. MENENDEZ) was added as a cosponsor of S. 1509, a bill to amend the Lacey Act Amendments of 1981 to add nonhuman primates to the definition of prohibited wildlife species.

S. 1575

At the request of Mr. CORNYN, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 1575, a bill to amend the Public Health Service Act to authorize a demonstration program to increase the number of doctorally-prepared nurse faculty.

S. 1741

At the request of Mr. VOINOVICH, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 1741, a bill to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to authorize the President to carry out a program for the protection of the health and safety of residents, workers, volunteers, and others in a disaster area.

S. 1774

At the request of Mr. CORNYN, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 1774, a bill to amend the Public Health Service Act to provide for the expansion, intensification, and coordination of the activities of the National Heart, Lung, and Blood Institute with respect to research on pulmonary hypertension.

S. 2071

At the request of Ms. SNOWE, the name of the Senator from Minnesota (Mr. DAYTON), was added as a cosponsor of S. 2071, a bill to amend title XVIII of the Social Security Act to clarify congressional intent regarding the counting of residents in the nonhospital setting under the medicare program.

S. 2124

At the request of Mr. HARKIN, the names of the Senator from Massachusetts (Mr. KENNEDY), the Senator from Oregon (Mr. WYDEN), the Senator from Minnesota (Mr. DAYTON), and the Senator from Mississippi (Mr. LOTT) were added as cosponsors of S. 2124, a bill to address the needs of individuals with disabilities in emergency planning requirements and relief efforts in the event of a major disaster, to increase the accessibility of replacement housing built with Federal funds following Hurricane Katrina and other major disasters, and for other purposes.

S. 2278

At the request of Ms. STABENOW, the names of the Senator from North Dakota (Mr. CONRAD) and the Senator from Louisiana (Ms. LANDRIEU) were added as cosponsors of S. 2278, a bill to amend the Public Health Service Act to improve the prevention, diagnosis, and treatment of heart disease, stroke, and other cardiovascular diseases in women.

S. 2321

At the request of Mr. SANTORUM, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. 2321, a bill to require the Secretary of the Treasury to mint coins in commemoration of Louis Braille.

S. 2370

At the request of Mr. MCCONNELL, the name of the Senator from Ohio (Mr. VOINOVICH) 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.

At the request of Mr. REED, his name was added as a cosponsor of S. 2370, supra.

S. 2452

At the request of Mr. BAYH, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. 2452, a bill to prohibit picketing at the funerals of members and former members of the armed forces.

S. 2491

At the request of Mr. CORNYN, the names of the Senator from Idaho (Mr. CRAIG), the Senator from Virginia (Mr. ALLEN), and the Senator from Tennessee (Mr. ALEXANDER) were added as cosponsors of S. 2491, a bill to award a Congressional gold medal to Byron Nelson in recognition of his significant contributions to the game of golf as a player, a teacher, and a commentator.

S. 2505

At the request of Mr. LIEBERMAN, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 2505, a bill to suspend temporarily the duty on aerosol valves designed to deliver a metered dose (50 microliters) of a pressurized liquid pharmaceutical.

S. 2548

At the request of Mr. STEVENS, the names of the Senator from Connecticut (Mr. DODD) and the Senator from Vermont (Mr. JEFFORDS) were added as cosponsors of S. 2548, a bill to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to ensure that State and local emergency preparedness operational plans address the needs of individuals with household pets and service animals following a major disaster or emergency.

S. 2549

At the request of Mr. DEMINT, the name of the Senator from Virginia (Mr. ALLEN) was added as a cosponsor of S. 2549, a bill to amend the Internal Revenue Code of 1986 to expand the use of health savings accounts for the payment of health insurance premiums for high deductible health plans purchased in the individual market.

S. 2554

At the request of Mr. ENSIGN, the name of the Senator from Louisiana (Mr. VITTER) was added as a cosponsor 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. 2556

At the request of Mr. BAYH, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 2556, a bill to amend title 11, United States Code, with respect to reform of executive compensation in corporate bankruptcies.

S. 2563

At the request of Mr. COCHRAN, the name of the Senator from South Dakota (Mr. THUNE) was added as a cosponsor of 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.

S. 2566

At the request of Mr. LUGAR, the names of the Senator from Indiana (Mr. BAYH) and the Senator from Georgia (Mr. CHAMBLISS) were added as cosponsors of S. 2566, a bill to provide for coordination of proliferation interdiction activities and conventional arms disarmament, and for other purposes.

S. 2635

At the request of Mr. WYDEN, the names of the Senator from New Jersey (Mr. MENENDEZ) and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of S. 2635, a bill to amend the Internal Revenue Code of 1986 to extend the transportation fringe benefit to bicycle commuters.

S. 2658

At the request of Mr. LEAHY, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of S. 2658, a bill to amend title 10, United States Code, to enhance the national defense through empowerment of the Chief of the National Guard Bureau and the enhancement of the functions of the National Guard Bureau, and for other purposes.

S. 2677

At the request of Mr. SMITH, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 2677, a bill to amend the Internal Revenue Code of 1986 to extend the investment tax credit with respect to solar energy property and qualified fuel cell property, and for other purposes.

S. 2703

At the request of Mr. SPECTER, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of S. 2703, a bill to amend the Voting Rights Act of 1965.

S. 2725

At the request of Mrs. CLINTON, the name of the Senator from California

(Mrs. FEINSTEIN) was added as a cosponsor of S. 2725, a bill to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage and to ensure that increases in the Federal minimum wage keep pace with any pay adjustments for Members of Congress.

S. 2811

At the request of Ms. STABENOW, the name of the Senator from Louisiana (Ms. LANDRIEU) was withdrawn as a cosponsor of S. 2811, a bill to amend title XVIII of the Social Security Act to extend the annual, coordinated election period under the Medicare part D prescription drug program through all of 2006 and to provide for a refund of excess premiums paid during 2006, and for other purposes.

S. 2816

At the request of Mr. HARKIN, the name of the Senator from Minnesota (Mr. COLEMAN) was added as a cosponsor of S. 2816, a bill to amend the Internal Revenue Code of 1986 to provide an income tax credit for the manufacture of flexible fuel motor vehicles and to extend and increase the income tax credit for alternative fuel refueling property, and for other purposes.

S. 2817

At the request of Mr. HARKIN, the name of the Senator from Minnesota (Mr. COLEMAN) was added as a cosponsor of S. 2817, a bill to promote renewable fuel and energy security of the United States, and for other purposes.

S. 2824

At the request of Mr. DEMINT, the name of the Senator from North Carolina (Mr. BURR) was added as a cosponsor of S. 2824, a bill to reduce the burdens of the implementation of section 404 of the Sarbanes-Oxley Act of 2002.

S. 2943

At the request of Mr. CARPER, the name of the Senator from New Hampshire (Mr. GREGG) was added as a cosponsor of S. 2943, a bill to suspend temporarily the duty on certain men's footwear with coated or laminated textile fabrics.

S. 2948

At the request of Mr. CARPER, the name of the Senator from New Hampshire (Mr. GREGG) was added as a cosponsor of S. 2948, a bill to suspend temporarily the duty on certain women's footwear with coated or laminated textile fabrics.

S. 2949

At the request of Mr. CARPER, the name of the Senator from New Hampshire (Mr. GREGG) was added as a cosponsor of S. 2949, a bill to suspend temporarily the duty on certain footwear valued over $20 a pair with coated or laminated textile fabrics.

S. 2950

At the request of Mr. CARPER, the name of the Senator from New Hampshire (Mr. GREGG) was added as a cosponsor of S. 2950, a bill to suspend temporarily the duty on certain men's footwear valued over $20 a pair with coated or laminated textile fabrics.

S. 2951

At the request of Mr. CARPER, the name of the Senator from New Hampshire (Mr. GREGG) was added as a cosponsor of S. 2951, a bill to suspend temporarily the duty on certain women's footwear valued over $20 a pair with coated or laminated textile fabrics.

S. 2952

At the request of Mr. CARPER, the name of the Senator from New Hampshire (Mr. GREGG) was added as a cosponsor of S. 2952, a bill to suspend temporarily the duty on certain other footwear valued over $20 a pair with coated or laminated textile fabrics.

S. 2953

At the request of Mr. CARPER, the name of the Senator from New Hampshire (Mr. GREGG) was added as a cosponsor of S. 2953, a bill to reduce temporarily the duty on certain men's footwear covering the ankle with coated or laminated textile fabrics.

S. 2954

At the request of Mr. CARPER, the name of the Senator from New Hampshire (Mr. GREGG) was added as a cosponsor of S. 2954, a bill to reduce temporarily the duty on certain footwear not covering the ankle with coated or laminated textile fabrics.

S. 2955

At the request of Mr. CARPER, the name of the Senator from New Hampshire (Mr. GREGG) was added as a cosponsor of S. 2955, a bill to reduce temporarily the duty on certain women's footwear covering the ankle with coated or laminated textile fabrics.

S. 2956

At the request of Mr. CARPER, the name of the Senator from New Hampshire (Mr. GREGG) was added as a cosponsor of S. 2956, a bill to reduce temporarily the duty on certain women's footwear not covering the ankle with coated or laminated textile fabrics.

S. 2957

At the request of Mr. CARPER, the name of the Senator from New Hampshire (Mr. GREGG) was added as a cosponsor of S. 2957, a bill to reduce temporarily the duty on certain other footwear covering the ankle with coated or laminated textile fabrics.

S. 2958

At the request of Mr. CARPER, the name of the Senator from New Hampshire (Mr. GREGG) was added as a cosponsor of S. 2958, a bill to reduce temporarily the duty on certain footwear with coated or laminated textile fabrics.

S.J. RES. 1

At the request of Mr. ALLARD, the names of the Senator from Montana (Mr. BURNS) and the Senator from Georgia (Mr. CHAMBLISS) were added as cosponsors of S.J. Res. 1, a joint resolution proposing an amendment to the Constitution of the United States relating to marriage.

S. RES. 180

At the request of Mr. SCHUMER, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. Res. 180, a resolution supporting the goals and ideals of a National Epidermolysis Bullosa Awareness Week to raise public awareness and understanding of the disease and to foster understanding of the impact of the disease on patients and their families.

S. RES. 320

At the request of Mr. ENSIGN, the name of the Senator from New Hampshire (Mr. GREGG) was added as a cosponsor of S. Res. 320, a resolution calling the President to ensure that the foreign policy of the United States reflects appropriate understanding and sensitivity concerning issues related to human rights, ethnic cleansing, and genocide documented in the United States record relating to the Armenian Genocide.

S. RES. 331

At the request of Ms. LANDRIEU, the names of the Senator from Maine (Ms. COLLINS) and the Senator from New York (Mrs. CLINTON) were added as cosponsors of S. Res. 331, a resolution expressing the sense of the Senate regarding fertility issues facing cancer survivors.

S. RES. 462

At the request of Mr. GRASSLEY, the name of the Senator from Indiana (Mr. LUGAR) was added as a cosponsor of S. Res. 462, a resolution designating June 8, 2006, as the day of a National Vigil for Lost Promise.

S. RES. 485

At the request of Mrs. CLINTON, the name of the Senator from Vermont (Mr. JEFFORDS) was added as a cosponsor of S. Res. 485, a resolution to express the sense of the Senate concerning the value of family planning for American women.

S. RES. 493

At the request of Mr. DEWINE, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. Res. 493, a resolution calling on the Government of the United Kingdom to establish immediately a full, independent, public judicial inquiry into the murder of Northern Ireland defense attorney Pat Finucane, as recommended by international Judge Peter Cory as part of the Western Park agreement and a way forward for the Northern Ireland Peace Process.

AMENDMENT NO. 4108

At the request of Mr. REID, the name of the Senator from Colorado (Mr. SALAZAR) was added as a cosponsor of amendment No. 4108 proposed to S. 2611, a bill to provide for comprehensive immigration reform and for other purposes.

AMENDMENT NO. 4138

At the request of Mr. COLEMAN, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of amendment No. 4138 intended to be proposed to S. 2611, a bill to provide for comprehensive immigration reform and for other purposes.

AMENDMENT NO. 4167

At the request of Mr. COLEMAN, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of amendment No. 4167 intended to be proposed to S. 2611, a bill to provide for comprehensive immigration reform and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. TALENT:

S. 3061. A bill to extend the patent term for the badge of the American Legion Women's Auxiliary, and for other purposes; to the Committee on the Judiciary.

Mr. TALENT. Mr. President, I ask unanimous consent that the text of S. 3061, 3062, and 3063 be printed in the RECORD.

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

S. 3061

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

SECTION 1. PATENT TERM EXTENSION FOR THE BADGE OF THE AMERICAN LEGION WOMEN'S AUXILIARY.

The term of a certain design patent numbered 55,398 (for the badge of the American Legion Women's Auxiliary) is renewed and extended for a period of 14 years beginning on the date of enactment of this Act, with all the rights and privileges pertaining to such patent.

By Mr. TALENT:

S. 3062. A bill to extend the patent term for the badge of the American Legion, and for other purposes; to the Committee on the Judiciary.

S. 3062

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

SECTION 1. PATENT TERM EXTENSION FOR THE BADGE OF THE AMERICAN LEGION.

The term of a certain design patent numbered 54,296 (for the badge of the American Legion) is renewed and extended for a period of 14 years beginning on the date of enactment of this Act, with all the rights and privileges pertaining to such patent.

By Mr. TALENT:

S. 3063. A bill to extend the patent term for the badge of the Sons of the American Legion, and for other purposes; to the Committee on the Judiciary.

S. 3063

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

SECTION 1. PATENT TERM EXTENSION FOR THE BADGE OF THE SONS OF THE AMERICAN LEGION.

The term of a certain design patent numbered 92,187 (for the badge of the Sons of the American Legion) is renewed and extended for a period of 14 years beginning on the date of enactment of this Act, with all the rights and privileges pertaining to such patent.

By Mr. NELSON of Florida:

S. 3114. A bill to establish a bipartisan commission on insurance reform; to the Committee on Banking, Housing, and Urban Affairs.

Mr. NELSON of Florida. Mr. President, I ask unanimous consent that the text of these four bills, the Commission on Catastrophic Disaster Risk and Insurance Act of 2006, the Catastrophe Savings Accounts Act of 2006, the Policyholder Disaster Protection Act of 2006, and the Homeowners Protection Act of 2006, be printed in the RECORD.

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

S. 3114

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 ''Commission on Catastrophic Disaster Risk and Insurance Act of 2006''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) Hurricanes Katrina, Rita, and Wilma, which struck the United States in 2005, caused over $200 billion in total economic losses, including insured and uninsured losses.

(2) Although private sector insurance is currently available to spread some catastrophe-related losses throughout the Nation and internationally, most experts believe there will be significant insurance and reinsurance shortages, resulting in dramatic rate increases for consumers and businesses, and the unavailability of catastrophe insurance.

(3) The Federal Government has provided and will continue to provide billions of dollars and resources to pay for losses from catastrophes, including hurricanes, volcanic eruptions, tsunamis, tornados, and other disasters, at huge costs to American taxpayers.

(4) The Federal Government has a critical interest in ensuring appropriate and fiscally responsible risk management of catastrophes. Mortgages require reliable property insurance, and the unavailability of reliable property insurance would make most real estate transactions impossible. In addition, the public health, safety, and welfare demand that structures damaged or destroyed in a catastrophe be reconstructed as soon as possible. Therefore, the inability of the private sector insurance and reinsurance markets to maintain sufficient capacity to enable Americans to obtain property insurance coverage in the private sector endangers the national economy and the public health, safety, and welfare.

(5) Multiple proposals have been introduced in the United States Congress over the past decade to address catastrophic risk insurance, including the creation of a national catastrophic reinsurance fund and the revision of the Federal tax code to allow insurers to use tax-deferred catastrophe funds, yet Congress has failed to act on any of these proposals.

(6) To the extent the United States faces high risks from catastrophe exposure, essential technical information on financial structures and innovations in the catastrophe insurance market is needed.

(7) The most efficient and effective approach to assessing the catastrophe insurance problem in the public policy context is to establish a bipartisan commission of experts to study the management of catastrophic disaster risk, and to require such commission to timely report its recommendations to Congress so that Congress can quickly craft a solution to protect the American people.

SEC. 3. ESTABLISHMENT.

There is established a bipartisan Commission on Catastrophic Disaster Risk and Insurance (in this Act referred to as the ''Commission'').

SEC. 4. MEMBERSHIP.

(a) MEMBERS.—The Commission shall be composed of the following:

(1) The Director of the Federal Emergency Management Agency or a designee of the Director.

(2) The Administrator of the National Oceanic and Atmospheric Administration or a designee of the Administrator.

(3) 12 additional members or their designees of whom one shall be—

(A) a representative of a consumer group;

(B) a representative of a primary insurance company;

(C) a representative of a reinsurance company;

(D) an independent insurance agent with experience in writing property and casualty insurance policies;

(E) a State insurance regulator;

(F) a State emergency operations official;

(G) a scientist;

(H) a faculty member of an accredited university with experience in risk management;

(I) a member of nationally recognized think tank with experience in risk management;

(J) a homebuilder with experience in structural engineering;

(K) a mortgage lender; and

(L) a nationally recognized expert in antitrust law.

(b) MANNER OF APPOINTMENT.—

(1) IN GENERAL.—Any member of the Commission described under subsection (a)(3) shall be appointed only upon unanimous agreement of—

(A) the majority leader of the Senate;

(B) the minority leader of the Senate;

(C) the Speaker of the House of Representatives; and

(D) the minority leader of the House of Representatives.

(2) CONSULTATION.—In making any appointment under paragraph (1), each individual described in paragraph (1) shall consult with the President.

(c) ELIGIBILITY LIMITATION.—Except as provided in subsection (a), no member or officer of the Congress, or other member or officer of the Executive Branch of the United States Government or any State government may be appointed to be a member of the Commission.

(d) PERIOD OF APPOINTMENT.—

(1) IN GENERAL.—Each member of the Commission shall be appointed for the life of the Commission.

(2) VACANCIES.—A vacancy on the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment was made.

(e) QUORUM.—

(1) MAJORITY.—A majority of the members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(2) APPROVAL ACTIONS.—All recommendations and reports of the Commission required by this Act shall be approved only by a majority vote of a quorum of the Commission.

(f) CHAIRPERSON.—The majority leader of the Senate, the minority leader of the Senate, the Speaker of the House of Representatives, and the minority leader of the House of Representatives shall jointly select 1 member appointed pursuant to subsection (a) to serve as the Chairperson of the Commission.

(g) MEETINGS.—The Council shall meet at the call of its Chairperson or a majority of its members at any time.

SEC. 5. DUTIES OF THE COMMISSION.

The Commission shall—

(1) assess—

(A) the condition of the property and casualty insurance and reinsurance markets in the aftermath of Hurricanes Katrina, Rita, and Wilma in 2005, and the 4 major hurricanes that struck the United States in 2004; and

(B) the ongoing exposure of the United States to earthquakes, volcanic eruptions, tsunamis, and floods; and

(2) recommend and report, as required under section 6, any necessary legislative and regulatory changes that will—

(A) improve the domestic and international financial health and competitiveness of such markets; and

(B) assure consumers of the—

(i) availability of adequate insurance coverage when an insured event occurs; and

(ii) best possible range of insurance products at competitive prices.

SEC. 6. REPORT.

(a) IN GENERAL.—Not later than 90 days after the appointment of Commission members under section 4, the Commission shall submit to the President and the Congress a final report containing a detailed statement of its findings, together with any recommendations for legislation or administrative action that the Commission considers appropriate, in accordance with the requirements of section 5.

(b) CONSIDERATIONS.—In developing any recommendations under subsection (a), the Commission shall consider—

(1) the catastrophic insurance and reinsurance market structures and the relevant commercial practices in such insurance industries in providing insurance protection to different sectors of the American population;

(2) the constraints and opportunities in implementing a catastrophic insurance system that can resolve key obstacles currently impeding broader implementation of catastrophe risk management and financing with insurance;

(3) methods to improve risk underwriting practices, including—

(A) analysis of modalities of risk transfer for potential financial losses;

(B) assessment of private securitization of insurances risks;

(C) private-public partnerships to increase insurance capacity in constrained markets; and

(D) the financial feasibility and sustainability of a national catastrophe pool or regional catastrophe pools designed to provide adequate insurance coverage and increased underwriting capacity to insurers and reinsurers;

(4) approaches for implementing a public insurance scheme for low-income communities, in order to promote risk reduction and explicit insurance coverage in such communities;

(5) methods to strengthen insurance regulatory requirements and supervision of such requirements, including solvency for catastrophic risk reserves;

(6) methods to promote public insurance policies linked to programs for loss reduction in the uninsured sectors of the American population;

(7) methods to strengthen the risk assessment and enforcement of structural mitigation and vulnerability reduction measures, such as zoning and building code compliance;

(8) the appropriate role for the Federal Government in stabilizing the property and casualty insurance and reinsurance markets, with an analysis—

(A) of options such as—

(i) a reinsurance mechanism;

(ii) the modernization of Federal taxation policies; and

(iii) an ''insurance of last resort'' mechanism; and

(B) how to fund such options; and

(9) the merits of the 3 principle legislative proposals currently pending in the 109th Congress, namely:

(A) The creation of a Federal catastrophe fund to act as a backup to State catastrophe funds;

(B) Tax-deferred catastrophe accounts for insurers; and

(C) Tax-free catastrophe accounts for policyholders.

SEC. 7. POWERS OF THE COMMISSION.

(a) HEARINGS.—The Commission or, at the direction of the Commission, any subcommittee or member of the Commission, may, for the purpose of carrying out this Act—

(1) hold such public hearings in such cities and countries, sit and act at such times and places, take such testimony, receive such evidence, and administer such oaths or affirmations as the Commission or such subcommittee or member considers advisable; and

(2) require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, documents, tapes, and materials as the Commission or such subcommittee or member considers advisable.

(b) ISSUANCE AND ENFORCEMENT OF SUBPOENAS.—

(1) ISSUANCE.—Subpoenas issued under subsection (a) shall bear the signature of the Chairperson of the Commission and shall be served by any person or class of persons designated by the Chairperson for that purpose.

(2) ENFORCEMENT.—In the case of contumacy or failure to obey a subpoena issued under subsection (a), the United States district court for the judicial district in which the subpoenaed person resides, is served, or may be found may issue an order requiring such person to appear at any designated place to testify or to produce documentary or other evidence. Any failure to obey the order of the court may be punished by the court as a contempt of that court.

(3) CONFIDENTIALITY.—

(A) IN GENERAL.—Information obtained under a subpoena issued under subsection (a) which is deemed confidential, or with reference to which a request for confidential treatment is made by the person furnishing such information—

(i) shall be exempt from disclosure under section 552 of title 5, United States Code; and

(ii) shall not be published or disclosed unless the Commission determines that the withholding of such information is contrary to the interest of the United States.

(B) EXCEPTION.—The requirements of subparagraph (A) shall not apply to the publication or disclosure of any data aggregated in a manner that ensures protection of the identity of the person furnishing such data.

(c) AUTHORITY OF MEMBERS OR AGENTS OF THE COMMISSION.—Any member or agent of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take by this Act.

(d) OBTAINING OFFICIAL DATA.—

(1) AUTHORITY.—Notwithstanding any provision of section 552a of title 5, United States Code, the Commission may secure directly from any department or agency of the United States any information necessary to enable the Commission to carry out the purposes of this Act.

(2) PROCEDURE.—Upon request of the Chairperson of the Commission, the head of that department or agency shall furnish the information requested to the Commission.

(e) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(f) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, any administrative support services necessary for the Commission to carry out its responsibilities under this Act.

(g) GIFTS.—

(1) IN GENERAL.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(2) REGULATIONS.—The Commission shall adopt internal regulations governing the receipt of gifts or donations of services or property similar to those described in part 2601 of title 5, Code of Federal Regulations.

SEC. 8. COMMISSION PERSONNEL MATTERS.

(a) COMPENSATION OF MEMBERS.—Each member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for GS-18 of the General Schedule under section 5332 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(b) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(c) SUBCOMMITTEES.—The Commission may establish subcommittees and appoint persons to such subcommittees as the Commission considers appropriate.

(d) STAFF.—Subject to such policies as the Commission may prescribe, the Chairperson of the Commission may appoint and fix the pay of such additional personnel as the Chairperson considers appropriate to carry out the duties of the Commission.

(e) APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—Subcommittee members and staff of the Commission may be—

(1) appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service; and

(2) paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, except that an individual so appointed may not receive pay in excess of the annual rate of basic pay prescribed for GS-18 of the General Schedule under section 5332 of that title.

(f) EXPERTS AND CONSULTANTS.—In carrying out its objectives, the Commission may procure temporary and intermittent services of consultants and experts under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for GS-18 of the General Schedule under section 5332 of that title.

(g) DETAIL OF GOVERNMENT EMPLOYEES.—Upon request of the Chairperson of the Commission, any Federal Government employee may be detailed to the Commission to assist in carrying out the duties of the Commission—

(1) on a reimbursable basis; and

(2) such detail shall be without interruption or loss of civil service status or privilege.

SEC. 9. TERMINATION.

The Commission shall terminate 60 days after the date on which the Commission submits its report under section 6.

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $5,000,000 to carry out the purposes of this Act.

Ms. LANDRIEU. Mr. President, one of the most frequent complaints I have been hearing from people in Louisiana whose homes sustained damage in Katrina and Rita has been about their property insurance. First, it took insurance companies a long time to get adjusters into the area after the storm and many people are still waiting for claim payments. This was followed by the shock for many of our homeowners that their property insurance policies covered wind damage, but not flood damage. They could get the roof replaced, but the rest of the house was lost. Many of them were not required to have flood insurance because they either did not live in a flood plain or did not have a mortgage. And now we are beginning to discover that many insurance companies are no longer writing policies in Louisiana.

Our homeowners weathered one, and in some cases two, hurricanes already. However, now it's as if our homeowners have been hit by another hurricane—one causing a flood of red ink, lost homes, ruined lives, and broken communities.

I hope we never see another storm like Katrina. I would not want any of my colleagues' states to face the one-two punch of two hurricanes the way Louisiana was. But hurricane season is coming again, starting next week on June 1. These insurance issues and problems are going to come again. We can rebuild levees and use the lessons of Katrina to better prepare for these storms, but finding a solution to this insurance issue is much harder.

First of all, insurance is regulated at the State level. We do not control it up here. In all fairness, property casualty insurance companies do not cover flood damage because that is covered by the National Flood Insurance Program at FEMA. But the potential for flooding from hurricanes still remains and our insurance system is not ready to handle the amount of uninsured damage a massive storm like Katrina.

I am pleased to join my colleague from Florida, Senator NELSON, as a cosponsor of the Commission on Catastrophic Disaster Risk and Insurance Act of 2006. This bill will not produce major changes in the insurance industry overnight, but it will begin to take a look at this issue to identify the best solution to ensuring that home and business owners will have insurance coverage to help them rebuild after catastrophic natural disasters.

The commission established by this legislation will take the first steps for assessing the casualty insurance market and recommend any necessary legislative changes to ensure that consumers will have readily available and affordable insurance coverage to protect them from natural disasters. Experts from a wide variety of fields in disaster preparedness, construction engineering, the insurance industry, and government will serve on the commission. While the members will be chosen on a bipartisan basis, they will be taking a nonpartisan approach to this subject.

I urge my colleagues to support this legislation. It is a first step—a modest step—toward ensuring the financial security of Americans in the face of catastrophic disasters.

By Mr. NELSON of Florida:

S. 3115. A bill to amend the Internal Revenue Code of 1986 to create Catastrophe Savings Accounts; to the Committee on Finance.

S. 3115

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 ''Catastrophe Savings Accounts Act of 2006''.

SEC. 2. CATASTROPHE SAVINGS ACCOUNTS.

(a) IN GENERAL.—Subchapter F of Chapter 1 of the Internal Revenue Code of 1986 (relating to exempt organizations) is amended by adding at the end the following new part:

''PART IX—CATASTROPHE SAVINGS ACCOUNTS

''SEC. 530A. CATASTROPHE SAVINGS ACCOUNTS.

''(a) GENERAL RULE.—A Catastrophe Savings Account shall be exempt from taxation under this subtitle. Notwithstanding the preceding sentence, such account shall be subject to the taxes imposed by section 511 (relating to imposition of tax on unrelated business income of charitable organizations).

''(b) CATASTROPHE SAVINGS ACCOUNT.—For purposes of this section, the term 'Catastrophe Savings Account' means a trust created or organized in the United States for the exclusive benefit of an individual or his beneficiaries and which is designated (in such manner as the Secretary shall prescribe) at the time of the establishment of the trust as a Catastrophe Savings Account, but only if the written governing instrument creating the trust meets the following requirements:

''(1) Except in the case of a qualified rollover contribution—

''(A) no contribution will be accepted unless it is in cash, and

''(B) contributions will not be accepted in excess of the account balance limit specified in subsection (c).

''(2) The trustee is a bank (as defined in section 408(n)) or another person who demonstrates to the satisfaction of the Secretary that the manner in which that person will administer the trust will be consistent with the requirements of this section.

''(3) The interest of an individual in the balance of his account is nonforfeitable.

''(4) The assets of the trust shall not be commingled with other property except in a common trust fund or common investment fund.

''(c) ACCOUNT BALANCE LIMIT.—The aggregate account balance for all Catastrophe Savings Accounts maintained for the benefit of an individual (including qualified rollover contributions) shall not exceed—

''(1) in the case of an individual whose qualified deductible is not more than $1,000, $2,000, and

''(2) in the case of an individual whose qualified deductible is more than $1,000, the amount equal to the lesser of—

''(A) $15,000, or

''(B) twice the amount of the individual's qualified deductible.

''(d) DEFINITIONS.—For purposes of this section—

''(1) QUALIFIED CATASTROPHE EXPENSES.—The term 'qualified catastrophe expenses' means expenses paid or incurred by reason of a major disaster that has been declared by the President under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

''(2) QUALIFIED DEDUCTIBLE.—With respect to an individual, the term 'qualified deductible' means the annual deductible for the individual's homeowners' insurance policy.

''(3) QUALIFIED ROLLOVER CONTRIBUTION.—The term 'qualified rollover contribution' means a contribution to a Catastrophe Savings Account—

''(A) from another such account of the same beneficiary, but only if such amount is contributed not later than the 60th day after the distribution from such other account, and

''(B) from a Catastrophe Savings Account of a spouse of the beneficiary of the account to which the contribution is made, but only if such amount is contributed not later than the 60th day after the distribution from such other account.

''(e) TAX TREATMENT OF DISTRIBUTIONS.—

''(1) IN GENERAL.—Any distribution from a Catastrophe Savings Account shall be includible in the gross income of the distributee in the manner as provided in section 72.

''(2) DISTRIBUTIONS FOR QUALIFIED CATASTROPHE EXPENSES.—

''(A) IN GENERAL.—No amount shall be includible in gross income under paragraph (1) if the qualified catastrophe expenses of the distributee during the taxable year are not less than the aggregate distributions during the taxable year.

''(B) DISTRIBUTIONS IN EXCESS OF EXPENSES.—If such aggregate distributions exceed such expenses during the taxable year, the amount otherwise includible in gross income under paragraph (1) shall be reduced by the amount which bears the same ratio to the amount which would be includible in gross income under paragraph (1) (without regard to this subparagraph) as the qualified catastrophe expenses bear to such aggregate distributions.

''(3) ADDITIONAL TAX FOR DISTRIBUTIONS NOT USED FOR QUALIFIED CATASTROPHE EXPENSES.—The tax imposed by this chapter for any taxable year on any taxpayer who receives a payment or distribution from a Catastrophe Savings Account which is includible in gross income shall be increased by 10 percent of the amount which is so includible.

''(4) RETIREMENT DISTRIBUTIONS.—No amount shall be includible in gross income under paragraph (1) (or subject to an additional tax under paragraph (3)) if the payment or distribution is made on or after the date on which the distributee attains age 62.

''(f) TAX TREATMENT OF ACCOUNTS.—Rules similar to the rules of paragraphs (2) and (4) of section 408(e) shall apply to any Catastrophe Savings Account.''.

(b) TAX ON EXCESS CONTRIBUTIONS.—

(1) IN GENERAL.—Subsection (a) of section 4973 of the Internal Revenue Code of 1986 (relating to tax on excess contributions to certain tax-favored accounts and annuities) is amended by striking ''or'' at the end of paragraph (4), by inserting ''or'' at the end of paragraph (5), and by inserting after paragraph (5) the following new paragraph:

''(6) a Catastrophe Savings Account (as defined in section 530A),''.

(2) EXCESS CONTRIBUTION.—Section 4973 of such Code is amended by adding at the end the following new subsection:

''(h) EXCESS CONTRIBUTIONS TO CATASTROPHE SAVINGS ACCOUNTS.—For purposes of this section, in the case of Catastrophe Savings Accounts (within the meaning of section 530A), the term 'excess contributions' means the amount by which the aggregate account balance for all Catastrophe Savings Accounts maintained for the benefit of an individual exceeds the account balance limit defined in section 530A(c)(1).''.

(c) CONFORMING AMENDMENT.—The table of parts for subchapter F of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

''PART IX. CATASTROPHE SAVINGS ACCOUNTS''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2006.

By Mr. NELSON of Florida:

S. 3116. A bill to amend the Internal Revenue Code of 1986 to provide for the creation of disaster protection funds by property and casualty insurance companies for the payment of policyholders' claims arising from future catastrophic events; to the Committee on Finance.

S. 3116

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 ''Policyholder Disaster Protection Act of 2006''.

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) Rising costs resulting from natural disasters are placing an increasing strain on the ability of property and casualty insurance companies to assure payment of homeowners' claims and other insurance claims arising from major natural disasters now and in the future.

(2) Present tax laws do not provide adequate incentives to assure that natural disaster insurance is provided or, where such insurance is provided, that funds are available for payment of insurance claims in the event of future catastrophic losses from major natural disasters, as present law requires an insurer wishing to accumulate surplus assets for this purpose to do so entirely from its after-tax retained earnings.

(3) Revising the tax laws applicable to the property and casualty insurance industry to permit carefully controlled accumulation of pretax dollars in separate reserve funds devoted solely to the payment of claims arising from future major natural disasters will provide incentives for property and casualty insurers to make natural disaster insurance available, will give greater protection to the Nation's homeowners, small businesses, and other insurance consumers, and will help assure the future financial health of the Nation's insurance system as a whole.

(4) Implementing these changes will reduce the possibility that a significant portion of the private insurance system would fail in the wake of a major natural disaster and that governmental entities would be required to step in to provide relief at taxpayer expense.

SEC. 3. CREATION OF POLICYHOLDER DISASTER PROTECTION FUNDS; CONTRIBUTIONS TO AND DISTRIBUTIONS FROM FUNDS; OTHER RULES.

(a) CONTRIBUTIONS TO POLICYHOLDER DISASTER PROTECTION FUNDS.—Subsection (c) of section 832 of the Internal Revenue Code of 1986 (relating to the taxable income of insurance companies other than life insurance companies) is amended by striking ''and'' at the end of paragraph (12), by striking the period at the end of paragraph (13) and inserting ''; and'', and by adding at the end the following new paragraph:

''(14) the qualified contributions to a policyholder disaster protection fund during the taxable year.''.

(b) DISTRIBUTIONS FROM POLICYHOLDER DISASTER PROTECTION FUNDS.—Paragraph (1) of section 832(b) of such Code is amended by striking ''and'' at the end of subparagraph (D), by striking the period at the end of subparagraph (E) and inserting '', and'', and by adding at the end the following new subparagraph:

''(F) the amount of any distributions from a policyholder disaster protection fund during the taxable year, except that a distribution made to return to the qualified insurance company any contribution which is not a qualified contribution (as defined in subsection (h)) for a taxable year shall not be included in gross income if such distribution is made prior to the filing of the tax return for such taxable year.''.

(c) DEFINITIONS AND OTHER RULES RELATING TO POLICYHOLDER DISASTER PROTECTION FUNDS.—Section 832 of such Code (relating to insurance company taxable income) is amended by adding at the end the following new subsection:

''(h) DEFINITIONS AND OTHER RULES RELATING TO POLICYHOLDER DISASTER PROTECTION FUNDS.—For purposes of this section—

''(1) POLICYHOLDER DISASTER PROTECTION FUND.—The term 'policyholder disaster protection fund' (hereafter in this subsection referred to as the 'fund') means any custodial account, trust, or any other arrangement or account—

''(A) which is established to hold assets that are set aside solely for the payment of qualified losses, and

''(B) under the terms of which—

''(i) the assets in the fund are required to be invested in a manner consistent with the investment requirements applicable to the qualified insurance company under the laws of its jurisdiction of domicile,

''(ii) the net income for the taxable year derived from the assets in the fund is required to be distributed no less frequently than annually,

''(iii) an excess balance drawdown amount is required to be distributed to the qualified insurance company no later than the close of the taxable year following the taxable year for which such amount is determined,

''(iv) a catastrophe drawdown amount may be distributed to the qualified insurance company if distributed prior to the close of the taxable year following the year for which such amount is determined,

''(v) a State required drawdown amount may be distributed, and

''(vi) no distributions from the fund are required or permitted other than the distributions described in clauses (ii) through (v) and the return to the qualified insurance company of contributions that are not qualified contributions.

''(2) QUALIFIED INSURANCE COMPANY.—The term 'qualified insurance company' means any insurance company subject to tax under section 831(a).

''(3) QUALIFIED CONTRIBUTION.—The term 'qualified contribution' means a contribution to a fund for a taxable year to the extent that the amount of such contribution, when added to the previous contributions to the fund for such taxable year, does not exceed the excess of—

''(A) the fund cap for the taxable year, over

''(B) the fund balance determined as of the close of the preceding taxable year.

''(4) EXCESS BALANCE DRAWDOWN AMOUNTS.—The term 'excess balance drawdown amount' means the excess (if any) of—

''(A) the fund balance as of the close of the taxable year, over

''(B) the fund cap for the following taxable year.

''(5) CATASTROPHE DRAWDOWN AMOUNT.—

''(A) IN GENERAL.—The term 'catastrophe drawdown amount' means an amount that does not exceed the lesser of the amount determined under subparagraph (B) or (C).

''(B) NET LOSSES FROM QUALIFYING EVENTS.—The amount determined under this subparagraph shall be equal to the qualified losses for the taxable year determined without regard to clause (ii) of paragraph (8)(A).

''(C) GROSS LOSSES IN EXCESS OF THRESHOLD.—The amount determined under this subparagraph shall be equal to the excess (if any) of—

''(i) the qualified losses for the taxable year, over

''(ii) the lesser of—

''(I) the fund cap for the taxable year (determined without regard to paragraph (9)(E)), or

''(II) 30 percent of the qualified insurance company's surplus as regards policyholders as shown on the company's annual statement for the calendar year preceding the taxable year.

''(D) SPECIAL DRAWDOWN AMOUNT FOLLOWING A RECENT CATASTROPHE LOSS YEAR.—If for any taxable year included in the reference period the qualified losses exceed the amount determined under subparagraph (C)(ii), the 'catastrophe drawdown amount' shall be an amount that does not exceed the lesser of the amount determined under subparagraph (B) or the amount determined under this subparagraph. The amount determined under this subparagraph shall be an amount equal to the excess (if any) of—

''(i) the qualified losses for the taxable year, over

''(ii) the lesser of—

''(I) ⅓ of the fund cap for the taxable year (determined without regard to paragraph (9)(E)), or

''(II) 10 percent of the qualified insurance company's surplus as regards policyholders as shown on the company's annual statement for the calendar year preceding the taxable year.

''(E) REFERENCE PERIOD.—For purposes of subparagraph (D), the reference period shall be determined under the following table:

"For a taxable year beginning in—	The reference period shall be—
2009 and later	The 3 preceding taxable years.
2008	The 2 preceding taxable years.
2007	The preceding taxable year.
2006 or before	No reference period applies.

''(6) STATE REQUIRED DRAWDOWN AMOUNT.—The term 'State required drawdown amount' means any amount that the department of insurance for the qualified insurance company's jurisdiction of domicile requires to be distributed from the fund, to the extent such amount is not otherwise described in paragraph (4) or (5).

''(7) FUND BALANCE.—The term 'fund balance' means—

''(A) the sum of all qualified contributions to the fund,

''(B) less any net investment loss of the fund for any taxable year or years, and

''(C) less the sum of all distributions under clauses (iii) through (v) of paragraph (1)(B).

''(8) QUALIFIED LOSSES.—

''(A) IN GENERAL.—The term 'qualified losses' means, with respect to a taxable year—

''(i) the amount of losses and loss adjustment expenses incurred in the qualified lines of business specified in paragraph (9), net of reinsurance, as reported in the qualified insurance company's annual statement for the taxable year, that are attributable to one or more qualifying events (regardless of when such qualifying events occurred),

''(ii) the amount by which such losses and loss adjustment expenses attributable to such qualifying events have been reduced for reinsurance received and recoverable, plus

''(iii) any nonrecoverable assessments, surcharges, or other liabilities that are borne by the qualified insurance company and are attributable to such qualifying events.

''(B) QUALIFYING EVENT.—For purposes of subparagraph (A), the term 'qualifying event' means any event that satisfies clauses (i) and (ii).

''(i) EVENT.—An event satisfies this clause if the event is 1 or more of the following:

''(I) Windstorm (hurricane, cyclone, or tornado).

''(II) Earthquake (including any fire following).

''(III) Winter catastrophe (snow, ice, or freezing).

''(IV) Fire.

''(V) Tsunami.

''(VI) Flood.

''(VII) Volcanic eruption.

''(VIII) Hail.

''(ii) CATASTROPHE DESIGNATION.—An event satisfies this clause if the event—

''(I) is designated a catastrophe by Property Claim Services or its successor organization,

''(II) is declared by the President to be an emergency or disaster, or

''(III) is declared to be an emergency or disaster in a similar declaration by the chief executive official of a State, possession, or territory of the United States, or the District of Columbia.

''(9) FUND CAP.—

''(A) IN GENERAL.—The term 'fund cap' for a taxable year is the sum of the separate lines of business caps for each of the qualified lines of business specified in the table contained in subparagraph (C) (as modified under subparagraphs (D) and (E)).

''(B) SEPARATE LINES OF BUSINESS CAP.—For purposes of subparagraph (A), the separate lines of business cap, with respect to a qualified line of business specified in the table contained in subparagraph (C), is the product of—

''(i) net written premiums reported in the annual statement for the calendar year preceding the taxable year in such line of business, multiplied by

''(ii) the fund cap multiplier applicable to such qualified line of business.

''(C) QUALIFIED LINES OF BUSINESS AND THEIR RESPECTIVE FUND CAP MULTIPLIERS.—For purposes of this paragraph, the qualified lines of business and fund cap multipliers specified in this subparagraph are those specified in the following table:

''Line of Business on Annual Statement Blank:	Fund Cap Multiplier:
Fire	0.25
Allied	1.25
Farmowners Multiple Peril	0.25
Homeowners Multiple Peril	0.75
Commercial Multi Peril (non-liability portion)	0.50
Earthquake	13.00
Inland Marine	0.25.

''(D) SUBSEQUENT MODIFICATIONS OF THE ANNUAL STATEMENT BLANK.—If, with respect to any taxable year beginning after the effective date of this subsection, the annual statement blank required to be filed is amended to replace, combine, or otherwise modify any of the qualified lines of business specified in subparagraph (C), then for such taxable year subparagraph (C) shall be applied in a manner such that the fund cap shall be the same amount as if such reporting modification had not been made.

''(E) 20-YEAR PHASE-IN.—Notwithstanding subparagraph (C), the fund cap for a taxable year shall be the amount determined under subparagraph (C), as adjusted pursuant to subparagraph (D) (if applicable), multiplied by the phase-in percentage indicated in the following table:

''Taxable year beginning in:	Phase-in percentage to be applied to fund cap computed under subparagraphs (A) and (B):
2006	5 percent
2007	10 percent
2008	15 percent
2009	20 percent
2010	25 percent
2011	30 percent
2012	35 percent
2013	40 percent
2014	45 percent
2015	50 percent
2016	55 percent
2017	60 percent
2018	65 percent
2019	70 percent
2020	75 percent
2021	80 percent
2022	85 percent
2023	90 percent
2024	95 percent
2025 and later	100 percent

''(10) TREATMENT OF INVESTMENT INCOME AND GAIN OR LOSS.—

''(A) CONTRIBUTIONS IN KIND.—A transfer of property other than money to a fund shall be treated as a sale or exchange of such property for an amount equal to its fair market value as of the date of transfer, and appropriate adjustment shall be made to the basis of such property. Section 267 shall apply to any loss realized upon such a transfer.

''(B) DISTRIBUTIONS IN KIND.—A transfer of property other than money by a fund to the qualified insurance company shall not be treated as a sale or exchange or other disposition of such property. The basis of such property immediately after such transfer shall be the greater of the basis of such property immediately before such transfer or the fair market value of such property on the date of such transfer.

''(C) INCOME WITH RESPECT TO FUND ASSETS.—Items of income of the type described in paragraphs (1)(B), (1)(C), and (2) of subsection (b) that are derived from the assets held in a fund, as well as losses from the sale or other disposition of such assets, shall be considered items of income, gain, or loss of the qualified insurance company. Notwithstanding paragraph (1)(F) of subsection (b), distributions of net income to the qualified insurance company pursuant to paragraph (1)(B)(ii) of this subsection shall not cause such income to be taken into account a second time.

''(11) NET INCOME; NET INVESTMENT LOSS.—For purposes of paragraph (1)(B)(ii), the net income derived from the assets in the fund for the taxable year shall be the items of income and gain for the taxable year, less the items of loss for the taxable year, derived from such assets, as described in paragraph (10)(C). For purposes of paragraph (7), there is a net investment loss for the taxable year to the extent that the items of loss described in the preceding sentence exceed the items of income and gain described in the preceding sentence.

''(12) ANNUAL STATEMENT.—For purposes of this subsection, the term 'annual statement' shall have the meaning set forth in section 846(f)(3).

''(13) EXCLUSION OF PREMIUMS AND LOSSES ON CERTAIN PUERTO RICAN RISKS.—Notwithstanding any other provision of this subsection, premiums and losses with respect to risks covered by a catastrophe reserve established under the laws or regulations of the Commonwealth of Puerto Rico shall not be taken into account under this subsection in determining the amount of the fund cap or the amount of qualified losses.

''(14) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection, including regulations—

''(A) which govern the application of this subsection to a qualified insurance company having a taxable year other than the calendar year or a taxable year less than 12 months,

''(B) which govern a fund maintained by a qualified insurance company that ceases to be subject to this part, and

''(C) which govern the application of paragraph (9)(D).''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

By Mr. NELSON of Florida:

S. 3117. A bill to establish a program to provide more protection at lower cost through a national backstop for State natural catastrophe insurance programs to help the United States better prepare for and protect its citizens against the ravages of natural catastrophes, to encourage and promote mitigation and prevention for, and recovery and rebuilding from such catastrophes, to better assist in the financial recovery and rebuilding from such catastrophes, and to develop a rigorous process of continuous improvement; to the Commitment on Banking, Housing, and Urban Affairs.

S. 3117

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Homeowners Protection 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. Congressional findings.
Sec. 3. National Commission on Catastrophe Preparation and Protection.
Sec. 4. Program authority.
Sec. 5. Qualified lines of coverage.
Sec. 6. Covered perils.
Sec. 7. Contracts for reinsurance coverage for eligible State programs.
Sec. 8. Minimum level of retained losses and maximum Federal liability.
Sec. 9. Consumer Hurricane, Earthquake, Loss Protection (HELP) Fund.
Sec. 10. Regulations.
Sec. 11. Termination.
Sec. 12. Annual study concerning benefits of the Act.
Sec. 13. GAO study of the National Flood Insurance Program and hurricane-related flooding.
Sec. 14. Definitions.

SEC. 2. FINDINGS.

Congress finds that—

(1) America needs to take steps to be better prepared for and better protected from catastrophes;

(2) the hurricane seasons of 2004 and 2005 are startling reminders of both the human and economic devastation that hurricanes, flooding, and other natural disasters can cause;

(3) if a repeat of the deadly 1900 Galveston hurricane occurred again it could cause thousands of deaths and over $36,000,000,000 in loss;

(4) if the 1906 San Francisco earthquake occurred again it could cause thousands of deaths, displace millions of residents, destroy thousands of businesses, and cause over $400,000,000,000 in loss;

(5) if a Category 5 hurricane were to hit Miami it could cause thousands of deaths and over $50,000,000,000 in loss and devastate the local and national economy;

(6) if a repeat of the 1938 ''Long Island Express'' were to occur again it could cause thousands of deaths and over $30,000,000,000 in damage, and if a hurricane that strong were to directly hit Manhattan it could cause over $150,000,000,000 in damage and cause irreparable harm to our Nation's economy;

(7) a more comprehensive and integrated approach to dealing with catastrophes is needed;

(8) using history as a guide, natural catastrophes will inevitably place a tremendous strain on homeowners' insurance markets in many areas, will raise costs for consumers, and will jeopardize the ability of many consumers to adequately insure their homes and possessions;

(9) the lack of sufficient insurance capacity and the inability of private insurers to build enough capital, in a short amount of time, threatens to increase the number of uninsured homeowners, which, in turn, increases the risk of mortgage defaults and the strain on the Nation's banking system;

(10) some States have exercised leadership through reasonable action to ensure the continued availability and affordability of homeowners' insurance for all residents;

(11) it is appropriate that efforts to improve insurance availability be designed and implemented at the State level;

(12) while State insurance programs may be adequate to cover losses from most natural disasters, a small percentage of events is likely to exceed the financial capacity of these programs and the local insurance markets;

(13) a limited national insurance backstop will improve the effectiveness of State insurance programs and private insurance markets and will increase the likelihood that homeowners' insurance claims will be fully paid in the event of a large natural catastrophe and that routine claims that occur after a mega-catastrophe will also continue to be paid;

(14) it is necessary to provide a national insurance backstop program that will provide more protection at an overall lower cost and that will promote stability in the homeowners' insurance market;

(15) it is the proper role of the Federal Government to prepare for and protect its citizens from catastrophes and to facilitate consumer protection, victim assistance, and recovery, including financial recovery; and

(16) any Federal reinsurance program must be founded upon sound actuarial principles and priced in a manner that encourages the creation of State funds and maximizes the buying potential of these State funds and encourages and promotes prevention and mitigation, recovery and rebuilding, and consumer education, and emphasizes continuous analysis and improvement.

SEC. 3. NATIONAL COMMISSION ON CATASTROPHE PREPARATION AND PROTECTION.

(a) ESTABLISHMENT.—The Secretary of the Treasury shall establish a commission to be known as the National Commission on Catastrophe Preparation and Protection.

(b) DUTIES.—The Commission shall meet for the purpose of advising the Secretary regarding the estimated loss costs associated with the contracts for reinsurance coverage available under this Act and carrying out the functions specified in this Act, including—

(1) the development and implementation of public education concerning the risks posed by natural catastrophes;

(2) the development and implementation of prevention, mitigation, recovery, and rebuilding standards that better prepare and protect the United States from catastrophes; and

(3) conducting continuous analysis of the effectiveness of this Act and recommending improvements to the Congress so that—

(A) the costs of providing catastrophe protection are decreased; and

(B) the United States is better prepared.

(c) MEMBERS.—

(1) APPOINTMENT AND QUALIFICATION.—The Commission shall consist of 9 members, as follows:

(A) HOMELAND SECURITY MEMBER.—The Secretary of Homeland Security or the Secretary's designee.

(B) APPOINTED MEMBERS.—8 members appointed by the Secretary, who shall consist of—

(i) 1 individual who is an actuary;

(ii) 1 individual who is employed in engineering;

(iii) 1 individual representing the scientific community;

(iv) 1 individual representing property and casualty insurers;

(v) 1 individual representing reinsurers;

(vi) 1 individual who is a member or former member of the National Association of Insurance Commissioners; and

(vii) 2 individuals who are consumers.

(2) PREVENTION OF CONFLICTS OF INTEREST.—Members shall have no personal or financial interest at stake in the deliberations of the Commission.

(d) TREATMENT OF NON-FEDERAL MEMBERS.—Each member of the Commission who is not otherwise employed by the Federal Government shall be considered a special Government employee for purposes of sections 202 and 208 of title 18, United States Code.

(e) EXPERTS AND CONSULTANTS.—

(1) IN GENERAL.—The Commission may procure temporary and intermittent services from individuals or groups recognized as experts in the fields of meteorology, seismology, vulcanlogy, geology, structural engineering, wind engineering, and hydrology, and other fields, under section 3109(b) of title 5, United States Code, but at a rate not in excess of the daily equivalent of the annual rate of basic pay payable for level V of the Executive Schedule, for each day during which the individual procured is performing such services for the Commission.

(2) OTHER EXPERTS.—The Commission may also procure, and the Congress encourages the Commission to procure, experts from universities, research centers, foundations, and other appropriate organizations who could study, research, and develop methods and mechanisms that could be utilized to strengthen structures to better withstand the perils covered by this Act.

(f) COMPENSATION.—

(1) IN GENERAL.—Each member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate of basic pay payable for level V of the Executive Schedule, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission.

(2) FEDERAL EMPLOYEES.—All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(g) OBTAINING DATA.—

(1) IN GENERAL.—The Commission and the Secretary may solicit loss exposure data and such other information as either the Commission or the Secretary deems necessary to carry out its responsibilities from governmental agencies and bodies and organizations that act as statistical agents for the insurance industry.

(2) OBLIGATION TO KEEP CONFIDENTIAL.—The Commission and the Secretary shall take such actions as are necessary to ensure that information that either deems confidential or proprietary is disclosed only to authorized individuals working for the Commission or the Secretary.

(3) FAILURE TO COMPLY.—No State insurance or reinsurance program may participate if any governmental agency within that State has refused to provide information requested by the Commission or the Secretary.

(h) FUNDING.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated—

(A) $10,000,000 for fiscal year 2007 for the—

(i) initial expenses in establishing the Commission; and

(ii) initial activities of the Commission that cannot timely be covered by amounts obtained pursuant to section 7(b)(6)(B)(iii), as determined by the Secretary;

(B) such additional sums as may be necessary to carry out subsequent activities of the Commission;

(C) $10,000,000 for fiscal year 2007 for the initial expenses of the Secretary in carrying out the program authorized under section 4; and

(D) such additional sums as may be necessary to carry out subsequent activities of the Secretary under this Act.

(2) OFFSET.—

(A) OBTAINED FROM PURCHASERS.—The Secretary shall provide, to the maximum extent practicable, that an amount equal to any amount appropriated under paragraph (1) is obtained from purchasers of reinsurance coverage under this Act and deposited in the Fund established under section 9.

(B) INCLUSION IN PRICING CONTRACTS.—Any offset obtained under subparagraph (A) shall be obtained by inclusion of a provision for the Secretary's and the Commission's expenses incorporated into the pricing of the contracts for such reinsurance coverage, pursuant to section 7(b)(6)(B)(iii).

(i) TERMINATION.—The Commission shall terminate upon the effective date of the repeal under section 11(c).

SEC. 4. PROGRAM AUTHORITY.

(a) IN GENERAL.—The Secretary, in consultation with the Secretary of Homeland Security, shall carry out a program under this Act to make homeowners protection coverage available through contracts for reinsurance coverage under section 7, which shall be made available for purchase only by eligible State programs.

(b) PURPOSE.—The program shall be designed to make reinsurance coverage under this Act available—

(1) to improve the availability and affordability of homeowners' insurance for the purpose of facilitating the pooling, and spreading the risk, of catastrophic financial losses from natural catastrophes;

(2) to improve the solvency and capacity of homeowners' insurance markets;

(3) to encourage the development and implementation of mitigation, prevention, recovery, and rebuilding standards; and

(4) to recommend methods to continuously improve the way the United States reacts and responds to catastrophes, including improvements to the HELP Fund established under section 9.

(c) CONTRACT PRINCIPLES.—Under the program established under this Act, the Secretary shall offer reinsurance coverage through contracts with covered purchasers, which contracts shall—

(1) minimize the administrative costs of the Federal Government; and

(2) provide coverage based solely on insured losses within a State for the eligible State program purchasing the contract.

SEC. 5. QUALIFIED LINES OF COVERAGE.

Each contract for reinsurance coverage made available under this Act shall provide insurance coverage against residential property losses to—

(1) homes (including dwellings owned under condominium and cooperative ownership arrangements); and

(2) the contents of apartment buildings.

SEC. 6. COVERED PERILS.

(a) IN GENERAL.—Each contract for reinsurance coverage made available under this Act shall cover losses insured or reinsured by an eligible State program purchasing the contract that are proximately caused by—

(1) earthquakes;

(2) perils ensuing from earthquakes, including fire and tsunamis;

(3) tropical cyclones having maximum sustained winds of at least 74 miles per hour, including hurricanes and typhoons;

(4) tornadoes;

(5) volcanic eruptions;

(6) catastrophic winter storms; and

(7) any other natural catastrophe peril (not including any flood) insured or reinsured under the eligible State program for which reinsurance coverage under section 7 is provided.

(b) RULEMAKING.—The Secretary shall, by regulation, define the natural catastrophe perils described in subsection (a)(7).

SEC. 7. CONTRACTS FOR REINSURANCE COVERAGE FOR ELIGIBLE STATE PROGRAMS.

(a) ELIGIBLE STATE PROGRAMS.—A program shall be eligible to purchase a contract under this section for reinsurance coverage under this Act only if the State entity authorized to make such determinations certifies to the Secretary that the program complies with the following requirements:

(1) PROGRAM DESIGN.—The program shall be a State-operated—

(A) insurance program that—

(i) offers coverage for—

(I) homes (which may include dwellings owned under condominium and cooperative ownership arrangements); and

(II) the contents of apartments to State residents; and

(ii) is authorized by State law; or

(B) reinsurance program that is designed to improve private insurance markets that offer coverage for—

(i) homes (which may include dwellings owned under condominium and cooperative ownership arrangements); and

(ii) the contents of apartments.

(2) OPERATION.—

(A) IN GENERAL.—The program shall meet the following requirements:

(i) A majority of the members of the governing body of the program shall be public officials.

(ii) The State shall have a financial interest in the program, which shall not include a program authorized by State law or regulation that requires insurers to pool resources to provide property insurance coverage for covered perils.

(iii) The State shall not be eligible for Consumer HELP Fund assistance under section 9 if a State has appropriated money from the State fund and not paid it back to the State fund, with interest.

(iv) Upon receipt of assistance from the Consumer HELP Fund, each reimbursement contract sold by a State shall provide for reimbursements at 100 percent of eligible losses.

(v) A State shall be required to utilize either—

(I) an open rating system that permits insurers to set homeowners' insurance rates without prior approval of the State; or

(II) a rate approval process that requires actuarially sound, risk-based, self-sufficient homeowners' insurance rates.

(B) CERTIFICATION.—A State shall not be eligible for Consumer HELP Fund assistance unless the Secretary can certify that such State is in compliance with the requirement described in clause (v).

(3) TAX STATUS.—The program shall be structured and carried out in a manner so that the program is exempt from all Federal taxation.

(4) COVERAGE.—The program shall cover perils enumerated in section 6.

(5) EARNINGS.—The program may not provide for, nor shall have ever made, any redistribution of any part of any net profits of the program to any insurer that participates in the program.

(6) PREVENTION AND MITIGATION.—

(A) IN GENERAL.—The program shall include prevention and mitigation provisions that require that not less $10,000,000 and not more than 35 percent of the net investment income of the State insurance or reinsurance program be used for programs to mitigate losses from natural catastrophes for which the State insurance or reinsurance program was established.

(B) RULE OF CONSTRUCTION.—For purposes of this paragraph, prevention and mitigation shall include methods to reduce losses of life and property, including appropriate measures to adequately reflect—

(i) encouragement of awareness about the risk factors and what can be done to eliminate or reduce them;

(ii) location of the risk, by giving careful consideration of the natural risks for the location of the property before allowing building and considerations if structures are allowed; and

(iii) construction relative to the risk and hazards, which act upon—

(I) State mandated building codes appropriate for the risk;

(II) adequate enforcement of the risk-appropriate building codes;

(III) building materials that prevent or significantly lessen potential damage from the natural catastrophes;

(IV) building methods that prevent or significantly lessen potential damage from the natural catastrophes; and

(V) a focus on prevention and mitigation for any substantially damaged structure, with an emphasis on how structures can be retrofitted so as to make them building code compliant.

(7) REQUIREMENTS REGARDING COVERAGE.—

(A) IN GENERAL.—The program—

(i) may not, except for charges or assessments related to post-event financing or bonding, involve cross-subsidization between any separate property and casualty lines covered under the program unless the elimination of such activity in an existing program would negatively impact the eligibility of the program to purchase a contract for reinsurance coverage under this Act pursuant to paragraph (3);

(ii) shall include provisions that authorize the State insurance commissioner or other State entity authorized to make such a determination to terminate the program if the insurance commissioner or other such entity determines that the program is no longer necessary to ensure the availability of homeowners' insurance for all residents of the State; and

(iii) shall provide that, for any insurance coverage for homes (which may include dwellings owned under condominium and cooperative ownership arrangements) and the contents of apartments that is made available under the State insurance program and for any reinsurance coverage for such insurance coverage made available under the State reinsurance program, the premium rates charged shall be amounts that, at a minimum, are sufficient to cover the full actuarial costs of such coverage, based on consideration of the risks involved and accepted actuarial and rate making principles, anticipated administrative expenses, and loss and loss-adjustment expenses.

(B) APPLICABILITY.—This paragraph shall apply—

(i) before the expiration of the 2-year period beginning on the date of the enactment of this Act, only to State programs which, after January 1, 2007, commence offering insurance or reinsurance coverage described in subparagraph (A) or (B), respectively, of paragraph (1); and

(ii) after the expiration of such period, to all State programs.

(8) OTHER QUALIFICATIONS.—

(A) REGULATIONS.—

(i) COMPLIANCE.—The State program shall (for the year for which the coverage is in effect) comply with regulations that shall be issued under this paragraph by the Secretary, in consultation with the National Commission on Catastrophe Preparation and Protection established under section 3.

(ii) CRITERIA.—The regulations issued under clause (i) shall establish criteria for State programs to qualify to purchase reinsurance under this section, which are in addition to the requirements under the other paragraphs of this subsection.

(B) CONTENTS.—The regulations issued under subparagraph (A)(i) shall include requirements that—

(i) the State program shall have public members on its board of directors or have an advisory board with public members;

(ii) the State program provide adequate insurance or reinsurance protection, as applicable, for the peril covered, which shall include a range of deductibles and premium costs that reflect the applicable risk to eligible properties;

(iii) insurance or reinsurance coverage, as applicable, provided by the State program is made available on a nondiscriminatory basis to all qualifying residents;

(iv) any new construction, substantial rehabilitation, and renovation insured or reinsured by the program complies with applicable State or local government building, fire, and safety codes;

(v) the State, or appropriate local governments within the State, have in effect and enforce nationally recognized model building, fire, and safety codes and consensus-based standards that offer risk responsive resistance that is substantially equivalent or greater than the resistance to earthquakes or high winds;

(vi) the State has taken actions to establish an insurance rate structure that takes into account measures to mitigate insurance losses;

(vii) there are in effect, in such State, laws or regulations sufficient to prohibit price

gouging, during the term of reinsurance coverage under this Act for the State program in any disaster area located within the State; and

(viii) the State program complies with such other requirements that the Secretary considers necessary to carry out the purposes of this Act.

(b) TERMS OF CONTRACTS.—Each contract under this section for reinsurance coverage under this Act shall be subject to the following terms and conditions:

(1) MATURITY.—The term of the contract shall not exceed 1 year or such longer term as the Secretary may determine.

(2) PAYMENT CONDITION.—The contract shall authorize claims payments for eligible losses only to the eligible State program purchasing the coverage.

(3) RETAINED LOSSES REQUIREMENT.—For each event of a covered peril, the contract shall make a payment for the event only if the total amount of insurance claims for losses, which are covered by qualified lines, occur to properties located within the State covered by the contract, and that result from events, exceeds the amount of retained losses provided under the contract (pursuant to section 8(a)) purchased by the eligible State program.

(4) MULTIPLE EVENTS.—The contract shall—

(A) cover any eligible losses from 1 or more covered events that may occur during the term of the contract; and

(B) provide that if multiple events occur, the retained losses requirement under paragraph (3) shall apply on a calendar year basis, in the aggregate and not separately to each individual event.

(5) TIMING OF ELIGIBLE LOSSES.—Eligible losses under the contract shall include only insurance claims for property covered by qualified lines that are reported to the eligible State program within the 3-year period beginning upon the event or events for which payment under the contract is provided.

(6) PRICING.—

(A) DETERMINATION.—The price of reinsurance coverage under the contract shall be an amount established by the Secretary as follows:

(i) RECOMMENDATIONS.—The Secretary shall take into consideration the recommendations of the Commission in establishing the price, but the price may not be less than the amount recommended by the Commission.

(ii) FAIRNESS TO TAXPAYERS.—The price shall be established at a level that—

(I) is designed to reflect the risks and costs being borne under each reinsurance contract issued under this Act; and

(II) takes into consideration empirical models of natural disasters and the capacity of private markets to absorb insured losses from natural disasters.

(iii) SELF-SUFFICIENCY.—The rates for reinsurance coverage shall be established at a level that annually produces expected premiums that shall be sufficient to pay the expected annualized cost of all claims, loss adjustment expenses, and all administrative costs of reinsurance coverage offered under this section.

(B) COMPONENTS.—The price shall consist of the following components:

(i) RISK-BASED PRICE.—A risk-based price, which shall reflect the anticipated annualized payout of the contract according to the actuarial analysis and recommendations of the Commission.

(ii) ADMINISTRATIVE COSTS.—A sum sufficient to provide for the operation of the Commission and the administrative expenses incurred by the Secretary in carrying out this Act.

(7) INFORMATION.—The contract shall contain a condition providing that the Commission may require a State program that is covered under the contract to submit to the Commission all information on the State program relevant to the duties of the Commission, as determined by the Secretary.

(8) ADDITIONAL CONTRACT OPTION.—

(A) IN GENERAL.—The contract shall provide that the purchaser of the contract may, during a term of such original contract, purchase additional contracts from among those offered by the Secretary at the beginning of the term, subject to the limitations under section 8, at the prices at which such contracts were offered at the beginning of the term, prorated based upon the remaining term as determined by the Secretary.

(B) TIMING.—An additional contract purchased under subparagraph (A) shall provide coverage beginning on a date 15 days after the date of purchase but shall not provide coverage for losses for an event that has already occurred.

(9) OTHERS.—The contract shall contain such other terms as the Secretary considers necessary—

(A) to carry out this Act; and

(B) to ensure the long-term financial integrity of the program under this Act.

(c) PARTICIPATION BY MULTI-STATE CATASTROPHE FUND PROGRAMS.—

(1) IN GENERAL.—Nothing in this Act shall prohibit, and this Act shall be construed to facilitate and encourage, the creation of multi-State catastrophe insurance or reinsurance programs, or the participation by such programs in the program established pursuant to section 4.

(2) REGULATIONS.—The Secretary shall, by regulation, apply the provisions of this Act to multi-State catastrophe insurance and reinsurance programs.

SEC. 8. MINIMUM LEVEL OF RETAINED LOSSES AND MAXIMUM FEDERAL LIABILITY.

(a) AVAILABLE LEVELS OF RETAINED LOSSES.—In making reinsurance coverage available under this Act, the Secretary shall make available for purchase contracts for such coverage that require the sustainment of retained losses from covered perils (as required under section 7(b)(3) for payment of eligible losses) in various amounts, as the Secretary, in consultation with the Commission, determines appropriate and subject to the requirements under subsection (b).

(b) MINIMUM LEVEL OF RETAINED LOSSES.—

(1) CONTRACTS FOR STATE PROGRAMS.—Subject to paragraphs (3) and (4) and notwithstanding any other provision of this Act, a contract for reinsurance coverage under section 7 for an eligible State program that offers insurance or reinsurance coverage described in subparagraph (A) or (B), respectively, of section 7(a)(1), may not be made available or sold unless the contract requires retained losses from covered perils in the following amount:

(A) IN GENERAL.—The State program shall sustain an amount of retained losses of not less than—

(i) the claims-paying capacity of the eligible State program, as determined by the Secretary; and

(ii) an amount, determined by the Secretary in consultation with the Commission, that is the amount equal to the eligible losses projected to be incurred at least once every 50 years on an annual basis from covered perils.

(B) TRANSITION RULE FOR EXISTING PROGRAMS.—

(i) CLAIMS-PAYING CAPACITY.—Subject to clause (ii), in the case of any eligible State program that was offering insurance or reinsurance coverage on the date of the enactment of this Act and the claims-paying capacity of which is greater than the amount determined under subparagraph (A)(i) but less than an amount determined for the program under subparagraph (A)(ii), the minimum level of retained losses applicable under this paragraph shall be the claims-paying capacity of such State program.

(ii) AGREEMENT.—

(I) IN GENERAL.—Clause (i) shall apply to a State program only if the program enters into a written agreement with the Secretary providing a schedule for increasing the claims-paying capacity of the program to the amount determined for the program under subparagraph (A)(ii) over a period not to exceed 5 years.

(II) EXTENSION.—The Secretary may extend the 5-year period under subclause (I) for not more than 5 additional 1-year periods if the Secretary determines that losses incurred by the State program as a result of covered perils create excessive hardship on the State program.

(III) CONSULTATION.—The Secretary shall consult with the appropriate officials of the State program regarding the required schedule and any potential 1-year extensions.

(C) TRANSITION RULE FOR NEW PROGRAMS.—

(i) 50-YEAR EVENT.—The Secretary may provide that, in the case of an eligible State program that, after January 1, 2007, commences offering insurance or reinsurance coverage, during the 7-year period beginning on the date that reinsurance coverage under section 7 is first made available, the minimum level of retained losses applicable under this paragraph shall be the amount determined for the State under subparagraph (A)(i), except that such minimum level shall be adjusted annually as provided in clause (ii) of this subparagraph.

(ii) ANNUAL ADJUSTMENT.—Each annual adjustment under this clause shall increase the minimum level of retained losses applicable under this subparagraph to an eligible State program described in clause (i) in a manner such that—

(I) during the course of such 7-year period, the applicable minimum level of retained losses approaches the minimum level that, under subparagraph (A)(ii), will apply to the eligible State program upon the expiration of such period; and

(II) each such annual increase is a substantially similar amount, to the extent practicable.

(D) REDUCTION BECAUSE OF REDUCED CLAIMS-PAYING CAPACITY.—

(i) AUTHORITY.—Notwithstanding subparagraphs (A), (B), and (C) or the terms contained in a contract for reinsurance pursuant to such subparagraphs, if the Secretary determines that the claims-paying capacity of an eligible State program has been reduced because of payment for losses due to an event, the Secretary may reduce the minimum level of retained losses.

(ii) TERM OF REDUCTION.—

(I) EXTENSION.—The Secretary may extend the 5-year period for not more than 5 additional 1-year periods if the Secretary determines that losses incurred by the State program as a result of covered perils create excessive hardship on the State program.

(II) CONSULTATION.—The Secretary shall consult with the appropriate officials of the State program regarding the required schedule and any potential 1-year extensions.

(E) CLAIMS-PAYING CAPACITY.—For purposes of this paragraph, the claims-paying capacity of a State-operated insurance or reinsurance program under section 7(a)(1) shall be determined by the Secretary, in consultation with the Commission, taking into consideration the claims-paying capacity as determined by the State program, retained losses to private insurers in the State in an amount assigned by the State insurance commissioner, the cash surplus of the program, and

the lines of credit, reinsurance, and other financing mechanisms of the program established by law.

(c) MAXIMUM FEDERAL LIABILITY.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary may sell only contracts for reinsurance coverage under this Act in various amounts that comply with the following requirements:

(A) ESTIMATE OF AGGREGATE LIABILITY.—The aggregate liability for payment of claims under all such contracts in any single year is unlikely to exceed $200,000,000,000 (as such amount is adjusted under paragraph (2)).

(B) ELIGIBLE LOSS COVERAGE SOLD.—Eligible losses covered by all contracts sold within a State during a 12-month period do not exceed the difference between the following amounts (each of which shall be determined by the Secretary in consultation with the Commission):

(i) The amount equal to the eligible loss projected to be incurred once every 500 years from a single event in the State.

(ii) The amount equal to the eligible loss projected to be incurred once every 50 years from a single event in the State.

(2) ANNUAL ADJUSTMENTS.—The Secretary shall annually adjust the amount under paragraph (1)(A) (as it may have been previously adjusted) to provide for inflation in accordance with an inflation index that the Secretary determines to be appropriate.

(d) LIMITATION ON PERCENTAGE OF RISK IN EXCESS OF RETAINED LOSSES.—

(1) IN GENERAL.—The Secretary may not make available for purchase contracts for reinsurance coverage under this Act that would pay out more than 100 percent of eligible losses in excess of retained losses in the case of a contract under section 7 for an eligible State program, for such State.

(2) PAYOUT.—For purposes of this subsection, the amount of payout from a reinsurance contract shall be the amount of eligible losses in excess of retained losses multiplied by the percentage under paragraph (1).

SEC. 9. CONSUMER HURRICANE, EARTHQUAKE, LOSS PROTECTION (HELP) FUND.

(a) ESTABLISHMENT.—There is established within the Treasury of the United States a fund to be known as the Consumer HELP Fund (in this section referred to as the ''Fund'').

(b) CREDITS.—The Fund shall be credited with—

(1) amounts received annually from the sale of contracts for reinsurance coverage under this Act;

(2) any amounts borrowed under subsection (d);

(3) any amounts earned on investments of the Fund pursuant to subsection (e); and

(4) such other amounts as may be credited to the Fund.

(c) USES.—Amounts in the Fund shall be available to the Secretary only for the following purposes:

(1) CONTRACT PAYMENTS.—For payments to covered purchasers under contracts for reinsurance coverage for eligible losses under such contracts.

(2) COMMISSION COSTS.—To pay for the operating costs of the Commission.

(3) ADMINISTRATIVE EXPENSES.—To pay for the administrative expenses incurred by the Secretary in carrying out the reinsurance program under this Act.

(4) TERMINATION.—Upon termination under section 11, as provided in such section.

(d) BORROWING.—

(1) AUTHORITY.—To the extent that the amounts in the Fund are insufficient to pay claims and expenses under subsection (c), the Secretary—

(A) may issue such obligations of the Fund as may be necessary to cover the insufficiency; and

(B) shall purchase any such obligations issued.

(2) PUBLIC DEBT TRANSACTION.—For the purpose of purchasing any such obligations under paragraph (1)—

(A) the Secretary may use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, United States Code; and

(B) the purposes for which such securities are issued under such chapter are hereby extended to include any purchase by the Secretary of such obligations under this subsection.

(3) CHARACTERISTICS OF OBLIGATIONS.—Obligations issued under this subsection shall be in such forms and denominations, bear such maturities, bear interest at such rate, and be subject to such other terms and conditions, as the Secretary shall determine.

(4) TREATMENT.—All redemptions, purchases, and sales by the Secretary of obligations under this subsection shall be treated as public debt transactions of the United States.

(5) REPAYMENT.—Any obligations issued under this subsection shall be—

(A) repaid including interest, from the Fund; and

(B) recouped from premiums charged for reinsurance coverage provided under this Act.

(e) INVESTMENT.—If the Secretary determines that the amounts in the Fund are in excess of current needs, the Secretary may invest such amounts as the Secretary considers advisable in obligations issued or guaranteed by the United States.

(f) PROHIBITION OF FEDERAL FUNDS.—Except for amounts made available pursuant to subsection (d) and section 3(h), no further Federal funds shall be authorized or appropriated for the Fund or for carrying out the reinsurance program under this Act.

SEC. 10. REGULATIONS.

The Secretary, in consultation with the Secretary of the Department of Homeland Security, shall issue any regulations necessary to carry out the program for reinsurance coverage under this Act.

SEC. 11. TERMINATION.

(a) IN GENERAL.—Except as provided in subsection (b), the Secretary may not provide any reinsurance coverage under this Act covering any period after the expiration of the 20-year period beginning on the date of the enactment of this Act.

(b) EXTENSION.—If upon the expiration of the period under subsection (a) the Secretary, in consultation with the Commission, determines that continuation of the program for reinsurance coverage under this Act is necessary or appropriate to carry out the purpose of this Act under section 4(b) because of insufficient growth of capacity in the private homeowners' insurance market, the Secretary shall continue to provide reinsurance coverage under this Act until the expiration of the 5-year period beginning upon the expiration of the period under subsection (a).

(c) REPEAL.—Effective upon the date that reinsurance coverage under this Act is no longer available or in force pursuant to subsection (a) or (b), this Act (except for this section) is repealed.

(d) DEFICIT REDUCTION.—The Secretary shall cover into the General Fund of the Treasury any amounts remaining in the Fund under section 9 upon the repeal of this Act.

SEC. 12. ANNUAL STUDY CONCERNING BENEFITS OF THE ACT.

(a) IN GENERAL.—The Secretary shall, on an annual basis, conduct a study and submit to the Congress a report that—

(1) analyzes the cost and availability of homeowners' insurance for losses resulting from catastrophic natural disasters covered by the reinsurance program under this Act;

(2) describes the efforts of the participating States in—

(A) enacting preparedness, prevention, mitigation, recovery, and rebuilding standards; and

(B) educating the public on the risks associated with natural catastrophe; and

(3) makes recommendations regarding ways to improve the program under this Act and its administration.

(b) CONTENTS.—Each annual study under this section shall also determine and identify, on an aggregate basis—

(1) for each State or region, the capacity of the private homeowners' insurance market with respect to coverage for losses from catastrophic natural disasters;

(2) for each State or region, the percentage of homeowners who have such coverage, the catastrophes covered, and the average cost of such coverage; and

(3) for each State or region, the effects this Act is having on the availability and affordability of such insurance.

(c) TIMING.—Each annual report under this section shall be submitted not later than March 30 of the year after the year for which the study was conducted.

(d) COMMENCEMENT OF REPORTING REQUIREMENT.—The Secretary shall first submit an annual report under this section not later than 2 years after the date of the enactment of this Act.

SEC. 13. GAO STUDY OF THE NATIONAL FLOOD INSURANCE PROGRAM AND HURRICANE-RELATED FLOODING.

(a) IN GENERAL.—In light of the flooding associated with Hurricane Katrina, the Comptroller General of the United States shall conduct a study of the availability and adequacy of flood insurance coverage for losses to residences and other properties caused by hurricane-related flooding.

(b) CONTENTS.—The study under this section shall determine and analyze—

(1) the frequency and severity of hurricane-related flooding during the last 20 years in comparison with flooding that is not hurricane-related;

(2) the differences between the risks of flood-related losses to properties located within the 100-year floodplain and those located outside of such floodplain;

(3) the extent to which insurance coverage referred to in subsection (a) is available for properties not located within the 100-year floodplain;

(4) the advantages and disadvantages of making such coverage for such properties available under the national flood insurance program;

(5) appropriate methods for establishing premiums for insurance coverage under such program for such properties that, based on accepted actuarial and rate making principles, cover the full costs of providing such coverage;

(6) appropriate eligibility criteria for making flood insurance coverage under such program available for properties that are not located within the 100-year floodplain or within a community participating in the national flood insurance program;

(7) the appropriateness of the existing deductibles for all properties eligible for insurance coverage under the national flood insurance program, including the standard and variable deductibles for pre-FIRM and post-FIRM properties, and whether a broader range of deductibles should be established;

(8) income levels of policyholders of insurance made available under the national flood insurance program whose properties are pre-FIRM subsidized properties;

(9) how the national flood program is marketed, if changes can be made so that more people are aware of flood coverage, and how take-up rates may be improved;

(10) the number of homes that are not primary residences that are insured under the national flood insurance program and are pre-FIRM subsidized properties; and

(11) suggestions and means on how the program under this Act can better meet its stated goals as well as the feasibility of expanding the national flood insurance program to cover the perils covered by this Act.

(c) CONSULTATION WITH FEMA.—In conducting the study under this section, the Comptroller General shall consult with the Director of the Federal Emergency Management Agency.

(d) REPORT.—The Comptroller General shall complete the study under this section and submit a report to the Congress regarding the findings of the study not later than 5 months after the date of the enactment of this Act.

SEC. 14. DEFINITIONS.

For purposes of this Act, the following definitions shall apply:

(1) COMMISSION.—The term ''Commission'' means the National Commission on Catastrophe Preparation and Protection established under section 3.

(2) COVERED PERILS.—The term ''covered perils'' means the natural disaster perils under section 6.

(3) COVERED PURCHASER.—The term ''covered purchaser'' means an eligible State-operated insurance or reinsurance program that purchases reinsurance coverage made available under a contract under section 7.

(4) DISASTER AREA.—The term ''disaster area'' means a geographical area, with respect to which—

(A) a covered peril specified in section 6 has occurred; and

(B) a declaration that a major disaster exists, as a result of the occurrence of such peril—

(i) has been made by the President of the United States; and

(ii) is in effect.

(5) ELIGIBLE LOSSES.—The term ''eligible losses'' means losses in excess of the sustained and retained losses, as defined by the Secretary after consultation with the Commission.

(6) ELIGIBLE STATE PROGRAM.—The term ''eligible State program'' means—

(A) a State program that, pursuant to section 7(a), is eligible to purchase reinsurance coverage made available through contracts under section 7; or

(B) a multi-State program that is eligible to purchase such coverage pursuant to section 7(c).

(7) PRICE GOUGING.—The term ''price gouging'' means the providing of any consumer good or service by a supplier related to repair or restoration of property damaged from a catastrophe for a price that the supplier knows or has reason to know is greater, by at least the percentage set forth in a State law or regulation prohibiting such act (notwithstanding any real cost increase due to any attendant business risk and other reasonable expenses that result from the major catastrophe involved), than the price charged by the supplier for such consumer good or service immediately before the disaster.

(8) QUALIFIED LINES.—The term ''qualified lines'' means lines of insurance coverage for which losses are covered under section 5 by reinsurance coverage under this Act.

(9) REINSURANCE COVERAGE.—The term ''reinsurance coverage under this Act'' means coverage under contracts made available under section 7.

(10) SECRETARY.—The term ''Secretary'' means the Secretary of the Treasury.

(11) STATE.—The term ''State'' means the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, and any other territory or possession of the United States.

By Ms. SNOWE (for herself and Mr. CRAIG):

S. 3122. A bill to amend the Small Business Act to improve loans for members of the Guard and Reserve, and for other purposes; to the Committee on Small Business and Entrepreneurship.

Ms. SNOWE. Mr. President, our country has forever prided itself on providing individuals the opportunity to pursue a fair and prosperous existence. Our Nation's free markets enable small business owners to grow their enterprise and realize their dreams. Yet, small business owners and entrepreneurs are not blind to the costs of maintaining a free and open society. These same small business owners and entrepreneurs play a vital role in protecting freedom, at home and abroad, as members of the U.S. National Guard and Reserve Forces.

In recent years, however, the Department of Defense, DOD, has placed greater reliance on our nation's Guard and Reserve forces. In fact, since Septeber 2001, over 550,000 Guard and Reserve members have been called up in support of current operations, at the same time, making up nearly one-third of deployed service members in Iraq and Afghanistan. In addition, Guard and Reserve members have been charged in assisting with recovery efforts in the Gulf Coast, following some of the most devastating natural disasters in our country's history.

As these brave men and women are called to serve our Nation, the small businesses they temporarily leave behind often suffer. Many affected small buinesses experience slowing production and lost sales or incur additional expenses to compensate for an employee's absence. As a result, self-employed Guard and Reserve members and small businesses that employ Guard and Reserve members are ''paying'' a disproportionate and unfair share of the burden of increased call-ups. This is particularly troubling, because according to the majority of non-government-employed Guard and Reserve members are either self-employed or work for small businesses.

To help stem the ill affects of Guard and Reserve call-ups on small businesses, Senator CRAIG and I are introducing the Patriot Loan Act of 2006. This legislation improves the U.S. Small Business Administration's Military Reservist Economic Injury Disaster Loan, MREIDL, program. The MREIDL program was created to provide funds to eligible small businesses to meet ordinary and necessary operating expenses that the business cannot meet, because an essential employee was ''called-up'' to active duty in their role as a military reservist.

Specifically, our legislation would raise the maximum military reservist loan amount from $1,500,000 to $2,000,000. A maximum military reservist loan amount of $2,000,000 is the same level as many ofthe SBA's other loan programs, including: the 7(a) loans, international trade loans, and 504 Certified Development Corporation loans that serve a public policy goal.

This bill would allow the SBA Administrator, either directly or through banks to offer loans up to $25,000 without requiring collateral fr a loan applicant. Currently, the BA offers military reservist loans up to $5,000 without requiring collateral. This provision would increase that level to eligible small businesses.

The bill would also require the Administrator to give military reservist loan applications priority for processing and ensure that Guard and Reserve members are adequately assisted with their loan application by incorporating the support and expertise of SBA entrepreneurial development partners, such as Small Business Development Centers.

Finally, the legislation requires the SBA and DOD to develop a joint website and printed materials providing information regarding the MREIDL program for Guard and Reserve members, and that the SBA and DOD jointly conduct a feasibility study on introducing business mobilization and interruption insurance for members of the Guard and Reserve forces, and increased utilization of credit unions affiliated with the DOD.

I thank Senator CRAIG for working with me to help address this critical issue and I urge my colleagues to support this bill.

By Mr. LEAHY:

S. 3123. A bill to suspend temporarily the duty on ski and snowboard pants; to the Committee on Finance.

Mr. LEAHY. Mr. President, I ask unanimous consent that the text of the five bills on suspending duties be printed in the RECORD.

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

S. 3123

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

SECTION 1. SKI AND SNOWBOARD PANTS

(a) IN GENERAL.—Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

9902.62.03. Ski/snowboard pants (provided for in subheading 6210.40.50). Free. No change. No change. On or before 12/31/2009.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

By Mr. LEAHY:

S. 3124. A bill to suspend temporarily the duty on ski boots, cross country

ski footwear and snowboard boots; to the Committee on Finance.

S. 3124

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

SECTION 1. EXTENSION OF CERTAIN EXISTING DUTY SUSPENSIONS AND REDUCTIONS

(a) OTHER MODIFICATIONS.—

(1) SNOWBOARD BOOTS.—Heading 9902.64.04 of the Harmonized Tariff Schedule of the United States is amended—

(A) by striking ''Snowboard'' and inserting ''Ski boots, cross country ski footwear and snowboard'';

(B) by striking ''4%'' and inserting ''Free''; and

(C) by striking ''12/31/2006'' and inserting ''12/31/2009'',

(b) EFFECTIVE DATE.—The amendments made by subsection (a) apply to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

By Mr. LEAHY:

S. 3125. A bill to suspend temporarily the duty on ski and snowboard pants; to the Committee on Finance.

S. 3125

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

SECTION 1. SKI AND SNOWBOARD PANTS

(a) IN GENERAL.—Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

9902.62.01. Ski/snowboard pants (provided for in subheading 6203.43.35). Free. No change. No change. On or before 12/31/2009.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

By Mr. LEAHY:

S. 3126. A bill to suspend temporarily the duty on ski and snowboard pants; to the Committee on Finance.

S. 3126

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

SECTION 1. SKI AND SNOWBOARD PANTS

(a) IN GENERAL.—Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

9902.62.02. Ski/snowboard pants (provided for in subheading 6204.63.30). Free. No change. No change. On or before 12/31/2009.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

By Mr. LEAHY:

S. 3127. A bill to suspend temporarily the duty on ski and snowboard pants; to the Committee on Finance.

S. 3127

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

SECTION 1. SKI AND SNOWBOARD PANTS.

(a) IN GENERAL.—Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

9902.62.04. Ski/snowboard pants (provided for in subheading 6210.50.50). Free. No change. No change. On or before 12/31/2009.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

By Mr. BINGAMAN (for himself and Mr. LUGAR):

S. 3171. A bill to establish the Department of Commerce an Under Secretary for United States Direct Investment, and for other purposes.

Mr. BINGAMAN. Mr. President, I rise today to introduce ''The United States Direct Investment Act of 2006'' with my colleague from Indiana, Senator LUGAR. This legislation is a necessary step towards making our country more competitive in encouraging multinational businesses to expand or open new offices, facilities or plants in the United States instead of in another country. While the United States continues to be the premier place in the world to locate a business, we can no longer rely on our inherent advantages alone. This legislation will refocus the Administrations efforts so that we do a better job of reaching out to businesses around the world and convince them that they should expand their current operations or open new facility in the United States instead of somewhere else overseas.

Our legislation creates the United States Direct Investment Administration, USDIA, the Commerce Department to be lead by an Under Secretary. This new administration shall be responsible for collecting and analyzing data related to foreign direct investment flows. They shall create an annual Investment Report and an annual Direct Investment Agenda to be reported and sent to Congress. They will then assume responsibility as the lead agency for advocating and implementing strategic policies to encourage more investment in the United States from abroad. This new administration will manage an investment zone program for communities that have been negatively impacted by trade but want to attract international companies to locate in their area. Finally, this new administration will be empowered to create ten new ''renewal communities'' as currently defined under the Internal Revenue Code.

Many countries, particularly those in Europe, have committed significant resources and energy to recruiting foreign direct investment. In many cases, they have offices in the United States where they meet with U.S. companies to encourage them to consider their country for their next expansion. Right now our country does not have any comparable operation. We leave these efforts to our states, region and cities through economic development agencies and offices. Unlike other countries, we don't provide a Federal umbrella organization to help these people recruit more effectively. Because of their limited resources, this means that many of these economic development agencies are unable to effectively target potential businesses that might be an ideal fit for their city or State. In some cases, these areas may be going through an economic downturn due to the closing of a plant or factory making their limited resources even more scarce. This legislation would give these agencies the assistance and guidance they need to be more successful and effective in their recruiting efforts.

It is important that we focus not only on how to get businesses to stay in this country, but also on how we encourage overseas businesses to come here. In both cases, the end result is the same—more jobs for U.S. workers. Our first responsibility needs to be encouraging companies to stay in the United States, but we need to be cognizant of the fact that we will not always be successful. If we have a robust effort to encourage overseas companies to move facilities to our country we will be able to neutralize any unavoidable losses. Many of the pieces are already in place. We already collect much of the data and have an effective matrix of State, regional and local economic development entities. What this legislation does is put these pieces together in a way that accomplishes the primary job at hand—creating jobs in the United States.

I ask for unanimous consent 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. 3171

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 ''United States Direct Investment Act of 2006''.

SEC. 2. DEFINITIONS.

In this Act:

(1) ADMINISTRATION.—The term ''Administration'' means the United States Direct Investment Administration established under section 4.

(2) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ''appropriate congressional committees'' means the Committee on Finance and the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce and Committee on Ways and Means of the House of Representatives.

(3) CRITICAL HIGH-TECHNOLOGY INDUSTRIES.—The term ''critical high-technology industries'' means industries involved in technology—

(A) the development of which will—

(i) provide a wide array of economic, environmental, energy, and defense-related returns for the United States; and

(ii) ensure United States economic, environmental, energy, and defense-related welfare; and

(B) in which the United States has an abiding interest in creating or maintaining secure domestic sources.

(4) DEPARTMENT.—The term ''Department'' means the Department of Commerce.

(5) UNDER SECRETARY.—The term ''Under Secretary'' means the Under Secretary of Commerce for United States Direct Investment described in section 4(a).

(6) UNITED STATES DIRECT INVESTMENT PROMOTION COMMITTEE.—The term ''United

States Direct Investment Promotion Committee'' means the Interagency United States Direct Investment Promotion Committee established under section 7.

(7) WTO AGREEMENT.—The term ''WTO Agreement'' means the Agreement establishing the World Trade Organization entered into on April 15, 1994.

SEC. 3. RELATION TO CFIUS.

The provisions of this Act shall not affect the implementation or application of section 721 of the Defense Production Act of 1950 (50 U.S.C. App. 2170) and the activities of the Committee on Foreign Investment in the United States (or any successor committee).

SEC. 4. ESTABLISHMENT OF UNITED STATES DIRECT INVESTMENT ADMINISTRATION.

(a) IN GENERAL.—There is established in the Department of Commerce a United States Direct Investment Administration which shall be headed by an Under Secretary of Commerce for United States Direct Investment. The Under Secretary shall be appointed by the President, by and with the advice and consent of the Senate, and shall be compensated at the rate provided for level III of the Executive Schedule in section 5314 of title 5, United States Code.

(b) DEPUTY UNDER SECRETARY.—There shall be in the Administration a Deputy Under Secretary for United States Direct Investment who shall be appointed by the President, by and with the advice of the Senate, and shall be compensated at the rate provided for level IV of the Executive Schedule in section 5315 of title 5, United States Code.

(c) STAFF.—The Under Secretary may appoint such additional personnel to serve in the Administration as the Under Secretary determines necessary.

(d) DUTIES.—The Under Secretary, in cooperation with the Economics and Statistics Administration and other offices at the Department, shall—

(1) collect and analyze data related to the flow of direct investment in the United States and throughout the world, as described in section 5;

(2) submit to the appropriate congressional committees an annual United States Direct Investment Report, as described in section 6;

(3) develop and publish an annual United States Direct Investment Agenda;

(4) assume responsibility as the lead agency for advocating and implementing strategic policies that will increase direct investment in the United States;

(5) coordinate with the President regarding implementation of section 721 of the Defense Production Act of 1950 (50 U.S.C. App. 2170) and the activities of the Committee on Foreign Investment in the United States (or any successor committee); and

(6) in cooperation with the Economic Development Administration, administer an investment zone program for communities that have been negatively impacted by either trade or economic cycles.

(e) CONFORMING AMENDMENTS.—

(1) Section 5314 of title 5, United States Code, is amended by adding at the end the following: ''Under Secretary of Commerce for United States Direct Investment.''.

(2) Section 5315 of title 5, United States Code, is amended by adding at the end the following: ''Deputy Under Secretary of Commerce for United States Direct Investment.''.

SEC. 5. ANNUAL DIRECT INVESTMENT REPORT.

(a) ANNUAL DIRECT INVESTMENT REPORT.—Not later than April 30, 2007, and on or before March 31 of each succeeding calendar year, the Under Secretary shall submit a report on the data identified and the analysis described in subsection (b) for the preceding calendar year (which shall be known as the ''Annual Direct Investment Report''). The Report shall be submitted to the President and the appropriate congressional committees.

(b) DATA IDENTIFICATION.—

(1) IN GENERAL.—The data identified and analysis for the Report described in subsection (a) means the data identified and analyzed by the Under Secretary of Commerce, in cooperation with the Economic and Statistics Administration and other offices at the Department and with the assistance of other departments and agencies, including the Office of the United States Trade Representative, for the preceding calendar year regarding the following:

(A) Policies, programs, and practices at the State and regional level designed to attract direct investment.

(B) The amount of direct investment attracted in each such State and region.

(C) Policies, programs, and practices in foreign countries designed to attract direct investment, and the amount of direct investment attracted in each such foreign country.

(D) A comparison of the levels of direct investment attracted in the United States and in foreign countries, including a matrix of inputs affecting the level of direct investment.

(E) Specific sectors in the United States and in foreign countries in which direct investments are being made, including the specific amounts invested in each sector, with particular emphasis on critical high-technology industries.

(F) Trends in direct investment, with particular emphasis on critical high-technology industries.

(G) The best policy and practices at the Federal, State, and regional levels regarding direct investment policy, with specific reference to programs and policies that have the greatest potential to increase direct investment in the United States and enhance United States competitive advantage relative to foreign countries. Particular emphasis should be given to attracting direct investment in critical high-technology industries.

(H) Policies, programs, and practices in foreign countries designed to attract direct investment that are not in compliance with the WTO Agreement and the agreements annexed to that Agreement.

(2) CERTAIN FACTORS TAKEN INTO ACCOUNT IN MAKING ANALYSIS.—In making any analysis under paragraph (1), the Under Secretary shall take into account—

(A) the relative impact of policies, programs, and practices of foreign governments on United States commerce;

(B) the availability of information to document the effect of policies, programs, and practices;

(C) the extent to which such act, policy, or practice is subject to international agreements to which the United States is a party; and

(D) the impact trends in direct investment have had on—

(i) the competitiveness of United States industries in the international economy, with particular emphasis on critical high-technology industries;

(ii) the value of goods and services exported from and imported to the United States;

(iii) employment in the United States, in particular high-wage employment; and

(iv) the provision of health care, pensions, and other benefits provided by companies based in the United States.

(c) ASSISTANCE OF OTHER AGENCIES.—

(1) FURNISHING OF INFORMATION.—The head of each department or agency of the executive branch of the Government, including any independent agency, is authorized and directed to furnish to the Under Secretary, upon request, such data, reports, and other information as is necessary for the Under Secretary to carry out the functions under this Act.

(2) RESTRICTIONS ON RELEASE OR USE OF INFORMATION.—Nothing in this subsection shall authorize the release of information to, or the use of information by, the Under Secretary in a manner inconsistent with law or any procedure established pursuant thereto.

(3) PERSONNEL AND SERVICES.—The head of any department, agency, or instrumentality of the United States may detail such personnel and may furnish such services, with or without reimbursement, as the Under Secretary may request to assist in carrying out the functions of the Under Secretary.

(d) ANNUAL REVISIONS AND UPDATES.—The Under Secretary shall annually revise and update the Report described in subsection (a).

SEC. 6. ANNUAL DIRECT INVESTMENT AGENDA.

(a) IN GENERAL.—Not later than April 30, 2007, and on or before March 31 of each succeeding calendar, the Under Secretary shall submit an agenda based on the data and analysis described in section 5 for the preceding calendar year, to the President and the appropriate congressional committees. The agenda shall be known as the ''Annual Direct Investment Agenda'' and shall include—

(1) an evaluation of the research and development program expenditures being made in the United States with particular emphasis to critical high-technology industries considered essential to United States economic security and necessary for long-term United States economic competitiveness in world markets; and

(2) proposals that identify the policies, programs, and practices in foreign countries and that the United States should pursue that—

(A) encourage direct investment in the United States that will enhance the country's competitive advantage relative to foreign countries, with particular emphasis on critical high-technology industries;

(B) enhance the viability of the manufacturing sector in the United States;

(C) increase opportunities for high-wage jobs and promotes high levels of employment;

(D) encourage economic growth; and

(E) increase opportunities for the provision of health care, pensions, and other benefits provided by companies based in the United States.

(b) CONSULTATION WITH CONGRESS ON ANNUAL DIRECT INVESTMENT AGENDA.—The Under Secretary shall keep the appropriate congressional committees currently informed with respect to the Annual Direct Investment Agenda and implementation of the Agenda. After the submission of the Agenda, the Under Secretary shall also consult periodically with, and take into account the views of, the appropriate congressional committees regarding implementation of the Agenda.

SEC. 7. UNITED STATES DIRECT INVESTMENT PROMOTION COMMITTEE.

(a) ESTABLISHMENT.—The President shall establish and the Under Secretary shall assume lead responsibility for an Interagency United States Direct Investment Promotion Committee. The functions of the Committee shall be to—

(1) coordinate all United States Government activities related to the promotion of direct investment in the United States;

(2) advocate and implement strategic policies, programs, and practices that will increase direct investment in the United States;

(3) train United States Government officials to pursue strategic policies, programs, and practices that will increase direct investment in the United States;

(4) consult with business, labor, State, regional, and local government officials on strategic policies, programs, and practices that will increase direct investment in the United States;

(5) develop and publish materials that can be used by Federal, State, regional, and local government officials to increase direct investment in the United States;

(6) create and maintain a database of direct investment opportunities in the United States;

(7) create and maintain an interactive website that can be used to access direct investment opportunities in different sectors and geographical areas of the United States, with particular emphasis on critical high-technology industries;

(8) coordinate direct investment marketing activities with State Economic Development Agencies; and

(9) host regular meetings and discussions with State, regional, and local economic development officials to consider best policy practices to increase direct investment in the United States.

(b) MEMBERS.—The Committee shall be composed of the following:

(1) The Secretary of Commerce.

(2) The United States Trade Representative.

(3) Members of the United States International Trade Commission.

(4) The Secretary of the Treasury.

(5) Members of the National Economic Council.

(6) The Secretary of Agriculture.

(7) Such other officials as the President determines to be necessary.

SEC. 8. DESIGNATION OF ADDITIONAL RENEWAL COMMUNITIES.

Section 1400E of the Internal Revenue Code of 1986 (relating to designation of renewal communities) is amended by adding at the end the following new subsection:

''(h) ADDITIONAL DESIGNATIONS PERMITTED.—

''(1) IN GENERAL.—In addition to the areas designated under subsection (a), the Under Secretary of Commerce for United States Direct Investment, after consultation with the Secretary of the Treasury, may designate in the aggregate an additional 10 nominated areas as renewal communities under this section, subject to the availability of eligible nominated areas.

''(2) PERIOD DESIGNATIONS MAY BE MADE AND TAKE EFFECT.—A designation may be made under this subsection after the date of the enactment of this subsection and before the date which is 5 years after such date of enactment. Subject to subparagraphs (B) and (C) of subsection (b)(1), a designation made under this subsection shall remain in effect during the period beginning with such designation and ending on the date which is 8 years after such designation.

''(3) APPLICATION OF RULES.—Except as otherwise provided in paragraph (1), the rules of this section shall apply to designations under this subsection.''.

Mr. LUGAR. Mr. President, I rise today in support of S. 3171, the United States Direct Investment Act of 2006, introduced by Senator BINGAMAN and myself. At a time when commerce routinely crosses national borders, the U.S. should be positioned to compete in all arenas. That means not only strengthening the ability of American business to invest and sell their products in foreign markets, but equally important, attracting foreign companies to the American market. Other nations actively recruit and provide incentives for global companies to set up operations and create new jobs within their borders. We must do the same.

To this end, we propose to establish a framework within the Department of Commerce to specifically study how we can better encourage global companies to invest and set up businesses on our shores. It is essential as well, that we determine where this investment is needed. There are certain communities in the U.S. that are in extreme need of an infusion of economic growth and the opportunity to take part in the global economy. The U.S. has a talented and skilled workforce. We need to lead foreign companies and entrepreneurs to the cities and towns where they can find the resources they require. If this information is readily available, and if we provide incentives for companies to come, we will significantly increase the amount of foreign investment coming into our country.

In 2005, foreign companies accounted for $129 billion worth of investments in the United States. This money translates into jobs and prosperity for Americans. The best way to ensure that this valuable investment is spread more widely throughout the 50 States is by conducting the sort of analysis proposed in this bill. We should keep track of both the quantity of investment attracted to each particular state and region, and as well as the types of investment foreigners make, particularly in the high technology industry. We should conduct an analysis of the industries that are investing in the U.S. compared to the industries that are going to other countries. We also need to assess which policies and programs have had the most success in attracting foreign investment.

It is particularly important to attract research and development and high technology industries. These have a multiplier effect that helps increase the overall competitiveness of the American economy. We should create incentives for high technology companies to develop and invest in a U.S. presence and workforce.

Another key feature of the bill is consultations with local and regional authorities, as well as Congress. The administration should determine the needs of particular localities and what the federal government can do to assist local efforts in attracting foreign investment. Congress should also be consulted so that information can be relayed regarding regions of the country that are suffering from a lack of high wage jobs.

Global business ties are vital tools in shaping our international business and foreign policy. Cooperation on the commercial front enhances our ability to work with nations on other matters, including security and intelligence. This bill offers a positive solution to the concerns over domestic job growth by seeking to ensure that globalization is a two-way street with more investment traffic flowing in our direction.

By Mr. LEAHY:

S. 3175. A bill to amend title 35, United States Code, with respect to establishing procedures for granting authority to the Under Secretary for Commerce for Intellectual Property and Director of the Patent and Trademark Office to grant compulsory patent licenses for exporting patented pharmaceutical products to certain countries consistent with international commitments made by the United States, and for other purposes; to the Committee on the Judiciary.

Mr. LEAHY. Mr. President, I am today introducing a bill which can be the catalyst for saving the lives or improving the health of millions of families in impoverished nations.

In far too many nations, thousands of children die needlessly each month.

The concept of my bill—called the Life-Saving Medicines Export Act of 2006—is easy to summarize.

It allows U.S. companies to make low-cost generic versions of patented medicines for export to impoverished nations that face public health crises but cannot produce those life-saving medicines for themselves.

This bill is based on World Trade Organization agreements permitting nations with pharmaceutical industries to help nations in need.

That WTO agreement was labeled by U.S. Ambassador Portman as ''a landmark achievement that we hope will help developing countries devastated by HIV and AIDS and other public health crises.''

Apart from the pressing need for this step in humanitarian terms, passage of this bill could go a long way in improving U.S. relations with large segments of the world's population.

On December 6, 2005, the Office of the U.S. Trade Representative announced that it ''welcomes'' efforts to ''allow countries to override patent rights when necessary to export life-saving drugs to developing countries that face public health crises but cannot produce drugs for themselves.''

I am concerned, however, that the administration has taken no steps whatsoever to begin to implement that agreement. No implementing legislation has been provided to the Hill. I was informed just today that the administration has ''no present plans'' to propose legislation to implement that international agreement. I am disappointed with that answer but am pleased that the administration expressed a willingness to work with me on this important effort. I will forward my bill to them later today.

Indeed, the World Health Assembly and the World Health Organization have adopted resolutions urging all WTO member nations with a generic capability to adopt laws that implement that agreement.

The World Bank recently issued a guide and model documents on how

best to implement that international agreement. My bill follows their model.

Like a generation ago, infectious and parasitic diseases remain the major killers of children in the developing world. Many of these diseases—measles, malaria, river blindness—we can prevent or cure. But those countries still lack the public health systems and the vital medicines.

Every hour, more than 500 African mothers lose a child, mostly from diseases caused by contaminated water.

In some sub-Saharan countries, HIV infection rates range as high as a third of the adult population, and for this reason 35 percent of African children are at higher risk of death than they were a decade ago.

Despite these grim statistics, there is a brighter side.

We are far more aware today of how much our own health depends on what takes place half a world away. Whether it is AIDS, SARS, West Nile Virus, the Avian Flu, or some as yet unknown infectious disease, we are all at risk, and only an airplane flight away, from wherever the outbreak may occur.

Because of this new awareness, global health is finally recognized as an issue of national security. It may seem obvious today, but even ten years ago it was not.

Health threats that once concerned only medical personnel, now receive the attention of the highest levels of governments. We are supporting policies and programs to help the poorest countries conduct better surveillance and respond more quickly to protect their own people, and to prevent the spread of disease.

There is a great deal more we need to do. Today, 15 percent of the world's people consume 91 percent of the world's pharmaceuticals. The high price of many life-saving medicines—medicines that we take for granted in this country—is beyond reach for billions of the world's most vulnerable populations.

President Franklin Roosevelt said: ''The test of our progress is not whether we add more to the abundance of those who have much, it is whether we provide enough for those who have little.''

Imagine if you, or a loved one, were dying and you knew the medicine to cure the disease exists and costs only a few dollars, but you have no way to get it or to pay for it. That is a reality for millions of people today.

Reports by UNICEF, UNAIDS, and Doctors without Borders clearly show that the high price of many life-saving medicines is a significant barrier to their availability in many very low income areas of the world. Indeed, the 4th Global Report of UNAIDS notes the extremely low rate of treatment for HIV/AIDS in those areas by pointing out that of the 5 to 6 million urgently in need of antiretroviral medicines, only some 400,000 were receiving them.

With respect to AIDS, a recent book by Philip Hilts called ''Prescription for Survival'' notes the importance of offering affordable medicines to populations of impoverished nations:

''It was said that the price of the drugs was killing tens of thousands . . .''

Under my bill, U.S. generic manufacturers would be allowed to make generic versions of patented drugs without the consent of the patent holders.

Those patent holders would receive compensation in the form of a royalty payment under a so-called ''compulsory license'' and the generic companies would then be required to sell those less-expensive generic drugs only to least-developed or developing nations.

Use of a compulsory license occurs when Congress determines that there is an important need which should be addressed.

For example, most Americans do not realize that their network television programs received by satellite or by cable are provided under a compulsory license. The program owners receive a royalty for their programs under a formula.

This way American families can watch network TV programming over satellite or cable just like it is made available over-the-air. This same compulsory license approach, except with respect to patented medicines, is employed in this bill.

The WTO agreement contains language designed to protect the interests of the patent holders by focusing its benefits on areas of the world where these important medicines would not otherwise be available except for some of the wealthiest residents.

Thus, implementation of the agreement would not take business away from the companies owning the patents, sometimes referred to as the ''brand-name'' companies, since their medicines are not purchased by low-income families in those impoverished nations.

In addition, the patent holders will receive royalties from the generic companies under the bill. Third, generic versions of products sold under the agreement have to be clearly marked as not for resale to developed nations. This will mean that the bill should not result in undercutting the high-priced sales of those medicines by the brand-name companies in developed nations.

Thus, the bill addresses both the urgent needs of millions of low-income families in impoverished nations while protecting the interests of the patent owners of these life-saving medicines.

There have been significant voluntary efforts made by brand-name pharmaceutical companies, foundations, and non-profits who have donated life-saving medicines and have donated time, personnel and money to help in the fight against deadly diseases in other nations. I commend and greatly appreciate those efforts.

Some funding mechanisms have been started including the Global Fund to Fight AIDS, Tuberculosis and Malaria and President Bush's Millennium Challenge Account. Nonetheless, much remains to be done.

If this bill is enacted it would complement the above efforts and implement the WTO agreements and make low-cost life-saving pharmaceutical products, and other medicines, available to hundreds of thousands of persons without other access to those products.

To provide a little history, I am very pleased that all the member nations of the World Trade Organization, WTO, agreed to this approach to assist people suffering from life-threatening diseases in least-developed or developing nations. Under this international agreement, nations such as the United States with pharmaceutical industries would be allowed to make and sell generic medicines to nations in need even if the patent owners of those medicines refused to authorize such manufacture and sale.

As I said earlier, on December 6, 2005, the United States announced that it ''welcomes'' the WTO amendment to ''allow countries to override patent rights when necessary to export life-saving drugs to developing countries that face public health crises but cannot produce drugs for themselves.'' The amendment will go in effect, for those nations which adopt it, once ⅔ of the member nations adopt it. The current waiver approach, allowing nations to implement it now, will remain in place until the permanent amendment is adopted. This permits the U.S. to move forward with this effort this year. Indeed, Canada has already passed implementing legislation.

Participation by any nation which wants to export such generic products is voluntary. In order to participate, each country must pass legislation to implement the WTO agreement. The United States needs to act as soon as possible.

This is a moral issue. I am working with a number of religious groups, humanitarian organizations, international assistance groups, and generic drug companies on this effort. I have also received input from some pharmaceutical brand-name companies and hope a few will step forward and be leaders in this effort. I will also reach out across the aisle to try to form a bipartisan coalition.

Two recent World Health Organization annual reports, the World Health Reports for 2003 and 2004, demonstrate the enormous scope of the need for supplying these medicines to needy countries. The ''Life-Saving Medicines Export Act of 2006'' that I am introducing today would allow the U.S. generic industry to respond to these urgent international needs and could save millions of lives in impoverished nations.

Canada, Norway and the Netherlands have already enacted such legislation or rule changes. However, aspects of the Canadian law have been an impediment to the willingness of generic companies to participate. For example,

that law allows Canadian generic companies to provide such medicines for at most only 4 years. The Canadian version permits dilatory and needless litigation, omits important medicines from a complex list of covered drugs, and creates unnecessary bureaucratic hoops.

I have received input from generic companies and my bill addresses all of those concerns. For example, it would provide that a participating generic manufacturer could provide such medicines for up to 14 years which makes it much more likely that U.S. generic companies would make the investments needed to make low-cost medicines for export to impoverished areas.

Under my bill, U.S. generic manufacturers would be allowed to make generic versions of patented drugs without the consent of the patent holders. Those patent holders would receive compensation, a royalty payment, under a so-called ''compulsory license'' and the generic companies would then be required to sell those less-expensive generic drugs only to least-developed or developing nations.

The WTO agreement contains language designed to protect the interests of the patent holders by focusing its provisions on areas of the world where these important medicines would not otherwise be available except for some of the wealthiest residents. Thus, implementation of the agreement would not take business away from the companies owning the patents, sometimes referred to as the ''brand-name patent holders since their medicines are not purchased by low-income families in those impoverished nations. There may be de minimis losses of profits for brand-name patent holders but certainly the humanitarian and self-interest benefits provided by the bill would massively outweigh those concerns.

In addition, the patent holders will receive royalties from the generic companies under the bill. Third, generic versions of products sold under the agreement have to be clearly marked as not for resale to developed nations. This should mean that the bill will not result in undercutting the high-priced sales of the patented medicines in developed nations. Re-exporting of these generic products is prohibited unless it is part of a regional trade alliance among impoverished nations as permitted under the WTO agreements.

Thus, the bill addresses both the urgent needs of millions of low-income families in impoverished nations while protecting the interests of the patent owners of these life-saving medicines and will hopefully help enhance America's image in the world.

For those only interested in self-interest rather than humanitarian aid, note that because of the globalization of travel our Nation is at risk from failure to contain diseases in other nations. America has a strong self-interest in combating diseases in foreign nations. A surprising number of new diseases have emerged in recent years. Some of these new diseases are variations of existing diseases. The volume of people and cargo going to and from distant nations is astounding. According to ''Rx for Survival'' by Philip Hilts, if you count only travel between nations with a heavy burden of disease and those with less disease, more than a million people a week are making the trip.

The more viruses and bacteria mutant inside animals and people, and the more people and goods travel throughout the world, the more residents living in the United States are at risk of being harmed by dangerous diseases.

The National Intelligence Estimate of January 2000, published by the CIA and the National Intelligence Council noted that: ''New and emerging infectious diseases will pose a rising global health threat, and will complicate U.S. and global security over the next 20 years. These diseases will endanger U.S. citizens at home and abroad, threaten United States armed forces deployed overseas and exacerbate social and political instability in key countries and regions.''

I hope all my colleagues will join me in supporting this effort. Here is my section-by-section summary of the bill.

Section 1: Sets forth the name of the Act as the ''Life-Saving Medicines Export Act of 2006.''

Section 2: States that the purpose of the Act is to promote public health under World Trade Organization agreements by permitting the export of generic versions of life-saving patented pharmaceutical products and other medicines including diagnostic tools and vaccines needed to prevent or treat potentially life threatening diseases to residents of impoverished countries with insufficient or no manufacturing capacity to make the medicines. The findings set forth determinations by the World Health Organization concerning the millions of low-income persons without regular access to medicines in lesser-developed or developing nations.

Section 3: This section requires the Director of the United States Patent and Trademark Office to issue a compulsory license (permission to make and sell a patented product under this new Act) to permit generic companies to make and export medicines under the terms of WTO international agreements under several conditions.

The recipient country must be a least-developed nation, as defined by the United Nations, or a developing nation without the ability to manufacture the medicine in question.

The recipient country, called an ''eligible country'' in the bill, must notify the WTO of its interest in participating in this program.

Efforts must have been made by the generic company to buy the right to make and sell the medicine under normal business arrangements with the patent holders.

The medical product exported under this Act must be for life-threatening public health problems and can only be used in least-developed or developing nations, and is not for re-export except in identified circumstances relating to regional trade alliances.

Special labeling and packaging must be used to make clear that the product is sold under the authority of the WTO agreement only for use as allowed under agreement and this bill.

The permission to make and sell the product, the license, can not exceed 7 years, except that the license may be extended once.

The holder of the compulsory license shall pay a royalty to the patent holder, as determined by the Director of the PTO within a limited range of possible rates set forth in the bill, taking into account such factors as humanitarian needs, the economic value to the importing nation, and the need for low-cost pharmaceutical products by persons in the importing nation.

The maximum royalty for any shipment shall not exceed 4 percent times the commercial value of the pharmaceutical products to be exported under this Act under that supply agreement.

An alternative royalty payment approach, modeled after the approach enacted into law by Canada, would also be permitted with the same 4 percent maximum. In addition, the Director may accept combined applications from multiple eligible countries. Note that in emergency situations the Director may waive provisions of the bill in a manner consistent with the WTO agreements.

Section 4: This section makes clear that compulsory licenses issued under this Act shall not be considered an infringement of a patent.

Section 5: This section creates a diverse advisory board of academic, patent, trade, medical, international aid, and industry experts to advise the Director, and to report to the Congress, on ways to improve implementation of the bill to achieve its purposes. Mandatory funding for the board is provided out of the general fund of the U.S. at $1.5 million in fiscal years 2007 and 2008, with modestly declining amounts provided in subsequent years through 2011.

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. 3175

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 ''Life-Saving Medicines Export Act of 2006''.

SEC. 2. PURPOSES AND FINDINGS.

(a) PURPOSE.—The purpose of this Act is to promote public health by permitting the export of life-saving pharmaceutical products and other medicines manufactured in the United States by compulsory license to residents of participating countries with insufficient or no manufacturing capability in the pharmaceutical sector for the product in

question consistent with the General Council Decision of the World Trade Organization.

(b) FINDINGS.—Congress finds the following:

(1) The United States Trade Representative recently announced that it ''welcomes'' the World Trade Organization amendment to ''allow countries to override patent rights when necessary to export life-saving drugs to developing countries that face public health crises but cannot produce drugs for themselves.''. United States Ambassador Portman called this ''a landmark achievement that we hope will help developing countries.''.

(2) Compulsory licensing of patents is a ''fixture in almost all patent systems'' in the world as noted in the Berkeley Technology Law Journal in 2003. By the end of the 1950s, for example, an estimated 40,000 to 50,000 compulsory licenses were issued regarding patents in the United States. (Access to Patented Medicine in Developing Countries, F.M. Scherer, www.cmhealth.org/docswg4; World Health Organization). Indeed, the WHO paper notes that the ''United States has led the world in issuing compulsory licenses to restore competition when violations of the antitrust laws have been found, or in the negotiated settlement of antitrust cases before full adjudication has occurred.''

(3) The vast majority of people living in developing countries or least developed nations have limited or no access to many medicines that are saving and extending lives of those in other, more developed nations. Since sales of the patented, brand-name versions of such medicines are minimal or non-existent in many impoverished regions of the world providing generic versions of those medicines under the WTO General Council Decision will have minimal impact on the sales of brand-name, patented versions in such regions.

(4) The World Health Organization has estimated that ⅓ of the world's population lacks regular access to essential medicines, including antiretroviral drugs, and that a number of essential medicines are under patent.

(5) Medicines and vaccines are needed throughout the world to combat newly arising public health threats such as the avian flu. A United States National Intelligence Estimate in January 2000 notes that ''New and emerging infectious diseases will pose a rising global health threat. . . ''.

(6) Millions of people with HIV/AIDS in developing countries need antiretroviral drugs. More than 40,000,000 people worldwide have HIV and 95 percent of them live in developing countries. Malaria, tuberculosis, and other infectious diseases kill millions of people a year in developing nations.

(7) Comprehensive reports of the World Health Organization of the United Nations, in 2004 and 2005 detail the urgent need for pharmaceutical products in developing countries and in least developed nations.

(8) The World Trade Organization decisions of August 30, 2003, on access to generic medicines is now being considered by member nations of the World Trade Organization for ratification as a permanent amendment to the WTO Agreement on Trade Related Aspects of Intellectual Property Rights.

SEC. 3. EXPORTATION OF PHARMACEUTICAL PRODUCTS FOR PUBLIC HEALTH PURPOSES.

(a) IN GENERAL.—Chapter 29 of title 35, United States Code, is amended by inserting after section 297 the following:

''§ 298. Exportation of pharmaceutical products for public health purposes

''(a) DEFINITIONS.—In this section:

''(1) ELIGIBLE COUNTRY.—The term 'eligible country' means a country that—

''(A)(i) is designated by the United Nations as a least developed country; or

''(ii) if not so designated—

''(I) has certified to the General Council that the country seeks to participate in the compulsory licensing system under this section as authorized by the General Council Decision; or

''(II) has certified through an official government finding if not a member of the World Trade Organization, that the country does not possess sufficient manufacturing capacities to produce the pharmaceutical product that such country seeks to import under this section;

''(B) has provided notice to the Director describing such lack of sufficient manufacturing capacities; and

''(C) has not terminated that country's participation in such compulsory licensing system by certifying to the General Council or to the Director that it no longer desires to participate in such a system.

''(2) GENERAL COUNCIL.—The term 'General Council' means the General Council of the WTO established by paragraph (2) of Article IV of the Agreement Establishing the World Trade Organization entered into on April 15, 1994.

''(3) GENERAL COUNCIL DECISION.—The term 'General Council Decision' means the decision of the General Council of 30 August 2003 on the Implementation of Paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health and the WTO General Council Chairman's statement accompanying the Decision (JOB(03)/177, WT/GC/M/82) (collectively known as the 'TRIPS/health solution').

''(4) GENERIC MANUFACTURER.—The term 'generic manufacturer' means, with respect to a pharmaceutical product, a manufacturer that does not hold the patent to such pharmaceutical product or is not otherwise authorized by the patent holder to make use of the invention.

''(5) PHARMACEUTICAL PRODUCT.—The term 'pharmaceutical product' means any patented product, or pharmaceutical product, including components of that product, manufactured through a patented process, of the pharmaceutical sector including any drug, active ingredient of a drug, diagnostic, or vaccine needed to prevent or treat potentially life threatening public health problems, including those listed in Paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health.

''(6) TRIPS AGREEMENT.—The term 'TRIPS Agreement' means the Agreement on Trade-Related Aspects of Intellectual Property Rights (described in section 101(d)(15) of the Uruguay Round Agreements Act (19 U.S.C. 3501 note)).

''(7) WORLD TRADE ORGANIZATION.—The term 'World Trade Organization' means the organization established pursuant to the WTO Agreement.

''(8) WTO AGREEMENT.—The term 'WTO Agreement' means the Agreement Establishing The World Trade Organization entered into on April 15, 1994.

''(9) WTO.—The term 'WTO' has the meaning given that term in section 2 of the Uruguay Round Agreements Act (19 U.S.C. 3501).

''(10) URUGUAY ROUND AGREEMENTS.—The term 'Uruguay Round Agreements' has the meaning given such term in section 2(7) of the Uruguay Round Agreements Act (19 U.S.C. 3501(7)).

''(b) ISSUANCE OF COMPULSORY LICENSE.—Notwithstanding any other provision of part II or this part, and subject to subsections (c) and (d), the Director shall issue a compulsory license to a generic manufacturer of a pharmaceutical product or a patented product under this section consistent with the Life-Saving Medicines Export Act of 2006 for the purposes of—

''(1) manufacturing and exporting to an eligible country, (including using nongovernmental agencies to assist in handling and distribution to eligible countries) such pharmaceutical products, including exporting for the purpose of foreign testing and certification and other activities reasonable related to such manufacturing and exporting; and

''(2) such other purposes under that Act.

''(c) APPLICATION FOR COMPULSORY LICENSE.—

''(1) IN GENERAL.—

''(A) SUBMISSION.—Except as provided under subsection (g), a generic manufacturer that seeks to manufacture and export a pharmaceutical product to an eligible country (including through the use of a nongovernmental organization) shall submit to the Director an application as developed by the Director for a compulsory license as described in this section.

''(B) ASSISTANCE.—The Director shall establish an office within the Patent and Trademark Office to assist—

''(i) applicants under this section, including aiding persons in identifying what patents cover which pharmaceutical products and in providing other advice and guidance to facilitate the filing of complete applications; and

''(ii) eligible countries, nongovernmental organizations, or nations likely to become eligible countries, identify companies in the United States which could provide pharmaceutical products under this section to such countries.

''(2) CONTENT OF APPLICATION.—The Director shall approve an application submitted under paragraph (1) if such application contains—

''(A) the name of the pharmaceutical product to be manufactured and exported under the license;

''(B) an estimate of the quantities of the pharmaceutical product to be manufactured and exported under the license and a stipulation that the amount manufactured and exported shall not exceed the amount necessary to meet the needs of the eligible country;

''(C) for each patented invention to which the application relates—

''(i) the name of the patent holder and the applicable patent number; or

''(ii) a statement by the applicant on information and belief of the name of the patent holder and applicable patent number;

''(D) the name of the eligible country to which the pharmaceutical product will be exported and the name of any nongovernmental organization which will assist in the effort;

''(E)(i) copies of the notifications of the eligible countries that are member countries of the WTO, as defined in the General Council Decision, made to the Council for TRIPS regarding notifications set forth under 2(a) of such Decision; and

''(ii) for eligible countries that are not member countries of the WTO, a copy of the information required by the notification as set forth under 2(a) of such Decision published on a public website and the address of such website;

''(F) a copy of a written request for a voluntary license sent by registered mail to each patent holder, which shall have occurred during a period of at least 60 days before the submission of the application to the Director, and a brief description of any subsequent negotiations;

''(G) copies of—

''(i) notifications required under the General Counsel Decision;

''(ii) the name of the authorized designated official of the eligible country, or a nongovernmental organization duly authorized to assist in the distribution of pharmaceutical products—

''(I) from whom the generic manufacturer has received a specific request for a pharmaceutical product and is taking steps to prepare such product or related products; or

''(II) with whom the generic manufacturer has reached an agreement to manufacture and export the pharmaceutical product; or

''(iii) a copy of a valid license, other authorization, or communication issued by a potential eligible country permitting import of the pharmaceutical product from the United States; and

''(H) an agreement or understanding entered into by the applicant to comply with the conditions described under subsection (d) and with the provisions of the General Council Decisions; and

''(I) any additional information reasonably required by the Director, including information necessary to ensure the identification of the product that is the subject of the application.

''(3) COMBINED LICENSE APPLICATIONS.—The Director may—

''(A) establish procedures to permit a combined license application from more than 1 eligible country;

''(B) issue a multi-country license if appropriate;

''(C) issue rules based on the requirements of this section relating to separate country applicants, in consultation with the National Advisory Board on Implementation of the General Council Decision established under section 5 of the Life-Saving Medicines Export Act of 2006, except for modifications made to accommodate applying the rules for 1 country to applications filed by more than 1 eligible country in the same filing; and

''(D) waive any record keeping, application, or related provision of this subsection to the extent necessary to implement this paragraph for any combined application from multiple countries.

''(4) ACTION BY DIRECTOR.—

''(A) IN GENERAL.—Not later than 60 days after the submission of an application, the Director shall approve or deny that application.

''(B) CONDITIONAL DENIAL.—The Director may deny an application and request additional information or evidence to be submitted within 30 days after making the request. If additional information or evidence is submitted within the 30-day period, the Director shall make a final approval or denial of the application within 60 days after the date of submission of the additional information or evidence.

''(5) APPEAL OF DENIAL.—An applicant may seek review of a final adverse decision of the Director, including any adverse decision based on failure to comply with any provision of paragraph (2) in the United States Court of Appeals for the Federal Circuit. The judgement of such court shall be subject to final review by the Supreme Court upon certiorari in the manner prescribed in section 1254 of title 28. The United States Court of Appeals for the Federal Circuit shall decide all relevant questions of law, provide appropriate orders, relief, or judgments, and shall hold unlawful and set aside any determination of the Director that the court finds to be—

''(A) arbitrary, capricious, an abuse of discretion, inconsistent with this section, or otherwise not in accordance with law;

''(B) contrary to constitutional right, power, privilege, or immunity;

''(C) in excess of statutory jurisdiction, authority, or limitations, or in violation of a statutory right; or

''(D) without observance of procedure required by law.

''(d) CONDITIONS OF LICENSE.—Under rules issued by the Director, the following conditions shall apply to a compulsory license issued under this section:

''(1) The pharmaceutical product—

''(A) shall be a generic version of a patented product approved as safe and efficacious by the World Health Organization of the United Nations or the United States Food and Drug Administration; and

''(B) shall be manufactured solely for export to the eligible country listed in the application under subsection (c); and

''(C) shall not be exported to any other country except for nation parties to a regional trade agreement as set forth in paragraph 6(i) of the General Council Decision.

''(2) The pharmaceutical product, or the label or packaging of the pharmaceutical product, for export shall be—

''(A) clearly identified as being produced under the system set out in the General Council Decision; and

''(B) distinguished from the pharmaceutical product or its label or packaging manufactured by the patent holder through labeling, shaping, sizing, marking, special packaging, or other means or combinations of means, which shall be consistent with paragraph 2(b)(ii) of the General Council Decision and include—

''(i) a statement that such pharmaceutical product has been manufactured solely for export to the specific eligible country or to nation parties to a regional trade agreement as provided for in paragraphs 6(i) and 6(ii) of the General Council Decision and is not approved for marketing in the United States;

''(ii) a statement indicating that the pharmaceutical product is subject to a compulsory license issued to the generic manufacturer; and

''(iii) any other markings determined appropriate by the Director to distinguish such pharmaceutical product from the patented pharmaceutical product, which may include a different trademark name or distinctive color or shaping, so long as—

''(I) such distinction is feasible and does not have a significant impact on price and will not undermine the humanitarian purposes of the Life-Saving Medicines Export Act of 2006; and

''(II) the Director may temporarily waive the requirements of the distinguishing marks under urgent circumstances for limited quantities of such pharmaceutical products.

''(3) The term of such compulsory license shall expire on the date that is the earliest of—

''(A) 7 years after the date of issuance of the license;

''(B) the date the importing country is no longer an eligible country; or

''(C) on a petition from the original patent holder, on the date that the Director, in consultation with the National Advisory Board on Implementation of the General Council Decision established under section 5 of the Life-Saving Medicines Export Act of 2006, determines that the circumstances that have led to the granting of the license cease to exist and it appears probable that such circumstances will not reoccur.

''(4) The licensee shall keep accurate records of all quantities of products manufactured and distributed under its license and shall make such records available upon request to an independent person agreed to by the parties, or otherwise approved by the Director, for the sole purpose of ensuring whether the terms of the license have been met.

''(5) A generic manufacturer issued a license under this section may notify the Director if the estimated quantity of the pharmaceutical product set forth in the application and subsection (c)(2)(B) will be insufficient to meet the projected need during the remainder of the license period. The Director shall adjust the estimated quantity to the quantity proposed by the licensee unless compelling evidence demonstrates that the proposed quantity is excessive.

''(e) COMPENSATION TO PATENT HOLDER.—

''(1) IN GENERAL.—The holder of a compulsory license under this section shall pay to the patent holder a royalty in an amount and by a date determined by the Director that shall not be —

''(A) earlier than the date of each shipment for export of the pharmaceutical product under the compulsory license; or

''(B) later than 45 days after the date of each shipment.

''(2) AMOUNT OF ROYALTY.—In consultation with the Secretary of Health and Human Services, the Director of the National Institutes of Health, the Director of the United States Agency for International Development, and the Director of the Centers of Disease Control, the Director, when determining a royalty amount under paragraph (1), shall consider the following:

''(A) The provisions of paragraph 3 of the General Council Decision and the need for the licensee under this section to make a reasonable return sufficient to sustain a continued participation in humanitarian objectives.

''(B) The humanitarian and noncommercial reasons for issuing a compulsory license under this section.

''(C) The economic value to the importing country of the use that has been authorized by the Director.

''(D) The need for low-cost pharmaceutical products by persons in eligible countries.

''(E) Whether the importing country has a patent applicable to the pharmaceutical product sought to be imported under this section.

''(F) The ordinary levels of profitability in the United States, of commercial agreements involving pharmaceutical products, and any relevant international trends in relevant prices as reported by the United Nations or other appropriate humanitarian organizations or agencies for the supply of such products for humanitarian purposes.

''(3) ROYALTY RATE FORMULAS.—

''(A) IN GENERAL.—

''(i) FACTORS.—Except as provided in subparagraph (B), the amount of the royalty payable to any patentee under this subsection—

''(I) shall be based on considerations under paragraph (2); and

''(II) shall not exceed the amount determined by multiplying the commercial value of the pharmaceutical product to be exported under the supply agreement by 4 percent.

''(ii) MULTIPLE PATENTEES.—If more than 1 patentee is due a royalty for a pharmaceutical product under this section, the amount of the royalty payable for the pharmaceutical product shall be divided by the number of patentees.

''(B) ALTERNATIVE ROYALTY RATE FORMULA.—

''(i) IN GENERAL.—

''(I) ESTABLISHMENT AND USE.—Subject to subclause (II), the Director may establish and use an alternative royalty rate formula under this subparagraph instead of the royalty rate formula under subparagraph (A), if—

''(aa) the Director makes a determination that the alternative royalty rate formula is more appropriate or efficient to employ; and

''(bb) the alternative royalty rate formula is based on the methodology described under clauses (ii) through (v).

''(II) LIMITATION.—If the royalty amount determined under the alternative royalty rate formula under subclause (I) exceeds the dollar amount determined by multiplying

the commercial value of the pharmaceutical product to be exported under the supply agreement by 4 percent the royalty amount shall be set at such dollar amount.

''(ii) HUMAN DEVELOPMENT INDEX COUNTRIES.—If the name of the country to which a pharmaceutical product is to be delivered under this section is on the Human Development Index maintained by the United Nations Development Program, the rate for calculation of the royalty to be paid to any patentee shall be determined by—

''(I) adding 1 to the total number of countries listed on such Index;

''(II) subtracting from the sum determined under subclause (I) the numerical rank on the Index of the country to which the pharmaceutical product is to be exported;

''(III) dividing the difference determined under subclause (II) by the total number of countries listed on the Index; and

''(IV) multiplying the quotient determined under subclause (III) by 0.04.

''(iii) SINGLE AND MULTIPLE PATENTEES.—For a country described under clause (ii), the amount of the royalty payable to any patentee shall be determined—

''(I) if there is only 1 patentee, by multiplying the total monetary value of the agreement pertaining to the pharmaceutical product to be exported under this section by the royalty rate determined in accordance with clause (ii); and

''(II) if there is more than 1 patentee, by dividing the amount determined under subclause (I) by the number of patentees.

''(iv) COUNTRIES NOT ON HUMAN DEVELOPMENT INDEX.—If the name of the country to which a pharmaceutical product is to be delivered under this section is not on the Human Development Index maintained by the United Nations Development Program, the Director shall—

''(I) determine if relevant circumstances in that country are reasonably similar to another country on that Human Development Index;

''(II) if determining a similar country under subclause (I), use the procedures under clause (ii) to determine a royalty payment using the numerical rank of that other country; and

''(III) if determining a royalty rate under subclause (II), state the reasons for making the determination that the country to which the product is to be exported was reasonably similar to the country on such Index used in the calculation.

''(v) REGIONAL TRADE AGREEMENTS.—If the Director knows during review of an application that the pharmaceutical products are to be delivered under this section to parties to a regional trade agreement where re-exportation is allowed under paragraph 6(i) and (ii) of the General Council Decision, the Director shall—

''(I) determine if relevant circumstances in those countries are reasonably similar to a country on the Human Development Index;

''(II) if determining a similar country under subclause (I), use the procedures under clause (ii) to determine a royalty payment based on the numerical rank of that other country; and

''(III) if determining a royalty rate under subclause (III), shall state the reasons for making the determination that the countries to which the products are to be re-exported under paragraph 6(i) and (ii) of such Decision were reasonably similar to the country selected on such Index.

''(4) NOTICE OF SHIPMENTS.—Before each shipment of any product manufactured under this section, the manufacturer shall, within 15 days before such product is exported, provide notice through registered mail specifying the approximate quantity to be exported to—

''(A) the patentee;

''(B) the purchaser of the product; and

''(C) the Director.

''(f) RENEWAL OF COMPULSORY LICENSE.—

''(1) IN GENERAL.—A generic manufacturer that is the holder of a compulsory license under this section may submit to the Director an application to renew the compulsory license.

''(2) CONTENT OF RENEWAL APPLICATION.—An application under paragraph (1) shall contain—

''(A) an assurance that the quantities of the pharmaceutical product authorized to be exported under the renewal compulsory license will not be exported before such original compulsory license ceases to be valid;

''(B) an assurance that the applicant has complied with the terms, conditions, and royalty payment required under this section; and

''(C) any other information that the Director may reasonably require.

''(3) TIMING OF RENEWAL.—An application for renewal shall be submitted to the Director not later than 45 days before the expiration date of the compulsory license.

''(4) TERM OF RENEWAL.—The term of a renewed compulsory license shall not exceed the term of the original compulsory license.

''(5) LIMITATION.—A compulsory license may not be renewed more than once.

''(g) EFFECT OF SECTION.—To the extent authorized in Article 31(b) of the TRIPS Agreement, nothing in this section shall be construed as requiring an effort to obtain a voluntary license in the event of—

''(1) a national emergency or other circumstances of extreme urgency in the eligible country; or

''(2) a public noncommercial governmental use.

''(h) EMERGENCIES AND CIRCUMSTANCES OF EXTREME URGENCY.—

''(1) EXPEDITED APPROVAL.—

''(A) IN GENERAL.—The Director may provide approval on an expedited basis for a limited period of time to grant a compulsory license regarding a pharmaceutical product to a generic manufacturer to address a national emergency or other circumstances of extreme urgency under such expedited procedures as the Director determines appropriate.

''(B) PROCEDURES.—Procedures under this paragraph may include—

''(i) waiving any requirement to seek a voluntary license from the patent holder; and

''(ii) delaying the determination of compensation until after an approval is made.

''(2) WAIVER.—In carrying out expedited approvals under this subsection, the Director may temporarily waive any provision of this section.

''(i) NOTIFICATION TO WTO.—The Director shall notify the WTO of the issuance, termination, or renewal of a compulsory license under this section and of the name and address of the licensee, the product for which the license has been granted, the quantities for which it has been granted, and the countries to which the product is to be supplied.''.

(b) ESTABLISHMENT OF PROCEDURES.—

(1) IN GENERAL.—The Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office (referred to in this section as the ''Director'') shall establish procedures for implementing this Act and the amendments made by this Act.

(2) REPORT.—The Director shall annually submit to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives a report that describes the activities related to the implementation of this Act and the amendments made by this Act.

(3) REGULATIONS.—The Director may issue such regulations as are necessary and appropriate to carry out this Act and the amendments made by this Act.

(c) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 29 of title 35, United States Code, is amended by adding after the item relating to section 297 the following:

''298. Exportation of pharmaceutical products for public health purposes.''.

SEC. 4. NONINFRINGEMENT OF PATENT.

Section 271 of title 35, United States Code, is amended—

(1) by redesignating subsections (h) and (i) as subsections (i) and (j), respectively; and

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

''(h)(1) It shall not be an act of infringement to manufacture within the United States or for export outside the United States any patented invention relating to a pharmaceutical product (as defined under section 298) by any person that—

''(A) is issued a compulsory license to manufacture and sell that drug under section 298; and

''(B) manufactures and exports that drug in compliance with all conditions of that license.

''(2) Subsection (d) (4) or (5) shall not apply to any patent affected by a license described under paragraph (1) of this subsection.''.

SEC. 5. NATIONAL ADVISORY BOARD ON IMPLEMENTATION OF THE GENERAL COUNCIL DECISION.

(a) DEFINITIONS.—In this section:

(1) BOARD.—The term ''Board'' means the National Advisory Board on Implementation of the General Council Decision established under this section.

(2) DIRECTOR.—The term ''Director'' means the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

(3) ELIGIBLE COUNTRY.—The term ''eligible country'' means a country that—

(A)(i) is designated by the United Nations as a least developed country; or

(ii) if not so designated, does not possess sufficient manufacturing capacities to produce the pharmaceutical product that such country seeks to import under section 298 of title 35, United States Code (as added by this Act); and

(B) has provided notice to the Director describing such lack of sufficient manufacturing capacities.

(4) GENERAL COUNCIL.—The term ''General Council'' means the General Council of the WTO established by paragraph (2) of Article IV of the Agreement Establishing the World Trade Organization entered into on April 15, 1994.

(5) GENERAL COUNCIL DECISION.—The term ''General Council Decision'' means the decision of the General Council of 30 August 2003 on the Implementation of Paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health and the WTO General Council Chairman's statement accompanying the Decision (JOB(03)/177, WT/GC/M/82) (collectively known as the ''TRIPS/health solution'').

(6) GENERIC MANUFACTURER.—The term ''generic manufacturer'' means, with respect to a pharmaceutical product, a manufacturer that does not hold the patent to such pharmaceutical product or is not otherwise authorized by the patent holder to make use of the invention.

(7) PHARMACEUTICAL PRODUCT.—The term ''pharmaceutical product'' means any patented pharmaceutical product, or pharmaceutical product manufactured through a patented process, including any drug, active

ingredient of a drug, diagnostic, or vaccine needed to prevent or treat public health problems.

(8) TRIPS AGREEMENT.—The term ''TRIPS Agreement'' means the Agreement on Trade-Related Aspects of Intellectual Property Rights (described in section 101(d)(15) of the Uruguay Round Agreements Act (19 U.S.C. 3501 note)).

(9) WORLD TRADE ORGANIZATION.—The term ''World Trade Organization'' means the organization established pursuant to the WTO Agreement.

(10) WTO AGREEMENT.—The term ''WTO Agreement'' means the Agreement Establishing The World Trade Organization entered into on April 15, 1994.

(11) WTO.—The term ''WTO'' has the meaning given that term in section 2 of the Uruguay Round Agreements Act (19 U.S.C. 3501).

(12) URUGUAY ROUND AGREEMENTS.—The term ''Uruguay Round Agreements'' has the meaning given such term in section 2(7) of the Uruguay Round Agreements Act (19 U.S.C. 3501(7)).

(b) ESTABLISHMENT.—The Director shall establish the National Advisory Board on Implementation of the General Council Decision in accordance with the Federal Advisory Committee Act (5 U.S.C. App.) to provide advice and guidance regarding the implementation and administration of the compulsory licensing program established under section 298 of title 35, United States Code (as added by this Act), including royalty amounts to be determined under that section.

(c) COMPOSITION OF THE BOARD.—The Board shall be composed of 10 members, of which—

(1) 1 shall be an individual who is an academic expert on the subject of pharmaceutical matters and patent law;

(2) 2 shall be an individual with expertise relating to the WTO, the TRIPS/health solution, and the General Council Decision;

(3) 2 shall be an individual with expertise relating to the needs of persons living in least-developed and developing nations with respect to access to low-cost patented pharmaceutical products;

(4) 2 shall be individuals who represent international organizations, such as the United Nations, the World Bank, international nongovernmental organizations, and religious faiths, and who have expert knowledge regarding the General Council Decision and the issues raised by that decision;

(5) 1 shall be a physician with experience in treating persons with HIV/AIDS, malaria, tuberculosis, or other infectious diseases;

(6) 1 shall be an individual representing major pharmaceutical manufacturers in the United States; and

(7) 1 shall be an individual representing major generic manufacturers of pharmaceutical products in the United States.

(d) APPOINTMENTS.—Not later than 120 days after the date of enactment of this Act, the Director, in consultation with the Director of the National Institutes of Health (or a designee), the Director of the United States Agency for International Development (or a designee), and the Director of the Centers for Disease Control (or a designee) shall appoint—

(1) the members of the Board described under subsection (c)(1), (5), (6), and (7)—

(A) from nominations received from a request for applications published in the Federal Register; and

(B) after engaging in other efforts to make institutions of higher education within the United States, international organizations, and groups representing the medical profession aware of the solicitation for nominations;

(2) 1 member of the Board described under subsection (c)(2), from recommendations of the Majority Leader of the Senate;

(3) 1 member of the Board described under subsection (c)(2), from recommendations of the Minority Leader of the Senate;

(4) 1 member of the Board described under subsection (c)(3) from recommendations of the Speaker of the House of Representatives;

(5) 1 member of the Board described under subsection (c)(3) from recommendations of the Minority Leader of the House of Representatives; and

(6) 2 members of the Board described under subsection (c)(4) from recommendations of the Secretary of State in consultation with the United States Ambassador to the United Nations.

(e) TERM.—A member of the Board shall serve for a term of 4 years, except that the Director shall appoint the original members of the Board for staggered terms of not more than 4 years. A member may not serve a consecutive term unless such member served an original term that was less than 4 years.

(f) MEETINGS.—The Director shall convene—

(1) a meeting of the Board not later than 60 days after the appointment of its members;

(2) subsequent meetings on a periodic basis; and

(3) at least 2 meetings a year during the first 4 years after the date of enactment of this Act.

(g) COMPENSATION AND EXPENSES.—A member of the Board shall serve without compensation. While away from their homes or regular places of business on the business of the Board, members of the Board may be allowed travel expenses, including per diem in lieu of subsistence, as is authorized under section 5703 of title 5, United States Code, for persons employed intermittently in the Government service.

(h) CHAIRPERSON.—The Board shall select a chairperson for the Board.

(i) QUORUM.—A majority of the members of the Board shall constitute a quorum for the purpose of conducting business.

(j) DECISIVE VOTES.—Two-thirds of the votes cast at a meeting of the Board at which a quorum is present shall be decisive of any motion.

(k) OTHER TERMS AND CONDITIONS.—The Director shall authorize the Board to hire a staff director and shall detail staff of the Patent and Trademark Office or allow for the hiring of other staff and may pay necessary expenses incurred by the Board in carrying out this section. The Director shall provide technical assistance, work space, facilities, and other amenities to facilitate the meetings and operations of the Board. The Director, or designated staff, may attend any such meetings and provide advice and guidance.

(l) RESPONSIBILITIES OF BOARD.—

(1) IN GENERAL.—The Board shall provide recommendations to the Director on the implementation of section 298 of title 35, United States Code (as added by this Act), including the appropriate royalty rates for compensating patent holders under that section.

(2) TECHNICAL ADVISORY PANELS.—The Board may convene technical advisory panels to provide scientific, legal, international, economic, and other information to the Board.

(m) EVALUATION AND REPORTS.—

(1) IN GENERAL.—The Board shall evaluate the implementation and administration of section 298 of title 35, United States Code (as added by this Act), and shall provide periodic and special reports to the Director, the Secretary of Health and Human Services, the National Institutes of Health, the Director of the Centers for Disease Control, and to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives.

(2) DUTIES.—If the Director uses the compensation method under section 298(e)(3)(A) of title 35, United States Code (as added by this Act), the Board shall—

(A) not later than 160 days after the date of enactment of this Act, begin to gather information regarding proposals for the compensation of patent holders and shall carefully examine various compensation options;

(B) not later than 240 days after the date of enactment of this Act, submit preliminary recommendations to the entities and officers described under paragraph (1);

(C) advise the Director on various matters raised by the Director;

(D) submit a report to the Director, the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives at least once each year on—

(i) recommendations for improving procedures or the administration of the program established under that section; and

(ii) other factual or policy matters which may provide guidance or assistance to those Committees; and

(E) submit a report to the Director and the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives on—

(i) the advantages and disadvantages which might result from allowing nongovernmental organizations to be able to apply to obtain a compulsory license under procedures similar to those set forth in that section for such countries where the national government declines to apply for such a license, including an analysis of whether World Trade Organization understandings would permit such an approach and how such an approach might be implemented; and

(ii) whether this Act provides sufficient economic incentives to generic companies for the research and development of new generic products.

(n) PETITIONS.—The Board shall establish procedures under which persons may petition the Board for the purpose of evaluating various issues related to the implementation and administration of section 298 of title 35, United States Code (as added by this Act).

(o) CONFIDENTIALITY.—Any confidential business information obtained by the Board in carrying out this section shall not be released to the public.

(p) APPROPRIATIONS.—

(1) AMOUNTS OF APPROPRIATIONS.—There are appropriated out of any money in the Treasury not otherwise appropriated to the United States Patent and Trademark Office for purposes of carrying out paragraph (2)—

(A) $1,500,000 for the fiscal year ending September 30, 2007;

(B) $1,500,000 for the fiscal year ending September 30, 2008;

(C) $1,300,000 for the fiscal year ending September 30, 2009;

(D) $1,100,000 for the fiscal year ending September 30, 2010; and

(E) $900,000 for the fiscal year ending September 30, 2011.

(2) USE OF APPROPRIATIONS.—Amounts appropriated under paragraph (1) shall be used for the expenses and activities of the Board under this section, except no more than $200,000 of such amounts in each fiscal year may be used for the expenses and activities of the Office established under section 298(c)(B) of title 35, United States Code (as added by this Act). Such amounts not obligated in any fiscal year may be carried over into subsequent fiscal years, except that any amounts not obligated by September 30, 2011, shall be provided to the Secretary of the Treasury to be returned to the United States Treasury.

(q) TERMINATION.—The Board shall terminate on September 30, 2011.

By Mr. REID (for Mr. ROCKEFELLER):

S. 3176. A bill to protect the privacy of veterans and spouses of veterans affected by the security breach at the Department of Veterans Affairs on May 3, 2006, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

(At the request of Mr. REID, the following statement was ordered to be printed in the RECORD.)

• Mr. ROCKEFELLER. Mr. President, every American has the justifiable expectation that the Federal Government will protect their private personal information—information that they are required to provide to a Federal agencies. It is a basic and fundamental responsibility of government to make sure that this sensitive data is handled appropriately, accessed only by authorized personal, and used only for intended purposes.

Earlier this week, the Veterans Administration, VA, announced that computer disks containing as many as 26.5 million veterans' personal information were stolen from an employee who had taken the information home. I, along with many of my colleagues, am outraged at this enormous lapse in security. The Veterans Administration must make sure that veterans are not harmed because of the agency's failure to protect sensitive personal data.

This information includes veterans' social security numbers and dates of birth, the underpinnings of almost all of our financial information. In the wrong hands, this information can be used to steal a person's identity causing substantial harm. All of us have constituents who have been victims of identity theft. When a person's identity is stolen, it can have devastating financial consequences for that person and that family. Even if the financial harm is minimal, it often takes years to clear your name. For our nation's veterans, many of whom are older and disabled, identity theft poses even greater problems.

I understand that the Veterans Administration has launched an internal investigation, but Congress must also conduct a thorough investigation into how this security breach occurred. I want to know why the Veterans Administration waited almost 3 weeks to inform our nation's veterans and Congress of this breach. In my opinion, it is inexcusable that veterans were not notified immediately that their personal information had been stolen and were not given any guidance as to the steps they should take to protect themselves from identity theft. I understand the Veterans Administration Inspector General has cited the agency for poor security policies and procedures. Congress must also begin a comprehensive review of the agency's security protocols and policies and force the agency to adopt stricter security measures to make sure that the personal data our veterans are required to provide the agency is not ever again at risk.

It is for this reason that I am introducing the Veterans' Privacy Protection Act today. Although all Federal agencies need comprehensive data privacy policies, this is a targeted bill to address the security breach at the Veterans Administration on an urgent basis.

Congress has required the Federal Trade Commission to address identity theft and its consequences. The agency has taken an aggressive approach in combating this devastating crime. My bill would require the Federal Trade Commission to develop a hotline explicitly for veterans to provide the information, counseling, and help necessary to allow a veteran to protect himself from the loss of personal data.

At this point, our legislative response must cover all 26.5 million veterans that the Veterans Administration believes may have had their personal information compromised. If further investigations conclusively prove that fewer veterans are at-risk, my bill would target services and support to the affected individuals. To help veterans, my bill would make it easier for them to request a long-term credit alert for their records so credit agencies are aware that their personal information could be being used by others. It is my understanding that a security freeze on an individual's record can have a modest cost, and my bill would have the Veterans Administration cover that cost.

Finally, my bill requires the General Accountability Office to evaluate the Veterans Administration response to this incident and to analyze the agency's security protocols. I believe that an independent investigation could generate a number of recommendations to improve the security of personal information not just in the Veterans Administration but in all Federal agencies.

It is my great hope that a thorough investigation will find the criminals responsible for the theft and determine that they were only after the computer and not the millions of valuable private records of our veterans. If in fact these thieves were after our veterans' data, we will have a major catastrophe on our hands, inexcusably adding more hardship to the lives of those who have so ably served their country.

Mr. President, today the Veterans Administration has failed our Nation's veterans. It is inconceivable to me how any Federal agency could have let this happen. We all have heard the stories during the past year regarding massive breaches of private and confidential data by private entities. The Federal Government acted quickly to respond to these breaches and now it must act just as quickly if not more so to address its own failings. My bill is a critical step in providing the necessary assistance that millions of veterans may require, and I urge my colleagues to act on it with the urgency this situation demands.

I ask unanimous constent that 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. 3176

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 Privacy Protection Act of 2006''.

SEC. 2. FEDERAL TRADE COMMISSION PROGRAM FOR VETERANS AN SPOUSES OF VETERANS AT RISK OF IDENTITY THEFT.

(a) PROGRAM REQUIRED.—The Federal Trade Commission shall, in consultation with the Secretary of Veterans Affairs, develop and implement a program to provide financial counseling and support to any veteran or spouse described in subsection (e).

(b) ACCESS.—The program required by subsection (a) shall be accessible through a toll-free telephone number (commonly referred to as an ''800 number'') established and operated by the Federal Trade Commission for purposes of the program.

(c) ELEMENTS.—Under the program required by subsection (a), the Federal Trade Commission shall—

(1) provide to veterans and spouses described in subsection (e) such financial and other counseling as the Commission considers appropriate relating to identity theft and the theft of data as described in that subsection; and

(2) upon request of any veteran or spouse described in subsection (e), assist such veteran or spouse in securing the placement of an extended fraud alert or credit security freeze under sections 605A(b)(3) and 605C of the Fair Credit Reporting Act, as added by this Act, respectively.

(d) VETERANS NOT SUBJECT TO IDENTITY THEFT.—

(1) NOTICE TO FTC OF IDENTIFICATION OF VETERANS NOT SUBJECT TO IDENTITY THEFT.—Upon conclusively identifying any veteran otherwise described in subsection (e) as not being at risk of identity theft as described in that subsection, the Secretary shall immediately notify the Federal Trade Commission of such identification.

(2) NOTICE TO VETERANS.—The program required by subsection (a) shall include mechanisms to ensure that any veteran who seeks counseling and support under the program after receipt by the Commission of notice under paragraph (1) covering such veteran is informed that such veteran is no longer subject to identity theft as described in subsection (e).

(e) APPLICABILITY.—This section shall apply with respect to—

(1) any veteran, as defined in section 101 of title 38, United States Code, who may be a victim of identity theft as a result of the security breach at the Department of Veterans Affairs on May 3, 2006; and

(2) any spouse (or former spouse) of such veteran who the Secretary of Veterans Affairs has conclusively identified as being at risk of identity theft as a result of that security breach.

SEC. 3. EXTENDED CONSUMER CREDIT FRAUD ALERTS AND SECURITY FREEZES FOR VETERANS AND SPOUSES OF VETERANS AFFECTED BY SECURITY BREACH.

(a) AUTOMATIC FRAUD ALERTS.—Section 605A(b) of the Fair Credit Reporting Act (15 U.S.C. 1681c-1(b)) is amended by adding at the end the following:

''(3) AUTOMATIC EXTENDED FRAUD ALERTS FOR CERTAIN VETERANS.—

''(A) IN GENERAL.—Upon the direct request of a veteran or spouse described in subparagraph (D), each consumer reporting agency described in section 603(p)(1) that maintains a file on the veteran shall take the actions specified in subparagraphs (A) through (C) of paragraph (1) with respect to the veteran or spouse.

''(B) AUTOMATIC ALERTS.—Notwithstanding the requirements of paragraph (1), a veteran or spouse described in subparagraph (D) is not required to submit any identity theft report, proof of identity, or other documentation with respect to an extended fraud alert required by subparagraph (A).

''(C) VETERANS NOT SUBJECT TO IDENTITY THEFT.—Upon conclusively identifying any veteran as not being at risk of identity theft as a result of the security breach described in subparagraph (A)—

''(i) the Secretary of Veterans Affairs shall immediately notify each consumer reporting agency and the veteran involved that such veteran is no longer subject to identity theft as a result of the security breach described in subparagraph (A); and

''(ii) the requirements of subparagraph (A) shall no longer apply with respect to any such veteran as of the date of such notification.

''(D) APPLICABILITY.—This paragraph shall apply to—

''(i) each veteran, as defined in section 101 of title 38, United States Code, who may be a victim of identity theft as a result of the security breach at the Department of Veterans Affairs on May 3, 2006; and

''(ii) each spouse (or former spouse) of such veteran who the Secretary of Veterans Affairs has conclusively identified as being at risk of identity theft as a result of that security breach.''.

(b) SECURITY FREEZES FOR VETERANS.—The Fair Credit Reporting Act (15 U.S.C. 1681 et seq.) is amended by inserting after section 605B the following:

''SEC. 605C. SECURITY FREEZES FOR CERTAIN VETERANS.

''(a) APPLICABILITY.—This section shall apply with respect to—

''(1) any veteran, as defined in section 101 of title 38, United States Code, who may be a victim of identity theft as a result of the security breach at the Department of Veterans Affairs on May 3, 2006; and

''(2) any spouse (or former spouse) of such veteran who the Secretary of Veterans Affairs has conclusively identified as being at risk of identity theft as a result of that security breach.

''(b) SECURITY FREEZES.—

''(1) EMPLACEMENT.—A veteran or spouse described in subsection (a) may include a security freeze in the file of that veteran or spouse maintained by a consumer reporting agency described in section 603(p)(1), by making a request to the consumer reporting agency in writing, by telephone, or through a secure electronic connection made available by the consumer reporting agency.

''(2) CONSUMER DISCLOSURE.—If a veteran or spouse described in subsection (a) requests a security freeze under this section, the consumer reporting agency shall disclose to that person the process of placing and removing the security freeze and explain to that veteran or spouse the potential consequences of the security freeze. A consumer reporting agency may not imply or inform a veteran or spouse that the placement or presence of a security freeze on the file of that veteran or spouse may negatively affect their credit score.

''(c) EFFECT OF SECURITY FREEZE.—

''(1) RELEASE OF INFORMATION BLOCKED.—If a security freeze is in place in the file of a veteran or spouse described in subsection (a), a consumer reporting agency may not release information from the file of that veteran or spouse for consumer credit purposes to a third party without prior express written authorization from that veteran or spouse.

''(2) INFORMATION PROVIDED TO THIRD PARTIES.—Paragraph (2) does not prevent a consumer reporting agency from advising a third party that a security freeze is in effect with respect to the file of a veteran or spouse described in subsection (a). If a third party, in connection with an application for credit, requests access to a consumer file on which a security freeze is in place under this section, the third party may treat the application as incomplete.

''(3) CREDIT SCORE NOT AFFECTED.—The placement of a security freeze under this section may not be taken into account for any purpose in determining the credit score of the veteran or spouse to whom the security freeze relates.

''(d) REMOVAL; TEMPORARY SUSPENSION.—

''(1) IN GENERAL.—Except as provided in paragraph (4), a security freeze under this section shall remain in place until the veteran or spouse to whom it relates requests that the security freeze be removed. A veteran or spouse may remove a security freeze on his or her credit report by making a request to the consumer reporting agency in writing, by telephone, or through a secure electronic connection made available by the consumer reporting agency.

''(2) CONDITIONS.—A consumer reporting agency may remove a security freeze placed in the file of a veteran or spouse under this section only—

''(A) upon request of that veteran or spouse, pursuant to paragraph (1); or

''(B) if the agency determines that the file of that veteran or spouse was frozen due to a material misrepresentation of fact by that veteran or spouse.

''(3) NOTIFICATION TO CONSUMER.—If a consumer reporting agency intends to remove a security freeze pursuant to paragraph (2)(B), the consumer reporting agency shall notify the veteran or spouse to whom the security freeze relates in writing prior to removing the freeze.

''(4) TEMPORARY SUSPENSION.—A veteran or spouse described in subsection (a) may have a security freeze under this section temporarily suspended by making a request to the consumer reporting agency in writing or by telephone and specifying beginning and ending dates for the period during which the security freeze is not to apply.

''(e) RESPONSE TIMES; NOTIFICATION OF OTHER ENTITIES.—

''(1) IN GENERAL.—A consumer reporting agency shall—

''(A) place a security freeze in the file of a veteran or spouse under subsection (b) not later than 5 business days after receiving a request from the veteran or spouse under subsection (b)(1); and

''(B) remove or temporarily suspend a security freeze not later than 3 business days after receiving a request for removal or temporary suspension from the veteran or spouse under subsection (d).

''(2) NOTIFICATION OF OTHER AGENCIES.—A consumer reporting agency shall notify all other consumer reporting agencies described in section 603(p)(1) of a request under this section not later than 3 days after placing, removing, or temporarily suspending a security freeze in the file of the veteran or spouse under subsection (b), (d)(2)(A), or (d)(4).

''(3) IMPLEMENTATION BY OTHER AGENCIES.—A consumer reporting agency that is notified of a request under paragraph (2) to place, remove, or temporarily suspend a security freeze in the file of a veteran or spouse shall—

''(A) request proper identification from the veteran or spouse, in accordance with subsection (g), not later than 3 business days after receiving the notification; and

''(B) place, remove, or temporarily suspend the security freeze on that credit report not later than 3 business days after receiving proper identification.

''(f) CONFIRMATION.—Except as provided in subsection (c)(3), whenever a consumer reporting agency places, removes, or temporarily suspends a security freeze at the request of a veteran or spouse under subsection (b) or (d), respectively, it shall send a written confirmation thereof to the veteran or spouse not later than 10 business days after placing, removing, or temporarily suspending the security freeze. This subsection does not apply to the placement, removal, or temporary suspension of a security freeze by a consumer reporting agency because of a notification received under subsection (e)(2).

''(g) ID REQUIRED.—A consumer reporting agency may not place, remove, or temporarily suspend a security freeze in the file of a veteran or spouse described in subsection (a) at the request of the veteran or spouse, unless the veteran or spouse provides proper identification (within the meaning of section 610(a)(1)) and the regulations thereunder.

''(h) EXCEPTIONS.—This section does not apply to the use of the file of a veteran or spouse described in subsection (a) maintained by a consumer reporting agency by any of the following:

''(1) A person or entity, or a subsidiary, affiliate, or agent of that person or entity, or an assignee of a financial obligation owing by the veteran or spouse to that person or entity, or a prospective assignee of a financial obligation owing by the veteran or spouse to that person or entity in conjunction with the proposed purchase of the financial obligation, with which the veteran or spouse has or had prior to assignment an account or contract, including a demand deposit account, or to whom the veteran or spouse issued a negotiable instrument, for the purposes of reviewing the account or collecting the financial obligation owing for the account, contract, or negotiable instrument.

''(2) Any Federal, State, or local agency, law enforcement agency, trial court, or private collection agency acting pursuant to a court order, warrant, subpoena, or other compulsory process.

''(3) A child support agency or its agents or assigns acting pursuant to subtitle D of title IV of the Social Security Act (42 U.S.C. et seq.) or similar State law.

''(4) The Department of Health and Human Services, a similar State agency, or the agents or assigns of the Federal or State agency acting to investigate medicare or medicaid fraud.

''(5) The Internal Revenue Service or a State or municipal taxing authority, or a State department of motor vehicles, or any of the agents or assigns of these Federal, State, or municipal agencies acting to investigate or collect delinquent taxes or unpaid court orders or to fulfill any of their other statutory responsibilities.

''(6) The use of consumer credit information for the purposes of prescreening, as provided for under this title.

''(7) Any person or entity administering a credit file monitoring subscription to which the veteran or spouse has subscribed.

''(8) Any person or entity for the purpose of providing a veteran or spouse with a copy of his or her credit report or credit score upon request of the veteran or spouse.

''(i) FEES.—

''(1) IN GENERAL.—Except as provided in paragraph (2), a consumer reporting agency

may charge a reasonable fee, for placing, removing, or temporarily suspending a security freeze in the file of the veteran or spouse described in subsection (a), which cost shall be submitted to and paid by the Department of Veterans Affairs, pursuant to procedures established by the Secretary of Veterans Affairs.

''(2) ID THEFT VICTIMS.—A consumer reporting agency may not charge a fee for placing, removing, or temporarily suspending a security freeze in the file of a veteran or spouse described in subsection (a), if—

''(A) the veteran or spouse is a victim of identity theft;

''(B) the veteran or spouse requests the security freeze in writing;

''(C) the veteran or spouse has filed a police report with respect to the theft, or an identity theft report (as defined in section 603(q)(4), within 90 days after the date on which the theft occurred or was discovered by the veteran or spouse; and

''(D) the veteran or spouse provides a copy of the report to the reporting agency.

''(j) LIMITATION ON INFORMATION CHANGES IN FROZEN REPORTS.—

''(1) IN GENERAL.—If a security freeze is in place in the file of a veteran or spouse described in subsection (a), the consumer reporting agency may not change any of the following official information in that file without sending a written confirmation of the change to the veteran or spouse within 30 days after the date on which the change is made:

''(A) Name.

''(B) Date of birth.

''(C) Social Security number.

''(D) Address.

''(2) CONFIRMATION.—Paragraph (1) does not require written confirmation for technical modifications of the official information of a veteran or spouse, including name and street abbreviations, complete spellings, or transposition of numbers or letters. In the case of an address change, the written confirmation shall be sent to both the new address and to the former address of the veteran or spouse.

''(k) CERTAIN ENTITY EXEMPTIONS.—

''(1) AGGREGATORS AND OTHER AGENCIES.—The provisions of this section do not apply to a consumer reporting agency that acts only as a reseller of credit information by assembling and merging information contained in the data base of another consumer reporting agency or multiple consumer reporting agencies, and does not maintain a permanent data base of credit information from which new consumer credit reports are produced.

''(2) OTHER EXEMPTED ENTITIES.—The following entities are not required to place a security freeze in the file of a veteran or spouse described in subsection (a) in accordance with this section:

''(A) A check services or fraud prevention services company, which issues reports on incidents of fraud or authorizations for the purpose of approving or processing negotiable instruments, electronic fund transfers, or similar methods of payments.

''(B) A deposit account information service company, which issues reports regarding account closures due to fraud, substantial overdrafts, ATM abuse, or similar negative information regarding such veteran or spouse, to inquiring banks or other financial institutions for use only in reviewing the request of such veteran or spouse for a deposit account at the inquiring bank or financial institution.''.

(c) FEES.—Any fee associated with an extended fraud alert or security freeze required by the amendments made by this section that would otherwise be required to be paid by the consumer shall be paid by the Department of Veterans Affairs.

SEC. 4. PENALTIES FOR IDENTITY THEFT OF VETERANS.

Section 1028 of title 18, United States Code, is amended—

(1) in subsection (b), by striking ''The punishment for'' and inserting the following ''Except as provided in subsection (j), the punishment for''; and

(2) by adding at the end the following:

''(j) IDENTITY THEFT OF VETERANS.—

''(1) IN GENERAL.—In determining the punishment applicable under subsection (b), if the offense is an offense described in paragraph (2), the fine and term of imprisonment otherwise applicable under subsection (b) shall be doubled.

''(2) TYPE OF OFFENSE.—An offense described in this paragraph is an offense under subsection (a) that—

''(A) involves any document or other information—

''(i) relating to a veteran (as defined in section 101 of title 38) or a spouse of a veteran; and

''(ii) obtained as a direct or indirect result of the security breach at the Department of Veterans Affairs on May 3, 2006; and

''(B) was committed after the date of enactment of this subsection.''.

SEC. 5. FUNDING.

(a) REIMBURSEMENT.—The Secretary of Veterans Affairs shall reimburse the Federal Trade Commission for any costs incurred by the Commission in carrying out this Act and the amendments made by this Act.

(b) AVAILABILITY OF FUNDS.—Amounts appropriated to the Secretary and available for obligation may be utilized for purposes of reimbursement of the Federal Trade Commission under subsection (a).

SEC. 6. COMPTROLLER GENERAL STUDIES ON DATA PROTECTION AND OTHER MATTERS.

(a) STUDY ON DATA PROTECTION BY DEPARTMENT OF VETERANS AFFAIRS.—

(1) IN GENERAL.—The Comptroller General of the United States shall conduct a study of the data protection procedures of the Department of Veterans Affairs.

(2) ELEMENTS.—The study required by paragraph (1) shall include the following:

(A) A review and assessment of the data protection procedures of the Department of Veterans Affairs in effect before May 3, 2006.

(B) A review and assessment of any modifications of the data protection procedures of the Department of Veterans Affairs adopted as a result of the loss of data resulting from the security breach at the Department on May 3, 2006.

(b) STUDY ON SECURITY BREACH INVESTIGATION BY DEPARTMENT OF VETERANS AFFAIRS.—

(1) IN GENERAL.—The Comptroller General of the United States shall conduct a review and assessment of the investigation carried out by the Department of Veterans Affairs with respect to the security breach at the Department on May 3, 2006.

(2) COOPERATION.—The Secretary of Veterans Affairs shall ensure that the personnel of the Department of Veterans Affairs cooperate fully with the Comptroller General in the conduct of the review and assessment required by paragraph (1).

(c) STUDY ON FTC PROGRAM FOR VETERANS AND SPOUSES AT RISK OF IDENTITY THEFT.—The Comptroller General of the United States shall conduct a study of the program of the Federal Trade Commission for veterans and spouses of veterans at risk of identity theft required by section 2. The study shall include an assessment of the effectiveness of the program in meeting the financial counseling and similar needs of individuals seeking counseling and support through the program.

(d) STUDY ON COMPLIANCE OF FEDERAL AGENCIES WITH REQUIREMENTS ON PERSONAL DATA.—

(1) IN GENERAL.—The Comptroller General of the United States shall conduct a study of the compliance of the departments and agencies of the Federal Government with applicable requirements relating to the preservation of the confidentiality of personal data.

(2) ELEMENTS.—The study required by paragraph (1) shall include the following:

(A) A review and assessment of the current procedures and practices of the departments and agencies of the Federal Government regarding the preservation of the confidentiality of personal data.

(B) A comparative analysis of the procedures practices referred to in subparagraph (A) with current standards of the Federal Trade Commission for the preservation of the confidentiality of personal data by commercial and non-commercial private entities.

(C) A review and assessment of the modifications of the data protection procedures adopted by the Department of Veterans Affairs as a result of the loss of data resulting from the security breach on May 3, 2006, including an assessment of the feasibility and advisability of the adoption of any such modifications by other departments and agencies of the Federal Government.

(D) An identification of recommendations for improvements to the procedures and practices of the departments and agencies of the Federal Government regarding the preservation of the confidentiality of personal data.

(e) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Comptroller General of the United States shall submit to Congress a report setting forth the results of each study conducted under this section. The report shall set forth the results of each study separately, and shall include such recommendations for legislative and administrative action as the Comptroller General considers appropriate in light of the studies.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary of Veterans Affairs, such sums as may be necessary to carry out this Act and the amendments made by this Act.

By Mr. BUNNING:

S 3177. A bill to suspend temporarily the duty on certain compounds of lanthanum phosphates; to the Committee on Finance.

Mr. BUNNING. Mr. President, I rise today to introduce a number of bills to provide for relief from duties. It is my intention that some or all of these duty suspension bills will eventually be included in the Miscellaneous Tariff Bill, MTB, that the Senate Finance Committee is expected to consider this year.

As the members of the Senate are aware, Congress on occasion passes a bill, known as the Miscellaneous Tariff Bill or MTB, as a vehicle for enacting pending non-controversial duty suspensions. The rules for the inclusion of a duty suspension in the MTB are straight forward. First and foremost, in order to be included in the MTB, a bill must be non-controversial. A bill will be controversial if it is objected to by a domestic producer of the product for which the duty reduction is being sought. Secondly, the cost for each bill must amount to less than $500,000 of lost revenue per year.

As my colleagues are aware, the MTB provides an opportunity to temporarily eliminate or reduce duties on narrowly defined products that are imported into the United States because there is not available domestic source for the products. These duty suspensions reduce input costs for U.S. businesses and thus ultimately increase the competitiveness of their products.

I have been approached by a number of manufacturers in Kentucky that use imported inputs while making their products. These manufacturers have represented to me that, to their knowledge, there currently exists no American-made source for these inputs.

In an effort to assist these Kentucky manufacturers, I am introducing these duty suspension bills so that the items they address will be able to be considered for inclusion in the MTB prepared by the Senate Finance Committee.

My intention in introducing these bills is to begin the process of public comment and technical analysis by the International Trade Commission (ITC) on the items addressed by the bills. During this review, the ITC will determine which of these bills are necessary and meet the selection criteria. My support for a duty suspension for the items is contingent on a determination by the ITC analysts that the items in question are proper candidates for inclusion in the non-controversial MTB.

I look forward to working with Chairman GRASSLEY, Ranking Member BAUCUS and my colleagues on the Senate Finance Committee as the process for assembling a final MTB package continues.

By Mr. REED (for himself and Mr. CHAFEE):

S. 3187. A bill to designate the Post Office located at 5755 Post Road, East Greenwich, Rhode Island, as the ''Richard L. Cevoli Post Office.''; to the Committee on Homeland Security and Governmental Affairs.

Mr. REED. Mr. President, today I pay tribute to one of Rhode Island's most highly decorated soldiers, Commander Richard L. Cevoli of East Greenwich.

Commander Cevoli served our nation bravely in both World War II and the Korean War. In honor of his sacrifices and service to his nation, I am introducing a bill, along with Senator CHAFEE, to name the post office located at 5775 Post Road in East Greenwich, RI, the ''Richard L. Cevoli Post Office.''

Commander Cevoli was born in East Greenwich, Rhode Island, on October 24, 1919, and died in a tragic plane crash in Florida on January 18, 1955. He went to Rhode Island State College, which is now the University of Rhode Island, and earned a degree in civil engineering. In 1941, after graduation, he moved to New York and began working for the engineering firm of Merritt, Chapman & Scott.

The month after the bombing of Pearl Harbor, Richard Cevoli returned to Rhode Island and entered the Navy. He was sent to flight training in Dallas, Sanford, and Pensacola before being assigned to Squadron VF–18, based on the USS *Intrepid* in the Pacific.

It was during his service with the VF–18 that Commander Cevoli was awarded the second-highest medal awarded in the Navy—the Navy Cross. This honor was given to Commander Cevoli during the Battle of Leyte Gulf off the Philippines coast in October of 1944. Along with other fighters, Commander Cevoli strafed the largest Japanese ship, silencing many of its guns. The following day, he severely damaged a Japanese aircraft carrier with a 500-pound bomb. On a subsequent attack on the Japanese forces, as is recorded in his medal citation, ''Cevoli disregarded the terrific antiaircraft opposition and scored a near miss on a Kongo class battleship with a 500-pound bomb. Then, pulling out he made a second run to strafe a destroyer, silencing its antiaircraft weapons and thereby contributing to our successful bombing and torpedo attacks which followed. His outstanding courage and determination were in keeping with the highest traditions of the United States Naval Service.''

Following his service during the war, he returned to Rhode Island and continued his Navy career at Naval Air Station, Quonset Point. However, the peace was short-lived. North Korea invaded South Korea, and another major conflict quickly began.

From 1949 until 1951, Commander Cevoli served as the Executive Officer in Squadron VF–18 on board the USS *Leyte*, seeing action in Korea. In addition to the Navy Cross, Commander Cevoli earned two Distinguished Flying Crosses and eight Air Medals during his active flying career.

Once the conflict in Korea had ended, Commander Cevoli was able to spend more time at home. He took classes at the Naval War College in Newport and in July, 1954 he was placed in command of Squadron VF–73. Tragically, he died serving his country when his plane crashed during a training mission.

Commander Cevoli left behind a wife, Grace, and three children, Steven, Carol, and Elizabeth. A life-long resident of East Greenwich, Commander Cevoli's legacy is memorialized in the Rhode Island Aviation Hall of Fame.

This legislation will pay tribute to this hero of Rhode Island and the United States, and I ask my colleagues to join me in honoring Commander Cevoli by supporting this bill.

Mr. President, I ask unanimous consent that the text of this 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. 3187

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

SECTION 1. RICHARD L. CEVOLI POST OFFICE.

(a) DESIGNATION.—The post office located at 5755 Post Road, East Greenwich, Rhode Island, shall be known and designated as the ''Richard L. Cevoli Post Office''.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the post office referred to in subsection (a) shall be deemed to be a reference to the Richard L. Cevoli Post Office.

By Mrs. FEINSTEIN:

S. 3188. A bill to amend the Forest Service use and occupancy permit program to restore the authority of the Secretary of Agriculture to utilize the special use permit fees collected by the Secretary in connection with the establishment and operation of marinas in units of the National Forest System derived from the public domain, and for other purposes; to the Committee on Energy and Natural Resources.

Mrs. FEINSTEIN. Mr. President, I rise to introduce legislation that will restore authority to the Forest Service to retain marina permit revenue for local expenditure.

Within some National Forests, the Forest Service has partnered with local small business owners, allowing them to operate houseboat marinas. In exchange, the Forest Service collects occupancy fees from these marina operators. A portion of these fees had, until recently, been kept in the Forest for local recreation and safety enhancement projects. My legislation allows the Forest Service to once again use these fees in the Forest where they were generated, and where their impact will be most direct.

Several units of the National Forest system will benefit from this legislation, but the unit most affected is the Shasta-Trinity National Forest in California. Under the 1996 Recreation Fee Demonstration Program, the Shasta-Trinity Forest developed a recreation enhancement program at Shasta and Trinity Lakes. Forest Service officials used a portion of the revenue from this program for projects like dock repair, improved handicapped access, safety markers for boaters, law enforcement, and campground construction. Over $4 million was invested in the Forest through this program.

However, the program was inadvertently repealed when the Federal Lands Recreation Enhancement Act was passed. My legislation will correct this oversight by amending the Forest Service's Special Use Permit program, returning this recreation and safety project authority to the agency.

Recreation on Federal lands is important to quality of life in my state and throughout the nation. In many rural areas, it also provides a boost to the economy. I urge my colleagues to support this legislation. It is a simple bill correcting an oversight in the Federal Lands Recreation Enhancement Act. Nonetheless, it has important implications both for recreation enhancement and for the local economies around the affected National Forests.

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. 3188

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

SECTION 1. RETENTION AND USE OF FOREST SERVICE MARINA PERMIT FEES FROM NATIONAL FOREST SYSTEM UNITS DERIVED FROM THE PUBLIC DOMAIN.

The last paragraph under the heading ''FOREST SERVICE'' in the Act of March 4, 1915 (16 U.S.C. 497), is amended—

(1) by striking ''The Secretary of Agriculture'' and inserting the following:

''(A) PERMITS FOR USE AND OCCUPANCY OF NATIONAL FOREST SYSTEM LANDS.—The Secretary of Agriculture'';

(2) by striking ''The authority'' and inserting the following:

''(B) LIMITATION ON USE OF PERMITS.—The authority''; and

(3) by adding at the end the following:

''(C) SPECIAL RULES REGARDING MARINA PERMITS.—Amounts collected in connection with the issuance of a special use permit under this paragraph for a marina at a unit of the National Forest System derived from the public domain shall be deposited in an existing special account in the Treasury established for the Secretary of Agriculture for recreation management purposes. Amounts so deposited shall be available to the Secretary of Agriculture, until expended and without further appropriation, for repair, maintenance, and facility enhancement related directly to visitor enjoyment, visitor access, and health and safety, for interpretation, visitor information, visitor service, visitor needs assessments, and signs, for habitat restoration directly related to wildlife-dependent recreation that is limited to hunting, fishing, wildlife observation, or photography, for law enforcement related to public use and recreation, and for direct operating or capital costs associated with the issuance of such special use permits, including any fee management agreement or reservation service used in the issuance of such permits. The Secretary may not use such amounts for biological monitoring for listed or candidate species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.). Not less than 80 percent of the permit fees collected at a specific unit of the National Forest System shall be expended for that unit, but the Secretary may transfer up to 20 percent of such fees to appropriations available to enhance recreation opportunities at other units of the National Forest System.''.

By Mrs. FEINSTEIN:

S. 3189. A bill to allow for renegotiating of the payment schedule of contracts between the Secretary of the Interior and the Redwood Valley Country Water District, and for other purposes; to the Committee on Energy and Natural Resources.

Mrs. FEINSTEIN. Mr. President, I rise today to introduce the Redwood Valley County Water District Loan Renegotiation Act of 2006.

This legislation seeks to implement prior congressional action taken in 1988 to require the Secretary of the Interior to renegotiate debts owed by the Redwood Valley County Water District to the United States. It is an absolutely essential step if the Redwood County is to obtain a firm and reliable water supply.

In 1983, the Redwood Valley County Water District completed a project to supply water to a rural agricultural community near Ukiah, in Northern California. Two Bureau of Reclamation loans totaling $7.3 million partially financed this project.

Unfortunately, the District was unable to repay these loans. This occurred for several reasons: The initial use projections developed by the District and reviewed by the Bureau were seriously flawed; the District's ability to raise funds was restricted when a moratorium on new hook-ups was imposed; and concerns for endangered species reduced the District's water allotment by 15 percent.

As a result of this situation, in 1998 Congress passed Section 15 of Public Law 100–516 that indefinitely suspended the District's obligations to repay these Bureau loans and ordered the Secretary of Interior to renegotiate the terms of the loans. This loan renegotiation has never taken place and now the District finds its water supply highly uncertain. The Bureau of Reclamation acknowledged in a 2000 report that the District needs a reliable water supply in order to solve its current financial dilemma.

The District has recently identified two potential new projects, either of which could supply a firm and reliable source. No government funds will be sought for these projects, and the District will rely on private financing, a strategy that the Bureau is encouraging. However, before the District can secure private financing for new projects, it must renegotiate the existing loans to provide for their repayment subsequent to repayment of the new loans.

This legislation requires the District to repay the United States the currently suspended loans once the new loans have been repaid. The new water project will provide enough revenue to allow the District to repay both its private loan and the United States government. By providing a workable and reasonable solution to a longstanding problem, the legislation creates a win-win solution for the Bureau of Reclamation and the Redwood Valley County Water District.

I urge my colleagues to support this bill. 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. 3189

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

SECTION 1. RENEGOTIATION OF PAYMENT SCHEDULE.

Section 15 of Public Law 100–516 (102 Stat. 2573) is amended as follows:

(1) By amending paragraph (2) of subsection (a) to read as follows:

''(2) If, as of January 1, 2006, the Secretary of the Interior and the Redwood Valley County Water District have not renegotiated the schedule of payment, the District may enter into such additional non-Federal obligations as are necessary to finance procurement of dedicated water rights and improvements necessary to store and convey those rights to provide for the District's water needs. The renegotiated schedule of payments shall commence when which additional obligations have been financially satisfied by the District. The date of the initial payment owed by the District to the United States shall be regarded as the start of the District's repayment period and the time upon which any interest shall first be computed and assessed under section 5 of the Small Reclamation Projects Act of 1956 (43 U.S.C. 422a et seq.).''.

(2) By striking subsection (c).

By Mr. DAYTON (for himself and Mr. LOTT):

S. 3239. A bill to require full disclosure of insurance coverage and noncoverage by insurance companies and provide for Federal Trade Commission enforcement; to the Committee on Commerce, Science, and Transportation.

Mr. DAYTON. Mr. President, this legislation I am proud to cosponsor, along with my distinguished colleague from Mississippi, is called the Uniform Insurance Noncoverage Disclosure Act. I call it ''honesty is the best insurance policy act.'' It says very simply that all insurance policies—medical, homeowners, whatever they are—must state clearly on the cover page what the policy does not cover.

My colleague from Mississippi can speak eloquently and powerfully about his experiences in his State post-Katrina, but even before that disaster occurred, I have seen similar situations in Minnesota of good people whose lives were devastated by illnesses or natural disasters and then were further devastated by discovering that their losses or expenses were not covered by their insurance policies. For years, they had faithfully paid their premiums believing they had comprehensive coverage, only to find out too late that was untrue.

Insurance companies write the policies, they interpret the policies, they decide what they will and will not cover, and then they handle the appeals and make the final decisions. If they deny the claims, they pocket those dollars in profits. If they honor the claims, they pay them out in losses. Talk about a stacked deck in their favor and against the consumer.

I have had aggrieved constituents show me their homeowners policies. I am an intelligent, well-educated man, but it is impossible to decipher them. They contain cross-references to paragraph numbers in other policies that are not part of the agreement. They cannot be understood, and they are not meant to be understood.

One Minnesota homeowner lost almost everything to a flood. Too late he discovered that his blanket homeowners insurance did not cover losses from a flood. He was protected, according to the policy, if an airplane crashed into his house or if civil insurrection—meaning a revolution—caused damage to his home, but not flooding. What are the chances of those different events possibly occurring?

Another Minnesota family whose father had worked for a company for over 20 years learned that their infant son had been born deaf and needed a Cochlear implant. Two of the insurance companies that carried those policies for the company covered that operation; the other did not, claiming that it was experimental. The family made the unwitting mistake of selecting the wrong policy. No one told them that policy would not pay for Cochlear implant surgery in its comprehensive family coverage, and they, obviously, did not know or could not have known that their unborn son would need this surgery some several years later.

Fortunately, this story has a happy ending. The president of the company, Honeywell, Inc., learning of this injustice, overrode the policy and decreed that Honeywell, the company, would pay for that missing coverage, and that child is now listening to human voices he never would have had the opportunity to otherwise.

But not everyone is in that situation. Not everyone is that fortunate.

So this legislation, again, no costs to it, no bureaucracy, nothing. It simply says that the policy must state clearly, in plain English, understandable on the cover page, what it will not cover. If it is comprehensive, if it is complete, then nothing needs to be said. If it is not, if they experience situations that will not be covered, then it needs to tell the consumer up front on that front page what they will be.

Mr. President, I yield to my distinguished colleague from Mississippi.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. LOTT. I thank again my colleagues on the Judiciary Committee and Senator CRAIG for allowing us to go ahead and introduce this legislation and make brief statements. It is very generous, and we thank him for it.

I am delighted to join my colleague, Senator DAYTON, tonight in cosponsoring this legislation. He was kind enough to invite me to do so and even said: Why don't you be the lead sponsor? And I said no, but I will be glad to cosponsor it.

I think this is an important statement here tonight. Honesty is the best insurance policy. It has a good ring to it. It is not going to revolutionize the world, but it could make a real difference. This is a time when once again, in many parts of the country and particularly in my home area, we are very sensitive to the threat of disasters because in only 8 days, on June 1, the next hurricane season will begin, and the National Oceanic and Atmospheric Administration predicts four to six major hurricanes in the upcoming season. So once again people are struggling with situations of having lost their homes or having their homes badly damaged and being told: No, your insurance policy didn't cover your damage. You didn't have flood insurance because, well, you weren't in a flood plain, and oh, by the way, your house was washed away. It wasn't blown away even though we had winds of 140 miles per hour with gusts of 160 or 170 miles an hour, so therefore you didn't have any wind damage. I must say it has been a disappointing shock to me, the insensitivity and the decisions of certain insurance companies and the positions they have taken. Sometimes they will say: Well, wait a minute, we told you in the policy we don't cover this, we don't cover that.

I represent a blue-collar community. Most people work in the paper mills and the shipyards and are fishermen in my area. They have high school educations, but they are not lawyers. They get a house insurance policy and they think: I am covered. Now, go back and take a look at your insurance policies. If you really take a look at it, you will find that this is not covered, that is not covered, this is not covered, and the next thing you know, you haven't got much coverage, but your premium still goes forward. The standard policies, for instance, don't cover earthquakes and floods, and depending on where you live, hurricanes may not even be covered. That is going to be determined in legal actions. Sometimes they say: Well, unless the policy specifically says the hurricane was covered, then it is not covered. Well, that is an ingenious argument, too.

So we have found that there are lots of problems here, and it breaks my heart, what I have seen happen to thousands of my constituents and people in the neighboring States of Louisiana, Texas, and Alabama. They are being told: No, you didn't read the small print in your policy, you are not covered, or because it didn't say you were covered, then you are not covered. That is why I have joined in sponsoring this bill. Surely we should have honesty in everything, including insurance coverage. At least we should find a way to help the people understand.

So this is what this bill does. It is not all that complicated. It would require that insurance companies include a noncoverage disclosure box—a noncoverage disclosure box—restating in the body of the policy, in font twice the current size of the text, all conditions, exclusions, and other limitations of coverage under that policy. In other words, make it clear. Don't hide it in legalese and gobbledegook. Make it title size, make it bold, where people can go and see what they are not getting.

Some people say: Wait a minute, this may be damaging to the companies. No, I think it will help the companies. It will increase consumer confidence. It will avoid disagreements or conflicts about what is covered. You will have a clarification here, and if you have questions, then at least you can clear them up. It would be in their interests.

One other criticism, and that is, what is it going to cost the Federal Government? Answer: Nothing. And very little to the companies. They have these exclusions woven in there, but they are quite often way down in the body of some long policy, incomprehensible to the minds of normal and sane men and women.

So I think this is something which would be good. Frankly, I agree with the Consumer Federation of America. This small requirement could have saved many people pain and suffering and hundreds of millions of dollars, maybe even billions, after Katrina. So I think it is a good idea, and it is one I am glad to cosponsor. I hope that as we continue to look at what we do in the aftermath of recent disasters and how we do a better job compared to future disasters, this can be worked into the body of legislation. So I am delighted to join as a cosponsor. I thank Senator DAYTON, and I thank Senator LEAHY and Senator CORNYN for allowing us to do this.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 494—EXPRESSING THE SENSE OF THE SENATE REGARDING THE CREATION OF REFUGEE POPULATIONS IN THE MIDDLE EAST, NORTH AFRICA, AND THE PERSIAN GULF REGION AS A RESULT OF HUMAN RIGHTS VIOLATIONS

Mr. SANTORUM (for himself, Mr. LAUTENBERG, Mr. COLEMAN, and Mr. DURBIN) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 494

Whereas armed conflicts in the Middle East have created refugee populations numbering in the hundreds of thousands and comprised of peoples from many ethnic, religious, and national backgrounds;

Whereas Jews and other ethnic groups have lived mostly as minorities in the Middle East, North Africa, and the Persian Gulf region for more than 2,500 years, more than 1,000 years before the advent of Islam;

Whereas the United States has long voiced its concern about the mistreatment of minorities and the violation of human rights in the Middle East and elsewhere;

Whereas the United States continues to play a pivotal role in seeking an end to conflict in the Middle East and continues to promote a peace that will benefit all the peoples of the region;

Whereas a comprehensive peace in the region will require the resolution of all outstanding issues through bilateral and multilateral negotiations involving all concerned parties;

Whereas the United States has demonstrated interest and concern about the mistreatment, violation of rights, forced expulsion, and expropriation of assets of minority populations in general, and in particular, former Jewish refugees displaced from Arab countries, as evidenced, inter alia, by—

(1) a Memorandum of Understanding signed by President Jimmy Carter and Israeli Foreign Minister Moshe Dayan on October 4, 1977, which states that ''[a] solution of the problem of Arab refugees and Jewish refugees will be discussed in accordance with rules which should be agreed'';

(2) a statement made by President Jimmy Carter after negotiating the Camp David Accords, the Framework for Peace in the Middle East, where he stated in a press conference on October 27, 1977, that ''Palestinians have rights . . . obviously there are Jewish refugees . . . they have the same rights as others do'';

(3) a statement made by President Clinton in an interview after Camp David II in July 2000, at which the issue of Jewish refugees displaced from Arab lands was discussed, where he said that ''[t]here will have to be some sort of international fund set up for the refugees. There is, I think, some interest, interestingly enough, on both sides, in also having a fund which compensates the Israelis who were made refugees by the war, which occurred after the birth of the State of Israel. Israel is full of people, Jewish people, who lived in predominantly Arab countries who came to Israel because they were made refugees in their own land.'';

(4) Senate Resolution 76, 85th Congress, introduced by Senator Jenner on January 29, 1957, which—

(A) noted that individuals in Egypt who are tied by race, religion, or national origin with Israel, France, or the United Kingdom have been subjected to arrest, denial or revocation of Egyptian citizenship, expulsions, forced exile, sequestration and confiscation of assets and property, and other punishments without being charged with a crime; and

(B) requested the President to instruct the chief delegate to the United Nations to urge the prompt dispatch of a United Nations observer team to Egypt with the objective of obtaining a full factual report concerning the violation of rights; and

(5) section 620 of H.R. 3100, 100th Congress, which states that Congress finds that ''with the notable exceptions of Morocco and Tunisia, those Jews remaining in Arab countries continue to suffer deprivations, degradations, and hardships, and continue to live in peril'' and that Congress calls upon the governments of those Arab countries where Jews still maintain a presence to guarantee their Jewish citizens full civil and human rights, including the right to lead full Jewish lives, free of fear, with freedom to emigrate if they so choose;

Whereas the international definition of a refugee clearly applies to Jews who fled the persecution of Arab regimes, where a refugee is a person who ''owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group, or political opinion, is outside the country of his nationality, and is unable to or, owing to such fear, is unwilling to avail himself of the protection of that country'' (Convention relating to the status of refugees of July 28, 1951 (189 UNTS 150));

Whereas the United Nations High Commissioner for Refugees (UNHCR), on 2 separate occasions, determined that Jews fleeing from Arab countries were refugees that fell within the mandate of the UNHCR, namely—

(1) when in his first statement as newly elected High Commissioner, Mr. Auguste Lindt, at the January 29, 1957, meeting of the United Nations Refugee Fund (UNREF) Executive Committee in Geneva, stated, ''There is already now another emergency problem arising. Refugees from Egypt. And there is no doubt in my mind that those of those refugee who are not able or not willing to avail themselves of the protection of the Government of their nationality, they might have no nationality or they may have lost this nationality, or, for reasons of prosecution may not be willing to avail themselves of this protection, fall under the mandate of the High Commissioner.'' (United Nations High Commissioner for Refugees, Report of the UNREF Executive Committee, Fourth Session–Geneva 29 January to 4 February, 1957); and

(2) when Dr. E. Jahn, for the United Nations High Commissioner for Refugees, wrote to Daniel Lack, Legal Adviser to the American Joint Distribution Committee, on July 6, 1967, stating, ''I refer to our recent discussion concerning Jews from Middle Eastern and North African countries in consequence of recent events. I am now able to inform you that such persons may be considered prima facie within the mandate of this Office.'' (United Nations High Commissioner for Refugees Document No. 7/2/3/Libya);

Whereas the seminal United Nations resolution on the Arab-Israeli conflict and other international initiatives refer generally to the plight of ''refugees'' and do not make any distinction between Palestinian and Jewish refugees, such as—

(1) United Nations Security Council Resolution 242 of November 22, 1967, which calls for a ''just settlement of the refugee problem'' without distinction between Palestinian and Jewish refugees, and this is evidenced by—

(A) a failed attempt by the United Nations delegation of the Soviet Union to restrict the ''just settlement'' mentioned in Resolution 242 solely to Palestinian refugees (S/8236, discussed by the Security Council at its 1382nd meeting on November 22, 1967, notably at paragraph 117, in the words of Ambassador Kouznetsov of the Soviet Union), which signified the international community's intention of having the resolution address the rights of all Middle East refugees; and

(B) a statement by Justice Arthur Goldberg, the Chief Delegate of the United States to the United Nations at that time, who was instrumental in drafting the unanimously adopted United Nations Resolution 242, where he pointed out that ''The resolution addresses the objective of 'achieving a just settlement of the refugee problem'. This language presumably refers both to Arab and Jewish refugees, for about an equal number of each abandoned their homes as a result of the several wars.'';

(2) the Madrid Conference, which was first convened in October 1991 and was co-chaired by President of the United States, George H.W. Bush, and President of the Soviet Union, Mikhail Gorbachev, and included delegations from Spain, the European community, the Netherlands, Egypt, Syria, and Lebanon, as well as a joint Jordanian-Palestinian delegation, where in his opening remarks before the January 28, 1992, organizational meeting for multilateral negotiations on the Middle East in Moscow, United States Secretary of State James Baker made no distinction between Palestinian refugees and Jewish refugees in articulating the mission of the Refugee Working Group, stating ''that [t]he refugee group will consider practical ways of improving the lot of people throughout the region who have been displaced from their homes''; and

(3) the Roadmap to a Permanent Two-State Solution to the Israeli-Palestinian Conflict, which refers in Phase III to an ''agreed, just, fair, and realistic solution to the refugee issue,'' and uses language that is equally applicable to all persons displaced as a result of the conflict in the Middle East;

Whereas Egypt, Jordan, and the Palestinians have affirmed that a comprehensive solution to the Middle East conflict will require a just solution to the plight of all ''refugees'', as evidenced by—

(1) the 1978 Camp David Accords, the Framework for Peace in the Middle East, which includes a commitment by Egypt and Israel to ''work with each other and with other interested parties to establish agreed procedures for a prompt, just and permanent resolution of the implementation of the refugee problem'';

(2) the Treaty of Peace between Israel and Egypt, signed at Washington March 26, 1979, which provides in Article 8 that the ''Parties agree to establish a claims commission for the mutual settlement of all financial claims'', in addition to general references to United Nations Security Council Resolution 242 as the basis for comprehensive peace in the region; and

(3) Article 8 of the Treaty of Peace Between the State of Israel and the Hashemite Kingdom of Jordan, done at Arava/Araba Crossing Point October 26, 1994, entitled ''Refugees and Displaced Persons'', recognizes ''the massive human problems caused to both Parties by the conflict in the Middle East'';

Whereas the call to secure rights and redress for Jewish and other minorities who were forced to flee Arab countries is not a campaign against Palestinian refugees;

Whereas the international community should be aware of the plight of Jews and other minority groups displaced from the Middle East, North Africa, and the Persian Gulf;

Whereas no just and comprehensive Middle East peace can be reached without recognition of, and redress for, the uprooting of centuries-old Jewish communities in the Middle East, North Africa, and the Persian Gulf; and

Whereas it would not be appropriate, and would constitute an injustice, were the United States to recognize rights for Palestinian refugees without recognizing equal rights for former Jewish, Christian, and other refugees from Arab countries: Now, therefore, be it

Resolved,

SECTION 1. SENSE OF THE SENATE ON HUMAN RIGHTS AND REFUGEES.

It is the sense of the Senate that—

(1) the United States deplores the past and present ongoing violation of the human rights and religious freedoms of minority populations in Arab and Muslim countries throughout the Middle East, North Africa, and the Persian Gulf; and

(2) with respect to Jews, Christians, and other populations displaced from countries in the region, for any comprehensive Middle East peace agreement to be credible, durable, enduring, and constitute an end to conflict in the Middle East, the agreement must address and resolve all outstanding issues, including the legitimate rights of all refugees of the Middle East.

SEC. 2. UNITED STATES POLICY ON REFUGEES OF THE MIDDLE EAST.

The Senate urges the President to—

(1) instruct the United States Permanent Representative to the United Nations and all representatives of the United States in bilateral and multilateral fora that when considering or addressing resolutions that allude to the issue of Middle East refugees, they should ensure that—

(A) relevant text refers to the fact that multiple refugee populations have been created by the Arab-Israeli conflict; and

(B) any explicit reference to the required resolution of the Palestinian refugee issue is matched by a similar explicit reference to the resolution of the issue of Jewish, Christian, and other refugees from Arab countries; and

(2) make clear that the Government of the United States supports the position that, as an integral part of any comprehensive peace, the issue of refugees and the mass violations of human rights of minorities in Arab and Muslim countries throughout the Middle East, North Africa, and the Persian Gulf must be resolved in a manner that includes—

(A) consideration of the legitimate rights of all refugees displaced from Arab countries; and

(B) recognition of the losses incurred by Jews, Christians, and other minority groups as a result of the Arab-Israeli conflict.

SENATE RESOLUTION 495—DESIGNATING JUNE 8, 2006, AS THE DAY OF A NATIONAL VIGIL FOR LOST PROMISE

Mr. GRASSLEY (for himself, Mr. BIDEN, Mr. HATCH, Mr. SPECTER, Mr. DURBIN, Mr. TALENT, Mr. BAUCUS, Mr. DODD, and Ms. MURKOWSKI) submitted the following resolution; which was considered and agreed to:

S. RES. 495

Whereas over 26,000 citizens die from the effects of drug abuse each year;

Whereas the damage from drugs is not limited to drug abusers, the collateral damage from drugs is enormous, and drug abuse costs society over $60,000,000,000 in social costs and lost productivity;

Whereas drugs rob users, their families, and all the people of the United States of dreams, promises, ambitions, talents, and lives;

Whereas drug abuse affects millions of families in the United States;

Whereas the stigma of drug abuse and the cloak of denial keep many individuals and families from dealing with the impact of drugs;

Whereas many friends and families are ashamed to acknowledge the death of their loved ones caused by drug abuse;

Whereas all the people of the United States can benefit from illuminating the problem of drug abuse and its impact on families, communities, and society;

Whereas the futures of thousands of youth of the United States have been cut short because of drug abuse, including the life of—

(1) Irma Perez, who suffered and died of an Ecstasy overdose at age 14;

(2) David Manlove, who wanted to be a doctor, but died from inhalant abuse at age 16;

(3) David Pease, an articulate debater, who died of a heroin overdose at age 23;

(4) Ian Eaccarino, a college student who died of a heroin overdose at age 20;

(5) Jason Surks, who was studying to be a pharmacist, but died of prescription drug abuse at age 19;

(6) Kelley McEnery Baker, who died of an overdose of Ecstasy at age 23;

(7) Ryan Haight, who died of an overdose of prescription drugs he had purchased over the Internet at age 18; and

(8) Taylor Hooton, a high school baseball star whose life was cut short by steroids at age 16;

Whereas these deaths represent only a small sample of the lost promise that drug abuse has cost the future of the United States;

Whereas law enforcement, public health and research organizations, community coalitions, drug prevention outreach organizations, individual parents, siblings, friends, and concerned citizens are joining together on June 8, 2006, in a Vigil for Lost Promise, to call public attention to the tremendous promise which has been lost with the deaths of those affected by drugs: Now, therefore, be it

Resolved, That the Senate—

(1) designates June 8, 2006, as the day of a National Vigil for Lost Promise; and

(2) encourages all young people to choose to live a drug-free life;

(3) encourages all people of the United States to work to stop drug abuse before it starts and remain vigilant against the far reaching loss of promise caused by deaths from drug abuse;

(4) encourages all citizens of the United States to remember the lost promise of youth caused by drug abuse on this day.

AMENDMENTS SUBMITTED AND PROPOSED

SA 4188. Mr. SPECTER (for himself and Mr. KENNEDY) proposed an amendment to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes.

TEXT OF AMENDMENTS

SA 4188. Mr. SPECTER (for himself and Mr. KENNEDY) proposed an amendment to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; as follows:

On page 8, between lines 20 and 21, insert the following:

(3) DEPUTY UNITED STATES MARSHALS.—In each of the 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.

(4) RECRUITMENT OF FORMER MILITARY PERSONNEL.—

(A) IN GENERAL.—The Commissioner of United States Customs and Border Protection, in conjunction with the Secretary of Defense or a designee of the Secretary of Defense, shall establish a program to actively recruit members of the Army, Navy, Air Force, Marine Corps, and Coast Guard who have elected to separate from active duty.

(B) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Commissioner shall submit a report on the implementation of the recruitment program established pursuant to subparagraph (A) to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives.

On page 9, line 3, strike ''(2)'' and insert the following:

(2) DEPUTY UNITED STATES MARSHALS.—There are authorized to be appropriated to the Attorney General such sums as may be necessary for each of the fiscal years 2007 through 2011 to carry out subsection (a)(3).

(3)

On page 33, between lines 9 and 10, insert the following:

SEC. 117. 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) CONSULTATION REQUIREMENT.—Federal, State, and local representatives in the United States shall consult with their counterparts in Mexico concerning the construction of additional fencing and related border security structures along the international border between the United States and Mexico, as authorized by this title, before the commencement of any such construction in order to—

(1) solicit the views of affected communities;

(2) lessen tensions; and

(3) foster greater understanding and stronger cooperation on this and other important security issues of mutual concern.

(e) 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.

On page 51, line 12, strike ''**554**'' and insert ''**555**''.

On page 53, between lines 3 and 4, strike ''**554**'' and insert ''**555**''.

On page 53, between lines 14 and 15, insert the following:

SEC. 134. REPORT ON INCENTIVES TO ENCOURAGE CERTAIN MEMBERS AND FORMER MEMBERS OF THE ARMED FORCES TO SERVE IN THE BUREAU OF CUSTOMS AND BORDER PROTECTION.

(a) REPORT REQUIRED.—Not later than 60 days after the date of the enactment of this Act, the Secretary of Homeland Security and the Secretary of Defense shall jointly submit to the appropriate committees of Congress a report assessing the desirability and feasibility of offering incentives to covered members and former members of the Armed Forces for the purpose of encouraging such members to serve in the Bureau of Customs and Border Protection.

(b) COVERED MEMBERS AND FORMER MEMBERS OF THE ARMED FORCES.—For purposes of this section, covered members and former members of the Armed Forces are the following:

(1) Members of the reserve components of the Armed Forces.

(2) Former members of the Armed Forces within two years of separation from service in the Armed Forces.

(c) REQUIREMENTS AND LIMITATIONS.—

(1) NATURE OF INCENTIVES.—In considering incentives for purposes of the report required by subsection (a), the Secretaries shall consider such incentives, whether monetary or otherwise and whether or not authorized by current law or regulations, as the Secretaries jointly consider appropriate.

(2) TARGETING OF INCENTIVES.—In assessing any incentive for purposes of the report, the

Secretaries shall give particular attention to the utility of such incentive in—

(A) encouraging service in the Bureau of Customs and Border Protection after service in the Armed Forces by covered members and former of the Armed Forces who have provided border patrol or border security assistance to the Bureau as part of their duties as members of the Armed Forces; and

(B) leveraging military training and experience by accelerating training, or allowing credit to be applied to related areas of training, required for service with the Bureau of Customs and Border Protection.

(3) PAYMENT.—In assessing incentives for purposes of the report, the Secretaries shall assume that any costs of such incentives shall be borne by the Department of Homeland Security.

(d) ELEMENTS.—The report required by subsection (a) shall include the following:

(1) A description of various monetary and non-monetary incentives considered for purposes of the report.

(2) An assessment of the desirability and feasibility of utilizing any such incentive for the purpose specified in subsection (a), including an assessment of the particular utility of such incentive in encouraging service in the Bureau of Customs and Border Protection after service in the Armed Forces by covered members and former members of the Armed Forces described in subsection (c)(2).

(3) Any other matters that the Secretaries jointly consider appropriate.

(e) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term ''appropriate committees of Congress'' means—

(1) the Committees on Armed Services, Homeland Security and Governmental Affairs, and Appropriations of the Senate; and

(2) the Committees on Armed Services, Homeland Security, and Appropriations of the House of Representatives.

SEC. 135. WESTERN HEMISPHERE TRAVEL INITIATIVE.

(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) EXTENSION OF WESTERN HEMISPHERE TRAVEL INITIATIVE IMPLEMENTATION DEADLINE.—Section 7209(b)(1) of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 8 U.S.C. 1185 note) is amended by striking ''January 1, 2008'' and inserting ''the later of June 1, 2009, or 3 months after the Secretary of State and the Secretary of Homeland Security make the certification required in subsection (i) of section 133 of the Comprehensive Immigration Reform Act of 2006.''.

(c) PASSPORT CARDS.—

(1) AUTHORITY TO ISSUE.—In order to facilitate travel of United States citizens to Canada, Mexico, the countries located in the Caribbean, and Bermuda, the Secretary of State, in consultation with the Secretary, is authorized to develop a travel document known as a Passport Card.

(2) 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 be authorized to issue to a citizen of the United States who submits an application in accordance with paragraph (5) a travel document that will serve as a Passport Card.

(3) APPLICABILITY.—A Passport Card shall be deemed to be a United States passport for the purpose of United States laws and regulations relating to United States passports.

(4) VALIDITY.—A Passport Card shall be valid for the same period as a United States passport.

(5) LIMITATION ON USE.—A Passport Card may only be used for the purpose of international travel by United States citizens through land and sea ports of entry between—

(A) the United States and Canada;

(B) the United States and Mexico; and

(C) the United States and a country located in the Caribbean or Bermuda.

(6) APPLICATION FOR ISSUANCE.—To be issued a Passport 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.

(7) TECHNOLOGY.—

(A) EXPEDITED TRAVELER PROGRAMS.—To the maximum extent practicable, a Passport 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 Passport Card is not developed by that date.

(B) TECHNOLOGY.—The Secretary and the Secretary of State shall establish a technology implementation plan that accommodates desired technology requirements of the Department of State and the Department, allows for future technological innovations, and ensures maximum facilitation at the northern and southern borders.

(8) SPECIFICATIONS FOR CARD.—A Passport Card shall be easily portable and durable. The Secretary of State and the Secretary 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.

(9) FEE.—

(A) IN GENERAL.—An applicant for a Passport Card shall submit an application under paragraph (6) together with a nonrefundable fee in an amount to be determined by the Secretary of State. Passport Card fees shall be deposited as an offsetting collection to the appropriate Department of State appropriation, to remain available until expended.

(B) LIMITATION ON FEES.—

(i) IN GENERAL.—The Secretary of State shall seek to make the application fee under this paragraph as low as possible.

(ii) MAXIMUM FEE WITHOUT CERTIFICATION.—Except as provided in clause (iii), the application fee may not exceed $24.

(iii) MAXIMUM FEE WITH CERTIFICATION.—The application fee may be not more than $34 if the Secretary of State, the Secretary, and the Postmaster General—

(I) jointly certify to Congress that the cost to produce and issue a Passport Card significantly exceeds $24; and

(II) provide a detailed cost analysis for such fee.

(C) REDUCTION OF FEE.—The Secretary of State shall reduce the fee for a Passport Card for an individual who submits an application for a Passport Card together with an application for a United States passport.

(D) WAIVER OF FEE FOR CHILDREN.—The Secretary of State shall waive the fee for a Passport Card for a child under 18 years of age.

(E) AUDIT.—In the event that the fee for a Passport Card exceeds $24, the Comptroller General of the United States shall conduct an audit to determine whether Passport Cards are issued at the lowest possible cost.

(10) ACCESSIBILITY.—In order to make the Passport Card easily obtainable, an application for a Passport Card shall be accepted in the same manner and at the same locations as an application for a United States passport.

(11) 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 Passport Card.

(d) STATE ENROLLMENT DEMONSTRATION PROGRAM.—

(1) IN GENERAL.—Notwithstanding any other provisions of law, the Secretary of State and the Secretary shall enter into a memorandum of understanding with 1 or more appropriate States to carry out at least 1 demonstration program as follows:

(A) A State may include an individual's United States citizenship status on a driver's license which meets the requirements of section 202 of the REAL ID Act of 2005 (division B of Public Law 109–13; 49 U.S.C. 30301 note).

(B) The Secretary of State shall develop a mechanism to communicate with a participating State to verify the United States citizenship status of an applicant who voluntarily seeks to have the applicant's United States citizenship status included on a driver's license.

(C) All information collected about the individual shall be managed exclusively in the same manner as information collected through a passport application and no further distribution of such information shall be permitted.

(D) A State may not require an individual to include the individual's citizenship status on a driver's license.

(E) Notwithstanding any other provision of law, a driver's license which meets the requirements of this paragraph shall be deemed to be sufficient documentation to permit the bearer to enter the United States from Canada or Mexico through not less than at least 1 designated international border crossing in each State participating in the demonstration program.

(2) RULE OF CONSTRUCTION.—Nothing in this subsection shall have the effect of creating a national identity card.

(3) AUTHORITY TO EXPAND.—The Secretary of State and the Secretary may expand the demonstration program under this subsection so that such program is carried out in additional States, through additional ports of entry, for additional foreign countries, and in a manner that permits the use of additional types of identification documents to prove identity under the program.

(4) STUDY.—Not later than 6 months after the date that the demonstration program under this subsection is carried out, the Comptroller General of the United States shall conduct a study of—

(A) the cost of the production and issuance of documents that meet the requirements of the program compared with other travel documents;

(B) the impact of the program on the flow of cross-border traffic and the economic impact of the program; and

(C) the security of travel documents that meet the requirements of the program compared with other travel documents.

(5) RECIPROCITY WITH CANADA.—Notwithstanding any other provision of law, if the Secretary of State and the Secretary certify that certain identity documents issued by Canada (or any of its provinces) meet security and citizenship standards comparable to the requirements described in paragraph (1), the Secretary may determine that such documents are sufficient to permit entry into the United States. The Secretary shall work, the to maximum extent possible, to ensure that identification documents issued by Canada that are used as described in this paragraph contain the same technology as identification documents issued by the United States (or any State).

(6) ADDITIONAL PILOT PROGRAMS.—To the maximum extent possible, the Secretary shall seek to conduct pilot programs related to Passport Cards and the State Enrollment Demonstration Program described in this subsection on the international border between the United States and Canada and the international border between the United States and Mexico.

(e) EXPEDITED PROCESSING FOR REPEAT TRAVELERS.—

(1) LAND CROSSINGS.—To the maximum extent practicable at the United States border with Canada and the United States border with Mexico, the Secretary 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. The Secretary, in consultation with the appropriate officials of the Government of Canada, shall equip at least 6 additional northern border crossings with NEXUS technology and 6 additional southern ports of entry with SENTRI technology.

(2) SEA CROSSINGS.—The Commissioner of Customs and Border Patrol shall conduct and expand trusted traveler programs and pilot programs to facilitate expedited processing of United States citizens returning from pleasure craft trips in Canada, Mexico, the Caribbean, or Bermuda. One such program shall be conducted in Florida and modeled on the I–68 program.

(f) PROCESS FOR INDIVIDUALS LACKING APPROPRIATE DOCUMENTS.—

(1) IN GENERAL.—The Secretary shall establish a program that satisfies section 7209 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 8 U.S.C. 1185 note)—

(A) to permit a citizen of the United States who has not been issued a United States passport or other appropriate travel document to cross the international border and return to the United States for a time period of not more than 72 hours, on a limited basis, and at no additional fee; or

(B) to establish a process to ascertain the identity of, and make admissibility determinations for, a citizen described in paragraph (A) upon the arrival of such citizen at an international border of the United States.

(2) GRACE PERIOD.—During a time period determined by the Secretary, officers of the United States Customs and Border Patrol may permit citizens of the United States and Canada who are unaware of the requirements of 7209 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 8 U.S.C. 1185 note), or otherwise lacking appropriate documentation, to enter the United States upon a demonstration of citizenship satisfactory to the officer. Officers of the United States Customs and Border Patrol shall educate such individuals about documentary requirements.

(g) TRAVEL BY CHILDREN.—Notwithstanding any other provision of law, the Secretary shall develop a procedure to accommodate groups of children traveling by land across an international border under adult supervision with parental consent without requiring a government-issued identity and citizenship document.

(h) PUBLIC PROMOTION.—The Secretary of State, in consultation with the Secretary, shall develop and implement an outreach plan to inform United States citizens about the Western Hemisphere Travel Initiative and the provisions of this Act, to facilitate the acquisition of appropriate documentation to travel to Canada, Mexico, the countries located in the Caribbean, and Bermuda, and to educate United States citizens who are unaware of the requirements for such travel. Such outreach plan should include—

(1) written notifications posted at or near public facilities, including border crossings, schools, libraries, Amtrak stations, 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 and other ports of entry;

(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 collection and analysis of data to measure the success of the public promotion plan; and

(4) additional measures as appropriate.

(i) 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 later of June 1, 2009, or the date that is 3 months after the Secretary of State and the Secretary certify to Congress that—

(1)(A) if the Secretary and the Secretary of State develop and issue Passport Cards under this section—

(i) such 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;

(ii) Passport Cards are provided to applicants, on average, within 4 weeks of application or within the same period of time required to adjudicate a passport; and

(iii) a successful pilot has demonstrated the effectiveness of the Passport Card; or

(B) if the Secretary and the Secretary of State do not develop and issue Passport Cards under this section and develop a program to issue an alternative document that satisfies the requirements of section 7209 of the Intelligence Reform and Terrorism Prevention Act of 2004, in addition to the NEXUS, SENTRI, FAST and Border Crossing Card programs, such alternative document is widely available and well publicized;

(2) United States border crossings have been equipped with sufficient document readers and other technologies to ensure that implementation will not substantially slow the flow of traffic and persons across international borders;

(3) officers of the Bureau of Customs and Border Protection have received training and been provided the infrastructure necessary to accept Passport Cards and all alternative identity documents at all United States border crossings; and

(4) the outreach plan described in subsection (g) has been implemented and the Secretary determines such plan has been successful in providing information to United States citizens.

(j) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of State and the Secretary such sums as may be necessary to carry out this section, and the amendment made by this section.

On page 54, line 1, strike ''**555**'' and insert ''**556**''.

On page 55, between lines 4 and 5, strike ''555'' and insert ''556''.

On page 55, line 7, strike ''555'' and insert ''556''.

On page 55, line 15, strike ''554'' and insert ''556''.

On page 55, line 16, strike ''132'' and insert ''142''.

On page 55, line 21, strike ''554'' and insert ''556''.

Beginning on page 78, line 25, strike ''instituted in the United States District Court for the District of Columbia'' and insert ''brought in a United States district court''.

On page 81, line 10, insert ''Immigration'' before ''Reform''.

On page 151, between lines 6 and 7, insert the following:

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Director of the Federal Bureau of Investigations $3,125,000 for each of fiscal years 2007 through 2011 for improving the speed and accuracy of background and security checks conducted by the Federal Bureau of Investigations on behalf of the Bureau of Citizenship and Immigrations Services.

(d) REPORT ON BACKGROUND AND SECURITY CHECKS.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Director of the Federal Bureau of Investigations shall submit to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives a report on the background and security checks conducted by the Federal Bureau of Investigations on behalf of the Bureau of Citizenship and Immigrations Services

(2) CONTENT.—The report required under paragraph (1) shall include—

(A) a description of the background and security check program;

(B) a statistical breakdown of the background and security check delays associated with different types of immigration applications;

(C) a statistical breakdown of the background and security check delays by applicant country of origin; and

(D) the steps the Federal Bureau of Investigations is taking to expedite background and security checks that have been pending for more than 60 days.

On page 157, line 18, insert ''of Homeland Security'' after ''Secretary''.

On page 164, line 20, strike ''before, on,'' and insert ''on''.

On page 183, between lines 4 and 5, insert the following:

SEC. 235. EXPANSION OF THE JUSTICE PRISONER AND ALIEN TRANSFER SYSTEM.

Not later than 60 days after the date of enactment of this Act, the Attorney General shall issue a directive to expand the Justice Prisoner and Alien Transfer System (JPATS) so that such System provides additional services with respect to aliens who are illegally present in the United States. Such expansion should include—

(1) increasing the daily operations of such System with buses and air hubs in 3 geographic regions;

(2) allocating a set number of seats for such aliens for each metropolitan area;

(3) allowing metropolitan areas to trade or give some of seats allocated to them under the System for such aliens to other areas in their region based on the transportation needs of each area; and

(4) requiring an annual report that analyzes of the number of seats that each metropolitan area is allocated under this System for such aliens and modifies such allocation if necessary.

On page 249, beginning on line 12, strike ''clause (iii)'' and insert ''this subparagraph''.

On page 253, beginning on line 4, strike ''Initial Entry, Adjustment, and Citizenship Assistance Grant Act'' and insert ''Comprehensive Immigration Reform Act''.

On page 253, beginning on line 17, strike ''Initial Entry, Adjustment, and Citizenship Assistance Grant Act'' and insert ''Comprehensive Immigration Reform Act''.

On page 255, strike lines 4 through 7, and insert the following:

''(A) IN GENERAL.—

''(i) PERIOD OF UNEMPLOYMENT.—Subject to clause (ii) and subsection (c), the period of authorized admission of an H–2C nonimmigrant shall terminate if the alien is unemployed for 60 or more consecutive days.

''(ii) EXCEPTION.—The period of authorized admission of an H–2C nonimmigrant shall not terminate if the alien is unemployed for 60 or more consecutive days if such unemployment is caused by—

''(I) a period of physical or mental disability of the alien or the spouse, son, daughter, or parent (as defined in section 101 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2611)) of the alien;

''(II) a period of vacation, medical leave, maternity leave, or similar leave from employment authorized by employer policy, State law, or Federal law; or

''(III) any other period of temporary unemployment caused by circumstances beyond the control of the alien.

On page 255, line 19, strike ''subsections (b) and (f)(2)'' and insert ''subsection (b)''.

On page 259, strike lines 5 through 8 and insert the following:

''(1) any relief under section 240A(a), 240A(b)(1), or 240B; or

''(2) nonimmigrant status under section 101(a)(15) (except subparagraphs (T) and (U)).

On page 260, line 18, strike ''may be required to'' and insert ''shall''.

On page 295, line 10, strike ''available'' and insert ''available, subject to the numerical limitations set out in sections 201(d) and 203(b),''.

On page 316, 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 320, between lines 3 and 4, insert the following:

(c) SPECIAL IMMIGRANTS NOT SUBJECT TO NUMERICAL LIMITATIONS.—Section 201(b)(1)(A) (8 U.S.C. 1151(b)(1)(A)) is amended by striking ''subparagraph (A) or (B) of ''.

On page 320, line 13, insert ''**AND WIDOWS**'' after ''**CHILDREN**''.

On page 321, line 5, insert ''or, if married for less than 2 years at the time of the citizen's death, proves by a preponderance of the evidence that the marriage was entered into in good faith and not solely for the purpose of obtaining an immigration benefit'' after ''death''.

On page 336, strike line 3 and all that follows through ''(d)'' on page 337, line 19, and insert the following:

(B) by striking '', and'' and inserting a semicolon; and

(3) 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; and

''(v) an alien who maintains actual residence and place of abode in the alien's country of nationality, who is described in clause (i), except that the alien's actual course of study may involve a distance learning program, for which the alien is temporarily visiting the United States for a period not to exceed 30 days.

(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 (except in the case of an alien described in clause (ii)) 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 Secretary of State, 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 the sciences, technology, engineering, or mathematics in the United States for the purpose of obtaining an advanced degree.

(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 has been issued a visa or otherwise provided nonimmigrant status under section 101(a)(15)(J)(ii), or who would have qualified for such nonimmigrant status if section 101(a)(15)(J)(ii) had been enacted before the completion of such alien's graduate studies, shall not be subject to the 2-year foreign residency requirement under this subsection.

(f)

On page 339, line 10, strike ''(e)'' and insert ''(g)''.

On page 340, strike line 12 and all that follows through ''(f)'' on page 341, line 5, and insert the following:

''(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 the completion of such alien's graduate studies;

''(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.

''(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.

(h)

On page 345, between lines 5 and 6, insert the following:

SEC. 510. EXPEDITED ADJUDICATION OF EMPLOYER PETITIONS FOR ALIENS OF EXTRAORDINARY ARTISTIC ABILITY.

Section 214(c) (8 U.S.C. 1184(c)) is amended—

(1) by striking ''Attorney General'' each place it appears and inserting ''Secretary of Homeland Security''; and

(2) in paragraph (6)(D)—

(A) by Striking ''Any person'' and inserting ''(i) Except as provided in clause (ii), any person''; and

(B) adding at the end the following:

''(ii) The Secretary of Homeland Security shall adjudicate each petition for an alien with extraordinary ability in the arts (as described in section 101(a)(15)(O)(i)), an alien accompanying such an alien (as described in clauses (ii) and (iii) of section 101(a)(15)(O)), or an alien described in section 101(a)(15)(P) not later than 30 days after—

''(I) the date on which the petitioner submits the petition with a written advisory opinion, letter of no objection, or request for a waiver; or

''(II) the date on which the 15-day period described in clause (i) has expired, if the petitioner has had an opportunity, as appropriate, to supply rebuttal evidence.

''(iii) If a petition described in clause (ii) is not adjudicated before the end of the 30-day period described in clause (ii) and the petitioner is a qualified nonprofit organization or an individual or entity petitioning primarily on behalf of a qualified nonprofit organization, the Secretary of Homeland Security shall provide the petitioner with the premium-processing services referred to in section 286(u), without a fee.''.

SEC. 511. POWERLINE WORKERS.

Section 214(e) (8 U.S.C. 1184(e)) is amended by adding at the end the following new paragraph:

''(7) A citizen of Canada who is a powerline worker, who has received significant training, and who seeks admission to the United States to perform powerline repair and maintenance services shall be admitted in the same manner and under the same authority as a citizen of Canada described in paragraph (2).''.

SEC. 512. DETERMINATIONS WITH RESPECT TO CHILDREN UNDER THE HAITIAN REFUGEE IMMIGRATION 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 for 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 Refugee Immigration 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; or

(B) 1 year after the date on which final regulations implementing this section, and the amendment made by subsection (a), are promulgated.

(2) MOTIONS TO REOPEN.—The Secretary 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 amendment made by subsection (a).

(3) RELATIONSHIP OF APPLICATION TO CERTAIN ORDERS.—Section 902(a)(3) of the Haitian Refugee Immigration 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 prior to April 1, 2000.

(c) 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),''.

Subtitle B—SKIL Act

SEC. 521. SHORT TITLE.

This subtitle may be cited as the ''Securing Knowledge, Innovation, and Leadership Act of 2006'' or the ''SKIL Act of 2006''

SEC. 522. H–1B VISA HOLDERS.

(a) IN GENERAL.—Section 214(g)(5) (8 U.S.C. 1184(g)(5)) is amended—

(1) in subparagraph (B)—

(A) by striking ''nonprofit research'' and inserting ''nonprofit'';

(B) by inserting ''Federal, State, or local'' before ''governmental''; and

(C) by striking ''or'' at the end;

(2) in subparagraph (C)—

(A) by striking ''a United States institution of higher education (as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a))),'' and inserting ''an institution of higher education in a foreign country,''; and

(B) by striking the period at the end and inserting a semicolon;

(3) by adding at the end, the following new subparagraphs:

''(D) has earned a master's or higher degree from a United States institution of higher education (as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)));

''(E) has been awarded medical specialty certification based on post-doctoral training and experience in the United States; or''.

(b) APPLICABILITY.—The amendments made by subsection (a) shall apply to any petition or visa application pending on the date of enactment of this Act and any petition or visa application filed on or after such date.

SEC. 523. MARKET-BASED VISA LIMITS.

Section 214(g) (8 U.S.C. 1184(g)) is amended—

(1) in paragraph (1)—

(A) in the matter preceding subparagraph (A), by striking ''(beginning with fiscal year 1992)''; and

(B) in subparagraph (A)—

(i) in clause (vi) by striking ''and'';

(ii) in clause (vii), by striking ''each succeeding fiscal year; or'' and inserting ''each of fiscal years 2004, 2005, and 2006;''; and

(iii) by adding after clause (vii) the following:

''(viii) 115,000 in the first fiscal year beginning after the date of the enactment of the Securing Knowledge, Innovation, and Leadership Act of 2006; and

''(ix) the number calculated under paragraph (9) in each fiscal year after the year described in clause (viii); or'';

(2) in paragraph (8), by striking subparagraphs (B)(iv) and (D);

(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.''.

SEC. 524. UNITED STATES EDUCATED IMMIGRANTS.

(a) IN GENERAL.—Section 201(b)(1) (8 U.S.C. 1151(b)(1)) is amended by adding at the end the following:

''(F) Aliens who have earned a master's or higher degree from an accredited United States university.

''(G) Aliens who have been awarded medical specialty certification based on post-doctoral training and experience in the United States preceding their application for an immigrant visa under section 203(b).

''(H) Aliens who will perform labor in shortage occupations designated by the Secretary of Labor for blanket certification under section 212(a)(5)(A) as lacking 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.

''(I) Aliens who have earned a master's degree or higher in science, technology, engineering, or math and have been working in a related field in the United States in a nonimmigrant status during the 3-year period preceding their application for an immigrant visa under section 203(b).

''(J) Aliens described in subparagraph (A) or (B) of section 203(b)(1) or who have received a national interest waiver under section 203(b)(2)(B).

''(K) The spouse and minor children of an alien who is admitted as an employment-based immigrant under section 203(b).''.

(b) LABOR CERTIFICATIONS.—Section 212(a)(5)(A)(ii) (8 U.S.C. 1182(a)(5)(A)(ii)) is amended—

(1) by striking ''or'' at the end of subclause (I);

(2) by striking the period at the end of subclause (II) and inserting ''; or''; and

(3) by adding at the end the following:

''(III) is a member of the professions and has a master's degree or higher from an accredited United States university or has been awarded medical specialty certification based on post-doctoral training and experience in the United States.''.

SEC. 525. STUDENT VISA REFORM.

(a) IN GENERAL.—

(1) NONIMMIGRANT CLASSIFICATION.—Section 101(a)(15)(F) (8 U.S.C. 1101(a)(15)(F)) is amended to read as follows:

''(F) an alien—

''(i) who—

''(I) is a bona fide student qualified to pursue a full course of study in mathematics,

engineering, technology, or the sciences leading to a bachelors or graduate degree and who seeks to enter the United States for the purpose of pursuing such a course of study consistent with section 214(m) at an institution of higher education (as defined by section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a))) in the United States, particularly designated by the alien and approved by the Secretary of Homeland Security, after consultation with the Secretary of Education, which institution or place of study shall have agreed to report to the Secretary the termination of attendance of each nonimmigrant student, and if any such institution of learning or place of study fails to make reports promptly the approval shall be withdrawn; or

''(II) is engaged in temporary employment for optional practical training related to such alien's area of study following completion of the course of study described in subclause (I) for a period or periods of not more than 24 months;

''(ii) who—

''(I) has a residence in a foreign country which the alien has no intention of abandoning, who is a bona fide student qualified to pursue a full course of study, and who seeks to enter the United States temporarily and solely for the purpose of pursuing such a course of study consistent with section 214(m) at an established college, university, seminary, conservatory, academic high school, elementary school, or other academic institution or in a language training program in the United States, particularly designated by the alien and approved by the Secretary of Homeland Security, after consultation with the Secretary of Education, which institution or place of study shall have agreed to report to the Secretary the termination of attendance of each nonimmigrant student, and if any such institution of learning or place of study fails to make reports promptly the approval shall be withdrawn; or

''(II) is engaged in temporary employment for optional practical training related to such alien's area of study following completion of the course of study described in subclause (I) for a period or periods of not more than 24 months;

''(iii) who is the spouse or minor child of an alien described in clause (i) or (ii) if accompanying or following to join such an alien; or

''(iv) who—

''(I) is a national of Canada or Mexico, who maintains actual residence and place of abode in the country of nationality, who is described in clause (i) or (ii) except that the alien's qualifications for and actual course of study may be full or part-time, and who commutes to the United States institution or place of study from Canada or Mexico; or

''(II) is engaged in temporary employment for optional practical training related to such the student's area of study following completion of the course of study described in subclause (I) for a period or periods of not more than 24 months;''.

(2) ADMISSION.—Section 214(b) (8 U.S.C. 1184(b)) is amended by inserting ''(F)(i),'' before ''(L) or (V)''.

(3) CONFORMING AMENDMENT.—Section 214(m)(1) (8 U.S.C. 1184(m)(1)) is amended, in the matter preceding subparagraph (A), by striking ''(i) or (iii)'' and inserting ''(i), (ii), or (iv)''.

(b) OFF CAMPUS WORK AUTHORIZATION FOR FOREIGN STUDENTS.—

(1) IN GENERAL.—Aliens admitted as nonimmigrant students described in section 101(a)(15)(F), as amended by subsection (a), (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).

SEC. 526. L–1 VISA HOLDERS SUBJECT TO VISA BACKLOG.

Section 214(c)(2) (8 U.S.C. 1184(c)(2)) is amended by adding at the end the following new subparagraph:

''(G) The limitations contained in subparagraph (D) with respect to the duration of authorized stay shall not apply to any nonimmigrant alien previously issued a visa or otherwise provided nonimmigrant status under section 101(a)(15)(L) on whose behalf a petition under section 204(b) to accord the alien immigrant status under section 203(b), or an application for labor certification (if such certification is required for the alien to obtain status under such section 203(b)) has been filed, if 365 days or more have elapsed since such filing. The Secretary of Homeland Security shall extend the stay of an alien who qualifies for an exemption under this subparagraph until such time as a final decision is made on the alien's lawful permanent residence.''.

SEC. 527. RETAINING WORKERS SUBJECT TO GREEN CARD BACKLOG.

(a) ADJUSTMENT OF STATUS.—

(1) IN GENERAL.—Section 245(a) (8 U.S.C. 1255(a)) is amended to read as follows:

''(a) ELIGIBILITY.—

''(1) IN GENERAL.—The status of an alien who was inspected and admitted or paroled into the United States or the status of any other alien having 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, in the discretion of the Secretary or the Attorney General under such regulations as the Secretary or 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 and is admissible to the United States for permanent residence; and

''(C) an immigrant visa is immediately available to the alien at the time the application is filed.

''(2) SUPPLEMENTAL FEE.—An application under paragraph (1) that is based on a petition approved or approvable under subparagraph (E) or (F) of section 204(a)(1) may be filed without regard to the limitation set forth in paragraph (1)(C) if a supplemental fee of $500 is paid by the principal alien at the time the application is filed. A supplemental fee may not be required for any dependent alien accompanying or following to join the principal alien.

''(3) VISA AVAILABILITY.—An application for adjustment filed under this paragraph may not be approved until such time as an immigrant visa become available.''.

(b) USE OF FEES.—Section 286(v)(1) (8 U.S.C. 1356(v)(1)) is amended by inserting before the period at the end ''and the fees collected under section 245(a)(2).''.

SEC. 528. STREAMLINING THE ADJUDICATION PROCESS FOR ESTABLISHED EMPLOYERS.

Section 214(c) (8. U.S.C. 1184) is amended by adding at the end the following new paragraph:

''(1) Not later than 180 days after the date of the enactment of the Securing Knowledge, Innovation, and Leadership Act of 2006, the Secretary of Homeland Security shall establish a pre-certification procedure for employers who file multiple petitions described in this subsection or section 203(b). Such precertification procedure shall enable an employer to avoid repeatedly submitting documentation that is common to multiple petitions and establish through a single filing criteria relating to the employer and the offered employment opportunity.''.

SEC. 529. PROVIDING PREMIUM PROCESSING OF EMPLOYMENT-BASED VISA PETITIONS.

(a) IN GENERAL.—Pursuant to section 286(u) of the Immigration and Nationality Act (8 U.S.C. 1356(u)), the Secretary of Homeland Security shall establish and collect a fee for premium processing of employment-based immigrant petitions.

(b) APPEALS.—Pursuant to such section 286(u), the Secretary of Homeland Security shall establish and collect a fee for premium processing of an administrative appeal of any decision on a permanent employment-based immigrant petition.

SEC. 530. ELIMINATING PROCEDURAL DELAYS IN LABOR CERTIFICATION PROCESS.

(a) PREVAILING WAGE RATE.—

(1) REQUIREMENT TO PROVIDE.—The Secretary of Labor shall provide prevailing wage determinations to employers seeking a labor certification for aliens pursuant to part 656 of title 20, Code of Federal Regulation (or any successor regulation). The Secretary of Labor may not delegate this function to any agency of a State.

(2) SCHEDULE FOR DETERMINATION.—Except as provided in paragraph (3), the Secretary of Labor shall provide a response to an employer's request for a prevailing wage determination in no more than 20 calendar days from the date of receipt of such request. If the Secretary of Labor fails to reply during such 20-day period, then the wage proposed by the employer shall be the valid prevailing wage rate.

(3) USE OF SURVEYS.—The Secretary of Labor shall accept an alternative wage survey provided by the employer unless the Secretary of Labor determines that the wage component of the Occupational Employment Statistics Survey is more accurate for the occupation in the labor market area.

(b) PLACEMENT OF JOB ORDER.—The Secretary of Labor shall maintain a website with links to the official website of each workforce agency of a State, and such official website shall contain instructions on the filing of a job order in order to satisfy the job order requirements of section 656.17(e)(1) of title 20, Code of Federal Regulation (or any successor regulation).

(c) TECHNICAL CORRECTIONS.—The Secretary of Labor shall establish a process by which employers seeking certification under section 212(a)(5) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(5)), as amended

by section 524(b), may make technical corrections to applications in order to avoid requiring employers to conduct additional recruitment to correct an initial technical error. A technical error shall include any error that would not have a material effect on the validity of the employer's recruitment of able, willing, and qualified United States workers.

(d) ADMINISTRATIVE APPEALS.—Motions to reconsider, and administrative appeals of, a denial of a permanent labor certification application, shall be decided by the Secretary of Labor not later than 60 days after the date of the filing of such motion or such appeal.

(e) APPLICATIONS UNDER PREVIOUS SYSTEM.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Labor shall process and issue decisions on all applications for permanent alien labor certification that were filed prior to March 28, 2005.

(f) EFFECTIVE DATE.—The provisions of this section shall take effect 90 days after the date of enactment of this Act, whether or not the Secretary of Labor has amended the regulations at part 656 of title 20, Code of Federal Regulation to implement such changes.

SEC. 531. COMPLETION OF BACKGROUND AND SECURITY CHECKS.

Section 103 (8 U.S.C. 1103) is amended by adding at the end the following new subsection:

''(i) REQUIREMENT FOR BACKGROUND CHECKS.—Notwithstanding any other provision of law, until appropriate background and security checks, as determined by the Secretary of Homeland Security, have been completed, and the information provided to and assessed by the official with jurisdiction to grant or issue the benefit or documentation, on an in camera basis as may be necessary with respect to classified, law enforcement, or other information that cannot be disclosed publicly, the Secretary of Homeland Security, the Attorney General, or any court may not—

''(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.

''(j) REQUIREMENT TO RESOLVE FRAUD ALLEGATIONS.—Notwithstanding any other provision of law, until 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 has been investigated and resolved, the Secretary of Homeland Security and the Attorney General may not be required to—

''(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.

''(k) PROHIBITION OF JUDICIAL ENFORCEMENT.—Notwithstanding any other provision of law, no court may require any act described in subsection (i) or (j) to be completed by a certain time or award any relief for the failure to complete such acts.''.

SEC. 532. VISA REVALIDATION.

(a) IN GENERAL.—Section 222 (8 U.S.C. 1202) is amended by adding at the end the following:

''(i) The Secretary of State shall permit an alien granted a nonimmigrant visa under subparagraph E, H, I, L, O, or P of section 101(a)(15) to apply for a renewal of such visa within the United States if—

''(1) such visa expired during the 12-month period ending on the date of such application;

''(2) the alien is seeking a nonimmigrant visa under the same subparagraph under which the alien had previously received a visa; and

''(3) the alien has complied with the immigration laws and regulations of the United States.''.

(b) CONFORMING AMENDMENT.—Section 222(h) of such Act is amended, in the matter preceding subparagraph (1), by inserting ''and except as provided under subsection (i),'' after ''Act''.

Subtitle C—Preservation of Immigration Benefits for Hurricane Katrina Victims

SEC. 541. SHORT TITLE.

This subtitle may be cited as the ''Hurricane Katrina Victims Immigration Benefits Preservation Act''.

SEC. 542. DEFINITIONS.

In this subtitle:

(1) APPLICATION OF DEFINITIONS FROM THE IMMIGRATION AND NATIONALITY ACT.—Except as otherwise specifically provided in this subtitle, the definitions in the Immigration and Nationality Act shall apply in the administration of this subtitle.

(2) DIRECT RESULT OF A SPECIFIED HURRICANE DISASTER.—The term ''direct result of a specified hurricane disaster''—

(A) means physical damage, disruption of communications or transportation, forced or voluntary evacuation, business closures, or other circumstances directly caused by Hurricane Katrina (on or after August 26, 2005) or Hurricane Rita (on or after September 21, 2005); and

(B) does not include collateral or consequential economic effects in or on the United States or global economies.

SEC. 543. SPECIAL IMMIGRANT STATUS.

(a) PROVISION OF STATUS.—

(1) IN GENERAL.—For purposes of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), the Secretary may provide an alien described in subsection (b) with the status of a special immigrant under section 101(a)(27) of such Act (8 U.S.C. 1101(a)(27)), if the alien—

(A) files with the Secretary a petition under section 204 of such Act (8 U.S.C. 1154) for classification under section 203(b)(4) of such Act (8 U.S.C. 1153(b)(4));

(B) is otherwise eligible to receive an immigrant visa; and

(C) is otherwise admissible to the United States for permanent residence.

(2) INAPPLICABLE PROVISION.—In determining admissibility under paragraph (1)(C), the grounds for inadmissibility specified in section 212(a)(4) of such Act (8 U.S.C. 1182(a)(4)) shall not apply.

(b) ALIENS DESCRIBED.—

(1) PRINCIPAL ALIENS.—An alien is described in this subsection if—

(A) the alien was the beneficiary of—

(i) a petition that was filed with the Secretary on or before August 26, 2005—

(I) under section 204 of the Immigration and Nationality Act (8 U.S.C. 1154) to classify the alien as a family-sponsored immigrant under section 203(a) of such Act (8 U.S.C. 1153(a)) or as an employment-based immigrant under section 203(b) of such Act (8 U.S.C. 1153(b)); or

(II) under section 214(d) of such Act (8 U.S.C. 1184(d)) to authorize the issuance of a nonimmigrant visa to the alien under section 101(a)(15)(K) of such Act (8 U.S.C. 1101(a)(15)(K)); or

(ii) an application for labor certification under section 212(a)(5)(A) of such Act (8 U.S.C. 1182(a)(5)(A)) that was filed under regulations of the Secretary of Labor on or before such date; and

(B) such petition or application was revoked or terminated (or otherwise rendered null), before or after its approval, solely due to—

(i) the death or disability of the petitioner, applicant, or alien beneficiary as a direct result of a specified hurricane disaster; or

(ii) loss of employment as a direct result of a specified hurricane disaster.

(2) SPOUSES AND CHILDREN.—

(A) IN GENERAL.—An alien is described in this subsection if—

(i) the alien, as of August 26, 2005, was the spouse or child of a principal alien described in paragraph (1); and

(ii) the alien—

(I) is accompanying such principal alien; or

(II) is following to join such principal alien not later than August 26, 2007.

(B) CONSTRUCTION.—In construing the terms ''accompanying'' and ''following to join'' in subparagraph (A)(ii), the death of a principal alien described in paragraph (1)(B)(i) shall be disregarded.

(3) GRANDPARENTS OR LEGAL GUARDIANS OF ORPHANS.—An alien is described in this subsection if the alien is a grandparent or legal guardian of a child whose parents died as a direct result of a specified hurricane disaster, if either of the deceased parents was, as of August 26, 2005, a citizen or national of the United States or an alien lawfully admitted for permanent residence in the United States.

(c) PRIORITY DATE.—Immigrant visas made available under this section shall be issued to aliens in the order in which a petition on behalf of each such alien is filed with the Secretary under subsection (a)(1), except that if an alien was assigned a priority date with respect to a petition described in subsection (b)(1)(A)(i), the alien may maintain that priority date.

(d) NUMERICAL LIMITATIONS.—In applying sections 201 through 203 of the Immigration and Nationality Act (8 U.S.C. 1151–1153) in any fiscal year, aliens eligible to be provided status under this section shall be treated as special immigrants who are not described in subparagraph (A), (B), (C), or (K) of section 101(a)(27) of such Act (8 U.S.C. 1101(a)(27)).

SEC. 544. EXTENSION OF FILING OR REENTRY DEADLINES.

(a) AUTOMATIC EXTENSION OF NONIMMIGRANT STATUS.—

(1) IN GENERAL.—Notwithstanding section 214 of the Immigration and Nationality Act (8 U.S.C. 1184), an alien described in paragraph (2) who was lawfully present in the United States as a nonimmigrant on August 26, 2005, may, unless otherwise determined by the Secretary in the Secretary's discretion, lawfully remain in the United States in the same nonimmigrant status until the later of—

(A) the date on which such lawful nonimmigrant status would have otherwise terminated absent the enactment of this subsection; or

(B) 1 year after the death or onset of disability described in paragraph (2).

(2) ALIENS DESCRIBED.—

(A) PRINCIPAL ALIENS.—An alien is described in this paragraph if the alien was disabled as a direct result of a specified hurricane disaster.

(B) SPOUSES AND CHILDREN.—An alien is described in this paragraph if the alien, as of August 26, 2005, was the spouse or child of—

(i) a principal alien described in subparagraph (A); or

(ii) an alien who died as a direct result of a specified hurricane disaster.

(3) AUTHORIZED EMPLOYMENT.—During the period in which a principal alien or alien spouse is in lawful nonimmigrant status

under paragraph (1), the alien may be provided an ''employment authorized'' endorsement or other appropriate document signifying authorization of employment.

(b) NEW DEADLINES FOR EXTENSION OR CHANGE OF NONIMMIGRANT STATUS.—

(1) FILING DELAYS.—

(A) IN GENERAL.—If an alien, who was lawfully present in the United States as a nonimmigrant on August 26, 2005, was prevented from filing a timely application for an extension or change of nonimmigrant status as a direct result of a specified hurricane disaster, the alien's application may be considered timely filed if it is filed not later 1 year after the application would have otherwise been due.

(B) CIRCUMSTANCES PREVENTING TIMELY ACTION.—For purposes of subparagraph (A), circumstances preventing an alien from timely acting are—

(i) office closures;

(ii) mail or courier service cessations or delays;

(iii) other closures, cessations, or delays affecting case processing or travel necessary to satisfy legal requirements;

(iv) mandatory evacuation and relocation; or

(v) other circumstances, including medical problems or financial hardship.

(2) DEPARTURE DELAYS.—

(A) IN GENERAL.—If an alien, who was lawfully present in the United States as a nonimmigrant on August 26, 2005, is unable to timely depart the United States as a direct result of a specified hurricane disaster, the alien shall not be considered to have been unlawfully present in the United States during the period beginning on August 26, 2005, and ending on the date of the alien's departure, if such departure occurred on or before February 28, 2006.

(B) CIRCUMSTANCES PREVENTING TIMELY ACTION.—For purposes of subparagraph (A), circumstances preventing an alien from timely acting are—

(i) office closures;

(ii) transportation cessations or delays;

(iii) other closures, cessations, or delays affecting case processing or travel necessary to satisfy legal requirements;

(iv) mandatory evacuation and relocation; or

(v) other circumstances, including medical problems or financial hardship.

(c) DIVERSITY IMMIGRANTS.—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 1998, or for a subsequent fiscal year, may be issued, or adjustment of status under section 245(a) based upon the availability of such visa may be granted, to an eligible qualified alien who has properly applied for such visa or adjustment 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 level set forth in subsection 201(e) for the fiscal year for which the alien was selected.''.

(d) EXTENSION OF FILING PERIOD.—If an alien is unable to timely file an application to register or reregister for Temporary Protected Status under section 244 of the Immigration and Nationality Act (8 U.S.C. 1254a) as a direct result of a specified hurricane disaster, the alien's application may be considered timely filed if it is filed not later than 90 days after it otherwise would have been due.

(e) VOLUNTARY DEPARTURE.—

(1) IN GENERAL.—Notwithstanding section 240B of the Immigration and Nationality Act (8 U.S.C. 1229c), if a period for voluntary departure under such section expired during the period beginning on August 26, 2005, and ending on December 31, 2005, and the alien was unable to voluntarily depart before the expiration date as a direct result of a specified hurricane disaster, such voluntary departure period is deemed extended for an additional 60 days.

(2) CIRCUMSTANCES PREVENTING DEPARTURE.—For purposes of this subsection, circumstances preventing an alien from voluntarily departing the United States are—

(A) office closures;

(B) transportation cessations or delays;

(C) other closures, cessations, or delays affecting case processing or travel necessary to satisfy legal requirements;

(D) mandatory evacuation and removal; and

(E) other circumstances, including medical problems or financial hardship.

(f) CURRENT NONIMMIGRANT VISA HOLDERS.—

(1) IN GENERAL.—An alien, who was lawfully present in the United States on August 26, 2005, as a nonimmigrant under section 101(a)(15)(H) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)) and lost employment as a direct result of a specified hurricane disaster may accept new employment upon the filing by a prospective employer of a new petition on behalf of such nonimmigrant not later than August 26, 2006.

(2) CONTINUATION OF EMPLOYMENT AUTHORIZATION.—Employment authorization shall continue for such alien until the new petition is adjudicated. If the new petition is denied, such employment shall cease.

(3) SAVINGS PROVISION.—Nothing in this subsection shall be construed to limit eligibility for portability under section 214(n) of the Immigration and Nationality Act (8 U.S.C. 1184(n)).

SEC. 545. HUMANITARIAN RELIEF FOR CERTAIN SURVIVING SPOUSES AND CHILDREN.

(a) TREATMENT AS IMMEDIATE RELATIVES.—

(1) SPOUSES.—Notwithstanding the second sentence of section 201(b)(2)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1151(b)(2)(A)(i)), in the case of an alien who was the spouse of a citizen of the United States at the time of the citizen's death and was not legally separated from the citizen at the time of the citizen's death, if the citizen died as a direct result of a specified hurricane disaster, the alien (and each child of the alien) may be considered, for purposes of section 201(b) of such Act, to remain an immediate relative after the date of the citizen's death if the alien files a petition under section 204(a)(1)(A)(ii) of such Act not later than 2 years after such date and only until the date on which the alien remarries. For purposes of such section 204(a)(1)(A)(ii), an alien granted relief under this paragraph shall be considered an alien spouse described in the second sentence of section 201(b)(2)(A)(i) of such Act.

(2) CHILDREN.—

(A) IN GENERAL.—In the case of an alien who was the child of a citizen of the United States at the time of the citizen's death, if the citizen died as a direct result of a specified hurricane disaster, the alien may be considered, for purposes of section 201(b) of the Immigration and Nationality Act (8 U.S.C. 1151(b)), to remain an immediate relative after the date of the citizen's death (regardless of subsequent changes in age or marital status), but only if the alien files a petition under subparagraph (B) not later than 2 years after such date.

(B) PETITIONS.—An alien described in subparagraph (A) may file a petition with the Secretary for classification of the alien under section 201(b)(2)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1151(b)(2)(A)(i)), which shall be considered a petition filed under section 204(a)(1)(A) of such Act (8 U.S.C. 1154(a)(1)(A)).

(b) SPOUSES, CHILDREN, UNMARRIED SONS AND DAUGHTERS OF LAWFUL PERMANENT RESIDENT ALIENS.—

(1) IN GENERAL.—Any spouse, child, or unmarried son or daughter of an alien described in paragraph (3) who is included in a petition for classification as a family-sponsored immigrant under section 203(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1153(a)(2)) that was filed by such alien before August 26, 2005, may be considered (if the spouse, child, son, or daughter has not been admitted or approved for lawful permanent residence by such date) a valid petitioner for preference status under such section with the same priority date as that assigned before the death described in paragraph (3)(A). No new petition shall be required to be filed. Such spouse, child, son, or daughter may be eligible for deferred action and work authorization.

(2) SELF-PETITIONS.—Any spouse, child, or unmarried son or daughter of an alien described in paragraph (3) who is not a beneficiary of a petition for classification as a family-sponsored immigrant under section 203(a)(2) of the Immigration and Nationality Act may file a petition for such classification with the Secretary, if the spouse, child, son, or daughter was present in the United States on August 26, 2005. Such spouse, child, son, or daughter may be eligible for deferred action and work authorization.

(3) ALIENS DESCRIBED.—An alien is described in this paragraph if the alien—

(A) died as a direct result of a specified hurricane disaster; and

(B) on the day of such death, was lawfully admitted for permanent residence in the United States.

(c) APPLICATIONS FOR ADJUSTMENT OF STATUS BY SURVIVING SPOUSES AND CHILDREN OF EMPLOYMENT-BASED IMMIGRANTS.—

(1) IN GENERAL.—Any alien who was, on August 26, 2005, the spouse or child of an alien described in paragraph (2), and who applied for adjustment of status before the death described in paragraph (2)(A), may have such application adjudicated as if such death had not occurred.

(2) ALIENS DESCRIBED.—An alien is described in this paragraph if the alien—

(A) died as a direct result of a specified hurricane disaster; and

(B) on the day before such death, was—

(i) an alien lawfully admitted for permanent residence in the United States by reason of having been allotted a visa under section 203(b) of the Immigration and Nationality Act (8 U.S.C. 1153(b)); or

(ii) an applicant for adjustment of status to that of an alien described in clause (i), and admissible to the United States for permanent residence.

(d) APPLICATIONS BY SURVIVING SPOUSES AND CHILDREN OF REFUGEES AND ASYLEES.—

(1) IN GENERAL.—Any alien who, on August 26, 2005, was the spouse or child of an alien described in paragraph (2), may have his or her eligibility to be admitted under sections 207(c)(2)(A) or 208(b)(3)(A) of the Immigration and Nationality Act (8 U.S.C. 1157(c)(2)(A), 1158(b)(3)(A)) considered as if the alien's death had not occurred.

(2) ALIENS DESCRIBED.—An alien is described in this paragraph if the alien—

(A) died as a direct result of a specified hurricane disaster; and

(B) on the day before such death, was—

(i) an alien admitted as a refugee under section 207 of the Immigration and Nationality Act (8 U.S.C. 1157); or

(ii) granted asylum under section 208 of such Act (8 U.S.C. 1158).

(e) WAIVER OF PUBLIC CHARGE GROUNDS.—In determining the admissibility of any alien

accorded an immigration benefit under this section, the grounds for inadmissibility specified in section 212(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(4)) shall not apply.

SEC. 546. RECIPIENT OF PUBLIC BENEFITS.

An alien shall not be inadmissible under section 212(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(4)) or deportable under section 237(a)(5) of such Act (8 U.S.C. 1227(a)(5)) on the basis that the alien received any public benefit as a direct result of a specified hurricane disaster.

SEC. 547. AGE-OUT PROTECTION.

In administering the immigration laws, the Secretary and the Attorney General may grant any application or benefit notwithstanding the applicant or beneficiary (including a derivative beneficiary of the applicant or beneficiary) reaching an age that would render the alien ineligible for the benefit sought, if the alien's failure to meet the age requirement occurred as a direct result of a specified hurricane disaster.

SEC. 548. EMPLOYMENT ELIGIBILITY VERIFICATION.

(a) IN GENERAL.—The Secretary may suspend or modify any requirement under section 274A(b) of the Immigration and Nationality Act (8 U.S.C. 1324a(b)) or subtitle A of title IV of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note), either generally or with respect to particular persons, class of persons, geographic areas, or economic sectors, to the extent to which the Secretary determines necessary or appropriate to respond to national emergencies or disasters .

(b) NOTIFICATION.—If the Secretary suspends or modifies any requirement under section 274A(b) of the Immigration and Nationality Act pursuant to subsection (a), the Secretary shall send notice of such decision, including the reasons for the suspension or modification, to—

(1) the Committee on the Judiciary of the Senate; and

(2) the Committee of the Judiciary of the House of Representatives.

(c) SUNSET DATE.—The authority under subsection (a) shall expire on August 26, 2008.

SEC. 549. NATURALIZATION.

The Secretary may, with respect to applicants for naturalization in any district of the United States Citizenship and Immigration Services affected by a specified hurricane disaster, administer the provisions of Title III of the Immigration and Nationality Act (8 U.S.C. 1401 et seq.) notwithstanding any provision of such title relating to the jurisdiction of an eligible court to administer the oath of allegiance, or requiring residence to be maintained or any action to be taken in any specific district or State within the United States.

SEC. 550. DISCRETIONARY AUTHORITY.

The Secretary or the Attorney General may waive violations of the immigration laws committed, on or before March 1, 2006, by an alien—

(1) who was in lawful status on August 26, 2005; and

(2) whose failure to comply with the immigration laws was a direct result of a specified hurricane disaster.

SEC. 551. EVIDENTIARY STANDARDS AND REGULATIONS.

The Secretary shall establish appropriate evidentiary standards for demonstrating, for purposes of this subtitle, that a specified hurricane disaster directly resulted in—

(1) death;

(2) disability; or

(3) loss of employment due to physical damage to, or destruction of, a business.

SEC. 552. IDENTIFICATION DOCUMENTS.

(a) TEMPORARY IDENTIFICATION.—The Secretary shall have the authority to instruct any Federal agency to issue temporary identification documents to individuals affected by a specified hurricane disaster. Such documents shall be acceptable for purposes of identification under any federal law or regulation until August 26, 2006.

(b) ISSUANCE.—An agency may not issue identity documents under this section after January 1, 2006.

(c) NO COMPULSION TO ACCEPT OR CARRY IDENTIFICATION DOCUMENTS.—Nationals of the United States shall not be compelled to accept or carry documents issued under this section.

(d) NO PROOF OF CITIZENSHIP.—Identity documents issued under this section shall not constitute proof of citizenship or immigration status.

SEC. 553. WAIVER OF REGULATIONS.

The Secretary shall carry out the provisions of this subtitle as expeditiously as possible. The Secretary is not required to promulgate regulations before implementing this subtitle. 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 rule making, information collection, or publication in the Federal Register, shall not apply to any action to implement this subtitle to the extent the Secretary of Homeland Security, the Secretary of Labor, or the Secretary of State determine that compliance with such requirement would impede the expeditious implementation of such Act.

SEC. 554. NOTICES OF CHANGE OF ADDRESS.

(a) IN GENERAL.—If a notice of change of address otherwise required to be submitted to the Secretary by an alien described in subsection (b) relates to a change of address occurring during the period beginning on August 26, 2005, and ending on the date of the enactment of this Act, the alien may submit such notice.

(b) ALIENS DESCRIBED.—An alien is described in this subsection if the alien—

(1) resided, on August 26, 2005, within a district of the United States that was declared by the President to be affected by a specified hurricane disaster; and

(2) is required, under section 265 of the Immigration and Nationality Act (8 U.S.C. 1305) or any other provision of law, to notify the Secretary in writing of a change of address.

SEC. 555. FOREIGN STUDENTS AND EXCHANGE PROGRAM PARTICIPANTS.

(a) IN GENERAL.—The nonimmigrant status of an alien described in subsection (b) shall be deemed to have been maintained during the period beginning on August 26, 2005, and ending on September 15, 2006, if, on September 15, 2006, the alien is enrolled in a course of study, or participating in a designated exchange visitor program, sufficient to satisfy the terms and conditions of the alien's nonimmigrant status on August 26, 2005.

(b) ALIENS DESCRIBED.—An alien is described in this subsection if the alien—

(1) was, on August 26, 2005, lawfully present in the United States in the status of a nonimmigrant described in subparagraph (F), (J), or (M) of section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)); and

(2) fails to satisfy a term or condition of such status as a direct result of a specified hurricane disaster.

On page 348, between lines 21 and 22, insert the following:

''(V) The employment requirement under clause (i)(I) shall not apply to any individual who is 65 years of age or older on the date of the enactment of the Immigrant Accountability Act of 2006.

On page 351, 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 any applicable Federal 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 TAX LIABILITY.—For purposes of clause (i), the term 'applicable Federal tax liability' means liability for Federal taxes, including penalties and interest, 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 taxes required by this subparagraph.

On page 354, strike lines 3 through 11, and insert the following:

''(I) ADJUSTMENT OF STATUS.—The Secretary may not adjust the status of an alien under this section to that of lawful permanent resident until the Secretary determines that the priority dates have become current for the class of aliens whose family-based or employment-based petitions for permanent residence were pending on the date of the enactment of the Comprehensive Immigration Reform Act of 2006.

Beginning on page 361, strike line 15 and all that follows through page 362, line 3.

On page 372, line 18, strike ''An'' and insert ''Notwithstanding section 244(h), an''.

On page 375, between lines 16 and 17, insert the following:

''(C) EXEMPTION.—The employment requirement under subparagraph (A) shall not apply to any individual who is 65 years of age or older on the date of the enactment of the Immigrant Accountability Act of 2006.

On page 378, strike lines 11 through 13 and insert the following: ''any right to judicial review or to contest''.

On page 380, line 5, insert ''The provisions under subsections (e) and (f) of section 245B shall apply to applications filed under this section.'' after ''status.''.

On page 385, strike lines 1 and 2 and insert the following:

''(C) is eligible to be employed by an employer in the United States regardless of whether the employer has complied with the requirements of section 218B(b)(7).

On page 389, line 8, insert ''to'' after ''Subject''.

On page 392, line 1, strike ''to contest'' and insert ''under subsection (b)(7)(C)''

On page 397, 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 398, 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 411, strike lines 6 through 25 and insert the following:

(D) PAYMENT OF 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 any applicable Federal 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 TAX LIABILITY.—For purposes of clause (i), the term ''applicable Federal tax liability'' means liability for Federal taxes, including penalties and interest, 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 taxes required by this subparagraph.

On page 520, line 17, strike ''**Grant**''.

On page 520, between lines 18 and 19, insert the following:

SEC. 641. INELIGIBILITY AND REMOVAL PRIOR TO APPLICATION PERIOD.

(a) LIMITATIONS ON INELIGIBILITY.—

(1) IN GENERAL.—An alien is not ineligible for any immigration benefit under any provision of this title, or any amendment made by this title, solely on the basis that the alien violated section 1543, 1544, or 1546 of chapter 75 of title 18, United States Code, during the period beginning on the date of the enactment of this Act and ending on the date that the Department of Homeland Security begins accepting applications for benefits under Tiel VI.

(2) PROSECUTION.—An alien who commits a violation of such section 1543, 1544, or 1546 during the period beginning on the date the enactment of this Act and ending on the date that the alien applies for eligibility for such benefit may be prosecuted for the violation if the alien's application for such benefit is denied.

(b) LIMITATION ON REMOVAL.—If an alien who is apprehended prior to the beginning of the applicable application period described in a provision of this title, or an amendment made by this title, is able to establish prima facie eligibility for an adjustment of status under such a provision, the alien may not be removed from the United States for any reason until the date that is 180 days after the first day of such applicable application period unless the alien has engaged in criminal conduct or is a threat to the national security of the United States.

Beginning on page 523, strike line 9 and all that follows through page 524, line 23.

On page 537, between lines 2 and 3, insert the following:

SEC. 646. ADDRESSING POVERTY IN MEXICO.

(a) FINDINGS.—Congress finds the following:

(1) There is a strong correlation between economic freedom and economic prosperity.

(2) Trade policy, fiscal burden of government, government intervention in the economy, monetary policy, capital flows and foreign investment, banking and finance, wages and prices, property rights, regulation, and informal market activity are key factors in economic freedom.

(3) Poverty in Mexico, including rural poverty, can be mitigated through strengthened economic freedom within Mexico.

(4) Strengthened economic freedom in Mexico can be a major influence in mitigating illegal immigration.

(5) Advancing economic freedom within Mexico is an important part of any comprehensive plan to understanding the sources of poverty and the path to economic prosperity.

(b) GRANT AUTHORIZED.—The Secretary of State may award a grant to a land grant university in the United States to establish a national program for a broad, university-based Mexican rural poverty mitigation program.

(c) FUNCTIONS OF MEXICAN RURAL POVERTY MITIGATION PROGRAM.—The program established pursuant to subsection (b) shall—

(1) match a land grant university in the United States with the lead Mexican public university in each of Mexico's 31 states to provide state-level coordination of rural poverty programs in Mexico;

(2) establish relationships and coordinate programmatic ties between universities in the United States and universities in Mexico to address the issue of rural poverty in Mexico;

(3) establish and coordinate relationships with key leaders in the United States and Mexico to explore the effect of rural poverty on illegal immigration of Mexicans into the United States; and

(4) address immigration and border security concerns through a university-based, binational approach for long-term institutional change.

(d) USE OF FUNDS.—

(1) AUTHORIZED USES.—Grant funds awarded under this section may be used—

(A) for education, training, technical assistance, and any related expenses (including personnel and equipment) incurred by the grantee in implementing a program described in subsection (a); and

(B) to establish an administrative structure for such program in the United States.

(2) LIMITATIONS.—Grant funds awarded under this section may not be used for activities, responsibilities, or related costs incurred by entities in Mexico.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such funds as may be necessary to carry out this section.

On page 540, beginning on line 17, strike ''to 6-year, staggered, terms''.

On page 544, line 20, strike ''(3) and (4)'' and insert ''(2) and (3)''.

On page 548, beginning on line 3, strike ''to a 7-year term''.

On page 552, between lines 2 and 3, insert the following:

SEC. 708. SENIOR JUDGE PARTICIPATION IN THE SELECTION OF MAGISTRATES.

Section 631(a) of title 28, United States Code, is amended by striking ''Northern Mariana Islands'' the first place it appears and inserting ''Northern Mariana Islands, including any judge in regular active service and any judge who has retired from regular active service under section 371(b) of this title,''.

Beginning on page 552, strike line 3 and all that follows through page 556, line 25, and insert the following:

Subtitle B—Citizenship Assistance for Members of the Armed Services

SEC. 711. SHORT TITLE.

This subtitle may be cited as the ''Kendell Frederick Citizenship Assistance Act''.

SEC. 712. WAIVER OF REQUIREMENT FOR FINGERPRINTS FOR MEMBERS OF THE ARMED FORCES.

Notwithstanding any other provision of law or any regulation, the Secretary shall use the fingerprints provided by an individual at the time the individual enlists in the Armed Forces to satisfy any requirement for fingerprints as part of an application for naturalization if the individual—

(1) may be naturalized pursuant to section 328 or 329 of the Immigration and Nationality Act (8 U.S.C. 1439 or 1440);

(2) was fingerprinted in accordance with the requirements of the Department of Defense at the time the individual enlisted in the Armed Forces; and

(3) submits an application for naturalization not later than 12 months after the date the individual enlisted in the Armed Forces.

SEC. 713. PROVISION OF INFORMATION ON NATURALIZATION TO MEMBERS OF THE ARMED FORCES.

The Secretary shall—

(1) establish a dedicated toll-free telephone service available only to members of the Armed Forces and the families of such members to provide information related to naturalization pursuant to section 328 or 329 of the Immigration and Nationality Act (8 U.S.C. 1439 or 1440), including the status of an application for such naturalization;

(2) ensure that the telephone service required by paragraph (1) is operated by employees of the Department who—

(A) have received specialized training on the naturalization process for members of the Armed Forces and the families of such members; and

(B) are physically located in the same unit as the military processing unit that adjudicates applications for naturalization pursuant to such section 328 or 329; and

(3) implement a quality control program to monitor, on a regular basis, the accuracy and quality of information provided by the employees who operate the telephone service required by paragraph (1), including the breadth of the knowledge related to the naturalization process of such employees.

SEC. 714. PROVISION OF INFORMATION ON NATURALIZATION TO THE PUBLIC.

Not later than 30 days after the date that a modification to any law or regulation related to the naturalization process becomes effective, the Secretary shall update the appropriate application form for naturalization, the instructions and guidebook for obtaining naturalization, and the Internet website maintained by the Secretary to reflect such modification.

SEC. 715. REPORTS.

(a) ADJUDICATION PROCESS.—Not later than 120 days after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the appropriate congressional committees a report on the entire process for the adjudication of an application for naturalization filed pursuant to section 328 or 329 of the Immigration and Nationality Act (8 U.S.C. 1439 or 1440), including the process that begins at the time the application is mailed to, or received by, the Secretary, regardless of whether the Secretary determines that such application is complete, through the final disposition of such application. Such report shall include a description of—

(1) the methods of the Secretary to prepare, handle, and adjudicate such applications;

(2) the effectiveness of the chain of authority, supervision, and training of employees of the Government or of other entities, including contract employees, who have any role in the such process or adjudication; and

(3) the ability of the Secretary to use technology to facilitate or accomplish any aspect of such process or adjudication.

(b) IMPLEMENTATION.—

(1) STUDY.—The Comptroller General of the United States shall conduct a study on the implementation of this subtitle by the Secretary, including studying any technology that may be used to improve the efficiency of the naturalization process for members of the Armed Forces.

(2) REPORT.—Not later than 180 days after the date that the Comptroller General submits the report required by subsection (a), the Comptroller General shall submit to the appropriate congressional committees a report on the study required by paragraph (1).

The report shall include any recommendations of the Comptroller General for improving the implementation of this subtitle by the Secretary.

(c) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term ''appropriate congressional committees'' means—

(1) the Committee on Armed Services and the Committee on the Judiciary of the Senate; and

(2) the Committee on Armed Services and the Committee on the Judiciary of the House of Representatives.

On page 560, line 1, strike ''4'' and insert ''724''.

Beginning on page 583, strike line 18 and all that follows through page 584, line 2.

On page 605, strike line 7 and all that follows through page 607, line 18, and insert the following:

SEC. 761. 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 United States Fish and Wildlife 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, the United States Fish and Wildlife 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) National Forest System land;

(3) land under the jurisdiction of the United States Fish and Wildlife Service; and

(4) other relevant land under the jurisdiction of the Department of the Interior or the Department of Agriculture.

On page 614, after line 5, insert the following:

SEC. 767. 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 government 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)).''.

SEC. 768. ADJUSTMENT OF STATUS FOR CERTAIN PERSECUTED RELIGIOUS MINORITIES.

(a) IN GENERAL.—The Secretary shall adjust the status of an alien to that of an alien lawfully admitted for permanent residence if the alien—

(1) is a persecuted religious minority;

(2) is admissible to the United States as an immigrant, except as provided under subsection (b);

(3) had an application for asylum pending on May 1, 2003;

(4) applies for such adjustment of status;

(5) was physically present in the United States on the date the application for such adjustment is filed; and

(6) pays a fee, in an amount determined by the Secretary, for the processing of such application.

(b) WAIVER OF CERTAIN GROUNDS FOR INADMISSIBILITY.—

(1) INAPPLICABLE PROVISION.—Section 212(a)(7) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(7)) shall not apply to any adjustment of status under this section.

(2) WAIVER.—The Secretary may waive any other provision of section 212(a) of such Act (except for paragraphs (2) and (3)) if extraordinary and compelling circumstances warrant such an adjustment for humanitarian purposes, to ensure family unity, or if it is otherwise in the public interest.

SEC. 769. ELIGIBILITY OF AGRICULTURAL AND FORESTRY WORKERS FOR CERTAIN LEGAL ASSISTANCE.

Section 305 of the Immigration Reform and Control Act of 1986 (8 U.S.C. 1101 note; Public Law 99–603) is amended—

(1) by striking ''section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a))'' and inserting ''item (a) or (b) of section 101(a)(15)(H)(ii) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii))''; and

(2) by inserting ''or forestry'' after ''agricultural''.

SEC. 770. DESIGNATION OF PROGRAM COUNTRIES.

Section 217(c)(1) (8 U.S.C. 1187(c)(1)) is amended to read as follows:

''(1) IN GENERAL.—As soon as any country fully meets the requirements under paragraph (2), the Secretary of Homeland Security, in consultation with the Secretary of State, shall designate such country as a program country.''.

SEC. 771. GLOBAL HEALTHCARE COOPERATION.

(a) GLOBAL HEALTHCARE COOPERATION.—Title III (8 U.S.C. 1401 et seq.) is amended by inserting after section 317 the following:

''SEC. 317A. TEMPORARY ABSENCE OF ALIENS PROVIDING HEALTHCARE IN DEVELOPING COUNTRIES.

''(a) IN GENERAL.—Notwithstanding any other provision of this Act, the Secretary of Homeland Security shall allow an eligible alien and the spouse or child of such alien to reside in a candidate country during the period that the eligible alien is working as a physician or other healthcare worker in a candidate country. During such period the eligible alien and such spouse or child shall be considered—

''(1) to be physically present and residing in the United States for purposes of naturalization under section 316(a); and

''(2) to meet the continuous residency requirements under section 316(b).

''(b) DEFINITIONS.—In this section:

''(1) CANDIDATE COUNTRY.—The term 'candidate country' means a country that the Secretary of State determines is—

''(A) eligible for assistance from the International Development Association, in which the per capita income of the country is equal to or less than the historical ceiling of the International Development Association for the applicable fiscal year, as defined by the International Bank for Reconstruction and Development;

''(B) classified as a lower middle income country in the then most recent edition of the World Development Report for Reconstruction and Development published by the International Bank for Reconstruction and Development and having an income greater than the historical ceiling for International Development Association eligibility for the applicable fiscal year; or

''(C) qualifies to be a candidate country due to special circumstances, including natural disasters or public health emergencies.

''(2) ELIGIBLE ALIEN.—The term 'eligible alien' means an alien who—

''(A) has been lawfully admitted to the United States for permanent residence; and

''(B) is a physician or other healthcare worker.

''(c) CONSULTATION.—The Secretary of Homeland Security shall consult with the Secretary of State in carrying out this subsection.

''(d) PUBLICATION.—The Secretary of State shall publish—

''(1) not later than 6 months after the date of the enactment of the Comprehensive Immigration Reform Act of 2006, and annually thereafter, a list of candidate countries; and

''(2) an immediate amendment to such list at any time to include any country that qualifies as a candidate country due to special circumstances under subsection (b)(1)(C).''.

(b) RULEMAKING.—

(1) REQUIREMENT.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall promulgate regulations to carry out the amendments made by this section.

(2) CONTENT.—The regulations required by paragraph (1) shall—

(A) permit an eligible alien (as defined in section 317A of the Immigration and Nationality Act, as added by subsection (a)) and the spouse or child of the eligible alien to reside in a foreign country to work as a physician or other healthcare worker as described in subsection (a) of such section 317A for not less than a 12-month period and not more than a 24-month period, and shall permit the Secretary to extend such period for an additional period not to exceed 12 months, if the Secretary determines that such country has a continuing need for such a physician or other healthcare worker;

(B) provide for the issuance of documents by the Secretary to such eligible alien, and such spouse or child, if appropriate, to demonstrate that such eligible alien, and such spouse or child, if appropriate, is authorized to reside in such country under such section 317A; and

(C) provide for an expedited process through which the Secretary shall review applications for such an eligible alien to reside in a foreign country pursuant to subsection (a) of such section 317A if the Secretary of State determines a country is a candidate country pursuant to subsection (b)(1)(C) of such section 317A.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—The Immigration and Nationality Act is amended as follows:

(1) Section 101(a)(13)(C)(ii) (8 U.S.C. 1101(a)(13)(C)(ii)) is amended by adding at the end ''except in the case of an eligible alien, or the spouse or child of such alien, authorized to be absent from the United States pursuant to section 317A,''.

(2) Section 211(b) (8 U.S.C. 1181(b)) is amended by inserting '', including an eligible alien authorized to reside in a foreign country pursuant to section 317A and the spouse or child of such eligible alien, if appropriate,'' after ''101(a)(27)(A),''.

(3) Section 212(a)(7)(A)(i)(I) (8 U.S.C. 1182(a)(7)(A)(i)(I)) is amended by inserting ''other than an eligible alien authorized to reside in a foreign country pursuant to section 317A and the spouse or child of such eligible alien, if appropriate,'' after ''Act,''.

(4) Section 319(b)(1)(B) (8 U.S.C. 1430(b)(1)(B)) is amended by inserting ''an eligible alien who is residing or has resided in a foreign country pursuant to section 317A'' before ''and'' at the end.

(5) The table of contents is amended by inserting after the item relating to section 317 the following:

''Sec. 317A. Temporary absence of aliens providing healthcare in developing countries.''.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Bureau of Citizenship and Immigration Services such sums as may be necessary to carry out this section and the amendments made by this section.

SEC. 772. ATTESTATION BY HEALTHCARE WORKERS.

(a) REQUIREMENT FOR ATTESTATION.—Section 212(a)(5) (8 U.S.C. 1182(a)(5)) is amended by adding at the end the following new subparagraph:

''(E) HEALTHCARE WORKERS WITH OTHER OBLIGATIONS.—

''(i) IN GENERAL.—An alien who seeks to enter the United States for the purpose of performing labor as a physician or other healthcare worker is inadmissible unless the alien submits to the Secretary of Homeland Security or the Secretary of State, as appropriate, an attestation that the alien is not seeking to enter the United States for such purpose during any period in which the alien has an outstanding obligation to the government of the alien's country of origin or the alien's country of residence.

''(ii) OBLIGATION DEFINED.—In this subparagraph, the term 'obligation' means an obligation incurred as part of a valid, voluntary individual agreement in which the alien received financial assistance to defray the costs of education or training to qualify as a physician or other healthcare worker in consideration for a commitment to work as a physician or other healthcare worker in the alien's country of origin or the alien's country of residence.

''(iii) WAIVER.—The Secretary of Homeland Security may waive a finding of inadmissibility under clause (i) if the Secretary determines that—

''(I) the obligation was incurred by coercion or other improper means;

''(II) the alien and the government of the country to which the alien has an outstanding obligation have reached a valid, voluntary agreement, pursuant to which the alien's obligation has been deemed satisfied, or the alien has shown to the satisfaction of the Secretary that the alien has been unable to reach such an agreement because of coercion or other improper means; or

''(III) the obligation should not be enforced due to other extraordinary circumstances, including undue hardship that would be suffered by the alien in the absence of a waiver.''.

(b) EFFECTIVE DATE AND APPLICATION.—

(1) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective 180 days after the date of the enactment of this Act.

(2) APPLICATION BY THE SECRETARY.—The Secretary shall begin to carry out the subparagraph (E) of section 212(a)(5) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(5)), as added by subsection (a), not later than the effective date described in paragraph (1), including the requirement for the attestation and the granting of a waiver described in such subparagraph, regardless of whether regulations to implement such subparagraph have been promulgated.

SEC. 773. PUBLIC ACCESS TO THE STATUE OF LIBERTY.

Not later than 60 days after the date of the enactment of this Act, the Secretary of the Interior shall ensure that all persons who satisfy reasonable and appropriate security measures shall have full access to the public areas of the Statue of Liberty, including the crown and the stairs leading thereto.

On page 12, line 1, strike ''(e)'' and insert the following:

(e) UNMANNED AERIAL VEHICLE PILOT PROGRAM.—During the 1-year period beginning on the date on which the report is submitted under subsection (c), the Secretary shall conduct a pilot program to test unmanned aerial vehicles for border surveillance along the international border between Canada and the United States.

(f)

NOTICE OF HEARING

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. DOMENICI. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Committee on Energy and Natural Resources.

The hearing will take place on Thursday, June 8, 2006 at 10 a.m. in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of this hearing is to consider the nomination of: Philip D. Moeller, of Washington, to be a Member of the Federal Energy Regulatory Commission for the term expiring June 30, 2010, vice Patrick Henry Wood III, resigned; and Jon Wellinghoff, of Nevada, to be a Member of the Federal Energy Regulatory Commission for the term expiring June 30, 2008, vice William Lloyd Massey, term expired.

For further information, please contact Judy Pensabene of the Committee staff.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, May 25, 2006, at 11:30 a.m., to receive a briefing on the status of on-going investigations into an incident involving Iraqi civilians on November 19, 2005, near Haditha.

The PRESIDING OFFICER. Without objection it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Thursday, May 25, 2006, at 10 a.m., to mark up an original bill entitled ''The Flood Insurance Reform and Modernization Act of 2006.''

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. SESSIONS. Mr. President. I ask unanimous consent that the Senate Committee on Commerce Science and Transportation be authorized to meet on Thursday, May 25, 2006, at 10 a.m. on S. 2686, the Communications, Consumers' Choice, and Broadband Deployment Act of 2006. This is the second hearing on this act.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Thursday, May 25 at 10 a.m. The purpose of this hearing is to receive testimony regarding the outlook for growth of coal fired electric generation and whether sufficient supplies of coal will be available to supply electric generators on a timely basis both in the near term and in the future.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, May 25, 2006, at 9:30 a.m. to hold a hearing on A Status Report on United Nations Reform.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, May 25, 2006, at 3 p.m. to hold a hearing on Nominations.

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

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet on Thursday, May 25, 2006, at 10 a.m. for a joint hearing with the Committee on Veterans' Affairs titled, ''VA Data Privacy Breach: Twenty-Six Million People Deserve Answers.''

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

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to hold an off-the-floor markup during the session on Thursday, May 25, 2006, to consider the nominations of R. David Paulison to be Under Secretary for Federal Emergency Management, U.S. Department of Homeland Security, and Lurita Alexis Doan to be Administrator, U.S. General Services Administration.

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

COMMITTEE ON INDIAN AFFAIRS

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Thursday, May 25, 2006, at 9:30 a.m. in Room 485 of the Russell Senate Office Building to conduct an oversight hearing on Indian Education.

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

COMMITTEE ON THE JUDICIARY

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a markup on Thursday, May 25, 2006, at 9:30 a.m in the Dirksen Senate Office Building Room 226. The agenda will be provided when it becomes available.

Tentative Agenda

I. Nominations: Sandra Segal Ikuta, to be U.S. Circuit Judge for the Ninth Circuit; Kenneth L. Wainstein, to be an Assistant Attorney General; Erik C. Peterson, to be U.S. Attorney for the Western District of Wisconsin; Charles P. Rosenberg, to be U.S. Attorney for the Eastern District of Virginia.

II. Bills: 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], S. 2039—Prosecutors and Defenders Incentive Act of 2005 [Durbin, Specter, DeWine, Leahy, Kennedy, Feinstein, Feingold, Schumer, Biden] and S. 2560—Office of National Drug Control Policy Reauthorization Act of 2006 [Specter, Biden, Hatch, Grassley].

III. Matters: S.J. Res. 12, Flag Desecration resolution [Hatch, Feinstein, Brownback, Coburn, Cornyn, DeWine, Graham, Grassley, Kyl, Sessions, Specter].

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

COMMITTEE ON VETERANS' AFFAIRS

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to meet during the session of the Senate on Thursday, May 25, 2006, for a joint hearing with the Senate Committee on Homeland Security and Governmental Affairs to hold a hearing titled ''VA Data Privacy Breach: Twenty-Six Million People Deserve Answers''. The meeting will take place in room 342 of the Dirksen Senate Office Building at 10 a.m.

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

SPECIAL COMMITTEE ON AGING

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet Thursday, May 25, 2006 from 10.m.–12 p.m. in Dirksen G50 for the purpose of conducting a hearing.

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

SUBCOMMITTEE ON THE CONSTITUTION, CIVIL RIGHTS, AND PROPERTY RIGHTS

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Senate Committee of the Judiciary Subcommittee on the Constitution, Civil Rights and Property Rights be authorized to meet on Thursday, May 25, 2006 at 1 p.m. to conduct a hearing on ''The Consequences of Legalized Assisted Suicide and Euthanasia'' in Room 226 of the Dirksen Senate Office Building. The witness list will be provided when it becomes available.

Panel I: Members of Congress TBA.

Panel II: Julie McMurchie, Portland, OR; Hendrick Reitsema, Eck en Wiel, The Netherlands; Jonathan Imbody, Senior Policy Analyst, Christian Medical Association, Ashburn, VA.

Panel III: Wesley Smith, Senior Fellow, Discovery Institute, Castro Valley, CA; Kathryn Tucker, Director of Legal Affairs, Compassion and Choices, Adjunct Professor of Law, University of Washington School of Law, Seattle, WA; Rita Marker, Executive Director, International Taskforce on Euthanasia and Assisted Suicide, Steubenville, OH; Ann Jackson, Executive Director, Oregon Hospice Association, Portland,

OR; Diane Coleman, President, Not Dead Yet, Forest Park, IL.

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

SUBCOMMITTEE ON FEDERAL FINANCIAL MANAGEMENT, GOVERNMENT INFORMATION, AND INTERNATIONAL SECURITY

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs' Subcommittee on Federal Financial Management, Government Information, and International Security be authorized to meet on Thursday, May 25, 2006, at 2:30 p.m. for a field hearing regarding ''Congress' Role in Federal Financial Management: Is It Efficient, Accountable, and Transparent in the Way It Appropriates Funds?''

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

The PRESIDING OFFICER. The majority leader.

NATIONAL VIGIL FOR LOST PROMISE

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate now proceed as if in morning business to the consideration S. Res. 495 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. 495) designating June 8 National Vigil for Lost Promise.

There being no objection, the Senate proceeded to the consideration of the resolution.

Mr. FRIST. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

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

The resolution (S. Res. 495) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 495

Whereas over 26,000 citizens die from the effects of drug abuse each year;

Whereas the damage from drugs is not limited to drug abusers, the collateral damage from drugs is enormous, and drug abuse costs society over $60,000,000,000 in social costs and lost productivity;

Whereas drugs rob users, their families, and all the people of the United States of dreams, promises, ambitions, talents, and lives;

Whereas drug abuse affects millions of families in the United States;

Whereas the stigma of drug abuse and the cloak of denial keep many individuals and families from dealing with the impact of drugs;

Whereas many friends and families are ashamed to acknowledge the death of their loved ones caused by drug abuse;

Whereas all the people of the United States can benefit from illuminating the problem of drug abuse and its impact on families, communities, and society;

Whereas the futures of thousands of youth of the United States have been cut short because of drug abuse, including the life of—

(1) Irma Perez, who suffered and died of an Ecstasy overdose at age 14;

(2) David Manlove, who wanted to be a doctor, but died from inhalant abuse at age 16;

(3) David Pease, an articulate debater, who died of a heroin overdose at age 23;

(4) Ian Eaccarino, a college student who died of a heroin overdose at age 20;

(5) Jason Surks, who was studying to be a pharmacist, but died of prescription drug abuse at age 19;

(6) Kelley McEnery Baker, who died of an overdose of Ecstasy at age 23;

(7) Ryan Haight, who died of an overdose of prescription drugs he had purchased over the Internet at age 18; and

(8) Taylor Hooton, a high school baseball star whose life was cut short by steroids at age 16;

Whereas these deaths represent only a small sample of the lost promise that drug abuse has cost the future of the United States;

Whereas law enforcement, public health and research organizations, community coalitions, drug prevention outreach organizations, individual parents, siblings, friends, and concerned citizens are joining together on June 8, 2006, in a Vigil for Lost Promise, to call public attention to the tremendous promise which has been lost with the deaths of those affected by drugs: Now, therefore, be it

Resolved, That the Senate—

(1) designates June 8, 2006, as the day of a National Vigil for Lost Promise; and

(2) encourages all young people to choose to live a drug-free life;

(3) encourages all people of the United States to work to stop drug abuse before it starts and remain vigilant against the far reaching loss of promise caused by deaths from drug abuse;

(4) encourages all citizens of the United States to remember the lost promise of youth caused by drug abuse on this day.

FINANCIAL SERVICES REGULATORY RELIEF ACT OF 2006

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 437, S. 2856.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 2856) to provide regulatory relief and improve productivity for insured depository institutions, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

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

The bill (S. 2856) was ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 2856

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Financial Services Regulatory Relief Act of 2006''.

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

Sec. 1. Short title; table of contents.

TITLE I—BROKER RELIEF

Sec. 101. Rulemaking required for revised definition of broker in the Securities Exchange Act of 1934.

TITLE II—MONETARY POLICY PROVISIONS

Sec. 201. Authorization for the Federal reserve to pay interest on reserves.

Sec. 202. Increased flexibility for the Federal Reserve Board to establish reserve requirements.

TITLE III—NATIONAL BANK PROVISIONS

Sec. 301. Voting in shareholder elections.

Sec. 302. Simplifying dividend calculations for national banks.

Sec. 303. Repeal of obsolete limitation on removal authority of the Comptroller of the Currency.

Sec. 304. Repeal of obsolete provision in the Revised Statutes.

TITLE IV—SAVINGS ASSOCIATION PROVISIONS

Sec. 401. Parity for savings associations under the Securities Exchange Act of 1934 and the Investment Advisers Act of 1940.

Sec. 402. Repeal of overlapping rules governing purchased mortgage servicing rights.

Sec. 403. Clarifying citizenship of Federal savings associations for Federal court jurisdiction.

Sec. 404. Repeal of limitation on loans to one borrower.

TITLE V—CREDIT UNION PROVISIONS

Sec. 501. Leases of land on Federal facilities for credit unions.

Sec. 502. Increase in general 12-year limitation of term of Federal credit union loans to 15 years.

Sec. 503. Check cashing and money transfer services offered within the field of membership.

Sec. 504. Clarification of definition of net worth under certain circumstances for purposes of prompt corrective action.

TITLE VI—DEPOSITORY INSTITUTION PROVISIONS

Sec. 601. Reporting requirements relating to insider lending.

Sec. 602. Investments by insured savings associations in bank service companies authorized.

Sec. 603. Authorization for member bank to use pass-through reserve accounts.

Sec. 604. Streamlining reports of condition.

Sec. 605. Expansion of eligibility for 18-month examination schedule for community banks.

Sec. 606. Streamlining depository institution merger application requirements.

Sec. 607. Nonwaiver of privileges.

Sec. 608. Clarification of application requirements for optional conversion for Federal savings associations.

Sec. 609. Exemption from disclosure of privacy policy for accounting firms.

Sec. 610. Inflation adjustment for the small depository institution exception under the Depository Institution Management Interlocks Act.

Sec. 611. Modification to cross marketing restrictions.

TITLE VII—BANKING AGENCY PROVISIONS

Sec. 701. Statute of limitations for judicial review of appointment of a receiver for depository institutions.
Sec. 702. Enhancing the safety and soundness of insured depository institutions.
Sec. 703. Cross guarantee authority.
Sec. 704. Golden parachute authority and nonbank holding companies.
Sec. 705. Amendments relating to change in bank control.
Sec. 706. Amendment to provide the Federal Reserve Board with discretion concerning the imputation of control of shares of a company by trustees.
Sec. 707. Interagency data sharing.
Sec. 708. Clarification of extent of suspension, removal, and prohibition authority of Federal banking agencies in cases of certain crimes by institution-affiliated parties.
Sec. 709. Protection of confidential information received by Federal banking regulators from foreign banking supervisors.
Sec. 710. Prohibition on participation by convicted individuals.
Sec. 711. Coordination of State examination authority.
Sec. 712. Deputy Director; succession authority for Director of the Office of Thrift Supervision.
Sec. 713. Office of Thrift Supervision representation on Basel Committee on Banking Supervision.
Sec. 714. Federal Financial Institutions Examination Council.
Sec. 715. Technical amendments relating to insured institutions.
Sec. 716. Clarification of enforcement authority.
Sec. 717. Federal banking agency authority to enforce deposit insurance conditions.
Sec. 718. Receiver or conservator consent requirement.
Sec. 719. Acquisition of FICO scores.
Sec. 720. Elimination of criminal indictments against receiverships.
Sec. 721. Resolution of deposit insurance disputes.
Sec. 722. Recordkeeping.
Sec. 723. Preservation of records.
Sec. 724. Technical amendments to information sharing provision in the Federal Deposit Insurance Act.
Sec. 725. Technical and conforming amendments relating to banks operating under the Code of Law for the District of Columbia.
Sec. 726. Technical corrections to the Federal Credit Union Act.
Sec. 727. Repeal of obsolete provisions of the Bank Holding Company Act of 1956.
Sec. 728. Development of model privacy forms.

TITLE VIII—FAIR DEBT COLLECTION PRACTICES ACT AMENDMENTS

Sec. 801. Exception for certain bad check enforcement programs.

TITLE IX—CASH MANAGEMENT MODERNIZATION

Sec. 901. Collateral modernization.

TITLE X—STUDIES AND REPORTS

Sec. 1001. Study and report by the Comptroller General on the currency transaction report filing system.
Sec. 1002. Study and report on institution diversity and consolidation.

TITLE I—BROKER RELIEF

SEC. 101. RULEMAKING REQUIRED FOR REVISED DEFINITION OF BROKER IN THE SECURITIES EXCHANGE ACT OF 1934.

(a) FINAL RULES REQUIRED.—

(1) AMENDMENT TO SECURITIES EXCHANGE ACT.—Section 3(a)(4) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(4)) is amended by adding at the end the following:

''(F) RULEMAKING REQUIRED.—The Commission shall, by rule, implement the exceptions in subparagraph (B).''.

(2) TIMING.—Not later than 180 days after the date of enactment of this Act, the Securities and Exchange Commission (in this section referred to as the ''Commission'') shall issue proposed rules to define the term ''broker'' in accordance with section 3(a)(4) of the Securities Exchange Act of 1934, as amended by this subsection.

(3) RULEMAKING SUPERSEDES PREVIOUS RULEMAKING.—A final rule issued in accordance with this section shall supersede any other proposed or final rule issued by the Commission with regard to the exceptions to the definition of a broker under section 3(a)(4)(B) of the Securities Exchange Act of 1934, on or after the date of enactment of section 201 of the Gramm-Leach-Bliley Act. No such other rule, whether or not issued in final form, shall have any force or effect on or after that date of enactment.

(b) CONSULTATION.—Prior to issuing the final rule required by this section, the Commission shall consult with and seek the concurrence of the Federal banking agencies concerning the content of such rulemaking in implementing section 3(a)(4)(B) of the Securities Exchange Act of 1934, as amended by this section and section 201 of the Gramm-Leach-Bliley Act.

(c) AGENCY OBJECTIONS TO COMMISSION RULE.—

(1) FILING OF PETITION FOR REVIEW.—

(A) IN GENERAL.—Any Federal banking agency may obtain review of any final rule issued under this section in the United States Court of Appeals for the District of Columbia Circuit by filing in such court, not later than 60 days after the date of publication of the final rule, a written petition requesting that the rule be set aside.

(B) EXPEDITED PROCESS.—Any proceeding to challenge such a rule commenced under subparagraph (A) shall be expedited by the Court of Appeals.

(2) TRANSMITTAL OF PETITION AND RECORD.—

(A) SUBMISSION TO CLERK.—A copy of a petition described in paragraph (1) shall be transmitted as soon as possible by the Clerk of the Court to an officer or employee of the Commission designated for that purpose.

(B) FILING OF PETITION.—Upon receipt of a petition under subparagraph (A), the Commission shall file with the court the rule under review and any documents referred to therein, and any other relevant materials prescribed by the court.

(3) EXCLUSIVE JURISDICTION.—On the date of the filing of a petition under paragraph (1), the court has jurisdiction, which becomes exclusive on the filing of the materials set forth in paragraph (2), to affirm and enforce or to set aside the rule at issue.

(4) STANDARD OF REVIEW.—The court shall determine to affirm and enforce or set aside a rule of the Commission under this subsection, based on the determination of the court as to whether the rule is consistent with the purposes and language of section 3(a)(4)(B) of the Securities Exchange Act of 1934, as amended by section 201 of the Gramm-Leach-Bliley Act, and appropriate in light of the history, purpose, and extent of the rule under the Federal securities laws and the Federal banking laws, giving deference neither to the views of the Commission nor of the Federal banking agencies.

(5) JUDICIAL STAY.—The filing of a petition by a Federal banking agency under paragraph (1) shall operate as a judicial stay, until the date on which the determination of the court is final (including any appeal of such determination).

(d) DEFINITION.—For purposes of this section, the term ''Federal banking agencies'' means the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, the Office of Thrift Supervision, and the Federal Deposit Insurance Corporation.

TITLE II—MONETARY POLICY PROVISIONS

SEC. 201. AUTHORIZATION FOR THE FEDERAL RESERVE TO PAY INTEREST ON RESERVES.

(a) IN GENERAL.—Section 19(b) of the Federal Reserve Act (12 U.S.C. 461(b)) is amended by adding at the end the following:

''(12) EARNINGS ON BALANCES.—

''(A) IN GENERAL.—Balances maintained at a Federal Reserve bank by or on behalf of a depository institution may receive earnings to be paid by the Federal Reserve bank at least once each calendar quarter, at a rate or rates not to exceed the general level of short-term interest rates.

''(B) REGULATIONS RELATING TO PAYMENTS AND DISTRIBUTIONS.—The Board may prescribe regulations concerning—

''(i) the payment of earnings in accordance with this paragraph;

''(ii) the distribution of such earnings to the depository institutions which maintain balances at such banks, or on whose behalf such balances are maintained; and

''(iii) the responsibilities of depository institutions, Federal Home Loan Banks, and the National Credit Union Administration Central Liquidity Facility with respect to the crediting and distribution of earnings attributable to balances maintained, in accordance with subsection (c)(1)(A), in a Federal Reserve bank by any such entity on behalf of depository institutions.

''(C) DEPOSITORY INSTITUTIONS DEFINED.—For purposes of this paragraph, the term 'depository institution', in addition to the institutions described in paragraph (1)(A), includes any trust company, corporation organized under section 25A or having an agreement with the Board under section 25, or any branch or agency of a foreign bank (as defined in section 1(b) of the International Banking Act of 1978).''.

(b) CONFORMING AMENDMENT.—Section 19 of the Federal Reserve Act (12 U.S.C. 461) is amended–

(1) in subsection (b)(4)—

(A) by striking subparagraph (C); and

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

(2) in subsection (c)(1)(A), by striking ''subsection (b)(4)(C)'' and inserting ''subsection (b)''.

SEC. 202. INCREASED FLEXIBILITY FOR THE FEDERAL RESERVE BOARD TO ESTABLISH RESERVE REQUIREMENTS.

Section 19(b)(2)(A) of the Federal Reserve Act (12 U.S.C. 461(b)(2)(A)) is amended—

(1) in clause (i), by striking ''the ratio of 3 per centum'' and inserting ''a ratio of not greater than 3 percent (and which may be zero)''; and

(2) in clause (ii), by striking ''and not less than 8 per centum,'' and inserting ''(and which may be zero),''.

TITLE III—NATIONAL BANK PROVISIONS

SEC. 301. VOTING IN SHAREHOLDER ELECTIONS.

Section 5144 of the Revised Statutes of the United States (12 U.S.C. 61) is amended—

(1) by striking ''or to cumulate'' and inserting ''or, if so provided by the articles of association of the national bank, to cumulate''; and

(2) by striking the comma after ''his shares shall equal''.

SEC. 302. SIMPLIFYING DIVIDEND CALCULATIONS FOR NATIONAL BANKS.

(a) IN GENERAL.—Section 5199 of the Revised Statutes of the United States (12 U.S.C. 60) is amended to read as follows:

''SEC. 5199. NATIONAL BANK DIVIDENDS.

''(a) IN GENERAL.—Subject to subsection (b), the directors of any national bank may declare a dividend of so much of the undivided profits of the bank as the directors judge to be expedient.

''(b) APPROVAL REQUIRED UNDER CERTAIN CIRCUMSTANCES.—A national bank may not declare and pay dividends in any year in excess of an amount equal to the sum of the total of the net income of the bank for that year and the retained net income of the bank for the preceding 2 years, minus the sum of any transfers required by the Comptroller of the Currency and any transfers required to be made to a fund for the retirement of any preferred stock, unless the Comptroller of the Currency approves the declaration and payment of dividends in excess of such amount.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter three of title LXII of the Revised Statutes of the United States is amended by striking the item relating to section 5199 and inserting the following:

''5199. National bank dividends.''.

SEC. 303. REPEAL OF OBSOLETE LIMITATION ON REMOVAL AUTHORITY OF THE COMPTROLLER OF THE CURRENCY.

Section 8(e)(4) of the Federal Deposit Insurance Act (12 U.S.C. 1818(e)(4)) is amended by striking the 5th sentence.

SEC. 304. REPEAL OF OBSOLETE PROVISION IN THE REVISED STATUTES.

Section 5143 of the Revised Statutes of the United States (12 U.S.C. 59) is amended to read as follows:

''SEC. 5143. REDUCTION OF CAPITAL.

''(a) IN GENERAL.—Subject to the approval of the Comptroller of the Currency, a national banking association may, by a vote of shareholders owning, in the aggregate, two-thirds of its capital stock, reduce its capital.

''(b) SHAREHOLDER DISTRIBUTIONS AUTHORIZED.—As part of its capital reduction plan approved in accordance with subsection (a), and with the affirmative vote of shareholders owning at least two thirds of the shares of each class of its stock outstanding (each voting as a class), a national banking association may distribute cash or other assets to its shareholders.''.

TITLE IV—SAVINGS ASSOCIATION PROVISIONS

SEC. 401. PARITY FOR SAVINGS ASSOCIATIONS UNDER THE SECURITIES EXCHANGE ACT OF 1934 AND THE INVESTMENT ADVISERS ACT OF 1940.

(a) SECURITIES EXCHANGE ACT OF 1934.—

(1) DEFINITION OF BANK.—Section 3(a)(6) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(6)) is amended—

(A) in subparagraph (A), by inserting ''or a Federal savings association, as defined in section 2(5) of the Home Owners' Loan Act'' after ''a banking institution organized under the laws of the United States''; and

(B) in subparagraph (C)—

(i) by inserting ''or savings association, as defined in section 2(4) of the Home Owners' Loan Act'' after ''banking institution''; and

(ii) by inserting ''or savings associations'' after ''having supervision over banks''.

(2) INCLUSION OF OTS UNDER THE DEFINITION OF APPROPRIATE REGULATORY AGENCY FOR CERTAIN PURPOSES.—Section 3(a)(34) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(34)) is amended—

(A) in subparagraph (A)—

(i) in clause (ii), by striking ''(i) or (iii)'' and inserting ''(i), (iii), or (iv)'';

(ii) in clause (iii), by striking ''and'' at the end;

(iii) by redesignating clause (iv) as clause (v); and

(iv) by inserting after clause (iii) the following:

''(iv) the Director of the Office of Thrift Supervision, in the case of a savings association (as defined in section 3(b) of the Federal Deposit Insurance Act (12 U.S.C. 1813(b))), the deposits of which are insured by the Federal Deposit Insurance Corporation, a subsidiary or a department or division of any such savings association, or a savings and loan holding company; and'';

(B) in subparagraph (B)—

(i) in clause (ii), by striking ''(i) or (iii)'' and inserting ''(i), (iii), or (iv)'';

(ii) in clause (iii), by striking ''and'' at the end;

(iii) by redesignating clause (iv) as clause (v); and

(iv) by inserting after clause (iii) the following:

''(iv) the Director of the Office of Thrift Supervision, in the case of a savings association (as defined in section 3(b) of the Federal Deposit Insurance Act (12 U.S.C. 1813(b))), the deposits of which are insured by the Federal Deposit Insurance Corporation, or a subsidiary of any such savings association, or a savings and loan holding company; and'';

(C) in subparagraph (C)—

(i) in clause (ii), by striking ''(i) or (iii)'' and inserting ''(i), (iii), or (iv)'';

(ii) in clause (iii), by striking ''and'' at the end;

(iii) by redesignating clause (iv) as clause (v); and

(iv) by inserting after clause (iii) the following:

''(iv) the Director of the Office of Thrift Supervision, in the case of a savings association (as defined in section 3(b) of the Federal Deposit Insurance Act (12 U.S.C. 1813(b))), the deposits of which are insured by the Federal Deposit Insurance Corporation, a savings and loan holding company, or a subsidiary of a savings and loan holding company when the appropriate regulatory agency for such clearing agency is not the Commission; and'';

(D) in subparagraph (D)—

(i) in clause (ii), by striking ''and'' at the end;

(ii) by redesignating clause (iii) as clause (iv); and

(iii) by inserting after clause (ii) the following:

''(iii) the Director of the Office of Thrift Supervision, in the case of a savings association (as defined in section 3(b) of the Federal Deposit Insurance Act (12 U.S.C. 1813(b))) the deposits of which are insured by the Federal Deposit Insurance Corporation; and'';

(E) in subparagraph (F)—

(i) by redesignating clauses (ii), (iii), and (iv) as clauses (iii), (iv), and (v), respectively; and

(ii) by inserting after clause (i) the following:

''(ii) the Director of the Office of Thrift Supervision, in the case of a savings association (as defined in section 3(b) of the Federal Deposit Insurance Act (12 U.S.C. 1813(b))), the deposits of which are insured by the Federal Deposit Insurance Corporation; and'';

(F) by moving subparagraph (H) and inserting such subparagraph immediately after subparagraph (G); and

(G) by adding at the end of the undesignated matter at the end the following: ''As used in this paragraph, the term 'savings and loan holding company' has the same meaning as in section 10(a) of the Home Owners' Loan Act (12 U.S.C. 1467a(a)).''.

(3) CONFORMING EXEMPTION TO REPORTING REQUIREMENT.—Section 23(b)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78w(b)(1)) is amended by inserting ''other than the Office of Thrift Supervision,'' before ''shall each''.

(b) INVESTMENT ADVISERS ACT OF 1940.—

(1) DEFINITION OF BANK.—Section 202(a)(2) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–2(a)(2)) is amended—

(A) in subparagraph (A), by inserting ''or a Federal savings association, as defined in section 2(5) of the Home Owners' Loan Act'' after ''a banking institution organized under the laws of the United States''; and

(B) in subparagraph (C)—

(i) by inserting '', savings association, as defined in section 2(4) of the Home Owners' Loan Act,'' after ''banking institution''; and

(ii) by inserting ''or savings associations'' after ''having supervision over banks''.

(2) CONFORMING AMENDMENTS.—Section 210A of the Investment Advisers Act of 1940 (15 U.S.C. 80b–10a) is amended in each of subsections (a)(1)(A)(i), (a)(1)(B), (a)(2), and (b), by striking ''bank holding company'' each place that term appears and inserting ''bank holding company or savings and loan holding company''.

(c) CONFORMING AMENDMENT TO THE INVESTMENT COMPANY ACT OF 1940.—Section 10(c) of the Investment Company Act of 1940 (15 U.S.C. 80a–10(c)) is amended by inserting after ''1956)'' the following: ''or any one savings and loan holding company, together with its affiliates and subsidiaries (as such terms are defined in section 10 of the Home Owners' Loan Act),''.

SEC. 402. REPEAL OF OVERLAPPING RULES GOVERNING PURCHASED MORTGAGE SERVICING RIGHTS.

Section 5(t) of the Home Owners' Loan Act (12 U.S.C. 1464(t)) is amended—

(1) by striking paragraph (4) and inserting the following:

''(4) [Repealed].''; and

(2) in paragraph (9)(A), by striking ''intangible assets, plus'' and all that follows through the period at the end and inserting ''intangible assets.''.

SEC. 403. CLARIFYING CITIZENSHIP OF FEDERAL SAVINGS ASSOCIATIONS FOR FEDERAL COURT JURISDICTION.

Section 5 of the Home Owners' Loan Act (12 U.S.C. 1464) is amended by adding at the end the following:

''(x) HOME STATE CITIZENSHIP.—In determining whether a Federal court has diversity jurisdiction over a case in which a Federal savings association is a party, the Federal savings association shall be considered to be a citizen only of the State in which such savings association has its home office.''.

SEC. 404. REPEAL OF LIMITATION ON LOANS TO ONE BORROWER.

Section 5(u)(2)(A) of the Home Owners' Loan Act (12 U.S.C. 1464(u)(2)(A)) is amended—

(1) in clause (i)—

(A) by striking ''for any'' and inserting ''For any''; and

(B) by striking ''; or'' and inserting a period; and

(2) in clause (ii)—

(A) by striking ''to develop domestic'' and inserting ''To develop domestic'';

(B) by striking subclause (I); and

(C) by redesignating subclauses (II) through (V) as subclauses (I) through (IV), respectively.

TITLE V—CREDIT UNION PROVISIONS

SEC. 501. LEASES OF LAND ON FEDERAL FACILITIES FOR CREDIT UNIONS.

(a) IN GENERAL.—Section 124 of the Federal Credit Union Act (12 U.S.C. 1770) is amended—

(1) by striking ''Upon application by any credit union'' and inserting ''Notwithstanding any other provision of law, upon application by any credit union'';

(2) by inserting ''on lands reserved for the use of, and under the exclusive or concurrent jurisdiction of, the United States or'' after ''officer or agency of the United States charged with the allotment of space'';

(3) by inserting ''lease land or'' after ''such officer or agency may in his or its discretion''; and

(4) by inserting ''or the facility built on the lease land'' after ''credit union to be served by the allotment of space''.

(b) CLERICAL AMENDMENT.—The section heading for section 124 of the Federal Credit Union Act (12 U.S.C. 1770) is amended by inserting ''**OR FEDERAL LAND**'' after ''**BUILDINGS**''.

SEC. 502. INCREASE IN GENERAL 12-YEAR LIMITATION OF TERM OF FEDERAL CREDIT UNION LOANS TO 15 YEARS.

Section 107(5) of the Federal Credit Union Act (12 U.S.C. 1757(5)) is amended in the matter preceding subparagraph (A), by striking ''to make loans, the maturities of which shall not exceed twelve years'' and inserting ''to make loans, the maturities of which shall not exceed 15 years,''.

SEC. 503. CHECK CASHING AND MONEY TRANSFER SERVICES OFFERED WITHIN THE FIELD OF MEMBERSHIP.

Section 107(12) of the Federal Credit Union Act (12 U.S.C. 1757(12)) is amended to read as follows:

''(12) in accordance with regulations prescribed by the Board—

''(A) to sell, to persons in the field of membership, negotiable checks (including travelers checks), money orders, and other similar money transfer instruments (including international and domestic electronic fund transfers); and

''(B) to cash checks and money orders and receive international and domestic electronic fund transfers for persons in the field of membership for a fee;''.

SEC. 504. CLARIFICATION OF DEFINITION OF NET WORTH UNDER CERTAIN CIRCUMSTANCES FOR PURPOSES OF PROMPT CORRECTIVE ACTION.

Section 216(o)(2)(A) of the Federal Credit Union Act (12 U.S.C. 1790d(o)(2)(A)) is amended—

(1) by inserting ''the'' before ''retained earnings balance''; and

(2) by inserting '', together with any amounts that were previously retained earnings of any other credit union with which the credit union has combined'' before the semicolon at the end.

TITLE VI—DEPOSITORY INSTITUTION PROVISIONS

SEC. 601. REPORTING REQUIREMENTS RELATING TO INSIDER LENDING.

(a) REPORTING REQUIREMENTS REGARDING LOANS TO EXECUTIVE OFFICERS OF MEMBER BANKS.—Section 22(g) of the Federal Reserve Act (12 U.S.C. 375a) is amended—

(1) by striking paragraphs (6) and (9); and

(2) by redesignating paragraphs (7), (8), and (10) as paragraphs (6), (7), and (8), respectively.

(b) REPORTING REQUIREMENTS REGARDING LOANS FROM CORRESPONDENT BANKS TO EXECUTIVE OFFICERS AND SHAREHOLDERS OF INSURED BANKS.—Section 106(b)(2) of the Bank Holding Company Act Amendments of 1970 (12 U.S.C. 1972(2)) is amended—

(1) by striking subparagraph (G); and

(2) by redesignating subparagraphs (H) and (I) as subparagraphs (G) and (H), respectively.

SEC. 602. INVESTMENTS BY INSURED SAVINGS ASSOCIATIONS IN BANK SERVICE COMPANIES AUTHORIZED.

(a) IN GENERAL.—Sections 2 and 3 of the Bank Service Company Act (12 U.S.C. 1862, 1863) are each amended by striking ''insured bank'' each place that term appears and inserting ''insured depository institution''.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) BANK SERVICE COMPANY ACT DEFINITIONS.—Section 1(b) of the Bank Service Company Act (12 U.S.C. 1861(b)) is amended—

(A) in paragraph (4)—

(i) by inserting '', except when such term appears in connection with the term 'insured depository institution','' after ''means''; and

(ii) by striking ''Federal Home Loan Bank Board'' and inserting ''Director of the Office of Thrift Supervision'';

(B) by striking paragraph (5) and inserting the following:

''(5) INSURED DEPOSITORY INSTITUTION.—The term 'insured depository institution' has the same meaning as in section 3(c) of the Federal Deposit Insurance Act;'';

(C) by striking ''and'' at the end of paragraph (7);

(D) by striking the period at the end of paragraph (8) and inserting ''; and'';

(E) by adding at the end the following:

''(9) the terms 'State depository institution', 'Federal depository institution', 'State savings association' and 'Federal savings association' have the same meanings as in section 3 of the Federal Deposit Insurance Act.'';

(F) in paragraph (2), in subparagraphs (A)(ii) and (B)(ii), by striking ''insured banks'' each place that term appears and inserting ''insured depository institutions''; and

(G) in paragraph (8)—

(i) by striking ''insured bank'' and inserting ''insured depository institution'';

(ii) by striking ''insured banks'' each place that term appears and inserting ''insured depository institutions''; and

(iii) by striking ''the bank's'' and inserting ''the depository institution's''.

(2) AMOUNT OF INVESTMENT.—Section 2 of the Bank Service Company Act (12 U.S.C. 1862) is amended by inserting ''or savings associations, other than the limitation on the amount of investment by a Federal savings association contained in section 5(c)(4)(B) of the Home Owners' Loan Act'' after ''relating to banks''.

(3) LOCATION OF SERVICES.—Section 4 of the Bank Service Company Act (12 U.S.C. 1864) is amended—

(A) in subsection (b), by inserting ''as permissible under subsection (c), (d), or (e) or'' after ''Except'';

(B) in subsection (c), by inserting ''or State savings association'' after ''State bank'' each place that term appears;

(C) in subsection (d), by inserting ''or Federal savings association'' after ''national bank'' each place that term appears;

(D) by striking subsection (e) and inserting the following:

''(e) PERFORMANCE WHERE STATE BANK AND NATIONAL BANK ARE SHAREHOLDERS OR MEMBERS.—A bank service company may perform—

''(1) only those services that each depository institution shareholder or member is otherwise authorized to perform under any applicable Federal or State law; and

''(2) such services only at locations in a State in which each such shareholder or member is authorized to perform such services.''; and

(E) in subsection (f), by inserting ''or savings associations'' after ''location of banks''.

(4) PRIOR APPROVAL OF INVESTMENTS.—Section 5 of the Bank Service Company Act (12 U.S.C. 1865) is amended—

(A) in subsection (a)—

(i) by striking ''insured bank'' and inserting ''insured depository institution''; and

(ii) by striking ''bank's''; and

(iii) by inserting before the period ''for the insured depository institution'';

(B) in subsection (b)—

(i) by striking ''insured bank'' and inserting ''insured depository institution'';

(ii) by inserting ''authorized only'' after ''performs any service''; and

(iii) by inserting ''authorized only'' after ''perform any activity''; and

(C) in subsection (c)—

(i) by striking ''the bank or banks'' and inserting ''any insured depository institution''; and

(ii) by striking ''capability of the bank'' and inserting ''capability of the insured depository institution''.

(5) REGULATION AND EXAMINATION.—Section 7 of the Bank Service Company Act (12 U.S.C. 1867) is amended—

(A) in subsection (b), by striking ''insured bank'' and inserting ''insured depository institution''; and

(B) in subsection (c)—

(i) by striking ''a bank'' each place that term appears and inserting ''a depository institution''; and

(ii) by striking ''the bank'' each place that term appears and inserting ''the depository institution''.

SEC. 603. AUTHORIZATION FOR MEMBER BANK TO USE PASS-THROUGH RESERVE ACCOUNTS.

Section 19(c)(1)(B) of the Federal Reserve Act (12 U.S.C. 461(c)(1)(B)) is amended by striking ''which is not a member bank''.

SEC. 604. STREAMLINING REPORTS OF CONDITION.

Section 7(a) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)) is amended by adding at the end the following:

''(11) STREAMLINING REPORTS OF CONDITION.—

''(A) REVIEW OF INFORMATION AND SCHEDULES.—Before the end of the 1-year period beginning on the date of enactment of the Financial Services Regulatory Relief Act of 2006 and before the end of each 5-year period thereafter, each Federal banking agency shall, in conjunction with the other relevant Federal banking agencies, review the information and schedules that are required to be filed by an insured depository institution in a report of condition required under paragraph (3).

''(B) REDUCTION OR ELIMINATION OF INFORMATION FOUND TO BE UNNECESSARY.—After completing the review required by subparagraph (A), a Federal banking agency, in conjunction with the other relevant Federal banking agencies, shall reduce or eliminate any requirement to file information or schedules under paragraph (3) (other than information or schedules that are otherwise required by law) if the agency determines that the continued collection of such information or schedules is no longer necessary or appropriate.''.

SEC. 605. EXPANSION OF ELIGIBILITY FOR 18-MONTH EXAMINATION SCHEDULE FOR COMMUNITY BANKS.

Section 10(d)(4)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1820(d)(4)(A)) is amended by striking ''$250,000,000'' and inserting ''$500,000,000''.

SEC. 606. STREAMLINING DEPOSITORY INSTITUTION MERGER APPLICATION REQUIREMENTS.

(a) IN GENERAL.—Section 18(c)(4) of the Federal Deposit Insurance Act (12 U.S.C. 1828(c)(4)) is amended to read as follows:

''(4) REPORTS ON COMPETITIVE FACTORS.—

''(A) REQUEST FOR REPORT.—In the interests of uniform standards and subject to subparagraph (B), before acting on any application for approval of a merger transaction, the responsible agency shall—

''(i) request a report on the competitive factors involved from the Attorney General of the United States; and

''(ii) provide a copy of the request to the Corporation (when the Corporation is not the responsible agency).

''(B) FURNISHING OF REPORT.—The report requested under subparagraph (A) shall be furnished by the Attorney General to the responsible agency—

''(i) not later than 30 calendar days after the date on which the Attorney General received the request; or

''(ii) not later than 10 calendar days after such date, if the requesting agency advises the Attorney General that an emergency exists requiring expeditious action.

''(C) EXCEPTIONS.—A responsible agency may not be required to request a report under subparagraph (A) if—

''(i) the responsible agency finds that it must act immediately in order to prevent the probable failure of 1 of the insured depository institutions involved in the merger transaction; or

''(ii) the merger transaction involves solely an insured depository institution and 1 or more of the affiliates of such depository institution.''.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—Section 18(c)(6) of the Federal Deposit Insurance Act (12 U.S.C. 1828(c)(6)) is amended—

(1) in the second sentence, by striking ''banks or savings associations involved and reports on the competitive factors have'' and inserting ''insured depository institutions involved, or if the proposed merger transaction is solely between an insured depository institution and 1 or more of its affiliates, and the report on the competitive factors has''; and

(2) by striking the penultimate sentence and inserting the following: ''If the agency has advised the Attorney General under paragraph (4)(B)(ii) of the existence of an emergency requiring expeditious action and has requested a report on the competitive factors within 10 days, the transaction may not be consummated before the fifth calendar day after the date of approval by the agency.''.

SEC. 607. NONWAIVER OF PRIVILEGES.

(a) INSURED DEPOSITORY INSTITUTIONS.—Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended by adding at the end the following:

''(x) PRIVILEGES NOT AFFECTED BY DISCLOSURE TO BANKING AGENCY OR SUPERVISOR.—

''(1) IN GENERAL.—The submission by any person of any information to any Federal banking agency, State bank supervisor, or foreign banking authority for any purpose in the course of any supervisory or regulatory process of such agency, supervisor, or authority shall not be construed as waiving, destroying, or otherwise affecting any privilege such person may claim with respect to such information under Federal or State law as to any person or entity other than such agency, supervisor, or authority.

''(2) RULE OF CONSTRUCTION.—No provision of paragraph (1) may be construed as implying or establishing that—

''(A) any person waives any privilege applicable to information that is submitted or transferred under any circumstance to which paragraph (1) does not apply; or

''(B) any person would waive any privilege applicable to any information by submitting the information to any Federal banking agency, State bank supervisor, or foreign banking authority, but for this subsection.''

(b) INSURED CREDIT UNIONS.—Section 205 of the Federal Credit Union Act (12 U.S.C.1785) is amended by adding at the end the following:

''(j) PRIVILEGES NOT AFFECTED BY DISCLOSURE TO BANKING AGENCY OR SUPERVISOR.—

''(1) IN GENERAL.—The submission by any person of any information to the Administration, any State credit union supervisor, or foreign banking authority for any purpose in the course of any supervisory or regulatory process of such Board, supervisor, or authority shall not be construed as waiving, destroying, or otherwise affecting any privilege such person may claim with respect to such information under Federal or State law as to any person or entity other than such Board, supervisor, or authority.

''(2) RULE OF CONSTRUCTION.—No provision of paragraph (1) may be construed as implying or establishing that—

''(A) any person waives any privilege applicable to information that is submitted or transferred under any circumstance to which paragraph (1) does not apply; or

''(B) any person would waive any privilege applicable to any information by submitting the information to the Administration, any State credit union supervisor, or foreign banking authority, but for this subsection.''.

SEC. 608. CLARIFICATION OF APPLICATION REQUIREMENTS FOR OPTIONAL CONVERSION FOR FEDERAL SAVINGS ASSOCIATIONS.

(a) HOME OWNERS' LOAN ACT.—Section 5(i)(5) of the Home Owners' Loan Act (12 U.S.C. 1464(i)(5)) is amended to read as follows:

''(5) CONVERSION TO NATIONAL OR STATE BANK.—

''(A) IN GENERAL.—Any Federal savings association chartered and in operation before the date of enactment of the Gramm-Leach-Bliley Act, with branches in operation before such date of enactment in 1 or more States, may convert, at its option, with the approval of the Comptroller of the Currency for each national bank, and with the approval of the appropriate State bank supervisor and the appropriate Federal banking agency for each State bank, into 1 or more national or State banks, each of which may encompass 1 or more of the branches of the Federal savings association in operation before such date of enactment in 1 or more States subject to subparagraph (B).

''(B) CONDITIONS OF CONVERSION.—The authority in subparagraph (A) shall apply only if each resulting national or State bank—

''(i) will meet all financial, management, and capital requirements applicable to the resulting national or State bank; and

''(ii) if more than 1 national or State bank results from a conversion under this subparagraph, has received approval from the Federal Deposit Insurance Corporation under section 5(a) of the Federal Deposit Insurance Act.

''(C) NO MERGER APPLICATION UNDER FDIA REQUIRED.—No application under section 18(c) of the Federal Deposit Insurance Act shall be required for a conversion under this paragraph.

''(D) DEFINITIONS.—For purposes of this paragraph, the terms 'State bank' and 'State bank supervisor' have the same meanings as in section 3 of the Federal Deposit Insurance Act.''.

(b) FEDERAL DEPOSIT INSURANCE ACT.—Section 4(c) of the Federal Deposit Insurance Act (12 U.S.C. 1814(c)) is amended—

(1) by inserting ''of this Act and section 5(i)(5) of the Home Owners' Loan Act'' after ''Subject to section 5(d)''; and

(2) in paragraph (2), after ''insured State,'' by inserting ''or Federal''.

SEC. 609. EXEMPTION FROM DISCLOSURE OF PRIVACY POLICY FOR ACCOUNTANTS.

(a) IN GENERAL.—Section 503 of the Gramm-Leach-Bliley Act (15 U.S.C. 6803) is amended by adding at the end the following:

''(d) EXEMPTION FOR CERTIFIED PUBLIC ACCOUNTANTS.—

''(1) IN GENERAL.—The disclosure requirements of subsection (a) do not apply to any person, to the extent that the person is—

''(A) a certified public accountant;

''(B) certified or licensed for such purpose by a State; and

''(C) subject to any provision of law, rule, or regulation issued by a legislative or regulatory body of the State, including rules of professional conduct or ethics, that prohibits disclosure of nonpublic personal information without the knowing and expressed consent of the consumer.

''(2) LIMITATION.—Nothing in this subsection shall be construed to exempt or otherwise exclude any financial institution that is affiliated or becomes affiliated with a certified public accountant described in paragraph (1) from any provision of this section.

''(3) DEFINITIONS.—For purposes of this subsection, the term 'State' means any State or territory of the United States, the District of Columbia, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, or the Northern Mariana Islands.''.

(b) CLERICAL AMENDMENTS.—Section 503 of the Gramm-Leach-Bliley Act (15 U.S.C. 6803) is amended—

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

(2) in subsection (a), by striking ''Such disclosures'' and inserting the following:

''(b) REGULATIONS.—Disclosures required by subsection (a)''.

SEC. 610. INFLATION ADJUSTMENT FOR THE SMALL DEPOSITORY INSTITUTION EXCEPTION UNDER THE DEPOSITORY INSTITUTION MANAGEMENT INTERLOCKS ACT.

Section 203(1) of the Depository Institution Management Interlocks Act (12 U.S.C. 3202(1)) is amended by striking ''$20,000,000'' and inserting ''$50,000,000''.

SEC. 611. MODIFICATION TO CROSS MARKETING RESTRICTIONS.

Section 4(n)(5)(B) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(n)(5)(B)) is amended by striking ''subsection (k)(4)(I)'' and inserting ''subparagraph (H) or (I) of subsection (k)(4)''.

TITLE VII—BANKING AGENCY PROVISIONS

SEC. 701. STATUTE OF LIMITATIONS FOR JUDICIAL REVIEW OF APPOINTMENT OF A RECEIVER FOR DEPOSITORY INSTITUTIONS.

(a) NATIONAL BANKS.—Section 2 of the National Bank Receivership Act (12 U.S.C. 191) is amended—

(1) by amending the section heading to read as follows:

''SEC. 2. APPOINTMENT OF RECEIVER FOR A NATIONAL BANK.

''(a) IN GENERAL.—The Comptroller of the Currency''; and

(2) by adding at the end the following:

''(b) JUDICIAL REVIEW.—If the Comptroller of the Currency appoints a receiver under subsection (a), the national bank may, within 30 days thereafter, bring an action in the United States district court for the judicial district in which the home office of such bank is located, or in the United States District Court for the District of Columbia, for an order requiring the Comptroller of the Currency to remove the receiver, and the court shall, upon the merits, dismiss such action or direct the Comptroller of the Currency to remove the receiver.''.

(b) INSURED DEPOSITORY INSTITUTIONS.—Section 11(c)(7) of the Federal Deposit Insurance Act (12 U.S.C. 1821(c)(7)) is amended to read as follows:

''(7) JUDICIAL REVIEW.—If the Corporation is appointed (including the appointment of the Corporation as receiver by the Board of Directors) as conservator or receiver of a depository institution under paragraph (4), (9), or (10), the depository institution may, not

later than 30 days thereafter, bring an action in the United States district court for the judicial district in which the home office of such depository institution is located, or in the United States District Court for the District of Columbia, for an order requiring the Corporation to be removed as the conservator or receiver (regardless of how such appointment was made), and the court shall, upon the merits, dismiss such action or direct the Corporation to be removed as the conservator or receiver.''.

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply with respect to conservators or receivers appointed on or after the date of enactment of this Act.

SEC. 702. ENHANCING THE SAFETY AND SOUNDNESS OF INSURED DEPOSITORY INSTITUTIONS.

(a) CLARIFICATION RELATING TO THE ENFORCEABILITY OF AGREEMENTS AND CONDITIONS.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding at the end the following:

''SEC. 49. ENFORCEMENT OF AGREEMENTS.

''(a) IN GENERAL.—Notwithstanding clause (i) or (ii) of section 8(b)(6)(A) or section 38(e)(2)(E)(i), the appropriate Federal banking agency for a depository institution may enforce, under section 8, the terms of—

''(1) any condition imposed in writing by the agency on the depository institution or an institution-affiliated party in connection with any action on any application, notice, or other request concerning the depository institution; or

''(2) any written agreement entered into between the agency and the depository institution or an institution-affiliated party.

''(b) RECEIVERSHIPS AND CONSERVATORSHIPS.—After the appointment of the Corporation as the receiver or conservator for a depository institution, the Corporation may enforce any condition or agreement described in paragraph (1) or (2) of subsection (a) imposed on or entered into with such institution or institution-affiliated party through an action brought in an appropriate United States district court.''.

(b) PROTECTION OF CAPITAL OF INSURED DEPOSITORY INSTITUTIONS.—Section 18(u)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1828(u)(1)) is amended—

(1) by striking subparagraph (B);

(2) by redesignating subparagraph (C) as subparagraph (B); and

(3) in subparagraph (A), by adding ''and'' at the end.

(c) CONFORMING AMENDMENTS.—Section 8(b) of the Federal Deposit Insurance Act (12 U.S.C. 1818(b)) is amended—

(1) in paragraph (3), by striking ''This subsection and subsections (c) through (s) and subsection (u) of this section'' and inserting ''This subsection, subsections (c) through (s) and subsection (u) of this section, and section 49 of this Act''; and

(2) in paragraph (4), by striking ''This subsection and subsections (c) through (s) and subsection (u) of this section'' and inserting ''This subsection, subsections (c) through (s) and subsection (u) of this section, and section 49 of this Act''.

SEC. 703. CROSS GUARANTEE AUTHORITY.

Section 5(e)(9)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1815(e)(9)(A)) is amended to read as follows:

''(A) such institutions are controlled by the same company; or''.

SEC. 704. GOLDEN PARACHUTE AUTHORITY AND NONBANK HOLDING COMPANIES.

Section 18(k) of the Federal Deposit Insurance Act (12 U.S.C. 1828(k)) is amended—

(1) in paragraph (2)(A), by striking ''or depository institution holding company'' and inserting ''or covered company'';

(2) in paragraph (2), by striking subparagraph (B), and inserting the following:

''(B) Whether there is a reasonable basis to believe that the institution-affiliated party is substantially responsible for—

''(i) the insolvency of the depository institution or covered company;

''(ii) the appointment of a conservator or receiver for the depository institution; or

''(iii) the troubled condition of the depository institution (as defined in the regulations prescribed pursuant to section 32(f)).'';

(3) in paragraph (2)(F), by striking ''depository institution holding company'' and inserting ''covered company,'';

(4) in paragraph (3) in the matter preceding subparagraph (A), by striking ''depository institution holding company'' and inserting ''covered company'';

(5) in paragraph (3)(A), by striking ''holding company'' and inserting ''covered company'';

(6) in paragraph (4)(A)—

(A) by striking ''depository institution holding company'' each place that term appears and inserting ''covered company''; and

(B) by striking ''holding company'' each place that term appears (other than in connection with the term referred to in subparagraph (A)) and inserting ''covered company'';

(7) in paragraph (5)(A), by striking ''depository institution holding company'' and inserting ''covered company'';

(8) in paragraph (5), by adding at the end the following:

''(D) COVERED COMPANY.—The term 'covered company' means any depository institution holding company (including any company required to file a report under section 4(f)(6) of the Bank Holding Company Act of 1956), or any other company that controls an insured depository institution.''; and

(9) in paragraph (6)—

(A) by striking ''depository institution holding company'' and inserting ''covered company,''; and

(B) by striking ''or holding company'' and inserting ''or covered company''.

SEC. 705. AMENDMENTS RELATING TO CHANGE IN BANK CONTROL.

Section 7(j) of the Federal Deposit Insurance Act (12 U.S.C. 1817(j)) is amended—

(1) in paragraph (1)(D)—

(A) by striking ''is needed to investigate'' and inserting ''is needed—

''(i) to investigate'';

(B) by striking ''United States Code.'' and inserting ''United States Code; or''; and

(C) by adding at the end the following:

''(ii) to analyze the safety and soundness of any plans or proposals described in paragraph (6)(E) or the future prospects of the institution.''; and

(2) in paragraph (7)(C), by striking ''the financial condition of any acquiring person'' and inserting ''either the financial condition of any acquiring person or the future prospects of the institution''.

SEC. 706. AMENDMENT TO PROVIDE THE FEDERAL RESERVE BOARD WITH DISCRETION CONCERNING THE IMPUTATION OF CONTROL OF SHARES OF A COMPANY BY TRUSTEES.

Section 2(g)(2) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(g)(2)) is amended by inserting before the period at the end '', unless the Board determines that such treatment is not appropriate in light of the facts and circumstances of the case and the purposes of this Act''.

SEC. 707. INTERAGENCY DATA SHARING.

(a) FEDERAL BANKING AGENCIES.—Section 7(a)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)(2)) is amended by adding at the end the following:

''(C) DATA SHARING WITH OTHER AGENCIES AND PERSONS.—In addition to reports of examination, reports of condition, and other reports required to be regularly provided to the Corporation (with respect to all insured depository institutions, including a depository institution for which the Corporation has been appointed conservator or receiver) or an appropriate State bank supervisor (with respect to a State depository institution) under subparagraph (A) or (B), a Federal banking agency may, in the discretion of the agency, furnish any report of examination or other confidential supervisory information concerning any depository institution or other entity examined by such agency under authority of any Federal law, to—

''(i) any other Federal or State agency or authority with supervisory or regulatory authority over the depository institution or other entity;

''(ii) any officer, director, or receiver of such depository institution or entity; and

''(iii) any other person that the Federal banking agency determines to be appropriate.''.

(b) NATIONAL CREDIT UNION ADMINISTRATION.—Section 202(a) of the Federal Credit Union Act (12 U.S.C. 1782(a)) is amended by adding at the end the following:

''(8) DATA SHARING WITH OTHER AGENCIES AND PERSONS.—In addition to reports of examination, reports of condition, and other reports required to be regularly provided to the Board (with respect to all insured credit unions, including a credit union for which the Corporation has been appointed conservator or liquidating agent) or an appropriate State commission, board, or authority having supervision of a State-chartered credit union, the Board may, in the discretion of the Board, furnish any report of examination or other confidential supervisory information concerning any credit union or other entity examined by the Board under authority of any Federal law, to—

''(A) any other Federal or State agency or authority with supervisory or regulatory authority over the credit union or other entity;

''(B) any officer, director, or receiver of such credit union or entity; and

''(C) any other person that the Board determines to be appropriate.''.

SEC. 708. CLARIFICATION OF EXTENT OF SUSPENSION, REMOVAL, AND PROHIBITION AUTHORITY OF FEDERAL BANKING AGENCIES IN CASES OF CERTAIN CRIMES BY INSTITUTION-AFFILIATED PARTIES.

(a) INSURED DEPOSITORY INSTITUTIONS.—

(1) IN GENERAL.—Section 8(g)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1818(g)(1)) is amended—

(A) in subparagraph (A)—

(i) by striking ''is charged in any information, indictment, or complaint, with the commission of or participation in'' and inserting ''is the subject of any information, indictment, or complaint, involving the commission of or participation in'';

(ii) by striking ''may pose a threat to the interests of the depository institution's depositors or may threaten to impair public confidence in the depository institution,'' and insert ''posed, poses, or may pose a threat to the interests of the depositors of, or threatened, threatens, or may threaten to impair public confidence in, any relevant depository institution (as defined in subparagraph (E)),''; and

(iii) by striking ''affairs of the depository institution'' and inserting ''affairs of any depository institution'';

(B) in subparagraph (B)(i), by striking ''the depository institution'' and inserting ''any depository institution that the subject of the notice is affiliated with at the time the notice is issued'';

(C) in subparagraph (C)(i)—

(i) by striking ''may pose a threat to the interests of the depository institution's depositors or may threaten to impair public

confidence in the depository institution,'' and insert ''posed, poses, or may pose a threat to the interests of the depositors of, or threatened, threatens, or may threaten to impair public confidence in, any relevant depository institution (as defined in subparagraph (E)),''; and

(ii) by striking ''affairs of the depository institution'' and inserting ''affairs of any depository institution'';

(D) in subparagraph (C)(ii), by striking ''affairs of the depository institution'' and inserting ''affairs of any depository institution'';

(E) in subparagraph (D)(i), by striking ''the depository institution'' and inserting ''any depository institution that the subject of the order is affiliated with at the time the order is issued''; and

(F) by adding at the end the following:

''(E) RELEVANT DEPOSITORY INSTITUTION.—For purposes of this subsection, the term 'relevant depository institution' means any depository institution of which the party is or was an institution-affiliated party at the time at which—

''(i) the information, indictment, or complaint described in subparagraph (A) was issued; or

''(ii) the notice is issued under subparagraph (A) or the order is issued under subparagraph (C)(i).''.

(2) CLERICAL AMENDMENT.—The subsection heading for section 8(g) of the Federal Deposit Insurance Act (12 U.S.C. 1818(g)) is amended to read as follows:

''(g) SUSPENSION, REMOVAL, AND PROHIBITION FROM PARTICIPATION ORDERS IN THE CASE OF CERTAIN CRIMINAL OFFENSES.—''.

(b) INSURED CREDIT UNIONS.—

(1) IN GENERAL.—Section 206(i)(1) of the Federal Credit Union Act (12 U.S.C. 1786(i)(1)) is amended—

(A) in subparagraph (A), by striking ''the credit union'' each place that term appears and inserting ''any credit union'';

(B) in subparagraph (B)(i), by inserting ''of which the subject of the order is, or most recently was, an institution-affiliated party'' before the period at the end;

(C) in subparagraph (C)—

(i) by striking ''the credit union'' each place such term appears and inserting ''any credit union''; and

(ii) by striking ''the credit union's'' and inserting ''any credit union's'';

(D) in subparagraph (D)(i), by striking ''upon such credit union'' and inserting ''upon the credit union of which the subject of the order is, or most recently was, an institution-affiliated party''; and

(E) by adding at the end the following:

''(E) CONTINUATION OF AUTHORITY.—The Board may issue an order under this paragraph with respect to an individual who is an institution-affiliated party at a credit union at the time of an offense described in subparagraph (A) without regard to—

''(i) whether such individual is an institution-affiliated party at any credit union at the time the order is considered or issued by the Board; or

''(ii) whether the credit union at which the individual was an institution-affiliated party at the time of the offense remains in existence at the time the order is considered or issued by the Board.''.

(2) CLERICAL AMENDMENT.—Section 206(i) of the Federal Credit Union Act (12 U.S.C. 1786(i)) is amended by striking ''(i)'' at the beginning and inserting the following:

''(i) SUSPENSION, REMOVAL, AND PROHIBITION FROM PARTICIPATION ORDERS IN THE CASE OF CERTAIN CRIMINAL OFFENSES.—''.

SEC. 709. PROTECTION OF CONFIDENTIAL INFORMATION RECEIVED BY FEDERAL BANKING REGULATORS FROM FOREIGN BANKING SUPERVISORS.

Section 15 of the International Banking Act of 1978 (12 U.S.C. 3109) is amended by adding at the end the following:

''(c) CONFIDENTIAL INFORMATION RECEIVED FROM FOREIGN SUPERVISORS.—

''(1) IN GENERAL.—Except as provided in paragraph (3), a Federal banking agency may not be compelled to disclose information received from a foreign regulatory or supervisory authority if—

''(A) the Federal banking agency determines that the foreign regulatory or supervisory authority has, in good faith, determined and represented in writing to such Federal banking agency that public disclosure of the information would violate the laws applicable to that foreign regulatory or supervisory authority; and

''(B) the relevant Federal banking agency obtained such information pursuant to—

''(i) such procedures as the Federal banking agency may establish for use in connection with the administration and enforcement of Federal banking laws; or

''(ii) a memorandum of understanding or other similar arrangement between the Federal banking agency and the foreign regulatory or supervisory authority.

''(2) TREATMENT UNDER TITLE 5, UNITED STATES CODE.—For purposes of section 552 of title 5, United States Code, this subsection shall be treated as a statute described in subsection (b)(3)(B) of such section.

''(3) SAVINGS PROVISION.—No provision of this section shall be construed as—

''(A) authorizing any Federal banking agency to withhold any information from any duly authorized committee of the House of Representatives or the Senate; or

''(B) preventing any Federal banking agency from complying with an order of a court of the United States in an action commenced by the United States or such agency.

''(4) FEDERAL BANKING AGENCY DEFINED.—For purposes of this subsection, the term 'Federal banking agency' means the Board, the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the Director of the Office of Thrift Supervision.''.

SEC. 710. PROHIBITION ON PARTICIPATION BY CONVICTED INDIVIDUALS.

(a) EXTENSION OF AUTOMATIC PROHIBITION.—Section 19 of the Federal Deposit Insurance Act (12 U.S.C. 1829) is amended by adding at the end the following:

''(d) BANK HOLDING COMPANIES.—Subsections (a) and (b) shall apply to any company (other than a foreign bank) that is a bank holding company and any organization organized and operated under section 25A of the Federal Reserve Act or operating under section 25 of the Federal Reserve Act, as if such bank holding company or organization were an insured depository institution, except that such subsections shall be applied for purposes of this subsection by substituting 'Board of Governors of the Federal Reserve System' for 'Corporation' each place that term appears in such subsections.

''(e) SAVINGS AND LOAN HOLDING COMPANIES.—Subsections (a) and (b) shall apply to any savings and loan holding company and any subsidiary (other than a savings association) of a savings and loan holding company as if such savings and loan holding company or subsidiary were an insured depository institution, except that subsections shall be applied for purposes of this subsection by substituting 'Director of the Office of Thrift Supervision' for 'Corporation' each place that term appears in such subsections.''.

(b) ENHANCED DISCRETION TO REMOVE CONVICTED INDIVIDUALS.—Section 8(e)(2)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1818(e)(2)(A)) is amended—

(1) by striking ''or'' at the end of clause (ii);

(2) by striking the comma at the end of clause (iii) and inserting ''; or''; and

(3) by adding at the end the following:

''(iv) an institution-affiliated party of a subsidiary (other than a bank) of a bank holding company has been convicted of any criminal offense involving dishonesty or a breach of trust, or a criminal violation of section 1956, 1957, or 1960 of title 18 United States Code, or has agreed to enter into a pretrial diversion or similar program in connection with a prosecution for such an offense,''.

SEC. 711. COORDINATION OF STATE EXAMINATION AUTHORITY.

Section 10(h) of the Federal Deposit Insurance Act (12 U.S.C. 1820(h)) is amended to read as follows:

''(h) COORDINATION OF EXAMINATION AUTHORITY.—

''(1) STATE BANK SUPERVISORS OF HOME AND HOST STATES.—

''(A) HOME STATE OF BANK.—The appropriate State bank supervisor of the home State of an insured State bank has authority to examine and supervise the bank.

''(B) HOST STATE BRANCHES.—The State bank supervisor of the home State of an insured State bank and any State bank supervisor of an appropriate host State shall exercise its respective authority to supervise and examine the branches of the bank in a host State in accordance with the terms of any applicable cooperative agreement between the home State bank supervisor and the State bank supervisor of the relevant host State.

''(C) SUPERVISORY FEES.—Except as expressly provided in a cooperative agreement between the State bank supervisors of the home State and any host State of an insured State bank, only the State bank supervisor of the home State of an insured State bank may levy or charge State supervisory fees on the bank.

''(2) HOST STATE EXAMINATION.—

''(A) IN GENERAL.—With respect to a branch operated in a host State by an out-of-State insured State bank that resulted from an interstate merger transaction approved under section 44, or that was established in such State pursuant to section 5155(g) of the Revised Statutes of the United States, the third undesignated paragraph of section 9 of the Federal Reserve Act or section 18(d)(4) of this Act, the appropriate State bank supervisor of such host State may—

''(i) with written notice to the State bank supervisor of the bank's home State and subject to the terms of any applicable cooperative agreement with the State bank supervisor of such home State, examine such branch for the purpose of determining compliance with host State laws that are applicable pursuant to section 24(j), including those that govern community reinvestment, fair lending, and consumer protection; and

''(ii) if expressly permitted under and subject to the terms of a cooperative agreement with the State bank supervisor of the bank's home State or if such out-of-State insured State bank has been determined to be in a troubled condition by either the State bank supervisor of the bank's home State or the bank's appropriate Federal banking agency, participate in the examination of the bank by the State bank supervisor of the bank's home State to ascertain that the activities of the branch in such host State are not conducted in an unsafe or unsound manner.

''(B) NOTICE OF DETERMINATION.—

''(i) IN GENERAL.—The State bank supervisor of the home State of an insured State bank shall notify the State bank supervisor of each host State of the bank if there has

been a final determination that the bank is in a troubled condition.

''(ii) TIMING OF NOTICE.—The State bank supervisor of the home State of an insured State bank shall provide notice under clause (i) as soon as is reasonably possible, but in all cases not later than 15 business days after the date on which the State bank supervisor has made such final determination or has received written notification of such final determination.

''(3) HOST STATE ENFORCEMENT.—If the State bank supervisor of a host State determines that a branch of an out-of-State insured State bank is violating any law of the host State that is applicable to such branch pursuant to section 24(j), including a law that governs community reinvestment, fair lending, or consumer protection, the State bank supervisor of the host State or, to the extent authorized by the law of the host State, a host State law enforcement officer may, with written notice to the State bank supervisor of the bank's home State and subject to the terms of any applicable cooperative agreement with the State bank supervisor of the bank's home State, undertake such enforcement actions and proceedings as would be permitted under the law of the host State as if the branch were a bank chartered by that host State.

''(4) COOPERATIVE AGREEMENT.—

''(A) IN GENERAL.—The State bank supervisors from 2 or more States may enter into cooperative agreements to facilitate State regulatory supervision of State banks, including cooperative agreements relating to the coordination of examinations and joint participation in examinations.

''(B) DEFINITION.—For purposes of this subsection, the term 'cooperative agreement' means a written agreement that is signed by the home State bank supervisor and the host State bank supervisor to facilitate State regulatory supervision of State banks, and includes nationwide or multi-state cooperative agreements and cooperative agreements solely between the home State and host State.

''(C) RULE OF CONSTRUCTION.—Except for State bank supervisors, no provision of this subsection relating to such cooperative agreements shall be construed as limiting in any way the authority of home State and host State law enforcement officers, regulatory supervisors, or other officials that have not signed such cooperative agreements to enforce host State laws that are applicable to a branch of an out-of-State insured State bank located in the host State pursuant to section 24(j).

''(5) FEDERAL REGULATORY AUTHORITY.—No provision of this subsection shall be construed as limiting in any way the authority of any Federal banking agency.

''(6) STATE TAXATION AUTHORITY NOT AFFECTED.—No provision of this subsection shall be construed as affecting the authority of any State or political subdivision of any State to adopt, apply, or administer any tax or method of taxation to any bank, bank holding company, or foreign bank, or any affiliate of any bank, bank holding company, or foreign bank, to the extent that such tax or tax method is otherwise permissible by or under the Constitution of the United States or other Federal law.

''(7) DEFINITIONS.—For purpose of this section, the following definitions shall apply:

''(A) HOST STATE, HOME STATE, OUT-OF-STATE BANK.—The terms 'host State', 'home State', and 'out-of-State bank' have the same meanings as in section 44(g).

''(B) STATE SUPERVISORY FEES.—The term 'State supervisory fees' means assessments, examination fees, branch fees, license fees, and all other fees that are levied or charged by a State bank supervisor directly upon an insured State bank or upon branches of an insured State bank.

''(C) TROUBLED CONDITION.—Solely for purposes of paragraph (2)(B), an insured State bank has been determined to be in 'troubled condition' if the bank—

''(i) has a composite rating, as determined in its most recent report of examination, of 4 or 5 under the Uniform Financial Institutions Ratings System;

''(ii) is subject to a proceeding initiated by the Corporation for termination or suspension of deposit insurance; or

''(iii) is subject to a proceeding initiated by the State bank supervisor of the bank's home State to vacate, revoke, or terminate the charter of the bank, or to liquidate the bank, or to appoint a receiver for the bank.

''(D) FINAL DETERMINATION.—For purposes of paragraph (2)(B), the term 'final determination' means the transmittal of a report of examination to the bank or transmittal of official notice of proceedings to the bank.''.

SEC. 712. DEPUTY DIRECTOR; SUCCESSION AUTHORITY FOR DIRECTOR OF THE OFFICE OF THRIFT SUPERVISION.

(a) ESTABLISHMENT OF POSITION OF DEPUTY DIRECTOR.—Section 3(c)(5) of the Home Owners' Loan Act (12 U.S.C. 1462a(c)(5)) is amended to read as follows:

''(5) DEPUTY DIRECTOR.—

''(A) IN GENERAL.—The Secretary of the Treasury shall appoint a Deputy Director, and may appoint not more than 3 additional Deputy Directors of the Office.

''(B) FIRST DEPUTY DIRECTOR.—If the Secretary of the Treasury appoints more than 1 Deputy Director of the Office, the Secretary shall designate one such appointee as the First Deputy Director.

''(C) DUTIES.—Each Deputy Director appointed under this paragraph shall take an oath of office and perform such duties as the Director shall direct.

''(D) COMPENSATION AND BENEFITS.—The Director shall fix the compensation and benefits for each Deputy Director in accordance with this Act.''.

(b) SERVICE OF DEPUTY DIRECTOR AS ACTING DIRECTOR.—Section 3(c)(3) of the Home Owners' Loan Act (12 U.S.C. 1462a(c)(3)) is amended—

(1) by striking ''**VACANCY**.—A vacancy in the position of Director'' and inserting ''**VACANCY**.—

''(A) IN GENERAL.—A vacancy in the position of Director''; and

(2) by adding at the end the following:

''(B) ACTING DIRECTOR.—

''(i) IN GENERAL.—In the event of a vacancy in the position of Director or during the absence or disability of the Director, the Deputy Director shall serve as Acting Director.

''(ii) SUCCESSION IN CASE OF 2 OR MORE DEPUTY DIRECTORS.—If there are 2 or more Deputy Directors serving at the time a vacancy in the position of Director occurs or the absence or disability of the Director commences, the First Deputy Director shall serve as Acting Director under clause (i) followed by such other Deputy Directors under any order of succession the Director may establish.

''(iii) AUTHORITY OF ACTING DIRECTOR.—Any Deputy Director, while serving as Acting Director under this subparagraph, shall be vested with all authority, duties, and privileges of the Director under this Act and any other provision of Federal law.''.

SEC. 713. OFFICE OF THRIFT SUPERVISION REPRESENTATION ON BASEL COMMITTEE ON BANKING SUPERVISION.

(a) IN GENERAL.—Section 912 of the International Lending Supervision Act of 1983 (12 U.S.C. 3911) is amended—

(1) in the section heading, by inserting at the end the following: ''**AND THE OFFICE OF THRIFT SUPERVISION**'';

(2) by striking ''As one of the three'' and inserting the following:

''(a) IN GENERAL.—As one of the 4''; and

(3) by adding at the end the following:

''(b) As one of the 4 Federal bank regulatory and supervisory agencies, the Office of Thrift Supervision shall be given equal representation with the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, and the Federal Deposit Insurance Corporation on the Committee on Banking Regulations and Supervisory Practices of the Group of Ten Countries and Switzerland.''.

(b) CONFORMING AMENDMENTS.—Section 910(a) of the International Lending Supervision Act of 1983 (12 U.S.C. 3909(a)) is amended—

(1) in paragraph (2), by striking ''insured bank'' and inserting ''insured depository institution''; and

(2) in paragraph (3), by striking ''an 'insured bank', as such term is used in section 3(h)'' and inserting ''an 'insured depository institution', as such term is defined in section 3(c)(2)''.

SEC. 714. FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL.

(a) COUNCIL MEMBERSHIP.—Section 1004(a) of the Federal Financial Institutions Examination Council Act of 1978 (12 U.S.C. 3303(a)) is amended—

(1) in paragraph (4), by striking ''Thrift'' and all that follows through the end of the paragraph and inserting ''Thrift Supervision,'';

(2) in paragraph (5) by striking the period at the end and inserting '', and''; and

(3) by adding at the end the following:

''(6) the Chairman of the State Liaison Committee.''.

(b) CHAIRPERSON OF LIAISON COMMITTEE.—Section 1007 of the Federal Financial Institutions Examination Council Act of 1978 (12 U.S.C. 3306) is amended by adding at the end the following: ''Members of the Liaison Committee shall elect a chairperson from among the members serving on the committee.''.

SEC. 715. TECHNICAL AMENDMENTS RELATING TO INSURED INSTITUTIONS.

(a) TECHNICAL AMENDMENT TO THE FEDERAL DEPOSIT INSURANCE ACT.—Section 8(i)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1818(i)(3)) is amended by inserting ''or order'' after ''notice'' each place that term appears.

(b) TECHNICAL AMENDMENT TO THE FEDERAL CREDIT UNION ACT.—Section 206(k)(3) of the Federal Credit Union Act (12 U.S.C. 1786(k)(3)) is amended by inserting ''or order'' after ''notice'' each place that term appears.

SEC. 716. CLARIFICATION OF ENFORCEMENT AUTHORITY.

(a) ACTIONS ON APPLICATIONS, NOTICES, AND OTHER REQUESTS; CLARIFICATION THAT CHANGE IN CONTROL CONDITIONS ARE ENFORCEABLE.—Section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818) is amended—

(1) in subsection (b)(1), in the first sentence, by striking ''the granting of any application or other request by the depository institution'' and inserting ''any action on any application, notice, or other request by the depository institution or institution-affiliated party,'';

(2) in subsection (e)(1)(A)(i)(III), by striking ''the grant of any application or other request by such depository institution'' and inserting ''any action on any application, notice, or request by such depository institution or institution-affiliated party''; and

(3) in subsection (i)(2)(A)(iii), by striking ''the grant of any application or other request by such depository institution'' and inserting ''any action on any application, notice, or other request by the depository institution or institution-affiliated party''.

(b) CLARIFICATION THAT CHANGE IN CONTROL CONDITIONS ARE ENFORCEABLE.—Section 206 of the Federal Credit Union Act (12 U.S.C. 1786) is amended—

(1) in subsection (b)(1), in the first sentence, by striking ''the granting of any application or other request by the credit union'' and inserting ''any action on any application, notice, or other request by the credit union or institution-affiliated party,'';

(2) in subsection (g)(1)(A)(i)(III), by striking ''the grant of any application or other request by such credit union'' and inserting ''any action on any application, notice, or request by such credit union or institution-affiliated party''; and

(3) in subsection (k)(2)(A)(iii), by striking ''the grant of any application or other request by such credit union'' and inserting ''any action on any application, notice, or other request by the credit union or institution-affiliated party''.

SEC. 717. FEDERAL BANKING AGENCY AUTHORITY TO ENFORCE DEPOSIT INSURANCE CONDITIONS.

Section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818) is amended—

(1) in subsection (b)(1), in the 1st sentence—

(A) by striking ''in writing by the agency'' and inserting ''in writing by a Federal banking agency''; and

(B) by striking ''the agency may issue and serve'' and inserting ''the appropriate Federal banking agency for the depository institution may issue and serve'';

(2) in subsection (e)(1)—

(A) in subparagraph (A)(i)(III), by striking ''in writing by the appropriate Federal banking agency'' and inserting ''in writing by a Federal banking agency''; and

(B) in the undesignated matter at the end, by striking ''the agency may serve upon such party'' and inserting ''the appropriate Federal banking agency for the depository institution may serve upon such party''; and

(3) in subsection (i)(2)(A)(iii), by striking ''in writing by the appropriate Federal banking agency'' and inserting ''in writing by a Federal banking agency''.

SEC. 718. RECEIVER OR CONSERVATOR CONSENT REQUIREMENT.

(a) INSURED DEPOSITORY INSTITUTIONS.—Section 11(e)(13) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(13)) is amended by adding at the end the following:

''(C) CONSENT REQUIREMENT.—

''(i) IN GENERAL.—Except as otherwise provided by this section or section 15, no person may exercise any right or power to terminate, accelerate, or declare a default under any contract to which the depository institution is a party, or to obtain possession of or exercise control over any property of the institution or affect any contractual rights of the institution, without the consent of the conservator or receiver, as appropriate, during the 45-day period beginning on the date of the appointment of the conservator, or during the 90-day period beginning on the date of the appointment of the receiver, as applicable.

''(ii) CERTAIN EXCEPTIONS.—No provision of this subparagraph shall apply to a director or officer liability insurance contract or a depository institution bond, to the rights of parties to certain qualified financial contracts pursuant to paragraph (8), or to the rights of parties to netting contracts pursuant to subtitle A of title IV of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4401 et seq.), or shall be construed as permitting the conservator or receiver to fail to comply with otherwise enforceable provisions of such contract.

''(iii) RULE OF CONSTRUCTION.—Nothing in this subparagraph shall be construed to limit or otherwise affect the applicability of title 11, United States Code.''.

(b) INSURED CREDIT UNIONS.—Section 207(c)(12) of the Federal Credit Union Act (12 U.S.C. 1787(c)(12)) is amended by adding the following:

''(C) CONSENT REQUIREMENT.—

''(i) IN GENERAL.—Except as otherwise provided by this section, no person may exercise any right or power to terminate, accelerate, or declare a default under any contract to which the credit union is a party, or to obtain possession of or exercise control over any property of the credit union or affect any contractual rights of the credit union, without the consent of the conservator or liquidating agent, as appropriate, during the 45-day period beginning on the date of the appointment of the conservator, or during the 90-day period beginning on the date of the appointment of the liquidating agent, as applicable.

''(ii) CERTAIN EXCEPTIONS.—No provision of this subparagraph shall apply to a director or officer liability insurance contract or a credit union bond, or to the rights of parties to certain qualified financial contracts pursuant to paragraph (8), or shall be construed as permitting the conservator or liquidating agent to fail to comply with otherwise enforceable provisions of such contract.

''(iii) RULE OF CONSTRUCTION.—Nothing in this subparagraph shall be construed to limit or otherwise affect the applicability of title 11, United States Code.''.

SEC. 719. ACQUISITION OF FICO SCORES.

Section 604(a) of the Fair Credit Reporting Act (15 U.S.C. 1681b(a)) is amended by adding at the end the following:

''(6) To the Federal Deposit Insurance Corporation or the National Credit Union Administration as part of its preparation for its appointment or as part of its exercise of powers, as conservator, receiver, or liquidating agent for an insured depository institution or insured credit union under the Federal Deposit Insurance Act or the Federal Credit Union Act, or other applicable Federal or State law, or in connection with the resolution or liquidation of a failed or failing insured depository institution or insured credit union, as applicable.''.

SEC. 720. ELIMINATION OF CRIMINAL INDICTMENTS AGAINST RECEIVERSHIPS.

(a) INSURED DEPOSITORY INSTITUTIONS.—Section 15(b) of the Federal Deposit Insurance Act (12 U.S.C. 1825(b)) is amended by inserting immediately after paragraph (3) the following:

''(4) EXEMPTION FROM CRIMINAL PROSECUTION.—The Corporation shall be exempt from all prosecution by the United States or any State, county, municipality, or local authority for any criminal offense arising under Federal, State, county, municipal, or local law, which was allegedly committed by the institution, or persons acting on behalf of the institution, prior to the appointment of the Corporation as receiver.''.

(b) INSURED CREDIT UNIONS.—Section 207(b)(2) of the Federal Credit Union Act (12 U.S.C. 1787(b)(2)) is amended by adding at the end the following:

''(K) EXEMPTION FROM CRIMINAL PROSECUTION.—The Administration shall be exempt from all prosecution by the United States or any State, county, municipality, or local authority for any criminal offense arising under Federal, State, county, municipal, or local law, which was allegedly committed by a credit union, or persons acting on behalf of a credit union, prior to the appointment of the Administration as liquidating agent.''.

SEC. 721. RESOLUTION OF DEPOSIT INSURANCE DISPUTES.

(a) INSURED DEPOSITORY INSTITUTIONS.—Section 11(f) of the Federal Deposit Insurance Act (12 U.S.C. 1821(f)) is amended by striking paragraphs (3) through (5) and inserting the following:

''(3) RESOLUTION OF DISPUTES.—A determination by the Corporation regarding any claim for insurance coverage shall be treated as a final determination for purposes of this section. In its discretion, the Corporation may promulgate regulations prescribing procedures for resolving any disputed claim relating to any insured deposit or any determination of insurance coverage with respect to any deposit.

''(4) REVIEW OF CORPORATION DETERMINATION.—A final determination made by the Corporation regarding any claim for insurance coverage shall be a final agency action reviewable in accordance with chapter 7 of title 5, United States Code, by the United States district court for the Federal judicial district where the principal place of business of the depository institution is located.

''(5) STATUTE OF LIMITATIONS.—Any request for review of a final determination by the Corporation regarding any claim for insurance coverage shall be filed with the appropriate United States district court not later than 60 days after the date on which such determination is issued.''.

(b) INSURED CREDIT UNIONS.—Section 207(d) of the Federal Credit Union Act (12 U.S.C. 1787(d)) is amended by striking paragraphs (3) through (5) and inserting the following:

''(3) RESOLUTION OF DISPUTES.—A determination by the Administration regarding any claim for insurance coverage shall be treated as a final determination for purposes of this section. In its discretion, the Board may promulgate regulations prescribing procedures for resolving any disputed claim relating to any insured deposit or any determination of insurance coverage with respect to any deposit. A final determination made by the Board regarding any claim for insurance coverage shall be a final agency action reviewable in accordance with chapter 7 of title 5, United States Code, by the United States district court for the Federal judicial district where the principal place of business of the credit union is located.

''(4) STATUTE OF LIMITATIONS.—Any request for review of a final determination by the Board regarding any claim for insurance coverage shall be filed with the appropriate United States district court not later than 60 days after the date on which such determination is issued.''.

SEC. 722. RECORDKEEPING.

(a) INSURED DEPOSITORY INSTITUTIONS.—Section 11(d)(15)(D) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)(15)(D)) is amended—

(1) by striking ''After the end of the 6-year period'' and inserting the following:

''(i) IN GENERAL.—Except as provided in clause (ii), after the end of the 6-year period''; and

(2) by adding at the end the following:

''(ii) OLD RECORDS.—Notwithstanding clause (i), the Corporation may destroy records of an insured depository institution which are at least 10 years old as of the date on which the Corporation is appointed as the receiver of such depository institution in accordance with clause (i) at any time after such appointment is final, without regard to the 6-year period of limitation contained in clause (i).''.

(b) INSURED CREDIT UNIONS.—Section 207(b)(15)(D) of the Federal Credit Union Act (12 U.S.C. 1787(b)(15)(D)) is amended—

(1) by striking ''After the end of the 6-year period'' and inserting the following:

''(i) IN GENERAL.—Except as provided in clause (ii), after the end of the 6-year period''; and

(2) by adding at the end the following:

''(ii) OLD RECORDS.—Notwithstanding clause (i) the Board may destroy records of an insured credit union which are at least 10 years old as of the date on which the Board is appointed as liquidating agent of such credit union in accordance with clause (i) at any time after such appointment is final, without regard to the 6-year period of limitation contained in clause (i).''.

SEC. 723. PRESERVATION OF RECORDS.

(a) INSURED DEPOSITORY INSTITUTIONS.—Section 10(f) of the Federal Deposit Insurance Act (12 U.S.C. 1820(f)) is amended to read as follows:

''(f) PRESERVATION OF AGENCY RECORDS.—

''(1) IN GENERAL.—A Federal banking agency may cause any and all records, papers, or documents kept by the agency or in the possession or custody of the agency to be—

''(A) photographed or microphotographed or otherwise reproduced upon film; or

''(B) preserved in any electronic medium or format which is capable of—

''(i) being read or scanned by computer; and

''(ii) being reproduced from such electronic medium or format by printing any other form of reproduction of electronically stored data.

''(2) TREATMENT AS ORIGINAL RECORDS.—Any photographs, microphotographs, or photographic film or copies thereof described in paragraph (1)(A) or reproduction of electronically stored data described in paragraph (1)(B) shall be deemed to be an original record for all purposes, including introduction in evidence in all State and Federal courts or administrative agencies, and shall be admissible to prove any act, transaction, occurrence, or event therein recorded.

''(3) AUTHORITY OF THE FEDERAL BANKING AGENCIES.—Any photographs, microphotographs, or photographic film or copies thereof described in paragraph (1)(A) or reproduction of electronically stored data described in paragraph (1)(B) shall be preserved in such manner as the Federal banking agency shall prescribe, and the original records, papers, or documents may be destroyed or otherwise disposed of as the Federal banking agency may direct.''.

(b) INSURED CREDIT UNIONS.—Section 206(s) of the Federal Credit Union Act (12 U.S.C. 1786(s)) is amended by adding at the end the following:

''(9) PRESERVATION OF RECORDS.—

''(A) IN GENERAL.—The Board may cause any and all records, papers, or documents kept by the Administration or in the possession or custody of the Administration to be—

''(i) photographed or microphotographed or otherwise reproduced upon film; or

''(ii) preserved in any electronic medium or format which is capable of—

''(I) being read or scanned by computer; and

''(II) being reproduced from such electronic medium or format by printing or any other form of reproduction of electronically stored data.

''(B) TREATMENT AS ORIGINAL RECORDS.—Any photographs, micrographs, or photographic film or copies thereof described in subparagraph (A)(i) or reproduction of electronically stored data described in subparagraph (A)(ii) shall be deemed to be an original record for all purposes, including introduction in evidence in all State and Federal courts or administrative agencies, and shall be admissible to prove any act, transaction, occurrence, or event therein recorded.

''(C) AUTHORITY OF THE ADMINISTRATION.—Any photographs, microphotographs, or photographic film or copies thereof described in subparagraph (A)(i) or reproduction of electronically stored data described in subparagraph (A)(ii) shall be preserved in such manner as the Administration shall prescribe, and the original records, papers, or documents may be destroyed or otherwise disposed of as the Administration may direct.''.

SEC. 724. TECHNICAL AMENDMENTS TO INFORMATION SHARING PROVISION IN THE FEDERAL DEPOSIT INSURANCE ACT.

Section 11(t) of the Federal Deposit Insurance Act (12 U.S.C. 1821(t)) is amended—

(1) in paragraph (1), by inserting '', in any capacity,'' after ''A covered agency''; and

(2) in paragraph (2)(A)—

(A) in clause (i), by striking ''appropriate'';

(B) by striking clause (ii); and

(C) by redesignating clauses (iii) through (vi) as clauses (ii) through (v), respectively.

SEC. 725. TECHNICAL AND CONFORMING AMENDMENTS RELATING TO BANKS OPERATING UNDER THE CODE OF LAW FOR THE DISTRICT OF COLUMBIA.

(a) FEDERAL RESERVE ACT.—The Federal Reserve Act (12 U.S.C. 221 et seq.) is amended—

(1) in the second undesignated paragraph of the first section (12 U.S.C. 221), by adding at the end the following: ''For purposes of this Act, a State bank includes any bank which is operating under the Code of Law for the District of Columbia.''; and

(2) in the first sentence of the first undesignated paragraph of section 9 (12 U.S.C. 321), by striking ''incorporated by special law of any State, or'' and inserting ''incorporated by special law of any State, operating under the Code of Law for the District of Columbia, or''.

(b) BANK CONSERVATION ACT.—Section 202 of the Bank Conservation Act (12 U.S.C. 202) is amended—

(1) by striking ''means (1) any national'' and inserting ''means any national''; and

(2) by striking '', and (2) any bank or trust company located in the District of Columbia and operating under the supervision of the Comptroller of the Currency''.

(c) DEPOSITORY INSTITUTION DEREGULATION AND MONETARY CONTROL ACT OF 1980.—Part C of title VII of the Depository Institution Deregulation and Monetary Control Act of 1980 (12 U.S.C. 216 et seq.) is amended—

(1) in paragraph (1) of section 731 (12 U.S.C. 216(1)), by striking ''and closed banks in the District of Columbia''; and

(2) in paragraph (2) of section 732 (12 U.S.C. 216a(2)), by striking ''or closed banks in the District of Columbia''.

(d) FEDERAL DEPOSIT INSURANCE ACT.—Section 3(a)(2)(B) of the Federal Deposit Insurance Act (12 U.S.C. 1813(a)(2)(B)) is amended by striking ''(except a national bank)''.

(e) NATIONAL BANK CONSOLIDATION AND MERGER ACT.—Section 7(1) of the National Bank Consolidation and Merger Act (12 U.S.C. 215b(1)) is amended by striking ''(except a national banking association located in the District of Columbia)''.

(f) ACT OF AUGUST 17, 1950.—Section 1(a) of the Act entitled ''An Act to provide for the conversion of national banking associations into and their merger or consolidation with State banks, and for other purposes'' and approved August 17, 1950 (12 U.S.C. 214(a)) is amended by striking ''(except a national banking association)''.

(g) FEDERAL TRADE COMMISSION ACT.—Section 18(f)(2) of the Federal Trade Commission Act (15 U.S.C. 57a(f)(2)) is amended—

(1) in subparagraph (A), by striking '', banks operating under the code of law for the District of Columbia,''; and

(2) in subparagraph (B), by striking ''and banks operating under the code of law for the District of Columbia''.

SEC. 726. TECHNICAL CORRECTIONS TO THE FEDERAL CREDIT UNION ACT.

The Federal Credit Union Act (12 U.S.C. 1751 et seq.) is amended as follows:

(1) In section 101(3), strike ''and'' after the semicolon.

(2) In section 101(5), strike the terms ''account account'' and ''account accounts'' each place any such term appears and insert ''account''.

(3) In section 107(5)(E), strike the period at the end and insert a semicolon.

(4) In each of paragraphs (6) and (7) of section 107, strike the period at the end and insert a semicolon.

(5) In section 107(7)(D), strike ''the Federal Savings and Loan Insurance Corporation or''.

(6) In section 107(7)(E), strike ''the Federal Home Loan Bank Board,'' and insert ''the Federal Housing Finance Board,''.

(7) In section 107(9), strike ''subchapter III'' and insert ''title III''.

(8) In section 107(13), strike ''and'' after the semicolon at the end.

(9) In section 109(c)(2)(A)(i), strike ''(12 U.S.C. 4703(16))''.

(10) In section 120(h), strike ''the Act approved July 30, 1947 (6 U.S.C., secs. 6–13),'' and insert ''chapter 93 of title 31, United States Code,''.

(11) In section 201(b)(5), strike ''section 116 of''.

(12) In section 202(h)(3), strike ''section 207(c)(1)'' and insert ''section 207(k)(1)''.

(13) In section 204(b), strike ''such others powers'' and insert ''such other powers''.

(14) In section 206(e)(3)(D), strike ''and'' after the semicolon at the end.

(15) In section 206(f)(1), strike ''subsection (e)(3)(B)'' and insert ''subsection (e)(3)''.

(16) In section 206(g)(7)(D), strike ''and subsection (1)''.

(17) In section 206(t)(2)(B), insert ''regulations'' after ''as defined in''.

(18) In section 206(t)(2)(C), strike ''material affect'' and insert ''material effect''.

(19) In section 206(t)(4)(A)(ii)(II), strike ''or'' after the semicolon at the end.

(20) In section 206A(a)(2)(A), strike ''regulator agency'' and insert ''regulatory agency''.

(21) In section 207(c)(5)(B)(i)(I), insert ''and'' after the semicolon at the end.

(22) In the heading for subparagraph (A) of section 207(d)(3), strike ''TO'' and insert ''WITH''.

(23) In section 207(f)(3)(A), strike ''category or claimants'' and insert ''category of claimants''.

(24) In section 209(a)(8), strike the period at the end and insert a semicolon.

(25) In section 216(n), insert ''any action'' before ''that is required''.

(26) In section 304(b)(3), strike ''the affairs or such credit union'' and insert ''the affairs of such credit union''.

(27) In section 310, strike ''section 102(e)'' and insert ''section 102(d)''.

SEC. 727. REPEAL OF OBSOLETE PROVISIONS OF THE BANK HOLDING COMPANY ACT OF 1956.

(a) IN GENERAL.—Section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841) is amended—

(1) in subsection (c)(2), by striking subparagraphs (I) and (J); and

(2) by striking subsection (m) and inserting the following:

''(m) [Repealed]''.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—Paragraphs (1) and (2) of section 4(h) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(h)) are each amended by striking ''(G), (H), (I), or (J) of section 2(c)(2)'' and inserting ''(G), or (H) of section 2(c)(2)''.

SEC. 728. DEVELOPMENT OF MODEL PRIVACY FORM.

Section 503 of the Gramm-Leach-Bliley Act (15 U.S.C. 6803), as amended by section 609, is amended by adding at the end the following:

''(e) MODEL FORMS.—

''(1) IN GENERAL.—The agencies referred to in section 504(a)(1) shall jointly develop a model form which may be used, at the option of the financial institution, for the provision of disclosures under this section.

''(2) FORMAT.—A model form developed under paragraph (1) shall—

''(A) be comprehensible to consumers, with a clear format and design;

''(B) provide for clear and conspicuous disclosures;

''(C) enable consumers easily to identify the sharing practices of a financial institution and to compare privacy practices among financial institutions; and

''(D) be succinct, and use an easily readable type font.

''(3) TIMING.—A model form required to be developed by this subsection shall be issued in proposed form for public comment not later than 180 days after the date of enactment of this subsection.

''(4) SAFE HARBOR.—Any financial institution that elects to provide the model form developed by the agencies under this subsection shall be deemed to be in compliance with the disclosures required under this section.''.

TITLE VIII—FAIR DEBT COLLECTION PRACTICES ACT AMENDMENTS

SEC. 801. EXCEPTION FOR CERTAIN BAD CHECK ENFORCEMENT PROGRAMS.

(a) IN GENERAL.—The Fair Debt Collection Practices Act (15 U.S.C. 1692 et seq.) is amended—

(1) by redesignating section 818 as section 819; and

(2) by inserting after section 817 the following:

''§ 818. Exception for certain bad check enforcement programs operated by private entities

''(a) IN GENERAL.—

''(1) TREATMENT OF CERTAIN PRIVATE ENTITIES.—Subject to paragraph (2), a private entity shall be excluded from the definition of a debt collector, pursuant to the exception provided in section 803(6), with respect to the operation by the entity of a program described in paragraph (2)(A) under a contract described in paragraph (2)(B).

''(2) CONDITIONS OF APPLICABILITY.—Paragraph (1) shall apply if—

''(A) a State or district attorney establishes, within the jurisdiction of such State or district attorney and with respect to alleged bad check violations that do not involve a check described in subsection (b), a pretrial diversion program for alleged bad check offenders who agree to participate voluntarily in such program to avoid criminal prosecution;

''(B) a private entity, that is subject to an administrative support services contract with a State or district attorney and operates under the direction, supervision, and control of such State or district attorney, operates the pretrial diversion program described in subparagraph (A); and

''(C) in the course of performing duties delegated to it by a State or district attorney under the contract, the private entity referred to in subparagraph (B)—

''(i) complies with the penal laws of the State;

''(ii) conforms with the terms of the contract and directives of the State or district attorney;

''(iii) does not exercise independent prosecutorial discretion;

''(iv) contacts any alleged offender referred to in subparagraph (A) for purposes of participating in a program referred to in such paragraph—

''(I) only as a result of any determination by the State or district attorney that probable cause of a bad check violation under State penal law exists, and that contact with the alleged offender for purposes of participation in the program is appropriate; and

''(II) the alleged offender has failed to pay the bad check after demand for payment, pursuant to State law, is made for payment of the check amount;

''(v) includes as part of an initial written communication with an alleged offender a clear and conspicuous statement that—

''(I) the alleged offender may dispute the validity of any alleged bad check violation;

''(II) where the alleged offender knows, or has reasonable cause to believe, that the alleged bad check violation is the result of theft or forgery of the check, identity theft, or other fraud that is not the result of the conduct of the alleged offender, the alleged offender may file a crime report with the appropriate law enforcement agency; and

''(III) if the alleged offender notifies the private entity or the district attorney in writing, not later than 30 days after being contacted for the first time pursuant to clause (iv), that there is a dispute pursuant to this subsection, before further restitution efforts are pursued, the district attorney or an employee of the district attorney authorized to make such a determination makes a determination that there is probable cause to believe that a crime has been committed; and

''(vi) charges only fees in connection with services under the contract that have been authorized by the contract with the State or district attorney.

''(b) CERTAIN CHECKS EXCLUDED.—A check is described in this subsection if the check involves, or is subsequently found to involve—

''(1) a postdated check presented in connection with a payday loan, or other similar transaction, where the payee of the check knew that the issuer had insufficient funds at the time the check was made, drawn, or delivered;

''(2) a stop payment order where the issuer acted in good faith and with reasonable cause in stopping payment on the check;

''(3) a check dishonored because of an adjustment to the issuer's account by the financial institution holding such account without providing notice to the person at the time the check was made, drawn, or delivered;

''(4) a check for partial payment of a debt where the payee had previously accepted partial payment for such debt;

''(5) a check issued by a person who was not competent, or was not of legal age, to enter into a legal contractual obligation at the time the check was made, drawn, or delivered; or

''(6) a check issued to pay an obligation arising from a transaction that was illegal in the jurisdiction of the State or district attorney at the time the check was made, drawn, or delivered.

''(c) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

''(1) STATE OR DISTRICT ATTORNEY.—The term 'State or district attorney' means the chief elected or appointed prosecuting attorney in a district, county (as defined in section 2 of title 1, United States Code), municipality, or comparable jurisdiction, including State attorneys general who act as chief elected or appointed prosecuting attorneys in a district, county (as so defined), municipality or comparable jurisdiction, who may be referred to by a variety of titles such as district attorneys, prosecuting attorneys, commonwealth's attorneys, solicitors, county attorneys, and state's attorneys, and who are responsible for the prosecution of State crimes and violations of jurisdiction-specific local ordinances.

''(2) CHECK.—The term 'check' has the same meaning as in section 3(6) of the Check Clearing for the 21st Century Act.

''(3) BAD CHECK VIOLATION.—The term 'bad check violation' means a violation of the applicable State criminal law relating to the writing of dishonored checks.''.

(b) CLERICAL AMENDMENT.—The table of sections for the Fair Debt Collection Practices Act (15 U.S.C. 1692 et seq.) is amended—

(1) by redesignating the item relating to section 818 as section 819; and

(2) by inserting after the item relating to section 817 the following new item:

''818. Exception for certain bad check enforcement programs operated by private entities.''.

TITLE IX—CASH MANAGEMENT MODERNIZATION

SEC. 901. COLLATERAL MODERNIZATION.

(a) IN GENERAL.—Section 9301(2) of title 31, United States Code, is amended to read as follows:

''(2) 'eligible obligation' means any security designated as acceptable in lieu of a surety bond by the Secretary of the Treasury.''.

(b) USE OF ELIGIBLE OBLIGATIONS INSTEAD OF SURETY BONDS.—Section 9303(a)(2) of title 31, United States Code, is amended to read as follows:

''(2) as determined by the Secretary of the Treasury, have a market value that is equal to or greater than the amount of the required surety bond; and''.

(c) TECHNICAL AMENDMENTS.—Section 9303 of title 31, United States Code, is amended—

(1) in the section heading, by striking **''Government obligations''** and inserting **''eligible obligations''**;

(2) in subsection (f), by striking ''Government obligations'' and inserting ''eligible obligations'';

(3) by striking ''a Government obligation'' each place that term appears and inserting ''an eligible obligation''; and

(4) by striking ''Government obligation'' each place that term appears and inserting ''eligible obligation''.

TITLE X—STUDIES AND REPORTS

SEC. 1001. STUDY AND REPORT BY THE COMPTROLLER GENERAL ON THE CURRENCY TRANSACTION REPORT FILING SYSTEM.

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study on the volume of currency transaction reports filed with the Secretary of the Treasury under section 5313(a) of title 31, United States Code.

(b) PURPOSE.—The purpose of the study required under subsection (a) shall be—

(1) to evaluate, on the basis of actual filing data, patterns of currency transaction reports filed by depository institutions of all sizes and locations; and

(2) to identify whether and the extent to which the filing rules for currency transaction reports described in section 5313(a) of title 31, United States Code—

(A) are burdensome; and

(B) can or should be modified to reduce such burdens without harming the usefulness of such filing rules to Federal, State, and local anti-terrorism, law enforcement, and regulatory operations.

(c) PERIOD COVERED.—The study required under subsection (a) shall cover the period beginning at least 3 calendar years prior to the date of enactment of this section.

(d) CONTENT.—The study required under subsection (a) shall include a detailed evaluation of—

(1) the extent to which depository institutions are availing themselves of the exemption system for the filing of currency transaction reports set forth in section 103.22(d) of title 31, Code of Federal Regulations, as in

effect during the study period (in this section referred to as the ''exemption system''), including specifically, for the study period—

(A) the number of currency transaction reports filed (out of the total annual numbers) involving companies that are listed on the New York Stock Exchange or the NASDAQ National Market;

(B) the number of currency transaction reports filed by the 100 largest depository institutions in the United States by asset size, and thereafter in tiers of 100, by asset size;

(C) the number of currency transaction reports filed by the 200 smallest depository institutions in the United States, including the number of such currency transaction reports involving companies listed on the New York Stock Exchange or the NASDAQ National Market; and

(D) the number of currency transaction reports that would have been filed during the filing period if the exemption system had been used by all depository institutions in the United States;

(2) what types of depository institutions are using the exemption system, and the extent to which such exemption system is used;

(3) difficulties that limit the willingness or ability of depository institutions to reduce their currency transaction reports reporting burden by making use of the exemption system, including considerations of cost, especially in the case of small depository institutions;

(4) the extent to which bank examination difficulties have limited the use of the exemption system, especially with respect to—

(A) the exemption of privately-held companies permitted under such exemption system; and

(B) whether, on a sample basis, the reaction of bank examiners to implementation of such exemption system is justified or inhibits use of such exemption system without an offsetting compliance benefit;

(5) ways to improve the use of the exemption system by depository institutions, including making such exemption system mandatory in order to reduce the volume of currency transaction reports unnecessarily filed; and

(6) the usefulness of currency transaction reports filed to law enforcement agencies, taking into account—

(A) advances in information technology;

(B) the impact, including possible loss of investigative data, that various changes in the exemption system would have on the usefulness of such currency transaction reports; and

(C) changes that could be made to the exemption system without affecting the usefulness of currency transaction reports.

(e) ASSISTANCE.—The Secretary of the Treasury shall provide such information processing and other assistance, including from the Commissioner of the Internal Revenue Service and the Director of the Financial Crimes Enforcement Network, to the Comptroller General in analyzing currency transaction report filings for the study period described in subsection (c), as is necessary to provide the information required by subsection (a).

(f) VIEWS.—The study required under subsection (a) shall, if appropriate, include a discussion of the views of a representative sample of Federal, State, and local law enforcement and regulatory officials and officials of depository institutions of all sizes.

(g) RECOMMENDATIONS.—The study required under subsection (a) shall, if appropriate, include recommendations for changes to the exemption system that would reflect a reduction in unnecessary cost to depository institutions, assuming reasonably full implementation of such exemption system, without reducing the usefulness of the currency transaction report filing system to anti-terrorism, law enforcement, and regulatory operations.

(h) REPORT.—Not later than 15 months after the date of enactment of this section, the Comptroller General shall submit a report on the study required under subsection (a) to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives.

SEC. 1002. STUDY AND REPORT ON INSTITUTION DIVERSITY AND CONSOLIDATION.

(a) STUDY.—The Comptroller General of the United States shall conduct a study regarding—

(1) the vast diversity in the size and complexity of institutions in the banking and financial services sector, including the differences in capital, market share, geographical limitations, product offerings, and general activities;

(2) the differences in powers among the depository institution charters, including—

(A) identification of the historical trends in the evolution of depository institution charters;

(B) an analysis of the impact of charter differences to the overall safety and soundness of the banking industry, and the effectiveness of the applicable depository institution regulator; and

(C) an analysis of the impact that the availability of options for depository institution charters on the development of the banking industry;

(3) the impact that differences of size and overall complexity among financial institutions makes with respect to regulatory oversight, efficiency, safety and soundness, and charter options for financial institutions; and

(4) the aggregate cost and breakdown associated with regulatory compliance for banks, savings associations, credit unions, or any other financial institution, including potential disproportionate impact that the cost of compliance may pose on smaller institutions, given the percentage of personnel that the institution must dedicate solely to compliance.

(b) CONSIDERATIONS.—In conducting the study under subsection (a), the Comptroller General shall consider the efficacy and efficiency of the consolidation of financial regulators, as well as charter simplification and homogenization.

(c) REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on the results of the study required by this section.

CONDEMNING THE APRIL 25, 2006, BEATING AND INTIMIDATION OF CUBAN DISSIDENT MARTHA BEATRIZ ROQUE

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to Calendar No. 445, S. Res. 469.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 469) condemning the April 25, 2006, beating and intimidation of Cuban dissident, Martha Beatriz Roque.

There being no objection, the Senate proceeded to considerthe resolution.

Mr. FRIST. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating thereto be printed in the RECORD, without further intervening action or debate.

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

The resolution (S. Res. 469) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 469

Whereas the 47-year communist dictatorship of Fidel Castro in Cuba received the lowest rating from Freedom House in its ''Freedom in the World 2005'' report for political rights and civil liberties, and is categorized by that organization as ''repressive'' and having ''virtually no freedom'';

Whereas Human Rights Watch describes Cuba in its ''World Report 2006'' as ''an undemocratic government that represses nearly all forms of political dissent'';

Whereas human rights observers have documented that the regime in Cuba attempts to intimidate human rights dissidents and their families through ''acts of repudiation,'' consisting of mobs of regime supporters screaming threats and insults;

Whereas, on April 25, 2006, an act of repudiation against Martha Beatriz Roque became violent when she was punched, knocked down, and dragged outside her home in Havana while she was leaving to attend a meeting with Michael E. Parmly, the Chief of Mission-Designate for the United States Interests Section in Havana, Cuba;

Whereas Martha Beatriz Roque is a citizen of Cuba and leader of the Assembly to Promote Civil Society in Cuba, a coalition of 365 independent civil society groups within Cuba;

Whereas, in March 2003, the regime of Fidel Castro imprisoned dozens of Cuban dissidents including Martha Beatriz Roque for their activities supporting freedom and democracy; and

Whereas Martha Beatriz Roque was released in 2005 for health reasons without a pardon or a commutation of her sentence: Now, therefore, be it

Resolved, That the Senate—

(1) condemns the brutality of the regime of Fidel Castro toward Martha Beatriz Roque, a 61-year-old woman in frail health;

(2) demands the regime of Cuba allow the people of Cuba to exercise their fundamental human rights, rather than responding to calls for freedom with imprisonment and intimidation;

(3) commends the courage and perseverance of Martha Beatriz Roque and all dissidents in Cuba;

(4) calls on the regime of Cuba to release the hundreds of political prisoners still held today and to stop the intimidation of dissidents and their families; and

(5) calls for continued international support and solidarity with pro-democracy leaders in Cuba.

NATIONAL IDIOPATHIC PULMONARY FIBROSIS AWARENESS WEEK

Mr. FRIST. Mr. President, I ask unanimous consent that the HELP Committee be discharged from further consideration of and the Senate proceed to S. Res. 236.

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

The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 236) 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.

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

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

The resolution (S. Res. 236) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 236

Whereas idiopathic pulmonary fibrosis is a serious lung disorder causing progressive, incurable lung scarring;

Whereas idiopathic pulmonary fibrosis is one of about 200 disorders called interstitial lung diseases;

Whereas idiopathic pulmonary fibrosis is the most common form of interstitial lung disease;

Whereas idiopathic pulmonary fibrosis is a debilitating and generally fatal disease marked by progressive scarring of the lungs, causing an irreversible loss of the lung tissue's ability to transport oxygen;

Whereas idiopathic pulmonary fibrosis progresses quickly, often causing disability or death within a few short years;

Whereas there is no proven cause of idiopathic pulmonary fibrosis;

Whereas approximately 83,000 United States citizens have idiopathic pulmonary fibrosis, and 31,000 new cases are diagnosed each year;

Whereas idiopathic pulmonary fibrosis is often misdiagnosed or under diagnosed;

Whereas the median survival rate for idiopathic pulmonary fibrosis patients is 2 to 3 years, and about two thirds of idiopathic pulmonary fibrosis patients die within 5 years; and

Whereas a need has been identified to increase awareness and detection of this misdiagnosed and under diagnosed disorder: Now, therefore, be it

Resolved, That Congress—

(1) recognizes the need to pursue research into the causes, a treatment, and an eventual cure for idiopathic pulmonary fibrosis;

(2) supports the work of the Coalition for Pulmonary Fibrosis and its partner organizations for their great efforts to educate, support, and provide hope for individuals who suffer from idiopathic pulmonary fibrosis, including the work of the Coalition to organize a national ''Idiopathic Pulmonary Fibrosis Awareness Week'';

(3) supports the designation of an appropriate week as ''Idiopathic Pulmonary Fibrosis Awareness Week'';

(4) congratulates the Coalition for Pulmonary Fibrosis for its efforts to educate the public about idiopathic pulmonary fibrosis, while funding research to help find a cure for this disorder; and

(5) supports the goals and ideals of a national ''Idiopathic Pulmonary Fibrosis Awareness Week''.

SAN FRANCISCO OLD MINT COMMEMORATIVE COIN ACT

Mr. FRIST. Mr. President, I ask unanimous consent the Committee on Banking, Housing and Urban Affairs be discharged from further consideration of H.R. 1953, and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 1953) to require the Secretary of the Treasury to mint coins in commemoration of the Old Mint at San Francisco, otherwise known as the ''Granite Lady,'' and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. I ask unanimous consent the bill be read the third time and passed, the motion to reconsider by laid upon the table, and any statements relating to the bill be printed in the RECORD.

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

The bill (H.R. 1953) was ordered to a third reading, was read the third time and passed.

AMERICAN VETERANS DISABLED FOR LIFE COMMEMORATIVE COIN ACT

FOURTEENTH DALAI LAMA CONGRESSIONAL GOLD MEDAL ACT

LEWIS AND CLERK COMMEMORATIVE COIN CORRECTION ACT

Mr. FRIST. I ask unanimous consent the Senate proceed to the immediate consideration of Calendar No. 440, S. 633, Calendar No. 441, S. 2784, and H.R. 4501 which was received from the House, en bloc.

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

Mr. FRIST. I ask unanimous consent the bills be read a third time and passed, the motions to reconsider be laid upon the table, and any statements relating to the bills be printed in the RECORD.

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

The bill (S. 633) was ordered to be engrossed for a third reading, read a third time and passed.

The bill (S. 2784) was ordered to be engrossed for the third reading, read the third time and passed.

The bill (H.R. 5401) was ordered to a third reading, read the third time and passed.

The Senate bills (S. 633 and S. 2784) read as follows:

S. 633

SECTION 1. SHORT TITLE.

This Act may be cited as the ''American Veterans Disabled for Life Commemorative Coin Act''.

SEC. 2. FINDINGS.

Congress finds that—

(1) the Armed Forces of the United States have answered the call and served with distinction around the world—from hitting the beaches in World War II in the Pacific and Europe, to the cold and difficult terrain in Korea, the steamy jungles of Vietnam, and the desert sands of the Middle East;

(2) all Americans should commemorate those who come home having survived the ordeal of war, and solemnly honor those who made the ultimate sacrifice in giving their lives for their country;

(3) all Americans should honor the millions of living disabled veterans who carry the scars of war every day, and who have made enormous personal sacrifices defending the principles of our democracy;

(4) in 2000, Congress authorized the construction of the American Veterans Disabled for Life Memorial;

(5) the United States should pay tribute to the Nation's living disabled veterans by minting and issuing a commemorative silver dollar coin; and

(6) the surcharge proceeds from the sale of a commemorative coin would raise valuable funding for the construction of the American Veterans Disabled for Life Memorial.

SEC. 3. COIN SPECIFICATIONS.

(a) $1 SILVER COINS.—The Secretary of the Treasury (hereafter in this Act referred to as the ''Secretary'') shall mint and issue not more than 500,000 $1 coins in commemoration of disabled American veterans, each of which shall—

(1) weigh 26.73 grams;

(2) have a diameter of 1.500 inches; and

(3) contain 90 percent silver and 10 percent copper.

(b) LEGAL TENDER.—The coins minted under this Act shall be legal tender, as provided in section 5103 of title 31, United States Code.

(c) NUMISMATIC ITEMS.—For purposes of sections 5134 and 5136 of title 31, United States Code, all coins minted under this Act shall be considered to be numismatic items.

SEC. 4. DESIGN OF COINS.

(a) DESIGN REQUIREMENTS.—

(1) IN GENERAL.—The design of the coins minted under this Act shall be emblematic of the design selected by the Disabled Veterans' LIFE Memorial Foundation for the American Veterans Disabled for Life Memorial.

(2) DESIGNATION AND INSCRIPTIONS.—On each coin minted under this Act, there shall be—

(A) a designation of the value of the coin;

(B) an inscription of the year ''2010''; and

(C) inscriptions of the words ''Liberty'', ''In God We Trust'', ''United States of America'', and ''E Pluribus Unum''.

(b) SELECTION.—The design for the coins minted under this Act shall be—

(1) selected by the Secretary, after consultation with the Disabled Veterans' LIFE Memorial Foundation and the Commission of Fine Arts; and

(2) reviewed by the Citizens Coinage Advisory Committee.

SEC. 5. ISSUANCE OF COINS.

(a) QUALITY OF COINS.—Coins minted under this Act shall be issued in uncirculated and proof qualities.

(b) MINT FACILITY.—Only 1 facility of the United States Mint may be used to strike any particular quality of the coins minted under this Act.

(c) PERIOD FOR ISSUANCE.—The Secretary may issue coins under this Act only during the calendar year beginning on January 1, 2010.

SEC. 6. SALE OF COINS.

(a) SALE PRICE.—The coins issued under this Act shall be sold by the Secretary at a price equal to the sum of—

(1) the face value of the coins;

(2) the surcharge provided in subsection (b) with respect to such coins; and

(3) the cost of designing and issuing the coins (including labor, materials, dies, use of machinery, overhead expenses, marketing, and shipping).

(b) SURCHARGES.—All sales of coins issued under this Act shall include a surcharge of $10 per coin.

(c) BULK SALES.—The Secretary shall make bulk sales of the coins issued under this Act at a reasonable discount.

(d) PREPAID ORDERS.—

(1) IN GENERAL.—The Secretary shall accept prepaid orders for the coins minted under this Act before the issuance of such coins.

(2) DISCOUNT.—Sale prices with respect to prepaid orders under paragraph (1) shall be at a reasonable discount.

SEC. 7. DISTRIBUTION OF SURCHARGES.

(a) IN GENERAL.—Subject to section 5134(f) of title 31, United States Code, all surcharges received by the Secretary from the sale of coins issued under this Act shall be paid to the Disabled Veterans' LIFE Memorial Foundation for the purpose of establishing an endowment to support the construction of the American Veterans' Disabled for Life Memorial in Washington, D.C.

(b) AUDITS.—The Comptroller General of the United States shall have the right to examine such books, records, documents, and other data of the Disabled Veterans' LIFE Memorial Foundation as may be related to the expenditures of amounts paid under subsection (a).

SEC. 8. FINANCIAL ASSURANCES.

(a) NO NET COST TO THE GOVERNMENT.—The Secretary shall take such actions as may be necessary to ensure that minting and issuing coins under this Act will not result in any net cost to the United States Government.

(b) PAYMENT FOR COINS.—A coin shall not be issued under this Act unless the Secretary has received—

(1) full payment for the coin;

(2) security satisfactory to the Secretary to indemnify the United States for full payment; or

(3) a guarantee of full payment satisfactory to the Secretary from a depository institution whose deposits are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration Board.

FOURTEENTH DALAI LAMA CONGRESSIONAL GOLD MEDAL ACT

The bill (S. 2784) to award a congressional gold medal to Tenzin Gyatso, the Fourteenth Dalai Lama, in recognition of his many enduring and outstanding contributions to peace, nonviolence, human rights, and religious understanding, was considered, ordered to be engrossed for a third reading, read the third time, and passed; as follows:

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 cited as the ''Fourteenth Dalai Lama Congressional Gold Medal Act''.

SEC. 2. FINDINGS.

Congress finds that Tenzin Gyatso, the Fourteenth Dalai Lama—

(1) is recognized in the United States and throughout the world as a leading figure of moral and religious authority;

(2) is the unrivaled spiritual and cultural leader of the Tibetan people, and has used his leadership to promote democracy, freedom, and peace for the Tibetan people through a negotiated settlement of the Tibet issue, based on autonomy within the People's Republic of China;

(3) has led the effort to preserve the rich cultural, religious, and linguistic heritage of the Tibetan people and to promote the safeguarding of other endangered cultures throughout the world;

(4) was awarded the Nobel Peace Prize in 1989 for his efforts to promote peace and nonviolence throughout the globe, and to find democratic reconciliation for the Tibetan people through his ''Middle Way'' approach;

(5) has significantly advanced the goal of greater understanding, tolerance, harmony, and respect among the different religious faiths of the world through interfaith dialogue and outreach to other religious leaders; and

(6) has used his moral authority to promote the concept of universal responsibility as a guiding tenet for how human beings should treat one another and the planet we share.

SEC. 3. CONGRESSIONAL GOLD MEDAL.

(a) PRESENTATION AUTHORIZED.—The Speaker of the House of Representatives and the President Pro Tempore of the Senate shall make appropriate arrangements for the presentation, on behalf of the Congress, of a gold medal of appropriate design, to Tenzin Gyatso, the Fourteenth Dalai Lama, in recognition of his many enduring contributions to peace and religious understanding.

(b) DESIGN AND STRIKING.—For purposes of the presentation referred to in subsection (a), the Secretary of the Treasury (referred to in this Act as the ''Secretary'') shall strike a gold medal with suitable emblems, devices, and inscriptions to be determined by the Secretary.

SEC. 4. DUPLICATE MEDALS.

The Secretary may strike and sell duplicates in bronze of the gold medal struck pursuant to section 3 under such regulations as the Secretary may prescribe, at a price sufficient to cover the cost thereof, including labor, materials, dies, use of machinery, and overhead expenses, and the cost of the gold medal.

SEC. 5. STATUS OF MEDALS.

(a) NATIONAL MEDALS.—The medals struck pursuant to this Act are national medals for purposes of chapter 51 of title 31, United States Code.

(b) NUMISMATIC ITEMS.—For purposes of sections 5134 and 5136 of title 31, United States Code, all medals struck under this Act shall be considered to be numismatic items.

SEC. 6. AUTHORITY TO USE FUND AMOUNTS; PROCEEDS OF SALE.

(a) AUTHORITY TO USE FUND AMOUNTS.—There is authorized to be charged against the United States Mint Public Enterprise Fund such amounts as may be necessary to pay for the costs of the medals struck pursuant to this Act.

(b) PROCEEDS OF SALE.—Amounts received from the sale of duplicate bronze medals authorized under section 4 shall be deposited into the United States Mint Public Enterprise Fund.

VETERANS' BENEFITS IMPROVEMENT ACT OF 2005

Mr. FRIST. Mr. President, I ask the Chair now lay before the Senate a House message to accompany S. 1235.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

S. 1235

Resolved, That the bill from the Senate (S. 1235) entitled ''An Act to amend title 38, United States Code, to extend the availability of $400,000 in life insurance coverage to servicemembers and veterans, to make a stillborn child an insurable dependent for purposes of the Servicemembers' Group Life Insurance program, to make technical corrections to the Veterans Benefits Improvement Act of 2004, to make permanent a pilot program for direct housing loans for Native American veterans, and to require an annual plan on outreach activities of the Department of Veterans Affairs'', do pass with the following

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Veterans' Housing Opportunity and Benefits Improvement Act of 2006''.

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

Sec. 1. Short title; table of contents.

TITLE I—HOUSING MATTERS

Sec. 101. Adapted housing assistance for disabled veterans residing temporarily in housing owned by family member.

Sec. 102. Adjustable rate mortgages.

Sec. 103. Permanent authority to make direct housing loans to Native American veterans.

Sec. 104. Extension of eligibility for direct loans for Native American veterans to a veteran who is the spouse of a Native American.

Sec. 105. Technical corrections to Veterans Benefits Improvement Act of 2004.

TITLE II—EMPLOYMENT MATTERS

Sec. 201. Additional duty for the Assistant Secretary of Labor for Veterans' Employment and Training to raise awareness of skills of veterans and of the benefits of hiring veterans.

Sec. 202. Modifications to the Advisory Committee on Veterans Employment and Training.

Sec. 203. Reauthorization of appropriations for homeless veterans reintegration programs.

TITLE III—LIFE AND HEALTH INSURANCE MATTERS

Sec. 301. Duration of Servicemembers' Group Life Insurance coverage for totally disabled veterans following separation from service.

Sec. 302. Limitation on premium increases for reinstated health insurance of servicemembers released from active military service.

Sec. 303. Preservation of employer-sponsored health plan coverage for certain reserve-component members who acquire TRICARE eligibility.

TITLE IV—OTHER MATTERS

Sec. 401. Inclusion of additional diseases and conditions in diseases and disabilities presumed to be associated with prisoner of war status.

Sec. 402. Consolidation and revision of outreach authorities.

Sec. 403. Extension of annual report requirement on equitable relief cases.

TITLE V—TECHNICAL AMENDMENTS

Sec. 501. Technical and clarifying amendments to new traumatic injury protection coverage under Servicemembers' Group Life Insurance.

Sec. 502. Terminology amendments to revise references to certain veterans in provisions relating to eligibility for compensation or dependency and indemnity compensation.
Sec. 503. Technical and clerical amendments.

TITLE I—HOUSING MATTERS

SEC. 101. ADAPTED HOUSING ASSISTANCE FOR DISABLED VETERANS RESIDING TEMPORARILY IN HOUSING OWNED BY A FAMILY MEMBER.

(a) ASSISTANCE AUTHORIZED.—Chapter 21 of title 38, United States Code, is amended by inserting after section 2102 the following new section:

"§ 2102A. Assistance for veterans residing temporarily in housing owned by a family member

''(a) PROVISION OF ASSISTANCE.—In the case of a disabled veteran who is described in subsection (a)(2) or (b)(2) of section 2101 of this title and who is residing, but does not intend to permanently reside, in a residence owned by a member of such veteran's family, the Secretary may assist the veteran in acquiring such adaptations to such residence as are determined by the Secretary to be reasonably necessary because of the veteran's disability.

''(b) AMOUNT OF ASSISTANCE.—The assistance authorized under subsection (a) may not exceed—

''(1) $14,000, in the case of a veteran described in section 2101(a)(2) of this title; or

''(2) $2,000, in the case of a veteran described in section 2101(b)(2) of this title.

''(c) LIMITATION.—The assistance authorized by subsection (a) shall be limited in the case of any veteran to one residence.

''(d) REGULATIONS.—Assistance under this section shall be provided in accordance with such regulations as the Secretary may prescribe.

''(e) TERMINATION.—No assistance may be provided under this section after the end of the five-year period that begins on the date of the enactment of the Veterans' Housing Opportunity and Benefits Improvement Act of 2006.''.

(b) LIMITATIONS ON ADAPTED HOUSING ASSISTANCE.—Section 2102 of such title is amended—

(1) in the matter in subsection (a) preceding paragraph (1)—

(A) by striking ''shall be limited in the case of any veteran to one housing unit, and necessary land therefor, and''; and

(B) by striking ''veteran but shall not exceed $50,000 in any one case—'' and inserting ''veteran—''; and

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

''(d)(1) The aggregate amount of assistance available to a veteran under sections 2101(a) and 2102A of this title shall be limited to $50,000.

''(2) The aggregate amount of assistance available to a veteran under sections 2101(b) and 2102A of this title shall be limited to $10,000.

''(3) No veteran may receive more than three grants of assistance under this chapter.''.

(c) COORDINATION OF ADMINISTRATION OF BENEFITS.—Chapter 21 of such title is further amended by adding at the end the following new section:

"§ 2107. Coordination of administration of benefits

''The Secretary shall provide for the coordination of the administration of programs to provide specially adapted housing that are administered by the Under Secretary for Health and such programs that are administered by the Under Secretary for Benefits under this chapter, chapter 17, and chapter 31 of this title.''.

(d) CLERICAL AMENDMENTS.—The table of sections at the beginning of such chapter is amended—

(1) by inserting after the item relating to section 2102 the following new item:

''2102A. Assistance for veterans residing temporarily in housing owned by a family member.'';

and

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

''2107. Coordination of administration of benefits.''.

(e) GAO REPORTS.—

(1) INTERIM REPORT.—Not later than three years after the date of the enactment of this Act, the Comptroller General shall submit to Congress an interim report on the implementation by the Secretary of Veterans Affairs of section 2102A of title 38, United States Code, as added by subsection (a).

(2) FINAL REPORT.—Not later than five years after the date of the enactment of this Act, the Comptroller General shall submit to Congress a final report on the implementation of such section.

(f) TEMPORARY INCREASE IN CERTAIN HOUSING LOAN FEES.—For a subsequent loan described in subsection (a) of section 3710 of title 38, United States Code, to purchase or construct a dwelling with 0-down or any other subsequent loan described in that subsection, other than a loan with 5-down or 10-down, that is closed during fiscal year 2007, the Secretary of Veterans Affairs shall apply section 3729(b)(2) of such title by substituting ''3.35'' for ''3.30''.

SEC. 102. ADJUSTABLE RATE MORTGAGES.

Section 3707A(c)(4) of title 38, United States Code, is amended by striking ''1 percentage point'' and inserting ''such percentage points as the Secretary may prescribe''.

SEC. 103. PERMANENT AUTHORITY TO MAKE DIRECT HOUSING LOANS TO NATIVE AMERICAN VETERANS.

(a) PERMANENT AUTHORITY.—Section 3761 of title 38, United States Code, is amended—

(1) in subsection (a)—

(A) by striking ''establish and implement a pilot program under which the Secretary may'' in the first sentence; and

(B) by striking ''shall establish and implement the pilot program'' in the third sentence and inserting ''shall make such loans'';

(2) in subsection (b), by striking ''In carrying out the pilot program under this subchapter, the'' and inserting ''The''; and

(3) by striking subsection (c).

(b) REPORTS.—Section 3762(j) of such title is amended to read as follows:

''(j) The Secretary shall include as part of the annual benefits report of the Veterans Benefits Administration information concerning the cost and number of loans provided under this subchapter for the fiscal year covered by the report.''.

(c) CONFORMING AMENDMENTS.—

(1) SECTION 3762.—Section 3762 of such title is amended—

(A) in subsection (a), by inserting ''under this subchapter'' after ''to a Native American veteran'';

(B) in subsection (b)(1)(E), by striking ''the pilot program established under this subchapter is implemented'' and inserting ''loans under this subchapter are made'';

(C) in subsection (c)(1)(B), by striking ''carry out the pilot program under this subchapter in a manner that demonstrates the advisability of making direct housing loans'' in the second sentence and inserting ''make direct housing loans under this subchapter'';

(D) in subsection (i)—

(i) by striking ''the pilot program provided for under this subchapter and'' in paragraph (1);

(ii) by striking ''under the pilot program and in assisting such organizations and veterans in participating in the pilot program'' in paragraph (2)(A) and inserting ''under this subchapter and in assisting such organizations and veterans with respect to such housing benefits''; and

(iii) by striking ''in participating in the pilot program'' in paragraph (2)(E) and inserting ''with respect to such benefits''.

(2) CONFORMING REPEAL.—Section 8(b) of the Veterans Home Loan Program Amendments of 1992 (Public Law 102–547; 38 U.S.C. 3761 note) is repealed.

(d) ESTABLISHMENT OF MAXIMUM AMOUNT OF LOANS.—Section 3762(c)(1)(B) of title 38, United States Code, is amended—

(1) by striking ''(B) The'' and inserting ''(B)(i) Subject to clause (ii), the''; and

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

''(ii) The amount of a loan made by the Secretary under this subchapter may not exceed the maximum loan amount authorized for loans guaranteed under section 3703(a)(1)(C) of this title.''.

(e) TECHNICAL AMENDMENT.—Subsection (c)(1)(A) of section 3762 of such title is amended by inserting ''veteran'' after ''Native American''.

(f) CLERICAL AMENDMENTS.—

(1) SUBCHAPTER HEADING.—The heading for subchapter V of chapter 37 of such title is amended to read as follows:

''SUBCHAPTER V—DIRECT HOUSING LOANS FOR NATIVE AMERICAN VETERANS''.

(2) SECTION HEADING.—The heading for section 3761 of such title is amended to read as follows:

"§ 3761. Direct housing loans to Native American veterans; program authority".

(3) SECTION HEADING.—The heading for section 3762 of such title is amended to read as follows:

"§ 3762. Direct housing loans to Native American veterans; program administration".

(4) TABLE OF SECTIONS.—The table of sections at the beginning of chapter 37 of such title is amended by striking the items relating to subchapter V and sections 3761 and 3762 and inserting the following new items:

''SUBCHAPTER V—DIRECT HOUSING LOANS FOR NATIVE AMERICAN VETERANS

''3761. Direct housing loans to Native American veterans; program authority.

''3762. Direct housing loans to Native American veterans; program administration.''.

SEC. 104. EXTENSION OF ELIGIBILITY FOR DIRECT LOANS FOR NATIVE AMERICAN VETERANS TO A VETERAN WHO IS THE SPOUSE OF A NATIVE AMERICAN.

(a) EXTENSION.—Subchapter V of chapter 37 of title 38, United States Code, is amended—

(1) by redesignating section 3764 as section 3765; and

(2) by inserting after section 3763 the following new section:

"§ 3764. Qualified non-Native American veterans

''(a) TREATMENT OF NON-NATIVE AMERICAN VETERANS.—Subject to the succeeding provisions of this section, for purposes of this subchapter—

''(1) a qualified non-Native American veteran is deemed to be a Native American veteran; and

''(2) for purposes of applicability to a non-Native American veteran, any reference in this subchapter to the jurisdiction of a tribal organization over a Native American veteran is deemed to be a reference to jurisdiction of a tribal organization over the Native American spouse of the qualified non-Native American veteran.

''(b) USE OF LOAN.—In making direct loans under this subchapter to a qualified non-Native American veteran by reason of eligibility under subsection (a), the Secretary shall ensure that the tribal organization permits, and the qualified non-Native American veteran actually holds, possesses, or purchases, using the proceeds of the loan, jointly with the Native American spouse of the qualified non-Native American veteran, a meaningful interest in the lot, dwelling, or both, that is located on trust land.

''(c) RESTRICTIONS IMPOSED BY TRIBAL ORGANIZATIONS.—Nothing in subsection (b) shall be

construed as precluding a tribal organization from imposing reasonable restrictions on the right of the qualified non-Native American veteran to convey, assign, or otherwise dispose of such interest in the lot or dwelling, or both, if such restrictions are designed to ensure the continuation in trust status of the lot or dwelling, or both. Such requirements may include the termination of the interest of the qualified non-Native American veteran in the lot or dwelling, or both, upon the dissolution of the marriage of the qualified non-Native American veteran to the Native American spouse.''.

(b) CONFORMING AMENDMENTS.—Section 3765 of such title, as redesignated by subsection (a)(1), is amended by adding at the end the following new paragraph:

''(5) The term 'qualified non-Native American veteran' means a veteran who—

''(A) is the spouse of a Native American, but

''(B) is not a Native American.''.

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 37 of such title is amended by striking the item relating to section 3764 and inserting the following new items:

''3764. Qualified non-Native American veterans.

''3765. Definitions.''.

SEC. 105. TECHNICAL CORRECTIONS TO VETERANS BENEFITS IMPROVEMENT ACT OF 2004.

(a) CORRECTIONS.—Section 2101 of title 38, United States Code, as amended by section 401 of the Veterans Benefits Improvement Act of 2004 (Public Law 108–454; 118 Stat. 3614), is amended—

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

(2) by inserting after subsection (b) a new subsection (c) consisting of the text of subsection (c) of such section 2101 as in effect immediately before the enactment of such Act, modified—

(A) in paragraph (1)—

(i) in the first sentence, by striking ''paragraph (1), (2), or (3)'' and inserting ''subparagraph (A), (B), (C), or (D) of paragraph (2)''; and

(ii) in the second sentence, by striking ''the second sentence'' and inserting ''paragraph (3)''; and

(B) in paragraph (2)—

(i) in the first sentence, by striking ''paragraph (1)'' and inserting ''paragraph (2)''; and

(ii) in the second sentence, by striking ''paragraph (2)'' and inserting ''paragraph (3)''; and

(3) in subsection (a)(3), by striking ''subsection (c)'' in the matter preceding subparagraph (A) and inserting ''subsection (d)''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as of December 10, 2004, as if enacted immediately after the enactment of the Veterans Benefits Improvement Act of 2004 on that date.

TITLE II—EMPLOYMENT MATTERS

SEC. 201. ADDITIONAL DUTY FOR THE ASSISTANT SECRETARY OF LABOR FOR VETERANS' EMPLOYMENT AND TRAINING TO RAISE AWARENESS OF SKILLS OF VETERANS AND OF THE BENEFITS OF HIRING VETERANS.

Subsection (b) of section 4102A of title 38, United States Code, is amended by adding at the end the following new paragraph:

''(8) With advice and assistance from the Advisory Committee on Veterans Employment and Training, and Employer Outreach established under section 4110 of this title, furnish information to employers (through meetings in person with hiring executives of corporations and otherwise) with respect to the training and skills of veterans and disabled veterans, and the advantages afforded employers by hiring veterans with such training and skills, and to facilitate employment of veterans and disabled veterans through participation in labor exchanges (Internet-based and otherwise), and other means.''.

SEC. 202. MODIFICATIONS TO THE ADVISORY COMMITTEE ON VETERANS EMPLOYMENT AND TRAINING.

(a) COMMITTEE NAME.—

(1) CHANGE OF NAME.—Subsection (a)(1) of section 4110 of title 38, United States Code, is amended by striking ''Advisory Committee on Veterans Employment and Training'' and inserting ''Advisory Committee on Veterans Employment, Training, and Employer Outreach''.

(2) SECTION HEADING.—The heading of such section is amended to read as follows:

''§ 4110. Advisory Committee on Veterans Employment, Training, and Employer Outreach''.

(3) TABLE OF SECTIONS.—The item relating to section 4110 in the table of sections at the beginning of chapter 41 of such title is amended to read as follows:

''4110. Advisory Committee on Veterans Employment, Training, and Employer Outreach.''.

(4) REFERENCES.—Any reference to the Advisory Committee established under section 4110 of such title in any law, regulation, map, document, record, or other paper of the United States shall be considered to be a reference to the Advisory Committee on Veterans Employment, Training, and Employer Outreach.

(b) EXPANSION OF DUTIES OF ADVISORY COMMITTEE.—Subsection (a)(2) of such section is amended—

(1) in subparagraph (A), by inserting ''and their integration into the workforce'' after ''veterans'';

(2) by striking ''and'' at the end of subparagraph (B);

(3) by redesignating subparagraph (C) as subparagraph (E); and

(4) by inserting after subparagraph (B) the following new subparagraphs:

''(C) assist the Assistant Secretary of Labor for Veterans' Employment and Training in carrying out outreach activities to employers with respect to the training and skills of veterans and the advantages afforded employers by hiring veterans;

''(D) make recommendations to the Secretary, through the Assistant Secretary of Labor for Veterans' Employment and Training, with respect to outreach activities and the employment and training of veterans; and''.

(c) MODIFICATION OF ADVISORY COMMITTEE MEMBERSHIP.—

(1) MEMBERSHIP.—Subsection (c)(1) of such section is amended to read as follows:

''(c)(1) The Secretary of Labor shall appoint at least 12, but no more than 15, individuals to serve as members of the advisory committee as follows:

''(A) Six individuals, one each from among representatives nominated by each of the following organizations:

''(i) The National Society of Human Resource Managers.

''(ii) The Business Roundtable.

''(iii) The National Association of State Workforce Agencies.

''(iv) The United States Chamber of Commerce.

''(v) The National Federation of Independent Business.

''(vi) A nationally recognized labor union or organization.

''(B) Not more than five individuals from among representatives nominated by veterans service organizations that have a national employment program.

''(C) Not more than five individuals who are recognized authorities in the fields of business, employment, training, rehabilitation, or labor and who are not employees of the Department of Labor.''.

(2) CONFORMING AMENDMENTS.—Subsection (d) of such section is amended—

(A) by striking paragraphs (3), (4), (8), (10), (11), and (12); and

(B) by redesignating paragraphs (5), (6), (7), and (9) as paragraphs (3), (4), (5), and (6), respectively.

(d) REINSTATEMENT AND MODIFICATION OF REPORTING REQUIREMENT.—Subsection (f)(1) of such section is amended—

(1) by striking the first sentence and inserting the following: ''Not later than December 31 of each year, the advisory committee shall submit to the Secretary and to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the employment and training needs of veterans, with special emphasis on disabled veterans, for the previous fiscal year.'';

(2) in subparagraph (A), by inserting ''and their integration into the workforce'' after ''veterans'';

(3) by striking ''and'' at the end of subparagraph (B);

(4) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (F), respectively;

(5) by inserting after subparagraph (A) the following new subparagraph:

''(B) an assessment of the outreach activities carried out by the Secretary of Labor to employers with respect to the training and skills of veterans and the advantages afforded employers by hiring veterans;''; and

(6) by inserting after subparagraph (C), as so redesignated, the following new subparagraphs:

''(D) a description of the activities of the advisory committee during that fiscal year;

''(E) a description of activities that the advisory committee proposes to undertake in the succeeding fiscal year; and''.

SEC. 203. REAUTHORIZATION OF APPROPRIATIONS FOR HOMELESS VETERANS REINTEGRATION PROGRAMS.

Subsection (e)(1) of section 2021 of title 38, United States Code, is amended by adding at the end the following new subparagraph:

''(F) $50,000,000 for each of fiscal years 2007 through 2009.''.

TITLE III—LIFE AND HEALTH INSURANCE MATTERS

SEC. 301. DURATION OF SERVICEMEMBERS' GROUP LIFE INSURANCE COVERAGE FOR TOTALLY DISABLED VETERANS FOLLOWING SEPARATION FROM SERVICE.

(a) SEPARATION OR RELEASE FROM ACTIVE DUTY.—

(1) EXTENSION OF PERIOD OF COVERAGE.—Paragraph (1)(A) of section 1968(a) of title 38, United States Code, is amended by striking ''shall cease'' and all that follows and inserting ''shall cease on the earlier of the following dates (but in no event before the end of 120 days after such separation or release):

''(i) The date on which the insured ceases to be totally disabled.

''(ii) The date that is—

''(I) two years after the date of separation or release from such active duty or active duty for training, in the case of such a separation or release during the period beginning on the date that is one year before the date of the enactment of Veterans' Housing Opportunity and Benefits Improvement Act of 2006 and ending on September 30, 2011; and

''(II) 18 months after the date of separation or release from such active duty or active duty for training, in the case of such a separation or release on or after October 1, 2011.''.

(2) TECHNICAL AMENDMENTS.—Paragraph (1) of such section is further amended—

(A) in the matter preceding subparagraph (A), by striking ''shall cease—'' and inserting ''shall cease as follows:''; and

(B) in subparagraph (B), by striking ''at'' after ''(B)'' and inserting ''At''.

(b) SEPARATION OR RELEASE FROM CERTAIN RESERVE ASSIGNMENTS.—Paragraph (4) of such section is amended by striking ''shall cease'' the second place it appears and all that follows and inserting ''shall cease on the earlier of the following dates (but in no event before the end of 120 days after separation or release from such assignment):

''(A) The date on which the insured ceases to be totally disabled.

''(B) The date that is—

''(i) two years after the date of separation or release from such assignment, in the case of

such a separation or release during the period beginning on the date that is one year before the date of the enactment of Veterans' Housing Opportunity and Benefits Improvement Act of 2006 and ending on September 30, 2011; and

''(ii) 18 months after the date of separation or release from such assignment, in the case of such a separation or release on or after October 1, 2011.''.

SEC. 302. LIMITATION ON PREMIUM INCREASES FOR REINSTATED HEALTH INSURANCE OF SERVICEMEMBERS RELEASED FROM ACTIVE MILITARY SERVICE.

(a) PREMIUM PROTECTION.—Section 704 of the Servicemembers Civil Relief Act (50 U.S.C. App. 594) is amended by adding at the end the following new subsection:

''(e) LIMITATION ON PREMIUM INCREASES.—

''(1) PREMIUM PROTECTION.—The amount of the premium for health insurance coverage that was terminated by a servicemember and required to be reinstated under subsection (a) may not be increased, for the balance of the period for which coverage would have been continued had the coverage not been terminated, to an amount greater than the amount chargeable for such coverage before the termination.

''(2) INCREASES OF GENERAL APPLICABILITY NOT PRECLUDED.—Paragraph (1) does not prevent an increase in premium to the extent of any general increase in the premiums charged by the carrier of the health care insurance for the same health insurance coverage for persons similarly covered by such insurance during the period between the termination and the reinstatement.''.

(b) TECHNICAL AMENDMENT.—Subsection (b)(3) of such section is amended by striking ''if the'' and inserting ''in a case in which the''.

SEC. 303. PRESERVATION OF EMPLOYER-SPONSORED HEALTH PLAN COVERAGE FOR CERTAIN RESERVE-COMPONENT MEMBERS WHO ACQUIRE TRICARE ELIGIBILITY.

(a) CONTINUATION OF COVERAGE.—Subsection (a)(1) of section 4317 of title 38, United States Code, is amended by inserting after ''by reason of service in the uniformed services,'' the following: ''or such person becomes eligible for medical and dental care under chapter 55 of title 10 by reason of subsection (d) of section 1074 of that title,''.

(b) REINSTATEMENT OF COVERAGE.—Subsection (b) of such section is amended—

(1) in paragraph (1)—

(A) by inserting after ''by reason of service in the uniformed services,'' the following: ''or by reason of the person's having become eligible for medical and dental care under chapter 55 of title 10 by reason of subsection (d) of section 1074 of that title,''; and

(B) by inserting ''or eligibility'' before the period at the end of the first sentence; and

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

''(3) In the case of a person whose coverage under a health plan is terminated by reason of the person having become eligible for medical and dental care under chapter 55 of title 10 by reason of subsection (d) of section 1074 of that title but who subsequently does not commence a period of active duty under the order to active duty that established such eligibility because the order is canceled before such active duty commences, the provisions of paragraph (1) relating to any exclusion or waiting period in connection with the reinstatement of coverage under a health plan shall apply to such person's continued employment, upon the termination of such eligibility for medical and dental care under chapter 55 of title 10 that is incident to the cancellation of such order, in the same manner as if the person had become reemployed upon such termination of eligibility.''.

TITLE IV—OTHER MATTERS

SEC. 401. INCLUSION OF ADDITIONAL DISEASES AND CONDITIONS IN DISEASES AND DISABILITIES PRESUMED TO BE ASSOCIATED WITH PRISONER OF WAR STATUS.

Section 1112(b)(3) of title 38, United States Code, is amended by adding at the end the following new subparagraphs:

''(L) Atherosclerotic heart disease or hypertensive vascular disease (including hypertensive heart disease) and their complications (including myocardial infarction, congestive heart failure and arrhythmia).

''(M) Stroke and its complications.''.

SEC. 402. CONSOLIDATION AND REVISION OF OUTREACH AUTHORITIES.

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

''CHAPTER 63—OUTREACH ACTIVITIES

'' 6301. Purpose; definitions.
'' 6302. Biennial plan.
'' 6303. Outreach services.
'' 6304. Veterans assistance offices.
'' 6305. Outstationing of counseling and outreach personnel.
'' 6306. Use of other agencies.
'' 6307. Outreach for eligible dependents.
'' 6308. Biennial report to Congress.

''§ 6301. Purpose; definitions

''(a) PURPOSE.—The Congress declares that—

''(1) the outreach services program authorized by this chapter is for the purpose of ensuring that all veterans (especially those who have been recently discharged or released from active military, naval, or air service and those who are eligible for readjustment or other benefits and services under laws administered by the Department) are provided timely and appropriate assistance to aid and encourage them in applying for and obtaining such benefits and services in order that they may achieve a rapid social and economic readjustment to civilian life and obtain a higher standard of living for themselves and their dependents; and

''(2) the outreach services program authorized by this chapter is for the purpose of charging the Department with the affirmative duty of seeking out eligible veterans and eligible dependents and providing them with such services.

''(b) DEFINITIONS.—For the purposes of this chapter—

''(1) the term 'other governmental programs' includes all programs under State or local laws as well as all programs under Federal law other than those authorized by this title; and

''(2) the term 'eligible dependent' means a spouse, surviving spouse, child, or dependent parent of a person who served in the active military, naval, or air service.

''§ 6302. Biennial plan

''(a) BIENNIAL PLAN REQUIRED.—The Secretary shall, during the first nine months of every odd-numbered year, prepare a biennial plan for the outreach activities of the Department for the two-fiscal-year period beginning on October 1 of that year.

''(b) ELEMENTS.—Each biennial plan under subsection (a) shall include the following:

''(1) Plans for efforts to identify eligible veterans and eligible dependents who are not enrolled or registered with the Department for benefits or services under the programs administered by the Secretary.

''(2) Plans for informing eligible veterans and eligible dependents of modifications of the benefits and services under the programs administered by the Secretary, including eligibility for medical and nursing care and services.

''(c) COORDINATION IN DEVELOPMENT.—In developing the biennial plan under subsection (a), the Secretary shall consult with the following:

''(1) Directors or other appropriate officials of organizations approved by the Secretary under section 5902 of this title.

''(2) Directors or other appropriate officials of State and local education and training programs.

''(3) Representatives of nongovernmental organizations that carry out veterans outreach programs.

''(4) Representatives of State and local veterans employment organizations.

''(5) Other individuals and organizations that the Secretary considers appropriate.

''§ 6303. Outreach services

''(a) REQUIREMENT TO PROVIDE SERVICES.—In carrying out the purposes of this chapter, the Secretary shall provide the outreach services specified in subsections (b) through (d). In areas where a significant number of eligible veterans and eligible dependents speak a language other than English as their principal language, such services shall, to the maximum feasible extent, be provided in the principal language of such persons.

''(b) INDIVIDUAL NOTICE TO NEW VETERANS.—The Secretary shall by letter advise each veteran at the time of the veteran's discharge or release from active military, naval, or air service (or as soon as possible after such discharge or release) of all benefits and services under laws administered by the Department for which the veteran may be eligible. In carrying out this subsection, the Secretary shall ensure, through the use of veteran-student services under section 3485 of this title, that contact, in person or by telephone, is made with those veterans who, on the basis of their military service records, do not have a high school education or equivalent at the time of discharge or release.

''(c) DISTRIBUTION OF INFORMATION.—(1) The Secretary—

''(A) shall distribute full information to eligible veterans and eligible dependents regarding all benefits and services to which they may be entitled under laws administered by the Secretary; and

''(B) may, to the extent feasible, distribute information on other governmental programs (including manpower and training programs) which the Secretary determines would be beneficial to veterans.

''(2) Whenever a veteran or dependent first applies for any benefit under laws administered by the Secretary (including a request for burial or related benefits or an application for life insurance proceeds), the Secretary shall provide to the veteran or dependent information concerning benefits and health care services under programs administered by the Secretary. Such information shall be provided not later than three months after the date of such application.

''(d) PROVISION OF AID AND ASSISTANCE.—The Secretary shall provide, to the maximum extent possible, aid and assistance (including personal interviews) to members of the Armed Forces, veterans, and eligible dependents with respect to subsections (b) and (c) and in the preparation and presentation of claims under laws administered by the Department.

''(e) ASSIGNMENT OF EMPLOYEES.—In carrying out this section, the Secretary shall assign such employees as the Secretary considers appropriate to conduct outreach programs and provide outreach services for homeless veterans. Such outreach services may include site visits through which homeless veterans can be identified and provided assistance in obtaining benefits and services that may be available to them.

''§ 6304. Veterans assistance offices

''(a) IN GENERAL.—The Secretary shall establish and maintain veterans assistance offices at such places throughout the United States and its territories and possessions, and in the Commonwealth of Puerto Rico, as the Secretary determines to be necessary to carry out the purposes of this chapter. The Secretary may maintain such offices on such military installations located elsewhere as the Secretary, after consultation with the Secretary of Defense and taking into account recommendations, if any, of

the Secretary of Labor, determines to be necessary to carry out such purposes.

''(b) LOCATION OF OFFICES.—In establishing and maintaining such offices, the Secretary shall give due regard to—

''(1) the geographical distribution of veterans recently discharged or released from active military, naval, or air service;

''(2) the special needs of educationally disadvantaged veterans (including their need for accessibility of outreach services); and

''(3) the necessity of providing appropriate outreach services in less populated areas.

''§ 6305. Outstationing of counseling and outreach personnel

''The Secretary may station employees of the Department at locations other than Department offices, including educational institutions, to provide—

''(1) counseling and other assistance regarding benefits under this title to veterans and other persons eligible for benefits under this title; and

''(2) outreach services under this chapter.

''§ 6306. Use of other agencies

''(a) In carrying out this chapter, the Secretary shall arrange with the Secretary of Labor for the State employment service to match the particular qualifications of an eligible veteran or eligible dependent with an appropriate job or job training opportunity, including, where possible, arrangements for outstationing the State employment personnel who provide such assistance at appropriate facilities of the Department.

''(b) In carrying out this chapter, the Secretary shall, in consultation with the Secretary of Labor, actively seek to promote the development and establishment of employment opportunities, training opportunities, and other opportunities for veterans, with particular emphasis on the needs of veterans with service-connected disabilities and other eligible veterans, taking into account applicable rates of unemployment and the employment emphases set forth in chapter 42 of this title.

''(c) In carrying out this chapter, the Secretary shall cooperate with and use the services of any Federal department or agency or any State or local governmental agency or recognized national or other organization.

''(d) In carrying out this chapter, the Secretary shall, where appropriate, make referrals to any Federal department or agency or State or local governmental unit or recognized national or other organization.

''(e) In carrying out this chapter, the Secretary may furnish available space and office facilities for the use of authorized representatives of such governmental unit or other organization providing services.

''(f) In carrying out this chapter, the Secretary shall conduct and provide for studies, in consultation with appropriate Federal departments and agencies, to determine the most effective program design to carry out the purposes of this chapter.

''§ 6307. Outreach for eligible dependents

''(a) NEEDS OF DEPENDENTS.—In carrying out this chapter, the Secretary shall ensure that the needs of eligible dependents are fully addressed.

''(b) INFORMATION AS TO AVAILABILITY OF OUTREACH SERVICES FOR DEPENDENTS.—The Secretary shall ensure that the availability of outreach services and assistance for eligible dependents under this chapter is made known through a variety of means, including the Internet, announcements in veterans publications, and announcements to the media.

''§ 6308. Biennial report to Congress

''(a) REPORT REQUIRED.—The Secretary shall, not later than December 1 of every even-numbered year (beginning in 2008), submit to Congress a report on the outreach activities carried out by the Department.

''(b) CONTENT.—Each report under this section shall include the following:

''(1) A description of the implementation during the preceding fiscal year of the current biennial plan under section 6302 of this title.

''(2) Recommendations for the improvement or more effective administration of the outreach activities of the Department.''.

(b) INCORPORATION OF RECOMMENDATIONS TO IMPROVE OUTREACH AND AWARENESS.—The Secretary of Veterans Affairs shall, to the extent appropriate, incorporate the recommendations for the improvement of veterans outreach and awareness activities included in the report submitted to Congress by the Secretary pursuant to section 805 of the Veterans Benefits Improvement Act of 2004 (Public Law 108–454).

(c) REPEAL OF RECODIFIED PROVISIONS.—Subchapter II of chapter 77 of title 38, United States Code, is repealed.

(d) CONFORMING AND CLERICAL AMENDMENTS.—

(1) Subchapter III of chapter 77 of such title is redesignated as subchapter II.

(2) The table of sections at the beginning of such chapter is amended by striking the items relating to the heading for subchapter II, sections 7721 through 7727, and the heading for subchapter III and inserting the following:

''SUBCHAPTER II—QUALITY ASSURANCE''.

(3) The tables of chapters at the beginning of such title, and at the beginning of part IV of such title, are amended by inserting after the item relating to chapter 61 the following new item:

''63. Outreach Activities ..... 6301''.

(e) CROSS-REFERENCE AMENDMENTS.—

(1) Section 3485(a)(4)(A) of title 38, United States Code, is amended by striking ''subchapter II of chapter 77'' and inserting ''chapter 63''.

(2) Section 4113(a)(2) of such title is amended by striking ''section 7723(a)'' and inserting ''section 6304(a)''.

(3) Section 4214(g) of such title is amended by striking ''section 7722'' and ''section 7724'' and inserting ''section 6303'' and ''section 6305'', respectively.

(4) Section 168(b)(2)(B) of the Workforce Investment Act of 1998 (29 U.S.C. 2913(b)(2)(B)) is amended by striking ''subchapter II of chapter 77'' and inserting ''chapter 63''.

SEC. 403. EXTENSION OF ANNUAL REPORT REQUIREMENT ON EQUITABLE RELIEF CASES.

Section 503(c) of title 38, United States Code, is amended by striking ''December 31, 2004'' and inserting ''December 31, 2009''.

TITLE V—TECHNICAL AMENDMENTS

SEC. 501. TECHNICAL AND CLARIFYING AMENDMENTS TO NEW TRAUMATIC INJURY PROTECTION COVERAGE UNDER SERVICEMEMBERS' GROUP LIFE INSURANCE.

(a) SECTION 1980A.—Section 1980A of title 38, United States Code, is amended as follows:

(1) Subsection (a) is amended to read as follows:

''(a)(1) A member of the uniformed services who is insured under Servicemembers' Group Life Insurance shall automatically be insured for traumatic injury in accordance with this section. Insurance benefits under this section shall be payable if the member, while so insured, sustains a traumatic injury on or after December 1, 2005, that results in a qualifying loss specified pursuant to subsection (b)(1).

''(2) If a member suffers more than one such qualifying loss as a result of traumatic injury from the same traumatic event, payment shall be made under this section in accordance with the schedule prescribed pursuant to subsection (d) for the single loss providing the highest payment.''.

(2) Subsection (b) is amended—

(A) in paragraph (1)—

(i) by striking ''issued a'' and all that follows through ''limited to—'' and inserting ''insured against traumatic injury under this section is insured against such losses due to traumatic injury (in this section referred to as 'qualifying losses') as are prescribed by the Secretary by regulation. Qualifying losses so prescribed shall include the following:'';

(ii) by capitalizing the first letter of the first word of each of subparagraphs (A) through (H);

(iii) by striking the semicolon at the end of each of subparagraphs (A) through (F) and inserting a period; and

(iv) by striking ''; and'' at the end of subparagraph (G) and inserting a period;

(B) in paragraph (2)—

(i) by striking ''subsection—'' and inserting ''subsection:'';

(ii) by striking ''the'' at the beginning of subparagraphs (A), (B), and (C) and inserting ''The'';

(iii) in subparagraph (A), by striking ''4 limbs;'' and inserting ''four limbs.'';

(iv) in subparagraph (B), by striking ''; and'' at the end and inserting a period;

(v) in subparagraph (C), by striking ''1 side'' and inserting ''one side''; and

(vi) by adding at the end the following new subparagraph:

''(D) The term 'inability to carry out the activities of daily living' means the inability to independently perform two or more of the following six functions:

''(i) Bathing.

''(ii) Continence.

''(iii) Dressing.

''(iv) Eating.

''(v) Toileting.

''(vi) Transferring.'';

(C) in paragraph (3)—

(i) by striking '', in collaboration with the Secretary of Defense,'';

(ii) by striking ''shall prescribe'' and inserting ''may prescribe''; and

(iii) by striking ''the conditions under which coverage against loss will not be provided'' and inserting ''conditions under which coverage otherwise provided under this section is excluded''; and

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

''(4) A member shall not be considered for the purposes of this section to be a member insured under Servicemembers' Group Life Insurance if the member is insured under Servicemembers' Group Life Insurance only as an insurable dependent of another member pursuant to subparagraph (A)(ii) or (C)(ii) of section 1967(a)(1) of this title.''.

(3) Subsection (c) is amended to read as follows:

''(c)(1) A payment may be made to a member under this section only for a qualifying loss that results directly from a traumatic injury sustained while the member is covered against loss under this section and from no other cause.

''(2)(A) A payment may be made to a member under this section for a qualifying loss resulting from a traumatic injury only for a loss that is incurred during the applicable period of time specified pursuant to subparagraph (B).

''(B) For each qualifying loss, the Secretary shall prescribe, by regulation, a period of time to be the period of time within which a loss of that type must be incurred, determined from the date on which the member sustains the traumatic injury resulting in that loss, in order for that loss to be covered under this section.''.

(4) Subsection (d) is amended by striking ''losses described in subsection (b)(1) shall be—'' and all that follows and inserting ''qualifying losses shall be made in accordance with a schedule prescribed by the Secretary, by regulation, specifying the amount of payment to be made for each type of qualifying loss, to be based on the severity of the qualifying loss. The minimum payment that may be prescribed for a qualifying loss is $25,000, and the maximum payment that may be prescribed for a qualifying loss is $100,000.''.

(5) Subsection (e) is amended—

(A) by striking ''of Veterans Affairs'' each place it appears;

(B) in paragraph (1), by striking ''as the premium allocable'' and all that follows through ''protection under this section'';

(C) in paragraph (2), by striking ''Secretary of the concerned service'' and inserting ''Secretary concerned''; and

(D) by striking paragraphs (6), (7), and (8) and inserting the following:

''(6) The cost attributable to insuring members under this section for any month or other period specified by the Secretary, less the premiums paid by the members, shall be paid by the Secretary concerned to the Secretary. The Secretary shall allocate the amount payable among the uniformed services using such methods and data as the Secretary determines to be reasonable and practicable. Payments under this paragraph shall be made on a monthly basis or at such other intervals as may be specified by the Secretary and shall be made within 10 days of the date on which the Secretary provides notice to the Secretary concerned of the amount required.

''(7) For each period for which a payment by a Secretary concerned is required under paragraph (6), the Secretary concerned shall contribute such amount from appropriations available for active duty pay of the uniformed service concerned.

''(8) The sums withheld from the basic or other pay of members, or collected from them by the Secretary concerned, under this subsection, and the sums contributed from appropriations under this subsection, together with the income derived from any dividends or premium rate adjustments received from insurers shall be deposited to the credit of the revolving fund established in the Treasury of the United States under section 1869(d)(1) of this title.''.

(6) Subsection (f) is amended to read as follows:

''(f) When a claim for benefits is submitted under this section, the Secretary of Defense or, in the case of a member not under the jurisdiction of the Secretary of Defense, the Secretary concerned, shall certify to the Secretary whether the member with respect to whom the claim is submitted—

''(1) was at the time of the injury giving rise to the claim insured under Servicemembers' Group Life Insurance for the purposes of this section; and

''(2) has sustained a qualifying loss.''.

(7) Subsection (g) of such section is amended—

(A) by inserting ''(1)'' after ''(g)'';

(B) by striking ''will not be made'' and inserting ''may not be made under the insurance coverage under this section'';

(C) by striking ''the period'' and all that follows through ''the date'' and inserting ''a period prescribed by the Secretary, by regulation, for such purpose that begins on the date'';

(D) by designating the second sentence as paragraph (2);

(E) by striking ''If the member'' and inserting ''If a member eligible for a payment under this section'' ;

(F) by striking ''will be'' and inserting ''shall be''; and

(G) by striking ''according to'' and all that follows and inserting ''to the beneficiary or beneficiaries to whom the payment would be made if the payment were life insurance under section 1967(a) of this title.''.

(8) Subsection (h) of such section is amended—

(A) in the first sentence, by striking ''member's separation from the uniformed service'' and inserting ''termination of the member's duty status in the uniformed services that established eligibility for Servicemembers' Group Life Insurance'';

(B) by striking the second sentence; and

(C) by adding at the end the following new sentence: ''The termination of coverage under this section is effective in accordance with the preceding sentence, notwithstanding any continuation after the date specified in that sentence of Servicemembers' Group Life Insurance coverage pursuant to 1968(a) of this title for a period specified in that section.''.

(9) Such section is further amended by adding at the end the following new subsection:

''(j) Regulations under this section shall be prescribed in consultation with the Secretary of Defense.''.

(b) APPLICABILITY TO QUALIFYING LOSSES INCURRED IN OPERATION ENDURING FREEDOM AND OPERATION IRAQI FREEDOM BEFORE EFFECTIVE DATE OF NEW PROGRAM.—

(1) ELIGIBILITY.—A member of the uniformed services who during the period beginning on October 7, 2001, and ending at the close of November 30, 2005, sustains a traumatic injury resulting in a qualifying loss is eligible for coverage for that loss under section 1980A of title 38, United States Code, if, as determined by the Secretary concerned, that loss was a direct result of a traumatic injury incurred in the theater of operations for Operation Enduring Freedom or Operation Iraqi Freedom.

(2) CERTIFICATION OF PERSONS ENTITLED TO PAYMENT.—The Secretary concerned shall certify to the life insurance company issuing the policy of life insurance for Servicemembers' Group Life Insurance under chapter 19 of title 38, United States Code, the name and address of each person who the Secretary concerned determines to be entitled by reason of paragraph (1) to a payment under section 1980A of title 38, United States Code, plus such additional information as the Secretary of Veterans Affairs may require.

(3) FUNDING.—At the time a certification is made under paragraph (2), the Secretary concerned, from funds then available to that Secretary for the pay of members of the uniformed services under the jurisdiction of that Secretary, shall pay to the Secretary of Veterans Affairs the amount of funds the Secretary of Veterans Affairs determines to be necessary to pay all costs related to payments to be made under that certification. Amounts received by the Secretary of Veterans Affairs under this paragraph shall be deposited to the credit of the revolving fund in the Treasury of the United States established under section 1969(d) of title 38, United States Code.

(4) QUALIFYING LOSS.—For purposes of this subsection, the term ''qualifying loss'' means—

(A) a loss specified in the second sentence of subsection (b)(1) of section 1980A of title 38, United States Code, as amended by subsection (a); and

(B) any other loss specified by the Secretary of Veterans Affairs pursuant to the first sentence of that subsection.

(5) SECRETARY CONCERNED.—For purposes of this subsection, the term ''Secretary concerned'' has the meaning given that term in paragraph (25) of section 101 of title 38, United States Code.

(c) CONFORMING AMENDMENTS.—

(1) Section 1965 of title 38, United States Code, is amended by striking paragraph (11).

(2) Section 1032(c) of Public Law 109–13 (119 Stat. 257; 38 U.S.C. 1980A note) is repealed.

SEC. 502. TERMINOLOGY AMENDMENTS TO REVISE REFERENCES TO CERTAIN VETERANS IN PROVISIONS RELATING TO ELIGIBILITY FOR COMPENSATION OR DEPENDENCY AND INDEMNITY COMPENSATION.

Title 38, United States Code, is amended as follows:

(1) Section 1114(l) is amended by striking ''so helpless'' and inserting ''with such significant disabilities''.

(2) Section 1114(m) is amended by striking ''so helpless'' and inserting ''so significantly disabled''.

(3) Sections 1115(1)(E)(ii), 1122(b)(2), 1311(c)(2), 1315(g)(2), and 1502(b)(2) are amended by striking ''helpless or blind, or so nearly helpless or blind as to'' and inserting ''blind, or so nearly blind or significantly disabled as to''.

SEC. 503. TECHNICAL AND CLERICAL AMENDMENTS.

Title 38, United States Code, is amended as follows:

(1) TYPOGRAPHICAL ERROR.—Section 1117(h)(1) is amended by striking ''nothwithstanding'' and inserting ''notwithstanding''.

(2) INSERTION OF MISSING WORD.—Section 1513(a) is amended by inserting ''section'' after ''prescribed by''.

(3) DELETION OF EXTRA WORDS.—Section 3012(a)(1)(C)(ii) is amended by striking ''on or''.

(4) CROSS REFERENCE CORRECTION.—Section 3017(b)(1)(D) is amended by striking ''3011(c)'' and inserting ''3011(e)''.

(5) STYLISTIC AMENDMENTS.—Section 3018A is amended—

(A) by striking ''of this section'' in subsections (b) and (c);

(B) by striking ''of this subsection'' in subsections (a)(4), (a)(5), (d)(1) (both places it appears), and (d)(3); and

(C) by striking ''of this chapter'' in subsection (d)(3) and inserting ''of this title''.

(6) CROSS REFERENCE CORRECTION.—Section 3117(b)(1) is amended—

(A) by striking ''section 8'' and inserting ''section 4(b)(1)''; and

(B) by striking ''633(b)'' and inserting ''633(b)(1)''.

(7) INSERTION OF MISSING WORD.—Section 3511(a)(1) is amended by inserting ''sections'' after ''under both''.

(8) SUBSECTION HEADINGS.—

(A) Sections 3461, 3462, 3481, 3565, 3680, and 3690 are each amended by revising each subsection heading for a subsection therein (appearing as a centered heading immediately before the text of the subsection) so that such heading appears immediately after the subsection designation and is set forth in capitals-and-small-capitals typeface, followed by a period and a one-em dash.

(B) Section 3461(c) is amended by inserting after the subsection designation the following: ''DURATION OF ENTITLEMENT.—''.

(C) Section 3462 is amended—

(i) in subsection (d), by inserting after the subsection designation the following: ''PRISONERS OF WAR.—''; and

(ii) in subsection (e), by inserting after the subsection designation the following: ''TERMINATION OF ASSISTANCE.—''.

(9) CROSS REFERENCE CORRECTION.—Section 3732(c)(10)(D) is amended by striking ''clause (B) of paragraphs (5), (6), (7), and (8) of this subsection'' and inserting ''paragraphs (5)(B), (6), (7)(B), and (8)(B)''.

(10) DATE OF ENACTMENT REFERENCE.—Section 3733(a)(7) is amended by striking ''the date of the enactment of the Veterans Benefits Act of 2003'' and inserting ''December 16, 2003''.

(11) REPEAL OF OBSOLETE PROVISIONS.—Section 4102A is amended—

(A) in subsection (c)(7)—

(i) by striking ''With respect to program years beginning during or after fiscal year 2004, one percent of'' and inserting ''Of''; and

(ii) by striking ''for the program year'' and inserting ''for any program year, one percent''; and

(B) in subsection (f)(1), by striking ''By not later than May 7, 2003, the'' and inserting ''The''.

(12) REPEAL OF OBSOLETE PROVISIONS.—Section 4105(b) is amended—

(A) by striking ''shall provide,'' and all that follows through ''Affairs with'' and inserting ''shall, on the 15th day of each month, provide the Secretary and the Secretary of Veterans Affairs with updated information regarding''; and

(B) by striking ''and shall'' and all that follows through ''regarding the list''.

(13) CITATION CORRECTION.—Section 4110B is amended—

(A) by striking ''this Act'' and inserting ''the Workforce Investment Act of 1998''; and

(B) by inserting ''(29 U.S.C. 2822(b))'' before the period at the end.

(14) CROSS-REFERENCE CORRECTION.—Section 4331(b)(2)(C) is amended by striking ''section 2303(a)(2)(C)(ii)'' and inserting ''section 2302(a)(2)(C)(ii)''.

(15) CAPITALIZATION CORRECTION.—Section 7253(d)(5) is amended by striking ''court'' and inserting ''Court''.

Amend the title so as to read ''An Act to amend title 38, United States Code, to improve and extend housing, insurance, outreach, and benefits programs provided under the laws administered by the Secretary of Veterans Affairs, to improve and extend employment programs for veterans under laws administered by the Secretary of Labor, and for other purposes.''.

Mr. CRAIG. Mr. President, I have sought recognition to comment on S. 1235, the Veterans' Housing Opportunity and Benefits Act of 2006. This legislation is the product of a compromise agreement reached between the Senate and House Committees on Veterans' Affairs. The legislation cleared the House on Monday by a unanimous vote of 372 to 0. Its passage today in the Senate will continue the tradition of cooperation between the two Houses of Congress and among all political parties when it comes to legislation to improve the benefits and services available for our nation's veterans.

Before I thank my colleagues on both sides of the aisle who worked diligently on the provisions of this bill, I would like to take a few moments to comment on provisions that I was particularly interested in seeing enacted in that they will impact the lives of servicemembers returning from the global war on terrorism who have severe disabilities.

It is quite natural, and in many cases necessary for therapeutic or rehabilitative reasons, for a young servicemember who is severely wounded to spend some time convalescing at the home of his or her family before moving on to live a fully independent life. The nature of some severely wounded servicemembers' wounds require adaptations to the homes in which they live—such as larger doorways, ramps, hand rails, and other modifications. VA has a grant program to assist servicemembers and veterans with expenses associated with these modifications, but the program needs greater flexibility to address the reality of how young wounded warriors convalesce. Section 101 of the legislation provides that flexibility. It authorizes VA to equip a family member's home using a partial grant—with some portion, or all, of the remainder of the grant available for later use—of between $2,000 and $14,000. I was proud to join Senator JOHN SUNUNU on an amendment that cleared the Senate earlier this year that contained this provision. I am even prouder that we were able to include it in the final bill.

Section 301 of S. 1235 is another provision that makes a reasonable accommodation in a benefit program to meet the realities faced by convalescing, severely disabled servicemembers. Servicemembers adjudicated as totally disabled at the time of their separation from service have up to one year after separation to apply to receive premium-free Servicemembers' Group Life Insurance coverage during the 1-year, post separation period, and to convert their coverage to Veterans' Group Life Insurance, or an individual plan or policy. Taking advantage of the conversion option is especially critical for totally disabled veterans who, because of their disabilities, may not be insurable at competitive commercial rates after military service. Through a targeted outreach effort to this population, VA learned that many totally disabled veterans do not convert their coverage to VGLI because they may have neglected post-separation financial planning due to the effects of their disabilities, or because they were simply unaware of the extension option. To give these convalescing servicemembers as much time as possible to make informed decisions about their future financial security, section 301 would extend from 1 to 2 years the available conversion period.

There are many other enhancements contained in this legislation. They cover housing, insurance, employment and other miscellaneous benefit programs. And, not a small point in this time of fiscal austerity, the legislation is budget neutral.

I would like to take a moment to thank those who are responsible for bringing this compromise agreement to the brink of enactment. First, the committee's ranking member, Senator DANIEL AKAKA, provided his customary—and indispensable—cooperation and leadership. He and his staff worked very closely with me and my staff to shepherd the original legislation through the Senate, and then to work together with my House colleagues on this compromise. Veterans in Hawaii should be proud to have Senator AKAKA at the helm. And I am proud to have him as the committee's ranking member.

I salute Chairman STEVE BUYER and Ranking Member LANE EVANS of the House Veterans' Committee; Subcommittee on Disability Assistance and Memorial Affairs Chairman JEFF MILLER and Ranking Member SHELLEY BERKLEY; and Subcommittee on Economic Opportunity Chairman JOHN BOOZMAN and Ranking Member STEPHANIE HERSETH for their work and for their spirit of accommodation. They and their staffs are to be commended for a job well done.

Yesterday, the Congress sent bipartisan legislation, the Respect for America's Fallen Heroes Act, to the President for his signature. Today, I am also asking my colleagues in the Senate to send the Veterans' Housing Opportunity and Benefits Act of 2006, to the President. I am thankful that our celebration of Memorial Day on Monday coincides with the Congress sending so strong a message of support to those who have worn the uniform.

Mr. President, I ask unanimous consent that the text of the attached joint explanatory statement be printed in the RECORD.

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

EXPLANATORY STATEMENT ON AMENDMENT TO SENATE BILL, S. 1235, AS AMENDED

S. 1235, as amended, the Veterans' Housing Opportunity and Benefits Improvement Act of 2006, reflects a Compromise Agreement reached by the Senate and House Committees on Veterans' Affairs (the Committees) on the following bills reported during the 109th Congress: S. 1235, as amended (Senate Bill), H.R. 1220, as amended, H.R. 2046, as amended, and H.R. 3665, as amended (House Bills). S. 1235, as amended, passed the Senate on September 28, 2005; H.R. 2046, as amended, passed the House on May 23, 2005; H.R. 3665, as amended, passed the House on November 10, 2005.

The Committees have prepared the following explanation of S. 1235, as further amended to reflect a compromise agreement between the Committees (Compromise Agreement). Differences between the provisions contained in the Compromise Agreement and the related provisions of the Senate Bill and the House Bills are noted in this document, except for clerical corrections, conforming changes made necessary by the Compromise Agreement, and minor drafting, technical, and clarifying changes.

TITLE I—HOUSING MATTERS

Adapted housing assistance for disabled veterans residing in housing owned by family member

Current law

Chapter 21 of title 38, United States Code, authorizes the Secretary to provide grants to adapt or acquire suitable housing for certain severely disabled veterans. The grant amounts are limited to $50,000 for severely disabled veterans with impairments of locomotion or loss of function of both arms described in section 2101(a) of title 38, United States Code, and $10,000 to severely disabled veterans with loss of vision or loss of function of both hands as described in section 2101(b) of title 38, United States Code. Currently a veteran may receive a grant for specially adapted housing only once. However, a veteran who has qualified for the smaller grant may nonetheless receive a higher grant if disabilities under that provision later develop.

Senate bill

The Senate Bill contains no comparable provision.

House bills

Section 101(a) through (e) of H.R. 3665, as amended, would amend chapter 21 of title 38, United States Code, by inserting a new section 2102A. Subparagraph (a) would authorize the Secretary of Veterans Affairs to conduct a program providing a partial adapted housing grant to severely injured veterans residing temporarily in housing owned by a family member. Subparagraph (b) would authorize the Secretary to provide up to a $10,000 grant for such veterans with disabilities involving impairments of locomotion and up to a $2,000 grant for such veterans with visual impairments or loss of function of both hands. Subparagraph (c) would limit the assistance to one family residence. Subparagraph (d) would require the Secretary to issue relevant regulations. Finally, subparagraph (e) would limit the program to 5 years after enactment.

Section 101(b) of H.R. 3665, as amended, would amend section 2102 of title 38, United States Code, to allow a veteran to receive no more than three grants of assistance under chapter 21 of title 38, United States Code.

The total value of all grants would not exceed $50,000 for the most severely disabled veterans and $10,000 for less severely disabled veterans. However, a veteran who receives a grant under section 2102(b) of title 38, United States Code, would still be allowed to receive grants under section 2102(a) of title 38, United States Code, if he or she becomes eligible.

Section 101(c) would amend chapter 21 of title 38, United States Code, by adding at the end a new section 2107 to provide that the Secretary shall coordinate the administration of programs to provide specially adapted housing that are administered by both the Under Secretary for Health and the Under Secretary for Benefits under chapters 17, 21, and 31 of title 38, United States Code.

Compromise agreement

Section 101 of the Compromise Agreement generally follows the House language except in the case of veterans residing temporarily in housing owned by a family member, veterans with disabilities involving impairments of locomotion may receive up to $14,000. Section 101 would also increase the funding fee for a subsequent use of the VA home loan guaranty with no money down by 5 basis points for the period October 1, 2006 through September 30, 2007.

Adjustable rate mortgages

Current law

Section 3707A(c)(4) of title 38, United States Code, limits the maximum increase or decrease of any single annual interest rate adjustment after the initial contract interest rate adjustment to 1 percentage point.

Senate bill

Section 201 of the Senate Bill would give VA the flexibility to prescribe an appropriate annual rate adjustment cap for VA hybrid Adjustable Rate Mortgage loans with an initial rate of interest fixed for 5 or more years.

House bills

The House Bills contain no comparable provision.

Compromise agreement

Section 102 of the Compromise Agreement follows the Senate language.

Permanent authority to make direct housing loans to native american veterans

Current law

Section 3761 of title 38, United States Code, establishes a pilot program to make direct housing loans to Native American veterans for homes on tribal lands. The authorization expires on December 31, 2008. Section 3762 of title 38, United States Code, describes the administration of the program and limits the maximum loan amount to $80,000, unless the Secretary allows a larger amount due to higher housing costs in a particular geographic area.

Senate bill

Section 203 of the Senate Bill contains a similar provision.

House bills

Section 102 of H.R. 3665, as amended, would make permanent the Native American Veteran Housing Loan Program. It would also limit the Secretary's discretion in approving a loan larger than $80,000 to the loan limitation amount provided by the Federal Home Loan Mortgage Corporation Act for a single-family residence.

Compromise agreement

Section 103 of the Compromise Agreement follows the House language.

Extension of Eligibility for direct loans for Native American Veterans to a veteran who is the spouse of a Native American

Current law

Section 3761 of title 38, United States Code, limits loans under the Native American Home Loan Program to veterans who are Native Americans. Under current law, a veteran residing on tribal lands with a Native American spouse is not eligible to receive a home loan under this program.

Senate bill

The Senate Bill contains no comparable provision.

House bills

Section 103 of H.R. 3665, as amended, would extend eligibility for the Native American Veteran Housing Loan Program to non-Native American veterans who are spouses of Native Americans eligible to be housed on tribal land. The non-Native American veteran must be able to acquire a meaningful interest in the property under tribal law.

Compromise agreement

Section 104 of the Compromise Agreement follows the House language.

Technical Corrections to Veterans' Benefit Improvement Act of 2004

Current law

Section 2101 of title 38, United States Code, provides for grants to adapt or acquire suitable housing for certain severely disabled veterans. Section 401 of Public Law 108–183 amended section 2101 to authorize the Secretary of Veterans Affairs to provide adapted housing assistance to certain disabled servicemembers who have not yet been processed for discharge from military service, but who will qualify for the benefit upon discharge due to the severity of their disabilities. However, this provision was inadvertently omitted from section 2101 of title 38, United States Code when changes to that section were made by P.L. 108–454.

Senate bill

Section 202 of S. 1235 would amend section 2101 of title 38, United States Code, to reinstate the authority of the Secretary to provide adapted housing assistance to certain members of the armed services and make other conforming amendments. The amendments made by this provision would take effect on December 10, 2004, immediately after the enactment of Public Law 108–454.

House bills

Section 4 of H.R. 2046, as amended, contains a similar provision.

Compromise agreement

Section 105 of the Compromise Agreement contains this provision.

TITLE II—EMPLOYMENT MATTERS

Additional duty for the Assistant Secretary of Labor for Veterans' Employment and Training to raise awareness of skills of veterans and of the benefits of hiring veterans

Current law

Subsection (b) of section 4102A of title 38, United States Code, describes the duties to be carried out by the Assistant Secretary of Labor for Veterans' Employment and Training.

Senate bill

The Senate Bill contains no comparable provision.

House bills

Section 202(a) of H.R. 3665, as amended, would add a new duty for the Assistant Secretary of Labor for Veterans' Employment and Training (ASVET) under section 4102A of title 38, United States Code, to furnish information to employers (through meetings with hiring executives of corporations and otherwise) concerning the training and skills of veterans and disabled veterans, and the advantages of hiring veterans. The ASVET would also be required to facilitate employment of veterans and disabled veterans through participation in labor exchanges (Internet-based and otherwise), and by other means.

Section 202(b) of H.R. 3665, as amended, would require the Secretary of Labor, acting through the ASVET, to develop a transition plan for the ASVET to assume certain duties and functions of the President's National Hire Veterans Committee and transmit the plan to the House and Senate Veterans' Affairs Committees not later than July 1, 2006.

Compromise agreement

Section 201 of the Compromise Agreement generally follows the House language, but does not include the requirement that the Secretary of Labor develop and transmit a transition plan.

Modifications to the Advisory Committee on Veterans Employment and Training

Current law

Section 4110 of title 38, United States Code, establishes the Advisory Committee on Veterans Employment and Training, its membership, and its duties. The Advisory Committee advises the ASVET on the employment and training needs of veterans and how the Department of Labor is meeting those needs. No outreach efforts are required of the Advisory Committee in current law.

Senate bill

The Senate Bill contains no comparable provision.

House bills

Section 203(a) of H.R. 3665, as amended, would amend section 4110 of title 38, United States Code, by renaming the ''Advisory Committee on Veterans Employment and Training'' to ''Advisory Committee on Veterans Employment, Training, and Employer Outreach''.

Section 203(b) would modify the duties of the Advisory Committee to include assisting and advising the Assistant Secretary of Labor for Veterans' Employment and Training (ASVET) in carrying out outreach to employers.

Section 203(c) would modify the membership of the Advisory Committee to include representatives from the National Society of Human Resource Managers, The Business Roundtable, the National Association of State Workforce Agencies, the United States Chamber of Commerce, the National Federation of Independent Business, a nationally recognized labor union or organization, veterans service organizations that have a national employment program, and recognized authorities in the fields of business, employment, training, rehabilitation, or labor. Section 203(c) would also retain six nonvoting ex officio members of the Advisory Committee: Secretary of Veterans Affairs, Secretary of Defense, Director of the Office of Personnel Management, Assistant Secretary of Labor for Veterans' Employment and Training, Assistant Secretary of Labor for Employment and Training, and the Administrator of the Small Business Administration.

Section 203(d) of H.R. 3665, as amended, would require the Advisory Committee to submit a report to the Secretary of Labor on the employment and training needs of veterans for the previous fiscal year. The report would include a description of the activities of the Advisory Committee during that fiscal year as well as suggested outreach activities to be carried out by the Secretary of Labor to employers with respect to the training and skills of veterans and the advantages afforded employers by hiring veterans.

Compromise agreement

Section 202 of the Compromise Agreement follows the House language.

Reauthorization of Appropriations for Homeless Veterans Reintegration Programs

Current law

Section 2021 of title 38, United States Code, authorizes appropriations for the Homeless Veterans Reintegration Programs (HVRP) through fiscal year 2006.

Senate bill

The Senate Bill contains no comparable provision.

House bills

Section 301 of H.R. 3665, as amended, would reauthorize HVRP for fiscal years 2007 through 2009, and retain the maximum authorization of $50 million per year.

Compromise agreement

Section 203 of the Compromise Agreement follows the House language.

TITLE III—LIFE AND HEALTH INSURANCE MATTERS

Duration of Servicemembers' Group Life Insurance coverage for totally disabled veterans following separation from service

Current law

Section 1968 of title 38, United States Code, provides coverage at no charge under the Servicemembers' Group Life Insurance program for 1 year after the date of separation or release from active duty if a veteran is rated totally disabled at the time of separation. Veterans may also convert their insurance coverage from Servicemembers' Group Life Insurance to Veterans' Group Life Insurance, or to an individual policy of insurance, during the 1-year, post-separation period.

Senate bill

Section 101 of the Senate Bill would extend from 1 to 2 years, after separation from active duty service, the period within which totally disabled members may receive premium-free SGLI coverage. In addition, such members would be eligible to convert their coverage to Veterans' Group Life Insurance or an individual policy of insurance.

House bills

The House Bills contain no comparable provision.

Compromise agreement

Section 301 of the Compromise Agreement would extend the post-separation coverage period from 1 to 2 years until September 30, 2011, for all members who are totally disabled when separated or released from active duty 1 year before date of enactment of this Act. For members who are totally disabled when they separate or are released on or after October 1, 2011, the post-separation coverage period would be reduced to 18 months.

Limitation on premium increases for reinstated health insurance of servicemembers released from active military service

Current law

Section 704 of the Servicemembers Civil Relief Act (SCRA) provides that a servicemember who is ordered to active duty is entitled, upon release from active duty, to reinstatement of any health insurance coverage in effect on the day before such service commenced. Section 704 of the SCRA currently contains no express provision regarding premium increases.

Senate bill

The Senate Bill contains no comparable provision.

House bills

Section 2 of H.R. 2046, as amended, would amend section 704 of SCRA by adding at the end a new subsection that would limit health insurance premium increases. The amount charged for the coverage once reinstated would not exceed the amount charged for coverage before the termination except for any general increase for persons similarly covered by the insurance during the period between termination and the reinstatement.

Compromise agreement

Section 302 of the Compromise Agreement follows the House language.

Preservation of employer-sponsored health plan coverage for certain reserve-component members who acquire tricare eligibility

Current law

Section 4317 of title 38, United States Code, requires an employer to provide employees returning from active duty with the same employer-sponsored health benefits they had when they reported for active duty. However, section 4317 does not preserve employer-sponsored health plan reinstatement rights for certain Reserve-component members who acquire health insurance coverage under TRICARE prior to entering active duty under section 1074(d) of title 10, United States Code. This option became available by an amendment to the TRICARE authority enacted on November 24, 2003.

Senate bill

The Senate Bill contains no comparable provision.

House bills

Section 3 of H.R. 2046, as amended, would amend section 4317 of title 38, United States Code, to preserve employer-sponsored health plan reinstatement rights under the Uniformed Services Employment and Reemployment Rights Act for Reserve-component members who acquire TRICARE coverage prior to entering active duty. This includes those Reserve Component members whose active duty orders are canceled prior to reporting to active duty.

Compromise agreement

Section 303 of the Compromise Agreement follows the House language.

TITLE IV—OTHER MATTERS

Inclusion of additional diseases and conditions in diseases and disabilities presumed to be associated with prisoner of war status

Current law

Section 1112(b) of title 38, United States Code, contains two lists of diseases that are presumed to be related to an individual's experience as a prisoner of war. The first presumptive list requires no minimum internment period and includes diseases associated with mental trauma or acute physical trauma, which could plausibly be caused by a single day of captivity. The second list has a 30-day minimum internment requirement.

Senate bill

Section 303 of the Senate Bill would codify a June 28, 2005, VA regulation which added atherosclerotic heart disease or hypertensive vascular disease (including hypertensive heart disease) and their complications (including myocardial infarction, congestive heart failure and arrhythmia), and stroke and its complications as presumptive conditions for service-connection when related to the prisoner of war experience. These diseases would be included under the list requiring a minimum 30–day internment period.

House bills

The House Bills contain no comparable provision.

Compromise agreement

Section 401 of the Compromise Agreement follows the Senate language.

Consolidation and revision of outreach activities

Current law

Section 7722 of title 38, United States Code, requires the Secretary of Veterans Affairs to distribute full information to eligible servicemembers, veterans, and dependents regarding all benefits and services to which they may be entitled under laws administered by the Department.

Senate bill

Section 301 of the Senate Bill would require VA to prepare annually (and submit to Congress) a plan governing an upcoming year's outreach activities. Such a plan would incorporate the recommendations of the report mandated by Public Law 108–454, and would be prepared after consultations with veterans service organizations, State and local officials, and other interested groups and advocates.

House bills

The House Bills contain no comparable provision.

Compromise agreement

Section 402 of the Compromise Agreement follows the Senate language with modifications. VA outreach activities would be revised and consolidated in a new chapter 63 of title 38, United States Code. Additionally, VA would be required to prepare biennially an outreach plan governing an upcoming 2 years of outreach activities, beginning on October 1, 2007. Furthermore, VA would be required to report biennially on the execution of the outreach plan, beginning on October 1, 2008.

Extension of reporting requirements on equitable relief cases

Current law

Section 503 of title 38, United States Code, authorizes the Secretary of Veterans Affairs to provide monetary relief to persons whom the Secretary determines were deprived of VA benefits by reason of administrative error by a federal government employee. The Secretary may also provide relief which the Secretary determines is equitable to a VA beneficiary who has suffered loss as a consequence of an erroneous decision made by a federal government employee. No later than April 1 of each year, the Secretary was required to submit to Congress a report containing a statement as to the disposition of each case recommended to the Secretary for equitable relief during the preceding calendar year; the requirement for this report expired on December 31, 2004.

Senate bill

Section 302 of the Senate Bill would extend the equitable relief reporting requirement through December 31, 2009.

House bills

The House Bills contain no comparable provision.

Compromise agreement

Section 403 of the Compromise Agreement follows the Senate language.

TITLE V—TECHNICAL AMENDMENTS

Technical and clarifying amendments to new traumatic injury protection coverage under servicemembers' group life insurance

Current law

Section 1032 of Public Law 109–13 (119 STAT. 257) established, effective December 1, 2005, a new traumatic injury protection program within title 38, United States Code. Section 1980A provides servicemembers enrolled in the Servicemembers' Group Life Insurance (SGLI) program automatic coverage against qualified traumatic injuries. In the event a servicemember sustains a qualified traumatic injury, SGLI will pay the injured servicemember between $25,000 to $100,000, depending on the nature of the injury and in accordance with a payment schedule prescribed by the Secretary of Veterans Affairs.

Senate bill

The Senate Bill contains no comparable provision.

House bills

Section 401 of H.R. 3665, as amended, would make various technical and clerical amendments to section 1980A of title 38, United States Code. These technical amendments more clearly specify the responsibilities of the different uniformed services who participate in the Servicemembers' Group Life Insurance program: military services under the jurisdiction of the Secretary of Defense, the United States Coast Guard under the Secretary of Homeland Security, the Public Health Service under the jurisdiction of the Secretary of Health and Human Services, and the National Oceanic and Atmospheric Administration under the jurisdiction of the Secretary of Commerce.

The technical amendments in section 401 are intended to clarify and to conform section 1980A of title 38, United States Code, to current provisions and are not intended to make any substantive change in current law.

Compromise agreement

Section 501 of the Compromise Agreement follows the House language.

Terminology amendments to revise references to certain veterans in provisions relating to eligibility for compensation or dependency and indemnity compensation

Current law

Sections 1114(l), 1114(m), 1115(b)(2), 1122(b)(2), 1311(c)(2), 1315(g)(2), and 1502(b)(2) of title 38, United States Code, contain language that refers to ''helpless veterans'' when relating to eligibility for compensation or dependency and indemnity compensation.

Senate bill

The Senate Bill contains no comparable provision.

House bills

Section 104 of H.R. 3665, as amended, would amend sections 1114(l), 1114(m), 1115(1)(E)(ii), 1122(b)(2), 1311(c)(2), 1315(g)(2), and 1502(b)(2) of title 38, United States Code, eliminating use of the obsolete term ''helpless'' when describing significantly disabled veterans. No substantive change is intended by these amendments.

Compromise agreement

Section 502 of the Compromise Agreement follows the House language.

LEGISLATIVE PROVISIONS NOT ADOPTED

Post traumatic stress disorder claims

Current law

Section 501 of title 38, United States Code, provides the Secretary of Veterans Affairs with the authority to prescribe all rules and regulations necessary or appropriate to carry out the laws administered by VA, including the methods of making medical examinations and the manner and form of adjudications and awards.

Senate bill

Section 304 would require VA to develop and implement policy and training initiatives to standardize the assessment of PTSD disability compensation claims.

House Bills

The House Bills contain no comparable provision.

Increase in rates of disability compensation paid to certain surviving spouses with children

Current law

Under current law, a surviving spouse with one or more children under the age of 18 is entitled to receive a transitional benefit of an additional $250 per month for the first two years of eligibility for dependency and indemnity compensation (DIC).

Senate bill

The Senate Bill contains no comparable provision.

House bills

Section 206 of H.R. 1220, as amended, would provide a cost-of-living adjustment for the $250 transitional DIC for 2006.

Treatment of stillborn children as insurable dependents under servicemembers' group life insurance program

Current law

Section 1967 of title 38, United States Code, provides coverage under the Service-members' Group Life Insurance program to the spouse and children of insured, full-time, active duty servicemembers, as well as covered members of the Ready Reserve. Coverage for the spouse may not exceed $100,000, and the servicemember may elect in writing not to insure a spouse. Coverage for each child, in the amount of $10,000, is automatic. Coverage for the dependent begins immediately following a live birth.

Senate bill

Section 102 of the Senate Bill would cover a member's stillborn child as an insurable dependent under the Servicemembers' Group Life Insurance program.

House bills

The House Bills contain no comparable provision.

Demonstration project to improve business practices of Veterans Health Administration

Current law

There is no applicable current law.

Senate bill

The Senate Bill contains no comparable provision.

House bills

Section 5 of H.R. 1220, as amended, would establish a demonstration project to improve the Department of Veterans Affairs' (VA) collections from third-party payers.

Parkinson's disease research, education, and clinical centers

Current law

There is no applicable current law.

Senate bill

The Senate Bill contains no comparable provision.

House bills

Section 6 of H.R. 1220, as amended, would permanently authorize six Parkinson's disease Research Education and Clinical Centers (PADRECCs), subject to appropriations, and give priority to the existing PADRECCs for medical care and research dollars, insofar as such funds are awarded to projects for research in Parkinson's disease and other movement disorders.

Extension of operation of the president's national hire veterans committee

Current law

Section 6 of the Jobs for Veterans Act, Public Law 107–288, established the President's National Hire Veterans Committee (PNHVC) within the Department of Labor. The PNHVC furnishes information to employers with respect to the training and skills of veterans and disabled veterans and the advantages of hiring veterans. The Secretary of Labor provides staff and administrative support to the PNHVC to assist it in carrying out its duties under this section. The PNHVC also has the authority to contract with government and private agencies to furnish information to employers. Under current law, the PNHVC terminated on December 31, 2005. The PNHVC was authorized $3 million appropriated from the Unemployment Trust Fund through fiscal year 2005.

Senate bill

The Senate Bill contains no comparable provision.

House bills

Section 201 of H.R. 3665, as amended, would amend section 6 of the Jobs for Veterans Act by extending, for up to 1 year, the President's National Hire Veterans Committee until not later than December 31, 2006. Section 201 would also extend the authorization for appropriations through fiscal year 2006 and require an additional PNHVC report to the House and Senate Veterans' Affairs Committees in 2006.

Mr. SUNUNU. Mr. President, today I rise in strong support of S. 1235, the Veterans' Housing Opportunity and Benefits Improvement Act of 2006. This legislation passed the House unanimously on Monday, and I urge my Senate colleagues to do the same.

S. 1235 contains many important provisions, but I would like to focus my remarks on section 101 of the bill, which deals with adaptive housing grants. Section 101 upgrades eligibility criteria for housing assistance grants to better reflect the needs of today's veteran community and will help all disabled veterans move home from medical facilities sooner. The language in section 101 is almost identical to my bipartisan legislation, S. 1947, The Specially Adapted Housing Improvements Grants Act and a bi-partisan amendment I introduced to S. 1932, the Deficit Reduction Act, which passed the Senate unanimously by voice vote.

First, I want to acknowledge my House colleague, Representative JOHN BOOZMAN of Arkansas, who serves as Chairman of the Veterans' Affairs Subcommittee on Economic Opportunity and has demonstrated real leadership on this issue. I am grateful to him for his considerable efforts to advance this measure in the House and I am happy to do so here in this Chamber. I also appreciate the hard work of the Chairman of the Veterans' Affairs Committee here in the Senate, Senator CRAIG, and the bipartisan group of Senators who cosponsored both my bill and amendment. The broad support of S. 1235 and its provisions represent a bipartisan belief on Capitol Hill that Congress must constantly evaluate veterans programs to make certain that our Nation provides responsive support to veterans.

While representing New Hampshire in the House and Senate, I have worked to ensure that those who served in our armed services receive their hard-earned benefits quickly and in full. Too often, out-of-date and burdensome regulations deny qualified veterans from receiving the benefits to which they are entitled. Whenever possible, it is imperative that we remove red tape that does not take into account the realities faced by today's veterans.

That is why I introduced legislation to reform rules that determine requirements for a Department of Veterans Affairs, VA, grant program that helps many disabled veterans make their

homes suitable for occupancy. Currently, a disabled veteran must at least partly own his or her residence to receive VA housing assistance grants to perform necessary residence modifications, such as installing wheelchair ramps or railings. However, many younger veterans returning from Iraq and Afghanistan have not yet had the opportunity to become homeowners. Being ineligible for VA funding assistance to modify their homes, these veterans and their families often are compelled to either shoulder the costs of retrofitting their residences or face extended stays in VA medical facilities.

Section 101 of S. 1235 will establish a 5-year pilot program to allow severely disabled veterans who live temporarily with family to receive up to $10,000 in adaptive housing assistance; less severely disabled veterans could receive a maximum of $2,000. This grant money will help ensure that all disabled veterans—regardless of whether they own property—are able to leave hospitals and return home as quickly as possible.

Also, mindful that these individuals will likely purchase their own residence, the bill will allow disabled veterans to receive two additional specially adaptive housing grants to be used for homes that they own in the future. Severely disabled veterans could receive a total of $50,000 to modify residences; less severely disabled veterans would be eligible for a total of $10,000. Only one of the three total grants could be used for a temporary residence, such as a family-owned home.

America's veterans have made enormous sacrifices to protect our Nation and the ideals for which it stands. Our country owes a special obligation to those men and women who have become disabled as a result of their service. Under no circumstances should these American heroes be divided into groups of ''haves'' and ''have nots.''

This Nation must do no less than to ensure that all disabled veterans are returned to the normalcy of home life as quickly and comfortably as possible. The common sense changes put forth in section 101 of S. 1235 do just that, and I urge my colleagues in the Senate to send this bill to President Bush to sign in to law in time, fittingly, for Memorial Day.

Mr. AKAKA. Mr. President, as ranking member of the Committee on Veterans' Affairs, I urge my colleagues to support our current servicemembers, veterans, and their families by supporting the pending measure, the final agreement on the Veterans' Housing Opportunity and Benefits Improvement Act of 2006. This is a vital and timely piece of legislation that has already passed the House of Representatives. With Senate passage today and the President's signature it will quickly become public law.

Mr. President, this measure, which I shall refer to as the ''Compromise Agreement,'' will improve and expand a wide variety of veterans benefits and programs, including, among others, housing benefits for Native American veterans and severely disabled servicemembers; insurance benefits for certain disabled veterans; compensation benefits for former prisoners of war; and programs that provide assistance to homeless veterans.

This legislation is appropriate at a time when our servicemembers are in harm's way. We must always remember the sacrifices that our servicemembers, both past and present, have made on behalf of this great Nation and we must do our part to respond to their service by improving and expanding veterans benefits.

In 1992, I authored the legislation that established a pilot program to make direct housing loans to Native American veterans for homes on tribal lands. As of the end of April, VA had made 504 loans to this group of veterans. Under this program, VA offers loan guarantees that protect lenders against loss up to the amount of the guaranty if the borrower fails to repay the loan. Prior to the enactment of this law, Native American veterans residing on tribal lands were unable to qualify for VA home loan benefits. With the Native American Veteran Housing Loan Program indigenous peoples residing on trust lands are now able to use this very important VA benefit. I am pleased that the Compromise Agreement contains a provision derived from legislation I offered, S. 917, that would make this pilot program, which was set to expire on December 31, 2008, permanent.

The Compromise Agreement also extends, from 1 to 2 years, the amount of time a disabled servicemember has to convert his or her Servicemembers' Group Life Insurance coverage into Veterans' Group Life Insurance coverage. This change is being made so that veterans may concentrate on recovering from their injuries or conditions, and not on meeting deadlines for life insurance conversion.

Under current law, former prisoners of war have to been held for a minimum of 30 days before they can benefit from a presumption that certain diseases are linked to their service. The Compromise Agreement also would add heart disease and stroke to presumptive conditions for service-connection for former prisoners of war.

Homelessness among veterans is a critical problem. It is particularly troubling to me that an estimated 56 percent of today's homeless veterans are minorities. The homeless rate in my home state of Hawaii has nearly doubled since early 2000, with the majority of Hawaii's new homeless being Native Hawaiians. The city of Honolulu has a tremendous problem with affordable housing, increasing the possibility of becoming homeless for those who already struggle to make ends meet. The Compromise Agreement would reauthorize through fiscal year 2009 the Homeless Veterans Reintegration Programs, which are the only Federal programs dedicated wholly to providing employment services to homeless veterans.

Also included in the Compromise Agreement is my provision that would make a technical change to the specially adapted housing grant program. Last session, the law that allows severely disabled members of the Armed Forces to receive specially adapted housing grants from VA, while still on active duty, was inadvertently repealed. My provision would correct this and restore the grant to its original intent.

In conclusion, I thank Senator CRAIG and the benefits staff on the majority for their work on this comprehensive bill, especially Jon Towers, Amanda Meredith, and Lupe Wissel and, on the Democratic staff Dahlia Melendrez, Pat Driscoll, and Noe Kalipi for their hard work on this legislation.

Mr. President, I urge my colleagues to support this legislation on behalf of America's veterans and their families.

Mr. FRIST. I ask unanimous consent the Senate concur in the House amendments, the motion to reconsider be laid upon the table, and any statements related to the bill be printed in the RECORD.

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

MEASURE READ THE FIRST TIME—S. 3064

Mr. FRIST. Mr. President, I understand there is a bill at the desk, and I ask for its first reading.

The PRESIDING OFFICER. The clerk will read the title of the bill for the first time.

The assistant legislative clerk read as follows:

A bill (S. 3064) to express the policy of the United States regarding the United States relationship with Native Hawaiians and to provide a process for the recognition by the United States of the Native Hawaiian governing entity.

Mr. FRIST. Mr. President, I now ask for its second reading, and in order to place the bill on the calendar under rule XIV, I object to my own request.

The PRESIDING OFFICER. Objection having been heard, the bill will receive its second reading on the next legislative day.

ORDERS FOR FRIDAY, MAY 26, 2006

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 8:45 a.m. on Friday, May 26. I further ask 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 proceed to executive session and resume consideration of Executive Calendar No. 632, the Kavanaugh nomination; provided further that all time during the adjournment of the Senate count under rule XXII.

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

PROGRAM

Mr. FRIST. Mr. President, tomorrow, we will be in session at 8:45 in the morning, and we expect to proceed to a vote on the Kavanaugh nomination, to be followed by a vote on the Hayden nomination, and a cloture vote on the Kempthorne nomination. Thus, Senators can expect three votes very early tomorrow morning. Those votes should begin shortly after we convene at 8:45 a.m. I thank my colleagues for their work on the immigration bill that we passed earlier today.

ORDER FOR ADJOURNMENT

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, following the remarks of Senator OBAMA for 10 minutes, Senator LEVIN for 30 minutes, and then Senator SCHUMER.

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

The Senator from Illinois.

NOMINATION OF GENERAL MICHAEL HAYDEN

Mr. OBAMA. Mr. President, let me start by saying that the nomination of General Hayden is a difficult one for me. I generally, as a rule, believe the President should be able to appoint members of his Cabinet, of his staff, to positions such as the one General Hayden is nominated for without undue obstruction from Congress.

General Hayden is extremely well qualified for this position. Having previously served as head of the National Security Agency and as Deputy Director of National Intelligence under John Negroponte, he has 30 years of experience in intelligence and national security matters. And he was nearly universally praised during his confirmation to Deputy DNI.

There are several members of the Intelligence Committee, including Senator LEVIN, who I hold in great esteem, who believe General Hayden has consistently displayed the sort of independence that would make him a fine CIA Director.

Unfortunately, General Hayden is being nominated under troubling circumstances, as the architect and chief defender of a program of wiretapping and collection of phone records outside of FISA oversight. This is a program that is still accountable to no one and no law.

Now, there is no one in Congress who does not want President Bush to have every tool at his disposal to prevent terrorist attacks—including the use of a surveillance program. Every single American—Democrat and Republican and Independent—who remembers the images of falling towers and needless death would gladly support increased surveillance in order to prevent another attack.

But over the last 6 months, Americans have learned that the National Security Agency has been spying on Americans without judicial approval. We learned about this not from the administration, not from the regular workings of the Senate Intelligence Committee, but from the New York Times and USA Today. Every time a revelation came out, President Bush refused to answer questions from Congress.

This is part of a general stance by this administration that it can operate without restraint. President Bush is interpreting article II of the Constitution as giving him authority with no bounds. The Attorney General and a handful of scholars agree with this view, and I do not doubt the sincerity with which the President and his lawyers believe in their constitutional interpretation. However, the overwhelming weight of legal authority is against the President on this one. This is not how our Constitution is designed, to give the President unbounded authority without any checks or balances.

We do not expect the President to give the American people every detail about a classified surveillance program, but we do expect him to place such a program within the rule of law and to allow members of the other two coequal branches of Government—Congress and the judiciary—to have the ability to monitor and oversee such a program. Our Constitution and our right to privacy as Americans require as much.

Unfortunately, we were never given the chance to make that examination. Time and again, President Bush has refused to come clean to Congress. Why is it that 14 of 16 members of the Intelligence Committee were kept in the dark for 4½ years? The only reason that some Senators are now being briefed is because the story was made public in the newspapers. Without that information, it is impossible to make the decisions that allow us to balance the need to fight terrorism while still upholding the rule of law and privacy protections that make this country great.

Every democracy is tested when it is faced with a serious threat. As a nation, we have had to find the right balance between privacy and security, between executive authority to face threats and uncontrolled power. What protects us, and what distinguishes us, are the procedures we put in place to protect that balance; namely, judicial warrants and congressional review. These are not arbitrary ideas. They are not new ideas. These are the safeguards that make sure surveillance has not gone too far, that somebody is watching the watchers.

The exact details of these safeguards are not etched in stone. They can be reevaluated, and should be reevaluated, from time to time. The last time we had a major overhaul of the intelligence apparatus was 30 years ago in the aftermath of Watergate. After those dark days, the White House worked in a collaborative way with Congress through the Church Committee to study the issue, revise intelligence laws, and set up a system of checks and balances. It worked then, and it could work now. But, unfortunately, thus far, this administration has made no effort to reach out to Congress and tailor FISA to fit the program that has been put in place.

I have no doubt that General Hayden will be confirmed. But I am going to reluctantly vote against him to send a signal to this administration that even in these circumstances, even in these trying times, President Bush is not above the law. No President is above the law. I am voting against Mr. Hayden in the hope that he will be more humble before the great weight of responsibility that he has not only to protect our lives but to protect our democracy.

Americans fought a Revolution in part over the right to be free from unreasonable searches—to ensure that our Government could not come knocking in the middle of the night for no reason. We need to find a way forward to make sure we can stop terrorists while protecting the privacy and liberty of innocent Americans. We have to find a way to give the President the power he needs to protect us, while making sure he does not abuse that power. It is possible to do that. We have done it before. We could do it again.

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

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Mr. President, I ask unanimous consent that I be allowed to speak for 5 minutes before the Senator from Michigan speaks—he has graciously agreed to allow me to do that—and then he be given as much time as he needs.

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

Mr. SCHUMER. Thank you, Mr. President. I want to first, again, thank Senator CARL LEVIN, who I know has been graciously acceding all night. So he will be the last person to speak here, but I very much appreciate it. And I know all of my colleagues do.

NOMINATION OF BRETT KAVANAUGH

Mr. SCHUMER. Mr. President, I rise in opposition to the confirmation of Brett Kavanaugh to the DC Circuit Court of Appeals.

This court is too important, its jurisdiction too broad, and its decisions too final, for a lifetime seat to be entrusted to someone with such limited nonpartisan experience—even someone as bright as Mr. Kavanaugh clearly is.

First, let me say that I am continually frustrated by the nature of the debate that takes place in the Senate and in the public about the so-called politicization of the judicial nomination and confirmation process. We are often told—with a straight face—that politics and ideology play no part in the President's thinking when it comes to judicial nominations.

But, as anyone who is paying attention knows full well: It is the President who too often picks judicial nominees with politics and ideology squarely in mind.

It is the President who too often picks judicial nominees with an eye towards shoring up his conservative political base. It is the President who too often selects judicial nominees with an eye towards picking a political fight. And, of course, on at least one occasion—in the case of Harriet Miers—it was the President who withdrew a nominee with an eye towards mitigating political damage.

So, those who complain that the process has become politicized and that ideology shouldn't matter should take their quarrel to the other end of Pennsylvania Avenue.

In this case—especially after Mr. Kavanaugh's second hearing—I continue to believe that his nomination is too infused with politics and that Mr. Kavanaugh himself is neither seasoned enough nor independent enough at this early stage of his career to merit a lifetime appointment to the second highest court in the land.

Let me say a word about how deeply important the DC Circuit Court of Appeals is.

But there are serious questions as to why, at barely 40, having never tried a case, and with a record of service almost exclusively to highly partisan political matters, he is being nominated to a seat on the second most important court in America.

Why is the DC Circuit so important?

The Supreme Court currently takes fewer than 100 cases a year. That means that the lower courts resolve the tens of thousands a cases a year brought by Americans seeking to vindicate their rights. All the other Federal appellate courts handle just those cases arising from within its boundaries. So, for example, the Second Circuit, where I am from, takes cases coming out of New York, Connecticut, and Vermont.

But the DC Circuit doesn't just take cases brought by residents of Washington, DC. Congress has decided there is value in vesting one court with the power to review certain decisions of administrative agencies.

We have given plaintiffs the power to choose the DC Circuit—and in come cases we have forced them to go to the DC Circuit—because we have decided for better or worse, that when it comes to these administrative decisions one court should decide what the law is for the whole Nation.

When it comes to regulations adopted under the Clean Air Act by the EPA, labor decisions made by the NLRB and rules propounded by OSHA, gas prices regulated by the Federal Energy Regulatory Commission, and many other administrative matters, the decisions are usually made by the judges on the DC Circuit, to which Mr. Kavanaugh aspires.

To most, it seems like this is the ''Alphabet Soup Court,'' since virtually every case involves an agency with an unintelligible acronym—EPA, NLRA, FCC, SEC, FTC, FERC, and so on, and so on.

But the letters that make up this ''Alphabet Soup'' are what make our Government tick. They are the agencies that write and enforce the rules that determine how much ''reform'' there will be in campaign finance reform. They determine how clean the water has to be for it to be safe for our families to drink. They establish the rights workers have when negotiating with corporate powers.

The DC Circuit is important because its decisions determine how these Federal agencies go about doing their jobs. And, in so doing, it directly impacts the daily lives of all Americans more than any other court in the country, with the exception of the Supreme Court.

Mr. President, there is so much at stake when considering nominees to the DC Circuit—how their ideological predilections will impact the decisions coming out of the court—and why it is vital for Senators to consider how nominees will impact the delicate ideological balance on the court when deciding how to vote.

Given the importance of that court, I cannot vote to confirm Mr. Kavanaugh. Although Mr. Kavanaugh has held several important and influential positions in Government, they have been almost exclusively political. While his academic credentials are undeniably top-notch, he has largely devoted his legal talents to helping notch political victories for his party. While his resume is laden with high-profile political assignments, it is light on the kinds of professional and nonpartisan accomplishments typical of recent nominees to this important court.

Mr. Kavanaugh has been one of the point people among young Republican lawyers, appearing at the epicenter of so many high-profile controversial issues in a relatively short career. That is not in itself dispositive, but that is all there is. There is not much more we can rely on to offset this experience.

Notwithstanding his legal credentials, he is younger than, and has less relevant experience than, almost everyone else who has joined the DC Circuit in modern times.

If this were a nominee for the district court, where it belongs, there would not be opposition. But it seems as if Mr. Kavanaugh's nomination is repayment for services rendered to the political operation of the White House and the Republican Party. He does not have a long list of articles. He does not have a long list of judicial experience, or even of legal experience outside of the political realm. And it shows you the brazenness of this administration, frankly, that he would be nominated to the second highest court in the land. It shows you that they value ideology and political service above judicial experience and depth.

The bottom line is this, that Mr. Kavanaugh does not belong on this court. If my colleagues on the other side of the aisle were not so apt to just rubberstamp every single nominee that this administration puts forward, he would not get to this court. But the reason we are unable to block this nomination is not because of the merits—I wish we could because America will regret, I believe, having Mr. Kavanaugh on the court for decades to come—but it is because, again, we have seen fewer than a handful of times any Republican Member vote against any nominee who this White House nominates.

Mr. Kavanaugh is intelligent; no question. Intelligence alone is hardly a criteria for the second most important court in the land.

Mr. Kavanaugh, when I met him, told me one way to make a judgment about him would be to talk to the people who know him, to talk to colleagues and judges and others familiar with his work. That is what the American Bar Association actually did in preparing his evaluation. And I have rarely seen an evaluation that has comments such as these: One lawyer said that Mr. Kavanaugh was ''sanctimonious'' and inexperienced. A lawyer in a different proceeding said: Mr. Kavanaugh did not handle the case well as an advocate and dissembled. Another said he was ''inexperienced in the practice of law.'' Others characterized him as ''insulated.'' One lawyer who worked with him questioned his ability ''to be balanced and fair should he assume a federal judgeship.''

Unfortunately, I think that is the reason he was chosen. The administration on this DC Court of Appeals wants people who will not be balanced and fair. They want people who have an ideological ax to grind, to undo the work of Government which this court oversees.

It is true that this is the second most important court in the land. It is also true to say that there cannot be a single person in this body, if they were being honest, who does not recognize that there are many more qualified people in Washington to be on this bench.

So, Mr. President, I must vote against this nomination, with the full conviction that we could do a lot better.

Mr. Kavanaugh, if confirmed, would be the youngest person on the D.C. Circuit since his mentor, Ken Starr.

By a quick review of the preconfirmation accomplishments of the active judges who currently sit on the D.C. Circuit, the nominee's

achievements—though impressive—are simply not on a par.

Every active judge had significant professional and nonpartisan experience to help persuade us that they merited confirmation.

I remind my colleagues that in recent months, I voted for two Republican nominees who were deeply involved in the impeachment of President Clinton—Tom Griffith for the very court to which Mr. Kavanaugh has been nominated and Paul McNulty to the second highest position in the Justice Department.

Now let me come to the ABA report released recently. Some of my friends across the aisle have fallen over themselves to dismiss, dilute, and denigrate that report. This, of course, despite the fact that last time around, Mr. Kavanaugh and several Senators frequently repeatedly boasted about his original, higher ABA rating.

Here is why the observations noted in that report are important. When he and I met recently, I asked Mr. Kavanaugh how we are to judge someone with his scant record. He has very few writings. He is younger than almost everyone who has been nominated to the D.C. Circuit. He has never been a judge.

Mr. Kavanaugh told me that one way to make a judgment about him would be to talk to the people who know him, to talk to colleagues and judges and others who are familiar with him and his work.

Well, that is one of the things the American Bar Association actually did in preparing its evaluation. They talked—as Mr. Kavanaugh himself suggested—with people who are familiar with his work.

What is more, they do it under a promise of confidentiality, so that they will be likely to obtain the most honest and candid appraisals—rather than the expected plaudits from peers and previous employers.

Many of those interviewed echoed precisely the concerns that I and others have raised—his lack of relevant experience and the effect the insularity of his political experience might have on his ability to be a neutral judge.

Now, I understand that none of the 14 committee members found Mr. Kavanaugh flatly ''not qualified.''

But I ask my colleagues, shouldn't we give substantial weight to these statements from people who are familiar with his work—not isolated remarks, but a multitude of them, from different quarters, commenting about different court appearances and interactions with him?

Given the importance of the D.C. Circuit, we have a duty to closely scrutinize the nominees who come before us seeking lifetime appointment to this court.

And it is no insult to Mr. Kavanaugh, to say that there can't be a single person in this room, if they were being honest, who doesn't recognize that there are scores of lawyers in Washington and around the country who are of equally high intellectual ability, but who have much more significant judicial, legal, and academic experience to recommend them for this post.

So I would say that many of my colleagues and I have a sincere and good-faith concern that this nominee is not apolitical enough, not seasoned enough, not independent enough, and has not been forthcoming enough. The hearing did not alleviate those concerns.

Indeed, Mr. Kavanaugh was evasive when he should have been forthright; he sidestepped questions when he should have met them head on.

During an extended exchange with me, he repeatedly refused to answer a simple question—whether he had ever expressed opposition to a potential judicial nominee within the White House, even though there is no conceivable earthly privilege that should have prevented him from answering.

On another occasion, it took Senator LEAHY four tries before Mr. Kavanaugh would answer the simple question: Why did you take 7 months to respond to the Judiciary Committee's written questions in 2004?

On yet another occasion, he continued to refuse to tell us whether he is in the mold of Scalia and Thomas, even though he has spent several years selecting and vetting highly ideological judges for the President who has repeatedly promised to nominate judges in ''the mold of Scalia and Thomas.''

If the President can say repeatedly at campaign stops and speeches that he wants judges in the mold of Scalia and Thomas, and if those statements are not just meaningless, empty rhetoric, why can't we Senators find out in some meaningful way whether there is any truth in advertising?

In short, if the nominee had spent the last several years on a lower court or in a nonpolitical position proving his independence from politics, I could view his nomination in a different light.

But he has not. Instead, his résumé is almost unambiguously political. Perhaps with more time, and different experience, we would have greater comfort imagining Mr. Kavanaugh on this court. But that day is not yet here.

Therefore, I vote nay on the nomination and urge my colleagues to do the same.

With that, I yield the floor and, once again, thank my colleague from Michigan.

The PRESIDING OFFICER. The Senator from Michigan.

NOMINATION OF GENERAL MICHAEL V. HAYDEN

Mr. LEVIN. Mr. President, General Hayden's nomination for Director of the Central Intelligence Agency comes at a critical time. The Agency is in disarray. Its current Director has apparently been forced out, and the previous Director, George Tenet, departed under a cloud after having compromised his own objectivity and independence and that of his Agency by misusing Iraq intelligence to support the administration's policy agenda. The next Director must right this ship and restore the CIA to its critically important mission.

I will vote to confirm General Hayden because his actions have demonstrated on a number of important occasions the independence and strength of character needed to fulfill the most important role of the CIA Director—independence and a willingness to speak truth to power about the intelligence assessments of professionals in the intelligence community.

This nomination has been considered by me on two key issues: One, whether or not General Hayden will be independent—and I believe he will—and two, what judgment should be rendered about him based on what is known about the National Security Agency's surveillance program which he administered during his tenure as Director of the NSA. Again, the highest priority of the new Director must be to ensure that intelligence provided to the President and the Congress is objective and independent of political considerations. It was only a few years ago that then-CIA Director George Tenet shaped intelligence to support the policy position of the administration. There are many examples.

On February 11, 2003, just before the war, Director Tenet publicly stated, as though it were fact, that Iraq has ''provided training in poison and gases to two Al-Qaeda associates.'' However, we now know that the DIA, the Defense Intelligence Agency, had assessed a year earlier that the primary source of that report was more likely intentionally misleading his debriefers, and the CIA itself had concluded in January 2003, before the Tenet public declaration that I have quoted, that the source of the claim that Iraq had provided training in poisons was not in a position to know if any training had in fact taken place.

On September 28, 2002, President Bush said that ''each passing day could be the one on which the Iraqi regime gives anthrax or VX nerve gas or someday a nuclear weapon to a terrorist group.'' A week later, on October 7, 2002, a letter declassifying CIA intelligence indicated that Iraq was unlikely to provide WMD to terrorists or al-Qaida and called such a move an ''extreme step,'' a very different perspective from that which had been stated by the President. But the very next day after that declassification was obtained, Director Tenet told the press that there was ''no inconsistency'' between the views in the letter and the President's views on the subject.

His statement was flatly wrong. His effort to minimize the inconsistency or eliminate it not only revealed his lack of independence, but it damaged the credibility of the Central Intelligence Agency.

At a hearing in 2004, I asked Director Tenet about the alleged meeting between 9/11 hijacker Mohammed Atta and an Iraqi intelligence officer in Prague in April 2001. He told us that the CIA had ''not gathered enough evidence to conclude that it had happened'' and that ''I don't know that it took place. I can't say that I did.'' What he neglected to say was that the CIA did not believe that the meeting had happened, a fact that he finally acknowledged publicly in July of 2004, after the war began, when he wrote that the CIA was ''increasingly skeptical that such a meeting occurred'' and that there was an ''absence of any credible information that the April 2001 meeting occurred.'' We determined later that that CIA skepticism dated back at least to June 2002, before the war.

Director Tenet also looked the other way when the administration publicly alleged that Iraq was seeking uranium from Africa. As a matter of fact, he had personally called the Deputy National Security Adviser to urge that the allegation be removed from the President's October 2002 Cincinnati speech. Director Tenet was silent after the President included the allegation in his January 2003 State of the Union speech. It was not until July of 2003, long after the war began, 2 months after President Bush declared major combat operations were over in Iraq, that Director Tenet finally acknowledged publicly that the allegations should not have been included in the State of the Union speech.

According to Bob Woodward's book ''Plan of Attack,'' when the President asked Director Tenet, following the CIA's presentation to him in December of 2002, about its intelligence relative to Iraq's suspected WMD programs, How confident are you in the intelligence about that, Director Tenet replied, ''Don't worry; it's a slam dunk,'' which it surely was not. But that is what the President wanted to hear. That is the message which Director Tenet presented to him, and that is the message that the President then presented to the American public.

It is essential that the new Director of the CIA stand up to the administration in power, no matter what administration it is, when the intelligence does not support the direction that the administration wants to go. We cannot afford another Iraq intelligence fiasco.

General Hayden has said that he will be an independent CIA Director. Based on his record, I believe him.

One piece of evidence in that Hayden record relates to a strategy that the administration used to bolster its case for war. The decision was made by the administration to put a set of what was called ''fresh eyes'' to look over the intelligence relative to the alleged links between Iraq and al-Qaida. The Secretary of Defense created a separate operation in a DOD policy office led by Douglas Feith. While the intelligence community was consistently dubious of the links between al-Qaida and Iraq, the Feith office scraped and scratched and cherry-picked the intelligence to produce assessments that said that there was a strong relationship between Saddam Hussein and al-Qaida. And then Mr. Feith bypassed the CIA, bypassed the intelligence community, and briefed that analysis to senior policymakers at the National Security Council and the Vice President's office.

George Tenet told us that he was not aware of that prewar briefing by Mr. Feith, until I brought it to his attention in February of 2004. In making its case for war with Iraq, the administration used Mr. Feith's misleading intelligence to convince the country that Saddam and bin Laden were allies. There were few in the administration who had been willing to speak up against this bypass of the intelligence community process, a process whose very purpose is to provide balanced, objective assessments for the intelligence community. One of the few who has spoken up is General Hayden.

At his nomination hearing, I asked General Hayden whether, when he was NSA Director before the Iraq war, he was comfortable with what Douglas Feith was up to. My question to General Hayden was not just about Doug Feith. It was about whether the General was willing to speak the truth as he saw it, even if it went against the administration's case for war. General Hayden told the committee, relative to the Feith operation:

> No, sir. I wasn't comfortable.

Has anyone else in the administration said that, spoken up and said that which is so obvious about the Feith operation?

There may be others, but General Hayden is the only one that comes to mind. This is what he then said to the committee at our hearing on his nomination:

> It is possible, Senator, if you want to drill down on an issue and just get laser beam focused, and exhaust every possible—every ounce of evidence, you can build up a pretty strong body of data, right? But you have to know what you're doing, all right.
>
> I got three great kids, but if you tell me go out and find all the bad things they've done, Hayden, I can build you a pretty good dossier, and you'd think they were pretty bad people, because that was what I was looking for and that's what I'd build up.

General Hayden said this:

> That would be very wrong. That would be inaccurate. That would be misleading.

Wrong, inaccurate, and misleading. That is a pretty good description of the Feith shop's prewar intelligence analysis. It is an indictment of the administration's use of that intelligence to make the case for war.

But what is interesting, in particular, is not just what General Hayden said at his confirmation hearing; it is what he did at the time that the Feith office was actually out looking for intelligence to try to prove their premise that there was a connection between Saddam and al-Qaida. General Hayden actually placed a disclaimer on NSA reporting relative to any links between al-Qaida and Saddam Hussein, stating that SIGINT—or signals intelligence—''neither confirms nor denies'' such a link.

So while you had the administration claiming the link and Doug Feith scrapping around, scratching for any little bit of evidence that could prove his preordained conclusion that there was such a link, you had General Hayden saying SIGINT, signals intelligence, neither confirms nor denies that such a link exists.

In other words, we have in General Hayden more than just promises of independence and objectivity and a willingness to speak truth to power. We have somebody who has actually done so.

There is another significant way in which General Hayden has spoken truth to power. When we were considering reforming the intelligence community to fill the gaps and the cracks that existed prior to 9/11 and the Iraq War, there was a major effort to derail the proposal, in part because the legislation sought to shift some authority from Department of Defense components to the new office of the Director of National Intelligence. Although General Hayden is a four star general, he stood up to Defense Secretary Rumsfeld on this issue. It took some backbone and strength of character for him to do so.

As to General Hayden remaining in active duty if he is confirmed, I would only make three points. One, he is not the first person to do so. Since the Central Intelligence Agency was established by law in 1947, three commissioned officers have held the tile of Director of Central Intelligence, RADM Roscoe Hillenkoetter, GEN Walter Bedell Smith, and ADM Stansfield Turner. I would also remind my colleagues that the Senate confirmed then LTG Colin Powell to be President Reagan's National Security Adviser even though there is no law that removes that position from the supervision or control of the Secretary of Defense.

Secondly, General Hayden has sent a letter to Senator WARNER which states ''I do not intend to remain in active military status beyond my assignment as Director, Central Intelligence Agency (if confirmed).'' This is an added assurance of independence and that he will not be shaping intelligence to please the Defense Department in order to put himself in a better position for some future appointment in the military establishment.

Third, General Hayden's supervisor in his line of work as Director of the CIA will be by law Ambassador Negroponte, not Secretary Rumsfeld. So General Hayden would not be in the military chain of command but in the intelligence chain of command.

To eliminate any doubt of that, we are including a provision in the Defense authorization bill, which is awaiting Senate floor action, to make

that absolutely clear in law. Senator WARNER and I think it is already clear, but we are going to make it doubly clear by putting that into the pending DOD authorization bill.

As I mentioned, the key issue relative to General Hayden's nomination is the President's domestic surveillance program. Over the past 6 months, we have been engaged in a national debate about the appropriate limits on the Government's authority to conduct electronic eavesdropping on American citizens.

General Hayden was Director of the National Security Agency when the President authorized the program, and many of our colleagues have raised concerns about that.

The administration has repeatedly characterized the electronic surveillance program as applying only to international calls and not involving any domestic surveillance. In February, for instance, the Vice President said:

> Some of our critics call this a domestic surveillance program. Wrong, that is inaccurate; it is not domestic surveillance.

Ambassador Negroponte said:

> This is a program that was ordered by the President with respect to international phone calls to or from suspected al-Qaida operatives and their affiliates . . . This was not about domestic surveillance.

General Hayden found a way to signal that the administration has not described the entire program. When asked at his confirmation hearing whether the program the administration described is the entire program, General Hayden said he could not answer in open session. Presumably, if it were the entire program, he could have easily answered, ''yes.''

In addition, while Stephen Hadley, the President's National Security Adviser, has said relative to the reports that phone records had been provided to the Government under the NSA program, that it is hard to find a privacy issue here, General Hayden did not make that claim and instead acknowledged that, indeed, privacy was an issue, and surely whatever one thinks they believe about this program, privacy is an issue.

There may be some who, when they understand the program, believe the privacy concerns are overridden by the security advantage. There may be others who reach the other conclusion that whatever security advantages are achieved do not overcome the privacy intrusions that are reported to exist by those phone records being in the possession or being available to the Government, according to those press reports. But whatever one's conclusion is, there are clearly privacy concerns involved. And when the general was in front of us—he was honest enough—and said: I cannot say there are no privacy concerns here, he was telling us something which should be obvious to each one of us.

There are remaining for me a lot of unanswered questions about the NSA program, and I have been one who has been at least partially briefed. I am one of that subcommittee of seven for whom the briefing has begun. But the fact is, the legal opinions about this program are not General Hayden's, they are the Attorney General's. I am aware of no allegation that General Hayden took any action that went beyond what the President authorized or what the Attorney General advised was legal. There are legitimate grounds for criticism regarding this program, but such criticism should be aimed at the White House and the Attorney General.

The Intelligence Committee is in the middle of an inquiry into the program. Now that the full committee has been authorized to be briefed on the program, all of the members of the Intelligence Committee need to catch up to where seven of us are, which is about halfway through the briefings. We are still waiting for the administration to answer many questions that we have asked about the program.

I want to turn for a few moments to the issue of detainee treatment. I would have liked General Hayden to be more forthcoming on this issue at his hearing. In his testimony, General Hayden affirmed that the CIA is bound by the Detainee Treatment Act of 2005. In particular, General Hayden stated that this legislation's prohibition on the cruel, inhuman, and degrading treatment or punishment of detainees applies to all Government agencies, including the CIA. The Detainee Treatment Act also requires that no individual under the effective control of the Defense Department or in a DOD facility will be subjected to any interrogation technique that is not listed in the Army Field Manual on Intelligence Interrogations. In response to my questioning, General Hayden agreed that the Army field manual would apply to CIA interrogations of detainees under DOD's effective control or in a DOD facility.

I was disappointed, however, that General Hayden repeatedly chose not to 12 respond in public to many other questions on detainee treatment, deferring his answers to the hearing's closed session. I believe that he could have answered these questions and related his professional opinion in the public hearing.

In response to Senator FEINSTEIN's questions, General Hayden would not say publicly whether individuals held at secret sites may be detained for decades. He would not say publicly whether waterboarding is an acceptable interrogation technique whether the Agency has received new legal guidance from the Department of Justice since passage of the Detainee Treatment Act in December of last year. General Hayden would not answer my question whether the Justice Department memo on the legality of specific interrogation techniques, referred to as the second Bybee memo, remains operative, saying only that ''additional legal opinions'' have been offered. The problem is exacerbated because the administration continues to deny our requests for the second Bybee memo and other Justice Department legal memos which set out the legal boundaries for what constitutes permissible treatment of detainees.

Under the Detainee Treatment Act, we have established a single standard—no cruel, inhuman, or degrading treatment or punishment of detainees. This standard applies without regard to what agency holds a detainee, whether the Defense Department or the CIA, or where the detainee is being held. Yet the administration will not say publicly whether this standard has the same meaning for the intelligence community that it has for our military. The Government's views on the standard for how we treat detainees remains cloaked in secrecy.

The Armed Services Committee has heard from the judge advocates general of our military services on what they believe the standard for detainee treatment is. The judge advocates general were asked about the use of dogs in interrogations; forcing a detainee to wear women's underwear during interrogation to humiliate him; leading a detainee around the room on all fours and forcing him to perform dog tricks; subjecting a detainee to provocative touching to humiliate or demean him; subjecting a detainee to strip searches and forcing him to stand naked in front of females as an interrogation method; and waterboarding. In each case, the judge advocates general said that such treatment is not consistent with the spirit or intent of the Army field manual. As I mentioned earlier, with the enactment of the Detainee Treatment Act, the Army field manual applies to all interrogations of detainees under the effective control of the Defense Department and all interrogations conducted in DOD facilities.

General Hayden, in contrast, would not say in open session whether even waterboarding is even permitted. When the Senate Armed Services Committee's markup of the national defense authorization bill for fiscal fear 2007 comes to the floor later this year, the Senate will have the chance to demand some answers on the standard for the treatment of detainees. The new bill includes a requirement that the President provide Congress a definitive legal opinion, coordinated across government agencies, on whether certain specific interrogation techniques—including waterboarding, sleep deprivation, stress positions, the use of dogs in interrogations and nudity or sexual humiliation—constitute cruel, inhuman or degrading treatment or punishment under the Detainee Treatment Act of 2005. This provision would also require the President to certify to Congress that this legal opinion is binding on all departments and agencies of the U.S. Government, including the CIA, their personnel, and their contractors.

While I disagree with General Hayden's decision not to publicly state his

personal view, the general did affirm that the prohibition on cruel, inhuman, or degrading treatment in the Detainee Treatment Act applies to all Government agencies, including the CIA.

We have asked the administration to clarify this matter. I would hope that the administration would, one, state clearly that waterboarding, sleep deprivation, and stress positions are unacceptable; two, state clearly that the standard in law prohibits the use of dogs in interrogations; and three, state clearly that acts like stripping a detainee for interrogation purposes or subjecting a detainee to sexual humiliation are prohibited. I also hope that the administration will state clearly that the International Committee of the Red Cross will be informed about all detainees held by the United States Government and adopt a policy of not rendering individuals in our custody where there is a reasonable possibility that the person will be tortured.

As I said at the time the Senate approved the Detainee Treatment Act, enactment of this legislation means the United States has rejected any claim that this standard—cruel, inhuman, or degrading treatment or punishment—has one meaning for the Department of Defense and another for the CIA—one meaning as applied to Americans and another applied to our enemies, or one meaning as applied on U.S. territory and another applied elsewhere in the world.

I conclude by saying, in my view, General Hayden will be the independent Director of the Central Intelligence Agency that we so desperately need and that the country deserves. The record demonstrates his willingness to speak truth to power, and I will vote to confirm General Hayden.

I yield the floor.

ADJOURNMENT UNTIL 8:45 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands adjourned until 8:45 a.m. tomorrow morning.

There being no objection, the Senate, at 10:06 p.m., adjourned until Friday, May 26, 2006, at 8:45 a.m.

NOMINATIONS

Executive nominations received by the Senate May 25, 2006:

DEPARTMENT OF STATE

ROBERT O. BLAKE, JR., OF MARYLAND, 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 DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA, AND TO SERVE CONCURRENTLY AND WITHOUT ADDITIONAL COMPENSATION AS AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF MALDIVES.

THE JUDICIARY

ANNA BLACKBURNE-RIGSBY, OF THE DISTRICT OF COLUMBIA, TO BE ASSOCIATE JUDGE OF THE DISTRICT OF COLUMBIA COURT OF APPEALS FOR THE TERM OF FIFTEEN YEARS, VICE FRANK ERNEST SCHWELB, RETIRING.

PHYLLIS D. THOMPSON, OF THE DISTRICT OF COLUMBIA, TO BE ASSOCIATE JUDGE OF THE DISTRICT OF COLUMBIA COURT OF APPEALS FOR THE TERM OF FIFTEEN YEARS, VICE JOHN A. TERRY, RETIRED.

NATIONAL MEDIATION BOARD

ELIZABETH DOUGHERTY, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE NATIONAL MEDIATION BOARD FOR A TERM EXPIRING JULY 1, 2009, VICE READ VAN DE WATER, TERM EXPIRING.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be brigadier general

COL. THERESA M. CASEY, 0000
COL. GARBETH S. GRAHAM, 0000
COL. BYRON C. HEPBURN, 0000

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. N. ROSS THOMPSON III, 0000

THE FOLLOWING ARMY NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be major general

BRIG. GEN. RAYMOND C. BYRNE, JR., 0000

THE FOLLOWING ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADES INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be major general

BRIGAIDER GENERAL EDWARD H. BALLARD, 0000
BRIGAIDER GENERAL MICHAEL W. BEAMAN, 0000
BRIGAIDER GENERAL FLOYD E. BELL, JR., 0000
BRIGAIDER GENERAL NELSON J. CANNON, 0000
BRIGAIDER GENERAL CRAIG N. CHRISTENSEN, 0000
BRIGAIDER GENERAL JOHN T. FURLOW, 0000
BRIGAIDER GENERAL FRANK J. GRASS, 0000
BRIGAIDER GENERAL LARRY W. HALTOM, 0000
BRIGAIDER GENERAL VERN T. MIYAGI, 0000
BRIGAIDER GENERAL HERBERT L. NEWTON, 0000
BRIGAIDER GENERAL LAWRENCE H. ROSS, 0000

To be brigadier general

COLONEL TIMOTHY E. ALBERTSON, 0000
COLONEL MARK E. ANDERSON, 0000
COLONEL STEPHEN M. BLOOMER, 0000
COLONEL MARIA L. BRITT, 0000
COLONEL JAMES K. BROWN, JR., 0000
COLONEL PAUL E. CASINELLI, 0000
COLONEL KEITH W. CORBETT, 0000
COLONEL BRET D. DAUGHERTY, 0000
COLONEL DAVID M. DEARMOND, 0000
COLONEL LAWRENCE E. DUDNEY, JR., 0000
COLONEL GREGORY B. EDWARDS, 0000
COLONEL DAVID J. ELICERIO, 0000
COLONEL PHILIP R. FISHER, 0000
COLONEL GARY M. HARA, 0000
COLONEL RUSSELL S. HARGIS, 0000
COLONEL CHARLES A. HARVEY, JR., 0000
COLONEL CAROL A. JOHNSON, 0000
COLONEL JOSEPH P. KELLY, 0000
COLONEL CHRIS F. MAASDAM, 0000
COLONEL MICHAEL C.H. MCDANIEL, 0000
COLONEL PATRICK A. MURPHY, 0000
COLONEL MANDI A. MURRAY, 0000
COLONEL MICHAEL R. NEVIN, 0000
COLONEL MANUEL ORTIZ, JR., 0000
COLONEL TERRY L. QUARLES, 0000
COLONEL MICHAEL G. TEMME, 0000
COLONEL STEVEN N. WICKSTROM, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY UNDER TITLE 10, U.S.C., SECTION 624:

To be colonel

ROY D. STEED, 0000

IN THE NAVY

THE FOLLOWING NAMED INDIVIDUALS FOR REGULAR APPOINTMENT IN THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 531:

To be lieutenant commander

LUZ V. ALICEA, 0000
PETER B. DOBSON, 0000