United States of America

# Congressional Record

PROCEEDINGS AND DEBATES OF THE 113th CONGRESS, FIRST SESSION

Vol. 159 WASHINGTON, MONDAY, JUNE 24, 2013 No. 91

# Senate

The Senate met at 12 noon and was called to order by the President pro tempore (Mr. LEAHY).

## PRAYER

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

Let us pray.

Almighty God, who in Your infinite wisdom ordained that we might live our lives within the narrow boundaries of time and circumstances, we honor Your Name.

Today, supply our Senators with the strength they need to serve You. Help them to seize the opportunities to strengthen our Nation, bringing deliverance to captives and letting the oppressed go free. Lord, keep them from any temptation that would prevent them from glorifying You. Send Your spirit into their minds, and illuminate their understanding with insight and discernment.

We pray in Your holy Name. Amen.

## PLEDGE OF ALLEGIANCE

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

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

## RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

## SCHEDULE

Mr. REID. Mr. President, following any leader remarks the Senate will resume consideration of the immigration bill. The filing deadline for second-degree amendments to the Leahy amendment No. 1183, as modified, is 4 p.m. today. At 5:30 p.m. there will be a cloture vote on the Leahy amendment, as modified.

## THE FARM BILL

Mr. REID. Mr. President, I have often said that Speaker BOEHNER has a hard job. That was obvious last week when the House Republican caucus revolted to defeat the Speaker's farm bill. Even though the Speaker took the unusual step of announcing his support for the measure ahead of the vote, this bill went down in flames. It was the first time the House of Representatives has defeated a farm bill since the program was created in the 1930s.

I admit I was sorry to hear the House Republican leadership blame the bill's defeat on Democrats, but I was not surprised. They had to blame someone. They could not blame themselves, even though they should. It was no surprise that House Democrats opposed this mean-spirited bill. The legislation would cut $20 billion from the safety net that keeps millions of Americans, including millions of children, from going hungry every year. That is what it was about. The farm bill eliminated 8 billion meals for hungry American families and children. That is what the House bill did. So it is no surprise that Democrats did not vote for a bill that whacked America's most vulnerable citizens.

We have seen this film before. The Speaker should have known he could not pass legislation that amounts to a partisan love note to the tea party. He will be forced to take up a more bipartisan measure. He should do it now. There is no need to reinvent the wheel. The Senate has already done the work that was necessary to be done. We passed a good bipartisan bill. The Speaker should dispense with the drama and the delay and take up the Senate farm bill now. The bill passed on an overwhelming bipartisan vote in this Chamber. In fact, it did twice. We passed it last year. The Speaker refused to bring up the bill in the House. Passing the Senate farm bill will create jobs, will reduce the deficit by some $23 billion, and it will make important reforms to both farm and food stamp programs without balancing the budget on the backs of hungry Americans.

I spoke over the weekend to Tom Vilsack, the Secretary of Agriculture. We agreed that maintaining the status quo is not an option. Doing nothing means no reform, no deficit reduction, and no certainty for America's 16 million farm industry workers.

I want everyone within the sound of my voice as well as my colleagues on the other side of the Capitol to know that the Senate will not pass another temporary farm bill extension. It is time for real reform that protects both rural farm communities and urban families who need help feeding their children.

If the Speaker took up the Senate's bipartisan measure, it would easily pass the House with both Republican and Democratic votes. There is no shame in passing a bill that moderates in both parties support. We have seen time and time again that the tea party's ''my way or the highway'' approach to legislating does not work. The only way to pass a bill in either the House or the Senate is to do so with votes from both Democrats and Republicans. The Senate farm bill passed with 66 votes in this Chamber. It was a perfect example of a bipartisan bill. The Speaker should allow a vote on this measure in the House now—today.

The immigration bill before the Senate is another example of bipartisan legislation. The immigration bill will pass this Chamber with Democratic and Republican votes. When the immigration bill passes, the Speaker should quickly bring it up for a vote in the House of Representatives.

So I say, Mr. Speaker, rather than twisting the arms of tea party extremists, work with moderates in both parties to pass bipartisan legislation. Mr. Speaker, rather than trying to force legislation designed to please only the

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



Printed on recycled paper.

right wing, you should take away the obstacles we have and take the easy way out, actually. Do the right thing. Seek votes from Democrats and Republicans. America deserves the commonsense approach. That is what we used to do. We should do it once again.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Ms. HIRONO). The clerk will call the roll.

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

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

Mr. REID. Madam President, what is the pending business?

The PRESIDING OFFICER. We are currently in leader remarks. No bill is currently pending.

Mr. REID. I would ask the Chair to close morning business and move to whatever the business of the day is.

## RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

## BORDER SECURITY, ECONOMIC OPPORTUNITY, AND IMMIGRATION MODERNIZATION ACT

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 744, which the clerk will report.

The bill clerk read as follows:

A bill (S. 744) to provide comprehensive immigration reform, and for other purposes.

Pending:

Leahy Modified amendment No. 1183, to strengthen border security and enforcement.

Boxer/Landrieu amendment No. 1240, to require training for National Guard and Coast Guard officers and agents in training programs on border protection, immigration law enforcement, and how to address vulnerable populations, such as children and victims of crime.

Cruz amendment No. 1320, to replace title I of the bill with specific border security requirements, which shall be met before the Secretary of Homeland Security may process applications for registered immigrant status or blue card status and to avoid Department of Homeland Security budget reductions.

Leahy (for Reed) amendment No. 1224, to clarify the physical present requirements for merit-based immigrant visa applicants.

Reid amendment No. 1551 (to modified amendment No. 1183), to change the enactment date.

Reid amendment No. 1552 (to the language proposed to be stricken by the reported committee substitute amendment to the bill), to change the enactment date.

Reid amendment No. 1553 (to amendment No. 1552), of a perfecting nature.

Reid motion to recommit the bill to the Committee on the Judiciary, with instructions, Reid amendment No. 1554, to change the enactment date.

Reid amendment No. 1555 (to the instructions of the motion to recommit), of a perfecting nature.

Reid amendment No. 1556 (to amendment No. 1555), of a perfecting nature.

The PRESIDING OFFICER. Under the previous order, the time until 5:30 p.m. will be equally divided between the two managers or their designees.

The majority leader.

### CLOTURE MOTION

Mr. REID. Madam President, I have a cloture motion at the desk, and I ask that it be reported.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The bill clerk read as follows:

### CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the committee-reported substitute amendment to S. 744, a bill to provide for comprehensive immigration reform, and for other purposes.

Harry Reid, Patrick J. Leahy, Michael F. Bennet, Charles E. Schumer, Richard J. Durbin, Robert Menendez, Dianne Feinstein, Sheldon Whitehouse, Patty Murray, Debbie Stabenow, Robert P. Casey, Jr., Mark R. Warner, Thomas R. Carper, Richard Blumenthal, Angus S. King, Jr., Christopher A. Coons, Christopher Murphy .

### CLOTURE MOTION

Mr. REID. Madam President, there is a cloture motion at the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The bill clerk read as follows:

### CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on S. 744, a bill to provide for comprehensive immigration reform, and for other purposes.

Harry Reid, Patrick J. Leahy, Michael F. Bennet, Charles E. Schumer, Richard J. Durbin, Robert Menendez, Dianne Feinstein, Sheldon Whitehouse, Patty Murray, Debbie Stabenow, Robert P. Casey, Jr., Mark R. Warner, Thomas R. Carper, Richard Blumenthal, Angus S. King, Jr., Christopher A. Coons, Christopher Murphy.

Mr. REID. I ask unanimous consent that the mandatory quorum required under rule XXII be waived for these two cloture motions.

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

Mr. REID. I ask unanimous consent that the time be divided equally.

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

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

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

Mr. MURPHY. Madam President, I rise today to speak on the immigration bill presently before the Senate.

First, I wish to congratulate the leaders who have been able to bring this bipartisan bill to the floor. The Gang of 8, of course, gets all the attention, but Senator LEAHY, the majority leader, and so many others who have added both merit and momentum to this bill deserve to be praised as well.

I particularly wish to congratulate Senator LEAHY, the majority leader, and the authors of the bill for the transparent process with which we have debated this bill. I don't know the sum total of all the amendments that were considered by the Judiciary Committee, but it was a long markup with virtually every idea and every amendment vetted.

We have been standing on the floor of the Senate for nearly 2 weeks debating this bill. That is right and that is good. This is one of the most important bills the Senate will talk about. This matters to millions of undocumented people all across this country, but it also matters to millions of other individuals, families, and businesses who have been weighed down by an immigration system that doesn't work any longer.

Today we will be debating a new amendment on border security that will, for many of us, be overkill. In order to make sure the perfect doesn't become the enemy of the good, this will bring this very important debate near to a close.

I rise to talk about one additional amendment I am offering that I hope the Senate will consider, amendment No. 1451. It would, very simply, prohibit the Department of Homeland Security from housing children in adult detention facilities.

There is already fairly good law and some good regulation on the books today that protect a lot of immigrant children from being held in difficult detention facilities. Many of these children who are classified as ''unaccompanied alien children'' are required to be transferred to HHS custody within 72 hours. There is some good law and good regulation built up around this issue already.

The data we have been getting over the last several years does tell that current law doesn't work for every child in the system. As we learned recently, ICE data says as many as 1,336 children were placed in adult facilities between 2008 and 2012. Of these children, apparently 371 of them spent more than 3 months in an adult facility—3 months in an adult facility.

I want you to put yourself in the shoes of a little 12-year-old boy who may just be learning how to speak the English language, who maybe came here with his parents and his family but was picked up by himself, somehow through the system was separated from his family, locked up, and his family may have some reluctance to come and claim him because they, themselves, are undocumented. They worry they will be deported along with the child.

Think about sitting, as a 12-year-old little boy, alone, perhaps uncomfortable about communicating, in an adult facility for 1, 2, or 3 days and then imagine that for 1, 2, and 3 months. It is unacceptable.

While DHS disputes some of these numbers and is certainly doing what it can to make sure these children don't spend time in adult lockups, the law can be clear and we can create, with this amendment, a very clear line for all children, no matter how they are categorized, to make sure they do not spend time in adult facilities.

There are some very harsh realities for children who are locked up with adults. We know this because we, unfortunately, do this for documented children—for American citizens. Too often when children are arrested on the streets of this country, they get housed in adult criminal facilities within the American justice system. The National Prison Rate Elimination Commission Report found incarcerated minors are much more likely than adults to be sexually abused, especially when they are locked up with adults.

Sometimes, to try to prevent this from happening, these children are put in isolation in ICE detention facilities. That may protect the child from abuse, but the isolation itself, which can go on for days and days and days, causes serious psychological problems and sometimes, the data shows, can lead to suicide.

Think also of one particular case—Mariana, we will call her—of a 17-year-old who came from Guatemala. Mariana was brought through the Mexican desert by one of these coyotes. The journey was so difficult, the coyote just abandoned her, 17 years old, by herself in the middle of the desert. She managed to find her way to a highway and at that highway the Border Patrol picked her up and took her to one of the holding facilities and threw her in with a bunch of adults.

She was 17 years old, but the Border Patrol officers insisted she looked like she was in her twenties, and she didn't have her birth certificate with her. So the default was to put her in an adult facility and to not believe her. Finally, a couple of kind women in the facility intervened and allowed her to call her mother in Guatemala and get a copy of her birth certificate. Finally, after all this, she was transferred to HHS.

This shouldn't happen. With this amendment we can create a clearer line to make sure children such as Mariana, and the hundreds who are even younger than she, when they are picked up for whatever reason, are not housed with adults. The amendment would require DHS to determine the child's age when there is any notice or suspicion the detainee is a child under the age of 18. Then DHS would have to transfer or release the child, after determining the child's age, so children such as Mariana would not have to wait and struggle themselves to get out of an adult detention center.

My amendment also would make it clear the best interest of the child should be the main concern in transferring or releasing the child. Finally, building on some of the data reporting requirements that are in the underlying bill, my amendment would include a couple of additional categories that DHS is required to report so we know where all these children are, the conditions in which they are being housed, and whether they have a lawyer trying to look out for their interests.

I think this is an amendment that can get bipartisan support. No matter where we stand on issues of border enforcement or a pathway to citizenship, we all believe a child that has been detained by ICE, likely through no fault of their own, deserves to be treated like a child; that they deserve to be housed with other children, if they can't be returned to their family. This amendment would do that and I think would be another way, as we conclude the debate on one of the most important bills this body will take up this year, for Republicans and Democrats to come together around our common values.

I yield the floor. I suggest the absence of a quorum, and I ask unanimous consent that the time during the quorum be equally divided.

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

The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. SESSIONS. Madam President, under the rule, I believe I am allowed to use the time of Senator GRASSLEY.

The PRESIDING OFFICER. The Senator may proceed.

Mr. SESSIONS. Madam President, the vote we will be having later this afternoon is not on a Corker-Hoeven amendment, as I think most Senators may have thought when they left town Thursday and Friday. In fact, Thursday night we were told the Hoeven-Corker amendment would be filed and, presumably, we would then be debating that amendment. As we went into the night, every hour being told it would soon be filed, it turned out it wasn't filed until almost noon Friday, and it wasn't filed as the Corker-Hoeven amendment dealing with Border Patrol officers and fencing and some other issues, it was filed as a complete substitute to the whole bill.

This vote this afternoon will give Majority Leader REID procedural control of the debate. It is his motion to shut off debate on a 1,200-page substitute—200 pages more than the bill we were looking at last week and that no one has read.

Our Senators haven't had a chance to read the bill to see how the merged language falls throughout the legislation and to see what other changes may have been made over the weekend. I was here. We have been trying to get through this, but it is not easy. I am sure my colleagues haven't been able to do so.

The majority leader has filed cloture and is blocking any further amendments from being in order unless he personally approves them. That is the parliamentary situation we are in today. We are in a situation in which the majority leader will approve, personally, any and all amendments that get voted on. So he has once again created a situation where Senators have to play ''Mother May I'' to get a vote on an amendment they feel is important. This is not how the Senate should be run.

A duly elected Senator from any State in America should be able to come to the floor and get an amendment voted on without having to have the personal approval of the majority leader. This trend has accelerated in recent years where it is truly damaging the whole role of the Senate, and we need more attention to that issue. This is exactly what happened with ObamaCare. The majority rushed through a complex bill so there would be no time to digest what was in it.

Just yesterday, on one of the Sunday programs, Bob Woodward, the famed writer who dealt with the Nixon scandal and other issues over the years, said this:

> When you pass complicated legislation and no one has really read the bill, the outcome is absurd.

I think that is too true, unfortunately. Senator REID has said many times we have to pass this bill by July 4. Why is that? Is that his decision to make?

Is it the other Senators' decisions to make? So to accomplish that goal, he has filed cloture immediately on this new substitute bill. He filed cloture as soon as it was filed to shut off debate. That is the effect of what we are doing.

Why is there such urgency to pass legislation of this importance by Friday? I am not aware that we have any big business after the July 4th recess. We could stay here through the July 4th recess, for that matter. As Bill Kristol, the writer and commentator, noted yesterday on one of the programs:

> There's no urgency. Can we at least let people read it for a week?

The last thing Republicans should do is be enablers in the majority plan to rush through the bill before people know what is in it. Why should we enable that? If this bill is so good, what is the harm of letting the Senators and the American public have a while to digest what is in it? Why not commit to open and extensive debate? We have an obligation to read a bill before we pass it. If Senators have not read the 1,200-page substitute bill, they shouldn't vote to cut off debate. They should vote against that.

Let me say what the problem is here. This is a new technique. Senator LAMAR ALEXANDER said some time ago, that the truth is the Senate doesn't do comprehensive well. I think that was a very serious comment after the failure of this last bill and after ObamaCare and its massive power and overreach.

So what has happened? What has happened is Senators got together, as they did with ObamaCare, basically in secret, they wrote a 1,200-page bill in this case, and they did talking points. The talking points in a big bill like this—and particularly this one—have had political consultants, pollsters, all kinds of people organizing this campaign to drive this legislation through the Senate. They have had a response to every criticism; they have had spin in every different way. They are running TV advertisements right now, I suppose, still promoting this legislation as something it is not.

The talking points are designed to be very popular. The talking points are designed to be very much in accord with most people's views about what good legislation is. Indeed, I liked most of the talking points myself. I would vote for legislation that did most of that, for sure—if it did what it said. That is what is sold because nobody can articulate and explain the details of it, and people's eyes glaze over when you talk about it and people don't understand it fully. So they promote the bill as if it is the talking points, when the talking points do not comply with what is in this legislation.

That is why we have an obligation to study it, read it, and vote on the bill, and not the talking points. A few weeks ago, former Attorney General and Reagan's close friend, Ed Meese, wrote a letter to the editors of the Wall Street Journal and said:

> On legislation as important as this, lawmakers must take the time to read the bill, not rely on others' characterizations of what it says. We can't afford to have Congress ''pass the bill to find out what's in it.''

So at this point in the legislative process, a ''yes'' vote on cloture tonight means Senator REID will have gained complete control of the process. No amendments will be voted on he does not approve. His goal is to drive the train to passage by this Friday. Public policy, public interest is beside the point.

So the vote this afternoon is to proceed again to the altered substitute—the entire substitute—of the Gang of 8 legislation, and the flawed framework of this bill remains immediate amnesty, which will never be revoked. That will occur within weeks, with no enforcement measure ever effectively having to occur. In reality, it will not have to occur.

According to the June 7 Rasmussen Report, the American people want enforcement first by a 4-to-1 margin. The Gang of 8 initially promised their bill would be enforcement first, but that is not what the bill said. Today, no one disputes that it is amnesty first. In fact, the lead sponsor of the bill, Senator SCHUMER, on ''Meet the Press'' conceded this point shortly after the bill was filed, saying:

> . . . first, people will be legalized. . . . Then, we will make sure the border is secure.

''Then, we will make sure the border is secure.'' This is important because this is what happened in 1986, and Senator GRASSLEY is so clear about that. He voted for the 1986 bill, and he saw the enforcement never occur.

Under the substitute, illegal immigrants can still receive amnesty—not when the border is actually secure but when Secretary Napolitano tells the Congress she is starting to secure the border. So it occurs when Secretary Napolitano—who is now not enforcing our laws—tells Congress she is starting to secure the border.

Within 6 months of enactment, Secretary Napolitano need only submit to Congress her views on a comprehensive southern border strategy and southern border fencing strategy and give notice that she has begun implementing her plans.

At that point—which will likely occur earlier, as Secretary Napolitano indicated during her testimony before the Judiciary Committee—she may begin processing applications for and then granting legal status, granting amnesty, and granting work and travel permits. She will grant Social Security account numbers, the ability to obtain driver's licensing, and many Federal and State public benefits, all without a single border security or enforcement action having been taken.

Madam President, I ask unanimous consent that I be notified after 20 minutes. How much time has been consumed at this point?

The PRESIDING OFFICER. The Senator has consumed 11 minutes.

Mr. CORKER. Madam President, if I could, I had a time of 12:50 that I have actually done to accommodate the Senator from Alabama who was coming down at 1:00. My understanding is the Senator showed up 20 minutes early, which I applaud him for being prompt and early. But I do wonder what is happening. I would be glad to go back and forth.

Mr. SESSIONS. I didn't understand it. I am sorry. Was there a UC on the Senator taking the floor? If so, I will certainly yield and wrap up.

Mr. CORKER. I think we had an agreement with those who manage the floor as to how we were to come down and talk. But I would be more than glad to give a moment or two to let the Senator finish and then go on. But I want to make sure this is going to allow me the opportunity to speak.

Actually, the Senator has been so involved, I would love for him to listen to what I might have to say and then respond because I think there have been a lot of myths out there that seem to be continuing.

Mr. SESSIONS. Madam President, I will conclude by 5 till and yield to the Senator at that time. I think that will get us on the right track.

I know there were discussions, and I was told earlier that would be the time that I would have. Then I was told they want you to come earlier, and I didn't realize the Senator was in on part of that agreement. So that is perfectly all right, and I will accommodate the representations we have been given.

Madam President, Senators have been talking a good bit about the enforcement that would occur under the substitute that has been offered, but the substitute does not change the fact that no reduction in illegal immigration is ever required.

In the beginning, proponents touted the bill's requirements that the Secretary achieve and maintain 90 percent effectiveness in apprehending illegal border crossers. We don't hear so much about that anymore. That is because all that the bill requires now is that the Secretary submit a plan for achieving and maintaining that rate, not that it actually be achieved. Even if this was a real requirement, it wouldn't matter because it does not account for those who evade detection at the border.

During her testimony before the Judiciary Committee, Secretary Napolitano all but acknowledged the effective rate is meaningless because by definition Homeland Security has no idea how many border crossings go completely undetected. So it is not subject to real enforcement.

I appreciate my colleagues, Senator CORKER and Senator HOEVEN, and those who have set forth their goals to produce legislation that would be good for America. I appreciate the vision that has been stated. But having been involved in this now for quite a number of years—not because I desire to, but because I felt an obligation to do so, having been a Federal prosecutor for almost 15 years—I want to see the system actually work.

I am aware this bill is an authorization bill. It may authorize Border Patrol officers. It may even authorize fencing. But until Congress appropriates the money over a period of a decade, the way it is set up, it will never happen. I am confident all the promises made in the legislation underlying and in the additions that have been made to it, it will not be accomplished in their entirety; and under this legislation we will be sure to have a vast increase in illegal entry under the entry-exit visa system, as the Congressional Budget Office has stated, and we will still have illegal entrants from the border.

Madam President, I yield the floor and reserve the remainder of the time that is reserved for Senator GRASSLEY.

The PRESIDING OFFICER. The Senator from Tennessee.

On whose time is the Senator proceeding?

Mr. CORKER. As I understand it, Senator LEAHY.

The PRESIDING OFFICER. The Senator may proceed.

Mr. CORKER. I thank the Presiding Officer.

The Senator from Alabama has done an outstanding job in talking about the many frailties that exist in the base bill. I do want to say that the vote tonight is not on the base bill; the vote tonight is on an amendment.

Many people on our side of the aisle have had concerns about border security. The way the base bill reads is the

Secretary of Homeland Security, Janet Napolitano, would decide what border security measures would be put in place, and she would implement those after 180 days. Candidly, that calls for people on both sides of the aisle to be somewhat concerned about what kind of border security measures would be implemented.

The base bill, as the Senator from Alabama just mentioned, leaves all of that discretion 100 percent to the person who leads Homeland Security. On the Senate floor we have had numbers of measures that we voted on to try to strengthen border security. All of those measures have failed. I have voted for almost every single one of those that has come up. As a matter of fact, almost every Member on our side of the aisle other than the Gang of 8 has voted for those measures.

What we have before us tonight, though, is another border security amendment. This amendment puts in place five triggers that are tangible. It says if these five triggers are not implemented, then those who are here who are undocumented and who become in temporary status do not receive their green cards. Let me go through those five measures that have to be put in place before that occurs.

First of all, there have to be 20,000 more Border Patrol agents deployed and trained and on the border. That is one of the triggers, a doubling of our Border Patrol.

Second, the additional 350 miles of fencing that Republicans have longed for has to be in place. That is very tangible.

Third, we have to have bought and deployed over $4 billion worth of technology on the border, which will give our Border Patrol 100 percent awareness. This is a list that they have been seeking for years, and before anybody can achieve their green card status this list has to be bought and deployed.

Fourth, we have to have a fully implemented exit and entrance visa program—something that, again, Republicans have pushed for for years; and fifth, we have to have a fully deployed E-Verify system. All five of those measures have to be in place before somebody can move from a temporary status to a green card status. Those are tangible triggers.

When I was in the shopping center business—before coming to the Senate, I used to build shopping centers around the country. It was very evident in the community that I was in when I was completed. Always when I completed those shopping centers I was paid. I didn't have to go through some kind of process that said: Did we meet 90 percent of the retail needs of the community? We tried to design the center so that it met the needs, but it was very tangible when I was completed, and I was paid.

What this amendment seeks to do is to put in five very tangible elements as triggers. These elements are all elements Republicans have pushed for for years. So it is my hope that this evening Republicans will join me in putting in place the toughest border security measures we have ever had in this Nation.

The Senator from Alabama has talked about the length of this amendment. The length of this amendment is 119 pages long. Because of Senate procedure, it had to be added to the base bill, which made it a little bit over 1,200 pages. But the base bill has been around since May. It has gone through committee. Most every one of us who is serious about this bill has gone through its many provisions.

The amendment we offered on Friday—which has given people 75 hours to look at it—is 119 pages long. For those who are listening in, in legislative language we write pages such that they are triple-spaced and they are very short, so 119 pages is really 25 or 30 pages in normal people's reading. I would say to the Presiding Officer that any middle school student in Tennessee or Alabama could read this amendment probably in 30 to 40 minutes. To ask Senators given an amendment on Friday that deals with five basic things and a few others, to ask them to read the amendment over the weekend—again, the equivalent of 25 or 30 pages, really—is certainly not something major to ask when you are serving in the Senate. So the length issue is something that is a total myth.

Some people have talked about the cost. Let's talk about that. First of all, the cost would only happen if the bill passes, but it is estimated that the cost of these border security measures and the other measures in the base bill would be about $46 billion. That only happens if the bill passes. I think you have seen that the CBO score on this bill is $197 billion. So if this amendment were to pass and the bill were to pass, we would have a situation where over the next 10 years we would be investing $46 billion in border security—almost all of which are measures Republicans have pushed for years—but we would have $197 billion coming back into the Treasury.

I have been here 6½ years, and never have I had the opportunity to vote for something that costs $46 billion over a 10-year period and we received $197 billion over a 10-year period and we did not raise anybody's taxes and it promoted economic growth. To those people who are talking about the cost, I would just say show me one piece of legislation we have had the opportunity to vote for that has that kind of return. I think every private equity, every hedge funder in the United States of America would take those odds.

Finally, let me say to the Senator from Alabama, Governor Brewer from Arizona was just on the television. She read this amendment over the weekend. As I mentioned, it only takes about 30 to 40 minutes, and she took the time to read it. What she just said on national television is that this amendment is a win, a total victory for the State of Arizona. And she knows more about border security probably than any Governor and any person in the United States of America.

Let me say one more time what we are voting on tonight. We are voting on a very tough border security amendment. If you vote for this amendment, it will mean that five very tangible triggers have to be in place. Whether the money is appropriated or not, they have to be in place before you can have a green card. So if it is not appropriated, no green card. When people say that Congress may not spend the money on this, if Congress does not spend the money on it, people will not move from the temporary status into green card status. So it is totally up to us.

But the fact is that if you vote for this amendment tonight, you will be voting that all five of those provisions have to be in place—tough border security measures. They are very tangible. The entire American population can see whether they are in place. And until those are in place, people do not move to the green card status.

If you vote against this amendment—which I am getting the indication the Senator from Alabama and others may be thinking about—what you will be saying is, no, I would rather not have these five tough measures in place. I would rather let Janet Napolitano, the head of Homeland Security, decide what our border security is going to be. I don't think that makes anybody in this body particularly comfortable.

People have talked about the fact that Congress needs to weigh in on this border security measure, and we have with this amendment.

What I would say is that if you really believe in making sure we address our border security, this amendment is something you should support. If you would rather go to the status quo, if you would rather leave it to the administration—which I agree has not done the things they should do to secure the border—then don't vote for this amendment; vote for Janet Napolitano to secure the border.

I have a feeling people on this side of the aisle will see the light. And to people on the other side of the aisle who may resist this, what this amendment does is it balances out the bill. It balances it out. It says: Yes, we are going to put the kind of border security in place that will cause the American people to trust us. At the same time, in doing so we are going to put in place very tangible triggers, triggers that cannot be moved. You cannot move the goalposts because of interpretation. They are there. They are concrete. If we meet them, people will have the pathway to be the kinds of productive citizens they would like to be.

To me, this amendment satisfies people on our side of the aisle who want border security. To me, it ought to satisfy people on the other side of the aisle who acknowledge that we need to do both.

With that, I yield the floor. I would love to enter into a colloquy with the Senator from Alabama. I know there has been a lot said, but I urge every Member of this body to take the 30 to 40 minutes—not much, as a Senator on one of the biggest issues we have dealt with in the Senate—to read the amendment to see how superior it is to the base language. I applaud the folks who created the base language, but this is an effort to improve a bill.

Read the amendment and then decide: Do you really want to vote against an amendment that the Governor of Arizona, who has dealt with this issue more closely than any of us in the body, has declared as a total victory for their State? Do you want to vote against this? Do you want to vote against this really, I ask this body. I think we ought to send this amendment onto the base bill with a tremendous majority. Then we can debate the other pieces. We have an entire week. There are all kinds of votes.

I would like to see a vote on the Portman amendment. As a matter of fact, my understanding is that some of the people who disagree with this bill do not want to see a vote on the Portman amendment. They are blocking the Portman amendment. The Portman amendment will actually make this bill even better. I hope we will hear from him on the amendment. I hope we will hear from other Senators as they seek to improve this bill. But I hope we will do that after voting cloture tonight on a border security amendment that I know strengthens this bill, puts it in balance, creates trust with the American people, and creates the kind of pathway many people are seeking.

I yield the floor.

The PRESIDING OFFICER (Mr. KING). The Senator from Alabama.

Mr. SESSIONS. Mr. President, the Senator will acknowledge that his amendment was filed Friday afternoon, at a time when probably 90 percent of our Senators had left town. It was not his 200-page amendment or just his interests; all kinds of special interests and Senators' interests have been added to the bill. It was filed as part of the overall bill. So the Senator would acknowledge that the replacement that we would be voting cloture on tonight is 1,200 pages, a little less than 200 pages more than the bill was on Friday morning?

Mr. CORKER. May I respond?

Mr. SESSIONS. Yes.

Mr. CORKER. Mr. President, in responding to the good Senator—the Senator with one of the best temperaments in the Senate, the Senator from Alabama, someone I enjoy working with—I respond that there is no question that our amendment is 119 pages long and that it does incorporate input from other Senators.

What I would say is that the Senator was a great jurist from the State of Alabama. He worked on all kinds of legal documents, I am sure, before he came to serve in such a distinguished way in this body. I know that he understands well—because I know he has had to do it many times—that when you have an amendment that touches many parts of a bill or you have a contract that has changes that touch many parts of the contract, what people do to cause people to understand how it is written better—and actually it has to be a rule of construction here in the Senate—is add those 119 pages throughout the text of a bill that has been around since May that the Senator from Alabama was able to go through in detail as a member of the Judiciary Committee and offer all kinds of amendments. He has seen that base text now for a long, long time. He went through it more—I know more than most here in the Senate.

So, yes, we added an amendment. It does have other concerns. That is what you do when you try to write a piece of legislation that solves the problem. It is 119 pages, and it was added to the base text. That is true. I would have to say on any measure for somebody who cares about border security, it is much stronger than the base language.

Mr. SESSIONS. Mr. President, I am going to talk about what the amendment does. The Senator has not seen quite as much—although he is an experienced and very able addition to this Senate but has not, perhaps, seen how over decades promises about enforcement at the border are not fulfilled, and that is important. I will go through the amendment the Senator has offered, and make some comments about why I think it does not do what my colleague believes it does, why we should not pass this, and why we absolutely should not move forward on the substitute which is basically the bill that has been put out by the Gang of 8, which fails in a whole host of ways. I would also be concerned—and I will ask the Senator, does he believe that Senators who have concerns about the bill should be given the right to have amendments voted on in an up-or-down way as long as reasonably necessary, to be able to offer amendments to fix the legislation?

Mr. CORKER. Mr. President, I could not agree more with the Senator from Alabama. As I mentioned in my comments, I hope this body—I hope Senators on my side of the aisle—will not block Senator ROB PORTMAN's amendment on E-Verify, which greatly strengthens the bill. But, yes, I agree with the Senator. I hope we have a plethora of amendments offered this week, debated this week, and voted on this week.

I would say to the good Senator from Alabama, with whom I really cherish serving, I have not blocked one single amendment from being voted on. I do not know if the Senator from Alabama has blocked any. But the fact is, I say let's let it roll. I would love to see another 50 or 80 amendments this week if time will allow, so let's let it roll. I am all for that. I agree 100 percent.

Mr. SESSIONS. I appreciate the Senator saying that, but it is not going to happen because when we have cloture tonight, Senator REID is going to be in complete control of the voting process. Amendments will be at his pleasure. There will be the amendments he is willing to vote on, and the ones he doesn't approve of will not be up for a vote.

So that is where we are, and that is a fact. We are going to have other cloture motions, and the goal will be to drive this bill to passage by or before Friday. There will be far less votes than the last time the immigration bill came up.

The last time the big immigration bill came up, there were 45 or so amendments that we voted on. So far we have had nine votes on amendments. There were discussions Wednesday and Thursday night that we would have another 16 amendments. I was advocating for more amendments to be brought up. I thought we had an agreement to do that, and we were moving that way until this great amendment—the grand amendment that fixes things—came up.

I will point out a few things I think are troubling with the legislation, and we can then go to Senator CORKER for his remarks. I just want to make my points now.

First of all, Senator CORKER said there is a trigger, and that trigger is 10 years from now. It has to do with whether individuals are going to get permanent legal status in 10 years. What if it turns out the Congress has not appropriated money to complete the fencing as promised? What if it turns out Congress has not funded the Border Patrol agents they promised?

Are we are going to end up saying to these people: You don't get your status.

They are going to say: What's the problem? We did everything we were told to do, and Congress didn't do it. Give us our green cards.

People are going to say: We cannot deny people their green cards. These are people who have been here for 10 years, not to mention the time they have already been here and probably had children born in this country who are citizens. This is not a practical or realistic guarantee this will ever happen.

Based on my experience, I don't believe we are going to add 20,000 agents. We probably don't need that many, although we do need more agents and better effectiveness at the border. The impact of the trigger is the legal status and the Social Security card. The right to work anywhere in America is given within 2 months of the passage of the legislation. They are making promises 10 years down the road that I am saying are not likely to ever happen. In fact, I don't think it will happen in the way it was said.

The Secretary has the power to reallocate personnel under this bill, and it gives her broad power to do that. She

will say she has done what is required—or the next Secretary will say that—and I am concerned about that.

As far as the costs, Senator SCHUMER and the Judiciary Committee promised that the bill was paid for by the fees, the punishment, and the fines—and I will talk about that at some length later—from the people who entered the country illegally. They claim they will have as much as $8 billion, and maybe that is so. I am not sure.

They would not say how many people would be legalized. I asked that question twice to Senator SCHUMER. He refused to say how many people would be given green card status in the next 10 years in America. Maybe he doesn't want us to know. If he doesn't know, that is a big gap for somebody who is writing a 1,000-page bill and doesn't know how many people are going to be legalized.

This is what he said: What we are simply doing is making sure all the expenses in the bill are fully funded by the income the bill brings in. This is to make sure this bill does not incur any costs on the taxpayers to make it revenue neutral.

He said: It provides startup costs to implement the bill repaid by fees that come back later. So what we are basically doing is setting up two pots of money that have startup money, and it is repaid. Both the companies pay when they get new workers, and the immigrants who get RPI status pay in terms of their fines as they go through the process.

That is what we were told in their talking points. This is their poll-tested talking points when they were drafting the original version before Senator CORKER was involved. Now it is $46 billion. Where is the money coming from? Well, they say the bill creates more revenue.

The Congressional Budget Office—our budget accounting firm—said before Senator CORKER's bill raised the cost from $8 billion to $46 billion, it would increase the on-budget deficit by $14 billion, and then it would reduce the off-budget deficit by $211 billion. So isn't that good news? It improved our off-budget deficit.

What is the off-budget deficit? The off-budget deficit is the Social Security withholding the newly legalized persons will pay when they get their Social Security cards. So they will be paying withholding on their checks that maybe they were not paying before, and they score that as increased revenue, and it certainly is increased revenue. One form of our accounting will show that as an increased revenue, and that money in that form of accounting, unified-budget accounting, allows us to think we can spend it for anything we want.

Wait a minute. What is the reality? The person is paying their Social Security and Medicare withholding, and it doesn't go to the U.S. Treasury. It goes to the Social Security and Medicare trust funds. It is not available simultaneously to be used to pay for a new bill. This is how this country has been going broke.

The same thing happened during ObamaCare. The night before the vote, December 23—we voted on Christmas Eve to pass that bill—I got Mr. Elmendorf to say: You can't simultaneously strengthen Social Security and Medicare with this new money and pay for something else with it. He used this phrase: It is double counting the money. That is where they are coming up with the money here.

So the Social Security and Medicare payroll withholding that people will pay when they are legalized and given a Social Security card is their retirement. We have to have that money to pay for their retirement when they get ready to withdraw Medicare and Social Security. We cannot spend it now and pretend we have free money. The CBO score from just last week shows that is the situation. I am just not happy about the counting of money in that form.

Mr. CORKER. Mr. President, I wonder if the Senator would let me respond in a generous way.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. CORKER. First of all, I respect the leadership the Senator from Alabama has given on the Budget Committee, and I know he knows all of these things well. I have offered a very detailed piece of legislation to deal with Medicare, and he knows the average American today is paying one-third of the cost of Medicare over their lifetime. In other words, they pay only one-third of the cost of their Medicare Program.

So the fact that we have people who began paying taxes—I mean one of the things the Senator is mentioning is if we pass this bill, those who are here today who have been undocumented and not paying taxes, will be paying taxes. I would think the Senator from Alabama would think that is an outstanding idea.

Most of them are younger, and the fact is they are going to help the baby boomers and senior population in America we have because Americans today are only paying one-third of the cost of Medicare. I know the Senator from Maine is very knowledgeable on this subject. The Medicare fund is going to be insolvent in 2024.

Senator SESSIONS is exactly right—by forcing these folks who are in the shadows today to come out of the shadows for 10 years and pay taxes and not receive, by the way, Federal benefits—no means-tested Federal benefits—until we do the five things that are in our bill.

By the way, the Senator should know that the money for this is appropriated now. If this bill passes, the money is appropriated. It is not subject to appropriations down the road.

I will say one last thing, and I will yield the floor. I appreciate the Senator from Alabama letting me do this.

Mr. SESSIONS. I want to make sure whose time is being used, but go ahead.

Mr. CORKER. As I understand, this is under Senator LEAHY's time.

The cloture vote tonight is not as was described a minute ago. The cloture vote tonight is only on this amendment. It is not on the bill. So for someone to say they are losing some kind of cloture rights down the road, it is not true. The cloture vote we are having tonight is on an amendment that has five strong border security measures that every Republican has talked about for years. It doesn't mean we vote for the bill. We are talking about the amendment. The moneys are appropriated. The cloture vote is only on the amendment. I just wanted to clear that up.

The CBO—which the great Senator from Alabama works with daily and quotes daily—has said if this bill passes, it will help tremendously with this deficit we know is weighing our country down today.

Mr. SESSIONS. I thank the Chair, but the cloture will be on the substitute which is 1,200 pages, not just the Senator's amendment, most of which I am supportive of. I think I could be supportive of much of it if we could make it effective.

The Senator is correct when he says the people who are paying into Social Security and Medicare are not paying enough to produce the revenue that would take care of them for the rest of their lives. The Senator is right, and I certainly don't dispute that people who are given Social Security and start to work under this bill, which provides them amnesty and legal status, that they are going to pay Social Security and Medicare money they were not paying before, but that is their money. That money has to be used to pay for their retirement. Where is the money going to come from to pay for that?

All I am saying is that it is quite plain, and that is why the CBO score said the on-budget deficit gets worse. In the 10-year window, the Social Security account looks better, but they are not counting the younger—the average age is 35. Workers will be retiring in the years to come and will demand their Medicare and Social Security. If the money is spent now, it will not be there in the future. That is how a country goes broke.

Senator CORKER is one of the most knowledgeable, hard-working, courageous, and determined people in the Senate in trying to fix the financial path we are on, but I think the Senator is misinterpreting that issue.

Mr. President, how much time has been used on my side?

I am going to have to save some time for other people who are due.

Maybe the question should be, how much time have I used?

The PRESIDING OFFICER. The Senator has used 60 minutes.

Mr. SESSIONS. Sixty? Senator CORKER said he was using some of his time.

The PRESIDING OFFICER. Forty minutes.

Mr. SESSIONS. Mr. President, I better wrap up. I know others want to speak in opposition to the legislation.

With regard to the fence, there is a statement from the sponsors of the Corker-Hoeven amendment that we are going to have a bunch of new workers at the border—Border Patrol officers that will be guaranteed. I pointed out how that is going to be funded for over 10 years. This is not an appropriations bill; it is a promise. The legality—the amnesty—occurs first. Just like so often happens in the past, the promises are never fulfilled when competing interests start fighting over money. It just doesn't happen.

There are some people who have opposed fences and opposed Border Patrol agents religiously by using every excuse possible in this body. It will not be easily accomplished in the future. In fact, in my opinion, it will not be fully accomplished.

With regard to the promised fencing that is in the bill, the new substitute requires the Secretary submit her southern border fencing strategy to Congress and certify that 700 miles of pedestrian—not double-layered, reinforced fencing, is in place. Congress first passed a law requiring double and triple layer fencing in 1996. In 2006, Congress overwhelmingly passed a law requiring a double layer fence. That never happened. Then-Senator Obama voted for it and then-Senator BIDEN voted for it. It never happened. Only 36 miles of that ever got built because there was discretion given somewhere a little later and all of a sudden they talked about a virtual fence that never occurred. So this weakens current law, or it weakens the law we passed previously.

The new bill says the second layer is to be built only if the ''Secretary deems it necessary or appropriate.'' That is what happened in 2008. The new bill keeps the language from the Gang of 8 bill addressing limitations on the requirements for strategy. This was offered in the Judiciary Committee by Senator LEAHY. I was rather taken aback by it because they had been promoting the bill as being a bill that had fencing in it. Senator LEAHY offered the amendment. The Gang of 8 all supported it—those on the committee. It said this:

> . . . notwithstanding [the requirement that the Secretary come up with a Southern Border Fencing Strategy], nothing in this subsection shall require the Secretary to install fencing, or infrastructure that directly results from the installation of such fencing, in a particular location along the Southern border, if the Secretary determines that the use or placement of such resources is not the most appropriate means to achieve and maintain effective control over the Southern border at such location.

I think that is a fatal flaw in the language. It allows Senators to believe, perhaps, and advocate that their bill guarantees we are going to have 700 miles of fencing when it is not there. Senator LEAHY knew exactly what he was doing when he offered that amendment in committee. And the 1,200-page substitute includes this exact Leahy amendment language. It has not changed by the Senator's offer of legislation.

I have spoken more than I intended to. There are a number of other issues I would raise if we had the time. I believe this is close to what we ought to be doing, but we don't have the mechanisms in place to get us there and we can't count in any realistic way on this all happening. As a result, we are going to have, as we had before, the legalization now and a promise of enforcement in the future that does not occur.

I thank the Chair, yield the floor, and reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. CORKER. Mr. President, I thank the Chair, and I thank the Senator from Alabama for his comments.

I want to rhetorically ask any of those who might share the views of Senator SESSIONS, if you will, on this amendment, that would this amendment—I would ask this question: If one doesn't like the status quo, would this amendment, even if it weren't fully achieved—and I know the language states it has to be achieved before one achieves green card status; it is very specific in that regard—I would ask: Does the Senator from Alabama and do other Senators not believe that if this amendment passes, we would be much farther down the road toward our goals than if this amendment doesn't pass? I would ask that question rhetorically.

What we do a lot of times on the floor is we seek to improve a piece of legislation. I know the Senator from Alabama is not going to vote for this bill regardless of what the security measures are, in all likelihood. But I would ask if he and others who share his views, which are critical of this overall legislation, would they not support an amendment that certainly is a vast improvement over the status quo?

I think the Senator has pointed out it is very unlikely that Homeland Security is going to do the things we would all wish for them to do. But in this amendment we have five of the things that for years Republicans have hoped to achieve, and the administration clearly states we cannot move from this temporary status into green card status until these things are tangibly done. Again, it is much better than a trigger that has some superfluous thing where nobody knows what it means, and Democrats are worried we are going to move the goalpost in one direction and the Republicans are going to move the goalpost in another. Instead, we have something here that is very tangible.

Every American who is observing will know whether we have 20,000 more Border Patrol agents deployed and trained first. Every American will know whether we have an exit-entry visa program fully deployed. Every American—every employer, for sure—throughout our country will know whether we have an E-Verify system that is fully deployed. Every American, whether we have 350 miles of fencing—which I would say to the Senator from Alabama, there is no chance in the world—no chance—that any additional border security measures are going to be created that way unless this amendment passes. Then I would say: Think about the $4.5 billion in technology that will cause us to have situational awareness on the border that is a part of this bill.

Congress constantly talks about the fact that we punt too much to the executive branch. I know many people on my side of the aisle do not want to punt, if you will, the border security plan to the head of Homeland Security, whomever that might be. They want to weigh in. So this amendment gives everyone in this body the ability to weigh in and for the other side of the aisle to ensure we have tangible measures that cannot be moved.

Again, I realize that no matter what this bill says—no matter what it says—as long as the title of it relates to immigration reform, there are going to be people in this body who won't support it. There are measures I don't even want to—I don't want to get myself in trouble by stating the kind of measures that if they were in this bill people would say, No, it has to be even tougher. The fact is we in this body, generally speaking, have worked together to try to come up with a piece of legislation that meets the balance. This amendment, to me, adds that component that meets the balance.

I know some people on my side of the aisle would criticize because they would say, Well, you worked with the other side of the aisle to make this happen. I think that is what we all came here to do. I know the Presiding Officer, who is an Independent, came here to do it, because without working with Republicans and Democrats he couldn't get anything done. So what we have done over the last couple of weeks now is work very closely on both sides of the aisle to come up with a measure that hits that balance. It doesn't move the goalpost because we all know it is tangible.

As I mentioned, I used to build shopping centers all around the country, retail projects in 18 States, and when I finished the project, people could see it. I didn't have to go out and get a survey in the community: Did I meet 90 percent of the retailing needs of this community? And if it was a grocery center they might have said: Well, you did on the grocery side but you didn't on the florist or some other piece. I built something that was tangible and called for and it was paid for.

Let's face it. The reason we have had this trouble is we have been debating a trigger for months that everybody knows can be monkeyed with. If a person sees a Cheetos bag in a crevice some place in Arizona or someplace

else, somebody could say, Well, there were 10 people eating out of that Cheetos bag so we are going to change the denominator. That is what this debate has been about and everybody knows that. This side of the aisle doesn't trust that side because they are afraid we are going to add 10 more folks with that Cheetos bag and we are going to change the denominator, and this side over here is saying we don't trust it because we want to see results. This amendment gives results. It gives results. Every American can see the results.

Again, I cannot imagine how anybody on this side of the aisle who is serious about border security could want the text that is in the base bill that doesn't stipulate anything—it stipulates nothing—I don't know how they could want the text that is in the base bill over the text that is in this amendment, which clearly lays out those five things we have discussed over and over. They include 20,000 trained and deployed border agents; 350 miles of additional fencing on top of the 350 that is there. Republicans have tried for years to get 700 miles. We add the $4.5 billion in technology. The chief of the border control area, Chief Fisher, has been in our offices for years wanting this equipment to do what he needs to do, and it is in this bill. There is an entry-exit visa program. We have 40 percent overstays on our visa program. That is terrible. But it has to be fully deployed before a person moves to green card status. And, again, E-Verify, which, let's face it: Why are people coming across the border? They are coming across the border to take care of their families. They want to work hard. That is what we want our kids to do. They are walking across the border to work hard and to do all kinds of things, including to create companies. They are entrepreneurs. But they also raise our kids, they serve us meals, they bring our crops in, they build our homes, they build our buildings. They want to participate in the American dream. And what this bill—not our amendment—lays out is a path for them to be able to do that. It is a tough path. They get at the back of the line. They pay taxes for 10 years and receive no means-tested Federal benefits and, somehow, we have people opposing that, even though these triggers have to be in place.

All I can say is this is a great Nation. This is a Nation that has laws, and we are laying out in this amendment the way those laws have to be.

I hope people will look at this amendment for what it is. It is an opportunity for both sides of the aisle to succeed, for Republicans to have those tough border control measures people want.

I was in a restaurant Saturday night in my neighborhood, a place I go often, a place that serves great hamburgers. When I walked in, what do people say? They want border security. So we have an amendment that puts in place what is, as Governor Brewer of Arizona has said, ''a victory for Arizona.'' It is a victory for Arizona. On the other side of the aisle, what people have pushed for is a clear path. They want to know that we are not going to wait 10 years and then move the goalpost. Let's have tangible goals people can see.

I hope everybody will get behind this amendment—people on our side because of border control and people on both sides because it achieves the balance, if passed, that a piece of legislation such as this ought to have.

I want to say again I have enjoyed working on this amendment and this piece of legislation over the last 10 days more than anything I have done in the Senate. We have an opportunity to do something great for this Nation—great for this Nation—and the passage of the cloture vote this night on this amendment is something that takes us a step closer. Even if a Member opposes the underlying bill, those people who hear concerns all over the country about border security should support this. This is better than in the base bill.

This is a 119-page amendment. People know the way we write legislative language. It is triple-spaced, big letters. We have a lot of seniors in this body. We write in big letters. About 3 or 4 pages of legislative language is the average page for most Americans and what they read on a daily basis. A middle school class person in Tennessee could read this amendment in 30 to 45 minutes—30 to 45 minutes. It has been available for 75 hours. It has tangible goals we have all sought.

Voting for cloture tonight does not end debate on the base bill. That is not true. It ends debate on this amendment. There are still cloture votes into the future that close off the debate, if you will, for those people listening in, that close off debate on the overall bill. So nobody has given up rights. Why not strengthen the bill even if a Member opposes it? If a person is for the bill, why not vote for a measure that might add people to this piece of legislation and send it over to the House of Representatives where they will create their own bill—and there are improvements they can make—why not do that?

I urge a ''yes'' vote tonight. I hope people will actually read this language and see what it does to the underlying bill.

I thank the Presiding Officer for his time this afternoon.

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

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

TREASONOUS BEHAVIOR

Mr. NELSON. Mr. President, I would like to speak about the immigration bill, but first I wish to make a comment about this international drama that is going on from Hong Kong to—well, I guess it started in Hawaii—from Hawaii to Hong Kong, now Hong Kong to Moscow. Then the question is, Where does the fugitive go from there?

I think we ought to face facts that the Government of China would not have let him go without making the decision with regard to Hong Kong. I would not have been surprised if they did not get certain information from him if, in fact, he has anything. But the fact that he is now in Moscow and did not get on the airplane for Cuba tells me that the old KGB officer—now President of Russia—Putin is directing the show. I would not be surprised if the President of Russia is giving the orders to milk him for every piece of information he has. If he does not have anything, then I think the President of Russia is going to decide whether he wants to have a good relationship with the United States and might allow him to be extradited to the United States.

It may well be that since he was released from Hong Kong—which is under the direction, in this case, of President Xi of China—that he may not have all the information he is claiming to have.

Presumably, he is carrying a bunch of laptops. One would have thought they would have taken them into custody, and maybe that is what is happening right now in Moscow.

However it plays out, as I have said from the beginning, I think his behavior is treasonous behavior and that the full extent of the law ought to be applied and those countries that have a formal legal relationship with the United States ought to obey the law and have him extradited to the United States so he can face the charges.

By virtue of his escapades all over the globe, I think it is clearly indicative that he does not want to face the full extent of the law. I think all the more that would justify the Department of Justice in the charge they have brought already on espionage.

I wish to say a word or two about the immigration bill. Clearly, on the first day of the debate I came out here and embraced it. Clearly, we need comprehensive immigration reform.

When I was a young Congressman back in the 1980s, I voted for it then. The big difference back then was that we only had about 2 million illegal folks in the country. Now the new term is ''undocumented.'' Of course, that has swelled now to over 11 million undocumented.

In large part, the law that was passed back in the 1980s was never observed. Businesses did not obey the law, and that is one of the things we are looking at in this comprehensive immigration package—that businesses will have to obey the law and still will be able to get the labor source they need in order to conduct business and that through a series of E-Verify and other provisions they can then have the security of knowing that the individual they have hired is in legal status.

I think it is clearly the right thing to do. There are 11 million people here. These folks who are saying, oh, well, deport them, that is not common sense. We cannot deport 11 million people; the economy would collapse. Just look at the agricultural community. We have to have the source of labor to pick the crops when the crops are ripe; otherwise, the whole crop is lost. So too as we go through so many of the nuances of this bill—it is all put together, and I think they have done a good job.

I have one bone of contention. I came to the floor today absolutely shocked that the amendment Senator WICKER, Republican of Mississippi, and I have offered is—it is questionable whether, with all this falderal that is going on about not accepting any additional amendments, if it is going to be accepted.

This amendment says that in addition to the land border security, which has been the story for the last week, laboring over how do we increase border security—and the estimate on this new amendment we are going to vote on today is that it is costing an additional $20 to $46 billion; that will really tighten up border security—but if you have made the land border almost foolproof, what do you think is going to happen? How are the smugglers going to get the illegal immigrants across? How are the smugglers going to continue to try to get across all the illegal drugs?

Similar to water, if you dam it up in one place, it is going to try to go around. Where is ''going around''? The maritime border. If you make the land border on the southern United States foolproof, where do you think the smugglers and the illegal immigrants are going to go? They are going to go to a very porous border that is from Texas to Louisiana, to Mississippi, to Alabama, to my State of Florida, which has the longest coastline of the continental United States, and then up the eastern seaboard: Georgia, the Carolinas, Virginia, et cetera. They are going to do it also by going in through some of the Caribbean Islands, including U.S. territories—Puerto Rico and the Virgin Islands—because if they get there, then they are on U.S. territory.

So if we are spending—this is where the common sense comes in—if we are spending $46 billion additional to secure the land border, why wouldn't we want to spend an additional $1 billion to help secure the maritime border? California would be another one. You can come up the coast of Central America into California. It, perhaps, is a more daunting task because of the waters of the Pacific. But look at all the opportunities on the coast of a State such as mine, Florida, of bringing in smugglers. Of course, we have seen this over the years. So what do we do? What is the $1 billion for? Simple, real simple. We already have an unmanned aerial vehicle like a drone, such as we read about over in Afghanistan—a Predator or some version thereof, unarmed.

Today, it is flying out of the Cape Canaveral Air Force Station. But that is one. When it is down for maintenance, there is zero. So why wouldn't we enhance one UAV with more stationed strategically around the coastal maritime border to stop what is supposedly going to happen if this impregnable land border is there?

No. 2, the U.S. Navy is experimenting with a stable platform that is very cheap to operate called a blimp. I have flown in this blimp. You can station blimps with a long dwell time because the amount of fuel that is used in a blimp from start to finish for upward of a 24-hour mission, if you had two crews on board—that amount of fuel is the same that it takes to crank up an F–16 just to get it out there on the runway. It is a huge cost savings, and it gives us a lot of dwell time. So why wouldn't we enhance for the U.S. Navy the blimp that is being tested for the 4th Fleet headquartered at Mayport Naval Station? We should.

Thirdly, the U.S. Coast Guard. Why wouldn't we enhance the Coast Guard's ability to patrol not just for drugs, but for some of those who are trying to come into the United States illegally now through the maritime border, so why wouldn't we enhance the Coast Guard?

With $20 billion to $46 billion extra for this amendment that we are going to vote on this afternoon, why wouldn't we add another $1 billion to stop the illegal immigration and drug smuggling that is going to occur on the maritime border? Just think about it. Just think, when you try to stop water from rushing forward and you put some kind of dam that stops it, if there is any break or leak or hole, where is that water going to go? It is going to go in the place of least resistance. So, too, smuggling of illegal aliens and drugs. If they do not get across the land border because of my friends insisting that it become impregnable, why would they want to block Senator WICKER's and my amendment that says we are going to enhance modestly because we can handle it with overhead and on-the-sea assets through the Department of Homeland Security and the U.S. Coast Guard and the U.S. Navy?

It is common sense. Common sense ought to rule.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

Mr. LEAHY. I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. NELSON. Would the Senator yield. The Senator—the esteemed chairman whose leadership has brought us to this point, that we are on the brink of passing a major immigration reform bill—the Senator heard my comments earlier. Does it not make common sense that if we are making as secure as possible the southern land border of the United States for illegal immigration—which also includes drugs, by the way—would it not make sense that we would want to increase the maritime border security?

Mr. LEAHY. In answer to my friend from Florida, who has been a friend for decades and knows the coastal area far better than anyone else, the more secure we make the land border for those who want to have illegal entry into the United States, the more they are going to look for other ways. Water is one of them.

The distinguished Senator from Florida has seen everything from boat lifts on through coming into his State. Without naming the countries, we know them all. So that is long way around of saying ''of course.''

Mr. NELSON. I thank the Senator, the esteemed chairman of the Judiciary Committee. It is common sense. I appreciate him underscoring that. I hope our brethren and sistren on the other side who are questioning whether they are going to allow my and Senator WICKER's amendment to be considered will reconsider their decisions.

Mr. LEAHY. Mr. President, I would note that there are some in this body, I am sure, who want no immigration bill. I get the feeling that is a smaller and smaller group. I imagine they would love to just keep killer amendments going for weeks and weeks and hope the bill might die.

On the other hand, we have some very legitimate requests made on both sides of the aisle. I have been told that some of the ones we might want to bring up that we would pass probably unanimously, the other side will not allow them to come up unless we allow these other amendments.

I would hope that during the next 2 days both sides would allow the distinguished ranking member and me to sit down and go through and accept—as we normally do on a bill such as this—a package of amendments that are acceptable.

I suggest the absence of a quorum and ask that the time be equally divided.

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

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. GRASSLEY. I know that when I come to the floor and remind my colleagues about my involvement in the 1986 immigration bill, it sounds like a broken record. I said early on this year that I wanted to educate my colleagues about the mistakes we made in 1986 so those mistakes were not repeated in the first immigration bill to pass the

Senate since 1986. Because I was here in 1986, I thought I could share the experience we had. I know firsthand that we screwed up in that 1986 legislation. I was certain other Members in this body could learn from our mistakes.

However, today we are right back to the same place, talking about the same problems, proposing the same solutions.

In 1981, as a freshman Member of the Senate, I joined the Judiciary Committee and was very active in the subcommittee process. We sat down and wrote the legislation. We had 100 hours of hearings and 300 witnesses before we marked up that bill in May of 1982. Hundreds more hours and a dozen more hearings would take place before the bill actually became law in 1986. This year we had 6 days of hearings. We spent 18 hours and 10 minutes listening to outside witnesses.

The Judiciary Committee received the bipartisan bill at 2:24 a.m. April 17. We held hearings April 19, 22, and 23. We heard from 26 witnesses in those 3 days. We heard from the head of the Immigration and Customs Enforcement agency union. We heard from economists and employers, law enforcement and lawyers, professors and advocacy groups. We even heard from people who are undocumented, proving that only in America would we allow somebody who has violated our laws, is not right with the laws, to be heard by the American people.

One of the witnesses on April 23 was Secretary Napolitano. We attempted to learn about how the bill would affect the functions of the executive branch—after all, that is where it is going to be carried out—and whether she saw some flaws, the same flaws many of us were finding in the legislation.

We asked follow-up questions of the Secretary that were thoughtful and focused on the mechanics of the legislation. We wanted to know the Secretary's thoughts since she would be implementing the legislation. Unfortunately, we still have not received responses to questions we raised. Today it has been 2 months since the Secretary has failed to answer our questions—in a sense, ignoring us. She has refused to cooperate. She has refused to tell us how the bill would be implemented by her department. Is it amazing—at least it is to me—that the majority puts up with this, let alone some of my own Republican colleagues?

After the committee hearings, we started the markup process on May 9. We held five all-day sessions where Members were able to raise questions, voice concerns, and offer amendments. Commonsense amendments offering real solutions were repeatedly rejected. Those that were accepted made some necessary improvements. But the core provisions of the bill have remained the same yet to this very day.

I respect the process we had in committee. It was open, fair, and transparent, even though the end result was almost determined. We had a good discussion and debate on how to improve the bill. It was a productive conversation focused on getting immigration reform right for the long term, not to make the same mistakes we did in 1986. Yet I was disappointed that alliances were made that actually ensured nothing passed in that committee process that would make substantial changes and improvements to the bill. Those alliances remain in effect when we are out here on the floor of the Senate.

As of this morning, 349 amendments have been filed to the underlying bill. We started off the debate on the Senate floor with my amendment that would require the border to be effectively controlled for 6 months before the Secretary could process applications for registered provisional immigrant status, RPI, or another way of saying it: legalizing those who crossed the border without papers. That is pretty darn important because we have been told since this bill was put to the public by the Gang of 8 that we were going to secure the border. Well, we are going to secure the border after legalization because a plan put before Congress is not securing the border. Securing the border is only if that plan actually secures the border. But legalization is going to take place before the plan is put into effect. That is what I consider a major shortcoming of this legislation because it makes the same mistakes we did in 1986. We thought we secured the border. We did not secure the border, but we legalized.

My amendment was surely feared by the other side because it would fundamentally change the bill. It would not fundamentally change what the authors of the bill said they were going to do—secure the border and then legalize—but it changed what was actually in the language of the bill. So in order to keep my amendment from being adopted, they insisted on a 60-vote threshold for the amendment to pass, which I refused. So in response they moved to table my amendment.

We were promised an open and fair process. Why wasn't that promise kept? We learned on day one that all the talking about making the bill better was just hogwash. It was a phony and empty promise. They would take to the floor and they would say they were ready to move and vote on amendments. Boy, that sounds very fair and open, doesn't it? Yet, in reality, they were afraid of all of the amendments that could be offered. They refused to let Members offer any amendment of their own choosing. They wanted to pick which amendments would be considered on the floor of the Senate. Does that sound fair and open? Well, it obviously does not. They wanted to decide who, what, when, and how it would be disposed of. That is not right.

What is even more disturbing is the fact that the alliances made thwarted the ability of the minority to have any say whatsoever. Republicans were obstructed even by Members of our own party. They voted to table amendments, and they refused an open amendment process. One Republican said:

> I am confident that an open and transparent process, one that engages every Senator and the American people, will make it even better. I believe this kind of open debate is critical in helping the American people understand what's in the bill, what it means for you, and what it means for our future.

That was never carried out here on the floor of the Senate.

The same Senator also wrote Chairman LEAHY on March 30, saying:

> I write to express my strong belief that the success of any major legislation depends on the acceptance and support of the American people. That support can only be earned through full and careful consideration of legislative language and an open process of amendments.

That was a letter to Senator LEAHY on March 30. It was well-intended, but I don't see a defense of that position out here on floor of the Senate as we are steamrolled.

In a letter to me on April 5, the Senator wrote:

> If the majority does not follow regular order, you can expect that I will continue to defend the rights of every Senator, myself included, to conduct this process in an open and detailed manner.

As we are being steamrolled with just a few amendments being considered, we can see that may have been well-intended, but it is not carried out.

When the bill was introduced, the senior Senator from New York said:

> One of the things we all agree with is that there ought to be an open process so that the people who don't agree can offer their amendments.

Well-intended. The Gang of 8 called for a robust floor debate. They said they supported regular order. I asked them do they think that having only considered nine amendments equates to a robust and open process.

Mr. LEAHY. Will the Senator yield for a question?

Mr. GRASSLEY. I will yield for a question. I may not answer it, but I will yield.

Mr. LEAHY. Is it not a fact that the first amendment that was brought up was a bipartisan one of Senator HATCH's and mine? Shortly thereafter, the Senator from Iowa came with an amendment. Following the normal courtesy done, I allowed mine to be set aside so he could bring up his, but isn't it a fact that when we asked if we could set that aside for some noncontroversial amendments on either side, he told me he could not?

Mr. GRASSLEY. The Senator is correct.

Mr. LEAHY. I thank the Senator.

Mr. GRASSLEY. We only had nine amendments. Is that a robust and open process? Do they think the majority has allowed regular order? From my point of view, the answer is a clear and resounding no.

We are at a point where the process has been halted. It is unclear if any more amendments will be debated and

voted on. The only amendment that is in order is the one that was concocted behind closed doors and is loaded full of provisions that are shockingly close to what can be called earmarks.

We are back where we started—with a gang of Members promising that their legislative text is the best thing to happen to immigration reform, that their solution is the end of future illegal immigration. Does anyone really think this will solve the problem once and for all? From my point of view, based upon my experience in 1986 and since, the answer is a clear and resounding no.

There are fundamental flaws in this amendment we call the Schumer-Corker-Hoeven amendment—legalization first. I am going to take the opportunity to walk through some changes.

The authors claim the amendment is a border ''surge'' that leaves no more doubt about whether the border will be secure. Yet the border changes only account for about half of the total amendment. There are changes to every title. There are changes to exchange visitor programs, the future guest worker program, and visas for the performing arts. This isn't just a border amendment; there are provisions in the bill to attract other Senators to support its passage. I will dive into those provisions in detail in a moment, but first I wish to focus on border measures.

The sponsors of this bill want you to believe it is different from the 1986 legislation. They say it will be a tough and expensive road and it would be easier for individuals to go home than to go through the process. What the sponsors don't like to admit is that the bill is legalization first, enforcement later—and I have to add, enforcement later, if ever.

Take, for example, the fact that one of the sponsors who went on Spanish television tried to apologize for speaking the truth. He said:

> Let's be clear, nobody is talking about preventing the legalization. The legalization is going to happen. That means the following will happen: First comes the legalization. Then come the measures to secure the border. And then comes the process of permanent residence.

He spoke the truth.

The fundamental flaw underlying the bill has not changed with this amendment. Let's be clear. No one is preventing the legalization. It is going to happen, as opposed to the promise when this bill was put forward that the bill was going to secure the border first.

There is a lot of money in this bill, there is a lot of micromanaging in this amendment, and there are more waivers. Remember, this is already on top of—I think one Member counted 222 waivers for the Secretary. We write a piece of legislation. We are supposed to legislate. We legislate and then say to the Secretary: Well, you can ignore what we legislate in certain conditions.

We ought to be making broad policy here and not delegating to the administration the way that we too often do—not just in this legislation but, as a matter of fact, on most everything.

What the amendment does is require more boots on the ground. It increases the presence of Border Patrol even though the Members of the Gang of 8 had long opposed that idea. They said it was unnecessary and costly. But let's be honest with the American people. The amendment may call for more Border Patrol agents, but it doesn't require it until the undocumented population, who are now called RPIs, apply for adjustment of status or a green card. It is legalization first, border security long down the road.

I am all for putting more agents on the border, but why wait? Why allow legalization now and simply promise more agents in the future? Even then, who really believes that the Secretary, like the one we have today, will actually enforce the law?

Then there is the fencing. One of the conditions that must be met before the Secretary can produce green cards for people here illegally is that the southern border fencing strategy has been submitted to Congress and implemented. This fencing strategy will identify where 700 miles of pedestrian fencing is in place. Note that this is not double-layered, as in current law; the amendment states that a second layer is to be built only if the ''Secretary deems necessary or appropriate.'' Can the authors of this amendment say that is a promise to the American people to build a fence if somehow the Secretary is given the authority of whether it is necessary or appropriate? Additionally, the underlying bill still specifically states that nothing in this provision shall be interpreted to require her to install fencing.

The amendment also requires that an electronic entry-exit system is in use at all international air and sea ports but only ''where U.S. Customs and Border Protection are currently deployed.'' This is actually weaker than the bill that came before the Senate a few weeks ago. That bill required that an electronic entry-exit system be in use at air and sea ports, not just internationally. It is still weaker than current law, which requires biometric entry and exit at all ports of entry, including air, sea, and land. That current law has been on the books for a long period of time—not carried out by both Republican and Democratic administrations. So what certainty do we have that this is going to be carried out?

The Schumer-Corker-Hoeven amendment border proposal adds technology in addition to manpower at the southern border. It authorizes the Secretary to purchase and deploy certain border technology. I will give some examples that are included in this amendment.

In Arizona, the Secretary is allowed to deploy 50 fixed towers, 73 fixed camera systems, 28 mobile surveillance systems, 685 unattended ground sensors, and 22 hand-held equipment devices, including night vision goggles.

In San Diego, the Secretary is allowed to deploy the same type of equipment but of different quantities. They also will deploy nonintrusive inspective systems, a radiation portal monitor, and a littoral detection and classification network.

In El Centro, CA, the Secretary is allowed to deploy the same equipment, but the list also includes two sensor repeaters and two communications repeaters.

They will also get 5 fiber optic tank inspection scopes, a license plate reader, a backscatter, 2 portable contraband detectors, 2 radiation isotope identification devices, 8 radiation isotope identification devices updates, 3 personal radiation detectors, and 16 mobile automated targeting systems.

That is not all. The list goes on. It includes certain helicopters and aircraft upgrades. It includes 10 Black Hawk helicopters and 30 marine vessels.

I would like to know what some of these items are. Who provided the amendment sponsors with this list? We had a hearing in January, and not once did the list appear. Secretary Napolitano did not provide the committee with any list. Did Sikorsky, Cessna, and Northrop Grumman send a wish list to certain Members of the Senate?

While the Senate micromanages what technology is to be purchased and deployed, we should take note that the bill allows the Secretary to ''reallocate'' the personnel, infrastructure, and technologies laid out. It is pretty simple: A Secretary who says the border is secure right now can change all of this stuff specifically mentioned in this amendment.

Let's also not forget about the litigation exception. The triggers or conditions may never have to be met. Green cards can be issued if the Supreme Court grants review of litigation on the constitutionality of the implementation of the conditions. Under the bill, if any court in this country issues a stay on implementing one of the conditions, then green cards are to be issued after 10 years. The bill does not specify what sort of ruling must prevent implementation or even that the ruling be on the merits, nor does the bill require that appeals run their course, even if the appeal upholds the conditions.

We still maintain this toothless commission called the southern border security commission, but it retools it a little bit. It still does not give it any teeth whatsoever. The amendment requires the creation of the commission 1 year after the enactment, which is probably better than the 5 years that is in the bill. They would also be required to hold public hearings once a year. Under the original version of the bill, the commission would be in existence until they submitted a plan. Under this amendment, the commission will live for 10 years. Yet, the recommendations they provide still do not hold any

weight. They can be ignored. They are nonbinding.

There is a lot of spending in this amendment as well. In addition to micromanaging resources in each sector, the amendment increases taxpayer spending by $40 billion over the introduced version of the bill before this amendment was added to it. Originally, the legislation called for spending $100 million for startup costs and $6.5 billion for the Secretary to carry out the law. When we got to committee, there was a technical amendment that increased that startup cost from $100 million to $1 billion. During markup, Senator SCHUMER and his allies increased the trust fund allocation from $6.5 billion to $8.3 billion. The Schumer-Corker-Hoeven amendment increases the trust fund to $46.3 billion. Now, think, going from $8.3 billion to $46.3 billion. Add the $3 billion for the Secretary to have startup costs, and we are at $50 billion. That is over a 500-percent increase in spending. You know, a billion here and a billion there, and it soon adds up to real money.

Note that this isn't shifting money from the trust fund, such as the Cornyn amendment would have done. And that amendment was defeated on the floor of the Senate. Instead, it is just plain old brand new spending. The sponsors found a money tree to pay for the wish list provided by Secretary Napolitano and the aerospace industry.

Based on reports of how this deal was struck, we have a pretty good idea of why spending has increased. According to a Politico article from last week, negotiations for this deal were at a standstill until the Congressional Budget Office's score was released. The CBO's score stated if the bill becomes law it would cut the deficit by almost $1 trillion over the next 20 years.

Thus, with this estimate in hand, the Politico report tells us how the negotiators were able to find a solution: ''Throw money at it.'' According to the article, it was suggested Senators could funnel some of the savings into border security, and that is what has been done. Again, as is often the case in Washington, the solution always seems to be just throw more money at the problem. But the money has to come from somewhere.

Furthermore, paying for the agents requires raiding the Social Security trust fund. Indeed, the bill sets aside $30 billion to pay for Border Patrol agents. But when asked on the floor how the Gang of 8 found the money, Senator HOEVEN said he and Senator CORKER were able to add the $30 billion in spending because the CBO projects that S. 744 will bring in more revenue than it requires in expenditures. Upon closer examination, it is clear the projected revenue under CBO analysis is due to an increase in Social Security and Medicare taxes.

This money must be set aside if Social Security and Medicare are to remain solvent. Thus, taking that tax revenue and using it for the fence means raiding the Social Security and Medicare trust funds. You know how the Medicare trust fund was raided for health care reform? Sounds like the same thing is happening here.

On the date of enactment, the Treasury will transfer $46.3 billion to the trust fund. The sponsors claim the Treasury will be repaid. But when will the funds be paid back to the Treasury? When will the American people be reimbursed? The sponsors of the bill are saying taxpayers would not bear the burden. Yet there is no requirement the funds be paid back. There is no time limit or accountability to ensure they are repaid.

The Schumer-Corker-Hoeven amendment increases fees on the visas for legal immigrants in order to replenish the trust fund and the Treasury. It happens that employers, students, and tourists will pay the price. The bill allows the Secretary to increase those fees, so employers who bring in high-skilled workers will bear the burden. Students and tourists who come in the legal way will bear the burden.

But guess what. The amendment goes on to say the fees for those who cross the border in violation of our laws cannot be charged more than what is allowed. The Secretary cannot adjust fees and penalties on those who apply for or renew RPI status or even blue card status.

There is no interior enforcement in here, and there is a real problem when we don't have more interior enforcement than is here because we will have more people coming here who are undocumented. The amendment in the underlying bill will not end undocumented immigration. The Congressional Budget Office reports that illegal immigration will only be reduced by 25 percent due to the increased number of guest workers coming into the country. The amendment does nothing to radically reduce illegal immigration in the future and does not provide any resources to interior enforcement agents whose mission it is to apprehend, detain, and deport undocumented immigrants. Just like with the 1986 legislation, we will be back in the same position in 10 years facing the same problems.

The amendment, for instance, in section 1201, attempts to address people who overstay their visas. It says the Secretary shall, one, initiate removal proceedings; two, confirm that immigration relief or protection has been granted or is pending; or, three, otherwise close 90 percent of the cases of nonimmigrants who were admitted and extended their authorized period of admission by more than 180 days.

So while it appears to be tough on overstays, it only affects people who overstay their visa by 180 days or 6 months. It also allows the Secretary to close the cases.

What does it mean for the Secretary to close these cases? Under current law, an immigration judge has the power to administratively close a case. It is used to temporarily remove a case from the calendar. Sometimes a judge waits for further action to be taken. An administrative closure is not a final order. Closure does not mean termination. It does not mean deportation. So I think it is unclear what this language does and who it is applying to.

Moreover, it is unclear how the Secretary would know who has overstayed if no exit data or tracking system exists. Also, why doesn't the amendment require the Secretary to deal with 100 percent of the people who overstay their period of authorization? Given there are no ramifications for the Secretary if she does not capture 90 percent of visa overstays, this, again, is another law that will not be followed.

It does nothing to end this administration's anti-enforcement policies but, instead, gives the Secretary of Homeland Security vast discretion to ignore serious criminal convictions of immigration violators, including gang-related crime, domestic violence, drunk driving, and child abuse.

The bill would not only create an immediate legalization program for those here illegally today but also a permanent legalization program for future undocumented immigrants. The Schumer-Corker-Hoeven amendment includes a provision that would make individuals admissible despite the 3- and 10-year bars.

I would like to know more about the rationale from the sponsors as to why this language was included. There is no doubt this amendment was crafted in the back rooms on Capitol Hill, and it is no secret some Members were able to insert provisions in the Schumer-Corker-Hoeven amendment while the rest of us attempted to work out an agreement on pending and filed amendments.

While some of us were trying to legislate and bring up amendments for votes on the floor, others were taking advantage of the pay-to-play game. Clearly, some of the amendments filed were included. Let me share some examples.

No. 1, the amendment now authorizes funds for an educational campaign to help deter illegal crossings into Mexico from the South. This amendment would put American taxpayer money toward training for law enforcement officials in Mexico, Honduras, El Salvador, Guatemala, and other countries. It would allow for taxpayer expenditures to educate nationals of other countries ''about the perils of the journey to the United States.''

This amendment should have been considered under regular order.

No. 2, the amendment now includes a provision that would require Customs and Border Protection officials to reduce airport wait times.

This amendment which was filed should have been considered under regular order.

No. 3, the amendment now makes it harder for Border Patrol agents to enforce U.S. immigration law along the

northern border by limiting the mileage or distance agents can search vehicles or other forms of transportation.

This amendment which was filed should have been considered under regular order.

No. 4, the Schumer-Corker-Hoeven amendment includes amendment No. 1283 that creates a ''Youth Jobs Fund'' using $1.5 billion from the U.S. Treasury to be repaid through fees. The goal of the fund is to ''provide summer and year-round employment opportunities to low-income youth.''

This amendment should have been considered under regular order.

No. 5, the Schumer-Corker-Hoeven amendment includes amendment No. 1493, which designates zones 1, 2, and 3 occupations involving seafood processing in Alaska as shortage occupations. It also includes amendment No. 1329, which extends the J visa Summer Work Travel Program to seafood processing positions only in Alaska.

These amendments should have been considered under regular order.

No. 6, the amendment now includes amendment No. 1183, which was actually pending before the Senate. It would allow for fee waivers on certain visa holders, namely O and P nonimmigrants, who come to the United States to work in Hollywood or play professional sports.

We could have voted on this and had regular order on that amendment.

Well, there are a lot more amendments I could go through, but I will just suggest some clarifying amendments. And there probably should have been more clarifying amendments.

The amendment by SCHUMER, HOEVEN, and CORKER also includes so-called ''technical fixes.'' One fix is related to the H–1B visa cap. The sponsors of the bill, and those who worked behind closed doors to devise an H–1B visa package, stated the annual cap would not exceed 180,000. Yet the language didn't do what they said it did. As written, it provided 20,000 more than they claimed. So this amendment includes a clarification to say the cap shall not exceed 180,000.

The second clarifying change in the amendment is related to visas for countries that have entered into free-trade agreements with the United States. During committee consideration, the Senator from New York added an amendment that would provide 10,500 visas for countries in the African Growth and Opportunity Act and the Caribbean Basin Economic Recovery Act. The change in this amendment clarifies that only a total of 10,500 may go to those countries rather than to each country that is described under the act. Still, it is not 100 percent clear the clarification achieves the goal.

So it is legitimate with these clarifications and fixes, but how many more clarifying amendments are necessary? These two provisions were included because my staff caught them and brought them to the sponsors' attention. But how many more provisions are not written properly that we do not know about?

At the end of the day the Schumer-Corker-Hoeven amendment doesn't do what the sponsors say it will. As we have seen all along, we are being promised one thing and sold another.

I am frustrated with how the majority has processed this bill. We should have had 3 genuine weeks on this bill processing amendments and having votes. Yet we are forced to vote on packages that were concocted behind closed doors. We were given 72 hours to read the legislative text. That may be plenty of time to read it, but it is not plenty of time to actually study it and know what is in it. Even then, the American people would have had a difficult time getting their hands on the bill over the weekend or understanding its true ramifications.

It is quite obvious I am going to vote against this amendment. It does nothing to change the legalization first philosophy and offers little more than false promises the American people can no longer tolerate.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I ask unanimous consent that I be allowed to speak as if in morning business, without delaying or affecting the time of the cloture vote today.

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

(The remarks of Mr. LEAHY pertaining to the introduction of S. 1215 are printed in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

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

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

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HOEVEN. 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. HOEVEN. Mr. President, I ask unanimous consent that I be recognized for up to 10 minutes under Senator LEAHY's time.

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

Mr. HOEVEN. Mr. President, I rise today to address comprehensive immigration reform and to talk specifically about the Hoeven-Corker amendment.

The Hoeven-Corker amendment is to secure the border. Besides myself and Senator CORKER, this is bipartisan legislation that has 11 Republican and 4 Democratic cosponsors. This is all about securing the border first. This is a first step for comprehensive immigration reform, and that is what we are seeking to do.

I come to the Senate floor today to address some of the misperceptions that have already been circulating about our legislation. Throughout the weekend some of the pundits and others have put out information that is incorrect with regard to the Hoeven-Corker amendment to the new immigration bill. As the old saying goes, people are certainly entitled to their opinions, and we respect all opinions, but they are not entitled to their own facts. So I want to separate some of the myths or misperceptions from the facts in regard to our amendment.

Let me say at the outset we welcome the debate, and we welcome the opportunity to provide information. This is truly about coming up with legislation that wins the support of the American people as well as bipartisan support in the Senate, the House, in this Congress, and that is what it takes to meet a challenge of the magnitude of immigration reform. So I will clear up some of the misperceptions or myths that have been circulating and put forth the facts.

Myth No. 1: Somehow people have not had time to read this 1,200-page amendment—and somehow this myth keeps getting repeated. Well, the fact is it is not 1,200 pages. This new amendment is about 120 pages that have been added to the underlying bill. So, yes, all told it is 1,200 because 1,100 pages is the existing bill, and we are adding an additional 120 pages. The underlying bill—the 1,100 pages—has been out there since May for people to read. The roughly 120 pages right here is it. This is the new material. This is 120 pages. We are adding 120 pages, which I think somebody could read in a short amount of time.

This was filed at about 2 p.m. on Friday, and it has been available to all of the Members. They had all of Friday to read the 120 pages. This is the new material—not 1,200 pages. They had all of Friday to read it, all of Saturday to read it, all of Sunday to read it, and today until now to read it. If there is anybody who still hasn't read it, there is plenty of time to read it before the vote at 5:30 p.m. today.

There is 120 pages of new material. Let's be clear about that. There is no purpose for folks to misunderstand or to create misunderstanding. Why would anyone do that? Why would anyone want to say there are 1,200 pages of new material when there are 120 pages of new material? Well, that is the first myth.

Myth No. 2: The southern border fence does not need to be completed before people are eligible for green cards. That is the second thing that is not correct. What is the fact? Because that is wrong. The fact: The trigger explicitly states that at least 700 miles of fencing along the southern border must be built before individuals can receive a green card. A subsequent provision says DHS may decide where that fence gets constructed, but the trigger language is clear: We have to build 700 miles of fence before anyone gets a green card.

The southern border is roughly 2,000 miles from Brownsville, TX, to San

Diego, CA. A minimum of 700 miles of fence has to be built before anyone can get a green card, and they have to go into what is called provisional status for 10 years as well.

As for this provision, the Secretary of Homeland Security does have some discretion to decide where on that 2,000-mile border they are going to put the 700 miles of fence. That makes the most sense, doesn't it? Shouldn't we put the fence where it does the most good? Why would anyone try to say the subsequent provision—which says they can put the fence where they need to put it and where it does the most good—get construed to somehow mean we don't have to have 700 miles of fence? It clearly says we have to have 700 miles of fence.

Again, let's make sure people understand what is in the bill rather than confusing them about what is in the bill. It seems to me we can debate this, and we should debate it, but let's debate it on the facts, not on creating misperceptions.

Myth No. 3: Congress will choose not to fund the southern border security in the amendment. Congress will choose not to fund it. Well, the whole law says, in fact, they do have to fund it, and the fact is the bill is fully funded. It is funded upfront. The amendment adjusts the funding for border security by $38 billion, and that is over a 10-year period. So it is between $3 billion and $4 billion a year we spend to truly secure the border. Americans want the border secure, so that is what we do. That cost is over a 10-year period.

Under this legislation, that money—upfront—is authorized and appropriated and put in the comprehensive immigration reform trust fund. Furthermore, that funding is paid for with immigration fees, fines, and surcharges. So the illegal immigrants pay for the border security. I think that is something Americans should understand, and I think it is something they believe should happen. That is the way it should be done.

Again, my question is: Why is the misperception going around that somehow this thing isn't funded or will not get funded when this amendment specifically says it is funded upfront, and the money is appropriated into the trust fund? That is what it says in the roughly 120 pages that constitute the new legislation in this amendment.

Myth No. 4: The amendment puts the American taxpayer on the hook for $38 billion. I think I covered this one pretty well just a minute ago, but I have additional information to make sure people understand.

CBO says the underlying immigration bill will reduce the deficit by $197 billion in the next 10 years and by $690 billion during the second decade. That is almost $1 trillion in deficit reduction over the next two decades. The total cost of security measures added by the Hoeven-Corker amendment is—as I said just a minute ago—about $38 billion. The base bill designates $8 billion to security measures, bringing the total costs of security measures for the bill as amended to a total of $46 billion. The U.S. taxpayer will be more than made whole with the visa fees and by the $458 billion in additional tax revenue that results in the large deficit reduction.

Again, the point I made before: By bringing illegals out of the shadows, making them pay fines, fees, and taxes, we will generate the revenue which not only reduces the deficit, but way more than pays to secure the border. Again, Americans want border security first, which is what this amendment is about.

Myth No. 5: The new border patrol agents will never be hired or deployed. Fact: The amendment mandates that 20,000 more Border Patrol agents be hired and deployed before individuals are eligible for a green card. Let me read that again. The amendment mandates that 20,000 more Border Patrol agents are hired and deployed before individuals are eligible for a green card. That is in addition to the almost 20,000 Border Patrol agents who are on the border now. That is a total of 40,000 Border Patrol agents on the border.

I have heard some of our Members talk about how they want 40,000 Border Patrol agents on the border. That is what this does. It requires that it be done before anyone gets a green card.

Myth No. 6: Section 2302 says if a person overstays their visa in the future, they can still apply for a green card and become a citizen. Fact: That is just plain false. If a person overstays their visa, a removal proceeding must be initiated unless they are in a special legal status because they cannot return to their country due to conditions such as an environmental disaster or a humanitarian crisis.

Myth No. 7: The amendment is only about the border and it does nothing to address the visa overstay issue. Fact: Visa overstays currently account for 40 percent of those unlawfully present in our country. This is an important issue. The underlying bill improves the identification of overstays through a fully implemented entry-exit system.

Our amendment goes a step further by mandating the initiation of removal proceedings for at least 90 percent of visa overstays—holding DHS accountable. The amendment also requires extensive reporting to Congress every 6 months to facilitate oversight of this important overstay issue.

Myth No. 8: The 20,000 additional Border Patrol agents won't begin to be deployed until 2017. Fact: Under the Hoeven-Corker amendment, the Border Patrol must deploy 20,000 additional agents before registered provisional immigrants can obtain a green card. The only reference in the bill to the year 2017, as it relates to the deployment of border security resources, is to a mandate on DHS that says the 3,500 Customs and Border Protection officers assigned to points of entry must be hired by and must be in place by 2013. This is a positive provision that will ensure additional Customs and Border Protection officers are in place as quickly as possible, and in no way delays the deployment of the additional 20,000 Border Patrol agents.

There are other misperceptions circulating regarding the legislation. That is why Senator CORKER and I put out a fact sheet to rebut them. We do it as simply and as straightforwardly as we can. We say: OK, look. They are saying there are 1,200 new pages. No, there are 120 pages, and on we go down the list.

So I hope people understand we are trying to foster understanding. We want people to understand this. We want people to know what is in it. Again, we are, to the very best of our ability, trying to approach this comprehensive immigration reform issue, we believe, the right way, which means secure the border first. That is what this amendment is about. It is about securing the border first, and we do it as objectively and in as verifiable a way as we can.

We ask our colleagues on both sides of the aisle to join us in rising and meeting this incredible challenge we face for the benefit of the American people and the future of our country.

Thank you, Mr. President. With that, I yield the floor and note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MENENDEZ. 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. MENENDEZ. Mr. President, I ask unanimous consent that any quorum call time be equally divided on both sides.

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

Mr. MENENDEZ. Mr. President, I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CORKER. 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. CORKER. Mr. President, I rise to speak on the amendment at hand. My understanding is Senator LEAHY has allowed me to use some of his time.

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

Mr. CORKER. I will be brief. I spoke at length earlier today on this amendment. I wish to speak especially to my side of the aisle as it relates to this amendment.

There is a lot of confusion over what is happening tonight, and I just want to make sure everybody understands. No. 1, we have a cloture vote this evening on the amendment. It is a border security amendment. It is not the

cloture vote on the bill. There still will be the opportunity for additional amendments to be considered. So people can sense—I do want to say the very people who seem to be wanting amendments are the same people who are opposing amendments, so I hope that will get worked out on the floor. But tonight's vote is simply a cloture vote on an amendment that was offered on Friday, and that is all it is. So there will be another cloture vote. No one is giving up rights relative to this bill.

Secondly, this amendment we are voting on is 119 pages long. Because of the rules of construction in the Senate, this 119-page amendment was added to the base text. A lot of people understand that is just the way we do things here, when an amendment touches various pieces of a bill. But this amendment is 119 pages long. It has been added to the base bill which makes the bill itself over 1,200 pages.

Members of this body have had access to the base bill since May. It has been through committee. It has been amended. People have been able to look at it.

I say to people viewing in, 119 pages in legislative language is triple-spaced, on small pages, and generally is about 25 to 30 pages in regular reading. I would just say that a middle or high school person in Tennessee could read this amendment in about 30 to 45 minutes. I am assuming staff can walk people through much more quickly if they wish or one could go into much more detail. But the point is it is not as if something has been dropped on people that is from outer space. This is 119 pages. It is easy to read. All of us could read it in a very short amount of time. I am sure people would want to spend more time than that.

So let me go back to what this amendment does. In the base bill right now it states the head of Homeland Security would lay out a plan 180 days after passage of this legislation. Then, 10 years from now, this same person—it might be a different person, but the head of Homeland Security—would decide whether that plan has been implemented.

Many people on my side of the aisle viewed that as a little abstract and wanted to improve it. There have been numbers of measures authored on the floor. I voted for almost every single one of them to strengthen the border. It has been something Republicans have championed for years.

So this amendment would take away that base language saying the Secretary of Homeland Security would make a plan and decide and would put in place five very important measures.

The first would be deploying and training 20,000 Border Patrol agents. That is doubling the number of Border Patrol agents we have in the country, something Republicans have wanted for a long time.

Secondly, the amendment authorizes $4.5 billion on technology to create the kind of technology that gives us situational awareness on the border—something, again, Republicans have wanted for a long time.

It adds 350 miles of fencing to the 350 miles we now have, creating 700 miles. We have had amendments to that effect that almost every Republican voted for. That is a part of this amendment.

It puts in place an entry-exit visa program. Again, people know 40 percent of the immigration issues we have in this country are because of visa overstays. This attempts to solve that by putting in place a very measurable trigger.

In addition to that, E-Verify has to be fully in place.

Again, all five of these have to be in place before people transition from a temporary status to a green card status. So if you vote for this amendment tonight, you are voting to have those five tangible, measurable issues in place.

Let me talk about this. We have had a big debate over the trigger. By the way, for what it is worth, I understand the concerns on the other side of the aisle about a trigger that is subjective. In essence, what happens down on the border right now is the Border Patrol agent sees a Cheetos bag, literally, and has to decide whether 10 people ate out of that Cheetos bag and left it there or 1. Let's make a subjective guess. So the other side of the aisle said: We do not want anything subjective like that.

Our side has wanted some tangible triggers. I used to build shopping centers around the country—retail projects in 18 States. When I completed the project, the whole community could see it was done and I got paid. I would not have wanted a trigger that said: Did we meet 90 percent of the retail needs of the community? I built what was laid out. That is what this amendment does. It lays out five measurable triggers that people who have wanted border security for years have pressed for.

I am almost finished.

The cost of it. A lot of people have said: The cost of this is $46 billion over a 10-year period. It is expensive. Some of them are one-time costs. But as it relates to the overall bill—not the amendment—the bill states—by the way, these measures do not go in place unless the bill passes. But there is $197 billion in return over that 10 years.

I wish to say to everybody in this body, I have never had the opportunity as a Senator—I have been here 6½ years—to potentially be in a place to vote for something that spends $46 billion over 10 years and generates $197 billion back to the Treasury over 10 years without raising anybody's taxes. I have never had that opportunity. I would imagine every private equity company, every hedge fund in America would want to participate in that kind of ratio.

I am going to close with this: The choice tonight is to vote cloture on an amendment—not on the bill, an amendment—that has been on the floor for 75 hours—everybody has had the opportunity to look at it—that takes away the idea that the Homeland Security person will put out a plan 180 days after we pass this bill and, instead, puts in place tangible, measurable criteria, things that every American can see in place before persons transfer from a temporary status to a green card status.

For what it is worth, Governor Brewer, who is the Governor of Arizona, who probably knows more about border security than anybody in this body, today came out and said if we could pass this amendment as part of the immigration bill, it would be a tremendous victory for Arizona, a place that probably has more issues of border security than any State in the country.

So I will just ask my Republican colleagues, why would anyone even consider voting against an amendment that puts in place very stringent border requirements in place of one where we have no idea what is going to take place?

Republicans have asked that Congress weigh in. I do not know how Congress could weigh in any more than spelling out what is going to happen.

To my friends on the other side of the aisle, I would say to you, to me, this is something that allows us to know that once this process occurs, there is a tangible line in the sand we can measure, to know we cannot move the goalposts—we cannot move the goalposts—and at the end of the day we end up with a balanced bill.

I will close with this. I know I said I would close a minute ago. I will say one more thing. I look at what we are trying to accomplish in this bill and I look at the people who have come across our border to work—to work. I know many of them have created companies and have been entrepreneurs and contributed in all kinds of ways. Many of them have just walked across to support their families. They raise our kids in many cases. They pick our crops. They serve us in restaurants. They build our homes. They build our buildings. They do many other things. To me, what people on both sides of the aisle have done in trying to agree to this motion tonight is to put in place something that is tangible, something that cannot be changed down the road.

If this amendment is passed—even though there may be people who vote against the overall bill—voting for this amendment strengthens the bill. It says, if we pass it, we have a bill, in my opinion, that meets the test of the American people. We are securing the border, but we are allowing those people at the back of the line to have some pathway to continue to live the American dream, the same things we want for our sons and daughters all across our country.

I yield the floor and thank the Presiding Officer for the time.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. VITTER. Mr. President, I rise to also address this most recent backroom

gang agreement—the Schumer-Corker-Hoeven amendment we will be voting on in just a little while.

This amendment is clearly filled with lots of sort of nice shiny objects to try to attract Republican votes. It is clearly supposed to be about border security. But my fundamental concern is simple. I believe this amendment is designed to pass the bill. I do not believe it is designed to truly fix the bill. In that sense, I am concerned this is a figleaf border security amendment—again, all about passing the bill, not truly fixing it.

I say that for two simple reasons, the two basic flaws in the underlying bill that this amendment does nothing to address. First of all, the amendment, as the bill, is amnesty now, enforcement later, maybe. Secondly, on the enforcement piece—which the authors of this amendment are arguing for so strenuously—there is no metric about actual effect, actual achievement. The only metric is spending money. We all know the U.S. Government, the Federal Government, is great at spending money. It has never been better at spending money than under this current administration.

But if that were all that mattered, then we would have a rip-roaring economy with unprecedented growth. If that were all that mattered, then we would have the best educational system on the planet. If that were all that mattered, we would have solved problems such as violent crime and many others. But the metric cannot be spending money. The metric has to be achieving security, achieving some reasonable level of border and workplace security.

I am also very concerned about the backroom deal and the process that got us here. I think it is important for the American people to know exactly what happened in the last few weeks and, in particular, at the end of last week. About 350 amendments were filed to this bill. They covered all sorts of topics—certainly including every important enforcement matter. Many of these amendments struck to the very core of the Gang of 8 compromise bill.

As Ranking Member GRASSLEY has noted, the Judiciary markup was an open process in which nearly all amendments were considered in a fair, decent manner. However, as Senator GRASSLEY also noted earlier today, on the floor, it is a very different atmosphere and the fix apparently is in. We are seeing that on the floor. The fix seems to be in—another closed-door agreement, loaded with ideas that have been accepted for ''yes'' votes to ensure the support of particular Members.

The amendment is 1,100 pages long—longer, I believe, than the original bill—and because of this development, the full and fair floor amendment process has come to a grinding halt.

That is exactly what is broken with the Senate. Rather than doing the people's business out in the open—with floor amendments, with debate—instead, so-called masters of the universe have huddled together, again, behind closed doors, to hammer out a secret agreement, again, virtually cutting off floor amendments and trying to pass the bill.

In 2007—the last time a major immigration bill came to the floor—we had 46 rollcall votes on amendments. This time around we have had only 9, and now we have the prospect of cutting off the amendment process—9 out of 350 amendments filed, 2.5 percent of the filed amendments.

Again, this is what is wrong, in the eyes of the American people, with Congress, with the Senate. This is one of the things I came to change. I came to the Senate to work—developing and introducing legislation, working hard in the appropriate committees, voting, offering floor amendments, voting on those. But these gang deals, negotiated behind closed doors, particularly when they cut off and muffle the amendment process, are not that sort of work.

Again, the masters of the universe have conspired among themselves. They have allowed certain Members into that back negotiating room, undoubtedly for the price of a ''yes'' vote. Worst of all, this threatens to completely shut off the open, fair amendment process.

That is why this morning I coauthored a letter to Senate Majority Leader REID, with 13 of my colleagues, addressing this very problem. In the letter we state clearly:

> We believe that there should be, AT A MINIMUM, this same number of roll call votes—

That is as in the 2007 debate—

> on serious, contested floor amendments on the Gang of Eight's immigration bill. This can clearly be accomplished this week with a little leadership and coordination through one or more compact series of 10-minute votes with senators seated at their desks.

Continuing with the letter, we say:

> Further, we will give our consent to any reasonable consent request if this is assured. This would specifically include replacing the one or two cloture votes and one final passage vote on the bill with one final passage vote with a 60-vote threshold late Thursday, as well as clearing all truly non-controversial amendments.

I hope all Members of this body look carefully at this bill we are going to vote on in about an hour regarding cloture. I hope all of us look hard at the details and recognize it does not change the core fundamental flaws of the underlying bill. Still, as in the underlying bill, the amnesty is first, virtually immediately, the enforcement is later, maybe. As in the underlying bill, there is no true metric of effectiveness, of enforcement bearing fruit. There is simply the metric of spending money, which the Federal Government can do very effectively. Surely, any Federal Government, particularly under the Obama administration, will pass that test with flying colors.

The American people do not want amnesty first. They want enforcement first. The American people do not have as a test of enforcement spending money. They have the same tests they have for important issues and challenges around their kitchen table and at their place of small business—results, actual results.

We should use those same tests. We should use that same approach. The American people get it. Why can't we? The American people also get the very closed backroom deal nature of the process that is going on. They want us to work. They want us to debate. They want us to propose. They want us to vote out in the open, not certain masters of the universe coming up with gang deals outside of here and then shutting down a full, open, free amendment process.

It is not too late. It is not too late to look clearly at this amendment and vote no. It is not too late to have an open amendment process on the floor this week. I urge all of my colleagues—Democrats and Republicans—to do just that.

With that, I yield back the floor.

The PRESIDING OFFICER (Ms. HIRONO). The Senator from New Jersey.

Mr. MENENDEZ. Madam President, I wish to make some observations. I know several of my other colleagues will continue to pursue their views on the floor. I did not intend, when I was asked to sit in for Senator LEAHY for a while, to say anything. But some things just cannot go unresponded to.

I heard a lot about the 2007 bill, how that process took place. But what has failed to be mentioned is that the 2007 bill did not go to the Judiciary Committee. It went straight to the floor. Now, this bill, in addition to the time that it was out there when the Gang of 8 proposed it, went through weeks—weeks—of the Judiciary Committee going through its process: 140 amendments were heard and adopted, many of them Republican and most of them bipartisan. So there were 140 changes made to this legislation through the regular order process.

So there is a fundamental difference between 2007 and this legislation. There is another fundamental difference; that is, for the 2 weeks this bill has been on the Senate floor, Republicans, on a series of offers, opposed allowing amendments to go forward, including amendments of their own Republican colleagues. Why? Because they believed amendments being offered by some of their Republican colleagues would make the bill more acceptable to Members on their side of the aisle. So instead of allowing their own colleagues to have the amendments and have their say, they opposed unanimous consent agreements to move forward because they did not want their colleagues to have an opportunity to have that amendment, and maybe if that amendment was adopted then find a way to vote for this bill.

That is pretty outrageous. Then to come to the floor and suggest that there has been an impediment over at least the last 2 weeks to being able to

consider a variety of amendments, when they themselves opposed amendments, including from their colleagues on their side of the aisle——

Mr. LEAHY. Would the Senator yield for a question?

Mr. MENENDEZ. Yes, I will.

Mr. LEAHY. The Senator is probably aware of the fact that we have a large number of amendments that were from both Republicans and Democrats. We suggested that they are all acceptable, could probably be adopted by a voice vote, both these Republican and Democratic amendments, but that has been rejected by the other side. Is the Senator aware of that?

Mr. MENENDEZ. I am aware of that. I heard the distinguished chairman make that offer at various times and I heard that offer rejected various times.

Mr. LEAHY. I might ask another question. The Presiding Officer has an amendment involving women that would be easily accepted, but we cannot get that agreement. The Senator has been here a long time in both bodies. It is my recollection—is it correct at least in the past—that when we have a group like that, both sides should come together and accept them. Is that the normal practice?

Mr. MENENDEZ. The Senator is right. When there is a series of amendments that would improve the bill and are agreed to by both sides and are, in fact, noncontroversial, it has been the regular order to get those amendments disposed of and on the way.

Mr. LEAHY. I appreciate that. The Senator from New Jersey has the floor. I appreciate him coming here and saying this. Nobody in this body of either party has worked harder and more diligently than the Senator from New Jersey on comprehensive immigration reform.

Mr. MENENDEZ. The reality is this is a different process. Now, I know there are allusions that this amendment is 1,100 pages long. We all know this amendment only took the underlying bill and added the amendment to the underlying bill. So to suggest that there is a new 1,100 pages is disingenuous. It is not the case.

Everybody has known what the amendment is about. The underlying bill has been on the floor for 2 weeks. Before that, it came out of the Judiciary Committee. I think everybody knew what it was. So I think it is not fair to have the American people believe that somehow this legislation just came onto the desks of Senators and they are voting in the blind.

I find it interesting—you know, I have listened over the years, the 7 years I have been here, and before that in the other body, in the House of Representatives—I hear those who want a fence. A fence is a significant part of the solution to the question of border security. Yet here we go. There is nearly 700 miles of fencing in this legislation by virtue of this amendment that will be considered. Oh, no, no, no, no. We do not want a fence.

Then we have heard that having greater Border Patrol agents at the border would dramatically help us achieve border security. Well, this amendment doubles—doubles—the amount of Border Patrol agents at the border. It brings it from about 21,000 to 40,000, 41,000 Border Patrol agents through the course of this legislation. Now we hear: That is just wasting money.

Well, what is your plan? I have heard all of these things that this amendment includes that were part of your plan in the past. But because it is not your amendment, even though it is offered by Members on your side of the aisle, including from border States, suddenly it is not acceptable. Suddenly it is not acceptable.

There is the suggestion that there is somehow a backroom deal. I see this amendment as the personification of what the American people are trying to see this body do, which is Republicans and Democrats from different parts of the country, from different ideological views, coming together in order to compromise, in this case to seek a very strong compromise on border security as part of comprehensive immigration reform legislation, which in poll after poll across the party spectrum has been sought by the people in this country.

That is the essence of what this amendment is all about. So if you bemoan the lack of bipartisanship, then you should not be bemoaning this amendment because this amendment is, in fact, the essence of that bipartisanship and moves us in a direction on border security that I do not believe has existed in any legislative proposal that has come before the Senate. It is an incredible movement toward border security, and it becomes one of several triggers.

What do we mean by a trigger? A condition precedent. We believe these condition precedents can be met because at the end of the day we want to achieve greater security for our country both at the border and in entrance-exit visa issues and interior enforcement issues and in workplace verification, with the E-Verify system. All of these elements are in the legislation. All of them. And many of them are enhanced so that we can get to where we want.

Now the problem is that there are colleagues here who, if 10 angels came swearing from above in the heavens that this is the best legislation to secure the Nation, to promote its economic opportunity, to make sure we have and preserve family reunification as a core value, that we have the future flow of workers so that we can deal with the abilities of different sectors of our economy to have the human capital like the high-tech industry, to be able to produce that human capital so that America can continue to be at the apex of the curve of intellect and globally competitive, they would say: No, these angels lied. We will never satisfy those individuals.

I respect their right to have that view. But to suggest that it is the process, when really what they want to see is no comprehensive immigration reform, I think they should say what they really believe. So that is what is before us.

Finally, on a series of issues that have been raised, for example, on waivers, the reality is the limited waivers do not give anyone a free pass or take away the government's ability to say no to any given individuals. They do not grant unlimited discretion to decisionmakers. Decisionmakers would not be able to exercise discretion in cases involving immigrants who have multiple criminal convictions, who have committed particularly serious offenses or otherwise pose a threat to national security or public safety. Those restrictions, by way of example, apply to terrorists, gang participants, drug traffickers, human traffickers, money launderers, international child abductors, unlawful voters, just to name a few. So I think there is a mischaracterization in order to create the fear.

Finally, they will question that no matter what, no matter what is done in this bill, no matter how many enforcement provisions exist—interior enforcement, an entrance-exit visa requirement, and systems to check that whoever comes in this country, make sure they exit and that there is a follow-up in the E-Verify system, which means everyone in the country, when they go for a job, now they are going to have to go to a system to make sure they, in fact, have the right to work in this country; all of the Border Patrol agents, all of the fencing—despite all of that, there are those—and that the individual who is undocumented in the country will have to wait a decade—a decade—before they will even have the opportunity to adjust their status to permanent residency, assuming, as the legislation calls for, all of these elements I have just talked about are in place—are in place—who suggest that that is amnesty.

Amnesty means you do something wrong and you get forgiven. But you do not have to do anything to be forgiven, you just get forgiven. This is not amnesty. These individuals have to come forth, they have to register with the government, which is incredibly important because I cannot secure America unless I know who is here to pursue the American dream versus who may be here to do it harm. We have millions of people in the shadows, undocumented. We do not know what their purpose is.

Then, after they come forward and register with the government, they have to go through a criminal background check. If they fail it, they get deported. If they pass it, then they get a temporary opportunity to stay here with a permit to work and visit their families.

They have to earn their way, pay their taxes, learn English over the course of a decade, and then, finally,

after a course of a decade, finally be eligible when all of those conditions have been met. That is not amnesty; that is earned. That is earned opportunity toward legalizing their status in this country.

So this is what poll after poll of Americans say they want to fix this broken immigration system. For some of my friends, there will never be a fix sufficient for their view. For some of my friends, it is very clear they do not support any pathway to citizenship under any set of circumstances. That is a view they have the right to hold, but it is a view not supported by the American people. It is a view that does not honor our Nation, which has a history of immigrants. It is a view that has created enormous problems in Europe because immigrants in those respective countries never find a way to earn their way to become a citizen of that country, and you have seen the unrest in those countries. We do not want that in America.

I intend to vote for cloture for the bipartisan amendment. It does a lot that I think in many respects goes way beyond what I contemplated. That is the essence of compromise. It is the essence of moving forward. It is the essence of solving a problem that has vexed us way too long. It is an opportunity to fix our broken immigration system.

I urge my colleagues to cast their votes and be not only on the right side of what is necessary for the country, but be on the right side of history.

I yield the floor.

The PRESIDING OFFICER. The Republican whip.

Mr. CORNYN. Madam President, there is first a matter of fairness when it comes to offering suggestions to amend legislation that is on the Senate floor. Under the ordinary practices and procedures of the Senate, the majority and the minority have an opportunity to offer amendments to modify the underlying bill. On a subject as important and as fundamental to who we are as a country and to our country's future as immigration reform, there have been nine amendments voted on in this bill in the last 2 weeks—nine amendments.

To listen to my colleagues in the majority who are happy with the underlying bill because they wrote it, they act as if we have had a fulsome opportunity to offer amendments. We have been willing to have votes as long as we get votes on our amendments. It is not just the majority that has the opportunity to modify the underlying legislation and to debate it, the minority has rights too. Our side wants a right to choose our own amendments, not to have the majority leader choose which of our amendments he is going to deign to allow debate and votes on. That is not democracy. That is not the Senate. That is a dictatorship.

We will not allow the majority to tell us which of our amendments will be allowed to be considered. We can have votes on any amendments the other side wants a vote on. We are ready, and we have been all along. It is not true to say that the minority has been blocking amendments to this bill. That makes no sense whatsoever. The majority wrote the bill.

The minority has all the incentives to offer amendments. Why in the world would we block our own amendments, but for the fact that the majority leader wants to choose which of those amendments he will somehow allow us to offer. It makes no sense whatsoever. I have heard some suggest that this is a minor vote we are going to have at 5:30, that there are just modifications to the underlying bill.

This is the amendment we will vote on. It was released late Friday evening, and we have been poring over line by detail ever since. This is not a minor matter; this is a serious amendment. The Schumer-Corker-Hoeven amendment makes enormous changes in the underlying bill. I wish to talk about some of those changes.

Back when this underlying bill was proffered, the framework for it was proffered by the so-called Gang of 8, Senator DURBIN, the distinguished minority whip from Illinois, said in 2013 a pathway to citizenship needs to be ''contingent upon securing the border.'' That was the bipartisan framework for comprehensive immigration reform in January 2013.

Six months later we find a different story. He says: ''We have de-linked a pathway to citizenship and border enforcement.'' He was quoted in the National Journal on June 11, 2013. He has not suggested since that time that it was taken out of context or a misquote.

What it demonstrates is how far we have come from what was promised 6 months ago and is now being delivered. I believe the American people are enormously generous and compassionate. There are circumstances under which the majority of Americans would say we believe people who have entered our country without complying with our immigration laws or who have entered legally and overstayed, the so-called visa overstays, we believe they should get a second chance—but not by demanding a pathway to citizenship and delinking it from border security and other important measures that will make sure we don't repeat the mistakes of 1996.

When Ronald Reagan signed an amnesty for 3 million people, the American people were told this will never happen again because we are going to enforce the law this time. It didn't happen, and the American people were justifiably skeptical as to whether it will happen again, particularly when this sort of sleight of hand takes place where we are told in January the pathway to citizenship is ''contingent upon securing the border,'' only to find out 6 months later it has been delinked.

If Congress can't keep a 6-month-old promise, it is never going to be able to keep any of the promises contained in this amendment.

For starters, this underlying bill relies upon the same sort of budgetary gimmicks that were used to pass the Affordable Care Act, now known colloquially as ObamaCare. We have been told in the underlying bill that it reduces the Federal deficit by $197 billion over 10 years. I have even heard some of my Republican colleagues cite that as if this is somehow free money: Hey, we can spend this money because the underlying bill reduces the Federal deficit by $197 billion.

The Congressional Budget Office has pointed out that the only way we can view that as free money—which is an oxymoron if there ever was one—is by double counting the $211 billion in off-budget revenue that will be needed to fund Social Security for the newly legalized immigrants. In other words, this is money they are going to pay into Social Security that they are going to eventually take out. To act like you can use it to pay their Social Security benefits and at the same time use it to fund this bill is double counting.

That is a budget gimmick. That is the same sort of gimmickry that has gotten us $17 trillion in debt, and it is perpetuated under this bill.

If we were to use real-world accounting, the same sort of accounting every family, every small business in America has to use, they can't double count the money. They have to use real hard numbers. If we use the same sort of accounting that families and small businesses across America have to use day in and day out, we will find that the underlying bill actually increases the budget deficit by more than $14 billion over the next decade. This is spending more money we don't have, adding to our annual deficit, adding to our national debt, putting us further and further in the hole when it comes to our fiscal condition.

One of the other problems is that even since the Congressional Budget Office looked at the underlying bill, we don't yet have an official cost estimate from the Congressional Budget Office for this bill that basically rewrote the entire underlying bill. We still don't have an official budget estimate from the Congressional Budget Office, and we don't know when that is likely to come. Yet we are going to be required by the majority leader, because he is the one who sets the schedule here by virtue of his being the majority leader, we are going to be required to vote on a cloture motion at 5:30 this evening, in about an hour—before we even know from the official scorekeeper for the Congress and the Federal Government exactly how much this costs, what the assumptions are, and whether we are still going to be looking at double counting the revenue that is coming in and looking to that to pay for the costs of this bill at the same time we are going to have to pay it out in benefits—double counting. We don't know if that continues under this bill, but I dare guess that it will.

Some of our colleagues on both sides of the aisle previously expressed real consternation at double counting back when ObamaCare was passed and back during the 2009 stimulus package. Some of them issued press releases saying: You can't spend the same money twice. Yet today here we go again. This is another reason I am so concerned about where we find ourselves: being jammed into voting on this piece of legislation without an official score of the Congressional Budget Office, before, I daresay, every Member has had a chance to read it and understand it, and when it relies on double counting and other gimmicks that have gotten us $17 trillion in debt.

I also worry that my colleagues who support this particular amendment, while I stipulate to their good intentions, their approach is one based solely on throwing more money at the problem without having any plan, strategy, or any real mechanism for ensuring that money is spent sensibly, and it accomplishes the stated goal.

Last week some of my colleagues gave me a hard time because I offered an amendment which would raise the number of the Border Patrol agents by 5,000. They said: We can't afford it. The underlying bill has zero new Border Patrol.

My amendment offered 5,000 additional boots on the ground. They said: We can't afford it. That is a ridiculous suggestion.

Imagine my surprise when this amendment that was filed so recently calls for 20,000 Border Patrol agents. This is a fourfold increase, even though experts across the political spectrum have said that doubling the size of the Border Patrol in and of itself, while it may provide some political figleaf for voting for this bill, does not and will not solve the problem.

I wish to know, for example, where that number came from. How did my colleagues turn on a dime from saying we needed zero additional Border Patrol, to saying 5,000 was a ridiculous suggestion, and are now saying 20,000 is exactly right? What expert, at what hearing was the testimony offered to support that sort of expense and that sort of approach?

Don't just take my word for it. There was a story in the Arizona Republic, dated June 22, quoting a number of experts on immigration and border security. Doris Meissner, who used to be the head of the Immigration and Naturalization Service, the predecessor to the Department of Homeland Security, called the approach in this amendment ''detached from the reality on the ground.'' She said it is ''detached from the reality on the ground'' and said it would make more sense to invest in creating ''a modern 21st century border, which includes enforcement but also trade and travel and facilitating crossing and reducing waiting time.''

This makes more sense to me because part of the underlying premise for the bill was to create a legal way for people to come, work, immigrate to the United States, and then allow law enforcement focus on the criminality, the drug traffickers, the human traffickers, and other people engaged in illegal conduct.

Ms. Meissner appears to be saying that makes a lot of sense when it comes to ''a modern 21st century border.''

Other experts have said and quoted in the same article in the Arizona Republic, June 20, Adam Isacson: ''There may be some room for more agents, but not for 20,000.''

John Whitley said: ''We should look at what we are trying to achieve—at the outputs instead of the inputs.''

In other words, what this approach does is say we are going to look at all the equipment we can buy, the technology we can deploy, the boots on the ground, but we are going to turn a blind eye to the outputs or the goals that we are presumably trying to achieve. Mr. Whitley agreed with that. He said:

> We should look at what we are trying to achieve—at the outputs instead of the inputs. Otherwise, seven years from now we'll be sitting around saying we don't know which bits work and which bits are wasteful.

I know some of our colleagues on the other side of the aisle—Senator LEAHY, for example, who is managing the bill for the majority, the chairman of the Judiciary Committee, said it looks like a laundry list for defense contractors. I think I am paraphrasing correctly. Then he said: If that is what it is going to take to get them to vote for the bill, then I am for it. I am going to support it.

Once again, the underlying bill puts symbolism over substance, and they are hoping the American people will not notice. As I have said repeatedly, the so-called border security triggers in the underlying bill are sheer fantasy and wishful thinking because they are activated by promises of more money and more promises than they are on actual results. I am afraid the underlying Schumer-Hoeven-Corker amendment does nothing to change that.

Here is a comparison of the approach under the underlying Gang of 8 proposal, the Corker-Hoeven-Schumer amendment, and an amendment I offered last week which was tabled. We have the question, Is operational control of the border required? Under the Gang of 8 bill? No. This amendment? There is no requirement.

Under the amendment I offered last week, an individual would not be able to transition from probationary status to legal permanent residency until that happened. That is not to punish anybody, but what it does is it realigns all the incentives for everybody involved in this discussion, whether Democratic or Republican or Independent, whether conservative or liberal or whatever. It would have realigned all the incentives to make sure we would have hit this target of operational control of the border.

Is 100 percent situational awareness required? Not under the Gang of 8 bill. Not under this amendment. There would have been under my amendment of last week.

A biometric exit trigger. There is none under the Gang of 8 bill and none under this amendment.

Here is perhaps one of the best and most obvious reasons why people don't trust promises of future performance when it comes to Congress—because 17 years ago Bill Clinton signed into law a requirement for a biometric entry-exit system. Now, ''biometric'' is a big word. It could mean just fingerprints or an iris scan or facial recognition, but it is something you can't cheat on because it depends on a bodily characteristic that is immutable and cannot be changed, such as fingerprints.

So it was 17 years ago when President Clinton signed the law which Congress passed, a biometric entry-exit requirement, and it still hasn't been implemented. And while people think that mainly illegal immigration is caused by people entering the country across our borders, such as the 1,200-mile Texas-Mexico border, the fact is that 40 percent of illegal immigration occurs because people come in legally and overstay their visa, and they simply melt into the great American landscape. Unless they commit a crime or otherwise come in contact with law enforcement, we never find them again.

Here is the other problem in the underlying bill. Even if these requirements required results rather than promises of performance, unfortunately, under the underlying bill and now again in this amendment we are going to vote on at 5:30 today, the Secretary of the Department of Homeland Security has the unilateral discretion and authority to waive all of those requirements. This is the same person who said the border is secure even though the General Accounting Office said in 2011 only 45 percent of the border was under operational control. She may well be the only person in America—the only person in America—who believes the border is under control because it demonstrably is not. Yet she is given the authority to waive these requirements in this amendment we will vote on at 5:30.

Then there is this: Under the underlying bill an individual can beat their spouse or their partner, they can drive drunk and threaten the lives and livelihoods of American citizens, and they can still qualify for RPI status and get on a pathway to citizenship. As a matter of fact, under this underlying bill they could actually have already been deported, having committed a misdemeanor, and still be eligible to reenter the country and become the beneficiary of RPI status and put eventually on a pathway to citizenship. That is a terrible mistake. I don't know anybody who believes we ought to be taking people who have shown such contempt for the rule of law and the health and safety and welfare of the

American people and say: You know what, out of the generosity of our hearts, we are going to give you one of the greatest gifts anyone could ever get; that is, an opportunity to become an American citizen.

I would hope most of us in this Chamber would agree that immigrants with multiple drunk driving or domestic violence convictions should never be eligible for legalization, especially after they have already been deported. Yet the underlying bill, the so-called Gang of 8 bill, and the Schumer-Hoeven-Corker amendment will grant immediate legal status to criminals, including those already deported, as I said, and including people who have committed domestic violence, even with a deadly weapon. I still can't quite get my mind around that, but it is true.

Our standards when it comes to granting legal status to people who have come into our country in violation of our immigration laws and/or who have come in legally and overstayed should be crystal clear. We should differentiate between people who have made a mistake and are willing to pay for it—pay a fine, be put on probation, and successfully complete that probation—and people who have come in and shown such contempt for our laws and the rule of law as to have engaged in a history of drunk driving or domestic violence. They should be automatically disqualified from receiving probationary status. I find it remarkable that we are even debating this issue in the first place.

A few final points. We are going to be asked to vote on legislation that was crafted behind closed doors, with no chance for amendments. As a matter of fact, I believe that once the majority leader gets cloture on this amendment, we will have virtually no other opportunities to offer any additional amendments and get votes on those amendments after only having votes on nine amendments so far. That is an outrage. We are going to be asked to vote on legislation filled with special interest goodies, with earmarks and pet spending projects, and we still don't have an official cost estimate by the Congressional Budget Office. We are being asked to vote for legislation that will continue the three-decade pattern of broken promises on border security. In short, we are being asked to vote for more of the same.

I know my good friend from Tennessee Senator CORKER has been one of the best new additions to the Senate. He has remarkable knowledge and experience and great enthusiasm.

He asked me: What more do you want than 20,000 Border Patrol agents and a commitment to spend all these billions of dollars on new equipment? What more could you possibly want?

My answer to that is this: I would like to know that the promises we are making in terms of border security, interior enforcement, and visa overstays are going to be kept; otherwise, all we will have is 11 million people granted probationary status, with the potential eventually to earn legal permanent residency and American citizenship. And those people who might be willing to consider that sort of arrangement if they had a guarantee that we would not be back here doing this same thing again in 5 or 10 years are going to have nothing but a bunch of broken promises to show for it.

For me, it is a very sad episode in a very important Senate debate that has huge ramifications for the future of our country. At the start of this debate, I had high hopes that the Gang of 8 was serious about keeping promises and delivering real bipartisan immigration reform that could pass the House of Representatives. But now I see it is just the same old beltway song and dance. What a shame. What a lost opportunity that is.

Now I believe all eyes and attention will turn to the House of Representatives, where I hope the House of Representatives will take a more careful, step-by-step approach in addressing our broken immigration system. My hope is that ultimately we will get to a conference committee that will fix the underlying approach and problems in this amendment and in this bill and will allow us to successfully address our broken immigration system that serves no one's best interests.

I am not one who believes ''no'' should be the final answer when it comes to our broken immigration system. I actually believe we need to fix it, and we need an immigration system that reflects our values and reflects the needs of our growing economy in a globally competitive environment, but this bill is not it.

There will be no way to enforce the promises that are so readily made today in the future. Notwithstanding the best intentions of the people who offer this amendment, many of us won't be here 10 years from now. No Congress can bind a future Congress. No President can bind a future President. And if we are depending for the next 3½ years on Janet Napolitano, the Secretary of Homeland Security, and President Obama to enforce the mechanisms in this bill, I am afraid we are going to be sorely disappointed. And how can we possibly know what the next President and future Congresses will ultimately do? That is why it is so critical, if we are going to keep faith with the American people, to have a mechanism in this bill that will force all of us across the political spectrum to do everything we possibly can to make sure those promises are kept. And it is not in this amendment.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. COBURN. Madam President, I appreciate the comments of my colleague from Texas and his earnest desire to confront the problems in front of us. I would say at the outset that the recognition over the last 8½ to 9 years of being in the Senate is that we have a problem we need to solve, and I don't think anybody disagrees with that, but I think there are two important points to which the American people expect us to pay attention. One is what Reagan described as the shining city on a hill and that people coming here make us better. There is no question about that. What he wanted in 1986 was not all walls, as some people wanted, not all doors, as some people wanted, but a wall with doors.

So there are two basic facts that confront us. One is that the rule of law is the glue that holds us together. And when we hear talk about the American people having confidence as to whether we are going to enforce the rule of law, whether it is on immigration or anything, the very fact is that fabric which is holding this Nation together is being stretched very thin right now, and the last thing we should do in an immigration bill is to stretch that fabric further in terms of the confidence of the American people and in terms of the rule of law.

This bill and this amendment is full of holes all throughout as far as the rule of law is concerned. My colleague from Texas outlined some of that. He also outlined the capability of the waiver—waiving the border fence, waving the requirements for RPI status. It is all written, but it is written so that the Secretary of Homeland Security can waive almost every portion of it. So that is not the rule of law, that is the rule of rulers and whatever the rulers decide.

One of my great disappointments in the Senate is that we too often don't follow regular order. This bill was put together. It did go through the Judiciary Committee, but not once did it come through the Committee on Homeland Security and Governmental Affairs, Homeland Security, where Border Patrol, where ICE, USIS—where all the implementation of anything that is in this bill will take place; where, by the way, all the knowledge, all the experience of all the members on that committee for the last 10 or 12 years, with the exception of Senator MCCAIN, was not utilized in putting this bill together. So what we have is some very good effort and well-intentioned effort by a lot of people to do some things, but let me outline where they have it wrong.

The National Association of Former Border Patrol Officers wrote a letter denying the fact that we need 20,000 additional Border Patrol agents. Here are the people who know. How stupid is this?

What we are doing is throwing money and hoping it will stick on a wall and that we can convince our colleagues we have a border security plan when, in fact, there is no border security plan in the United States today. How do I know there is no plan? Because 2 weeks ago I had breakfast with Secretary Napolitano, and I asked her to send—and she said she would—sector by sector, a border plan for the United

States, and I got a 2-page letter that had nothing in it.

This isn't a new border plan. This isn't a specific border plan. The country doesn't have one right now, so we have put this together, outside of the regular order, well-intentioned people trying to solve a problem to assure the American people that in fact we are going to secure our borders.

I will readily admit to you that if I lived in the poverty of some of the Central American nations that I would make every effort on my part to get here—legally or illegally—because the opportunity is here, that opportunity to improve yourself, that opportunity to work hard, that opportunity to live in a Nation that has a justice system where the rule of law reigns supreme. If I were from one of the Central American countries and came here, the very irony would be the fact that I am going to break the law that is the very nurturing thing that gives the opportunity to advance for me and my family.

I ask unanimous consent to have printed in the RECORD the letter from the National Association of Former Border Patrol Officers.

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

NATIONAL ASSOCIATION OF
FORMER BORDER PATROL OFFICERS,
*Brunswick, GA, June 21, 2013.*

The National Association of Former Border Patrol Officers believe that the Information contained in their CIER Proposal for Immigration Reform is a much better path to border security than any other being discussed.

Just putting more Border Patrol Agents on the border would be a huge waste of resources and do nothing to solve the real problems of Illegal Immigration.

We believe that there are a sufficient number of Border Patrol Agents currently on the border. The real question is how many ICE Agents will need to be trained and put in place to handle the sheer volume of Criminal Aliens currently present in the United States. The issue being concealed by the press and Congress is the clear and present danger criminal aliens pose to the American people. Anything resembling amnesty or a path to citizenship at this point in time will ensure further endangerment of the American family unit which is the foundation of American society, by enabling the following type of aliens to remain in the United States:

(http://www.timesdaily.com/news/local/article_989a9996-d4a2-11e2-a29c-10604b9f6eda.html)

(http://www.immigration911.org/news/2012/01/illegal-alien-rapes-and-murders-one-month-old-baby-in-nm/)

(http://www.alipac.us/content/illegal-alien-raped-killed-9-month-old-girl-california-1916/).

Real border security must begin with effective interior enforcement in every jurisdiction in all fifty states. Achieving real border security requires aggressive expansion of 287(g) authority, closing down sanctuary cities, fair and universal employer sanctions and denial of other benefits such as welfare, public housing, and granting of identification that would enable the criminal element to continue concealing their presence in our communities to include driver's licenses.

For years the illegal aliens being apprehended by percentages ranging from 17–30 percent already have criminal records inside the United States. A significant percentage of these illegal aliens are violent criminals and the number requiring further prosecution prior to removal may exceed three million. Moreover, at this point in time the illegal drug and illegal alien situation in America has spread to over 2000, American cities and those engaged in both of these criminal activities are virtually inseparable. This threat to Public Safety must be addressed first and in that process there is a reasonable likelihood that potential terrorists will also be identified and removed or incarcerated. They live among us.

The second step can be discussed when the Public Safety of Americans has been assured.

ZACK TAYLOR,
*Chairman,* National Association of
*Former, Border Patrol Officers.*

Mr. COBURN. Now, what has Senator CORNYN outlined that does not fit with common sense? He said people who commit three misdemeanors, whether it be child abuse or spousal abuse or drunk driving, shouldn't be given RPI status. Yet, under this bill you can do that. And for those who are not familiar with courts of law, it is on the date. So if you got two on one date, that only counts as one. Theoretically, you could have 10 or 12 misdemeanors and still qualify for RPI status. How does that fit with the rule of law? How does that fit with the glue that holds us together? What that does is flaunt the rule of law.

The other thing that I think is very problematic in this bill is we have 20,000 Border Patrol agents but no increase in ICE agents, no increase in USCIS, who are the very people who are going to have to handle the 11 million people here who are going to progress to RPI status. So where is the money to handle the 11 million additional people for ICE and USCIS? It is not in there.

If in fact we want the rule of law to work, then we want the people who qualify under this bill for RPI status to do so under the rule of law, which means you have to investigate and do a background check, and make sure the documentation establishes them being here before December 31 of 2011; that in fact they do have residence here, that in fact they have worked here, and that has to be worked on. That can't just be a blanket. Because the opportunists will take advantage of that system. If in fact there are no ICE agents and there are no USCIS agents to actually handle that, that means everything that has been set up in this bill will happen without an investigation, without knowledge that it is true and, in fact, people qualify for RPI status.

The other side of the bill Senator CORNYN made a point about which I wish to expand upon is the fact we are not going to have an entry and exit visa system because 80 percent of the people go through the land ports, and this bill exempts those land ports totally from that.

You heard Senator CORNYN talk about 40 percent, maybe even 50 percent of the people who are here illegally today came here legally, with a visa. They qualified for a visa, and they overstayed their visa. If in fact we have no internal enforcement, no ICE agents to enforce the visa overstays, we won't change that. The CBO even said you are going to have 7.5 million new illegals—undocumented—come across under this bill. If you have no internal enforcement, there is no way to drive that number down. Yet this bill puts the resources in the wrong place.

You control a border by controlling what the situation is on the border, depending on location, geography, topography, and assets. So throwing 41,000 Border Patrol agents across our southern border might work, but it is a tremendous waste of resources. It might be a jobs program.

The fact is it takes a combination of technology, fencing, Border Patrol, and the right combination for wherever we are talking about to be effective in operational control of the border. But that is not even a part of the bill. It is not part of the bill to have operational control of the border with a 90-percent effective rate. One of the reasons we can't get there—which is one of the things Americans want to see us promise in this bill—is because our control of the border today is somewhere between 40 and 65 percent. That is opposite of what the Secretary of Homeland Security will tell you, but that is what the studies outside of government say when they go to interview those undocumented workers who are here today. They did a very thorough analysis of that and said we are somewhere between 40 and 65 percent.

So the basis of allowing undocumented workers and those who are in our country who can contribute greatly to our country, the basis of putting them on some type of status to move toward a green card status and ultimately citizenship has to be based on some real facts.

Why would somebody not agree to 90-percent control of the border? The only reason they would not agree to it is they don't think it is achievable. The only reason it is not achievable is because we don't have the political will to do it. It is technically achievable. You can't get to 100 percent, but with good leadership, good sector-by-sector planning, good internal enforcement, and great legal immigration so you decrease the illegal, we could get there. Why is that not part of this bill? It is because the rule of law does not reign supreme in the Senate.

Let me make a couple other points. One of the big holes in this bill in section 1202 says the following: The Secretary shall initiate removal proceedings in accordance with chapter 4 of title II of the Immigration Nationality Act, 8 USC 1221; two, confirm that immigration relief or protection has been granted or is pending or otherwise close to 90 percent of the cases of immigrants who were admitted to the United States as nonimmigrants, et cetera.

All that means is she can waive the requirements under the bill. She can

waive the fence. All throughout this bill we are letting a nonelected individual have the power to undermine every aspect of any tooth in this bill.

When the immigration debate started, my hope was that we would do the principle most Americans want us to do, which is we need to solve the problem of the undocumented in this country. We need to bring them out of the shadows. But the price to do that is cogent and realistic control of our borders.

Let me make a point. If in fact you don't have cogent and realistic control of your borders and you do everything else in this bill and everything works as the authors want it to work, guess who is going to be coming across the border. The very people we actually don't want here: the drug runners, the human smugglers, the criminals, the terrorists.

So when I say 90-percent operational control of the border and I am in Oklahoma, people look at me with askance. They say, Well, that means 10 percent of the people are still coming. And guess what makes up that 10 percent. The worst of what tries to get into this country.

So it is not just about getting a border security plan to secure our border, it is about limiting access of the criminals and the terrorists and the worst from coming into our country. This bill is going to allow that to continue. It is not going to stop that. It will continue.

To Senator CORNYN's point, what we need is to take this out of the political arena. We need to make it so the pressure is that we do what is best for America, and one which is best for America is having a lot more people come here and contribute to our melting pot. There is no question about that. But we have to have it where it cannot be manipulated by whoever is in charge for political benefit. That is why the Cornyn plan is novel in terms of actually solving the problem.

I am not going to be here much longer, less than 3½ years, but I can already predict what is going to happen if this piece of legislation comes through: My daughters and their husbands 15 years from now are going to be listening to the same debate on the Senate floor.

The biggest deficit the Senate has, in my mind, is failure to put teeth into what they know will actually fix the problems in this country. This bill has no teeth. This bill has $48 billion thrown up against the wall to buy the votes to say we are going to have a secure border when in fact we are not.

That doesn't mean we can't get a secure border. I worked for 2 weeks with my staff. I told Senator SCHUMER from New York I would love to try to do that, but in 2 weeks you can't do it. What you have done, you haven't done it either, and you have done it from a deficit of knowledge rather than using knowledge. You didn't use any of the significant historical staff on the committee of jurisdiction to help write this legislation. The institutional knowledge is not in it. It will not succeed.

I don't know ultimately how I will vote on this amendment, but I am certainly not going to vote to proceed to this until we have had a chance—more than 72 hours—to actually work through and be able to ascertain and also share the flaws in the approach.

For a third of that amount of money you could easily secure the border, and we are going to spend $48 billion. And in there is another jobs program adding to the 102 we have now, at $1.5 billion. GAO has already said we need to redo our jobs program. Well, we have. We have an earmark for another youth jobs program, and we won't even fix the youth jobs programs we have now.

Madam President, I yield the floor.

Mr. SCHUMER. Madam President, what is the status of the time that remains for each side?

The PRESIDING OFFICER. The proponents of the measure retain 25 minutes; opponents have 7 minutes.

Mr. SCHUMER. Madam President, I rise in strong support of the Corker-Hoeven amendment. I have listened carefully to those who are opposed who have come to the floor today and Friday, and I have come to one conclusion: They won't take yes for an answer.

Most of the criticism that has come at this amendment is it does too much for the border. Even some of my colleagues who are opposed say it does too much, even though they proposed similar things themselves.

My good friend from Texas says we don't need more border agents but had proposed 5,000 himself. My good friend from Texas also said, well, we need technology, but there was no technology in his bill. My dear friend Senator COBURN, whom I very much like and admire, first says we need money for ICE agents, not Border Patrol. But ICE is funded to deport about 400,000 people a year. Most of the 11 million will become citizens and not be deported. We have more than enough ICE agents to deal with the much smaller number who will be here illegally, certainly in the beginning and throughout the bill.

Dr. COBURN said we don't have more money for U.S. CIS agents. We do—$3.6 billion more.

Finally, Dr. COBURN talks about the trigger. Let's face it, for many on the other side the No. 1 priority is securing the border. For many on our side the No. 1 priority is achieving a path to citizenship. The bill proposed by the Gang of 8, we believe, did both. But, certainly, there were many on the other side who thought the amount we were putting into border security was not enough, was not adequate, so we were willing to augment that in the Corker-Hoeven amendment, which I am going to talk about in a minute.

Certainly, what we do not want to do is choose one in place of the other. The problem with the 90 percent, which Senator CORNYN proposed, was that under many different types of scenarios and circumstances—an act of God, an administration that was decidedly against a path to citizenship and counted things differently or held up the count—we could envision no path to citizenship. That was out of the question for us.

What we tried to do is say we can have both. We also said we are going to do border security first. But what we made sure of in the triggers—and there are five triggers now with the amendment in this proposal. We make sure the triggers could not be used deliberately by somebody who was opposed to the path to citizenship as a way to block them—whether that be a Congress or a President or somebody in the administration.

So we have come up with the right compromise. We have not split the baby in half, which is what Senator CORNYN and, I gather, Senator COBURN want to do. We have had both. We have satisfied those who are for border security and those who are for a path to citizenship, and only when we satisfy both will we get a bill. We cannot do it with one and not the other. So let me go over the border security part and why it will work.

First, to say the experts were not consulted, as my good friend from Oklahoma said, is not fair, particularly to Senators MCCAIN and FLAKE, who are probably greater experts on what is needed at the border than any of us. They may not be chair or ranking member of the committee—although I believe Senator MCCAIN is on that committee—but they live on that border. And, to boot, Senator MCCAIN has tremendous military experience in terms of surveillance.

What we have done is looked at each sector. There are nine. They are different. The sector of the Senator from Texas has a river and has private property that goes right up to the edge of the river. It would take 30 years to build a fence on that side of the property because we would need eminent domain, and I am sure there are some ranchers who would say: I don't want a fence on my side, right by the river. That is where my cattle come to graze and drink.

There are parts of the Arizona sector that are heavily populated where a strong fence is needed, and there are parts that are so rugged that have no roads that a fence would be a waste of money.

Our bill relies on different approaches in each of the nine sectors. But the best approach did not just come out of the air. That came with Senator MCCAIN sitting down, working with Senators HOEVEN and CORKER, but also working with the Department of Homeland Security as well as those who work in the Border Patrol as to what is needed. That is in the bill.

We heard the objection from others that they do not trust DHS, either this one or a new one, to implement what is needed. So it is in the amendment.

Why do we need so many men and women on the border? Let me explain. Our American people demand that we make the border airtight. That is why some have proposed a 2,200-mile fence, double. That is what they wanted. The cost would be—I think it might go to the hundreds of billions, but it also would not work in many areas for the reasons I mentioned. But they want it airtight. So here is what we have: We have adequate eyes in the sky, whether it be drones or airplanes. So every person, every single person, 100 percent observability, 100 percent situational awareness is what it is called. Any single person crossing the border will be detected, every single person, whether it is night or day, whether it is sunny or stormy. The technology not available 10 years ago allows us to do just that.

Then we have proposed a large number of Border Patrol. It is true there are enough agents that 24–7 we could station somebody on the border every 1,000 feet, all the way from the western edge of the border in San Diego, CA, to the eastern edge of the border in Brownsville, TX. Why? Because the minute one of those eyes in the sky detects someone approaching the border, there will be adequate personnel there to say we will detain them or turn them back.

It is obvious. It is what the experts tell us will work. It is very explainable to the American people. So, yes, there are a lot of resources on the border. Yes, each of us, if we wrote the bill, might do it a different way or put in more money or less money. But no one can dispute that the border becomes virtually airtight—virtually airtight. That means those who cross the border will be few and far between.

There are two things I would like to mention. It is expensive. This amendment does not come cheap. But the CBO report was a game changer because it said what everyone understands, but it verified it. It gave it the Good Housekeeping Seal of Approval. We all know one of the great economic engines of America—or we should all know; many of us do. I know, Madam President, you know it, being an immigrant yourself—that one of the greatest economic engines America has had to propel it and make it the greatest country in the world is immigrants.

Immigrants are willing to risk everything. They cross stormy oceans, trek across deserts to come to America. What a beautiful, wonderful thing. I am so proud that out the window of my den in Brooklyn, NY, I can see that lady who holds the torch. To the whole world she symbolizes what a great country we are. And people come.

Anyone who doubts and says the Sun is setting on America, just look at how many people risk their lives to come here, how many people separate from families to come here, how many people uproot themselves to come here. If America were not such a great, attractive place, we wouldn't have a problem of so many illegal immigrants. People want to come here. When they come here they work. Boy, do they work. To be able to send $10 a week to their mother or kids in Oaxaca Province or in the Philippines or in Bosnia is a huge thing. It gives them joy. That is why they are sometimes willing to work under the kinds of conditions we don't find acceptable for people who are here legally. But it is the greatest economic engine there is.

Immigrants form companies because so many of the smartest and brightest come here. Immigrants make our meat factories and our farms work because even those who may not have such an education are willing to work under very difficult conditions to earn enough money to feed themselves and maybe send a little home to their families. They are the greatest economic engine we have—the greatest.

Republicans say the way to get this economy going is to cut taxes. Democrats say the way to get this economy going is to spend money. You can decide which one you believe in. But I tell you, no one can dispute that a greater economic engine of either of those is the blood, sweat, toil, and tears of our immigrant communities—not just starting today but from the day in my city when the new immigrants were called ''English'' because the Dutch had settled New York and didn't want these newcomers to come in. In fact, the two oldest high schools in America are in New York City. They are both private schools, but one is called Collegiate. It was formed by the Dutch Reform Church in 1628.

When the English came, they didn't want to go to a school with this Dutch Reform Church. So they formed the Trinity School for the Episcopal English, the Anglican English. There were all kinds of tension. Of course, there is always tension. But when these new English people came, they worked hard and the Dutch saw that.

Peter Stuyvesant recognized it and made New York, actually—the reason so many have written that we have become the greatest city in the world is because, unlike other cities, we would take everybody as long as they worked hard. It is one of the reasons my people settled so heavily in New York, in America. It was a tradition that lasted a long time. Boston was bigger than New York, Philadelphia, but they were closed to outsiders. New York was open.

So the greatest economic engine America needs is immigrants and their hard work, whether they are Ph.D.s in nuclear physics or cutting sugar in Florida or Louisiana. The CBO vindicated that report. Amazing. We are busy talking about Mr. Bernanke and how he could twist the dials and GDP growth might go up 0.3 percent. Do you know what the impartial CBO showed? If we did our bill, which both brought 11 million workers out of the shadows and brought hundreds of thousands more in, in the next decade—millions more in—whether through the Future-Flow Program or Family Unification—GDP would go up 3.3 percent. I know of no government program or tax cut that even professes to do that much. And in the second decade it would go up over 5 percent.

Of course, this is good for America, and we want to secure our borders and we want to rationalize our system and we want to be fair on a tough but earned path to citizenship for those who cross the border illegally. The bill, with the addition of the Corker-Hoeven amendment, will convince everybody they do it all.

One other point. Those who said this new Corker-Hoeven amendment will cost money, it will. But let me read what CBO has just said in the last half hour:

> The amendment—
>
> Corker-Hoeven—
>
> would significantly increase border security relative to the committee-approved version of the bill, and it would strengthen enforcement actions against those who stay in the country after their authorization has expired. Therefore, CBO expects that relative to the committee-approved version of S. 744, the amendment would reduce both illegal entry into the country and the number of people who stay in the country beyond the end of their authorized period.

I say that to my colleague from Texas, who is on the Senate floor, and others who say this will not work. CBO: Illegal immigration will decline as a result of the Corker-Hoeven amendment.

Here is something else CBO says:

> All told, CBO and JCT—
>
> Joint Committee on Taxes—
>
> expect that enacting the amendment would, like enacting S. 744—
>
> The base bill—
>
> reduce the federal deficit over both the next 10 years and the second decade following enactment—fewer illegal immigrants, higher GDP, more jobs, reduced deficit.

Who could oppose that? I don't know of anybody who could oppose that if they care about America.

Once again, on the border stuff my colleagues just won't take yes for an answer. This is the toughest, strongest, most expensive border provision we have had. It is augmented, of course, by the entry-exit system improvements and the mandatory E-Verify, which many of my colleagues, including my good friend from Alabama, have been calling for for a long time. Illegal immigration will drop dramatically, GDP will go up, jobs will go up, and the deficit will go down.

Pass this amendment and pass this bill. It is good for America.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Madam President, at 5:30 p.m. today the Senate is going to vote on the modification to the Leahy amendment, which is the package that was put together by Senators Hoeven and Corker. The distinguished senior Senator from New York who has led

the so-called Gang of 8 in putting this bill together has just spoken on the floor, as will, I believe, the distinguished majority whip, who is also on the floor.

As I indicated on Friday when I spoke about this, this is not the amendment I would have drafted. I think every one of us, if we drafted the bill, would have drafted it differently. Republicans demanded these aggressive border measures to secure their support for the overall legislation. And while it means spending an enormous amount of money, because their amendment will increase Republican support by spending this money for this historic, comprehensive legislation, I will support it. Ultimately, the comprehensive legislation is most important.

I appreciate that this package includes a provision Senator MURRAY and I worked on that takes an important step toward restoring privacy rights to millions of people who live near the northern border. Over the past decade, the Department of Homeland Security has periodically set up a Border Patrol vehicle checkpoint nearly 100 miles from the Canadian border in Vermont. Many Vermonters have questioned whether this is an effective border security measure or whether it is just a waste of money. Some have wondered why we are doing it when we are 100 miles from the friendliest border any country has ever known.

My provision will make significant progress in addressing that checkpoint by injecting oversight into the decisionmaking process for operating checkpoints so far from the border. While this is an important step in the right direction, I am disappointed that the version of the Hoeven-Corker amendment is limited to the northern border, and I will continue to work on this issue so that all Americans can have their privacy rights protected. Most of us appreciate our privacy rights and don't like to be stopped for no particular reason.

Today's vote for cloture on this Republican package is a vote for bipartisan support for comprehensive immigration reform. It is a vote in favor of taking the bold steps needed to confront the current situation and give the many millions of people living in the shadows the opportunity to come into the lawful immigration system. I applaud those Senators, both Democrats and Republicans, who have come together to get us here. Now is the time for this whole body to come together in support of fixing a broken immigration system that hurts all of us. It stifles our economy and keeps our families apart. We have gotten to this point through compromise, but we have not compromised on the core of this legislation that is intended to set so many on the path to become full and lawful participants in American life. And in that spirit of compromise and cooperation, which was fostered through almost 140 amendments that were agreed to by bipartisan votes in the Senate Judiciary Committee, I will support this amendment and urge my colleagues to also support this amendment.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. CORKER. Madam President, I thank the Senator for his leadership on this issue, and I want to make a few brief comments in support of the amendment.

First of all, to those who have been traveling and are just coming in, this is a cloture vote on the amendment only. There will be further cloture votes down the road. This amendment is in legislative language and has 115 pages. It takes about 30 minutes to read. We have had it out there for 75 hours, so people have had plenty of time to look at this.

I especially want to say to my colleagues on this side of the aisle that what this amendment should be measured against is the base text of this legislation. The border security piece would be put in place by the head of Homeland Security. Right now, that is Janet Napolitano. She would have 180 days to put that in place, and then the trigger 10 years down the road is that Homeland Security says that it is 90 percent in place.

What this amendment does is put in a much stronger border security regime that has five triggers in it before anyone can receive a green card: No. 1, there will be 20,000 Border Patrol agents who will be deployed, trained, and in place; No. 2, $4.5 billion worth of technology that is necessary for us to get 100 percent situational awareness on the border; No. 3, 350 miles of new fencing on top of the 350 miles of fencing we now have: No. 4, the E-Verify system will be fully implemented and in place: No. 5, fully implementing an entry-exit visa program, which is one of the reasons there have been so many overstays.

What I say to my friends on this side of the aisle: You are measuring the base text which says nothing about what we are going to do to this amendment which specifically spells out those things that have to occur before anybody can move from temporary status to green card status.

Some people have talked about the costs. This is a $46 billion investment. Much of it is one time. The fact is that this only goes in place if the bill passes, and as everyone knows the bill generates $192 billion to the U.S. Treasury over a 10-year period. I have never had an opportunity to vote for a bill that did that.

Lastly, let me state that Governor Brewer probably knows more about border security than anybody on the Senate floor. She has been dealing with that in Arizona for a long time. Today she said in front of a national audience that this, in fact, was a victory for Arizona if this amendment could be passed.

CBO has scored this today. I tell all the Members that as opposed to the base text, which just says a plan will be put in place after 180 days—we don't know what that is. But this will significantly reduce the amount of illegal immigration we have in this Nation.

I know there are folks who will vote against the bill regardless of what it says. I just say: Please look at this amendment. This is a strengthening amendment. This is an amendment that every Republican who cares about border security and people on the other side who care about border security should support. I hope everyone will get behind this. This puts a balance in place. I think if this amendment is passed, we will be doing something great for our Nation.

I urge everyone to vote yes.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CRUZ. Madam President, we are about to vote to end debate—a debate that never really began on an amendment that is 1,200 pages and was filed on Friday afternoon after many Senators left town. We are now voting at 5:30 p.m. on Monday as many Senators are stepping off the airplane.

This is the 1,200-page amendment. We have seen this play before. It is reminiscent of ObamaCare—yet another bill we were told we have to pass to find out what is in it. Unfortunately, it seems there are some Republicans eager to go along with the Democrats in the mad rush to pass this bill.

In the 2007 immigration debate, close to 50 amendments were considered. In this debate, only nine amendments have been debated. I introduced seven substantive amendments to improve this bill. Not a single one of those amendments has been considered on the floor of the Senate.

Mr. SCHUMER. Would my colleague yield for a question?

Mr. CRUZ. I would happily yield except we have 5 minutes left.

Mr. SCHUMER. Madam President, I ask unanimous consent that I be given 1 minute for both the question and the answer.

The PRESIDING OFFICER. Is there objection?

Mr. CRUZ. Assuming that the time does not come out of my own, I have no objection.

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

Mr. SCHUMER. Does the Senator deny that of the 1,000 pages, about 100 pages are new text and the rest is just the old text of the existing bill and that over a weekend every Senator should be able to read 100 pages of important legislation?

Mr. CRUZ. As my friend from New York knows well, the amendments are interspersed through a very complicated bill. Analyzing where waivers have been given and what the intersection is of new provisions with old provisions is not a simple endeavor. Indeed, in this particular body, it is not unbeknownst to this body to slide something in text.

My point is very simple: What is the rush? Why are we proceeding gangbusters? The only explanation that makes sense is that it seems there are many Senators in this body—perhaps on both sides of this aisle—who very much want a fig leaf. They want something they can claim they are supporting border security when, in fact, this bill does not do that.

I suggest that if we contrast this amendment to the amendment I introduced, we can see the difference between a bill that actually would protect border security versus something that is merely meant to tell gullible constituents that we have done something.

The first and most important difference is that this amendment provides legalization first and then border security maybe at some time in the future. We have seen this before. In 1986 it was the same promise Congress made. We got the legalization, we got the amnesty, and we never, ever got border security. In contrast, the amendment I introduced reflects the will of the American people to have border security first and only then the possibility of legalization.

Secondly, this amendment does not require operational control of the border. Current law requires that. This amendment weakens current law on operational control. My amendment would require that the problem actually be solved.

Thirdly, this amendment does not require a biometric entry-exit system. It weakens current law. Current law requires that; this amendment takes that out. Instead, it requires essentially a photo ID. For anyone who perhaps has known a teenager, they know that the difficulty of securing a fake ID with a picture on it is not very high. Any flea market in the land will allow it.

Fourth, this bill weakens the requirements of statutes on secure fencing, and it weakens the current law on border security.

Fifth, this amendment is not offset. My amendment was offset. So there is brandnew spending in this amendment with no offset.

Sixth, this amendment has no real enforcement. The amendment I introduced said: If the changes within it on border security were not implemented within 3 years, 20 percent of the salary of political appointees at DHS would be reduced, 20 percent of the budget would be reduced, and it would be block granted to the State to fix the problem.

Fundamentally, this is about political cover. It is not about solving the problem. I suggest the approach is one with which we are all familiar. It is the approach that perhaps in childhood we knew well. It is an approach that says: I will gladly secure the border next Tuesday for legalization today. Now, if we were naive and had not been through 1986 together and had not seen Congress play this same show game with the American people, perhaps we would fall for it, but I don't think the American people are that gullible. Everyone wants to fix our broken immigration system, but at the same time we should not replicate mistakes of the past.

This amendment and the underlying Gang of 8 bill grant immediate legalization. The border security changes will never be implemented, and the border will not be secured. That is not a solution of which the American people can be proud. I urge this body to reject the amendment, to vote against cloture, and reject the underlying bill.

I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. CORKER. Madam President, I understand there will be numbers of people on my side of the aisle who are going to vote against the immigration bill, in some cases regardless of what it says. But this amendment is not about anything relative to amnesty or anything else.

If I could just read to all of my Members what CBO said about this amendment: ''The amendment would significantly increase border security relative''—

The PRESIDING OFFICER. The time of the proponents has expired.

Mr. CORKER. I ask unanimous consent for a 1-minute extension.

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

Mr. CORKER. This came out of CBO today. I wish to say this to all the Members on my side. I urge everyone to look at the CBO language, which says if this amendment is passed, it will strongly increase border security and strongly decrease illegal immigration in this country. I don't know how any Republican who says they support border security can vote against this amendment when they are comparing it against the base language which is in the bill.

I yield the floor.

The PRESIDING OFFICER. There is 1½ minutes remaining for the opponents.

The Senator from Alabama.

Mr. SESSIONS. Madam President, this is not a vote on the Hoeven amendment; it is a vote on the complete substitute of over 1,000 pages that includes all aspects of the bill before us. It includes amnesty, and it includes the failed entry-exit visa.

If we vote for cloture tonight, we will be transferring complete control of the entire process for this immigration bill to the majority leader, HARRY REID. We can hear the whistle in the distance right now as the train is arriving in the station. If Senators REID, CORKER, and HOEVEN are able to cut off debate, the next vote will come in about 30 hours and another substitute vote in 30 hours after that.

Senator REID has filled the tree. There will be no amendments allowed—

Mr. LEAHY. Regular order.

The PRESIDING OFFICER. The time of the opponents has expired.

Mr. SESSIONS. Without the approval of the majority leader.

CLOTURE MOTION

The PRESIDING OFFICER. Pursuant to rule XXII, 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, hereby move to bring to a close debate on the Leahy amendment No. 1183, as modified, to S. 744, a bill to provide for comprehensive immigration reform, and for other purposes.

Harry Reid, Patrick J. Leahy, Michael F. Bennet, Charles E. Schumer, Richard J. Durbin, Robert Menendez, Dianne Feinstein, Sheldon Whitehouse, Patty Murray, Debbie Stabenow, Robert P. Casey Jr., Mark R. Warner, Thomas R. Carper, Richard Blumenthal, Angus S. King Jr., Christopher A. Coons, Christopher Murphy.

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 amendment No. 1183 offered by the Senator from Vermont, as modified, to S. 744, a bill to provide comprehensive immigration reform and for other purposes, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Ohio (Mr. BROWN) and the Senator from Colorado (Mr. UDALL) are necessarily absent.

Mr. CORNYN. The following Senators are necessarily absent: the Senator from Georgia (Mr. CHAMBLISS), the Senator from Georgia (Mr. ISAKSON), the Senator from Wyoming (Mr. ENZI), and the Senator from Utah (Mr. LEE).

Further, if present and voting, the Senator from Utah (Mr. LEE) would have voted ''nay.''

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

The yeas and nays resulted—yeas 67, nays 27, as follows:

[Rollcall Vote No. 160 Leg.]

YEAS—67

| | | |
|---|---|---|
| Alexander | Durbin | Klobuchar |
| Ayotte | Feinstein | Landrieu |
| Baldwin | Flake | Leahy |
| Baucus | Franken | Levin |
| Begich | Gillibrand | Manchin |
| Bennet | Graham | McCain |
| Blumenthal | Hagan | McCaskill |
| Boxer | Harkin | Menendez |
| Cantwell | Hatch | Merkley |
| Cardin | Heinrich | Mikulski |
| Carper | Heitkamp | Murkowski |
| Casey | Heller | Murphy |
| Chiesa | Hirono | Murray |
| Collins | Hoeven | Nelson |
| Coons | Johnson (SD) | Pryor |
| Corker | Kaine | Reed |
| Cowan | King | Reid |
| Donnelly | Kirk | Rockefeller |

| | | |
|---|---|---|
| Rubio | Stabenow | Whitehouse |
| Sanders | Tester | Wicker |
| Schatz | Udall (NM) | Wyden |
| Schumer | Warner | |
| Shaheen | Warren | |

NAYS—27

| | | |
|---|---|---|
| Barrasso | Cruz | Portman |
| Blunt | Fischer | Risch |
| Boozman | Grassley | Roberts |
| Burr | Inhofe | Scott |
| Coats | Johanns | Sessions |
| Coburn | Johnson (WI) | Shelby |
| Cochran | McConnell | Thune |
| Cornyn | Moran | Toomey |
| Crapo | Paul | Vitter |

NOT VOTING—6

| | | |
|---|---|---|
| Brown | Enzi | Lee |
| Chambliss | Isakson | Udall (CO) |

The PRESIDING OFFICER (Mr. DONNELLY). On this vote, the yeas are 67, the nays are 27. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

Cloture having been invoked, the motion to recommit fails.

VOTE EXPLANATION

● Mr. UDALL of Colorado. Mr. President, I was unable to return to Washington, DC, prior to the vote this evening due to unavoidable weather-related delays of my airline flight, which were beyond my control. I was therefore unable to cast a vote for rollcall vote No. 160, the motion to invoke cloture on Leahy amendment No. 1183 to S. 744, the Comprehensive Immigration Reform Bill. Had I been present, I would have voted yea.●

## MORNING BUSINESS

Mr. REID. Mr. President, I now ask unanimous consent the Senate proceed to a period of morning business with Senators permitted to speak for up to 10 minutes each, with the exception of 15 minutes for Senator PORTMAN and 20 minutes for Senator INHOFE, and the time count postcloture.

The PRESIDING OFFICER. Is there an objection?

Mr. INHOFE. Reserving the right to object, the mic was not on.

Mr. REID. Rearrange the time. Twenty minutes for the Senator INHOFE, PORTMAN 15, and INHOFE goes first.

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

Mr. REID. I would say to my friend—I am sure he is ready to speak—I may have a little closing business that I may have to interrupt. If he would be good enough to allow me to do that, we would take only a minute or two.

The PRESIDING OFFICER. The Senator from Oklahoma.

## DOMESTIC OIL PRODUCTION

Mr. INHOFE. Mr. President, I appreciate the majority leader making this arrangement. I was wanting to get a little more time than that. However, let me just mention two bills that I plan one to reintroduce, another to introduce, which I think are timely tonight because of something that is going to happen tomorrow.

Tomorrow I am going to reintroduce a bill making it clear that States are sole regulators of the hydraulic fracturing process, and there is a reason for bringing this up in the next bill.

I am pleased to be joined by Senators VITTER, PORTMAN, ROBERTS, ENZI, SESSIONS, COBURN, CRAPO, RISCH, SCOTT, CRUZ, HATCH, JOHNSON, and LEE.

Since 2008, domestic oil production has increased by 40 percent. This has never happened before. That is just in the last 4 years. Because of the new applications for such processes as horizontal drilling and hydraulic fracturing, we have been able to do this. But the most interesting thing is that with a 40-percent increase, 100 percent of that has been in State or in private land.

That is critical, because we keep hearing from this administration that they somehow want to take credit for the fact that we have had an increase in that period of time, when the fact is that has all been done on private land or on State land. None of it has been done on Federal land.

In fact, the Congressional Research Service came out earlier this year:

> All of the increase from FY2007 to FY2012 took place on non-federal lands, and the federal share of total U.S. crude oil production fell by about seven percentage points.

That means that while we increased 40 percent, that which was on Federal land decreased by 7 percent. It just goes to show the real consequences of the administration's all-out war on fossil fuels. The President has made it so difficult for anyone to lease Federal land or obtain drilling permits that many producers have simply stopped working on Federal lands altogether. For those who remain, the process is dysfunctional and unfriendly.

For instance, it takes an average of 207 days to get a drilling permit on Federal lands. By contrast, in my State of Oklahoma it only takes 10 hours, and 83 percent of the Federal lands are off-limits.

I think we need to understand all the benefits that could be out there are in spite of this administration and the policies of this administration. We shouldn't be fooled. The President may claim he likes natural gas, but he is actually taking every step he can to impose more burdensome regulations on industries so he can shut them down in favor of his beloved renewables. This war against hydraulic fracturing is part of that effort.

I can remember when we had something that took place a few months ago called date night. A lot of the Democrats, on national TV at a joint session of the legislature, didn't like the idea when something came up that was not popular with the people at home and happened to be popular with Democrats, so they had date night, so individuals would be scattered out and they wouldn't have all the Republicans on one side and all the Democrats on one side.

I thought it was kind of interesting because, I won't mention her name, but one of my very good friends who happens to be a liberal Democrat, when the President stood up and made the statement, he said:

> Now there is an abundance of good, clean, natural gas that we can have for the future.

I nudged her and I said:

> Are you listening to this?

And she said back to me:

> Wait a minute, you are going to hear something else.

He came out, and this is what he said right after that:

> [we will be] requiring all companies that drill for gas on public lands to disclose the chemicals they use. Because America will develop this resource without putting the health and safety of our citizens at risk.

Which are other words for: However, we are not going to be doing hydraulic fracturing. This is kind of interesting because we cannot have natural gas production without having hydraulic fracturing.

In response to this charge by the President, the Department of the Interior recently proposed new regulations that would apply to any hydraulic fracturing that occurs on Federal lands. These new regulations cover everything from chemical disclosure to water use and cement bonding requirements. They add a massive new layer of regulatory compliance to any operator looking to develop reserves on Federal lands at a cost of as much as $250,000 per well. It costs that much more with no environmental benefits.

You might ask: Why no environmental benefits? It is because Lisa Jackson, who is Barack Obama's Director of EPA, stated on the record:

> In no case have we made a definitive determination that the fracking process has caused chemicals to enter ground water.

In other words, in the last 60 years—and I can attest to the last 60 years because the first hydraulic fracturing took place in Duncan, OK, in my State, in 1949. Since then, over 1 million wells have been fracked without any ground water contamination.

So why would the President want to take the authority away from the States if they have such an excellent track record? It is because of his war on fossil fuels.

To combat this I am introducing the Fracturing Regulations Are Effective in State Hands Act.

The bill I am talking about simply makes it clear that States are the sole regulators of hydraulic fracturing, as they have been for the last 60 years. It includes Federal lands located within the borders of a State, so my bill would render the President's new regulations moot and ineffective and keep States in the driver's seat, effectively regulating the process.

I urge my colleagues to support this. This is something that would be a major effort. If you stop and think about the people talking about the bad economy and all that, you just go to the oil States and see what has happened. We could be enjoying this prosperity all throughout the country. We

used to think of the oil and gas production as being primarily in the western part of the United States.

However, that is not the case anymore. The Marcellus shale—talking about Pennsylvania, New York, and other States—could have great benefits by opening that area. To do that we want to continue the State regulation of hydraulic fracturing as it has been in the past.

I have another bill I am going to be introducing, and I think it is important. It closely relates to this and the speech the President is going to make tomorrow.

First of all, the 10th Amendment to the Constitution says:

> The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

That is something we all know. We learned this many years ago when we were in school. Today the Framers would be shocked to know the government's annual budget is near $4 trillion a year, with consistent $1 trillion deficits under the Obama administration.

They would also be astonished to know that the Federal Government is involving itself in nearly every facet of American life, ranging from the absurd, such as protecting the small burrowing beetle in eastern Oklahoma, to the offensive, such as mandating that private companies provide contraceptives to employees despite objections of conscience.

I was reading a book written by a friend of mine, who is deceased now, Bill Bright. His book has a daily message. The one for today, which happens to be day 175, the 24th of June, is kind of interesting. It was written by Malcolm Muggeridge. He went back and talked about what we are—keep in mind this is 40 years ago. He talked about putting the frogs in cold water and then slowly heating it up, and of course they end up dying in the water. However, if you put them in, and it happened all at once, they would not notice. I think that is what he is talking about. Yet he said this is not happening today, but it could happen. If he were around today, I wonder what he would say. This is not the way it was supposed to be. The 10th Amendment was supposed to be robust.

James Madison, in Federalist 39, wrote:

> In this relation then the proposed Government cannot be deemed a national one; since its jurisdiction extends to certain enumerated objects only, and leaves to the several States a residuary and inviolable sovereignty over all other objects.

He continues to say:

> The powers delegated by the proposed Constitution to the federal government, are few and defined. Those which are to remain in the State governments are numerous and infinite. The former will be exercised principally on external objects, as war, peace, negotiation, and foreign commerce . . . The powers reserved to the several States will extend to all the objects which, in the ordinary course of affairs, concern the lives, liberties, and properties of the people, and the internal order, improvement, and prosperity of the State.

We talk about the Constitution a lot. Yet people seem to forget the very important parts of the Constitution. Given this, it should come as no surprise that for the first 100 years of our history, as States were added to the Union, the Federal Government sold off vast quantities of its land. If the Federal Government were to be limited, then why would they need to own a lot of land? In fact, we can see in this chart the Federal revenues from the land sales were a significant component in the total revenues until just before the Civil War, and then it dropped off.

Today the Federal Government owns over 600 million acres of land, and this chart shows how much of the country it actually is. It is astonishing. If we look at this chart, it shows most of it being in the western part of the United States, but it is all over the country.

This land is endowed with substantial natural resources. As we can see in this chart, a substantial amount of oil and gas is located in the tight shale formations on these Federal lands. These are Federal lands, and it shows the great potential out there which has recently proven to be highly productive because of the advances in technologies such as hydraulic fracturing and horizontal drilling.

As a result of these discoveries, oil and natural gas production has boomed across the country. In the last 5 years, oil production has increased by over 7 million barrels a day, which is 40 percent higher. As I said when presenting the bill right before this one, all of that was done in the private sector and in the State. While that increased by 40 percent, the Federal lands decreased by 7 percent. As the Congressional Research Service confirmed in the last report, it said all the increase in U.S. production from 2007 to 2012 took place on non-Federal lands.

President Obama is the reason this land is locked up. He has made it impossible for new oil and gas production to occur on Federal lands, and in addition to working to shut down development in areas such as western Oklahoma by proposing to list the lesser prairie chicken as an endangered species, he made the process of drilling on Federal land so difficult that it takes 300 days to get a drilling permit from the Federal Government while it only takes 10 hours to get one from Oklahoma. Further, 83 percent of the land is off limits to oil and gas production.

Today we are within striking distance of achieving energy independence. Due to this, we must be able to get to the resources on Federal lands because they are enormous. For instance, ANWR in Alaska holds 16 billion barrels of oil equivalent. The Rocky Mountain West holds 1.8 trillion barrels of oil equivalent. If we expanded oil and gas production to its potential in all Federal areas, the impact would be astounding.

The Institute for Energy Research recently issued a report based on the most recent government data about these off-limits lands and showed that if we enacted policies that allowed aggressive development of these Federal lands, the process would generate $14.4 trillion in economic activity, create 2.5 million jobs, and reduce the deficit by $2.7 trillion.

Had we stuck to the principles of our Founders as articulated in the Federalist Papers and ratified in the 10th Amendment, we would not be having this conversation because the States would already be in control. So what we are trying to do is make sure the States can go back and control and do something that has been successful. What we need to do is get back to the basics, which I am introducing in the Federal Land Freedom Act today. I want to thank Senator VITTER, and all the other Senators who are cosponsors of the previous bills are also cosponsors of this bill.

This bill would reestablish the principles of Federalism when it comes to the energy policy of our Federal lands. The bill gives States the right to develop all forms of energy resources, including renewables, located on Federal lands located within their borders. To get the authority, all a State would need to do is figure out how it would release, permit, and regulate energy activities on its Federal lands.

Upon a State's declaration to the Federal Government that this program has been created, the energy development rights would automatically transfer to the State. The Federal Government would retain ownership of the land and its resources. The royalty share would remain unchanged. It would be a split, 50–50, between the State and the Federal Government as enumerated in the Minerals Leasing Act.

The Energy Information Administration on Friday said the United States could become a net oil exporter by 2040.

This bill could make it happen much faster than that. There is a guy named Harold Hamm, the CEO of Continental Resources, arguably one of the most successful operators—maybe the most successful—in the country. I called him up because people in the administration keep saying if we are able to drill on public lands, it would take 10 years before this would reach the economy. They are talking about the high price of heating a home or cooling a home or the price of gasoline.

So I said I am going to go on a national show, and they are going to ask me the question of about 10 years, because I know that is not true. So I told Mr. Hamm that I would like to quote him as an authority, and so he should be honest with his answer because I am going to use his name on national TV. If we had everything set and we are going to go ahead and start drilling now, how long would it take the first barrel of oil out of the ground to reach the market? Without hesitating he said

70 days. Then he went through and explained each step in the process from drilling to hydraulic fracturing to transportation and all of this. He said it would take 70 days.

That was just a few months ago, and no one has challenged this since then. Energy independence today—this is a reality we could be living in, and it would dramatically improve our economy.

Unemployment continues to hover around 8 percent nationwide, but in States such as Oklahoma and North Dakota we are at full employment. Why? Because of energy development. With greater development of Federal energy resources, we would see a dramatic improvement in our economy, and there is simply no reason not to do it. The States have clearly demonstrated they are capable of handling oil and gas development processes and regulations. They have been doing it for 100 years on State and private lands. Why shouldn't they be able to do it on Federal lands as well? I think the 10th Amendment trusts the States and the Senate should do the same.

I bring this up now because tomorrow there is going to be a speech. President Obama is going to give a speech on—I would say global warming, but they don't call it that anymore since the globe isn't warming. It is a climate speech on the unilateral first steps to regulating greenhouse gases under the Clean Air Act—now we are talking about powerplants—new and existing plants; energy efficiency of appliances. He will be talking about that. He will talk about renewable energy production on Federal lands, but he will not be talking about the cost of these regulations.

We all remember what he has already done. Utility MACT set new limits on mercury, coal, and oil-fired powerplants at a $100 billion cost and 1.65 million jobs lost. MACT means maximum achievable control technology. What this administration has been trying to do is mandate emissions that are below the technology to get there. Boiler MACT set strict new limits on emissions of hazardous air pollutants from industrial and commercial boilers costing $63.3 billion and 800,000 jobs.

The same thing is going on now with what he is not talking about but what he is planning on doing. Ozone, for example. He is going to be promoting—from the information we have now, it would put 2,800 counties out of attainment, including every county in my State of Oklahoma. It could result in 7 million jobs and hundreds of billions in costs, and it could shut down oil and gas production in western Oklahoma.

Greenhouse gas for refineries, first ever greenhouse gas limits on refineries; second largest emitter after powerplants. What we are talking about is, he is going to be able to go through and continue in his effort, in his war on fossil fuels, and he is going to attempt to do it through the regulations. Let's keep in mind, he tried—they have been trying, I should say, since 12 years ago with the Kyoto treaty to regulate through legislation, all the way up to the most recent bill which was the bill that was defeated last year—the Waxman-Markey bill—and that would have regulated emitters of those who emit 25,000 tons or more.

Now, that was bad. That would have cost about $400 billion a year. However, if he is successful—he being the President—in doing this through regulations what he couldn't do through legislation, it would be under the Clean Air Act, and it wouldn't be regulating those who emit 25,000 tons or more. It would be 250 tons or more. It would affect every school, every hospital, every apartment building.

I would like to have people aware of that as the President makes his speech tomorrow. I know he has an obligation. I know that prior to the last election he would not come out with these regulations because he knew that would be damaging to his reelection efforts. However, now he has that commitment to the far-left community who would like to shut down the U.S. and the energy that keeps it running.

So let's be attentive to what he says tomorrow, and I will be anxious to respond to his speech at that time. In the meantime, we do know for a fact that we have the ability to be totally independent from any other country or anyone else in providing our own energy to run this machine called America.

I thank the Presiding Officer, and I yield the floor.

## ADDITIONAL STATEMENTS

### REMEMBERING KATIE JOHN

• Mr. BEGICH. Mr. President, I am here today to honor Katie John, an Ahtna Athabascan elder, for her service to Alaska Native peoples and to all Alaskans. Katie made history in 1985 when she filed suit against the State of Alaska to reopen her family's fish camp at Batzulentas and to protect her family's right to subsistence fish. Katie battled against the State and Federal Government legal systems for almost two decades in order to protect her right and Alaska Native people's right to hunt and fish in their traditional homelands.

Katie was born in Slana, AK, in 1915 to Sara and Charley Sanford, who raised her in the traditional Ahtna way. Her father was the last chief of the Batzulnetas. When she was 14, she took a job at Nabesna Mine, where she learned English. At age 16, Katie married Fred John, Sr., and moved to Mentasta, where they had 14 children and adopted 6. They raised their children off the land, hunting, gathering, and fishing with the changing seasons.

In 1964, the State of Alaska closed down Katie's fish camp at Batzulentas, denying her the right to provide for her family. The injustice of this was the State allowed sport and commercial fisherman to continue fishing downriver while denying upriver subsistence users the ability to fish. In 1984, Katie and another Ahtna elder, Doris Charles, submitted a proposal asking the State of Alaska open Batzuletas to subsistence fishing. When their request was denied, Katie, with the help of the Native American Rights Fund, filed suit against the State and argued that Federal law prioritizes and protects subsistence uses of fish. For the next 10 years, the case worked its way through the court system. Katie never wavered in her determination to do what was right. She steadfastly maintained that Alaska Natives had a right to support their families in a way that was culturally meaningful. Finally, in 1994, Katie won her case, but it continued to be appealed and litigated for years afterwards.

The Katie John Case, as her suit became known, finally had some resolve in 2001 when the ninth Circuit Court of Appeals reaffirmed Katie's—(and by extension all Alaska Native and rural peoples—right to subsistence fish in all Federal waters. For her hard work and service to her family, Ahtna people, Alaska Natives, and all of Alaska, Katie was presented with an honorary doctorate of law degree from the University of Alaska Fairbanks in 2011.

The Katie John Case, though it continues to be litigated, has become a cornerstone of subsistence law in Alaska. Katie stood up for what was right and bravely fought to protect the Alaska Native subsistence way of life.

Katie is survived by over 250 grandchildren, great-grandchildren, and great-great-grandchildren, through which her legacy lives on. Her work changed the way fisheries and natural resources are managed in Alaska for the better. For that, Alaska Natives and all Alaskans are grateful.•

### RECOGNIZING KIRKWOOD AMTRAK VOLUNTEERS

• Mrs. McCASKILL. Mr. President, today I wish to honor the nearly 70 volunteers who have faithfully dedicated their time to operating the Kirkwood Amtrak Train Station for the past 10 years. In recognition of their outstanding service, a celebration has been planned for them this weekend, on June 29, 2013, in Kirkwood, MO.

In 2002, the City of Kirkwood was on the verge of losing its historic train station due to budget constraints. However, the residents of this community rejected that possibility. Instead, they banded together and the City of Kirkwood arranged to purchase the station from Amtrak. In doing so, the citizens saved the 120-year-old branch from destruction and preserved an iconic landmark in downtown Kirkwood.

Following the purchase, the City of Kirkwood called on volunteers to staff and operate the facility. Nearly 200 people responded. Today, almost 70 regular volunteers answer questions about

schedules, recommend Kirkwood sites and attractions, help passengers board trains, issue parking passes, and keep the station open and running in accordance with the Amtrak train schedule.

Some may question whether an all-volunteer run train station can compete with other staff-operated stations across the country. Let me tell you—Kirkwood Amtrak Train Station's honors and awards speak for themselves. In 2004, the Kirkwood station volunteers were recognized with Amtrak's prestigious ''Champion of the Rails'' award, marking this station as the only non-employee station to ever receive the award.

Perhaps more impressively, the Kirkwood Amtrak Train Station's recent customer satisfaction scores placed it No. 1 in the country. With friendly smiles and warm service, the Kirkwood station volunteers have set themselves apart from all other Amtrak stations, logging over 50,000 hours of service to the City of Kirkwood, and welcoming more than 500,000 visitors and passengers through the station doors.

I am proud these deserving citizens hail from my home State of Missouri. Their generous commitment to the City of Kirkwood and to travelers from all over the country serves as an inspiration to the people of Missouri.

I ask my colleagues to join me in honoring the volunteers of the Kirkwood Amtrak Train Station for their distinguished service to the residents and visitors of Kirkwood.●

## REMEMBERING JOHN BRANTLEY CRAWLEY

● Mr. SESSIONS. Mr. President, today I wish to pay tribute to Judge John Brantley Crawley of Brundidge, AL, who passed away on June 4, 2013. I met and talked with Judge Crawley when I ran for attorney general in Alabama in 1994, and when he decided to run for an associate judgeship on the Alabama Court of Civil Appeals. He won and ably served becoming the presiding judge on the court in 2005, a position he held until his retirement in 2007.

I liked him. He was a man of personal integrity and decency. He had no ego problems. He had good judgment and was comfortable in himself and with others. He was a real lawyer who had represented thousands of normal people walking about. This experience taught him about people and legal issues. That experience made him the fine judge that he was.

He is survived by his wife of nearly 48 years, Sherrie Johnston Crawley; son, Brant; brother, Larry; and sister, Nancy. Judge Crawley was a genuine and generous man, a modest man, with a keen sense of humor. His career included 40 years of practicing law and 18 years serving the Alabama Courts and his contributions to justice in Alabama and the rule of law are most deserving of this recognition.●

## MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Pate, 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 messages received today are printed at the end of the Senate proceedings.)

## 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–2038. A communication from the Board Chair and Chief Executive Officer, Farm Credit Administration, transmitting, pursuant to law, a report relative to the Administration's 2012 compensation program adjustments; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2039. A communication from the Secretary of Defense, transmitting, pursuant to law, a report relative to the annual plan and certification for the procurement of aircraft for the Department of Defense; to the Committee on Armed Services.

EC–2040. A communication from the Director of Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Defense Federal Acquisition Regulation Supplement; Solicitation Provisions and Contract Clauses for Acquisition of Commercial Items'' ((RIN0750–AH70) (DFARS Case 2012–D056)) received in the Office of the President of the Senate on June 20, 2013; to the Committee on Armed Services.

EC–2041. A communication from the Chairman of the Appraisal Subcommittee, Federal Financial Institutions Examination Council, transmitting, pursuant to law, the Appraisal Subcommittee's 2012 Annual Report; to the Committee on Banking, Housing, and Urban Affairs.

EC–2042. A communication from the President and Chief Executive Officer, Federal Home Loan Bank of Topeka, transmitting, pursuant to law, the Bank's management reports and statements on system of internal controls for fiscal year 2012; to the Committee on Banking, Housing, and Urban Affairs.

EC–2043. A communication from the Acting Principal Deputy Assistant Secretary for Fish and Wildlife and Parks, National Park Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''General Regulations; National Park System, Demonstrations, Sale or Distribution of Printed Matter'' (RIN1024–AD91) received in the Office of the President of the Senate on July 19, 2013; to the Committee on Energy and Natural Resources.

EC–2044. A communication from the Acting Administrator, Environmental Protection Agency, transmitting, pursuant to law, a report entitled ''Report to Congress on the Implementation of the Energy Independence and Security Act of 2007 (EISA)''; to the Committee on Energy and Natural Resources.

EC–2045. A communication from the Director of Congressional Affairs, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled ''Fuel Oil Systems for Emergency Power Supplies'' (Regulatory Guide 1.137, Revision 2) received in the Office of the President of the Senate on June 19, 2013; to the Committee on Environment and Public Works.

EC–2046. A communication from the Director of Congressional Affairs, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled ''Quality Assurance Program Requirements (Operation)'' (Regulatory Guide 1.33, Revision 3) received in the Office of the President of the Senate on June 19, 2013; to the Committee on Environment and Public Works.

EC–2047. A communication from the Director of Congressional Affairs, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled ''Revisions to Environmental Review for Renewal of Nuclear Power Plant Operating Licenses'' (RIN3150–AI42) received in the Office of the President of the Senate on June 19, 2013; to the Committee on Environment and Public Works.

EC–2048. A communication from the Chairman, Medicare Payment Advisory Commission, transmitting, pursuant to law, a report entitled, ''Report to the Congress: Medicare and the Health Care Delivery System''; to the Committee on Finance.

EC–2049. A communication from the Acting Commissioner, Social Security Administration, transmitting, pursuant to law, the Administration's 2013 Annual Report of the Supplemental Security Income Program; to the Committee on Finance.

EC–2050. A communication from the President of the United States, transmitting, consistent with the War Powers Act, a report relative to the deployment of certain U.S. forces to Jordan; to the Committee on Foreign Relations.

EC–2051. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report entitled ''National Plan to Address Alzheimer's Disease: 2013 Update''; to the Committee on Health, Education, Labor, and Pensions.

EC–2052. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report of a petition to add workers who were employed at the Brookhaven National Laboratory in Upton, New York, to the Special Exposure Cohort; to the Committee on Health, Education, Labor, and Pensions.

EC–2053. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report entitled ''Report to Congress Related to Integrated Food Safety Centers of Excellence as Required by the Food Safety Modernization Act of 2011 (FSMA)''; to the Committee on Health, Education, Labor, and Pensions.

EC–2054. A communication from the Director of Regulations and Policy Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Listing of Color Additives Exempt From Certification; Mica-Based Pearlescent Pigments'' (Docket No. FDA–2012–C–0224) received in the Office of the President of the Senate on June 20, 2013; to the Committee on Health, Education, Labor, and Pensions.

EC–2055. A communication from the Director of Regulations and Policy Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Orphan Drug Regulations'' ((RIN0910–AG72) (Docket No. FDA–2011–N–0583)) received in the Office of the President

of the Senate on June 20, 2013; to the Committee on Health, Education, Labor, and Pensions.

EC–2056. A communication from the Director, Directorate of Standards and Guidance, Occupational Safety and Health Administration, transmitting, pursuant to law, the report of a rule entitled ''Updating OSHA Standards Based on National Consensus Standards; Signage'' (RIN1218–AC77) received in the Office of the President of the Senate on June 20, 2013; to the Committee on Health, Education, Labor, and Pensions.

EC–2057. A communication from the Acting Senior Procurement Executive, Office of Acquisition Policy, General Services Administration, transmitting, pursuant to law, the report of a rule entitled ''Federal Acquisition Regulation; Technical Amendments'' (FAC 2005–67) received in the Office of the President of the Senate on June 20, 2013; to the Committee on Homeland Security and Governmental Affairs.

EC–2058. A communication from the Acting Senior Procurement Executive, Office of Acquisition Policy, General Services Administration, transmitting, pursuant to law, the report of a rule entitled ''Federal Acquisition Regulation; Federal Acquisition Circular 2005–67; Introduction'' (FAC 2005–67) received in the Office of the President of the Senate on June 20, 2013; to the Committee on Homeland Security and Governmental Affairs.

EC–2059. A communication from the Acting Senior Procurement Executive, Office of Acquisition Policy, General Services Administration, transmitting, pursuant to law, the report of a rule entitled ''Federal Acquisition Regulation; Federal Acquisition Circular 2005–67; Small Entity Compliance Guide'' (FAC 2005–67) received in the Office of the President of the Senate on June 20, 2013; to the Committee on Homeland Security and Governmental Affairs.

EC–2060. A communication from the Acting Senior Procurement Executive, Office of Acquisition Policy, General Services Administration, transmitting, pursuant to law, the report of a rule entitled ''Federal Acquisition Regulation; Contractors Performing Private Security Functions Outside the United States'' (RIN9000–AM20) received in the Office of the President of the Senate on June 20, 2013; to the Committee on Homeland Security and Governmental Affairs.

EC–2061. A communication from the Acting Senior Procurement Executive, Office of Acquisition Policy, General Services Administration, transmitting, pursuant to law, the report of a rule entitled ''Federal Acquisition Regulation; Interagency Acquisitions: Compliance by Nondefense Agencies with Defense Procurement Requirements'' (RIN9000–AM36) received in the Office of the President of the Senate on June 20, 2013; to the Committee on Homeland Security and Governmental Affairs.

EC–2062. A communication from the Acting Senior Procurement Executive, Office of Acquisition Policy, General Services Administration, transmitting, pursuant to law, the report of a rule entitled ''Federal Acquisition Regulation; System for Award Management Name Change, Phase 1 Implementation'' (RIN9000–AM51) received in the Office of the President of the Senate on June 20, 2013; to the Committee on Homeland Security and Governmental Affairs.

EC–2063. A communication from the Acting Senior Procurement Executive, Office of Acquisition Policy, General Services Administration, transmitting, pursuant to law, the report of a rule entitled ''Federal Acquisition Regulation; Contracting Officer's Representative'' (RIN9000–AM52) received in the Office of the President of the Senate on June 20, 2013; to the Committee on Homeland Security and Governmental Affairs.

EC–2064. A communication from the Acting Senior Procurement Executive, Office of Acquisition Policy, General Services Administration, transmitting, pursuant to law, the report of a rule entitled ''Federal Acquisition Regulation; Terms of Service and Open-Ended Indemnification, and Unenforceability of Unauthorized Obligations'' (RIN9000–AM45) received in the Office of the President of the Senate on June 20, 2013; to the Committee on Homeland Security and Governmental Affairs.

EC–2065. A communication from the Acting Senior Procurement Executive, Office of Acquisition Policy, General Services Administration, transmitting, pursuant to law, the report of a rule entitled ''Federal Acquisition Regulation; Deletion of Report to Congress on Foreign-Manufactured Products'' (RIN9000–AM54) received in the Office of the President of the Senate on June 20, 2013; to the Committee on Homeland Security and Governmental Affairs.

EC–2066. A communication from the Acting Senior Procurement Executive, Office of Acquisition Policy, General Services Administration, transmitting, pursuant to law, the report of a rule entitled ''Federal Acquisition Regulation; Price Analysis Techniques'' (RIN9000–AM27) received in the Office of the President of the Senate on June 20, 2013; to the Committee on Homeland Security and Governmental Affairs.

EC–2067. A communication from the Acting Senior Procurement Executive, Office of Acquisition Policy, General Services Administration, transmitting, pursuant to law, the report of a rule entitled ''Federal Acquisition Regulation; Updated Postretirement Benefit (PRB) References'' (RIN9000–AM23) received in the Office of the President of the Senate on June 20, 2013; to the Committee on Homeland Security and Governmental Affairs.

EC–2068. A communication from the Acting Senior Procurement Executive, Office of Acquisition Policy, General Services Administration, transmitting, pursuant to law, the report of a rule entitled ''Federal Acquisition Regulation; Free Trade Agreement (FTA) - Panama'' (RIN9000–AM43) received in the Office of the President of the Senate on June 20, 2013; to the Committee on Homeland Security and Governmental Affairs.

EC–2069. A communication from the Acting Senior Procurement Executive, Office of Acquisition Policy, General Services Administration, transmitting, pursuant to law, the report of a rule entitled ''Federal Acquisition Regulation; Contracting with Women-Owned Small Business Concerns'' (RIN9000–AM59) received in the Office of the President of the Senate on June 20, 2013; to the Committee on Homeland Security and Governmental Affairs.

EC–2070. A communication from the Deputy Director of the Peace Corps, transmitting, pursuant to law, the Office of Inspector General's Semiannual Report for the period of October 1, 2012 through March 31, 2013; to the Committee on Homeland Security and Governmental Affairs.

EC–2071. A communication from the Executive Director, Interstate Commission on the Potomac River Basin, transmitting, pursuant to law, the Commission's Seventy-Second Financial Statement for the period of October 1, 2011 through September 30, 2012; to the Committee on Homeland Security and Governmental Affairs.

EC–2072. A communication from the Federal Register Liaison Officer, Alcohol and Tobacco Tax and Trade Bureau, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Modification of Mandatory Label Information for Wine'' (RIN1513–AB36) received in the Office of the President of the Senate on June 19, 2013; to the Committee on the Judiciary.

## EXECUTIVE REPORTS OF COMMITTEE

The following executive reports of nominations were submitted:

By Mr. CARPER for the Committee on Homeland Security and Governmental Affairs.

*Howard A. Shelanski, of Pennsylvania, to be Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget.

*Daniel M. Tangherlini, of the District of Columbia, to be Administrator of General Services.

*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.

## 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. BROWN (for himself and Mr. ROCKEFELLER):

S. 1214. A bill to require the purchase of domestically made flags of the United States of America for use by the Federal Government; to the Committee on Homeland Security and Governmental Affairs.

By Mr. LEAHY (for himself, Mr. LEE, Mr. UDALL of Colorado, Mr. WYDEN, Mr. BLUMENTHAL, and Mr. TESTER):

S. 1215. A bill to strengthen privacy protections, accountability, and oversight related to domestic surveillance conducted pursuant to the USA PATRIOT Act and the Foreign Intelligence Surveillance Act of 1978; to the Committee on the Judiciary.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BLUMENTHAL (for himself and Mr. MURPHY):

S. Res. 183. A resolution commemorating the relaunching of the 172-year-old Charles W. Morgan by Mystic Seaport: The Museum of America and the Sea; to the Committee on the Judiciary.

By Mrs. BOXER (for herself, Ms. LANDRIEU, Ms. KLOBUCHAR, Mrs. GILLIBRAND, Mr. CARDIN, Mrs. MURRAY, Mrs. SHAHEEN, Ms. MIKULSKI, Ms. WARREN, Ms. HIRONO, Mrs. FEINSTEIN, Ms. HEITKAMP, and Ms. STABENOW):

S. Res. 184. A resolution recognizing refugee women and girls on World Refugee Day; considered and agreed to.

By Mr. REID (for himself and Mr. MCCONNELL):

S. Res. 185. A resolution to authorize representation by the Senate Legal Counsel in the case of R. Wayne Patterson v. United States Senate, et. al; considered and agreed to.

## ADDITIONAL COSPONSORS

S. 114

At the request of Mr. DURBIN, the name of the Senator from Connecticut (Mr. MURPHY) was added as a cosponsor

of S. 114, a bill to amend title 11, United States Code, with respect to certain exceptions to discharge in bankruptcy.

S. 160

At the request of Mr. MERKLEY, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 160, a bill to exclude from consumer credit reports medical debt that has been in collection and has been fully paid or settled, and for other purposes.

S. 367

At the request of Mr. CARDIN, the name of the Senator from Minnesota (Ms. KLOBUCHAR) was added as a cosponsor of S. 367, a bill to amend title XVIII of the Social Security Act to repeal the Medicare outpatient rehabilitation therapy caps.

S. 420

At the request of Mr. ENZI, the name of the Senator from Hawaii (Ms. HIRONO) was added as a cosponsor of S. 420, a bill to amend the Internal Revenue Code of 1986 to provide for the logical flow of return information between partnerships, corporations, trusts, estates, and individuals to better enable each party to submit timely, accurate returns and reduce the need for extended and amended returns, to provide for modified due dates by regulation, and to conform the automatic corporate extension period to longstanding regulatory rule.

S. 422

At the request of Mr. BLUMENTHAL, the name of the Senator from Maine (Mr. KING) was added as a cosponsor of S. 422, a bill to amend the Department of Veterans Affairs Health Care Programs Enhancement Act of 2001 and title 38, United States Code, to require the provision of chiropractic care and services to veterans at all Department of Veterans Affairs medical centers and to expand access to such care and services, and for other purposes.

S. 546

At the request of Mr. HARKIN, the name of the Senator from Maryland (Mr. CARDIN) was added as a cosponsor of S. 546, a bill to amend entrance counseling and exit counseling for borrowers under the Higher Education Act of 1965, and for other purposes.

S. 548

At the request of Ms. KLOBUCHAR, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 548, a bill to amend title 10, United States Code, to improve and enhance the capabilities of the Armed Forces to prevent and respond to sexual assault and sexual harassment in the Armed Forces, and for other purposes.

S. 647

At the request of Mr. NELSON, the name of the Senator from Alabama (Mr. SESSIONS) was added as a cosponsor of S. 647, a bill to modify the prohibition on recognition by United States courts of certain rights relating to certain marks, trade names, or commercial names.

S. 650

At the request of Ms. LANDRIEU, the name of the Senator from North Carolina (Mr. BURR) was added as a cosponsor of S. 650, a bill to amend title XXVII of the Public Health Service Act to preserve consumer and employer access to licensed independent insurance producers.

S. 700

At the request of Mr. KAINE, the name of the Senator from Colorado (Mr. UDALL) was added as a cosponsor of S. 700, a bill to ensure that the education and training provided members of the Armed Forces and veterans better assists members and veterans in obtaining civilian certifications and licenses, and for other purposes.

S. 731

At the request of Mr. MANCHIN, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. 731, a bill to require the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the Office of the Comptroller of the Currency to conduct an empirical impact study on proposed rules relating to the International Basel III agreement on general risk-based capital requirements, as they apply to community banks.

S. 737

At the request of Mr. SHELBY, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. 737, a bill to require the Federal banking agencies to conduct a quantitative impact study on the cumulative effect of the Basel III framework devised by the Basel Committee on Banking Supervision before issuing final rules amending the agencies' general risk-based capital requirements for determining risk-weighted assets, as proposed in the Advanced Approaches Risk-Based Capital Rules Notice of Proposed Rulemaking, the Standardized Approach for Risk-Weighted Assets Notice of Proposed Rulemaking, and the Implementation of Basel III, Minimum Regulatory Capital Ratios Notice of Proposed Rulemaking issued in June 2012, and for other purposes.

S. 820

At the request of Mrs. FEINSTEIN, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 820, a bill to provide for a uniform national standard for the housing and treatment of egg-laying hens, and for other purposes.

S. 895

At the request of Mrs. GILLIBRAND, the name of the Senator from Connecticut (Mr. BLUMENTHAL) was added as a cosponsor of S. 895, a bill to improve the ability of the Food and Drug Administration to study the use of antimicrobial drugs in food-producing animals.

S. 916

At the request of Mr. COCHRAN, the name of the Senator from Mississippi (Mr. WICKER) was added as a cosponsor of S. 916, a bill to authorize the acquisition and protection of nationally significant battlefields and associated sites of the Revolutionary War and the War of 1812 under the American Battlefield Protection Program.

S. 955

At the request of Mr. THUNE, the name of the Senator from New Hampshire (Ms. AYOTTE) was added as a cosponsor of S. 955, a bill to amend the Public Health Service Act to provide liability protections for volunteer practitioners at health centers under section 330 of such Act.

S. 1118

At the request of Mr. WYDEN, the names of the Senator from New York (Mrs. GILLIBRAND) and the Senator from West Virginia (Mr. ROCKEFELLER) were added as cosponsors of S. 1118, a bill to amend part E of title IV of the Social Security Act to better enable State child welfare agencies to prevent sex trafficking of children and serve the needs of children who are victims of sex trafficking, and for other purposes.

S. 1123

At the request of Mr. CARPER, the names of the Senator from North Carolina (Mr. BURR) and the Senator from Oklahoma (Mr. INHOFE) were added as cosponsors of S. 1123, a bill to amend titles XVIII and XIX of the Social Security Act to curb waste, fraud, and abuse in the Medicare and Medicaid programs.

S. 1180

At the request of Mr. GRASSLEY, the names of the Senator from West Virginia (Mr. ROCKEFELLER) and the Senator from Rhode Island (Mr. WHITEHOUSE) were added as cosponsors of S. 1180, a bill to amend title XI of the Social Security Act to provide for the public availability of Medicare claims data.

S. 1183

At the request of Mr. THUNE, the names of the Senator from Mississippi (Mr. COCHRAN), the Senator from Kentucky (Mr. PAUL) and the Senator from Alabama (Mr. SESSIONS) were added as cosponsors of S. 1183, a bill to amend the Internal Revenue Code of 1986 to repeal the estate and generation-skipping transfer taxes, and for other purposes.

S. 1204

At the request of Mr. JOHANNS, his name was added as a cosponsor of S. 1204, a bill to amend the Patient Protection and Affordable Care Act to protect rights of conscience with regard to requirements for coverage of specific items and services, to amend the Public Health Service Act to prohibit certain abortion-related discrimination in governmental activities, and for other purposes.

S.J. RES. 19

At the request of Mr. UDALL of New Mexico, the name of the Senator from New Mexico (Mr. HEINRICH) was added as a cosponsor of S.J. Res. 19, a joint resolution proposing an amendment to the Constitution of the United States

relating to contributions and expenditures intended to affect elections.

S. RES. 26

At the request of Mr. MORAN, the name of the Senator from New Hampshire (Mrs. SHAHEEN) was added as a cosponsor of S. Res. 26, a resolution recognizing that access to hospitals and other health care providers for patients in rural areas of the United States is essential to the survival and success of communities in the United States.

S. RES. 144

At the request of Mr. COONS, the names of the Senator from Maryland (Mr. CARDIN), the Senator from Pennsylvania (Mr. CASEY), the Senator from Vermont (Mr. LEAHY), the Senator from Arizona (Mr. MCCAIN), the Senator from Rhode Island (Mr. WHITEHOUSE) and the Senator from Oregon (Mr. WYDEN) were added as cosponsors of S. Res. 144, a resolution concerning the ongoing conflict in the Democratic Republic of the Congo and the need for international efforts supporting long-term peace, stability, and observance of human rights.

S. RES. 151

At the request of Mr. CASEY, the name of the Senator from Indiana (Mr. DONNELLY) was added as a cosponsor of S. Res. 151, a resolution urging the Government of Afghanistan to ensure transparent and credible presidential and provincial elections in April 2014 by adhering to internationally accepted democratic standards, establishing a transparent electoral process, and ensuring security for voters and candidates.

AMENDMENT NO. 1183

At the request of Mr. HOEVEN, the name of the Senator from Tennessee (Mr. ALEXANDER) was added as a cosponsor of amendment No. 1183 proposed to S. 744, a bill to provide for comprehensive immigration reform and for other purposes.

AMENDMENT NO. 1253

At the request of Mr. NELSON, the name of the Senator from Mississippi (Mr. WICKER) was added as a cosponsor of amendment No. 1253 intended to be proposed to S. 744, a bill to provide for comprehensive immigration reform and for other purposes.

AMENDMENT NO. 1347

At the request of Ms. LANDRIEU, the name of the Senator from Illinois (Mr. KIRK) was added as a cosponsor of amendment No. 1347 intended to be proposed to S. 744, a bill to provide for comprehensive immigration reform and for other purposes.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LEAHY (for himself, Mr. LEE, Mr. UDALL of Colorado, Mr. WYDEN, Mr. BLUMENTHAL, and Mr. TESTER):

S. 1215. A bill to strengthen privacy protections, accountability, and oversight related to domestic surveillance conducted pursuant to the USA PATRIOT Act and the Foreign Intelligence Surveillance Act of 1978; to the Committee on the Judiciary.

Mr. LEAHY. Mr. President, for more than a decade the government's ability and authority to gather information and electronic communications data about those suspected of, or connected to, potential terrorists has greatly increased. You only need to read the newspaper or listen to the news in order to realize how extraordinary this expansion has been. As an American, I believe that if the government is going to have such powerful authorities, it should only be if there is proper oversight, accountability, and transparency. We have to ensure that we maintain both our Nation's security and the fundamental civil liberties upon which our Nation was founded.

I have long been troubled by the expansive nature and scope of the USA PATRIOT Act and the FISA Amendments Act. There is not enough oversight and ability for Americans to know what their government is doing and be able to get into the debate of whether they want their government to do this. That is why I have consistently fought to include strong protections for the privacy rights and civil liberties of American citizens, as well as sunsets to help ensure proper congressional oversight. Nothing focuses oversight like knowing a law is about to come to an end. So I will introduce at the end of my remarks, along with a bipartisan group of Senators, the FISA Accountability and Privacy Protection Act of 2013.

In fact, those of us who are introducing this legislation go across the political spectrum. This is not a partisan issue—this is an American issue. This is an issue about wanting to know what our government is doing and why. As Americans, we have the right to know what our government does and why.

In each of the last two Congresses, I introduced legislation to improve and reform the powerful law enforcement tools of the USA PATRIOT Act while at the same time increasing judicial oversight, public accountability, and transparency. Both those bills were reported favorably by the Judiciary Committee with bipartisan support, but Congress ultimately decided to extend all of these authorities, without any modifications or improvements, until 2015.

Likewise, when Congress considered reauthorizing the FISA Amendments Act last year, I pushed for a shorter sunset, greater transparency for the American people, and better oversight. I regret the Senate rejected these efforts to apply stricter oversight over these sweeping authorities.

The recent public revelations about two classified data collection programs have brought renewed attention to the government's broad surveillance authorities, but they also underscore the need for close scrutiny by Congress. The Director of National Intelligence has acknowledged that they are being conducted pursuant to section 215 of the USA PATRIOT Act and section 702 of the FISA Amendments Act.

We have also raised questions about lax oversight by the National Security Agency, when a 29-year-old contract employee can walk off with huge amounts of data without being stopped. It is not enough for the National Security Agency to come here and say that they are doing this to protect the country. I want them to protect the things they are already holding. So the comprehensive legislation I am introducing today will not only improve the privacy protections and accountability provisions associated with these authorities, but it is going to strengthen oversight and transparency provisions in other parts of the USA PATRIOT Act.

In recent days, much attention has been rightly focused on section 215 of the PATRIOT Act and the bulk collection of phone call metadata by the National Security Agency and their inability to keep that from being stolen by a 29-year-old contract worker.

This measure will narrow the scope of section 215 orders by requiring the government to show both relevance to an authorized investigation and a link to a foreign group or power.

The bill also adds more meaningful judicial review of section 215 orders but strikes the one-year waiting period before a recipient can challenge a nondisclosure order for section 215 orders. Now the order comes in and you are told you can't talk about it. No matter whether it damages your business, your relations, or people you are supposed to protect, you can't talk about it for one year. That is a broad generalization of what the nondisclosure orders are. I think those orders should be changed. I think when we have these kinds of ''gag orders'' on Americans, you are going into a very dangerous area.

Moreover, this measure would require court review of minimization procedures when information concerning a U.S. person is acquired, retained, or disseminated pursuant to a section 215 order. This is a commonsense oversight requirement already required for other FISA authorities such as wiretaps, physical searches, pen register and trap and trace devices.

As I likened it before, we all understand that if a law enforcement agency gets a search warrant to go into your home and search for things, you usually know about it and are able to question that authority. Now if they are collecting things electronically, you don't know about it, you don't know what this is doing to your reputation, to your work, or anything else. We have to have more accountability.

The FISA Accountability and Privacy Protection Act will also reform and improve other authorities contained in the PATRIOT Act that, while

perhaps not a topic of recent public debate—and I will not go into some of those aspects here on the floor, also significantly impact the privacy rights of Americans.

Some of the things we can talk about, things such as national security letters, so-called NSLs, are used extensively by law enforcement and the intelligence community. They can be issued without the approval of a court, a grand jury, or a prosecutor. Most Americans would be amazed to know that authority exists. Frankly, in a State such as mine where people value their privacy, I think most Vermonters would be really concerned about it.

I propose applying a new sunset to the NSL authority. That would require Congress to look at it again and come up with a better idea, or it would end right there. I have long been concerned about the broad scope of these secret requests and the potential for expansive collection of sensitive information without appropriate limitations and a sunset provision would help to ensure proper accountability.

Just because we can go out and gather all of this information on Americans, often doing it secretly, doesn't mean we should. Some of us enjoy our privacy. Some of us like to think we are innocent unless proven guilty.

My bill would also address constitutional deficiencies regarding the nondisclosure or ''gag orders'' by finally allowing individuals to challenge these orders in court. You grow up hearing from everybody, Well, you can have your day in court. Actually, you don't get your day in court with these ''gag orders.''

The bill would also expand public reporting on the use of NSLs and FISA authorities, including an unclassified report on the impact of the use of these authorities on the privacy of U.S. persons. I have heard a great deal in the last few weeks from people not only in Vermont but elsewhere asking, Can't we have a report the American people can see—not just those of us like myself who have access to classified material, but have an unclassified report on the impact of the use of these authorities on the privacy of Americans?

My bill will also address shortcomings in the FISA Amendments Act and apply improvements that I sought during last year's reauthorization debate in the Senate. The existing December 2017 sunset would be shortened to June 2015 to focus attention and ensure timely reexamination of how these authorities are being utilized.

The June 2015 sunset will also align with the PATRIOT Act sunset, allowing Congress—and in fact requiring Congress—to address all of these provisions at once, rather than a little piece here and a little piece there. This legislation will also increase accountability by clarifying the scope of annual reviews currently required by law extends to all agencies that have a role in developing targeting and so-called minimization procedures.

Finally—and I think this is extremely important—the bill seeks to increase oversight by requiring the Inspector General of the Intelligence Community to conduct a comprehensive review of the FISA Amendments Act and its impact on the privacy rights of all Americans.

These are commonsense, practical improvements to ensure that the broad and powerful surveillance tools being used by the government are subject to appropriate limitations, transparency, and oversight. The American people deserve to know how laws such as the USA PATRIOT Act and the FISA Amendments Act are being used to conduct electronic surveillance, particularly when the surveillance is not just on those that we have reason to be suspicious of, but of all Americans—totally innocent Americans. The American people also deserve to know whether these programs have proven sufficiently effective to justify their extraordinary breadth. If you can collect billions of phone calls, and we have proven technologically you can do that, do we get anything out of it? Or, do we get our information about terrorists the old-fashioned way by actually talking to people, infiltrating terrorist groups, and so forth?

Let us make sure we are not doing something just because we can do it, regardless of how it impacts the rights of Americans. The enhanced layers of transparency, oversight, and accountability included in this legislation will ensure we are protecting national security without undermining the privacy rights and civil liberties of law-abiding Americans.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

*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 ''FISA Accountability and Privacy Protection Act of 2013''.

**SEC. 2. SUNSETS.**

(a) MODIFICATION OF FISA AMENDMENTS ACT OF 2008 SUNSET.—

(1) MODIFICATION.—Section 403(b)(1) of the FISA Amendments Act of 2008 (Public Law 110–261; 50 U.S.C. 1881 note) is amended by striking ''December 31, 2017'' and inserting ''June 1, 2015''.

(2) TECHNICAL AND CONFORMING AMENDMENTS.—Section 403(b)(2) of such Act (Public Law 110–261; 122 Stat. 2474) is amended by striking ''December 31, 2017'' and inserting ''June 1, 2015''.

(3) ORDERS IN EFFECT.—Section 404(b)(1) of such Act (Public Law 110–261; 50 U.S.C. 1801 note) is amended in the paragraph heading by striking ''DECEMBER 31, 2017'' and inserting ''JUNE 1, 2015''.

(b) NATIONAL SECURITY LETTERS.—

(1) REPEAL.—Effective on June 1, 2015—

(A) section 2709 of title 18, United States Code, is amended to read as such provision read on October 25, 2001;

(B) section 1114(a)(5) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3414(a)(5)) is amended to read as such provision read on October 25, 2001;

(C) subsections (a) and (b) of section 626 of the Fair Credit Reporting Act (15 U.S.C. 1681u) are amended to read as subsections (a) and (b), respectively, of the second of the 2 sections designated as section 624 of such Act (15 U.S.C. 1681u) (relating to disclosure to the Federal Bureau of Investigation for counterintelligence purposes), as added by section 601 of the Intelligence Authorization Act for Fiscal Year 1996 (Public Law 104–93; 109 Stat. 974), read on October 25, 2001;

(D) section 627 of the Fair Credit Reporting Act (15 U.S.C. 1681v) is repealed; and

(E) section 802 of the National Security Act of 1947 (50 U.S.C. 3162) is amended to read as such provision read on October 25, 2001.

(2) TRANSITION PROVISION.—Notwithstanding paragraph (1), the provisions of law referred to in paragraph (1), as in effect on May 31, 2015, shall continue to apply on and after June 1, 2015, with respect to any particular foreign intelligence investigation or with respect to any particular offense or potential offense that began or occurred before June 1, 2015.

(3) TECHNICAL AND CONFORMING AMENDMENTS.—Effective June 1, 2015—

(A) section 3511 of title 18, United States Code, is amended—

(i) in subsections (a), (c), and (d), by striking ''or 627(a)'' each place it appears; and

(ii) in subsection (b)(1)(A), as amended by section 6(b) of this Act, by striking ''section 626 or 627 of the Fair Credit Reporting Act (15 U.S.C. 1681u and 1681v)'' and inserting ''section 626 of the Fair Credit Reporting Act (15 U.S.C. 1681u)'';

(B) section 118(c) of the USA PATRIOT Improvement and Reauthorization Act of 2005 (18 U.S.C. 3511 note) is amended—

(i) in subparagraph (C), by adding ''and'' at the end;

(ii) in subparagraph (D), by striking ''; and'' and inserting a period; and

(iii) by striking subparagraph (E); and

(C) the table of sections for the Fair Credit Reporting Act (15 U.S.C. 1681 et seq.) is amended by striking the item relating to section 627.

**SEC. 3. FACTUAL BASIS FOR AND ISSUANCE OF ORDERS FOR ACCESS TO TANGIBLE THINGS.**

(a) IN GENERAL.—Section 501 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1861) is amended—

(1) in the section heading, by striking ''**certain business records**'' and inserting ''**tangible things**'';

(2) in subsection (b)(2), by striking subparagraphs (A) and (B) and inserting the following:

''(A) a statement of facts showing that there are reasonable grounds to believe that the records or other things sought—

''(i) are relevant to an authorized investigation (other than a threat assessment) conducted in accordance with subsection (a)(2) to obtain foreign intelligence information not concerning a United States person or to protect against international terrorism or clandestine intelligence activities; and

''(ii)(I) pertain to a foreign power or an agent of a foreign power;

''(II) are relevant to the activities of a suspected agent of a foreign power who is the subject of such authorized investigation; or

''(III) pertain to an individual in contact with, or known to, a suspected agent of a foreign power; and

''(B) a statement of proposed minimization procedures.''; and

(3) in subsection (c)—

(A) in paragraph (1)—

(i) by inserting ''and that the proposed minimization procedures meet the definition

of minimization procedures under subsection (g)'' after ''subsections (a) and (b)''; and

(ii) by striking the second sentence; and

(B) in paragraph (2)—

(i) in subparagraph (D), by striking ''and'' at the end;

(ii) in subparagraph (E), by striking the period at the end and inserting ''; and''; and

(iii) by adding at the end the following:

''(F) shall direct that the minimization procedures be followed.''.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) DEFINITIONS.—Title V of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1861 et seq.) is amended by adding at the end the following:

**''SEC. 503. DEFINITIONS.**

''In this title, the terms 'Attorney General', 'foreign intelligence information', 'international terrorism', 'person', 'United States', and 'United States person' have the meanings given those terms in section 101.''.

(2) TITLE HEADING.—Title V of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1861 et seq.) is amended in the title heading by striking ''CERTAIN BUSINESS RECORDS'' and inserting ''TANGIBLE THINGS''.

(3) TABLE OF CONTENTS.—The table of contents in the first section of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended—

(A) by striking the items relating to title V and section 501 and inserting the following:

''TITLE V—ACCESS TO TANGIBLE THINGS FOR FOREIGN INTELLIGENCE PURPOSES

''Sec. 501. Access to tangible things for foreign intelligence purposes and international terrorism investigations.''; and

(B) by inserting after the item relating to section 502 the following:

''Sec. 503. Definitions.''.

**SEC. 4. ORDERS FOR PEN REGISTERS AND TRAP AND TRACE DEVICES FOR FOREIGN INTELLIGENCE PURPOSES.**

(a) APPLICATION.—Section 402(c) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1842(c)) is amended—

(1) in paragraph (1), by striking ''and'' at the end;

(2) in paragraph (2)—

(A) by striking ''a certification by the applicant'' and inserting ''a statement of the facts and circumstances relied upon by the applicant to justify the belief of the applicant''; and

(B) by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(3) a statement of whether minimization procedures are being proposed and, if so, a statement of the proposed minimization procedures.''.

(b) MINIMIZATION.—

(1) DEFINITION.—Section 401 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1841) is amended by adding at the end the following:

''(4) The term 'minimization procedures' means—

''(A) specific procedures, that are reasonably designed in light of the purpose and technique of an order for the installation and use of a pen register or trap and trace device, to minimize the retention, and prohibit the dissemination, of nonpublicly available information known to concern unconsenting United States persons consistent with the need of the United States to obtain, produce, and disseminate foreign intelligence information;

''(B) procedures that require that nonpublicly available information, which is not foreign intelligence information, shall not be disseminated in a manner that identifies any United States person, without the consent of such person, unless the identity of such person is necessary to understand foreign intelligence information or assess its importance; and

''(C) notwithstanding subparagraphs (A) and (B), procedures that allow for the retention and dissemination of information that is evidence of a crime which has been, is being, or is about to be committed and that is to be retained or disseminated for law enforcement purposes.''.

(2) PEN REGISTERS AND TRAP AND TRACE DEVICES.—Section 402 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1842) is amended—

(A) in subsection (d)(1), by striking ''the judge finds'' and all that follows and inserting the following: ''the judge finds—

''(A) that the application satisfies the requirements of this section; and

''(B) that, if there are exceptional circumstances justifying the use of minimization procedures in a particular case, the proposed minimization procedures meet the definition of minimization procedures under this title.''; and

(B) by adding at the end the following:

''(h) At or before the end of the period of time for which the installation and use of a pen register or trap and trace device is approved under an order or an extension under this section, the judge may assess compliance with any applicable minimization procedures by reviewing the circumstances under which information concerning United States persons was retained or disseminated.''.

(3) EMERGENCIES.—Section 403 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1843) is amended—

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

(B) by inserting after subsection (b) the following:

''(c) If the Attorney General authorizes the emergency installation and use of a pen register or trap and trace device under this section, the Attorney General shall require that minimization procedures be followed, if appropriate.''.

(4) USE OF INFORMATION.—Section 405(a)(1) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1845(a)(1)) is amended by striking ''provisions of this section'' and inserting ''minimization procedures required under this title''.

(c) TRANSITION PROCEDURES.—

(1) ORDERS IN EFFECT.—Notwithstanding the amendments made by this Act, an order entered under section 402(d)(1) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1842(d)(1)) that is in effect on the effective date of the amendments made by this section shall remain in effect until the expiration of the order.

(2) EXTENSIONS.—A request for an extension of an order referred to in paragraph (1) shall be subject to the requirements of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.), as amended by this Act.

**SEC. 5. LIMITATIONS ON DISCLOSURE OF NATIONAL SECURITY LETTERS.**

(a) IN GENERAL.—Section 2709 of title 18, United States Code, is amended by striking subsection (c) and inserting the following:

''(c) PROHIBITION OF CERTAIN DISCLOSURE.—

''(1) PROHIBITION.—

''(A) IN GENERAL.—If a certification is issued under subparagraph (B) and notice of the right to judicial review under paragraph (3) is provided, no wire or electronic communication service provider, or officer, employee, or agent thereof, that receives a request under subsection (a), shall disclose to any person that the Director of the Federal Bureau of Investigation has sought or obtained access to information or records under this section.

''(B) CERTIFICATION.—The requirements of subparagraph (A) shall apply if the Director of the Federal Bureau of Investigation, or a designee of the Director whose rank shall be no lower than Deputy Assistant Director at Bureau headquarters or a Special Agent in Charge of a Bureau field office, certifies that, absent a prohibition of disclosure under this subsection, there may result—

''(i) a danger to the national security of the United States;

''(ii) interference with a criminal, counterterrorism, or counterintelligence investigation;

''(iii) interference with diplomatic relations; or

''(iv) danger to the life or physical safety of any person.

''(2) EXCEPTION.—

''(A) IN GENERAL.—A wire or electronic communication service provider, or officer, employee, or agent thereof, that receives a request under subsection (a) may disclose information otherwise subject to any applicable nondisclosure requirement to—

''(i) those persons to whom disclosure is necessary in order to comply with the request;

''(ii) an attorney in order to obtain legal advice or assistance regarding the request; or

''(iii) other persons as permitted by the Director of the Federal Bureau of Investigation or the designee of the Director.

''(B) PERSONS NECESSARY FOR COMPLIANCE.—Upon a request by the Director of the Federal Bureau of Investigation or the designee of the Director, those persons to whom disclosure will be made under subparagraph (A)(i) or to whom such disclosure was made before the request shall be identified to the Director or the designee.

''(C) NONDISCLOSURE REQUIREMENT.—A person to whom disclosure is made under subparagraph (A) shall be subject to the nondisclosure requirements applicable to a person to whom a request is issued under subsection (a) in the same manner as the person to whom the request is issued.

''(D) NOTICE.—Any recipient that discloses to a person described in subparagraph (A) information otherwise subject to a nondisclosure requirement shall inform the person of the applicable nondisclosure requirement.

''(3) RIGHT TO JUDICIAL REVIEW.—

''(A) IN GENERAL.—A wire or electronic communications service provider that receives a request under subsection (a) shall have the right to judicial review of any applicable nondisclosure requirement.

''(B) NOTIFICATION.—A request under subsection (a) shall state that if the recipient wishes to have a court review a nondisclosure requirement, the recipient shall notify the Government.

''(C) INITIATION OF PROCEEDINGS.—If a recipient of a request under subsection (a) makes a notification under subparagraph (B), the Government shall initiate judicial review under the procedures established in section 3511 of this title, unless an appropriate official of the Federal Bureau of the Investigation makes a notification under paragraph (4).

''(4) TERMINATION.—In the case of any request for which a recipient has submitted a notification under paragraph (3)(B), if the facts supporting a nondisclosure requirement cease to exist, an appropriate official of the Federal Bureau of Investigation shall promptly notify the wire or electronic service provider, or officer, employee, or agent thereof, subject to the nondisclosure requirement that the nondisclosure requirement is no longer in effect.''.

(b) IDENTITY OF FINANCIAL INSTITUTIONS AND CREDIT REPORTS.—Section 626 of the Fair Credit Reporting Act (15 U.S.C. 1681u) is amended by striking subsection (d) and inserting the following:

''(d) PROHIBITION OF CERTAIN DISCLOSURE.—

''(1) PROHIBITION.—

''(A) IN GENERAL.—If a certification is issued under subparagraph (B) and notice of the right to judicial review under paragraph (3) is provided, no consumer reporting agency, or officer, employee, or agent thereof, that receives a request or order under subsection (a), (b), or (c), shall disclose or specify in any consumer report, that the Federal Bureau of Investigation has sought or obtained access to information or records under subsection (a), (b), or (c).

''(B) CERTIFICATION.—The requirements of subparagraph (A) shall apply if the Director of the Federal Bureau of Investigation, or a designee of the Director whose rank shall be no lower than Deputy Assistant Director at Bureau headquarters or a Special Agent in Charge of a Bureau field office, certifies that, absent a prohibition of disclosure under this subsection, there may result—

''(i) a danger to the national security of the United States;

''(ii) interference with a criminal, counterterrorism, or counterintelligence investigation;

''(iii) interference with diplomatic relations; or

''(iv) danger to the life or physical safety of any person.

''(2) EXCEPTION.—

''(A) IN GENERAL.—A consumer reporting agency, or officer, employee, or agent thereof, that receives a request or order under subsection (a), (b), or (c) may disclose information otherwise subject to any applicable nondisclosure requirement to—

''(i) those persons to whom disclosure is necessary in order to comply with the request or order;

''(ii) an attorney in order to obtain legal advice or assistance regarding the request or order; or

''(iii) other persons as permitted by the Director of the Federal Bureau of Investigation or the designee of the Director.

''(B) PERSONS NECESSARY FOR COMPLIANCE.—Upon a request by the Director of the Federal Bureau of Investigation or the designee of the Director, those persons to whom disclosure will be made under subparagraph (A)(i) or to whom such disclosure was made before the request shall be identified to the Director or the designee.

''(C) NONDISCLOSURE REQUIREMENT.—A person to whom disclosure is made under subparagraph (A) shall be subject to the nondisclosure requirements applicable to a person to whom a request or order is issued under subsection (a), (b), or (c) in the same manner as the person to whom the request or order is issued.

''(D) NOTICE.—Any recipient that discloses to a person described in subparagraph (A) information otherwise subject to a nondisclosure requirement shall inform the person of the applicable nondisclosure requirement.

''(3) RIGHT TO JUDICIAL REVIEW.—

''(A) IN GENERAL.—A consumer reporting agency that receives a request or order under subsection (a), (b), or (c) shall have the right to judicial review of any applicable nondisclosure requirement.

''(B) NOTIFICATION.—A request or order under subsection (a), (b), or (c) shall state that if the recipient wishes to have a court review a nondisclosure requirement, the recipient shall notify the Government.

''(C) INITIATION OF PROCEEDINGS.—If a recipient of a request or order under subsection (a), (b), or (c) makes a notification under subparagraph (B), the Government shall initiate judicial review under the procedures established in section 3511 of title 18, United States Code, unless an appropriate official of the Federal Bureau of Investigation makes a notification under paragraph (4).

''(4) TERMINATION.—In the case of any request or order for which a consumer reporting agency has submitted a notification under paragraph (3)(B), if the facts supporting a nondisclosure requirement cease to exist, an appropriate official of the Federal Bureau of Investigation shall promptly notify the consumer reporting agency, or officer, employee, or agent thereof, subject to the nondisclosure requirement that the nondisclosure requirement is no longer in effect.''.

(c) DISCLOSURES TO GOVERNMENTAL AGENCIES FOR COUNTERTERRORISM PURPOSES.—Section 627 of the Fair Credit Reporting Act (15 U.S.C. 1681v) is amended by striking subsection (c) and inserting the following:

''(c) PROHIBITION OF CERTAIN DISCLOSURE.—

''(1) PROHIBITION.—

''(A) IN GENERAL.—If a certification is issued under subparagraph (B) and notice of the right to judicial review under paragraph (3) is provided, no consumer reporting agency, or officer, employee, or agent thereof, that receives a request under subsection (a), shall disclose to any person or specify in any consumer report, that a government agency has sought or obtained access to information under subsection (a).

''(B) CERTIFICATION.—The requirements of subparagraph (A) shall apply if the head of a government agency authorized to conduct investigations of, or intelligence or counterintelligence activities or analysis related to, international terrorism, or a designee, certifies that, absent a prohibition of disclosure under this subsection, there may result—

''(i) a danger to the national security of the United States;

''(ii) interference with a criminal, counterterrorism, or counterintelligence investigation;

''(iii) interference with diplomatic relations; or

''(iv) danger to the life or physical safety of any person.

''(2) EXCEPTION.—

''(A) IN GENERAL.—A consumer reporting agency, or officer, employee, or agent thereof, that receives a request under subsection (a) may disclose information otherwise subject to any applicable nondisclosure requirement to—

''(i) those persons to whom disclosure is necessary in order to comply with the request;

''(ii) an attorney in order to obtain legal advice or assistance regarding the request; or

''(iii) other persons as permitted by the head of the government agency authorized to conduct investigations of, or intelligence or counterintelligence activities or analysis related to, international terrorism, or a designee.

''(B) PERSONS NECESSARY FOR COMPLIANCE.—Upon a request by the head of a government agency authorized to conduct investigations of, or intelligence or counterintelligence activities or analysis related to, international terrorism, or a designee, those persons to whom disclosure will be made under subparagraph (A)(i) or to whom such disclosure was made before the request shall be identified to the head of the government agency or the designee.

''(C) NONDISCLOSURE REQUIREMENT.—A person to whom disclosure is made under subparagraph (A) shall be subject to the nondisclosure requirements applicable to a person to whom a request is issued under subsection (a) in the same manner as the person to whom the request is issued.

''(D) NOTICE.—Any recipient that discloses to a person described in subparagraph (A) information otherwise subject to a nondisclosure requirement shall inform the person of the applicable nondisclosure requirement.

''(3) RIGHT TO JUDICIAL REVIEW.—

''(A) IN GENERAL.—A consumer reporting agency that receives a request under subsection (a) shall have the right to judicial review of any applicable nondisclosure requirement.

''(B) NOTIFICATION.—A request under subsection (a) shall state that if the recipient wishes to have a court review a nondisclosure requirement, the recipient shall notify the government.

''(C) INITIATION OF PROCEEDINGS.—If a recipient of a request under subsection (a) makes a notification under subparagraph (B), the government shall initiate judicial review under the procedures established in section 3511 of title 18, United States Code, unless an appropriate official of the government agency authorized to conduct investigations of, or intelligence or counterintelligence activities or analysis related to, international terrorism makes a notification under paragraph (4).

''(4) TERMINATION.—In the case of any request for which a consumer reporting agency has submitted a notification under paragraph (3)(B), if the facts supporting a nondisclosure requirement cease to exist, an appropriate official of the government agency authorized to conduct investigations of, or intelligence or counterintelligence activities or analysis related to, international terrorism shall promptly notify the consumer reporting agency, or officer, employee, or agent thereof, subject to the nondisclosure requirement that the nondisclosure requirement is no longer in effect.''.

(d) FINANCIAL RECORDS.—Section 1114(a)(5) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3414(a)(5)) is amended by striking subparagraph (D) and inserting the following:

''(D) PROHIBITION OF CERTAIN DISCLOSURE.—

''(i) PROHIBITION.—

''(I) IN GENERAL.—If a certification is issued under subclause (II) and notice of the right to judicial review under clause (iii) is provided, no financial institution, or officer, employee, or agent thereof, that receives a request under subparagraph (A), shall disclose to any person that the Federal Bureau of Investigation has sought or obtained access to information or records under subparagraph (A).

''(II) CERTIFICATION.—The requirements of subclause (I) shall apply if the Director of the Federal Bureau of Investigation, or a designee of the Director whose rank shall be no lower than Deputy Assistant Director at Bureau headquarters or a Special Agent in Charge of a Bureau field office, certifies that, absent a prohibition of disclosure under this subparagraph, there may result—

''(aa) a danger to the national security of the United States;

''(bb) interference with a criminal, counterterrorism, or counterintelligence investigation;

''(cc) interference with diplomatic relations; or

''(dd) danger to the life or physical safety of any person.

''(ii) EXCEPTION.—

''(I) IN GENERAL.—A financial institution, or officer, employee, or agent thereof, that receives a request under subparagraph (A) may disclose information otherwise subject to any applicable nondisclosure requirement to—

''(aa) those persons to whom disclosure is necessary in order to comply with the request;

''(bb) an attorney in order to obtain legal advice or assistance regarding the request; or

''(cc) other persons as permitted by the Director of the Federal Bureau of Investigation or the designee of the Director.

''(II) PERSONS NECESSARY FOR COMPLIANCE.—Upon a request by the Director of the Federal Bureau of Investigation or the designee of the Director, those persons to whom disclosure will be made under subclause (I)(aa) or to whom such disclosure was made before the request shall be identified to the Director or the designee.

''(III) NONDISCLOSURE REQUIREMENT.—A person to whom disclosure is made under subclause (I) shall be subject to the nondisclosure requirements applicable to a person to whom a request is issued under subparagraph (A) in the same manner as the person to whom the request is issued.

''(IV) NOTICE.—Any recipient that discloses to a person described in subclause (I) information otherwise subject to a nondisclosure requirement shall inform the person of the applicable nondisclosure requirement.

''(iii) RIGHT TO JUDICIAL REVIEW.—

''(I) IN GENERAL.—A financial institution that receives a request under subparagraph (A) shall have the right to judicial review of any applicable nondisclosure requirement.

''(II) NOTIFICATION.—A request under subparagraph (A) shall state that if the recipient wishes to have a court review a nondisclosure requirement, the recipient shall notify the Government.

''(III) INITIATION OF PROCEEDINGS.—If a recipient of a request under subparagraph (A) makes a notification under subclause (II), the Government shall initiate judicial review under the procedures established in section 3511 of title 18, United States Code, unless an appropriate official of the Federal Bureau of Investigation makes a notification under clause (iv).

''(iv) TERMINATION.—In the case of any request for which a financial institution has submitted a notification under clause (iii)(II), if the facts supporting a nondisclosure requirement cease to exist, an appropriate official of the Federal Bureau of Investigation shall promptly notify the financial institution, or officer, employee, or agent thereof, subject to the nondisclosure requirement that the nondisclosure requirement is no longer in effect.''.

(e) REQUESTS BY AUTHORIZED INVESTIGATIVE AGENCIES.—Section 802 of the National Security Act of 1947 (50 U.S.C. 3162), is amended by striking subsection (b) and inserting the following:

''(b) PROHIBITION OF CERTAIN DISCLOSURE.—

''(1) PROHIBITION.—

''(A) IN GENERAL.—If a certification is issued under subparagraph (B) and notice of the right to judicial review under paragraph (3) is provided, no governmental or private entity, or officer, employee, or agent thereof, that receives a request under subsection (a), shall disclose to any person that an authorized investigative agency described in subsection (a) has sought or obtained access to information under subsection (a).

''(B) CERTIFICATION.—The requirements of subparagraph (A) shall apply if the head of an authorized investigative agency described in subsection (a), or a designee, certifies that, absent a prohibition of disclosure under this subsection, there may result—

''(i) a danger to the national security of the United States;

''(ii) interference with a criminal, counterterrorism, or counterintelligence investigation;

''(iii) interference with diplomatic relations; or

''(iv) danger to the life or physical safety of any person.

''(2) EXCEPTION.—

''(A) IN GENERAL.—A governmental or private entity, or officer, employee, or agent thereof, that receives a request under subsection (a) may disclose information otherwise subject to any applicable nondisclosure requirement to—

''(i) those persons to whom disclosure is necessary in order to comply with the request;

''(ii) an attorney in order to obtain legal advice or assistance regarding the request; or

''(iii) other persons as permitted by the head of the authorized investigative agency described in subsection (a).

''(B) PERSONS NECESSARY FOR COMPLIANCE.—Upon a request by the head of an authorized investigative agency described in subsection (a), or a designee, those persons to whom disclosure will be made under subparagraph (A)(i) or to whom such disclosure was made before the request shall be identified to the head of the authorized investigative agency or the designee.

''(C) NONDISCLOSURE REQUIREMENT.—A person to whom disclosure is made under subparagraph (A) shall be subject to the nondisclosure requirements applicable to a person to whom a request is issued under subsection (a) in the same manner as the person to whom the request is issued.

''(D) NOTICE.—Any recipient that discloses to a person described in subparagraph (A) information otherwise subject to a nondisclosure requirement shall inform the person of the applicable nondisclosure requirement.

''(3) RIGHT TO JUDICIAL REVIEW.—

''(A) IN GENERAL.—A governmental or private entity that receives a request under subsection (a) shall have the right to judicial review of any applicable nondisclosure requirement.

''(B) NOTIFICATION.—A request under subsection (a) shall state that if the recipient wishes to have a court review a nondisclosure requirement, the recipient shall notify the Government.

''(C) INITIATION OF PROCEEDINGS.—If a recipient of a request under subsection (a) makes a notification under subparagraph (B), the Government shall initiate judicial review under the procedures established in section 3511 of title 18, United States Code, unless an appropriate official of the authorized investigative agency described in subsection (a) makes a notification under paragraph (4).

''(4) TERMINATION.—In the case of any request for which a governmental or private entity has submitted a notification under paragraph (3)(B), if the facts supporting a nondisclosure requirement cease to exist, an appropriate official of the authorized investigative agency described in subsection (a) shall promptly notify the governmental or private entity, or officer, employee, or agent thereof, subject to the nondisclosure requirement that the nondisclosure requirement is no longer in effect.''.

**SEC. 6. JUDICIAL REVIEW OF FISA ORDERS AND NATIONAL SECURITY LETTERS.**

(a) FISA.—Section 501(f)(2) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1861(f)(2)) is amended—

(1) in subparagraph (A)—

(A) in clause (i)—

(i) by striking ''a production order'' and inserting ''a production order or nondisclosure order''; and

(ii) by striking ''Not less than 1 year'' and all that follows; and

(B) in clause (ii), by striking ''production order or nondisclosure''; and

(2) in subparagraph (C)—

(A) by striking clause (ii); and

(B) by redesignating clause (iii) as clause (ii).

(b) JUDICIAL REVIEW OF NATIONAL SECURITY LETTERS.—Section 3511(b) of title 18, United States Code, is amended to read as follows:

''(b) NONDISCLOSURE.—

''(1) IN GENERAL.—

''(A) NOTICE.—If a recipient of a request or order for a report, records, or other information under section 2709 of this title, section 626 or 627 of the Fair Credit Reporting Act (15 U.S.C. 1681u and 1681v), section 1114 of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3414), or section 802 of the National Security Act of 1947 (50 U.S.C. 3162), wishes to have a court review a nondisclosure requirement imposed in connection with the request or order, the recipient shall notify the Government.

''(B) APPLICATION.—Not later than 30 days after the date of receipt of a notification under subparagraph (A), the Government shall apply for an order prohibiting the disclosure of the existence or contents of the relevant request or order. An application under this subparagraph may be filed in the district court of the United States for the judicial district in which the recipient of the order is doing business or in the district court of the United States for any judicial district within which the authorized investigation that is the basis for the request or order is being conducted. The applicable nondisclosure requirement shall remain in effect during the pendency of proceedings relating to the requirement.

''(C) CONSIDERATION.—A district court of the United States that receives an application under subparagraph (B) should rule expeditiously, and shall, subject to paragraph (3), issue a nondisclosure order that includes conditions appropriate to the circumstances.

''(2) APPLICATION CONTENTS.—An application for a nondisclosure order or extension thereof under this subsection shall include a certification from the Attorney General, Deputy Attorney General, an Assistant Attorney General, or the Director of the Federal Bureau of Investigation, or in the case of a request by a department, agency, or instrumentality of the Federal Government other than the Department of Justice, the head or deputy head of the department, agency, or instrumentality, containing a statement of specific facts indicating that, absent a prohibition of disclosure under this subsection, there may result—

''(A) a danger to the national security of the United States;

''(B) interference with a criminal, counterterrorism, or counterintelligence investigation;

''(C) interference with diplomatic relations; or

''(D) danger to the life or physical safety of any person.

''(3) STANDARD.—A district court of the United States shall issue a nondisclosure requirement order or extension thereof under this subsection if the court determines, giving substantial weight to the certification under paragraph (2), that there is reason to believe that disclosure of the information subject to the nondisclosure requirement during the applicable time period will result in—

''(A) a danger to the national security of the United States;

''(B) interference with a criminal, counterterrorism, or counterintelligence investigation;

''(C) interference with diplomatic relations; or

''(D) danger to the life or physical safety of any person.''.

(c) MINIMIZATION.—Section 501(g)(1) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1861(g)(1)) is amended by striking ''Not later than'' and all that follows and inserting ''At or before the end of the period of

time for the production of tangible things under an order approved under this section or at any time after the production of tangible things under an order approved under this section, a judge may assess compliance with the minimization procedures by reviewing the circumstances under which information concerning United States persons was retained or disseminated.''.

**SEC. 7. CERTIFICATION FOR ACCESS TO TELEPHONE TOLL AND TRANSACTIONAL RECORDS.**

(a) IN GENERAL.—Section 2709 of title 18, United States Code, as amended by this Act, is amended—

(1) by striking subsection (e);

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

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

''(c) WRITTEN STATEMENT.—The Director of the Federal Bureau of Investigation, or a designee in a position not lower than Deputy Assistant Director at Bureau headquarters or a Special Agent in Charge in a Bureau field office designated by the Director, may make a certification under subsection (b) only upon a written statement, which shall be retained by the Federal Bureau of Investigation, of specific facts showing that there are reasonable grounds to believe that the information sought is relevant to the authorized investigation described in subsection (b).''.

(b) IDENTITY OF FINANCIAL INSTITUTIONS AND CREDIT REPORTS.—Section 626 of the Fair Credit Reporting Act (15 U.S.C. 1681u), as amended by this Act, is amended—

(1) by striking subsection (h);

(2) by redesignating subsections (d), (e), (f), and (g) as subsections (e), (f), (g), and (h), respectively; and

(3) by inserting after subsection (c) the following:

''(d) WRITTEN STATEMENT.—The Director of the Federal Bureau of Investigation, or a designee in a position not lower than Deputy Assistant Director at Bureau headquarters or a Special Agent in Charge in a Bureau field office designated by the Director, may make a certification under subsection (a) or (b) only upon a written statement, which shall be retained by the Federal Bureau of Investigation, of specific facts showing that there are reasonable grounds to believe that the information sought is relevant to the authorized investigation described in subsection (a) or (b), as the case may be.''.

(c) DISCLOSURES TO GOVERNMENTAL AGENCIES FOR COUNTERTERRORISM PURPOSES.—Section 627(b) of the Fair Credit Reporting Act (15 U.S.C. 1681v(b)) is amended—

(1) in the subsection heading, by striking ''FORM OF CERTIFICATION'' and inserting ''CERTIFICATION'';

(2) by striking ''The certification'' and inserting the following:

''(1) FORM OF CERTIFICATION.—The certification''; and

(3) by adding at the end the following:

''(2) WRITTEN STATEMENT.—A supervisory official or officer described in paragraph (1) may make a certification under subsection (a) only upon a written statement, which shall be retained by the government agency, of specific facts showing that there are reasonable grounds to believe that the information sought is relevant to the authorized investigation described in subsection (a).''.

(d) FINANCIAL RECORDS.—Section 1114(a)(5) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3414(a)(5)), as amended by this Act, is amended—

(1) by striking subparagraph (C);

(2) by redesignating subparagraph (B) as subparagraph (C); and

(3) by inserting after subparagraph (A) the following:

''(B) The Director of the Federal Bureau of Investigation, or a designee in a position not lower than Deputy Assistant Director at Bureau headquarters or a Special Agent in Charge in a Bureau field office designated by the Director, may make a certification under subparagraph (A) only upon a written statement, which shall be retained by the Federal Bureau of Investigation, of specific facts showing that there are reasonable grounds to believe that the information sought is relevant to the authorized investigation described in subparagraph (A).''.

(e) REQUESTS BY AUTHORIZED INVESTIGATIVE AGENCIES.—Section 802(a) of the National Security Act of 1947 (50 U.S.C. 3162(a)) is amended by adding at the end the following:

''(4) A department or agency head, deputy department or agency head, or senior official described in paragraph (3)(A) may make a certification under paragraph (3)(A) only upon a written statement, which shall be retained by the authorized investigative agency, of specific facts showing that there are reasonable grounds to believe that the information sought is relevant to the authorized inquiry or investigation described in paragraph (3)(A)(ii).''.

(f) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) OBSTRUCTION OF CRIMINAL INVESTIGATIONS.—Section 1510(e) of title 18, United States Code, is amended by striking ''section 2709(c)(1) of this title, section 626(d)(1) or 627(c)(1) of the Fair Credit Reporting Act (15 U.S.C. 1681u(d)(1) or 1681v(c)(1)), section 1114(a)(3)(A) or 1114(a)(5)(D)(i) of the Right to Financial Privacy Act (12 U.S.C. 3414(a)(3)(A) or 3414(a)(5)(D)(i)), or section 802(b)(1) of the National Security Act of 1947 (50 U.S.C. 403(b)(1))'' and inserting ''section 2709(d)(1) of this title, section 626(e)(1) or 627(c)(1) of the Fair Credit Reporting Act (15 U.S.C. 1681u(e)(1) and 1681v(c)(1)), section 1114(a)(3)(A) or 1114(a)(5)(D)(i) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3414(a)(3)(A) or 3414(a)(5)(D)(i)), or section 802(b)(1) of the National Security Act of 1947 (50 U.S.C. 3162(b)(1))''.

(2) SEMIANNUAL REPORTS.—Section 507(b) of the National Security Act of 1947 (50 U.S.C. 415b(b)) is amended to read as follows:

''(b) SEMIANNUAL REPORTS.—The dates for the submittal to the congressional intelligence committees of the semiannual reports on decisions not to prosecute certain violations of law under the Classified Information Procedures Act (18 U.S.C. App.), as required by section 13 of that Act, shall be the dates each year provided in subsection (c)(2).''.

**SEC. 8. PUBLIC REPORTING ON NATIONAL SECURITY LETTERS.**

(a) IN GENERAL.—Section 118(c) of the USA PATRIOT Improvement and Reauthorization Act of 2005 (18 U.S.C. 3511 note) is amended to read as follows:

''(c) REPORTS ON REQUESTS FOR NATIONAL SECURITY LETTERS.—

''(1) DEFINITIONS.—In this subsection—

''(A) the term 'applicable period' means—

''(i) with respect to the first report submitted under paragraph (2) or (3), the period beginning 180 days after the date of enactment of the FISA Accountability and Privacy Protection Act of 2013 and ending on December 31, 2013; and

''(ii) with respect to the second report submitted under paragraph (2) or (3), and each report thereafter, the 6-month period ending on the last day of the second month before the date for submission of the report; and

''(B) the term 'United States person' has the meaning given that term in section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801).

''(2) CLASSIFIED FORM.—

''(A) IN GENERAL.—Not later than March 1, 2014, and every 6 months thereafter, the Attorney General shall submit to the Select Committee on Intelligence, the Committee on the Judiciary, and the Committee on Banking, Housing, and Urban Affairs of the Senate and the Permanent Select Committee on Intelligence, the Committee on the Judiciary, and the Committee on Financial Services of the House of Representatives a report fully informing the committees concerning the requests made under section 2709(a) of title 18, United States Code, section 1114(a)(5)(A) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3414(a)(5)(A)), section 626 of the Fair Credit Reporting Act (15 U.S.C. 1681u), section 627 of the Fair Credit Reporting Act (15 U.S.C. 1681v), or section 802 of the National Security Act of 1947 (50 U.S.C. 3162) during the applicable period.

''(B) CONTENTS.—Each report under subparagraph (A) shall include, for each provision of law described in subparagraph (A)—

''(i) the number of authorized requests under the provision, including requests for subscriber information; and

''(ii) the number of authorized requests under the provision—

''(I) that relate to a United States person;

''(II) that relate to a person that is not a United States person;

''(III) that relate to a person that is—

''(aa) the subject of an authorized national security investigation; or

''(bb) an individual who has been in contact with or otherwise directly linked to the subject of an authorized national security investigation; and

''(IV) that relate to a person that is not known to be the subject of an authorized national security investigation or to have been in contact with or otherwise directly linked to the subject of an authorized national security investigation.

''(3) UNCLASSIFIED FORM.—

''(A) IN GENERAL.—Not later than March 1, 2014, and every 6 months thereafter, the Attorney General shall submit to the Select Committee on Intelligence, the Committee on the Judiciary, and the Committee on Banking, Housing, and Urban Affairs of the Senate and the Permanent Select Committee on Intelligence, the Committee on the Judiciary, and the Committee on Financial Services of the House of Representatives a report fully informing the committees concerning the aggregate total of all requests identified under paragraph (2) during the applicable period. Each report under this subparagraph shall be in unclassified form.

''(B) CONTENTS.—Each report under subparagraph (A) shall include the aggregate total of requests—

''(i) that relate to a United States person;

''(ii) that relate to a person that is not a United States person;

''(iii) that relate to a person that is—

''(I) the subject of an authorized national security investigation; or

''(II) an individual who has been in contact with or otherwise directly linked to the subject of an authorized national security investigation; and

''(iv) that relate to a person that is not known to be the subject of an authorized national security investigation or to have been in contact with or otherwise directly linked to the subject of an authorized national security investigation.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 627 of the Fair Credit Reporting Act (15 U.S.C. 1681v) is amended by striking subsection (f).

**SEC. 9. PUBLIC REPORTING ON THE FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.**

(a) IN GENERAL.—Title VI of the Foreign Intelligence Surveillance Act of 1978 (50

U.S.C. 1871) is amended by adding at the end the following:

**"SEC. 602. ANNUAL UNCLASSIFIED REPORT.**

''Not later than December 31, 2014, and every year thereafter, the Attorney General, in consultation with the Director of National Intelligence, and with due regard for the protection of classified information from unauthorized disclosure, shall submit to the Committee on the Judiciary and the Select Committee on Intelligence of the Senate and the Committee on the Judiciary and the Permanent Select Committee on Intelligence of the House of Representatives an unclassified report summarizing how the authorities under this Act are used, including the impact of the use of the authorities under this Act on the privacy of United States persons (as defined in section 101).''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of contents in the first section of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended by inserting after the item relating to section 601 the following:

''Sec. 602. Annual unclassified report.''.

**SEC. 10. AUDITS.**

(a) TANGIBLE THINGS.—Section 106A of the USA PATRIOT Improvement and Reauthorization Act of 2005 (Public Law 109–177; 120 Stat. 200) is amended—

(1) in subsection (b)—

(A) in paragraph (1), by inserting ''and calendar years 2010 through 2013'' after ''2006'';

(B) by striking paragraphs (2) and (3);

(C) by redesignating paragraphs (4) and (5) as paragraphs (2) and (3), respectively; and

(D) in paragraph (3), as so redesignated—

(i) by striking subparagraph (C) and inserting the following:

''(C) with respect to calendar years 2010 through 2013, an examination of the minimization procedures used in relation to orders under section 501 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1861) and whether the minimization procedures adequately protect the constitutional rights of United States persons.''; and

(ii) in subparagraph (D), by striking ''(as such term is defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)))'';

(2) in subsection (c), by adding at the end the following:

''(3) CALENDAR YEARS 2010 AND 2011.—Not later than January 1, 2014, the Inspector General of the Department of Justice shall submit to the Committee on the Judiciary and the Select Committee on Intelligence of the Senate and the Committee on the Judiciary and the Permanent Select Committee on Intelligence of the House of Representatives a report containing the results of the audit conducted under subsection (a) for calendar years 2010 and 2011.

''(4) CALENDAR YEARS 2012 AND 2013.—Not later than January 1, 2015, the Inspector General of the Department of Justice shall submit to the Committee on the Judiciary and the Select Committee on Intelligence of the Senate and the Committee on the Judiciary and the Permanent Select Committee on Intelligence of the House of Representatives a report containing the results of the audit conducted under subsection (a) for calendar years 2012 and 2013.'';

(3) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively;

(4) by inserting after subsection (c) the following:

''(d) INTELLIGENCE ASSESSMENT.—

''(1) IN GENERAL.—For the period beginning on January 1, 2010 and ending on December 31, 2013, the Inspector General of each element of the intelligence community outside of the Department of Justice that used information acquired under title V of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1861 et seq.) in the intelligence activities of the element of the intelligence community shall—

''(A) assess the importance of the information to the intelligence activities of the element of the intelligence community;

''(B) examine the manner in which that information was collected, retained, analyzed, and disseminated by the element of the intelligence community;

''(C) describe any noteworthy facts or circumstances relating to orders under title V of the Foreign Intelligence Surveillance Act of 1978 as the orders relate to the element of the intelligence community; and

''(D) examine any minimization procedures used by the element of the intelligence community under title V of the Foreign Intelligence Surveillance Act of 1978 and whether the minimization procedures adequately protect the constitutional rights of United States persons.

''(2) SUBMISSION DATES FOR ASSESSMENT.—

''(A) CALENDAR YEARS 2010 AND 2011.—Not later than January 1, 2014, the Inspector General of each element of the intelligence community that conducts an assessment under this subsection shall submit to the Committee on the Judiciary and the Select Committee on Intelligence of the Senate and the Committee on the Judiciary and the Permanent Select Committee on Intelligence of the House of Representative a report containing the results of the assessment for calendar years 2010 and 2011.

''(B) CALENDAR YEARS 2012 AND 2013.—Not later than January 1, 2015, the Inspector General of each element of the intelligence community that conducts an assessment under this subsection shall submit to the Committee on the Judiciary and the Select Committee on Intelligence of the Senate and the Committee on the Judiciary and the Permanent Select Committee on Intelligence of the House of Representatives a report containing the results of the assessment for calendar years 2012 and 2013.'';

(5) in subsection (e), as redesignated by paragraph (3)—

(A) in paragraph (1)—

(i) by striking ''a report under subsection (c)(1) or (c)(2)'' and inserting ''any report under subsection (c) or (d)''; and

(ii) by inserting ''and any Inspector General of an element of the intelligence community that submits a report under this section'' after ''Justice''; and

(B) in paragraph (2), by striking ''the reports submitted under subsection (c)(1) and (c)(2)'' and inserting ''any report submitted under subsection (c) or (d)'';

(6) in subsection (f), as redesignated by paragraph (3)—

(A) by striking ''The reports submitted under subsections (c)(1) and (c)(2)'' and inserting ''Each report submitted under subsection (c)''; and

(B) by striking ''subsection (d)(2)'' and inserting ''subsection (e)(2)''; and

(7) by adding at the end the following:

''(g) DEFINITIONS.—In this section—

''(1) the term 'intelligence community' has the meaning given that term in section 3 of the National Security Act of 1947 (50 U.S.C. 3003); and

''(2) the term 'United States person' has the meaning given that term in section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801).''.

(b) NATIONAL SECURITY LETTERS.—Section 119 of the USA PATRIOT Improvement and Reauthorization Act of 2005 (Public Law 109–177; 120 Stat. 219) is amended—

(1) in subsection (b)—

(A) in paragraph (1), by inserting ''and calendar years 2010 through 2013'' after ''2006''; and

(B) in paragraph (3)(C), by striking ''(as such term is defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)))'';

(2) in subsection (c), by adding at the end the following:

''(3) CALENDAR YEARS 2010 AND 2011.—Not later than January 1, 2014, the Inspector General of the Department of Justice shall submit to the Committee on the Judiciary and the Permanent Select Committee on Intelligence of the House of Representatives and the Committee on the Judiciary and the Select Committee on Intelligence of the Senate a report containing the results of the audit conducted under subsection (a) for calendar years 2010 and 2011.

''(4) CALENDAR YEARS 2012 AND 2013.—Not later than January 1, 2015, the Inspector General of the Department of Justice shall submit to the Committee on the Judiciary and the Permanent Select Committee on Intelligence of the House of Representatives and the Committee on the Judiciary and the Select Committee on Intelligence of the Senate a report containing the results of the audit conducted under subsection (a) for calendar years 2012 and 2013.'';

(3) by striking subsection (g) and inserting the following:

''(h) DEFINITIONS.—In this section—

''(1) the term 'intelligence community' has the meaning given that term in section 3 of the National Security Act of 1947 (50 U.S.C. 3003);

''(2) the term 'national security letter' means a request for information under—

''(A) section 2709(a) of title 18, United States Code (to access certain communication service provider records);

''(B) section 1114(a)(5)(A) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3414(a)(5)(A)) (to obtain financial institution customer records);

''(C) section 802 of the National Security Act of 1947 (50 U.S.C. 3162) (to obtain financial information, records, and consumer reports);

''(D) section 626 of the Fair Credit Reporting Act (15 U.S.C. 1681u) (to obtain certain financial information and consumer reports); or

''(E) section 627 of the Fair Credit Reporting Act (15 U.S.C. 1681v) (to obtain credit agency consumer records for counterterrorism investigations); and

''(3) the term 'United States person' has the meaning given that term in section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801).'';

(4) by redesignating subsections (d), (e), and (f) as subsections (e), (f), and (g), respectively;

(5) by inserting after subsection (c) the following:

''(d) INTELLIGENCE ASSESSMENT.—

''(1) IN GENERAL.—For the period beginning on January 1, 2010 and ending on December 31, 2013, the Inspector General of each element of the intelligence community outside of the Department of Justice that issued national security letters in the intelligence activities of the element of the intelligence community shall—

''(A) examine the use of national security letters by the element of the intelligence community during the period;

''(B) describe any noteworthy facts or circumstances relating to the use of national security letters by the element of the intelligence community, including any improper or illegal use of such authority;

''(C) assess the importance of information received under the national security letters to the intelligence activities of the element of the intelligence community; and

''(D) examine the manner in which information received under the national security

letters was collected, retained, analyzed, and disseminated.

''(2) SUBMISSION DATES FOR ASSESSMENT.—

''(A) CALENDAR YEARS 2010 AND 2011.—Not later than January 1, 2014, the Inspector General of each element of the intelligence community that conducts an assessment under this subsection shall submit to the Committee on the Judiciary and the Select Committee on Intelligence of the Senate and the Committee on the Judiciary and the Permanent Select Committee on Intelligence of the House of Representatives a report containing the results of the assessment for calendar years 2010 and 2011.

''(B) CALENDAR YEARS 2012 AND 2013.—Not later than January 1, 2015, the Inspector General of any element of the intelligence community that conducts an assessment under this subsection shall submit to the Committee on the Judiciary and the Select Committee on Intelligence of the Senate and the Committee on the Judiciary and the Permanent Select Committee on Intelligence of the House of Representatives a report containing the results of the assessment for calendar years 2012 and 2013.'';

(6) in subsection (e), as redesignated by paragraph (4)—

(A) in paragraph (1)—

(i) by striking ''a report under subsection (c)(1) or (c)(2)'' and inserting ''any report under subsection (c) or (d)''; and

(ii) by inserting ''and any Inspector General of an element of the intelligence community that submits a report under this section'' after ''Justice''; and

(B) in paragraph (2), by striking ''the reports submitted under subsection (c)(1) or (c)(2)'' and inserting ''any report submitted under subsection (c) or (d)''; and

(7) in subsection (f), as redesignated by paragraph (4)—

(A) by striking ''The reports submitted under subsections (c)(1) or (c)(2)'' and inserting ''Each report submitted under subsection (c)''; and

(B) by striking ''subsection (d)(2)'' and inserting ''subsection (e)(2)''.

(c) PEN REGISTERS AND TRAP AND TRACE DEVICES.—

(1) AUDITS.—The Inspector General of the Department of Justice shall perform comprehensive audits of the effectiveness and use, including any improper or illegal use, of pen registers and trap and trace devices under title IV of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1841 et seq.) during the period beginning on January 1, 2010 and ending on December 31, 2013.

(2) REQUIREMENTS.—The audits required under paragraph (1) shall include—

(A) an examination of the use of pen registers and trap and trace devices under title IV of the Foreign Intelligence Surveillance Act of 1978 for calendar years 2010 through 2013;

(B) an examination of the installation and use of a pen register or trap and trace device on emergency bases under section 403 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1843);

(C) any noteworthy facts or circumstances relating to the use of a pen register or trap and trace device under title IV of the Foreign Intelligence Surveillance Act of 1978, including any improper or illegal use of the authority provided under that title; and

(D) an examination of the effectiveness of the authority under title IV of the Foreign Intelligence Surveillance Act of 1978 as an investigative tool, including—

(i) the importance of the information acquired to the intelligence activities of the Federal Bureau of Investigation;

(ii) the manner in which the information is collected, retained, analyzed, and disseminated by the Federal Bureau of Investigation, including any direct access to the information provided to any other department, agency, or instrumentality of Federal, State, local, or tribal governments or any private sector entity;

(iii) with respect to calendar years 2012 and 2013, an examination of the minimization procedures of the Federal Bureau of Investigation used in relation to pen registers and trap and trace devices under title IV of the Foreign Intelligence Surveillance Act of 1978 and whether the minimization procedures adequately protect the constitutional rights of United States persons;

(iv) whether, and how often, the Federal Bureau of Investigation used information acquired under a pen register or trap and trace device under title IV of the Foreign Intelligence Surveillance Act of 1978 to produce an analytical intelligence product for distribution within the Federal Bureau of Investigation, to the intelligence community, or to another department, agency, or instrumentality of Federal, State, local, or tribal governments; and

(v) whether, and how often, the Federal Bureau of Investigation provided information acquired under a pen register or trap and trace device under title IV of the Foreign Intelligence Surveillance Act of 1978 to law enforcement authorities for use in criminal proceedings.

(3) SUBMISSION DATES.—

(A) CALENDAR YEARS 2010 AND 2011.—Not later than January 1, 2014, the Inspector General of the Department of Justice shall submit to the Committee on the Judiciary and the Select Committee on Intelligence of the Senate and the Committee on the Judiciary and the Permanent Select Committee on Intelligence of the House of Representatives a report containing the results of the audits conducted under paragraph (1) for calendar years 2010 and 2011.

(B) CALENDAR YEARS 2012 AND 2013.—Not later than January 1, 2015, the Inspector General of the Department of Justice shall submit to the Committee on the Judiciary and the Select Committee on Intelligence of the Senate and the Committee on the Judiciary and the Permanent Select Committee on Intelligence of the House of Representatives a report containing the results of the audits conducted under paragraph (1) for calendar years 2012 and 2013.

(4) INTELLIGENCE ASSESSMENT.—

(A) IN GENERAL.—For the period beginning January 1, 2010 and ending on December 31, 2013, the Inspector General of any element of the intelligence community outside of the Department of Justice that used information acquired under a pen register or trap and trace device under title IV of the Foreign Intelligence Surveillance Act of 1978 in the intelligence activities of the element of the intelligence community shall—

(i) assess the importance of the information to the intelligence activities of the element of the intelligence community;

(ii) examine the manner in which the information was collected, retained, analyzed, and disseminated;

(iii) describe any noteworthy facts or circumstances relating to orders under title IV of the Foreign Intelligence Surveillance Act of 1978 as the orders relate to the element of the intelligence community; and

(iv) examine any minimization procedures used by the element of the intelligence community in relation to pen registers and trap and trace devices under title IV of the Foreign Intelligence Surveillance Act of 1978 and whether the minimization procedures adequately protect the constitutional rights of United States persons.

(B) SUBMISSION DATES FOR ASSESSMENT.—

(i) CALENDAR YEARS 2010 AND 2011.—Not later than January 1, 2014, the Inspector General of each element of the intelligence community that conducts an assessment under this paragraph shall submit to the Committee on the Judiciary and the Select Committee on Intelligence of the Senate and the Committee on the Judiciary and the Permanent Select Committee on Intelligence of the House of Representative a report containing the results of the assessment for calendar years 2010 and 2011.

(ii) CALENDAR YEARS 2012 AND 2013.—Not later than January 1, 2015, the Inspector General of each element of the intelligence community that conducts an assessment under this paragraph shall submit to the Committee on the Judiciary and the Select Committee on Intelligence of the Senate and the Committee on the Judiciary and the Permanent Select Committee on Intelligence of the House of Representative a report containing the results of the assessment for calendar years 2012 and 2013.

(5) PRIOR NOTICE TO ATTORNEY GENERAL AND DIRECTOR OF NATIONAL INTELLIGENCE; COMMENTS.—

(A) NOTICE.—Not later than 30 days before the submission of any report under paragraph (3) or (4), the Inspector General of the Department of Justice and any Inspector General of an element of the intelligence community that submits a report under this subsection shall provide the report to the Attorney General and the Director of National Intelligence.

(B) COMMENTS.—The Attorney General or the Director of National Intelligence may provide such comments to be included in any report submitted under paragraph (3) or (4) as the Attorney General or the Director of National Intelligence may consider necessary.

(6) UNCLASSIFIED FORM.—Each report submitted under paragraph (3) and any comments included in that report under paragraph (5)(B) shall be in unclassified form, but may include a classified annex.

(d) DEFINITIONS.—In this section—

(1) the terms ''Attorney General'', ''foreign intelligence information'', and ''United States person'' have the meanings given those terms in section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801);

(2) the term ''intelligence community'' has the meaning given that term in section 3 of the National Security Act of 1947 (50 U.S.C. 3003);

(3) the term ''minimization procedures'' has the meaning given that term in section 401 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1841), as amended by this Act; and

(4) the terms ''pen register'' and ''trap and trace device'' have the meanings given those terms in section 3127 of title 18, United States Code.

**SEC. 11. DELAYED NOTICE SEARCH WARRANTS.**

Section 3103a(b)(3) of title 18, United States Code, is amended by striking ''30 days'' and inserting ''7 days''.

**SEC. 12. INSPECTOR GENERAL REVIEWS.**

(a) AGENCY ASSESSMENTS.—Section 702(l)(2) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1881a(l)(2)) is amended—

(1) in the matter preceding subparagraph (A), by striking ''authorized to acquire foreign intelligence information under subsection (a)'' and inserting ''with targeting or minimization procedures approved under this section'';

(2) in subparagraph (C), by inserting ''United States persons or'' after ''later determined to be''; and

(3) in subparagraph (D)—

(A) in the matter preceding clause (i), by striking ''such review'' and inserting ''review conducted under this paragraph'';

(B) in clause (ii), by striking ''and'' at the end;

(C) by redesignating clause (iii) as clause (iv); and

(D) by inserting after clause (ii), the following:

''(iii) the Inspector General of the Intelligence Community; and''.

(b) INSPECTOR GENERAL OF THE INTELLIGENCE COMMUNITY REVIEW.—Section 702(l) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1881a(l)) is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by inserting after paragraph (2) the following:

''(3) INSPECTOR GENERAL OF THE INTELLIGENCE COMMUNITY REVIEW.—

''(A) IN GENERAL.—The Inspector General of the Intelligence Community is authorized to review the acquisition, use, and dissemination of information acquired under subsection (a) in order to review compliance with the targeting and minimization procedures adopted in accordance with subsections (d) and (e) and the guidelines adopted in accordance with subsection (f), and in order to conduct the review required under subparagraph (B).

''(B) MANDATORY REVIEW.—The Inspector General of the Intelligence Community shall review the procedures and guidelines developed by the intelligence community to implement this section, with respect to the protection of the privacy rights of United States persons, including—

''(i) an evaluation of the limitations outlined in subsection (b), the procedures approved in accordance with subsections (d) and (e), and the guidelines adopted in accordance with subsection (f), with respect to the protection of the privacy rights of United States persons; and

''(ii) an evaluation of the circumstances under which the contents of communications acquired under subsection (a) may be searched in order to review the communications of particular United States persons.

''(C) CONSIDERATION OF OTHER REVIEWS AND ASSESSMENTS.—In conducting a review under subparagraph (B), the Inspector General of the Intelligence Community should take into consideration, to the extent relevant and appropriate, any reviews or assessments that have been completed or are being undertaken under this section.

''(D) REPORT.—Not later than December 31, 2014, the Inspector General of the Intelligence Community shall submit a report regarding the reviews conducted under this paragraph to—

''(i) the Attorney General;

''(ii) the Director of National Intelligence; and

''(iii) consistent with the Rules of the House of Representatives, the Standing Rules of the Senate, and Senate Resolution 400 of the 94th Congress or any successor Senate resolution—

''(I) the congressional intelligence committees; and

''(II) the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives.

''(E) PUBLIC REPORTING OF FINDINGS AND CONCLUSIONS.—In a manner consistent with the protection of the national security of the United States, and in unclassified form, the Inspector General of the Intelligence Community shall make publicly available a summary of the findings and conclusions of the review conducted under subparagraph (B).''.

(c) ANNUAL REVIEWS.—Section 702(l)(4)(A) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1881a(l)(4)(A)), as redesignated by subsection (b)(1), is amended—

(1) in the matter preceding clause (i)—

(A) in the first sentence—

(i) by striking ''conducting an acquisition authorized under subsection (a)'' and inserting ''with targeting or minimization procedures approved under this section''; and

(ii) by striking ''the acquisition'' and inserting ''acquisitions under subsection (a)''; and

(B) in the second sentence, by striking ''The annual review'' and inserting ''As applicable, the annual review''; and

(2) in clause (iii), by inserting ''United States persons or'' after ''later determined to be''

**SEC. 13. ELECTRONIC SURVEILLANCE.**

Section 105(c)(1)(A) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1805(c)(1)(A)) is amended by inserting ''with particularity'' after ''description''.

**SEC. 14. SEVERABILITY.**

If any provision of this Act or an amendment made by this Act, or the application of the provision to any person or circumstance, is held to be unconstitutional, the remainder of this Act and the amendments made by this Act, and the application of the provisions of this Act and the amendments made by this Act to any other person or circumstance, shall not be affected thereby.

**SEC. 15. OFFSET.**

Of the unobligated balances available in the Department of Justice Assets Forfeiture Fund established under section 524(c)(1) of title 28, United States Code, $5,000,000 are permanently rescinded and shall be returned to the general fund of the Treasury.

**SEC. 16. EFFECTIVE DATE.**

The amendments made by sections 3, 4, 5, 6, 7, and 11 shall take effect on the date that is 120 days after the date of enactment of this Act.

## SUBMITTED RESOLUTIONS

### SENATE RESOLUTION 183—COMMEMORATING THE RELAUNCHING OF THE 172-YEAR-OLD CHARLES W. MORGAN BY MYSTIC SEAPORT: THE MUSEUM OF AMERICA AND THE SEA

Mr. BLUMENTHAL (for himself and Mr. MURPHY) submitted the following resolution; which was referred to the Committee on the Judiciary:

Whereas the *Charles W. Morgan* (referred to in this preamble as the ''*Morgan*'') was built and launched from New Bedford, Massachusetts, in 1841;

Whereas the *Morgan* is a National Historic Landmark vessel, the only remaining wooden whaleship in the world, and the oldest commercial vessel in the United States;

Whereas the *Morgan* and similar vessels were the economic backbone of New England for 200 years;

Whereas the *Morgan* has served as a living artifact and a testament to the ingenuity, risk, and entrepreneurship of the United States since the vessel retired from the whaling industry in 1921;

Whereas the *Morgan* has completed a 5-year, multi-million dollar restoration at the Preservation Shipyard of Mystic Seaport: The Museum of America and the Sea and will be relaunched on July 21, 2013;

Whereas the *Morgan* will embark on a ceremonial 38th voyage in June 2014, serving as ''Ambassador'' to the world's whales and to the world's whaling heritage;

Whereas the 38th voyage of the *Morgan* will rekindle the spirit of exploration and discovery of people throughout the world;

Whereas individuals and organizations from 22 States have contributed materials and expertise to the restoration and 38th voyage of the *Morgan*; and

Whereas the new mission of the *Morgan* will be devoted to history, education, science, and ocean awareness: Now, therefore, be it

*Resolved*, That the Senate—

(1) commemorates the relaunching of the whaleship *Charles W. Morgan* and commends the staff, volunteers, and trustees of Mystic Seaport: The Museum of America and the Sea for their efforts to preserve and protect the maritime heritage of the United States;

(2) supports the plan of Mystic Seaport: The Museum of America and the Sea to reinterpret the *Charles W. Morgan* as a vessel of scientific and educational exploration whose cargo is knowledge and whose mission is to promote awareness of the maritime heritage of the United States and the conservation of the species the *Morgan* hunted; and

(3) recognizes the *Charles W. Morgan* as the ''Ambassador to the Whales'', dedicated to advancing public understanding of species conservation.

### SENATE RESOLUTION 184—RECOGNIZING REFUGEE WOMEN AND GIRLS ON WORLD REFUGEE DAY

Mrs. BOXER (for herself, Ms. LANDRIEU, Ms. KLOBUCHAR, Mrs. GILLIBRAND, Mr. CARDIN, Mrs. MURRAY, Mrs. SHAHEEN, Ms. MIKULSKI, Ms. WARREN, Ms. HIRONO, Mrs. FEINSTEIN, Ms. HEITKAMP, and Ms. STABENOW) submitted the following resolution; which was considered and agreed to:

S. RES. 184

Whereas June 20 was established by the United Nations as World Refugee Day, a global day to honor the courage, strength, and determination of women, men, and children who are forced to flee their homes under threat of conflict, violence, and persecution;

Whereas, according to the Office of the United Nations High Commissioner for Refugees (in this preamble referred to as the ''UNHCR''), there are more than 43,000,000 displaced people worldwide, including more than 15,000,000 refugees;

Whereas, according to the UNHCR, women and girls make up at least 50 percent of any refugee population;

Whereas refugee women and girls work every day, often under the most difficult circumstances, to care for their families, improve their prospects and build a better future;

Whereas refugee women and girls are often at greater risk of sexual violence and exploitation, forced or early marriage, human trafficking, and other forms of gender-based violence;

Whereas refugee women and girls face barriers in accessing education, healthcare, and economic opportunities in countries of asylum;

Whereas, according to the UNHCR, more than 1,600,000 refugees, ¾ of which are women and children, have fled the ongoing violence in Syria;

Whereas, according to the UNHCR, an estimated 2,700,000 people in the Democratic Republic of the Congo have been displaced, and an additional nearly 500,000 Congolese refugees have crossed the border into neighboring countries;

Whereas refugee women and girls are frequently victims of gender-based violence as their displaced status puts them at greater risk, coupled with intense social and cultural stigmas that make actual statistics extremely difficult to compile because underreporting is endemic;

Whereas refugee women and girls have a right to safe and equitable access to humanitarian assistance, including food and cooking fuel, shelter, education, health care, and economic opportunity;

Whereas the full and meaningful participation of refugee women and girls in community decision-making is critical to the stability, security, and prosperity of entire communities;

Whereas the full participation of refugee women and girls in the design and implementation of assistance programs is vital to ensuring that those programs are equitable, efficient and successful;

Whereas the United States is a leader on protection of and humanitarian assistance for refugees, including refugee women and girls;

Whereas the United States has recognized the threat that gender-based violence can pose to refugee women and girls by working to strengthen efforts to protect them through the United States National Action Plan on Women, Peace, and Security;

Whereas the United States is a leading advocate for the meaningful participation of refugee women in humanitarian programs, peace processes, governance, and recovery programs;

Whereas the United States provides critical resources and support to the UNHCR and other international and nongovernmental organizations working with refugees around the world; and

Whereas the United States has welcomed more than 3,000,000 refugees during the last 30 years, who are resettled in communities across the country: Now, therefore, be it

*Resolved*, That the Senate—

(1) supports the goals and ideals of World Refugee Day;

(2) reaffirms its commitment to the protection, well-being, and self-reliance of refugee women and girls and their families in United States humanitarian policy, programs, and diplomacy and recognizes the work of the United States Department of State and the United States Agency for International Development to this end;

(3) emphasizes the importance of ensuring that humanitarian assistance programs supported by the United States provide safe and equitable access for women and girls and are designed and implemented with their full participation;

(4) reiterates the importance of targeted programs for refugee women and girls that prevent and respond to gender-based violence, support self-reliance, and promote and develop their participation and leadership skills;

(5) recognizes the work of the Bureau of Population, Refugees, and Migration of the Department of State, the Office of Refugee Resettlement of the Department of Health and Human Services, the U.S. Citizenship and Immigration Services of the Department of Homeland Security, nongovernmental organizations, advocacy groups, and communities across the United States in welcoming and resettling refugees in the United States;

(6) celebrates the invaluable contributions that refugee women and girls make to their families and communities; and

(7) encourages the people of the United States to observe World Refugee Day with appropriate programs and activities.

## SENATE RESOLUTION 185—TO AUTHORIZE REPRESENTATION BY THE SENATE LEGAL COUNSEL IN THE CASE OF R. WAYNE PATTERSON V. UNITED STATES SENATE, ET AL.

Mr. REID (for himself and Mr. MCCONNELL) submitted the following resolution; which was considered and agreed to:

S. RES. 185

Whereas, the United States Senate, Vice President Joseph R. Biden, Jr., and Senate Parliamentarian Elizabeth C. MacDonough have been named as defendants in the case of *R. Wayne Patterson* v. *United States Senate, et al.*, No. 13–cv–2311, now pending in the United States District Court for the Northern District of California;

Whereas, pursuant to sections 703(a) and 704(a)(1) of the Ethics in Government Act of 1978, 2 U.S.C. §§ 288b(a) and 288c(a)(1), the Senate may direct its counsel to defend the Senate and officers and employees of the Senate in civil actions relating to their official responsibilities: Now, therefore, be it

*Resolved*, That the Senate Legal Counsel is authorized to represent the United States Senate, Vice President Joseph R. Biden, Jr., and Senate Parliamentarian Elizabeth C. MacDonough in the case of *R. Wayne Patterson* v. *United States Senate, et al.*

## AMENDMENTS SUBMITTED AND PROPOSED

SA 1557. Mr. BLUMENTHAL (for himself, Mrs. MURRAY, Mr. KING, and Mr. HARKIN) submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table.

SA 1558. Mr. CARPER (for himself, Mr. MCCAIN, and Mr. UDALL of Colorado) submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, supra; which was ordered to lie on the table.

SA 1559. Mr. HEINRICH (for himself, Mr. UDALL of New Mexico, and Mrs. GILLIBRAND) submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, supra; which was ordered to lie on the table.

SA 1560. Mr. INHOFE submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, supra; which was ordered to lie on the table.

SA 1561. Mr. COATS submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, supra; which was ordered to lie on the table.

SA 1562. Mr. COATS submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, supra; which was ordered to lie on the table.

SA 1563. Mr. COATS submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, supra; which was ordered to lie on the table.

SA 1564. Mr. GRASSLEY submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, supra; which was ordered to lie on the table.

SA 1565. Mr. GRASSLEY submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, supra; which was ordered to lie on the table.

SA 1566. Mr. GRASSLEY submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, supra; which was ordered to lie on the table.

SA 1567. Mr. GRASSLEY (for himself and Mr. WICKER) submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, supra; which was ordered to lie on the table.

SA 1568. Mr. GRASSLEY submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, supra; which was ordered to lie on the table.

SA 1569. Mr. GRASSLEY submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, supra; which was ordered to lie on the table.

SA 1570. Mr. GRASSLEY submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, supra; which was ordered to lie on the table.

SA 1571. Mr. GRASSLEY submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, supra; which was ordered to lie on the table.

SA 1572. Mr. GRASSLEY submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, supra; which was ordered to lie on the table.

SA 1573. Mr. GRASSLEY submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, supra; which was ordered to lie on the table.

SA 1574. Mr. GRASSLEY submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, supra; which was ordered to lie on the table.

SA 1575. Mr. GRASSLEY submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, supra; which was ordered to lie on the table.

SA 1576. Mr. GRASSLEY submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, supra; which was ordered to lie on the table.

SA 1577. Mr. VITTER submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, supra; which was ordered to lie on the table.

SA 1578. Mr. VITTER submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, supra; which was ordered to lie on the table.

SA 1579. Mr. CRUZ submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, supra; which was ordered to lie on the table.

SA 1580. Mr. CRUZ submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, supra; which was ordered to lie on the table.

SA 1581. Mr. CRUZ submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, supra; which was ordered to lie on the table.

SA 1582. Mr. CRUZ submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, supra; which was ordered to lie on the table.

SA 1583. Mr. CRUZ submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, supra; which was ordered to lie on the table.

SA 1584. Mr. CRUZ submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, supra; which was ordered to lie on the table.

SA 1585. Mr. CRUZ submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, supra; which was ordered to lie on the table.

SA 1586. Mr. CRUZ submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, supra; which was ordered to lie on the table.

SA 1587. Mr. CRUZ submitted an amendment intended to be proposed by him to the bill S. 744, supra; which was ordered to lie on the table.

SA 1588. Mr. CARPER submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, supra; which was ordered to lie on the table.

SA 1589. Mr. CARPER submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, supra; which was ordered to lie on the table.

SA 1590. Mr. CARPER submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, supra; which was ordered to lie on the table.

SA 1591. Mr. CARPER submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, supra; which was ordered to lie on the table.

SA 1592. Mrs. BOXER (for herself, Ms. LANDRIEU, and Mrs. MURRAY) submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, supra; which was ordered to lie on the table.

SA 1593. Ms. HEITKAMP (for herself, Mr. LEVIN, Mr. TESTER, and Mr. BAUCUS) submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, supra; which was ordered to lie on the table.

SA 1594. Mrs. FISCHER submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, supra; which was ordered to lie on the table.

SA 1595. Mr. UDALL of New Mexico (for himself and Mr. HEINRICH) submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, supra; which was ordered to lie on the table.

SA 1596. Mr. UDALL of New Mexico (for himself and Mr. HEINRICH) submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, supra; which was ordered to lie on the table.

SA 1597. Mr. REID (for Mr. BROWN) submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, supra; which was ordered to lie on the table.

SA 1598. Mr. THUNE submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, supra; which was ordered to lie on the table.

SA 1599. Mr. TOOMEY submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, supra; which was ordered to lie on the table.

SA 1600. Mr. RISCH submitted an amendment intended to be proposed by him to the bill S. 744, supra; which was ordered to lie on the table.

SA 1601. Mr. RISCH (for himself and Mr. COBURN) submitted an amendment intended to be proposed by him to the bill S. 744, supra; which was ordered to lie on the table.

SA 1602. Mrs. MURRAY submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, supra; which was ordered to lie on the table.

SA 1603. Mrs. MURRAY (for herself and Mr. CRAPO) submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, supra; which was ordered to lie on the table.

SA 1604. Mr. WICKER submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, supra; which was ordered to lie on the table.

SA 1605. Mr. WICKER submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, supra; which was ordered to lie on the table.

SA 1606. Mr. WICKER submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, supra; which was ordered to lie on the table.

SA 1607. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, supra; which was ordered to lie on the table.

SA 1608. Mr. REED submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, supra; which was ordered to lie on the table.

SA 1609. Mr. REED submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, supra; which was ordered to lie on the table.

SA 1610. Mr. REED submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, supra; which was ordered to lie on the table.

SA 1611. Mr. COBURN submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, supra; which was ordered to lie on the table.

SA 1612. Mr. COBURN submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, supra; which was ordered to lie on the table.

SA 1613. Mr. COBURN submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, supra; which was ordered to lie on the table.

SA 1614. Mr. COBURN submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, supra; which was ordered to lie on the table.

SA 1615. Mr. COBURN (for himself and Mr. JOHNSON of Wisconsin) submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, supra; which was ordered to lie on the table.

SA 1616. Mr. COBURN submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, supra; which was ordered to lie on the table.

SA 1617. Mrs. FEINSTEIN (for herself, Mr. KIRK, Mr. COONS, Mr. UDALL of New Mexico, Mr. BLUNT, and Mr. CORNYN) submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, supra; which was ordered to lie on the table.

SA 1618. Mr. NELSON submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, supra; which was ordered to lie on the table.

SA 1619. Mr. CORNYN submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, supra; which was ordered to lie on the table.

SA 1620. Mr. CORNYN submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, supra; which was ordered to lie on the table.

SA 1621. Mr. CORNYN submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, supra; which was ordered to lie on the table.

SA 1622. Mr. CORNYN submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, supra; which was ordered to lie on the table.

SA 1623. Mr. CORNYN submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, supra; which was ordered to lie on the table.

SA 1624. Mr. CORNYN submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, supra; which was ordered to lie on the table.

SA 1625. Ms. LANDRIEU (for herself, Mr. COATS, Mrs. SHAHEEN, and Mr. FRANKEN) submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, supra; which was ordered to lie on the table.

SA 1626. Ms. LANDRIEU (for herself, Mr. CARPER, and Mr. BEGICH) submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, supra; which was ordered to lie on the table.

SA 1627. Ms. LANDRIEU (for herself and Mr. COCHRAN) submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, supra; which was ordered to lie on the table.

SA 1628. Ms. LANDRIEU submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, supra; which was ordered to lie on the table.

SA 1629. Ms. LANDRIEU (for herself and Mr. KIRK) submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, supra; which was ordered to lie on the table.

SA 1630. Ms. LANDRIEU (for herself, Ms. HIRONO, and Mr. FRANKEN) submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, supra; which was ordered to lie on the table.

SA 1631. Ms. LANDRIEU submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, supra; which was ordered to lie on the table.

SA 1632. Ms. LANDRIEU (for herself and Mr. MORAN) submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, supra; which was ordered to lie on the table.

SA 1633. Ms. LANDRIEU submitted an amendment intended to be proposed to

amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, supra; which was ordered to lie on the table.

SA 1634. Mr. PORTMAN (for himself and Mr. TESTER) submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, supra; which was ordered to lie on the table.

SA 1635. Mr. WYDEN (for himself and Mrs. BOXER) submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, supra; which was ordered to lie on the table.

SA 1636. Mr. BLUMENTHAL (for himself and Ms. MURKOWSKI) submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, supra; which was ordered to lie on the table.

SA 1637. Mr. WICKER submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, supra; which was ordered to lie on the table.

SA 1638. Mr. WICKER submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, supra; which was ordered to lie on the table.

SA 1639. Mr. WICKER submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, supra; which was ordered to lie on the table.

SA 1640. Mr. WYDEN submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, supra; which was ordered to lie on the table.

SA 1641. Mr. WYDEN submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, supra; which was ordered to lie on the table.

SA 1642. Mr. HOEVEN submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, supra; which was ordered to lie on the table.

SA 1643. Mr. COBURN submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, supra; which was ordered to lie on the table.

SA 1644. Mr. COBURN submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, supra; which was ordered to lie on the table.

SA 1645. Mr. COBURN submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, supra; which was ordered to lie on the table.

SA 1646. Mr. CHAMBLISS submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, supra; which was ordered to lie on the table.

SA 1647. Mr. CHAMBLISS submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, supra; which was ordered to lie on the table.

SA 1648. Mr. CHAMBLISS submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, supra; which was ordered to lie on the table.

SA 1649. Mr. CHAMBLISS submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, supra; which was ordered to lie on the table.

SA 1650. Mr. CHAMBLISS submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, supra; which was ordered to lie on the table.

SA 1651. Mr. CHAMBLISS submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, supra; which was ordered to lie on the table.

SA 1652. Mr. CHAMBLISS submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, supra; which was ordered to lie on the table.

SA 1653. Mr. CHAMBLISS submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, supra; which was ordered to lie on the table.

SA 1654. Mr. CHAMBLISS submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, supra; which was ordered to lie on the table.

SA 1655. Mr. CHAMBLISS submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, supra; which was ordered to lie on the table.

SA 1656. Mr. CHAMBLISS submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, supra; which was ordered to lie on the table.

SA 1657. Mrs. FEINSTEIN (for herself, Mr. KIRK, Mr. COONS, Mr. UDALL of New Mexico, Mr. CORNYN, and Mr. BLUNT) submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, supra; which was ordered to lie on the table.

SA 1658. Mrs. MURRAY submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, supra; which was ordered to lie on the table.

SA 1659. Mr. KAINE submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, supra; which was ordered to lie on the table.

SA 1660. Mr. KAINE submitted an amendment intended to be proposed by him to the bill S. 744, supra; which was ordered to lie on the table.

SA 1661. Mr. KAINE submitted an amendment intended to be proposed by him to the bill S. 744, supra; which was ordered to lie on the table.

SA 1662. Mr. KAINE submitted an amendment intended to be proposed by him to the bill S. 744, supra; which was ordered to lie on the table.

## TEXT OF AMENDMENTS

**SA 1557.** Mr. BLUMENTHAL (for himself, Mrs. MURRAY, Mr. KING, and Mr. HARKIN) submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in the amendment, insert the following:

**SEC. _____. WHISTLEBLOWER PROTECTIONS.**

(a) IN GENERAL.—Section 214(c) (8 U.S.C. 1184(c)) is amended by adding at the end the following:

''(15) WHISTLEBLOWER PROTECTIONS.—

''(A) PROHIBITIONS.—A person may not discharge, demote, suspend, threaten, harass, or in any other manner discriminate against an employee in the terms and conditions of employment because such employee—

''(i) has filed or is about to file a complaint, instituted or caused to be instituted any proceeding, testified, assisted, or will testify, or cooperated or seeks to cooperate, in an investigation or other proceeding concerning compliance with the requirements under this title or any rule or regulation pertaining to this title or any covered claim;

''(ii) has disclosed or is about to disclose information to the person or to any other person or entity, that the employee reasonably believes evidences a violation of this title or any rule or regulation pertaining to this title, or grounds for any covered claim;

''(iii) has assisted or participated, or is about to assist or participate, in any manner in a proceeding or in any other action to carry out the purposes of this title or any covered claim;

''(iv) furnished, or is about to furnish, information to the Department of Labor, the Department of Homeland Security, the Department of Justice, or any Federal, State, or local regulatory or law enforcement agency relating to a violation of this title or any covered claim; or

''(v) objected to, or refused to participate in, any activity, policy, practice, or assigned task that the employee (or other such person) reasonably believed to be in violation of any provision of this Act or any other Act, or any order, rule, regulation, standard, or ban under any Act.

''(B) ENFORCEMENT.—

''(i) IN GENERAL.—An employee who believes that he or she has suffered a violation of subparagraph (A) may seek relief in accordance with the procedures, notifications, burdens of proof, remedies, and statutes of limitation set forth in section 1514A of title 18, United States Code.

''(ii) STAY OF REMOVAL.—The Attorney General and the Secretary of Homeland Security, after consulting with the Secretary of Labor and the Secretary of Labor has determined that a claim filed under this section for a violation of subparagraph (A) is not frivolous and demonstrates a prima facie case that a violation has occurred, may stay the removal of the nonimmigrant from the United States for time sufficient to participate in an action taken pursuant to this section. Upon the final disposition of the claim filed under this section, either by the Secretary of Labor or by a Federal court, the Secretary of Homeland Security shall adjust the employee's status consistent with such disposition. A determination to deny a stay of removal under this clause shall not deprive an individual of the right to pursue any other avenue for relief from removal proceedings.

''(iii) APPEAL.—

''(I) JURISDICTION.—Any person adversely affected or aggrieved by a final order issued under clause (i) may obtain review of the order in the United States Court of Appeals for—

''(aa) the circuit in which the violation, with respect to which the order was issued, allegedly occurred; or

''(bb) the circuit in which the complainant resided on the date of such violation.

''(II) FILING DEADLINE.—A petition for review under this subparagraph shall be filed not later than 60 days after the date on which the final order was issued by the Secretary of Labor.

''(III) APPLICABLE LAW.—A review under this subparagraph shall conform to the provisions set forth in chapter 7 of title 5, United States Code.

''(IV) STAY OF ORDER.—Unless ordered by the court, the commencement of proceedings under this subparagraph shall not operate as

a stay of the order by the Secretary of Labor.

''(C) EDUCATION.—Each person, entity, and institution covered by this Act shall—

''(i) prominently communicate to all sectors and ranks of its labor force the rights and responsibilities under this Act; and

''(ii) provide associated education and training to all sectors and ranks of its labor force through notifications, postings, mailings, and training classes, supplemented with publicly accessible online materials on the requirements of, and developments that would affect the implementation of this Act.

''(D) NO LIMITATION ON RIGHTS.—Nothing in this paragraph may be construed to diminish the rights, privileges, or remedies of any person under any Federal or State law, equity, or under any collective bargaining agreement. The rights and remedies set forth in this paragraph may not be waived by any agreement, policy, form, or condition of employment.

''(E) DEFINITIONS.—In this paragraph:

''(i) COVERED CLAIM.—The term 'covered claim' means any claim, petition, charge, complaint, or grievance filed with, or submitted to, a Federal, State, or local agency or court, relating to the violation of applicable Federal or State labor or employment laws.

''(ii) DISCLOSE.—The term 'disclose' means to make a formal or informal communication or transmission.

''(iii) EMPLOYEE.—The term 'employee' means—

''(I) a current or former nonimmigrant alien admitted pursuant to section 101(a)(15)(H)(ii)(B); or

''(II) persons performing or formerly performing substantially the same work as such nonimmigrants in a related workplace.''.

(b) RULEMAKING.—Not later than 180 days after the date of the enactment of this Act, and after an opportunity for notice and comment, the Secretary of Labor shall promulgate regulations to carry out the amendment made by subsection (a).

---

**SA 1558.** Mr. CARPER (for himself, Mr. MCCAIN, and Mr. UDALL of Colorado) submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

In title I, beginning on page 82, strike line 1 and all that follows through page 83, line 11, and insert the following:

**SEC. 1106. DEPLOYING FORCE MULTIPLIERS AT AND BETWEEN PORTS OF ENTRY.**

(a) ANALYSIS OF OPERATIONAL REQUIREMENTS BETWEEN PORTS OF ENTRY.—

(1) IN GENERAL.—As part of the Comprehensive Southern Border Security Strategy required to be submitted section 5(a), and in order to inform the Secretary about the technologies that may need to be redeployed or replaced pursuant to paragraphs (4) and (5) of such section, the Commissioner of U.S. Customs and Border Protection shall undertake a sector by sector analysis of the border to determine the specific technologies that are most effective in identifying illegal cross-border traffic for each particular Border Patrol sector and station along the border in order to achieve the goal of persistent surveillance.

(2) REQUIREMENTS.—The analysis conducted under paragraph (1) shall—

(A) include a comparison of the costs and benefits for each type of technology;

(B) estimate total life cycle costs for each type of technology; and

(C) identify specific performance metrics for assessing the performance of the technologies.

(b) ENHANCEMENTS.—In order to achieve surveillance between ports of entry along the Southwest border for 24 hours per day and 7 days per week, and using the analysis conducted under subsection (a), the Commissioner of U.S. Customs and Border Protection shall—

(1) deploy additional mobile, video, and man-portable surveillance systems;

(2) ensure, to the extent practicable, that all aerial assets, including assets owned before the date of enactment of this Act, are outfitted with advanced sensors that can be used to detect cross-border activity, including infrared cameras, radars, or other technologies as appropriate;

(3) deploy tethered aerostat systems, including systems to detect low-flying aircraft across the entire border, as well as systems to detect the movement of people and vehicles;

(4) operate unarmed unmanned aerial vehicles equipped with advanced sensors in every Border Patrol sector to ensure coverage for 24 hours per day and 7 days a week, unless—

(A) severe or prevailing weather precludes operations in a given sector;

(B) the Secretary determines that national security requires unmanned aerial vehicles to be deployed elsewhere; or

(C) the Secretary determines that a request from the governor of a State to deploy unmanned aerial vehicles to assist with disaster recovery efforts or extraordinary law enforcement operations is in the national interest;

(5) attempt, to the greatest extent practicable, to provide an alternate form of surveillance in a sector from which the Secretary redeployed an unmanned aerial system pursuant to subparagraph (B) or (C) of paragraph (4);

(6) deploy unarmed additional fixed-wing aircraft and helicopters;

(7) increase horse patrols in the Southwest border region; and

(8) acquire and deploy watercraft and other equipment to provide support for border-related maritime anti-crime activities.

(c) LIMITATION.—

(1) IN GENERAL.—Notwithstanding subsection (b), U.S. Border Patrol may not operate unarmed, unmanned aerial vehicles in the San Diego and El Centro Sectors, except within 3 miles of the Southern border.

(2) EXCEPTION.—The limitation under paragraph (1) shall not restrict—

(A) the maritime operations of U.S. Customs and Border Protection; or

(B) the Secretary's authority to deploy unmanned aerial vehicles—

(i) during a national security emergency;

(ii) in response to a request from the governor of California for assistance during disaster recovery efforts; or

(iii) for other law enforcement purposes.

(d) FLEET CONSOLIDATION.—In acquiring technological assets under subsection (b) and section 5(a), the Commissioner of U.S. Customs and Border Protection shall, to the greatest extent practicable, implement a plan for streamlining the fleet of aircraft, helicopters, aerostats, and unmanned aerial vehicles of U.S. Customs and Border Protection to generate savings in maintenance costs and training costs for pilots and other personnel needed to operate the assets.

(e) ANALYSIS OF OPERATIONAL REQUIREMENTS AT PORTS OF ENTRY.—

(1) IN GENERAL.—To help facilitate cross-border traffic and provide increased situational awareness of inbound and outbound trade and travel, and in order to inform the Secretary about the technologies that may need to be redeployed or replaced pursuant to paragraphs (4) and (5) of section 5(a), the Commissioner of U.S. Customs and Border Protection shall—

(A) conduct an assessment of the technology needs at ports of entry; and

(B) prioritize such technology needs based on the results of the assessment conducted pursuant to subparagraph (A).

(2) REQUIREMENTS.—In carrying out subsection (a), the Commissioner of U.S. Customs and Border Protection shall—

(A) consult with officers and agents in the field; and

(B) consider a variety of fixed and mobile technologies, including—

(i) hand-held biometric and document readers;

(ii) fixed and mobile license plate readers;

(iii) radio frequency identification documents and readers;

(iv) interoperable communication devices;

(v) nonintrusive scanning equipment; and

(vi) document scanning kiosks.

(3) IMPLEMENTATION.—Based on the results of the assessment conducted under this subsection, the Commissioner of U.S. Customs and Border Protection shall deploy additional technologies to land, air, and sea ports of entry.

(f) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts otherwise authorized to be appropriated, there are authorized to be appropriated to U.S. Customs and Border Protection such sums as may be necessary to carry out this section during the fiscal years 2014 through 2018.

---

**SA 1559.** Mr. HEINRICH (for himself, Mr. UDALL of New Mexico, and Mrs. GILLIBRAND) submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the end of section 1104, add the following:

(e) LAND PORTS OF ENTRY CONSTRUCTION PROJECTS.—The Secretary shall enhance security, facilitate the movement of people, cargo, and motor vehicles, and efficiently manage resources by working to expeditiously complete land ports of entry construction projects already authorized for construction.

---

**SA 1560.** Mr. INHOFE submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle G of title III, add the following:

**SEC. 3722. DETENTION OF DANGEROUS ALIENS.**

(a) SHORT TITLE.—This section may be cited as the ''Keep Our Communities Safe Act of 2013''.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) this section should ensure that Constitutional rights are upheld and protected;

(2) it is the intention of the Congress to uphold the Constitutional principles of due process; and

(3) due process of the law is a right afforded to everyone in the United States.

(c) DETENTION OF ALIENS DURING REMOVAL PROCEEDINGS.—

(1) CLERICAL AMENDMENT.—Section 236 (8 U.S.C. 1226) is amended—

(A) by striking ''Attorney General'' each place it appears (except in the second place it appears in subsection (a)) and inserting ''Secretary of Homeland Security'';

(B) in subsection (a), by inserting ''the Secretary of Homeland Security or'' before ''the Attorney General—''; and

(C) in subsection (e), by striking ''Attorney General's'' and inserting ''Secretary of Homeland Security's''.

(2) LENGTH OF DETENTION.—Section 236 (8 U.S.C. 1226) is amended by adding at the end the following:

''(f) LENGTH OF DETENTION.—

''(1) Notwithstanding any other provision of this section, an alien may be detained under this section for any period, without limitation, except as provided in subsection (h), until the alien is subject to a final order of removal.

''(2) The length of detention under this section shall not affect detention under section 241 of this Act.''.

(3) DETENTION OF CRIMINAL ALIENS.—Section 236(c)(1) (8 U.S.C. 1226(c)(1)) is amended, by striking the undesignated matter following subparagraph (D) and inserting the following:

''any time after the alien is released, without regard to whether an alien is released related to any activity, offense, or conviction described in this paragraph; to whether the alien is released on parole, supervised release, or probation; or to whether the alien may be arrested or imprisoned again for the same offense. If the activity described in this paragraph does not result in the alien being taken into custody by any person other than the Secretary, then when the alien is brought to the attention of the Secretary or when the Secretary determines it is practical to take such alien into custody, the Secretary shall take such alien into custody.''.

(4) ADMINISTRATIVE REVIEW.—Section 236 (8 U.S.C. 1226) is amended by adding at the end the following:

''(g) ADMINISTRATIVE REVIEW.—

''(1) The Attorney General's review of the Secretary's custody determinations under section 236(a) shall be limited to whether the alien may be detained, released on bond (of at least $1,500 with security approved by the Secretary), or released with no bond.

''(2) The Attorney General's review of the Secretary's custody determinations for the following classes of aliens:

''(A) Aliens in exclusion proceedings.

''(B) Aliens described in sections 212(a)(3) and 237(a)(4).

''(C) Aliens described in section 236(c).

''(D) Aliens in deportation proceedings subject to section 242(a)(2) of the Act (as in effect prior to April 1, 1997, and as amended by section 440(c) of Public Law 104–132); is limited to a determination of whether the alien is properly included in such category.

''(h) RELEASE ON BOND.—

''(1) IN GENERAL.—An alien detained under subsection (a) may seek release on bond. No bond may be granted except to an alien who establishes by clear and convincing evidence that the alien is not a flight risk or a risk to another person or the community.

''(2) CERTAIN ALIENS INELIGIBLE.—No alien detained under subsection (c) may seek release on bond.''.

(5) CLERICAL AMENDMENTS.—Section 236 (8 U.S.C. 1226) is amended—

(A) in subsection (a)(2)(B), by striking ''conditional parole'' and inserting ''recognizance''; and

(B) in subsection (b), by striking ''parole'' and inserting ''recognizance''.

(d) ALIENS ORDERED REMOVED.—Section 241(a) (8 U.S.C. 1231(a)) is amended—

(1) by striking ''Attorney General'' each place it appears, except for the first place it appears in paragraph (4)(B)(i), and inserting ''Secretary of Homeland Security'';

(2) in paragraph (1)—

(A) by striking subparagraphs (B) and (C) and inserting the following:

''(B) BEGINNING OF PERIOD.—The removal period begins on the latest of—

''(i) the date on which the order of removal becomes administratively final;

''(ii) the date on which the alien is taken into such custody if the alien is not in the custody of the Secretary on the date on which the order of removal becomes administratively final; and

''(iii) the date on which the alien is taken into the custody of the Secretary after the alien is released from detention or confinement if the alien is detained or confined (except for an immigration process) on the date on which the order of removal becomes administratively final.

''(C) SUSPENSION OF PERIOD.—

''(i) EXTENSION.—The removal period shall be extended beyond a period of 90 days and the Secretary may, in the Secretary's sole discretion, keep the alien in detention during such extended period if—

''(I) the alien fails or refuses to make all reasonable efforts to comply with the removal order, or to fully cooperate with the Secretary's efforts to establish the alien's identity and carry out the removal order, including making timely application in good faith for travel or other documents necessary to the alien's departure or conspires or acts to prevent the alien's removal that is subject to an order of removal;

''(II) a court, the Board of Immigration Appeals, or an immigration judge orders a stay of removal of an alien who is subject to an administratively final order of removal;

''(III) the Secretary transfers custody of the alien pursuant to law to another Federal agency or a State or local government agency in connection with the official duties of such agency; or

''(IV) a court or the Board of Immigration Appeals orders a remand to an immigration judge or the Board of Immigration Appeals, during the time period when the case is pending a decision on remand (with the removal period beginning anew on the date that the alien is ordered removed on remand).

''(ii) RENEWAL.—If the removal period has been extended under clause (i), a new removal period shall be deemed to have begun on the date on which—

''(I) the alien makes all reasonable efforts to comply with the removal order, or to fully cooperate with the Secretary's efforts to establish the alien's identity and carry out the removal order;

''(II) the stay of removal is no longer in effect; or

''(III) the alien is returned to the custody of the Secretary.

''(iii) MANDATORY DETENTION FOR CERTAIN ALIENS.—The Secretary shall keep an alien described in subparagraphs (A) through (D) of section 236(c)(1) in detention during the extended period described in clause (i).

''(iv) SOLE FORM OF RELIEF.—An alien may only seek relief from detention under this subparagraph by filing an application for a writ of habeas corpus in accordance with chapter 153 of title 28, United States Code. No alien whose period of detention is extended under this subparagraph shall have the right to seek release on bond.'';

(3) in paragraph (3)—

(A) in the matter preceding subparagraph (A), by inserting ''or is not detained pursuant to paragraph (6)'' after ''the removal period''; and

(B) by amending subparagraph (D) to read as follows:

''(D) to obey reasonable restrictions on the alien's conduct or activities that the Secretary prescribes for the alien, in order to prevent the alien from absconding, for the protection of the community, or for other purposes related to the enforcement of the immigration laws.'';

(4) in paragraph (4)(A), by striking ''paragraph (2)'' and inserting ''subparagraph (B)''; and

(5) by amending paragraph (6) to read as follows:

''(6) ADDITIONAL RULES FOR DETENTION OR RELEASE OF CERTAIN ALIENS.—

''(A) DETENTION REVIEW PROCESS FOR COOPERATIVE ALIENS ESTABLISHED.—For an alien who is not otherwise subject to mandatory detention, who has made all reasonable efforts to comply with a removal order and to cooperate fully with the Secretary of Homeland Security's efforts to establish the alien's identity and carry out the removal order, including making timely application in good faith for travel or other documents necessary to the alien's departure, and who has not conspired or acted to prevent removal, the Secretary shall establish an administrative review process to determine whether the alien should be detained or released on conditions. The Secretary shall make a determination whether to release an alien after the removal period in accordance with subparagraph (B). The determination shall include consideration of any evidence submitted by the alien, and may include consideration of any other evidence, including any information or assistance provided by the Secretary of State or other Federal official and any other information available to the Secretary of Homeland Security pertaining to the ability to remove the alien.

''(B) AUTHORITY TO DETAIN BEYOND REMOVAL PERIOD.—

''(i) IN GENERAL.—The Secretary of Homeland Security, in the exercise of the Secretary's sole discretion, may continue to detain an alien for 90 days beyond the removal period (including any extension of the removal period under paragraph (1)(C)). An alien whose detention is extended under this subparagraph shall have no right to seek release on bond.

''(ii) SPECIFIC CIRCUMSTANCES.—The Secretary of Homeland Security, in the exercise of the Secretary's sole discretion, may continue to detain an alien beyond the 90 days authorized under clause (i)—

''(I) until the alien is removed, if the Secretary, in the Secretary's sole discretion, determines that there is a significant likelihood that the alien—

''(aa) will be removed in the reasonably foreseeable future; or

''(bb) would be removed in the reasonably foreseeable future, or would have been removed, but for the alien's failure or refusal to make all reasonable efforts to comply with the removal order, or to cooperate fully with the Secretary's efforts to establish the alien's identity and carry out the removal order, including making timely application in good faith for travel or other documents necessary to the alien's departure, or conspires or acts to prevent removal;

''(II) until the alien is removed, if the Secretary of Homeland Security certifies in writing—

''(aa) in consultation with the Secretary of Health and Human Services, that the alien has a highly contagious disease that poses a threat to public safety;

''(bb) after receipt of a written recommendation from the Secretary of State,

that release of the alien is likely to have serious adverse foreign policy consequences for the United States;

''(cc) based on information available to the Secretary of Homeland Security (including classified, sensitive, or national security information, and without regard to the grounds upon which the alien was ordered removed), that there is reason to believe that the release of the alien would threaten the national security of the United States; or

''(dd) that the release of the alien will threaten the safety of the community or any person, conditions of release cannot reasonably be expected to ensure the safety of the community or any person, and

''(AA) the alien has been convicted of 1 or more aggravated felonies (as defined in section 101(a)(43)(A)) or of 1 or more crimes identified by the Secretary of Homeland Security by regulation, or of 1 or more attempts or conspiracies to commit any such aggravated felonies or such identified crimes, if the aggregate term of imprisonment for such attempts or conspiracies is at least 5 years; or

''(BB) the alien has committed 1 or more crimes of violence (as defined in section 16 of title 18, United States Code, but not including a purely political offense) and, because of a mental condition or personality disorder and behavior associated with that condition or disorder, the alien is likely to engage in acts of violence in the future; or

''(III) pending a certification under subclause (II), if the Secretary of Homeland Security has initiated the administrative review process not later than 30 days after the expiration of the removal period (including any extension of the removal period under paragraph (1)(C)).

''(iii) NO RIGHT TO BOND HEARING.—An alien whose detention is extended under this subparagraph shall have no right to seek release on bond, including by reason of a certification under clause (ii)(II).

''(C) RENEWAL AND DELEGATION OF CERTIFICATION.—

''(i) RENEWAL.—The Secretary of Homeland Security may renew a certification under subparagraph (B)(ii)(II) every 6 months, after providing an opportunity for the alien to request reconsideration of the certification and to submit documents or other evidence in support of that request. If the Secretary does not renew a certification, the Secretary may not continue to detain the alien under subparagraph (B)(ii)(II).

''(ii) DELEGATION.—Notwithstanding section 103, the Secretary of Homeland Security may not delegate the authority to make or renew a certification described in item (bb), (cc), or (dd) of subparagraph (B)(ii)(II) below the level of the Assistant Secretary for Immigration and Customs Enforcement.

''(iii) HEARING.—The Secretary of Homeland Security may request that the Attorney General or the Attorney General's designee provide for a hearing to make the determination described in item (dd)(BB) of subparagraph (B)(ii)(II).

''(D) RELEASE ON CONDITIONS.—If it is determined that an alien should be released from detention by a Federal court, the Board of Immigration Appeals, or if an immigration judge orders a stay of removal, the Secretary of Homeland Security, in the exercise of the Secretary's discretion, may impose conditions on release as provided under paragraph (3).

''(E) REDETENTION.—The Secretary of Homeland Security, in the exercise of the Secretary's discretion, without any limitations other than those specified in this section, may again detain any alien subject to a final removal order who is released from custody, if removal becomes likely in the reasonably foreseeable future, the alien fails to comply with the conditions of release, or to continue to satisfy the conditions described in subparagraph (A), or if, upon reconsideration, the Secretary, in the Secretary's sole discretion, determines that the alien can be detained under subparagraph (B). This section shall apply to any alien returned to custody pursuant to this subparagraph, as if the removal period terminated on the day of the redetention.

''(F) REVIEW OF DETERMINATIONS BY SECRETARY.—A determination by the Secretary under this paragraph shall not be subject to review by any other agency.''.

(e) SEVERABILITY.—If any of the provisions of this section, any amendment made by this section, or the application of any such provision to any person or circumstance, is held to be invalid for any reason, the remainder of this section, the amendments made by this section, and the application of the provisions and amendments made by this section to any other person or circumstance shall not be affected by such holding.

(f) EFFECTIVE DATES.—

(1) APPREHENSION AND DETENTION OF ALIENS.—The amendments made by subsection (c) shall take effect on the date of the enactment of this Act. Section 236 of the Immigration and Nationality Act, as amended by subsection (c), shall apply to any alien in detention under provisions of such section on or after such date of enactment.

(2) ALIENS ORDERED REMOVED.—The amendments made by subsection (d) shall take effect on the date of the enactment of this Act. Section 241 of the Immigration and Nationality Act, as amended by subsection (d), shall apply to—

(A) all aliens subject to a final administrative removal, deportation, or exclusion order that was issued before, on, or after the date of the enactment of this Act; and

(B) acts and conditions occurring or existing before, on, or after such date of enactment.

---

**SA 1561.** Mr. COATS submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 75, after line 25, add the following:

(4) LAND PORTS OF ENTRY.—The Secretary and the Administrator of the General Services Administration may upgrade, expand, or replace existing land ports of entry to facilitate safe, secure, and efficient cross border movement of people, motor vehicles, and cargo.

---

**SA 1562.** Mr. COATS submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. ____. BREACHED BOND/DETENTION FUND DEPOSITS.**

Section 286(r) (8 U.S.C. 1356(r)) is amended—

(1) by striking paragraph (2) and inserting the following:

''(2) There shall be deposited—

''(A) as offsetting receipts into the Fund all breached cash and surety bonds, posted under this Act which are recovered by the Department of Homeland Security, and amounts described in section 245(i)(3)(B).; and

''(B) into the Fund unclaimed moneys from the 'Unclaimed Moneys of Individuals Whose Whereabouts are Unknown' account established pursuant to 31 U.S.C. 1322, from cash received as security on immigration bonds and interest that accrued on such cash, that remains unclaimed for a period of at least 10 years from the date it was first transferred into Treasury's Unclaimed Moneys account if the transfer of the unclaimed moneys will occur only after electronic notice is posted for six months and the moneys remain unclaimed after such notice.'';

(2) in paragraph (3), by striking ''Attorney General'' and inserting ''Secretary of Homeland Security'';

(3) in paragraph (5)—

(A) by striking ''Attorney General'' and inserting ''Secretary of Homeland Security''; and

(B) by striking ''transfers to the general fund,''; and

(4) by striking paragraph (6).

---

**SA 1563.** Mr. COATS submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

In section 3, beginning on page 3, strike line 5 and all that follows through ''(i)'' on page 4, line 7, and insert the following:

(1) PROCESSING OF APPLICATIONS FOR REGISTERED PROVISIONAL IMMIGRANT STATUS.—

(A) IN GENERAL.—Not earlier than the date on which the Secretary submits to Congress a certification that the Secretary has maintained effective control of high-risk border sectors along the Southern border for a period of not less than 6 months, the Secretary may commence processing applications for registered provisional immigrant status pursuant to section 245B of the Immigration and Nationality Act, as added by section 2101 of this Act.

(B) HIGH-RISK BORDER SECTOR DEFINED.—In this paragraph, the term ''high-risk border sector'' means a border sector in which more than 30,000 individuals were apprehended by the Department during the most recent fiscal year.

(2) ADJUSTMENT OF STATUS OF REGISTERED PROVISIONAL IMMIGRANTS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary may not adjust the status of aliens who have been granted registered provisional immigrant status, except for aliens granted blue card status under section 2201 of this Act or described in section 245D(b) of the Immigration and Nationality Act, until the Secretary, after consultation with the Comptroller General of the United States, submits to the President and Congress a written certification that—

(i) the Secretary has maintained effective control of the Southern border for a period of not less than 6 months;

(ii)

---

**SA 1564.** Mr. GRASSLEY submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

In title II, beginning on page 13, strike line 20 and all that follows through page 26, line 4, and insert the following:

''(6) ELIGIBILITY AFTER DEPARTURE.—An alien who departed from the United States while subject to an order of exclusion, deportation, or removal, or pursuant to an order of voluntary departure and who is outside of the United States, or who has reentered the United States illegally after December 31, 2011 without receiving the Secretary's consent to reapply for admission under section 212(a)(9), shall not be eligible to file an application for registered provisional immigrant status.

''(7) SUSPENSION OF REMOVAL DURING APPLICATION PERIOD.—A registered provisional immigrant may not be detained by the Secretary or removed from the United States unless the Secretary determines that—

''(A) such alien is, or has become, removable for any grounds under section 237 for causes arising subsequent to the application or receipt of status;

''(B) such alien is, or has become, ineligible for registered provisional immigrant status under subsection (b)(3); or

''(C) such alien's registered provisional immigrant status has been terminated or revoked under the provisions of this Act.

---

**SA 1565.** Mr. GRASSLEY submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

In title III, beginning on page 174, strike line 6 and all that follows through page 180, line 5, and insert the following:

**SEC. 3401. REFUGEE FAMILY PROTECTIONS.**

A child of an alien who qualifies for admission as a spouse or child under section 207(c)(2)(A) or 208(b)(3) of the Immigration and Nationality Act (8 U.S.C. 1157(c)(2)(A) and 1158(b)(3)) shall be entitled to the same status as such alien if the child—

(1) is accompanying or following to join such alien; and

(2) is otherwise eligible under section 207(c)(2)(A) or 208(b)(3) of the Immigration and Nationality Act.

**SEC. 3402. CLARIFICATION ON DESIGNATION OF CERTAIN REFUGEES.**

(a) TERMINATION OF CERTAIN PREFERENTIAL TREATMENT IN IMMIGRATION OF AMERASIANS.—Section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (8 U.S.C. 1101 note) is amended by adding at the end the following:

''(f) No visa may be issued under this section if the petition or application for such visa is submitted on or after the date of the enactment of the Border Security, Economic Opportunity, and Immigration Modernization Act.''.

(b) REFUGEE DESIGNATION.—Section 207(c)(1) (8 U.S.C. 1157(c)(1)) is amended—

(1) by inserting ''(A)'' before ''Subject to the numerical limitations''; and

(2) by adding at the end the following:

''(B)(i) The President, upon a recommendation of the Secretary of State made in consultation with the Secretary of Homeland Security, and after appropriate consultation, may designate specifically defined groups of aliens—

''(I) whose resettlement in the United States is justified by humanitarian concerns or is otherwise in the national interest; and

''(II) who—

''(aa) share common characteristics that identify them as targets of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion; or

''(bb) having been identified as targets as described in item (aa), share a common need for resettlement due to a specific vulnerability.

''(ii) An alien who establishes membership in a group designated under clause (i) to the satisfaction of the Secretary of Homeland Security shall be considered a refugee for purposes of admission as a refugee under this section unless the Secretary determines that such alien ordered, incited, assisted, or otherwise participated in the persecution of any person on account of race, religion, nationality, membership in a particular social group, or political opinion.

''(iii) A designation under clause (i) is for purposes of adjudicatory efficiency and may be revoked by the President at any time after notification to Congress.

''(iv) Categories of aliens established under section 599D of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101–167; 8 U.S.C. 1157 note)—

''(I) shall be designated under clause (i) until the end of the first fiscal year commencing after the date of the enactment of the Border Security, Economic Opportunity, and Immigration Modernization Act; and

''(II) shall be eligible for designation thereafter at the discretion of the President, considering, among other factors, whether a country under consideration has been designated by the Secretary of State as a 'Country of Particular Concern' for engaging in or tolerating systematic, ongoing, and egregious violations of religious freedom.

''(v) A designation under clause (i) shall not influence decisions to grant, to any alien, asylum under section 208, protection under section 241(b)(3), or protection under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York December 10, 1984.

''(vi) A decision to deny admission under this section to an alien who establishes to the satisfaction of the Secretary that the alien is a member of a group designated under clause (i) shall—

''(I) be in writing; and

''(II) state, to the maximum extent feasible, the reason for the denial.

''(vii) Refugees admitted pursuant to a designation under clause (i) shall be subject to the number of admissions and be admissible under this section.''.

---

**SA 1566.** Mr. GRASSLEY submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

In title III, beginning on page 174, strike line 6 and all that follows through page 176, line 2.

In title III, beginning on page 179, strike line 19 and all that follows through page 180, line 5.

---

**SA 1567.** Mr. GRASSLEY (for himself and Mr. WICKER) submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

In title II, on page 35, between lines 2 and 3, insert the following:

''(14) DISCLOSURE OF SOCIAL SECURITY INFORMATION.—

''(A) IN GENERAL.—The Secretary may not grant registered provisional immigrant status to an alien under this section unless the alien fully discloses to the Secretary all the names and Social Security account numbers that the alien has ever used to obtain employment in the United States.

''(B) REVOCATION OF GRANTED STATUS.—If the Secretary determines that an alien previously granted registered provisional immigrant status under this section has not complied with the requirement in subparagraph (A), the Secretary shall revoke the status of the alien as a registered provisional immigrant.

''(C) NOTIFICATION OF RIGHTFUL ASSIGNEES.—The Secretary may disclose information received from an alien pursuant to a disclosure under subparagraph (A) to any Federal or State agency authorized to collect such information in order to enable such agency to notify each named individual or rightful assignee of the Social Security account number concerned of the alien's misuse of such name or number to obtain employment.

---

**SA 1568.** Mr. GRASSLEY submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

In section 3, on page 6, beginning on line 8, strike ''and'' and all that follows through ''(v)'' on line 9, and insert the following:

(v) the Secretary of the Treasury has certified that the Secretary has collected and deposited into the Treasury, pursuant to section 6(b)(3)(B), an amount equal to the amount transferred from the general fund of the Treasury to the Comprehensive Immigration Reform Trust Fund pursuant to section 6(a)(2)(A); and

(vi)

---

**SA 1569.** Mr. GRASSLEY submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

In title III, beginning on page 253, strike line 19 and all that follows through the matter preceding line 15 on page 271, and insert the following:

**SEC. 3704. ILLEGAL ENTRY.**

(a) IN GENERAL.—Section 275 (8 U.S.C. 1325) is amended to read as follows:

**''SEC. 275. ILLEGAL ENTRY.**

''(a) IN GENERAL.—

''(1) CRIMINAL OFFENSES.—An alien shall be subject to the penalties set forth in paragraph (2) if the alien—

''(A) enters, attempts to enter, or crosses the border into the United States at any time or place other than as designated by the Secretary of Homeland Security;

''(B) eludes examination or inspection by an immigration officer, or a customs or agriculture inspection at a port of entry; or

''(C) attempts to enter or obtains entry to the United States by means of a knowingly false or misleading representation or the concealment of a material fact.

''(2) CRIMINAL PENALTIES.—Any alien who violates any provision under paragraph (1)—

''(A) shall, for the first violation, be fined under title 18, United States Code, imprisoned not more than 12 months, or both;

''(B) shall, for a second or subsequent violation, or following an order of voluntary departure, be fined under such title, imprisoned not more than 3 years, or both;

''(C) if the violation occurred after the alien had been convicted of 3 or more misdemeanors or of a felony, shall be fined under such title, imprisoned not more than 10 years, or both; and

''(D) if the violation occurred after the alien had been convicted of a felony for which the alien was sentenced to a term of imprisonment, shall be fined under such title, imprisoned not more than 15 years, or both.

''(3) PRIOR CONVICTIONS.—The prior convictions described in subparagraphs (C) and (D) of paragraph (2) are elements of the offenses described in that paragraph and the penalties in such subparagraphs shall apply only in cases in which the conviction or convictions that form the basis for the additional penalty are—

''(A) alleged in the indictment or information; and

''(B) proven beyond a reasonable doubt at trial or admitted by the defendant under oath as part of a plea agreement.

''(b) IMPROPER TIME OR PLACE; CIVIL PENALTIES.—Any alien who is apprehended while knowingly entering, attempting to enter, or crossing or attempting to cross the border to the United States at a time or place other than as designated by immigration officers shall be subject to a civil penalty, in addition to any criminal or other civil penalties that may be imposed under any other provision of law, in an amount equal to—

''(1) not less than $250 or more than $5,000 for each such entry, crossing, attempted entry, or attempted crossing; or

''(2) twice the amount specified in paragraph (1) if the alien had previously been subject to a civil penalty under this subsection.

''(c) FRAUDULENT MARRIAGE.—An individual who knowingly enters into a marriage for the purpose of evading any provision of the immigration laws shall be imprisoned for not more than 5 years, fined not more than $250,000, or both.

''(d) COMMERCIAL ENTERPRISES.—Any individual who knowingly establishes a commercial enterprise for the purpose of evading any provision of the immigration laws shall be imprisoned for not more than 5 years, fined in accordance with title 18, United States Code, or both.''.

(b) CLERICAL AMENDMENT.—The table of contents is amended by striking the item relating to section 275 and inserting the following:

''Sec. 275. Illegal entry.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect 1 year after the date of the enactment of this Act.

**SEC. 3705. REENTRY OF REMOVED ALIEN.**

Section 276 (8 U.S.C. 1326) is amended to read as follows:

**''SEC. 276. REENTRY OF REMOVED ALIEN.**

''(a) REENTRY AFTER REMOVAL.—Any alien who has been denied admission, excluded, deported, or removed, or who has departed the United States while an order of exclusion, deportation, or removal is outstanding, and subsequently enters, attempts to enter, crosses the border to, attempts to cross the border to, or is at any time found in the United States, shall be fined under title 18, United States Code, imprisoned not more than 2 years, or both.

''(b) REENTRY OF CRIMINAL OFFENDERS.—Notwithstanding the penalty provided in subsection (a), if an alien described in that subsection—

''(1) was convicted for 3 or more misdemeanors before such removal or departure, the alien shall be fined under title 18, United States Code, imprisoned not more than 10 years, or both;

''(2) was convicted for an aggravated felony before such removal or departure, the alien shall be fined under such title, imprisoned not more than 20 years, or both;

''(3) was convicted for a felony before such removal or departure for which the alien was sentenced to a term of imprisonment of not less than 60 months, the alien shall be fined under such title, imprisoned not more than 20 years, or both;

''(4) was convicted for 3 felonies before such removal or departure, the alien shall be fined under such title, imprisoned not more than 20 years, or both, unless the Attorney General expressly consents to the entry or reentry, as the case may be, of the alien; or

''(5) was convicted, before such removal or departure, for murder, rape, kidnapping, or a felony offense described in chapter 77 (relating to peonage and slavery) or 113B (relating to terrorism) of such title, the alien shall be fined under such title, imprisoned not more than 20 years, or both.

''(c) REENTRY AFTER REPEATED REMOVAL.—Any alien who has been denied admission, excluded, or deported and thereafter enters, attempts to enter, crosses the border to, attempts to cross the border to, or is at any time found in the United States, shall be fined under title 18, United States Code, imprisoned not more than 10 years, or both, unless the Attorney General expressly consents to the entry or reentry, as the case may be, of the alien.

''(d) PROOF OF PRIOR CONVICTIONS.—The prior convictions described in subsection (b) are elements of the offenses described in that subsection, and the penalties in such subsection shall apply only in cases in which the conviction or convictions that form the basis for the additional penalty are—

''(1) alleged in the indictment or information; and

''(2) proven beyond a reasonable doubt at trial or admitted by the defendant under oath as part of a plea agreement.

''(e) AFFIRMATIVE DEFENSES.—It shall be an affirmative defense to a violation of this section that—

''(1) prior to the alleged violation, the alien had sought and received the express consent of the Secretary of Homeland Security to reapply for admission into the United States; or

''(2) at the time of the prior exclusion, deportation, removal, or denial of admission alleged in the violation, the alien had not yet reached 18 years of age and had not been convicted of a crime or adjudicated a delinquent minor by a court of the United States, or a court of a state or territory, for conduct that would constitute a felony if committed by an adult.

''(f) LIMITATION ON COLLATERAL ATTACK ON UNDERLYING DEPORTATION ORDER.—In a criminal proceeding under this section, an alien may not challenge the validity of the deportation order described in subsection (a) or subsection (c) unless the alien demonstrates that—

''(1) the alien exhausted any administrative remedies that may have been available to seek relief against the order;

''(2) the deportation proceedings at which the order was issued improperly deprived the alien of the opportunity for judicial review; and

''(3) the entry of the order was fundamentally unfair.

''(g) REENTRY OF ALIEN REMOVED PRIOR TO COMPLETION OF TERM OF IMPRISONMENT.—Any alien removed pursuant to section 241(a)(4) who enters, attempts to enter, crosses the border to, attempts to cross the border to, or is at any time found in, the United States shall be incarcerated for the remainder of the sentence of imprisonment which was pending at the time of deportation without any reduction for parole or supervised release. Such alien shall be subject to such other penalties relating to the reentry of removed aliens as may be available under this section or any other provision of law.

''(h) LIMITATION.—It is not aiding and abetting a violation of this section for an individual to provide an alien with emergency medical care and food or to transport the alien to a location where such medical care or food can be provided without compensation or the expectation of compensation.

''(i) DEFINITIONS.—In this section:

''(1) FELONY.—The term 'felony' means any criminal offense punishable by a term of imprisonment of more than 1 year under the laws of the United States, any State, or a foreign government.

''(2) MISDEMEANOR.—The term 'misdemeanor' means any criminal offense punishable by a term of imprisonment of not more than 1 year under the applicable laws of the United States, any State, or a foreign government.

''(3) REMOVAL.—The term 'removal' includes any denial of admission, exclusion, deportation, or removal, or any agreement by which an alien stipulates or agrees to exclusion, deportation, or removal.

''(4) STATE.—The term 'State' means a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.''.

**SEC. 3706. PENALTIES RELATED TO REMOVAL.**

(a) PENALTIES RELATING TO VESSELS AND AIRCRAFT.—Section 243(c) (8 U.S.C. 1253(c)) is amended—

(1) by striking ''Attorney General'' each place such term appears and inserting ''Secretary of Homeland Security''; and

(2) by striking ''Commissioner'' each place such term appears and inserting ''Secretary of Homeland Security''; and

(3) in paragraph (1)—

(A) in subparagraph (A), by striking ''$2,000'' and inserting ''$5,000'';

(B) in subparagraph (B), by striking ''$5,000'' and inserting ''$10,000''; and

(C) by inserting at the end the following:

''(D) EXCEPTION.—A person, acting without compensation or the expectation of compensation, is not subject to penalties under this paragraph if the person is—

''(i) providing, or attempting to provide, an alien with emergency medical care or food or water; or

''(ii) transporting the alien to a location where such medical care, food, or water can be provided without compensation or the expectation of compensation.''.

(b) DISCONTINUATION OF VISAS TO NATIONALS OF COUNTRIES DENYING OR DELAYING ACCEPTING ALIEN.—Section 243(d) (8 U.S.C. 1253(d)) is amended—

(1) by striking ''Attorney General'' each place such term appears and inserting ''Secretary of Homeland Security''; and

(2) by striking ''notifies the Secretary'' and inserting ''notifies the Secretary of State''.

**SEC. 3707. REFORM OF PASSPORT, VISA, AND IMMIGRATION FRAUD OFFENSES.**

(a) TRAFFICKING IN PASSPORTS.—Section 1541 of title 18, United States Code, is amended to read as follows:

**''§ 1541. Issuance of passports without authority**

''(a) IN GENERA.—Subject to subsection (b), any person who knowingly—

''(1) and without lawful authority produces, issues, or transfers a passport;

''(2) forges, counterfeits, alters, or falsely makes a passport;

''(3) secures, possesses, uses, receives, buys, sells, or distributes a passport, knowing the

passport to be forged, counterfeited, altered, falsely made, stolen, procured by fraud, or produced or issued without lawful authority; or

''(4) completes, mails, prepares, presents, signs, or submits an application for a United States passport, knowing the application to contain any materially false statement or representation,

shall be fined under this title, imprisoned not more than 20 years, or both.

''(b) USE IN A TERRORISM OFFENSE.—Any person who commits an offense described in subsection (a) to facilitate an act of international terrorism (as defined in section 2331) shall be fined under this title, imprisoned not more than 25 years, or both.

''(c) PASSPORT MATERIALS.—Any person who knowingly and without lawful authority produces, buys, sells, possesses, or uses any official material (or counterfeit of any official material) to make a passport, including any distinctive paper, seal, hologram, image, text, symbol, stamp, engraving, or plate, shall be fined under this title, imprisoned not more than 20 years, or both.''.

(b) FALSE STATEMENT IN AN APPLICATION FOR A PASSPORTS.—Section 1542 of title 18, United States Code, is amended to read as follows:

**''§ 1542. False statement in an application for a passport**

''(a) IN GENERAL.—Any person who—

''(1) knowingly makes any false statement or representation in an application for a United States passport, or mails, prepares, presents, or signs an application for a United States passport knowing the application to contain any false statement or representation and with intent to induce or secure the issuance of a passport under the authority of the United States, either for the person's own use or the use of another, contrary to the laws regulating the issuance of passports or the rules prescribed pursuant to such laws; or

''(2) knowingly uses or attempts to use, or furnishes to another for use, any passport the issuance of which was secured in any way by reason of any false statement,

shall be fined under this title, imprisoned not more than 25 years (if the offense was committed to facilitate an act of international terrorism (as defined in section 2331 of this title)), 20 years (if the offense was committed to facilitate a drug trafficking crime (as defined in section 929(a) of this title)), or 15 years (in the case of any other offense), or both.

''(b) VENUE.—

''(1) IN GENERAL.—An offense under subsection (a) may be prosecuted in any district—

''(A) in which the false statement or representation was made or the application for a United States passport was prepared or signed; or

''(B) in which or to which the application was mailed or presented.

''(2) OFFENSES OUTSIDE THE UNITED STATES.—An offense under subsection (a) involving an application prepared and adjudicated outside the United States may be prosecuted in the district in which the resultant passport was or would have been produced.

''(c) SAVINGS CLAUSE.—Nothing in this section may be construed to limit the venue otherwise available under sections 3237 and 3238 of this title.''.

(c) MISUSE OF A PASSPORT.—Section 1544 of title 18, United States Code, is amended to read as follows:

**''§ 1544. Misuse of a passport**

''Any person who knowingly—

''(1) uses or attempts to use any passport issued or designed for the use of another;

''(2) uses or attempts to use any passport in violation of the conditions and restrictions specified in the passport or any rules or regulations prescribed pursuant to the laws regulating the issuance of passports; or

''(3) secures, possesses, uses, receives, buys, sells, or distributes any passport knowing the passport to be forged, counterfeited, altered, falsely made, procured by fraud, or produced or issued without lawful authority,

shall be fined under this title, imprisoned not more than 25 years (if the offense was committed to facilitate an act of international terrorism (as defined in section 2331 of this title)), 20 years (if the offense was committed to facilitate a drug trafficking crime (as defined in section 929(a) of this title)) or 15 years (in the case of any other offense), or both.''.

(d) SCHEMES TO PROVIDE FRAUDULENT IMMIGRATION SERVICES.—Section 1545 of title 18, United States Code, is amended to read as follows:

**''§ 1545. Schemes to provide fraudulent immigration services**

''(a) IN GENERAL.—Any person who knowingly executes a scheme or artifice, in connection with any matter that is authorized by or arises under any Federal immigration law or any matter the offender claims or represents is authorized by or arises under any Federal immigration law, to—

''(1) defraud any person; or

''(2) obtain or receive money or anything else of value from any person by means of false or fraudulent pretenses, representations, or promises,

shall be fined under this title, imprisoned not more than 10 years, or both.

''(b) MISREPRESENTATION.—Any person who knowingly and falsely represents that such person is an attorney or an accredited representative (as that term is defined in section 1292.1 of title 8, Code of Federal Regulations (or any successor regulation)) in any matter arising under any Federal immigration law shall be fined under this title, imprisoned not more than 15 years, or both.''.

(e) IMMIGRATION AND VISA FRAUD.—Section 1546 of title 18, United States Code, is amended by amending the section heading to read as follows:

**''§ 1546. Immigration and visa fraud''.**

(f) ALTERNATIVE IMPRISONMENT MAXIMUM FOR CERTAIN OFFENSES.—Section 1547 of title 18, United States Code, is amended—

(1) in the matter preceding paragraph (1), by striking ''(other than an offense under section 1545)'';

(2) in paragraph (1), by striking ''15'' and inserting ''20''; and

(3) in paragraph (2), by striking ''20'' and inserting ''25''.

(g) AUTHORIZED LAW ENFORCEMENT ACTIVITIES.—Chapter 75 of title 18, United States Code, is amended by adding after section 1547 the following:

**''§ 1548. Authorized law enforcement activities**

''Nothing in this chapter may be construed to prohibit—

''(1) any lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency of the United States, a State, or a political subdivision of a State, or an intelligence agency of the United States; or

''(2) any activity authorized under title V of the Organized Crime Control Act of 1970 (Public Law 91–452; 84 Stat. 933).''.

(h) TABLE OF SECTIONS AMENDMENT.—The table of sections for chapter 75 of title 18, United States Code, is amended to read as follows:

''Sec.
''1541. Trafficking in passports.
''1542. False statement in an application for a passport.
''1543. Forgery or false use of a passport.
''1544. Misuse of a passport.
''1545. Schemes to provide fraudulent immigration services.
''1546. Immigration and visa fraud.
''1547. Alternative imprisonment maximum for certain offenses.
''1548. Authorized law enforcement activities.''.

---

**SA 1570.** Mr. GRASSLEY submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

In title III, beginning on page 247, strike line 11 and all that follows through page 251, line 7, and insert the following:

**SEC. 3701. CRIMINAL GANGS.**

(a) DEFINITION OF CRIMINAL GANG.—Section 101(a) (8 U.S.C. 1101(a)) is amended by adding after paragraph (54), as added by section 4211(g) of this Act, the following:

''(55)(A) The term 'criminal gang' means an ongoing group, club, organization, or association of 5 or more persons—

''(i) that has as 1 of its primary purposes the commission of 1 or more of the criminal offenses described in subparagraph (B); and

''(ii) the members of which engage, or have engaged within the past 5 years, in a continuing series of offenses described in subparagraph (B).

''(B) The offenses described in this subparagraph, whether in violation of Federal or State law or in violation of the law of a foreign country, are the following:

''(i) A felony drug offense (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)).

''(ii) A felony offense involving firearms or explosives or in violation of section 931 of title 18, United States Code (relating to purchase, ownership, or possession of body armor by violent felons).

''(iii) An offense under section 274 (relating to bringing in and harboring certain aliens), section 277 (relating to aiding or assisting certain aliens to enter the United States), or section 278 (relating to importation of alien for immoral purpose).

''(iv) A felony crime of violence (as defined in section 16 of title 18, United States Code).

''(v) A crime involving obstruction of justice, tampering with or retaliating against a witness, victim, or informant, or burglary

''(vi) Any conduct punishable under sections 1028 and 1029 of title 18, United States Code (relating to fraud and related activity in connection with identification documents or access devices), sections 1581 through 1594 of such title (relating to peonage, slavery and trafficking in persons), section 1952 of such title (relating to interstate and foreign travel or transportation in aid of racketeering enterprises), section 1956 of such title (relating to the laundering of monetary instruments), section 1957 of such title (relating to engaging in monetary transactions in property derived from specified unlawful activity), or sections 2312 through 2315 of such title (relating to interstate transportation of stolen motor vehicles or stolen property).

''(vii) Conspiracy to commit an offense described in specified in clauses (i) through (vi).''.

(b) INADMISSIBILITY.—Section 212(a)(2) (8 U.S.C. 1182(a)(2)) is amended by inserting after subparagraph (I) the following:

''(J) ALIENS IN CRIMINAL GANGS.—Any alien is inadmissible who—

''(i) is a member of a criminal gang unless the alien can demonstrate by clear and convincing evidence that the alien did not know, and should not reasonably have known, that the organization was a criminal gang; and

''(ii) is determined by an immigration judge to be a danger to the community.''.

(c) GROUNDS FOR DEPORTATION.—Section 237(a)(2) (8 U.S.C. 1227(a)(2)) is amended by adding at the end the following:

''(G) ALIENS IN CRIMINAL GANGS.—Any alien is removable who—

''(i) is a member of a criminal gang unless the alien can demonstrate by clear and convincing evidence that the alien did not know, and should not reasonably have known, that the organization was a criminal gang; and

''(ii) is determined by an immigration judge to be a danger to the community.''.

(d) GROUND OF INELIGIBILITY FOR REGISTERED PROVISIONAL IMMIGRANT STATUS.—An alien who is 18 years of age or older is ineligible for registered provisional immigrant status if the Secretary determines that the alien—

(1) is a member of a criminal gang (as defined in section 101(a)(55) of the Immigration and Nationality Act, as amended by subsection (a)) unless the alien can demonstrate by clear and convincing evidence that the alien did not know, and should not reasonably have known, that the organization was a criminal gang; and

(2) has been determined by the Secretary to be a danger to the community.

---

**SA 1571.** Mr. GRASSLEY submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. ___. IDENTITY THEFT.**

(a) FRAUD.—Section 1028 of title 18, United States Code, is amended—

(1) in subsection (a)(7), by striking ''of another person'' and inserting ''that is not his or her own''; and

(2) in subsection (b)(3)—

(A) in subparagraph (B), by striking ''or'' at the end;

(B) in subparagraph (C), by adding ''or'' at the end; and

(C) by adding at the end the following:

''(D) to facilitate or assist in harboring or hiring unauthorized workers in violation of section 274, 274A, or 274C of the Immigration and Nationality Act (8 U.S.C. 1324, 1324a, and 1324c);''.

(b) AGGRAVATED IDENTITY THEFT.—Section 1028A(a) of such title is amended by striking ''of another person'' both places it appears and inserting ''that is not his or her own''.

---

**SA 1572.** Mr. GRASSLEY submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. _____. ANNUAL AUDITS OF EMPLOYERS OF H–1B AND L NONIMMIGRANTS.**

(a) H–1B NONIMMIGRANTS.—Section 212(n)(2)(A)(ii)(III) (8 U.S.C. 1182 (n)(2)(A)(ii)(III)), as added by section 4221, is amended—

(1) in item ''(aa)'', by striking ''and'' at the end;

(2) by redesignating item (bb) as item (cc); and

(3) by inserting after item (aa) the following:

''(bb) conduct annual audits of not less than .05 percent of employers (other than employers covered by item (aa)) that employ H–1B nonimmigrants during the applicable calendar year; and''.

(b) L NONIMMIGRANTS.—Section 214(c)(2)(J)(viii)(II) (8 U.S.C. 1184 (c)(2)(J)(viii)(II)), as added by section 4306, is amended—

(1) in item ''(aa)'', by striking ''and'' at the end;

(2) by redesignating item (bb) as item (cc); and

(3) by inserting after item (aa) the following:

''(bb) conduct annual audits of not less than .05 percent of employers (other than employers covered by item (aa)) who employ nonimmigrants described in section 101(a)(15)(L) during the applicable calendar year; and''.

---

**SA 1573.** Mr. GRASSLEY submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

In title IV, on page 56, lines 1 and 2, strike ''if the employer is an H–1B skilled worker dependent employer,''.

---

**SA 1574.** Mr. GRASSLEY submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

In title IV, on page 81, after line 25, add the following:

**SEC. 4226. SUSPENSION OF EMPLOYER PARTICIPATION IN H–1B VISA PROGRAM.**

Section 212(n)(2) (8 U.S.C. 1182(n)(2), as amended by this chapter, is further amended—

(1) by redesignating subparagraph (I) as subparagraph (L); and

(2) by inserting after subparagraph (H) the following:

''(I) The Secretary of Homeland Security shall suspend an employer's ability to petition for H–1B nonimmigrants for not less than 2 years if such employer violates this subsection or if the Secretary determines the existence of 1 or more of the following conditions with respect to the employer:

''(i) The employer has not taken good faith efforts to recruit United States workers.

''(ii) An H–1B nonimmigrant is working at locations not covered by a valid labor condition application.

''(iii) An H–1B nonimmigrant is not receiving the wage that the petitioning employer attested to in the labor condition application.

''(iv) An H–1B nonimmigrant has been benched without pay or with reduced pay.

''(v) An H–1B nonimmigrant is performing job duties that were not consistent with the position description provided by the employer.

''(vi) The employer deducts the fees associated with filing the H–1B petition from the H–1B nonimmigrant's salary.

''(vii) The employer forged signatures or documents relating to the Form I-129 petition, including documents relating to degree and work experience letters.''.

---

**SA 1575.** Mr. GRASSLEY submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

In title IV, on page 69, beginning on line 16, strike ''and'' and all that follows through ''(bb)'' on line 17, and insert the following:

''(bb) conduct annual audits of not less than .05 percent of employers (other than employers covered by item (aa)) that employ H–1B nonimmigrants during the applicable calendar year; and

''(cc)

In title IV, on page 103, beginning on line 11, strike ''and'' and all that follows through ''(bb)'' on line 12, and insert the following:

''(bb) conduct annual audits of not less than .05 percent of employers (other than employers covered by item (aa)) who employ nonimmigrants described in section 101(a)(15)(L) during the applicable calendar year; and

''(cc)

---

**SA 1576.** Mr. GRASSLEY submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 534 of the amendment, strike line 7 and all that follows through page 621, line 8, and insert the following:

''(D) GENERAL PARTICIPATION REQUIREMENT FOR NEW EMPLOYEES.—All employers in the United States shall participate in the System, with respect to all employees hired by such employers on or after the date that is 18 months after the date of the enactment of the Border Security, Economic Opportunity, and Immigration Modernization Act.

''(E) IMMIGRATION LAW VIOLATORS.—

''(i) ORDERS FINDING VIOLATIONS.—An order finding any employer to have violated this section or section 274C may, in the Secretary's discretion, require the employer to participate in the System with respect to newly hired employees and employees with expiring temporary employment authorization documents, if such employer is not otherwise required to participate in the System under this section. The Secretary shall monitor such employer's compliance with System procedures.

''(ii) PATTERN OR PRACTICE OF VIOLATIONS.—The Secretary may require an employer that is required to participate in the System with respect to newly hired employees to participate in the System with respect to the employer's current employees if the Secretary or other appropriate authority has reasonable cause to believe that the employer is, or has been, engaged in a material violation of this section.

''(F) VOLUNTARY PARTICIPATION.—The Secretary may permit any employer that is not required to participate in the System under this section to do so on a voluntary basis.

''(3) CONSEQUENCE OF FAILURE TO PARTICIPATE.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the failure, other than a de minimis or inadvertent failure, of an employer that is required to participate in the System to comply with the requirements of the System with respect to an individual—

''(i) shall be treated as a violation of subsection (a)(1)(B) with respect to that individual; and

''(ii) creates a rebuttable presumption that the employer has violated paragraph (1)(A) or (2) of subsection (a).

''(B) EXCEPTION.—

''(i) IN GENERAL.—Subparagraph (A) shall not apply in a criminal prosecution.

''(ii) USE AS EVIDENCE.—Nothing in this paragraph may be construed to limit the use in the prosecution of a Federal crime, in a manner otherwise consistent with Federal criminal law and procedure, of evidence relating to the employer's failure to comply with requirements of the System.

''(4) PROCEDURES FOR PARTICIPANTS IN THE SYSTEM.—

''(A) IN GENERAL.—An employer participating in the System shall register such participation with the Secretary and, when hiring any individual for employment in the United States, shall comply with the following:

''(i) REGISTRATION OF EMPLOYERS.—The Secretary, through notice in the Federal Register, shall prescribe procedures that employers shall be required to follow to register with the System.

''(ii) UPDATING INFORMATION.—The employer is responsible for providing notice of any change to the information required under subclauses (I), (II), and (III) of clause (v) before conducting any further inquiries within the System, or on such other schedule as the Secretary may prescribe.

''(iii) TRAINING.—The Secretary shall require employers to undergo such training as the Secretary determines to be necessary to ensure proper use, protection of civil rights and civil liberties, privacy, integrity, and security of the System. To the extent practicable, such training shall be made available electronically on the U.S. Citizenship and Immigration Services website.

''(iv) NOTIFICATION TO EMPLOYEES.—The employer shall inform individuals hired for employment that the System—

''(I) will be used by the employer;

''(II) may be used for immigration enforcement purposes; and

''(III) may not be used to discriminate or to take adverse action against a national of the United States or an alien who has employment authorized status.

''(v) PROVISION OF ADDITIONAL INFORMATION.—The employer shall obtain from the individual (and the individual shall provide) and shall record in such manner as the Secretary may specify—

''(I) the individual's social security account number;

''(II) if the individual does not attest to United States citizenship or status as a national of the United States under subsection (c)(2), such identification or authorization number established by the Department as the Secretary shall specify; and

''(III) such other information as the Secretary may require to determine the identity and employment authorization of an individual.

''(vi) PRESENTATION OF DOCUMENTATION.—The employer, and the individual whose identity and employment authorized status are being confirmed, shall fulfill the requirements under subsection (c).

''(B) SEEKING CONFIRMATION.—

''(i) IN GENERAL.—An employer shall use the System to confirm the identity and employment authorized status of any individual during—

''(I) the period beginning on the date on which the individual accepts an offer of employment and ending 3 business days after the date on which employment begins; or

''(II) such other reasonable period as the Secretary may prescribe.

''(ii) LIMITATION.—An employer may not make the starting date of an individual's employment or training or any other term and condition of employment dependent on the receipt of a confirmation of identity and employment authorized status by the System.

''(iii) REVERIFICATION.—If an individual has a limited period of employment authorized status, the individual's employer shall reverify such status through the System not later than 3 business days after the last day of such period.

''(iv) OTHER EMPLOYMENT.—For employers directed by the Secretary to participate in the System under paragraph (2)(C)(i) to protect critical infrastructure or otherwise specified circumstances in this section to verify their entire workforce, the System may be used for initial verification of an individual who was hired before the employer became subject to the System, and the employer shall initiate all required procedures on or before such date as the Secretary shall specify.

''(v) NOTIFICATION.—

''(I) IN GENERAL.—The Secretary shall provide, and the employer shall utilize, as part of the System, a method of notifying employers of a confirmation or nonconfirmation of an individual's identity and employment authorized status, or a notice that further action is required to verify such identity or employment eligibility (referred to in this subsection as a 'further action notice').

''(II) PROCEDURES.—The Secretary shall—

''(aa) directly notify the individual and the employer, by means of electronic correspondence, mail, text message, telephone, or other direct communication, of a nonconfirmation or further action notice;

''(bb) provide information about filing an administrative appeal under paragraph (6) and a filing for review before an administrative law judge under paragraph (7); and

''(cc) establish procedures to directly notify the individual and the employer of a confirmation.

''(III) IMPLEMENTATION.—The Secretary may provide for a phased-in implementation of the notification requirements under this clause, as appropriate. The notification system shall cover all inquiries not later than 1 year from the date of the enactment of the Border Security, Economic Opportunity, and Immigration Modernization Act.

''(vi) BEFORE HIRING.—An employer may use the System to confirm the identity and employment authorized status of any individual before the individual is hired, recruited, or referred if the individual consents to such verification. If an employer receives a tentative nonconfirmation for such individual, the employer shall comply with procedures prescribed by the Secretary, including—

''(I) providing the individual employees with private, written notification of the finding and written referral instructions;

''(II) allowing the individual to contest the finding; and

''(III) not taking adverse action against the individual if the individual chooses to contest the finding.

''(C) CONFIRMATION OR NONCONFIRMATION.—

''(i) INITIAL RESPONSE.—

''(I) IN GENERAL.—Except as provided in subclause (II), the System shall provide—

''(aa) a confirmation of an individual's identity and employment authorized status or a further action notice at the time of the inquiry; and

''(bb) an appropriate code indicating such confirmation or such further action notice.

''(II) ALTERNATIVE DEADLINE.—If the System is unable to provide immediate confirmation or further action notice for technological reasons or due to unforeseen circumstances, the System shall provide a confirmation or further action notice not later than 3 business days after the initial inquiry.

''(ii) CONFIRMATION UPON INITIAL INQUIRY.—If the employer receives an appropriate confirmation of an individual's identity and employment authorized status under the System, the employer shall record the confirmation in such manner as the Secretary may specify.

''(iii) FURTHER ACTION NOTICE AND LATER CONFIRMATION OR NONCONFIRMATION.—

''(I) NOTIFICATION AND ACKNOWLEDGMENT THAT FURTHER ACTION IS REQUIRED.—Not later than 3 business days after an employer receives a further action notice of an individual's identity or employment eligibility under the System, or during such other reasonable time as the Secretary may prescribe, the employer shall notify the individual for whom the confirmation is sought of the further action notice and any procedures specified by the Secretary for addressing such notice. The further action notice shall be given to the individual in writing and the employer shall acknowledge in the System under penalty of perjury that it provided the employee with the further action notice. The individual shall affirmatively acknowledge in writing, or in such other manner as the Secretary may specify, the receipt of the further action notice from the employer. If the individual refuses to acknowledge the receipt of the further action notice, or acknowledges in writing that the individual will not contest the further action notice under subclause (II), the employer shall notify the Secretary in such manner as the Secretary may specify.

''(II) CONTEST.—Not later than 10 business days after receiving notification of a further action notice under subclause (I), the individual shall contact the appropriate Federal agency and, if the Secretary so requires, appear in person for purposes of verifying the individual's identity and employment eligibility. The Secretary, in consultation with the Commissioner and other appropriate Federal agencies, shall specify an available secondary verification procedure to confirm the validity of information provided and to provide a confirmation or nonconfirmation. Any procedures for reexamination shall not limit in any way an employee's right to appeal a nonconfirmation.

''(III) NO CONTEST.—If the individual refuses to acknowledge receipt of the further action notice, acknowledges that the individual will not contest the further action notice as provided in subclause (I), or does not contact the appropriate Federal agency within the period specified in subclause (II), following expiration of the period specified in subclause (II), a nonconfirmation shall be issued. The employer shall record the nonconfirmation in such manner as the Secretary may specify and terminate the individual's employment. An individual's failure to contest a further action notice shall not be considered an admission of guilt with respect to any violation of this section or any provision of law.

''(IV) CONFIRMATION OR NONCONFIRMATION.—Unless the period is extended in accordance with this subclause, the System shall provide a confirmation or nonconfirmation not later than 10 business days after the date on which the individual contests the further action notice under subclause (II). If the Secretary determines that good cause exists, after taking into account adverse impacts to the employer, and including time to permit the individual to obtain and provide needed evidence of identity or employment eligibility, the Secretary shall extend the period for providing confirmation or nonconfirmation for stated periods beyond 10 business days. When confirmation or nonconfirmation is provided, the confirmation system shall provide an appropriate code indicating such confirmation or nonconfirmation.

''(V) REEXAMINATION.—Nothing in this section shall prevent the Secretary from establishing procedures to reexamine a case where a confirmation or nonconfirmation has been provided if subsequently received information indicates that the confirmation or nonconfirmation may not have been correct. Any procedures for reexamination shall not limit in any way an employee's right to appeal a nonconfirmation.

''(VI) EMPLOYEE PROTECTIONS.—An employer may not terminate employment or take any other adverse action against an individual solely because of a failure of the individual to have identity and employment eligibility confirmed under this subsection until—

''(aa) a nonconfirmation has been issued;

''(bb) if the further action notice was contested, the period to timely file an administrative appeal has expired without an appeal or the contestation to the further action notice is withdrawn; or

''(cc) if an appeal before an administrative law judge under paragraph (7) has been filed, the nonconfirmation has been upheld or the appeal has been withdrawn or dismissed.

''(iv) NOTICE OF NONCONFIRMATION.—Not later than 3 business days after an employer receives a nonconfirmation, or during such other reasonable time as the Secretary may provide, the employer shall notify the individual who is the subject of the nonconfirmation, and provide information about filing an administrative appeal pursuant to paragraph (6) and a request for a hearing before an administrative law judge pursuant to paragraph (7). The nonconfirmation notice shall be given to the individual in writing and the employer shall acknowledge in the System under penalty of perjury that it provided the notice (or adequately attempted to provide notice, but was unable to do so despite reasonable efforts). The individual shall affirmatively acknowledge in writing, or in such other manner as the Secretary may prescribe, the receipt of the nonconfirmation notice from the employer. If the individual refuses or fails to acknowledge the receipt of the nonconfirmation notice, the employer shall notify the Secretary in such manner as the Secretary may prescribe.

''(D) CONSEQUENCES OF NONCONFIRMATION.—

''(i) TERMINATION OF CONTINUED EMPLOYMENT.—Except as provided in clause (iii), an employer that has received a nonconfirmation regarding an individual and has made reasonable efforts to notify the individual in accordance with subparagraph (C)(iv) shall terminate the employment of the individual upon the expiration of the time period specified in paragraph (7).

''(ii) CONTINUED EMPLOYMENT AFTER NONCONFIRMATION.—If the employer continues to employ an individual after receiving nonconfirmation and exhaustion of all appeals or expiration of all rights to appeal if not appealed, in violation of clause (i), a rebuttable presumption is created that the employer has violated paragraphs (1)(A) and (2) of subsection (a). Such presumption shall not apply in any prosecution under subsection (k)(1).

''(iii) EFFECT OF ADMINISTRATIVE APPEAL OR REVIEW BY ADMINISTRATIVE LAW JUDGE.—If an individual files an administrative appeal of the nonconfirmation within the time period specified in paragraph (6)(A), or files for review with an administrative law judge specified in paragraph (7)(A), the employer shall not terminate the individual's employment under this subparagraph prior to the resolution of the administrative appeal unless the Secretary or Commissioner terminates the stay under paragraph (6)(B) or (7)(B).

''(iv) WEEKLY REPORT.—The Director of U.S. Citizenship and Immigration Services shall submit a weekly report to the Assistant Secretary for Immigration and Customs Enforcement that includes, for each individual who receives final nonconfirmation through the System—

''(I) the name of such individual;

''(II) his or her social security number or alien file number;

''(III) the name and contact information for his or her current employer; and

''(IV) any other critical information that the Assistant Secretary determines to be appropriate.

''(E) OBLIGATION TO RESPOND TO QUERIES AND ADDITIONAL INFORMATION.—

''(i) IN GENERAL.—Employers shall comply with requests for information from the Secretary and the Special Counsel for Immigration-Related Unfair Employment Practices of the Department of Justice, including queries concerning current and former employees, within the time frame during which records are required to be maintained under this section regarding such former employees, if such information relates to the functioning of the System, the accuracy of the responses provided by the System, or any suspected misuse, discrimination, fraud, or identity theft in the use of the System. Failure to comply with a request under this clause constitutes a violation of subsection (a)(1)(B).

''(ii) ACTION BY INDIVIDUALS.—

''(I) IN GENERAL.—Individuals being verified through the System may be required to take further action to address questions identified by the Secretary or the Commissioner regarding the documents relied upon for purposes of subsection (c).

''(II) NOTIFICATION.—Not later than 3 business days after the receipt of such questions regarding an individual, or during such other reasonable time as the Secretary may prescribe, the employer shall—

''(aa) notify the individual of any such requirement for further actions; and

''(bb) record the date and manner of such notification.

''(III) ACKNOWLEDGMENT.—The individual shall acknowledge the notification received from the employer under subclause (II) in writing, or in such other manner as the Secretary may prescribe.

''(iii) RULEMAKING.—

''(I) IN GENERAL.—The Secretary, in consultation with the Commissioner and the Attorney General, is authorized to issue regulations implementing, clarifying, and supplementing the requirements under this subparagraph—

''(aa) to facilitate the functioning, accuracy, and fairness of the System;

''(bb) to prevent misuse, discrimination, fraud, or identity theft in the use of the System; or

''(cc) to protect and maintain the confidentiality of information that could be used to locate or otherwise place at risk of harm victims of domestic violence, dating violence, sexual assault, stalking, and human trafficking, and of the applicant or beneficiary of any petition described in section 384(a)(2) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1367(a)(2)).

''(II) NOTICE.—The regulations issued under subclause (I) shall be—

''(aa) published in the Federal Register; and

''(bb) provided directly to all employers registered in the System.

''(F) DESIGNATED AGENTS.—The Secretary shall establish a process—

''(i) for certifying, on an annual basis or at such times as the Secretary may prescribe, designated agents and other System service providers seeking access to the System to perform verification queries on behalf of employers, based upon training, usage, privacy, and security standards prescribed by the Secretary;

''(ii) for ensuring that designated agents and other System service providers are subject to monitoring to the same extent as direct access users; and

''(iii) for establishing standards for certification of electronic I–9 programs.

''(G) REQUIREMENT TO PROVIDE INFORMATION.—

''(i) IN GENERAL.—No later than 3 months after the date of the enactment of the Border Security, Economic Opportunity, and Immigration Modernization Act, the Secretary, in consultation with the Secretary of Labor, the Secretary of Agriculture, the Commissioner, the Attorney General, the Equal Employment Opportunity Commission, and the Administrator of the Small Business Administration, shall commence a campaign to disseminate information respecting the procedures, rights, and remedies prescribed under this section.

''(ii) CAMPAIGN REQUIREMENTS.—The campaign authorized under clause (i)—

''(I) shall be aimed at increasing the knowledge of employers, employees, and the general public concerning employer and employee rights, responsibilities, and remedies under this section; and

''(II) shall be coordinated with the public education campaign conducted by U.S. Citizenship and Immigration Services.

''(iii) ASSESSMENT.—The Secretary shall assess the success of the campaign in achieving the goals of the campaign.

''(iv) AUTHORITY TO CONTRACT.—In order to carry out and assess the campaign under this subparagraph, the Secretary may, to the extent deemed appropriate and subject to the availability of appropriations, contract with public and private organizations for outreach and assessment activities under the campaign.

''(v) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this paragraph $40,000,000 for each of the fiscal years 2014 through 2016.

''(H) AUTHORITY TO MODIFY INFORMATION REQUIREMENTS.—Based on a regular review of the System and the document verification procedures to identify misuse or fraudulent use and to assess the security of the documents and processes used to establish identity or employment authorized status, the Secretary, in consultation with the Commissioner, after publication of notice in the Federal Register and an opportunity for public comment, may modify, if the Secretary determines that the modification is necessary to ensure that the System accurately and reliably determines the identity and employment authorized status of employees and maintain existing protections against misuse, discrimination, fraud, and identity theft—

''(i) the information that shall be presented to the employer by an individual;

''(ii) the information that shall be provided to the System by the employer; and

''(iii) the procedures that shall be followed by employers with respect to the process of verifying an individual through the System.

''(I) SELF-VERIFICATION.—Subject to appropriate safeguards to prevent misuse of the system, the Secretary, in consultation with the Commissioner, shall establish a secure self-verification procedure to permit an individual who seeks to verify the individual's own employment eligibility to contact the appropriate agency and, in a timely manner, correct or update the information contained in the System.

''(5) PROTECTION FROM LIABILITY FOR ACTIONS TAKEN ON THE BASIS OF INFORMATION PROVIDED BY THE SYSTEM.—An employer shall not be liable to a job applicant, an employee, the Federal Government, or a State or local

government, under Federal, State, or local criminal or civil law for any employment-related action taken with respect to a job applicant or employee in good faith reliance on information provided by the System.

''(6) ADMINISTRATIVE APPEAL.—

''(A) IN GENERAL.—An individual who is notified of a nonconfirmation may, not later than 10 business days after the date that such notice is received, file an administrative appeal of such nonconfirmation with the Commissioner if the notice is based on records maintained by the Commissioner, or in any other case, with the Secretary. An individual who did not timely contest a further action notice timely received by that individual for which the individual acknowledged receipt may not be granted a review under this paragraph.

''(B) ADMINISTRATIVE STAY OF NONCONFIRMATION.—The nonconfirmation shall be automatically stayed upon the timely filing of an administrative appeal, unless the nonconfirmation resulted after the individual acknowledged receipt of the further action notice but failed to contact the appropriate agency within the time provided. The stay shall remain in effect until the resolution of the appeal, unless the Secretary or the Commissioner terminates the stay based on a determination that the administrative appeal is frivolous or filed for purposes of delay.

''(C) REVIEW FOR ERROR.—The Secretary and the Commissioner shall develop procedures for resolving administrative appeals regarding nonconfirmations based upon the information that the individual has provided, including any additional evidence or argument that was not previously considered. Any such additional evidence or argument shall be filed within 10 business days of the date the appeal was originally filed. Appeals shall be resolved within 20 business days after the individual has submitted all evidence and arguments the individual wishes to submit, or has stated in writing that there is no additional evidence that the individual wishes to submit. The Secretary and the Commissioner may, on a case by case basis for good cause, extend the filing and submission period in order to ensure accurate resolution of an appeal before the Secretary or the Commissioner.

''(D) PREPONDERANCE OF EVIDENCE.—Administrative appeal under this paragraph shall be limited to whether a nonconfirmation notice is supported by a preponderance of the evidence.

''(E) DAMAGES, FEES, AND COSTS.—No money damages, fees or costs may be awarded in the administrative appeal process under this paragraph.

''(7) REVIEW BY ADMINISTRATIVE LAW JUDGE.—

''(A) IN GENERAL.—Not later than 30 days after the date an individual receives a final determination on an administrative appeal under paragraph (6), the individual may obtain review of such determination by filing a complaint with a Department of Justice administrative law judge in accordance with this paragraph.

''(B) STAY OF NONCONFIRMATION.—The nonconfirmation related to such final determination shall be automatically stayed upon the timely filing of a complaint under this paragraph, and the stay shall remain in effect until the resolution of the complaint, unless the administrative law judge determines that the action is frivolous or filed for purposes of delay.

''(C) SERVICE.—The respondent to complaint filed under this paragraph is either the Secretary or the Commissioner, but not both, depending upon who issued the administrative order under paragraph (6). In addition to serving the respondent, the plaintiff shall serve the Attorney General.

''(D) AUTHORITY OF ADMINISTRATIVE LAW JUDGE.—

''(i) RULES OF PRACTICE.—The Secretary shall promulgate regulations regarding the rules of practice in appeals brought pursuant to this subsection.

''(ii) AUTHORITY OF ADMINISTRATIVE LAW JUDGE.—The administrative law judge shall have power to—

''(I) terminate a stay of a nonconfirmation under subparagraph (B) if the administrative law judge determines that the action is frivolous or filed for purposes of delay;

''(II) adduce evidence at a hearing;

''(III) compel by subpoena the attendance of witnesses and the production of evidence at any designated place or hearing;

''(IV) resolve claims of identity theft; and

''(V) enter, upon the pleadings and any evidence adduced at a hearing, a decision affirming or reversing the result of the agency, with or without remanding the cause for a rehearing.

''(iii) SUBPOENA.—In case of contumacy or refusal to obey a subpoena lawfully issued under this section and upon application of the administrative law judge, an appropriate district court of the United States may issue an order requiring compliance with such subpoena and any failure to obey such order may be punished by such court as a contempt of such court.

''(iv) TRAINING.—An administrative law judge hearing cases shall have special training respecting employment authorized status verification.

''(E) ORDER BY ADMINISTRATIVE LAW JUDGE.—

''(i) IN GENERAL.—The administrative law judge shall issue and cause to be served to the parties in the proceeding an order which may be appealed as provided in subparagraph (G).

''(ii) CONTENTS OF ORDER.—Such an order shall uphold or reverse the final determination on the request for reconsideration and order lost wages and other appropriate remedies as provided in subparagraph (F).

''(F) COMPENSATION FOR ERROR.—

''(i) IN GENERAL.—In cases in which the administrative law judge reverses the final determination of the Secretary or the Commissioner made under paragraph (6), and the administrative law judge finds that—

''(I) the nonconfirmation was due to gross negligence or intentional misconduct of the employer, the administrative law judge may order the employer to pay the individual lost wages, and reasonable costs and attorneys' fees incurred during administrative and judicial review; or

''(II) such final determination was erroneous by reason of the negligence of the Secretary or the Commissioner, the administrative law judge may order the Secretary or the Commissioner to pay the individual lost wages, and reasonable costs and attorneys' fees incurred during the administrative appeal and the administrative law judge review.

''(ii) CALCULATION OF LOST WAGES.—Lost wages shall be calculated based on the wage rate and work schedule that prevailed prior to termination. The individual shall be compensated for wages lost beginning on the first scheduled work day after employment was terminated and ending 120 days after completion of the administrative law judge's review described in this paragraph or the day after the individual is reinstated or obtains employment elsewhere, whichever occurs first. If the individual obtains employment elsewhere at a lower wage rate, the individual shall be compensated for the difference in wages for the period ending 120 days after completion of the administrative law judge review process. No lost wages shall be awarded for any period of time during which the individual was not in employment authorized status.

''(iii) PAYMENT OF COMPENSATION.—Notwithstanding any other law, payment of compensation for lost wages, costs, and attorneys' fees under this paragraph, or compromise settlements of the same, shall be made as provided by section 1304 of title 31, United States Code. Appropriations made available to the Secretary or the Commissioner, accounts provided for under section 286, and funds from the Federal Old-Age and Survivors Insurance Trust Fund or the Federal Disability Insurance Trust Fund shall not be available to pay such compensation.

''(G) APPEAL.—No later than 45 days after the entry of such final order, any person adversely affected by such final order may seek review of such order in the United States Court of Appeals for the circuit in which the violation is alleged to have occurred or in which the employer resides or transacts business.

''(8) MANAGEMENT OF THE SYSTEM.—

''(A) IN GENERAL.—The Secretary is authorized to establish, manage, and modify the System, which shall—

''(i) respond to inquiries made by participating employers at any time through the internet, or such other means as the Secretary may designate, concerning an individual's identity and whether the individual is in employment authorized status;

''(ii) maintain records of the inquiries that were made, of confirmations provided (or not provided), and of the codes provided to employers as evidence of their compliance with their obligations under the System; and

''(iii) provide information to, and require action by, employers and individuals using the System.

''(B) DESIGN AND OPERATION OF SYSTEM.—The System shall be designed and operated—

''(i) to maximize its reliability and ease of use by employers consistent with protecting the privacy and security of the underlying information, and ensuring full notice of such use to employees;

''(ii) to maximize its ease of use by employees, including direct notification of its use, of results, and ability to challenge results;

''(iii) to respond accurately to all inquiries made by employers on whether individuals are authorized to be employed and to register any times when the system is unable to receive inquiries;

''(iv) to maintain appropriate administrative, technical, and physical safeguards to prevent unauthorized disclosure of personal information, misuse by employers and employees, and discrimination;

''(v) to require regularly scheduled refresher training of all users of the System to ensure compliance with all procedures;

''(vi) to allow for auditing of the use of the System to detect misuse, discrimination, fraud, and identity theft, to protect privacy and assess System accuracy, and to preserve the integrity and security of the information in all of the System, including—

''(I) to develop and use tools and processes to detect or prevent fraud and identity theft, such as multiple uses of the same identifying information or documents to fraudulently gain employment;

''(II) to develop and use tools and processes to detect and prevent misuse of the system by employers and employees;

''(III) to develop tools and processes to detect anomalies in the use of the system that may indicate potential fraud or misuse of the system;

''(IV) to audit documents and information submitted by employees to employers, including authority to conduct interviews with

employers and employees, and obtain information concerning employment from the employer;

''(vii) to confirm identity and employment authorization through verification and comparison of records as determined necessary by the Secretary;

''(viii) to confirm electronically the issuance of the employment authorization or identity document and—

''(I) if such photograph is available, to display the digital photograph that the issuer placed on the document so that the employer can compare the photograph displayed to the photograph on the document presented by the employee; or

''(II) if a photograph is not available from the issuer, to confirm the authenticity of the document using such alternative procedures as the Secretary may specify; and

''(ix) to provide appropriate notification directly to employers registered with the System of all changes made by the Secretary or the Commissioner related to allowed and prohibited documents, and use of the System.

''(C) SAFEGUARDS TO THE SYSTEM.—

''(i) REQUIREMENT TO DEVELOP.—The Secretary, in consultation with the Commissioner and other appropriate Federal and State agencies, shall develop policies and procedures to ensure protection of the privacy and security of personally identifiable information and identifiers contained in the records accessed or maintained by the System. The Secretary, in consultation with the Commissioner and other appropriate Federal and State agencies, shall develop and deploy appropriate privacy and security training for the Federal and State employees accessing the records under the System.

''(ii) PRIVACY AUDITS.—The Secretary, acting through the Chief Privacy Officer of the Department, shall conduct regular privacy audits of the policies and procedures established under clause (i), including any collection, use, dissemination, and maintenance of personally identifiable information and any associated information technology systems, as well as scope of requests for this information. The Chief Privacy Officer shall review the results of the audits and recommend to the Secretary any changes necessary to improve the privacy protections of the program.

''(iii) ACCURACY AUDITS.—

''(I) IN GENERAL.—Not later than November 30 of each year, the Inspector General of the Department of Homeland Security shall submit a report to the Secretary, with a copy to the President of the Senate and the Speaker of the House of Representatives, that sets forth the error rate of the System for the previous fiscal year and the assessments required to be submitted by the Secretary under subparagraphs (A) and (B) of paragraph (10). The report shall describe in detail the methodology employed for purposes of the report, and shall make recommendations for how error rates may be reduced.

''(II) ERROR RATE DEFINED.—In this clause, the term 'error rate' means the percentage determined by dividing—

''(aa) the number of employment authorized individuals who received further action notices, contested such notices, and were subsequently found to be employment authorized; by

''(bb) the number of System inquiries submitted for employment authorized individuals.

''(III) REDUCTION OF PENALTIES FOR RECORDKEEPING OR VERIFICATION PRACTICES FOLLOWING PERSISTENT SYSTEM INACCURACIES.—Notwithstanding subsection (e)(4)(C)(i), in any calendar year following a report by the Inspector General under subclause (I) that the System had an error rate higher than 0.3 percent for the previous fiscal year, the civil penalty assessable by the Secretary or an administrative law judge under that subsection for each first-time violation by an employer who has not previously been penalized under this section may not exceed $1,000.

''(iv) RECORDS SECURITY PROGRAM.—Any person, including a private third party vendor, who retains document verification or System data pursuant to this section shall implement an effective records security program that—

''(I) ensures that only authorized personnel have access to document verification or System data; and

''(II) ensures that whenever such data is created, completed, updated, modified, altered, or corrected in electronic format, a secure and permanent record is created that establishes the date of access, the identity of the individual who accessed the electronic record, and the particular action taken.

''(v) RECORDS SECURITY PROGRAM.—In addition to the security measures described in clause (iv), a private third party vendor who retains document verification or System data pursuant to this section shall implement an effective records security program that—

''(I) provides for backup and recovery of any records maintained in electronic format to protect against information loss, such as power interruptions; and

''(II) ensures that employees are trained to minimize the risk of unauthorized or accidental alteration or erasure of such data in electronic format.

''(vi) AUTHORIZED PERSONNEL DEFINED.—In this subparagraph, the term 'authorized personnel' means anyone registered as a System user, or anyone with partial or full responsibility for completion of employment authorization verification or retention of data in connection with employment authorization verification on behalf of an employer.

''(D) AVAILABLE FACILITIES AND ALTERNATIVE ACCOMMODATIONS.—The Secretary shall make appropriate arrangements and develop standards to allow employers or employees, including remote hires, who are otherwise unable to access the System to use electronic and telephonic formats (including video conferencing, scanning technology, and other available technologies), Federal Government facilities, public facilities, or other available locations in order to utilize the System.

''(E) RESPONSIBILITIES OF THE SECRETARY.—

''(i) IN GENERAL.—As part of the System, the Secretary shall maintain a reliable, secure method, which, operating through the System and within the time periods specified, compares the name, alien identification or authorization number, or other information as determined relevant by the Secretary, provided in an inquiry against such information maintained or accessed by the Secretary in order to confirm (or not confirm) the validity of the information provided, the correspondence of the name and number, whether the alien has employment authorized status (or, to the extent that the Secretary determines to be feasible and appropriate, whether the records available to the Secretary verify the identity or status of a national of the United States), and such other information as the Secretary may prescribe.

''(ii) PHOTOGRAPH DISPLAY.—As part of the System, the Secretary shall establish a reliable, secure method, which, operating through the System, displays the digital photograph described in subparagraph (B)(viii)(I).

''(iii) TIMING OF NOTICES.—The Secretary shall have authority to prescribe when a confirmation, nonconfirmation, or further action notice shall be issued.

''(iv) USE OF INFORMATION.—The Secretary shall perform regular audits under the System, as described in subparagraph (B)(vi) and shall utilize the information obtained from such audits, as well as any information obtained from the Commissioner pursuant to part E of title XI of the Social Security Act (42 U.S.C. 1301 et seq.), for the purposes of this section and to administer and enforce the immigration laws.

''(v) IDENTITY FRAUD PROTECTION.—To prevent identity fraud, not later than 18 months after the date of the enactment of the Border Security, Economic Opportunity, and Immigration Modernization Act, the Secretary shall—

''(I) in consultation with the Commissioner, establish a program to provide a reliable, secure method for an individual to temporarily suspend or limit the use of the individual's social security account number or other identifying information for verification by the System; and

''(II) for each individual being verified through the System—

''(aa) notify the individual that the individual has the option to limit the use of the individual's social security account number or other identifying information for verification by the System; and

''(bb) provide instructions to the individuals for exercising the option referred to in item (aa).

''(vi) ALLOWING PARENTS TO PREVENT THEFT OF THEIR CHILD'S IDENTITY.—The Secretary, in consultation with the Commissioner, shall establish a program that provides a reliable, secure method by which parents or legal guardians may suspend or limit the use of the social security account number or other identifying information of a minor under their care for the purposes of the System. The Secretary may implement the program on a limited pilot program basis before making it fully available to all individuals.

''(vii) PROTECTION FROM MULTIPLE USE.—The Secretary and the Commissioner shall establish a procedure for identifying and handling a situation in which a social security account number has been identified to be subject to unusual multiple use in the System or is otherwise suspected or determined to have been compromised by identity fraud.

''(viii) MONITORING AND COMPLIANCE UNIT.—The Secretary shall establish or designate a monitoring and compliance unit to detect and reduce identity fraud and other misuse of the System.

''(ix) CIVIL RIGHTS AND CIVIL LIBERTIES ASSESSMENTS.—

''(I) REQUIREMENT TO CONDUCT.—The Secretary shall conduct regular civil rights and civil liberties assessments of the System, including participation by employers, other private entities, and Federal, State, and local government entities.

''(II) REQUIREMENT TO RESPOND.—Employers, other private entities, and Federal, State, and local entities shall timely respond to any request in connection with such an assessment.

''(III) ASSESSMENT AND RECOMMENDATIONS.—The Officer for Civil Rights and Civil Liberties of the Department shall review the results of each such assessment and recommend to the Secretary any changes necessary to improve the civil rights and civil liberties protections of the System.

''(F) GRANTS TO STATES.—

''(i) IN GENERAL.—The Secretary shall create and administer a grant program to help provide funding for States that grant—

''(I) the Secretary access to driver's license information as needed to confirm that a driver's license presented under subsection

(c)(1)(D)(i) confirms the identity of the subject of the System check, and that a driver's license matches the State's records; and

''(II) such assistance as the Secretary may request in order to resolve further action notices or nonconfirmations relating to such information.

''(ii) CONSTRUCTION WITH THE DRIVER'S PRIVACY PROTECTION ACT OF 1994.—The provision of a photograph to the Secretary as described in clause (i) may not be construed as a violation of section 2721 of title 18, United States Code, and is a permissible use under subsection (b)(1) of that section.

''(iii) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary $250,000,000 to carry out this subparagraph.

''(G) RESPONSIBILITIES OF THE SECRETARY OF STATE.—As part of the System, the Secretary of State shall provide to the Secretary access to passport and visa information as needed to confirm that a passport, passport card, or visa presented under subsection (c)(1)(C) confirms the identity of the subject of the System check, and that a passport, passport card, or visa photograph matches the Secretary of State's records, and shall provide such assistance as the Secretary may request in order to resolve further action notices or nonconfirmations relating to such information.

''(H) UPDATING INFORMATION.—The Commissioner, the Secretary, and the Secretary of State shall update their information in a manner that promotes maximum accuracy and shall provide a process for the prompt correction of erroneous information.

''(9) LIMITATION ON USE OF THE SYSTEM.—Notwithstanding any other provision of law, nothing in this subsection may be construed to permit or allow any department, bureau, or other agency of the United States Government or any other entity to utilize any information, database, or other records assembled under this subsection for any purpose other than for employment verification or to ensure secure, appropriate and nondiscriminatory use of the System.

''(10) ANNUAL REPORT AND CERTIFICATION.—Not later than 18 months after the promulgation of regulations to implement this subsection, and annually thereafter, the Secretary shall submit to Congress a report that includes the following:

''(A) An assessment, as submitted to the Secretary by the Inspector General of the Department of Homeland Security pursuant to paragraph (8)(C)(iii)(I), of the accuracy rates of further action notices and other System notices provided by employers to individuals who are authorized to be employed in the United States.

''(B) An assessment, as submitted to the Secretary by the Inspector General of the Department of Homeland Security pursuant to paragraph (8)(C)(iii)(I), of the accuracy rates of further action notices and other System notices provided directly (by the System) in a timely fashion to individuals who are not authorized to be employed in the United States.

''(C) An assessment of any challenges faced by small employers in utilizing the System.

''(D) An assessment of the rate of employer noncompliance (in addition to failure to provide required notices in a timely fashion) in each of the following categories:

''(i) Taking adverse action based on a further action notice.

''(ii) Use of the System for nonemployees or other individuals before they are offered employment.

''(iii) Use of the System to reverify employment authorized status of current employees except if authorized to do so.

''(iv) Use of the System selectively, except in cases in which such use is authorized.

''(v) Use of the System to deny employment or post-employment benefits or otherwise interfere with labor rights.

''(vi) Requiring employees or applicants to use any self-verification feature or to provide self-verification results.

''(vii) Discouraging individuals who receive a further action notice from challenging the further action notice or appealing a determination made by the System.

''(E) An assessment of the rate of employee noncompliance in each of the following categories:

''(i) Obtaining employment when unauthorized with an employer complying with the System in good faith.

''(ii) Failure to provide required documents in a timely manner.

''(iii) Attempting to use fraudulent documents or documents not related to the individual.

''(iv) Misuse of the administrative appeal and judicial review process.

''(F) An assessment of the amount of time taken for—

''(i) the System to provide the confirmation or further action notice;

''(ii) individuals to contest further action notices;

''(iii) the System to provide a confirmation or nonconfirmation of a contested further action notice;

''(iv) individuals to file an administrative appeal of a nonconfirmation; and

''(v) resolving administrative appeals regarding nonconfirmations.

''(11) ANNUAL GAO STUDY AND REPORT.—

''(A) REQUIREMENT.—The Comptroller General shall, for each year, undertake a study to evaluate the accuracy, efficiency, integrity, and impact of the System.

''(B) REPORT.—Not later than 18 months after the promulgation of regulations to implement this subsection, and yearly thereafter, the Comptroller General shall submit to Congress a report containing the findings of the study carried out under this paragraph. Each such report shall include, at a minimum, the following:

''(i) An assessment of System performance with respect to the rate at which individuals who are eligible for employment in the United States are correctly approved within the required periods, including a separate assessment of such rate for naturalized United States citizens, nationals of the United States, and aliens.

''(ii) An assessment of the privacy and confidentiality of the System and of the overall security of the System with respect to cybertheft and theft or misuse of private data.

''(iii) An assessment of whether the System is being implemented in a manner that is not discriminatory or used for retaliation against employees.

''(iv) An assessment of the most common causes for the erroneous issuance of nonconfirmations by the System and recommendations to correct such causes.

''(v) The recommendations of the Comptroller General regarding System improvements.

''(vi) An assessment of the frequency and magnitude of changes made to the System and the impact on the ability for employers to comply in good faith.

''(vii) An assessment of the direct and indirect costs incurred by employers in complying with the System, including costs associated with retaining potential employees through the administrative appeals process and receiving a nonconfirmation.

''(viii) An assessment of any backlogs or delays in the System providing the confirmation or further action notice and impacts to hiring by employers.

''(e) COMPLIANCE.—

''(1) COMPLAINTS AND INVESTIGATIONS.—The Secretary shall establish procedures—

''(A) for individuals and entities to file complaints respecting potential violations of subsections (a) or (f)(1);

''(B) for the investigation of those complaints which the Secretary deems appropriate to investigate; and

''(C) for providing notification to the Special Counsel for Immigration-Related Unfair Employment Practices of the Department of Justice of potential violations of section 274B.

''(2) AUTHORITY IN INVESTIGATIONS.—In conducting investigations and proceedings under this subsection—

''(A) immigration officers shall have reasonable access to examine evidence of the employer being investigated;

''(B) immigration officers designated by the Secretary, and administrative law judges and other persons authorized to conduct proceedings under this section, may compel by subpoena the attendance of relevant witnesses and the production of relevant evidence at any designated place in an investigation or case under this subsection. In case of refusal to fully comply with a subpoena lawfully issued under this paragraph, the Secretary may request that the Attorney General apply in an appropriate district court of the United States for an order requiring compliance with the subpoena, and any failure to obey such order may be punished by the court as contempt. Failure to cooperate with the subpoena shall be subject to further penalties, including further fines and the voiding of any mitigation of penalties or termination of proceedings under paragraph (4)(E); and

''(C) the Secretary, in cooperation with the Commissioner and Attorney General, and in consultation with other relevant agencies, shall establish a Joint Employment Fraud Task Force consisting of, at a minimum—

''(i) the System's compliance personnel;

''(ii) immigration law enforcement officers;

''(iii) personnel of the Office of Special Counsel for Immigration-Related Unfair Employment Practices of the Department of Justice;

''(iv) personnel of the Office for Civil Rights and Civil Liberties of the Department; and

''(v) personnel of Office of Inspector General of the Social Security Administration.

''(3) COMPLIANCE PROCEDURES.—

''(A) PRE-PENALTY NOTICE.—If the Secretary has reasonable cause to believe that there has been a civil violation of this section in the previous 3 years, the Secretary shall issue to the employer concerned a written notice of the Department's intention to issue a claim for a monetary or other penalty. Such pre-penalty notice shall—

''(i) describe the violation;

''(ii) specify the laws and regulations allegedly violated;

''(iii) disclose the material facts which establish the alleged violation;

''(iv) describe the penalty sought to be imposed; and

''(v) inform such employer that such employer shall have a reasonable opportunity to make representations as to why a monetary or other penalty should not be imposed.

''(B) EMPLOYER'S RESPONSE.—Whenever any employer receives written pre-penalty notice of a fine or other penalty in accordance with subparagraph (A), the employer may, within 60 days from receipt of such notice, file with the Secretary its written response to the notice. The response may include any relevant evidence or proffer of evidence that the employer wishes to present with respect to whether the employer violated this section and whether, if so, the penalty should be mitigated, and shall be filed and considered

in accordance with procedures to be established by the Secretary.

''(C) RIGHT TO A HEARING.—Before issuance of an order imposing a penalty on any employer, person, or entity, the employer, person, or entity shall be entitled to a hearing before an administrative law judge, if requested within 60 days of the notice of penalty. The hearing shall be held at the nearest location practicable to the place where the employer, person, or entity resides or of the place where the alleged violation occurred.

''(D) ISSUANCE OF ORDERS.—If no hearing is so requested, the Secretary's imposition of the order shall constitute a final and unappealable order. If a hearing is requested and the administrative law judge determines, upon clear and convincing evidence received, that there was a violation, the administrative law judge shall issue the final determination with a written penalty claim. The penalty claim shall specify all charges in the information provided under clauses (i) through (iii) of subparagraph (A) and any mitigation of the penalty that the administrative law judge deems appropriate under paragraph (4)(E).

''(4) CIVIL PENALTIES.—

''(A) HIRING OR CONTINUING TO EMPLOY UNAUTHORIZED ALIENS.—Any employer that violates any provision of subsection (a)(1)(A) or (a)(2) shall—

''(i) pay a civil penalty of not less than $3,500 and not more than $7,500 for each unauthorized alien with respect to which each violation of either subsection (a)(1)(A) or (a)(2) occurred;

''(ii) if the employer has previously been fined as a result of a previous enforcement action or previous violation under this paragraph, pay a civil penalty of not less than $5,000 and not more than $15,000 for each unauthorized alien with respect to which a violation of either subsection (a)(1)(A) or (a)(2) occurred; and

''(iii) if the employer has previously been fined more than once under this paragraph, pay a civil penalty of not less than $10,000 and not more than $25,000 for each unauthorized alien with respect to which a violation of either subsection (a)(1)(A) or (a)(2) occurred.

''(B) ENHANCED PENALTIES.—After the Secretary certifies to Congress that the System has been established, implemented, and made mandatory for use by all employers in the United States, the Secretary may establish an enhanced civil penalty for an employer who—

''(i) fails to query the System to verify the identify and work authorized status of an individual; and

''(ii) violates a Federal, State, or local law related to—

''(I) the payment of wages;

''(II) hours worked by employees; or

''(III) workplace health and safety.

''(C) RECORDKEEPING OR VERIFICATION PRACTICES.—Any employer that violates or fails to comply with any requirement under subsection (a)(1)(B), other than a minor or inadvertent failure, as determined by the Secretary, shall pay a civil penalty of—

''(i) not less than $500 and not more than $2,000 for each violation;

''(ii) if an employer has previously been fined under this paragraph, not less than $1,000 and not more than $4,000 for each violation; and

''(iii) if an employer has previously been fined more than once under this paragraph, not less than $2,000 and not more than $8,000 for each violation.

''(D) OTHER PENALTIES.—The Secretary may impose additional penalties for violations, including cease and desist orders, specially designed compliance plans to prevent further violations, suspended fines to take effect in the event of a further violation, and in appropriate cases, the remedy provided by paragraph (f)(2).

''(E) MITIGATION.—The Secretary or, if an employer requests a hearing, the administrative law judge, is authorized, upon such terms and conditions as the Secretary or administrative law judge deems reasonable and just and in accordance with such procedures as the Secretary may establish or any procedures established governing the administrative law judge's assessment of penalties, to reduce or mitigate penalties imposed upon employers, based upon factors including, the employer's hiring volume, compliance history, good-faith implementation of a compliance program, the size and level of sophistication of the employer, and voluntary disclosure of violations of this subsection to the Secretary. The Secretary or administrative law judge shall not mitigate a penalty below the minimum penalty provided by this section, except that the Secretary may, in the case of an employer subject to penalty for recordkeeping or verification violations only who has not previously been penalized under this section, in the Secretary's or administrative law judge's discretion, mitigate the penalty below the statutory minimum or remit it entirely. In any case where a civil money penalty has been imposed on an employer under section 274B for an action or omission that is also a violation of this section, the Secretary or administrative law judge shall mitigate any civil money penalty under this section by the amount of the penalty imposed under section 274B.

''(F) EFFECTIVE DATE.—The civil money penalty amounts and the enhanced penalties provided by subparagraphs (A), (B), and (C) of this paragraph and by subsection (f)(2) shall apply to violations of this section committed on or after the date that is 1 year after the date of the enactment of the Border Security, Economic Opportunity, and Immigration Modernization Act. For violations committed prior to such date of enactment, the civil money penalty amounts provided by regulations implementing this section as in effect the minute before such date of enactment with respect to knowing hiring or continuing employment, verification, or indemnity bond violations, as appropriate, shall apply.

''(5) ORDER OF INTERNAL REVIEW AND CERTIFICATION OF COMPLIANCE.—

''(A) EMPLOYER COMPLIANCE.—If the Secretary has reasonable cause to believe that an employer has failed to comply with this section, the Secretary is authorized, at any time, to require that the employer certify that it is in compliance with this section, or has instituted a program to come into compliance.

''(B) EMPLOYER CERTIFICATION.—

''(i) REQUIREMENT.—Except as provided in subparagraph (C), not later than 60 days after receiving a notice from the Secretary requiring a certification under subparagraph (A), an official with responsibility for, and authority to bind the company on, all hiring and immigration compliance notices shall certify under penalty of perjury that the employer is in conformance with the requirements of paragraphs (1) through (4) of subsection (c), pertaining to document verification requirements, and with subsection (d), pertaining to the System (once the System is implemented with respect to that employer according to the requirements under subsection (d)(2)), and with any additional requirements that the Secretary may promulgate by regulation pursuant to subsection (c) or (d) or that the employer has instituted a program to come into compliance with these requirements.

''(ii) APPLICATION.—Clause (i) shall not apply until the date that the Secretary certifies to Congress that the System has been established, implemented, and made mandatory for use by all employers in the United States.

''(C) EXTENSION OF DEADLINE.—At the request of the employer, the Secretary may extend the 60-day deadline for good cause.

''(D) STANDARDS OR METHODS.—The Secretary is authorized to publish in the Federal Register standards or methods for such certification, require specific recordkeeping practices with respect to such certifications, and audit the records thereof at any time. This authority shall not be construed to diminish or qualify any other penalty provided by this section.

''(6) REQUIREMENTS FOR REVIEW OF A FINAL DETERMINATION.—With respect to judicial review of a final determination or penalty order issued under paragraph (3)(D), the following requirements apply:

''(A) DEADLINE.—The petition for review must be filed no later than 30 days after the date of the final determination or penalty order issued under paragraph (3)(D).

''(B) VENUE AND FORMS.—The petition for review shall be filed with the court of appeals for the judicial circuit where the employer's principal place of business was located when the final determination or penalty order was made. The record and briefs do not have to be printed. The court shall review the proceeding on a typewritten or electronically filed record and briefs.

''(C) SERVICE.—The respondent is the Secretary. In addition to serving the respondent, the petitioner shall serve the Attorney General.

''(D) PETITIONER'S BRIEF.—The petitioner shall serve and file a brief in connection with a petition for judicial review not later than 40 days after the date on which the administrative record is available, and may serve and file a reply brief not later than 14 days after service of the brief of the respondent, and the court may not extend these deadlines, except for good cause shown. If a petitioner fails to file a brief within the time provided in this paragraph, the court shall dismiss the appeal unless a manifest injustice would result.

''(E) SCOPE AND STANDARD FOR REVIEW.—The court of appeals shall conduct a de novo review of the administrative record on which the final determination was based and any additional evidence that the Court finds was previously unavailable at the time of the administrative hearing.

''(F) EXHAUSTION OF ADMINISTRATIVE REMEDIES.—A court may review a final determination under paragraph (3)(C) only if—

''(i) the petitioner has exhausted all administrative remedies available to the petitioner as of right, including any administrative remedies established by regulation, and

''(ii) another court has not decided the validity of the order, unless the reviewing court finds that the petition presents grounds that could not have been presented in the prior judicial proceeding or that the remedy provided by the prior proceeding was inadequate or ineffective to test the validity of the order.

''(G) ENFORCEMENT OF ORDERS.—If the final determination issued against the employer under this subsection is not subjected to review as provided in this paragraph, the Attorney General, upon request by the Secretary, may bring a civil action to enforce compliance with the final determination in any appropriate district court of the United States. The court, on a proper showing, shall issue a temporary restraining order or a preliminary or permanent injunction requiring that the employer comply with the final determination issued against that employer under this subsection. In any such civil action, the validity and appropriateness of the

final determination shall not be subject to review.

''(7) CREATION OF LIEN.—If any employer liable for a fee or penalty under this section neglects or refuses to pay such liability after demand and fails to file a petition for review (if applicable) as provided in paragraph (6), the amount of the fee or penalty shall be a lien in favor of the United States on all property and rights to property, whether real or personal, belonging to such employer. If a petition for review is filed as provided in paragraph (6), the lien shall arise upon the entry of a final judgment by the court. The lien continues for 20 years or until the liability is satisfied, remitted, set aside, or terminated.

''(8) FILING NOTICE OF LIEN.—

''(A) PLACE FOR FILING.—The notice of a lien referred to in paragraph (7) shall be filed as described in 1 of the following:

''(i) UNDER STATE LAWS.—

''(I) REAL PROPERTY.—In the case of real property, in 1 office within the State (or the county, or other governmental subdivision), as designated by the laws of such State, in which the property subject to the lien is situated.

''(II) PERSONAL PROPERTY.—In the case of personal property, whether tangible or intangible, in 1 office within the State (or the county, or other governmental subdivision), as designated by the laws of such State, in which the property subject to the lien is situated, except that State law merely conforming to or reenacting Federal law establishing a national filing system does not constitute a second office for filing as designated by the laws of such State.

''(ii) WITH CLERK OF DISTRICT COURT.—In the office of the clerk of the United States district court for the judicial district in which the property subject to the lien is situated, whenever the State has not by law designated 1 office which meets the requirements of clause (i).

''(iii) WITH RECORDER OF DEEDS OF THE DISTRICT OF COLUMBIA.—In the office of the Recorder of Deeds of the District of Columbia, if the property subject to the lien is situated in the District of Columbia.

''(B) SITUS OF PROPERTY SUBJECT TO LIEN.—For purposes of subparagraph (A), property shall be deemed to be situated as follows:

''(i) REAL PROPERTY.—In the case of real property, at its physical location.

''(ii) PERSONAL PROPERTY.—In the case of personal property, whether tangible or intangible, at the residence of the taxpayer at the time the notice of lien is filed.

''(C) DETERMINATION OF RESIDENCE.—For purposes of subparagraph (B)(ii), the residence of a corporation or partnership shall be deemed to be the place at which the principal executive office of the business is located, and the residence of a taxpayer whose residence is outside the United States shall be deemed to be in the District of Columbia.

''(D) EFFECT OF FILING NOTICE OF LIEN.—

''(i) IN GENERAL.—Upon filing of a notice of lien in the manner described in this paragraph, the lien shall be valid against any purchaser, holder of a security interest, mechanic's lien, or judgment lien creditor, except with respect to properties or transactions specified in subsection (b), (c), or (d) of section 6323 of the Internal Revenue Code of 1986 for which a notice of tax lien properly filed on the same date would not be valid.

''(ii) NOTICE OF LIEN.—The notice of lien shall be considered a notice of lien for taxes payable to the United States for the purpose of any State or local law providing for the filing of a notice of a tax lien. A notice of lien that is registered, recorded, docketed, or indexed in accordance with the rules and requirements relating to judgments of the courts of the State where the notice of lien is registered, recorded, docketed, or indexed shall be considered for all purposes as the filing prescribed by this section.

''(iii) OTHER PROVISIONS.—The provisions of section 3201(e) of title 28, United States Code, shall apply to liens filed as prescribed by this paragraph.

''(E) ENFORCEMENT OF A LIEN.—A lien obtained through this paragraph shall be considered a debt as defined by section 3002 of title 28, United States Code and enforceable pursuant to chapter 176 of such title.

''(9) ATTORNEY GENERAL ADJUDICATION.—The Attorney General shall have jurisdiction to adjudicate administrative proceedings under this subsection. Such proceedings shall be conducted in accordance with requirements of section 554 of title 5, United States Code.

''(f) CRIMINAL AND CIVIL PENALTIES AND INJUNCTIONS.—

''(1) PROHIBITION OF INDEMNITY BONDS.—It is unlawful for an employer, in the hiring of any individual, to require the individual to post a bond or security, to pay or agree to pay an amount, or otherwise to provide a financial guarantee or indemnity, against any potential liability arising under this section relating to such hiring of the individual.

''(2) CIVIL PENALTY.—Any employer who is determined, after notice and opportunity for mitigation of the monetary penalty under subsection (e), to have violated paragraph (1) shall be subject to a civil penalty of $10,000 for each violation and to an administrative order requiring the return of any amounts received in violation of such paragraph to the employee or, if the employee cannot be located, to the general fund of the Treasury.

''(g) GOVERNMENT CONTRACTS.—

''(1) CONTRACTORS AND RECIPIENTS.—Whenever an employer who is a Federal contractor (meaning an employer who holds a Federal contract, grant, or cooperative agreement, or reasonably may be expected to submit an offer for or be awarded a government contract) is determined by the Secretary to have violated this section on more than 3 occasions or is convicted of a crime under this section, the employer shall be considered for debarment from the receipt of Federal contracts, grants, or cooperative agreements in accordance with the procedures and standards and for the periods prescribed by the Federal Acquisition Regulation. However, any administrative determination of liability for civil penalty by the Secretary or the Attorney General shall not be reviewable in any debarment proceeding.

''(2) INADVERTENT VIOLATIONS.—Inadvertent violations of recordkeeping or verification requirements, in the absence of any other violations of this section, shall not be a basis for determining that an employer is a repeat violator for purposes of this subsection.

''(3) OTHER REMEDIES AVAILABLE.—Nothing in this subsection shall be construed to modify or limit any remedy available to any agency or official of the Federal Government for violation of any contractual requirement to participate in the System, as provided in the final rule relating to employment eligibility verification published in the Federal Register on November 14, 2008 (73 Fed. Reg. 67,651), or any similar subsequent regulation.

''(h) PREEMPTION.—Beginning on the date on which all employers are required to use the System pursuant to subsection (d)(2), the provisions of this section preempt any State or local law, ordinance, policy, or rule, including any criminal or civil fine or penalty structure, relating to the hiring, continued employment, or status verification for employment eligibility purposes, of unauthorized aliens. A State, locality, municipality, or political subdivision may exercise its authority over business licensing and similar laws as a penalty for failure to use the System.

''(i) DEPOSIT OF AMOUNTS RECEIVED.—Except as otherwise specified, civil penalties collected under this section shall be deposited by the Secretary into the Comprehensive Immigration Reform Trust Fund established under section 6(a)(1) of the Border Security, Economic Opportunity, and Immigration Modernization Act.

''(j) CHALLENGES TO VALIDITY OF THE SYSTEM.—

''(1) IN GENERAL.—Any right, benefit, or claim not otherwise waived or limited pursuant to this section is available in an action instituted in the United States District Court for the District of Columbia, but shall be limited to determinations of—

''(A) whether this section, or any regulation issued to implement this section, violates the Constitution of the United States; or

''(B) whether such a regulation issued by or under the authority of the Secretary to implement this section, is contrary to applicable provisions of this section or was issued in violation of chapter 5 of title 5, United States Code.

''(2) DEADLINES FOR BRINGING ACTIONS.—Any action instituted under this subsection must be filed no later than 180 days after the date the challenged section or regulation described in subparagraph (A) or (B) of paragraph (1) becomes effective. No court shall have jurisdiction to review any challenge described in subparagraph (B) after the time period specified in this subsection expires.

''(k) CRIMINAL PENALTIES AND INJUNCTIONS FOR PATTERN OR PRACTICE VIOLATIONS.—

''(1) PATTERN AND PRACTICE.—Any employer who engages in a pattern or practice of knowing violations of subsection (a)(1)(A) or (a)(2) shall be fined under title 18, United States Code, no more than $10,000 for each unauthorized alien with respect to whom such violation occurs, imprisoned for not more than 2 years for the entire pattern or practice, or both.

''(2) TERM OF IMPRISONMENT.—The maximum term of imprisonment of a person convicted of any criminal offense under the United States Code shall be increased by 5 years if the offense is committed as part of a pattern or practice of violations of subsection (a)(1)(A) or (a)(2).

''(3) ENJOINING OF PATTERN OR PRACTICE VIOLATIONS.—Whenever the Secretary or the Attorney General has reasonable cause to believe that an employer is engaged in a pattern or practice of employment in violation of subsection (a)(1)(A) or (a)(2), the Attorney General may bring a civil action in the appropriate district court of the United States requesting such relief, including a permanent or temporary injunction, restraining order, or other order against the employer, as the Secretary or Attorney General deems necessary.

''(l) CRIMINAL PENALTIES FOR UNLAWFUL AND ABUSIVE EMPLOYMENT.—

''(1) IN GENERAL.—Any person who, during any 12-month period, knowingly employs or hires, employs, recruits, or refers for a fee for employment 10 or more individuals within the United States who are under the control and supervision of such person—

''(A) knowing that the individuals are unauthorized aliens; and

''(B) under conditions that violate section 5(a) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 654(a) (relating to occupational safety and health), section 6 or 7 of the Fair Labor Standards Act of 1938 (29 U.S.C. 206 and 207) (relating to minimum wages and maximum hours of employment), section 3142 of title 40, United States Code, (relating to required wages on construction contracts), or sections 6703 or 6704 of title 41,

United States Code, (relating to required wages on service contracts),

shall be fined under title 18, United States Code, or imprisoned for not more than 10 years, or both.

''(2) ATTEMPT AND CONSPIRACY.—Any person who attempts or conspires to commit any offense under this section shall be punished in the same manner as a person who completes the offense.''.

(b) REPORT ON USE OF THE SYSTEM IN THE AGRICULTURAL INDUSTRY.—Not later than 18 months after the date of the enactment of this Act, the Secretary, in consultation with the Secretary of Agriculture, shall submit a report to Congress that assesses implementation of the Employment Verification System established under section 274A(d) of the Immigration and Nationality Act, as amended by subsection (a), in the agricultural industry, including the use of such System technology in agriculture industry hiring processes, user, contractor, and third-party employer agent employment practices, timing and logistics regarding employment verification and reverification processes to meet agriculture industry practices, and identification of potential challenges and modifications to meet the unique needs of the agriculture industry. Such report shall review—

(1) the modality of access, training and outreach, customer support, processes for further action notices and secondary verifications for short-term workers, monitoring, and compliance procedures for such System;

(2) the interaction of such System with the process to admit nonimmigrant workers pursuant to section 218 or 218A of the Immigration and Nationality Act (8 U.S.C. 1188 et seq.) and with enforcement of the immigration laws; and

(3) the collaborative use of processes of other Federal and State agencies that intersect with the agriculture industry.

(c) REPORT ON IMPACT OF THE SYSTEM ON EMPLOYERS.—Not later than 18 months after the date of the enactment of this Act, the Secretary shall submit to Congress a report that assesses—

(1) the implementation of the Employment Verification System established under section 274A(d) of the Immigration and Nationality Act, as amended by subsection (a), by employers;

(2) any adverse impact on the revenues, business processes, or profitability of employers required to use such System; and

(3) the economic impact of such System on small businesses.

(d) GOVERNMENT ACCOUNTABILITY OFFICE STUDY OF THE EFFECTS OF DOCUMENT REQUIREMENTS ON EMPLOYMENT AUTHORIZED PERSONS AND EMPLOYERS.—

(1) STUDY.—The Comptroller General of the United States shall carry out a study of—

(A) the effects of the documentary requirements of section 274A of the Immigration and Nationality Act, as amended by subsection (a), on employers, naturalized United States citizens, nationals of the United States, and individuals with employment authorized status; and

(B) the challenges such employers, citizens, nationals, or individuals may face in obtaining the documentation required under that section.

(2) REPORT.—Not later than 4 years after the date of the enactment of this Act, the Comptroller General shall submit to Congress a report containing the findings of the study carried out under paragraph (1). Such report shall include, at a minimum, the following:

(A) An assessment of available information regarding the number of working age nationals of the United States and individuals who have employment authorized status who lack documents required for employment by such section 274A.

(B) A description of the additional steps required for individuals who have employment authorized status and do not possess the documents required by such section 274A to obtain such documents.

(C) A general assessment of the average financial costs for individuals who have employment authorized status who do not possess the documents required by such section 274A to obtain such documents.

(D) A general assessment of the average financial costs and challenges for employers who have been required to participate in the Employment Verification System established by subsection (d) of such section 274A.

(E) A description of the barriers to individuals who have employment authorized status in obtaining the documents required by such section 274A, including barriers imposed by the executive branch of the Government.

(F) Any particular challenges facing individuals who have employment authorized status who are members of a federally recognized Indian tribe in complying with the provisions of such section 274A.

(e) REPEAL OF PILOT PROGRAMS AND E-VERIFY AND TRANSITION PROCEDURES.—

(1) REPEAL.—Sections 401, 402, 403, 404, and 405 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208; 8 U.S.C. 1324a note) are repealed.

(2) TRANSITION PROCEDURES.—

(A) CONTINUATION OF E-VERIFY PROGRAM.—Notwithstanding the repeals made by paragraph (1), the Secretary shall continue to operate the E-Verify Program as described in section 403 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208; 8 U.S.C. 1324a note), as in effect the minute before the date of the enactment of this Act, until the transition to the System described in section 274A(d) of the Immigration and Nationality Act, as amended by subsection (a), is determined by the Secretary to be complete.

(B) TRANSITION TO THE SYSTEM.—Any employer who was participating in the E-Verify Program described in section 403 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208; 8 U.S.C. 1324a note), as in effect the minute before the date of the enactment of this Act, shall participate in the System described in section 274A(d) of the Immigration and Nationality Act, as amended by subsection (a), to the same extent and in the same manner that the employer participated in such E-Verify Program.

(3) CONSTRUCTION.—The repeal made by paragraph (1) may not be construed to limit the authority of the Secretary to allow or continue to allow the participation in such System of employers who have participated in such E-Verify Program, as in effect on the minute before the date of the enactment of this Act.

(f) CONFORMING AMENDMENT.—Section 274(a) (8 U.S.C. 1324(a)) is amended—

(1) by striking paragraph (3); and

(2) by redesignating paragraph (4) as paragraph (3).

(g) INFORMATION SHARING.—The Commissioner of Social Security, the Secretary, and the Secretary of the Treasury shall jointly establish a program to share information among such agencies that may lead to the identification of unauthorized aliens (as described in section 274A of the Immigration and Nationality Act, as amended by subsection (a)), including—

(1) no-match letters; and

(2) any information in the earnings suspense file.

---

**SA 1577.** Mr. VITTER submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

(c) TRIGGERS.—The Secretary may not commence processing applications for registered provisional immigrant status pursuant to section 245B of the Immigration and Nationality Act, as added by section 2101 of this Act, until 6 months after the date on which the Secretary, after consultation with the Attorney General, the Secretary of Defense, the Inspector General of the Department, and the Comptroller General of the United States, submits to the President and Congress a written certification that—

(i) the Comprehensive Southern Border Security Strategy—

(I) has been submitted to Congress and includes minimum requirements described under paragraphs (3), (4), and (5) of section 5(a);

(II) is deployed and operational (for purposes of this clause the term ''operational'' means the technology, infrastructure, and personnel, deemed necessary by the Secretary, in consultation with the Attorney General and the Secretary of Defense, and the Comptroller General, and includes the technology described under section 5(a)(3) to achieve effective control of the Southern border, has been procured, funded, and is in current use by the Department achieve effective control, except in the event of routine maintenance, de minimis non-deployment, or natural disaster that would prevent the use of such assets);

(ii) the Southern Border Fencing Strategy has been submitted to Congress and implemented, and as a result the Secretary will certify that there is in place along the Southern Border no fewer than 700 miles of pedestrian fencing which will include replacement of all currently existing vehicle fencing on non-tribal lands on the Southern Border with pedestrian fencing where possible, and after this has been accomplished may include a second layer of pedestrian fencing in those locations along the Southern Border which the Secretary deems necessary or appropriate;

(iii) the Secretary has implemented the mandatory employment verification system required by section 274A of the Immigration and Nationality Act (8 U.S.C.1324a), as amended by section 3101, for use by all employers to prevent unauthorized workers from obtaining employment in the United States;

(iv) the Secretary is using the electronic exit system created by section 3303(a)(1) at all international air and sea ports of entry within the United States where U.S. Customs and Border Protection officers are currently deployed; and

(v) no fewer than 38,405 trained fulltime active duty U.S. Border Patrol agents are deployed, stationed, and maintained along the Southern Border.

---

**SA 1578.** Mr. VITTER submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 3 of the amendment, strike line 4 and all that follows through line 25, and insert the following:

''(c) TRIGGERS.—The Secretary may not commence processing applications for registered provisional immigrant status pursuant to section 245B of the Immigration and Nationality Act, as added by section 2101 of this Act, until 6 months after the date on which the''.

---

**SA 1579.** Mr. CRUZ submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

Strike sections 1101 through 1122 and insert the following:

**SEC. 1101. BORDER SECURITY REQUIREMENTS.**

(a) IN GENERAL.—During the 3-year period beginning on the date of the enactment of this Act, the Secretary shall—

(1) triple the number of U.S. Border Patrol agents stationed along the international border between the United States and Mexico;

(2) quadruple the equipment and other assets stationed along such border, including cameras, sensors, drones, and helicopters, to enable continuous monitoring of the border;

(3) complete all of the fencing required under the Secure Fence Act of 2006 (Public Law 109–367);

(4) develop, in cooperation with the Department of Defense and all Federal law enforcement agencies, a policy ensuring real-time sharing of information among all Federal law enforcement agencies regarding—

(A) smuggling routes for humans and contraband;

(B) patterns in illegal border crossings;

(C) new techniques or methods used in cross-border illegal activity; and

(D) all other information pertinent to border security;

(5) complete and fully implement the United States Visitor and Immigrant Status Indicator Technology (US-VISIT), including the biometric entry-exist portion; and

(6) establish operational control (as defined in section 2(b) of the Secure Fence Act of 2006 (Public Law 109–367)) over 100 percent of the international border between the United States and Mexico.

(b) TRIGGERS.—The Secretary may not commence processing applications for registered provisional immigrant status pursuant to section 245B of the Immigration and Nationality Act, as added by section 2101, or blue card status under section 2111 until the Secretary has substantially complied with all of the requirements set forth in subsection (a).

(c) BUDGETARY EFFECTS OF NONCOMPLIANCE.—

(1) INITIAL REDUCTIONS.—If, on the date that is 3 years after the date of the enactment of this Act, the Secretary has failed to substantially comply with all of the requirements set forth in subsection (a)—

(A) the amount appropriated to the Department for the following fiscal year shall be automatically reduced by 20 percent;

(B) an amount equal to the reduction under subparagraph (A) shall be made available, in block grants, to the States of Arizona, California, New Mexico, and Texas for securing the international border between the United States and Mexico; and

(C) the salary of all political appointees at the Department shall be reduced by 20 percent.

(2) SUBSEQUENT YEARS.—If, on the date that is 4, 5, 6, or 7 years after the date of the enactment of this Act, the Secretary has failed to substantially comply with all of the requirements set forth in subsection (a)—

(A) the reductions and block grants authorized under subparagraphs (A) and (B) of paragraph (1) shall increase by an additional 5 percent of the amount appropriated to the Department before the reduction authorized under paragraph (1)(A); and

(B) the salary of all political appointees at the Department shall be reduced by an additional 5 percent.

(d) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—Subject to paragraph (2), there are authorized to be appropriated to carry out this title such sums as may be necessary for each of the fiscal year 2014 through 2018.

(2) OFFSET.—

(A) IN GENERAL.—Any amounts appropriated pursuant to paragraph (1) shall be offset by an equal reduction in the amounts appropriated for other purposes.

(B) RESCISSION.—If the reductions required under subparagraph (A) are not made during the 180-day period beginning on the date of the enactment of this Act, there shall be rescinded, from all unobligated amounts appropriated for any Federal agency (other than the Department of Defense), on a proportionate basis, an amount equal to the amount appropriated pursuant to paragraph (1).

---

**SA 1580.** Mr. CRUZ submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment, add the following:

**SEC. ____. PROHIBITION ON FUNDING.**

(a) IN GENERAL.—Notwithstanding any other provision of law, no Federal funds shall be made available to carry out the Patient Protection and Affordable Care Act (Public Law 111-148) or title I and subtitle B of title II of the Health Care and Education Reconciliation Act of 2010 (Public Law 111–152), or the amendments made by either such Act, until such time as there are no aliens remaining in registered provisional immigrant status.

(b) LIMITATION.—No entitlement to benefits under any provision referred to in subsection (a) shall remain in effect on and after the date of the enactment of this Act until such time as there are no aliens remaining in registered provisional immigrant status.

---

**SA 1581.** Mr. CRUZ submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the end of title III, add the following:

**Subtitle ____—Protecting Voter Integrity**

**SEC. 3921. STATES PERMITTED TO REQUIRE PROOF OF CITIZENSHIP FOR VOTER REGISTRATION.**

Section 6 of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-4) is amended by adding at the end the following new subsection:

''(e) PROOF OF CITIZENSHIP.—Nothing in subsection (a) shall be construed to preempt any State law requiring evidence of citizenship in order to complete any requirement to register to vote in elections for Federal office.''.

**SA 1582.** Mr. CRUZ submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the end of subchapter A of chapter 1 of title II, add the following:

**SEC. 2216. INELIGIBILITY FOR MEANS-BASED BENEFITS OF ALIENS ENTERING OR REMAINING IN UNITED STATES WHILE NOT IN LAWFUL STATUS.**

Notwithstanding any provision of this Act or any other provision of law, any alien who, after entering or remaining in the United States while not in lawful status under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), was granted legal status under section 245B of the Immigration and Nationality Act, as added by section 2101, including aliens described in section 245D(b)(1) of such Act, or blue card status under section 2211, regardless of the alien's legal status at the time the alien applies for a benefit described in paragraph (1) or (2), shall not be eligible for—

(1) any Federal, State, or local government means-tested benefit; or

(2) any benefit under the Patient Protection and Affordable Care Act (Pub. L. 111–148).

**SEC. 2217. IMMIGRANT CATEGORIES INELIGIBLE FOR UNITED STATES CITIZENSHIP.**

Notwithstanding any other provision of law, aliens granted registered provisional immigrant status under section 245B of the Immigration and Nationality Act, as added by section 2101, including aliens described in section 245D(b)(1) of such Act, and aliens granted blue card status under section 2211 are permanently ineligible to become naturalized citizens of the United States, except for aliens granted asylum pursuant to section 208 of such Act (8 U.S.C. 1158).

---

**SA 1583.** Mr. CRUZ submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the end of subchapter A of chapter 1 of subtitle B of title II, add the following:

**SEC. 2216. IMMIGRANT CATEGORIES INELIGIBLE FOR UNITED STATES CITIZENSHIP.**

Notwithstanding any other provision of law, aliens granted registered provisional immigrant status under section 245B of the Immigration and Nationality Act, as added by section 2101, including aliens described in section 245D(b)(1) of such Act, and aliens granted blue card status under section 2211 are permanently ineligible to become naturalized citizens of the United States, except for aliens granted asylum pursuant to section 208 of such Act (8 U.S.C. 1158).

---

**SA 1584.** Mr. CRUZ submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. ___. INELIGIBILITY FOR MEANS-BASED BENEFITS OF ALIENS ENTERING OR REMAINING IN UNITED STATES WHILE NOT IN LAWFUL STATUS.**

Notwithstanding any provision of this Act or any other provision of law, no alien who has entered or remained in the United States while not in lawful status under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) shall be eligible for any Federal, State, or local government means-tested benefit, nor shall such alien be eligible for any benefit under the Patient Protection and Affordable Care Act (Pub. L. 111–148), regardless of the alien's legal status at the time of application for such benefit.

---

**SA 1585.** Mr. CRUZ submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

Strike subtitles A and B of title IV and insert the following:

**Subtitle A—Employment-based Nonimmigrant Visas**

**SEC. 4101. MARKET-BASED H–1B VISA LIMITS.**

(a) IN GENERAL.—Section 214(g)(1) (8 U.S.C. 1184(g)(1)) is amended—

(1) in the matter preceding subparagraph (A), by striking ''(beginning with fiscal year 1992)''; and

(2) by amending subparagraph (A) to read as follows:

''(A) under section 101(a)(15)(H)(i)(b) may not exceed—

''(i) 65,000 in fiscal year 2013; and

''(ii) 325,000 in each subsequent fiscal year; and'';

**SEC. 4102. WORK AUTHORIZATION FOR DEPENDENT SPOUSES OF H–1B NONIMMIGRANTS.**

Section 214(n) (8 U.S.C. 1184(n)) is amended—

(1) by amending the subsection heading to read as follows ''EMPLOYMENT AUTHORIZATION FOR H–1B NONIMMIGRANTS AND THEIR SPOUSES''; and

(2) by adding at the end the following:

''(3) The spouse of an alien provided nonimmigrant status under section 101(a)(15)(H)(i)(b) is authorized to accept employment in the United States while his or her principal alien spouse lawfully maintains such status while in the United States.''.

**SEC. 4103. AUTHORIZATION OF DUAL INTENT.**

(a) DEFINITION.—Section 101(a)(15)(F)(i) (8 U.S.C. 1101(a)(15)(F)(i)) is amended by striking ''which he has no intention of abandoning'' and inserting ''which, if the alien is not pursuing a course of study at an accredited institution of higher education (as defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001)), the alien has no intention of abandoning''.

(b) PRESUMPTION OF STATUS; INTENTION TO ABANDON FOREIGN RESIDENCE.—Section 214 (8 U.S.C. 1184) is amended—

(1) in subsection (b), by striking ''(L) or (V)'' and inserting ''(F), (L), or (V)''; and

(2) in subsection (h), by striking ''(H)(i)(b) or (c)'' and inserting ''(F), (H)(i)(b), (H)(i)(c)''.

**SEC. 4104. H–1B FEE INCREASE.**

(a) IN GENERAL.—Section 214(c)(9) (8 U.S.C. 1184(c)(9)) is amended by striking subparagraphs (B) and (C) and inserting the following:

''(B) The amount of the fee imposed under subparagraph (A) shall be—

''(i) $2,500 for each such petition by an employer with more than 25 full-time equivalent employees who are employed in the United States, including any affiliate or subsidiary of such employer; or

''(ii) $1,250 for each such petition by any employer with not more than 25 full-time equivalent employees who are employed in the United States, including any affiliate or subsidiary of such employer.

''(C) Of the amounts collected under this paragraph—

''(i) 60 percent shall be deposited in the H–1B Nonimmigrant Petitioner Account in accordance with section 286(s); and

''(ii) 40 percent shall be deposited in the STEM Education and Training Account established under section 286(w).''.

(b) STEM EDUCATION AND TRAINING ACCOUNT.—Section 286 (8 U.S.C. 1356) is amended by adding at the end the following:

''(w) STEM EDUCATION AND TRAINING ACCOUNT.—

''(1) IN GENERAL.—There is established in the general fund of the Treasury a separate account, which shall be known as the 'STEM Education and Training Account' (referred to in this subsection as the 'Account').

''(2) DEPOSITS.—There shall be deposited as offsetting receipts into the Account 40 percent of the fees collected under section 214(c)(9)(B).

''(3) USE OF FUNDS.—Amounts deposited in the Account may be used to enhance the economic competitiveness of the United States by—

''(A) establishing a block grant program for States to promote STEM education; and

''(B) carrying out programs to bridge STEM education with employment, such as work-study program.''.

---

**SA 1586.** Mr. CRUZ submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

Strike sections 2303 through 2307 and insert the following:

**SEC. 2303. ELIMINATION OF ARBITRARY LIMITATION OF FOREIGN NATIONALITIES.**

(a) REPEAL.—Section 202 (8 U.S.C. 1152) is repealed.

(b) CONFORMING AMENDMENT.—Section 203(b) (8 U.S.C. 1153(b)) is amended by striking paragraph (6).

**SEC. 2304. ELIMINATION OF DIVERSITY VISA LOTTERY.**

(a) REPEAL.—Section 203(c) (8 U.S.C. 1153(c)) is repealed.

(b) CONFORMING AMENDMENTS.—Title II (8 U.S.C. 1151 et seq.) is amended—

(1) in section 201—

(A) in subsection (a), by striking paragraph (3); and

(B) by striking subsection (e); and

(2) in section 204(a)(1), by striking subparagraph (I).

**SEC. 2305. FAMILY-SPONSORED IMMIGRANTS.**

(a) NUMERICAL LIMITATIONS.—Section 201(c) (8 U.S.C. 1151(c)) is amended to read as follows:

''(c) WORLDWIDE LEVEL OF FAMILY-SPONSORED IMMIGRANTS.—The maximum worldwide level of family-sponsored immigrants for each fiscal year shall be 337,500.''.

(b) VISA ALLOCATION FOR FAMILY-SPONSORED IMMIGRANTS .—Section 203(a) (8 U.S.C. 1153(a)) is amended to read as follows:

''(a) VISA ALLOCATION FOR FAMILY-SPONSORED IMMIGRANTS.—Qualified immigrants who are the unmarried sons or unmarried daughters (but not children) of a citizen of the United States or an alien lawfully admitted for permanent residence shall be allocated all of the visas made available under section 201(c).''.

(c) EXPANSION OF IMMEDIATE RELATIVE DEFINITION.—Section 201(b)(2)(A) (8 U.S.C. 1151(b)(2)(A)) is amended to read as follows:

''(A)(i) Immediate relatives.

''(ii) Aliens admitted under section 211(a) on the basis of a prior issuance of a visa to their accompanying parent who is an immediate relative.

''(iii) In this subparagraph the term 'immediate relatives' means the children, spouse, and parents of a citizen of the United States or of a lawful permanent resident. If the immediate relative is a parent, the citizen or permanent resident shall be at least 21 years of age. If the alien was the spouse of a citizen of the United States or of a lawful permanent resident and was not legally separated from the citizen or permanent resident at the time of the citizen's or permanent resident's death, the alien (and each child of the alien) shall be considered, for purposes of this subparagraph, to remain an immediate relative after the date of the citizen's or permanent resident's death and until the date the spouse remarries if the spouse files a petition under section 204(a)(1)(A)(ii) not later than 2 years after such death. An alien who has filed a petition under clause (iii) or (iv) of section 204(a)(1)(A) shall remain an immediate relative if the United States citizen or lawful permanent resident spouse or parent loses United States citizenship or lawful permanent resident status on account of the abuse.''.

(d) CONFORMING AMENDMENTS.—The Act (8 U.S.C. 1101 et seq.) is amended—

(1) in section 101(a)(15)(V), by striking ''203(a)(2)(A)'' each place it appears and inserting ''203(a)'';

(2) in section 201(f)—

(A) in paragraph (2), by striking ''203(a)(2)(A)'' and inserting ''203(a)''; and

(B) by striking paragraph (3); and

(C) by redesignating paragraph (4) as paragraph (3); and

(D) in paragraph (3), as redesignated, by striking ''(1) through (3)'' and inserting ''(1) and (2)''; and

(3) in section 204—

(A) in subsection (a)(1)—

(i) in subparagraph (A)(i), by striking ''paragraph (1), (3), or (4) of section 203(a)'' and inserting ''section 203(a)''; and

(ii) in subparagraph (B)—

(I) in clause (i)(I), by striking ''section 203(a)(2)'' and inserting ''section 203(a)''; and

(II) in clause (ii), by striking ''clause (iii) of section 203(a)(2)(A)'' each place it appears and inserting ''section 203(a)''; and

(III) in clause (iii), by striking ''section 203(a)(2)(A)'' and inserting ''section 203(a)''; and

(iii) in subparagraph (D)(i)(I), by striking ''paragraph (1), (2), or (3) of section 203(a)'' and inserting ''section 203(a)'';

(B) in subsection (a)(2)(A), in the undesignated matter after clause (ii), by striking ''preference status under section 203(a)(2)'' and inserting ''status as an immediate relative under section 201(b)(2)(A)''; and

(C) in subsection (k)(1), by striking ''section 203(a)(2)(B)'' and inserting ''section 203(a)''.

**SEC. 2306. EMPLOYMENT-BASED IMMIGRANTS.**

(a) NUMERICAL LIMITATIONS.—Section 201(d) (8 U.S.C. 1151(c)) is amended to read as follows:

''(d) WORLDWIDE LEVEL OF EMPLOYMENT-BASED IMMIGRANTS.—The maximum worldwide level of employment-based immigrants for each fiscal year shall be 1,012,500.''.

(b) VISA ALLOCATION FOR EMPLOYMENT-BASED IMMIGRANTS .—Section 203(b) (8 U.S.C. 1153(a)) is amended to read as follows:

''(b) VISA ALLOCATION FOR EMPLOYMENT-BASED IMMIGRANTS.—Aliens subject to the worldwide level specified in section 201(d) for

employment-based immigrants in a fiscal year shall be allocated visas as follows:

''(1) HIGHLY-SKILLED WORKERS.—Up to 607,500 visas shall be allocated each fiscal year to qualified immigrants described in this paragraph, with preference to be given to immigrants described in subparagraph (A).

''(A) ADVANCED DEGREES IN STEM FIELD.—An alien described in this paragraph holds an advanced degree in science, technology, engineering, or mathematics from an accredited institution of higher education in the United States.

''(B) ALIENS WITH EXTRAORDINARY ABILITY.—An alien described in this subparagraph—

''(i) has extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim and whose achievements have been recognized in the field through extensive documentation;

''(ii) seeks to enter the United States to continue work in the area of extraordinary ability; and

''(iii) will substantially benefit the United States.

''(C) OUTSTANDING PROFESSORS AND RESEARCHERS.—An alien described in this subparagraph—

''(i) is recognized internationally as outstanding in a specific academic area;

''(ii) has at least 3 years of experience in teaching or research in the academic area; and

''(iii) seeks to enter the United States—

''(I) for a tenured position (or tenure-track position) within a university or institution of higher education to teach in the academic area;

''(II) for a comparable position with a university or institution of higher education to conduct research in the area; or

''(III) for a comparable position to conduct research in the area with a department, division, or institute of a private employer, if the department, division, or institute employs at least 3 persons full-time in research activities and has achieved documented accomplishments in an academic field.

''(D) CERTAIN MULTINATIONAL EXECUTIVES AND MANAGERS.—An alien described in this subparagraph, in the 3 years preceding the time of the alien's application for classification and admission into the United States under this subparagraph, has been employed for at least 1 year by a firm or corporation or other legal entity or an affiliate or subsidiary thereof and the alien seeks to enter the United States in order to continue to render services to the same employer or to a subsidiary or affiliate thereof in a capacity that is managerial or executive.

''(E) SKILLED WORKERS, PROFESSIONALS, AND OTHER WORKERS.—An alien described in this subparagraph—

''(i) is capable, at the time of petitioning for classification under this paragraph, of performing skilled labor (requiring at least 2 years training or experience), not of a temporary or seasonal nature, for which qualified workers are not available in the United States; or

''(ii) holds a baccalaureate degree and is a members of the professions.

''(F) EMPLOYMENT CREATION.—An alien described in this subparagraph seeks to enter the United States for the purpose of engaging in a new commercial enterprise (including a limited partnership)—

''(i) in which such alien has invested (after the date of the enactment of the Immigration Act of 1990) or, is actively in the process of investing, capital in an amount not less than $1,000,000; and

''(ii) which will benefit the United States economy and create full-time employment for not fewer than 10 United States citizens or aliens lawfully admitted for permanent residence or other immigrants lawfully authorized to be employed in the United States (other than the immigrant and the immigrant's spouse, sons, or daughters).

''(2) WORKERS IN DESIGNATED SHORTAGE OCCUPATIONS.—Up to 405,000 visas shall be allocated each fiscal year to qualified immigrants who—

''(A) are not described in paragraph (1); and

''(B) have at least 2 years experience in an occupation designated by the Bureau of Labor Statistics as experiencing a shortage of labor throughout the United States.''.

(c) TREATMENT OF FAMILY MEMBERS.—Section 203(d) (8 U.S.C. 1153(d)) is amended—

(1) by striking ''(a), (b), or (c)'' and inserting ''(a) or (b)''; and

(2) by adding at the end the following: ''The spouse, children, or parents of an alien receiving a visa under subsection 203(b) who are accompanying or following to join the alien shall be counted against the numerical limitations set forth in subsection (b).''.

**SEC. 2307. ONLINE PORTAL FOR LAWFUL PERMANENT RESIDENT APPLICATIONS.**

(a) ESTABLISHMENT.—The Secretary shall establish an online portal through which individuals may submit applications for lawful permanent resident status.

(b) FEATURES.—The online portal established pursuant to subsection (a) shall provide—

(1) step-by-step instructions, in plain English, describing what information and supporting documentation is required to be submitted;

(2) an e-mail or text message to notify applicants of changes in the status of their application.

(c) USER FEE.—In addition to any other fees required of applicants for lawful permanent under any other provision of law, the Secretary may charge individuals who apply for such status through the online portal established pursuant to subsection (a) a fee in an amount sufficient to pay for the costs of maintaining the online portal.

(d) TIME LIMITATION.—All petitions submitted through the online portal established pursuant to subsection (a) shall be adjudicated in 60 days or less.

(e) NATURALIZATION OF EMPLOYEES OF CERTAIN NATIONAL SECURITY FACILITIES WITHOUT REGARD TO RESIDENCY REQUIREMENTS.—Section 316 (8 U.S.C. 1427) is amended by adding at the end the following:

''(g)(1) Any person who, while an alien or a noncitizen national of the United States, has been employed in a research capacity at a Federal national security, science, and technology laboratory, center, or agency (as defined pursuant to section 203(b)(2)(C)) for a period or periods aggregating one year or more may, in the discretion of the Secretary, be naturalized without regard to the residence requirements of this section if the person—

''(A) has complied with all requirements as determined by the Secretary of Homeland Security, the Secretary of Defense, the Secretary of Energy, or the head of a petitioning department or agency of the Federal Government, including contractual requirements to maintain employment in a research capacity with a Federal national security, science, and technology laboratory, center, or agency for a period not to exceed five years; and

''(B) has favorably completed and adjudicated a background investigation at the appropriate level, from the employing department or agency of the Federal Government within the last five years.

''(2) The number of aliens or noncitizen nationals naturalized in any fiscal year under this subsection shall not exceed a number as defined by the Secretary of Homeland Security, in consultation with the head of the petitioning department or agency of the Federal Government.''.

---

**SA 1587.** Mr. CRUZ submitted an amendment intended to be proposed by him to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

Strike sections 2303 through 2307 and insert the following:

**SEC. 2303. ELIMINATION OF ARBITRARY LIMITATION OF FOREIGN NATIONALITIES.**

(a) REPEAL.—Section 202 (8 U.S.C. 1152) is repealed.

(b) CONFORMING AMENDMENT.—Section 203(b) (8 U.S.C. 1153(b)) is amended by striking paragraph (6).

**SEC. 2304. ELIMINATION OF DIVERSITY VISA LOTTERY.**

(a) REPEAL.—Section 203(c) (8 U.S.C. 1153(c)) is repealed.

(b) CONFORMING AMENDMENTS.—Title II (8 U.S.C. 1151 et seq.) is amended—

(1) in section 201—

(A) in subsection (a), by striking paragraph (3); and

(B) by striking subsection (e); and

(2) in section 204(a)(1), by striking subparagraph (I).

**SEC. 2305. FAMILY-SPONSORED IMMIGRANTS.**

(a) NUMERICAL LIMITATIONS.—Section 201(c) (8 U.S.C. 1151(c)) is amended to read as follows:

''(c) WORLDWIDE LEVEL OF FAMILY-SPONSORED IMMIGRANTS.—The maximum worldwide level of family-sponsored immigrants for each fiscal year shall be 337,500.''.

(b) VISA ALLOCATION FOR FAMILY-SPONSORED IMMIGRANTS .—Section 203(a) (8 U.S.C. 1153(a)) is amended to read as follows:

''(a) VISA ALLOCATION FOR FAMILY-SPONSORED IMMIGRANTS.—Qualified immigrants who are the unmarried sons or unmarried daughters (but not children) of a citizen of the United States or an alien lawfully admitted for permanent residence shall be allocated all of the visas made available under section 201(c).''.

(c) EXPANSION OF IMMEDIATE RELATIVE DEFINITION.—Section 201(b)(2)(A) (8 U.S.C. 1151(b)(2)(A)) is amended to read as follows:

''(A)(i) Immediate relatives.

''(ii) Aliens admitted under section 211(a) on the basis of a prior issuance of a visa to their accompanying parent who is an immediate relative.

''(iii) In this subparagraph the term 'immediate relatives' means the children, spouse, and parents of a citizen of the United States or of a lawful permanent resident. If the immediate relative is a parent, the citizen or permanent resident shall be at least 21 years of age. If the alien was the spouse of a citizen of the United States or of a lawful permanent resident and was not legally separated from the citizen or permanent resident at the time of the citizen's or permanent resident's death, the alien (and each child of the alien) shall be considered, for purposes of this subparagraph, to remain an immediate relative after the date of the citizen's or permanent resident's death and until the date the spouse remarries if the spouse files a petition under section 204(a)(1)(A)(ii) not later than 2 years after such death. An alien who has filed a petition under clause (iii) or (iv) of section 204(a)(1)(A) shall remain an immediate relative if the United States citizen or lawful permanent resident spouse or parent loses United States citizenship or lawful permanent resident status on account of the abuse.''.

(d) CONFORMING AMENDMENTS.—The Act (8 U.S.C. 1101 et seq.) is amended—

(1) in section 101(a)(15)(V), by striking ''203(a)(2)(A)'' each place it appears and inserting ''203(a)'';

(2) in section 201(f)—

(A) in paragraph (2), by striking ''203(a)(2)(A)'' and inserting ''203(a)''; and

(B) by striking paragraph (3); and

(C) by redesignating paragraph (4) as paragraph (3); and

(D) in paragraph (3), as redesignated, by striking ''(1) through (3)'' and inserting ''(1) and (2)''; and

(3) in section 204—

(A) in subsection (a)(1)—

(i) in subparagraph (A)(i), by striking ''paragraph (1), (3), or (4) of section 203(a)'' and inserting ''section 203(a)''; and

(ii) in subparagraph (B)—

(I) in clause (i)(I), by striking ''section 203(a)(2)'' and inserting ''section 203(a)''; and

(II) in clause (ii), by striking ''clause (iii) of section 203(a)(2)(A)'' each place it appears and inserting ''section 203(a)''; and

(III) in clause (iii), by striking ''section 203(a)(2)(A)'' and inserting ''section 203(a)''; and

(iii) in subparagraph (D)(i)(I), by striking ''paragraph (1), (2), or (3) of section 203(a)'' and inserting ''section 203(a)'';

(B) in subsection (a)(2)(A), in the undesignated matter after clause (ii), by striking ''preference status under section 203(a)(2)'' and inserting ''status as an immediate relative under section 201(b)(2)(A)''; and

(C) in subsection (k)(1), by striking ''section 203(a)(2)(B)'' and inserting ''section 203(a)''.

**SEC. 2306. EMPLOYMENT-BASED IMMIGRANTS.**

(a) NUMERICAL LIMITATIONS.—Section 201(d) (8 U.S.C. 1151(c)) is amended to read as follows:

''(d) WORLDWIDE LEVEL OF EMPLOYMENT-BASED IMMIGRANTS.—The maximum worldwide level of employment-based immigrants for each fiscal year shall be 1,012,500.''.

(b) VISA ALLOCATION FOR EMPLOYMENT-BASED IMMIGRANTS .—Section 203(b) (8 U.S.C. 1153(a)) is amended to read as follows:

''(b) VISA ALLOCATION FOR EMPLOYMENT-BASED IMMIGRANTS.—Aliens subject to the worldwide level specified in section 201(d) for employment-based immigrants in a fiscal year shall be allocated visas as follows:

''(1) HIGHLY-SKILLED WORKERS.—Up to 607,500 visas shall be allocated each fiscal year to qualified immigrants described in this paragraph, with preference to be given to immigrants described in subparagraph (A).

''(A) ADVANCED DEGREES IN STEM FIELD.—An alien described in this paragraph holds an advanced degree in science, technology, engineering, or mathematics from an accredited institution of higher education in the United States.

''(B) ALIENS WITH EXTRAORDINARY ABILITY.—An alien described in this subparagraph—

''(i) has extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim and whose achievements have been recognized in the field through extensive documentation;

''(ii) seeks to enter the United States to continue work in the area of extraordinary ability; and

''(iii) will substantially benefit the United States.

''(C) OUTSTANDING PROFESSORS AND RESEARCHERS.—An alien described in this subparagraph—

''(i) is recognized internationally as outstanding in a specific academic area;

''(ii) has at least 3 years of experience in teaching or research in the academic area; and

''(iii) seeks to enter the United States—

''(I) for a tenured position (or tenure-track position) within a university or institution of higher education to teach in the academic area;

''(II) for a comparable position with a university or institution of higher education to conduct research in the area; or

''(III) for a comparable position to conduct research in the area with a department, division, or institute of a private employer, if the department, division, or institute employs at least 3 persons full-time in research activities and has achieved documented accomplishments in an academic field.

''(D) CERTAIN MULTINATIONAL EXECUTIVES AND MANAGERS.—An alien described in this subparagraph, in the 3 years preceding the time of the alien's application for classification and admission into the United States under this subparagraph, has been employed for at least 1 year by a firm or corporation or other legal entity or an affiliate or subsidiary thereof and the alien seeks to enter the United States in order to continue to render services to the same employer or to a subsidiary or affiliate thereof in a capacity that is managerial or executive.

''(E) SKILLED WORKERS, PROFESSIONALS, AND OTHER WORKERS.—An alien described in this subparagraph—

''(i) is capable, at the time of petitioning for classification under this paragraph, of performing skilled labor (requiring at least 2 years training or experience), not of a temporary or seasonal nature, for which qualified workers are not available in the United States; or

''(ii) holds a baccalaureate degree and is a members of the professions.

''(F) EMPLOYMENT CREATION.—An alien described in this subparagraph seeks to enter the United States for the purpose of engaging in a new commercial enterprise (including a limited partnership)—

''(i) in which such alien has invested (after the date of the enactment of the Immigration Act of 1990) or, is actively in the process of investing, capital in an amount not less than $1,000,000; and

''(ii) which will benefit the United States economy and create full-time employment for not fewer than 10 United States citizens or aliens lawfully admitted for permanent residence or other immigrants lawfully authorized to be employed in the United States (other than the immigrant and the immigrant's spouse, sons, or daughters).

''(2) WORKERS IN DESIGNATED SHORTAGE OCCUPATIONS.—Up to 405,000 visas shall be allocated each fiscal year to qualified immigrants who—

''(A) are not described in paragraph (1); and

''(B) have at least 2 years experience in an occupation designated by the Bureau of Labor Statistics as experiencing a shortage of labor throughout the United States.''.

(c) TREATMENT OF FAMILY MEMBERS.—Section 203(d) (8 U.S.C. 1153(d)) is amended—

(1) by striking ''(a), (b), or (c)'' and inserting ''(a) or (b)''; and

(2) by adding at the end the following: ''The spouse, children, or parents of an alien receiving a visa under subsection 203(b) who are accompanying or following to join the alien shall be counted against the numerical limitations set forth in subsection (b).''.

**SEC. 2307. ONLINE PORTAL FOR LAWFUL PERMANENT RESIDENT APPLICATIONS.**

(a) ESTABLISHMENT.—The Secretary shall establish an online portal through which individuals may submit applications for lawful permanent resident status.

(b) FEATURES.—The online portal established pursuant to subsection (a) shall provide—

(1) step-by-step instructions, in plain English, describing what information and supporting documentation is required to be submitted;

(2) an e-mail or text message to notify applicants of changes in the status of their application.

(c) USER FEE.—In addition to any other fees required of applicants for lawful permanent under any other provision of law, the Secretary may charge individuals who apply for such status through the online portal established pursuant to subsection (a) a fee in an amount sufficient to pay for the costs of maintaining the online portal.

(d) TIME LIMITATION.—All petitions submitted through the online portal established pursuant to subsection (a) shall be adjudicated in 60 days or less.

(e) NATURALIZATION OF EMPLOYEES OF CERTAIN NATIONAL SECURITY FACILITIES WITHOUT REGARD TO RESIDENCY REQUIREMENTS.—Section 316 (8 U.S.C. 1427) is amended by adding at the end the following:

''(g)(1) Any person who, while an alien or a noncitizen national of the United States, has been employed in a research capacity at a Federal national security, science, and technology laboratory, center, or agency (as defined pursuant to section 203(b)(2)(C)) for a period or periods aggregating one year or more may, in the discretion of the Secretary, be naturalized without regard to the residence requirements of this section if the person—

''(A) has complied with all requirements as determined by the Secretary of Homeland Security, the Secretary of Defense, the Secretary of Energy, or the head of a petitioning department or agency of the Federal Government, including contractual requirements to maintain employment in a research capacity with a Federal national security, science, and technology laboratory, center, or agency for a period not to exceed five years; and

''(B) has favorably completed and adjudicated a background investigation at the appropriate level, from the employing department or agency of the Federal Government within the last five years.

''(2) The number of aliens or noncitizen nationals naturalized in any fiscal year under this subsection shall not exceed a number as defined by the Secretary of Homeland Security, in consultation with the head of the petitioning department or agency of the Federal Government.''.

Strike subtitles A and B of title IV and insert the following:

**SEC. 4101. MARKET-BASED H–1B VISA LIMITS.**

(a) IN GENERAL.—Section 214(g)(1) (8 U.S.C. 1184(g)(1)) is amended—

(1) in the matter preceding subparagraph (A), by striking ''(beginning with fiscal year 1992)''; and

(2) by amending subparagraph (A) to read as follows:

''(A) under section 101(a)(15)(H)(i)(b) may not exceed—

''(i) 65,000 in fiscal year 2013; and

''(ii) 325,000 in each subsequent fiscal year; and'';

**SEC. 4102. WORK AUTHORIZATION FOR DEPENDENT SPOUSES OF H–1B NONIMMIGRANTS.**

Section 214(n) (8 U.S.C. 1184(n)) is amended—

(1) by amending the subsection heading to read as follows ''EMPLOYMENT AUTHORIZATION FOR H–1B NONIMMIGRANTS AND THEIR SPOUSES''; and

(2) by adding at the end the following:

''(3) The spouse of an alien provided nonimmigrant status under section 101(a)(15)(H)(i)(b) is authorized to accept employment in the United States while his or her principal alien spouse lawfully maintains such status while in the United States.''.

**SEC. 4103. AUTHORIZATION OF DUAL INTENT.**

(a) DEFINITION.—Section 101(a)(15)(F)(i) (8 U.S.C. 1101(a)(15)(F)(i)) is amended by striking ''which he has no intention of abandoning'' and inserting ''which, if the alien is not pursuing a course of study at an accredited institution of higher education (as defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001)), the alien has no intention of abandoning''.

(b) PRESUMPTION OF STATUS; INTENTION TO ABANDON FOREIGN RESIDENCE.—Section 214 (8 U.S.C. 1184) is amended—

(1) in subsection (b), by striking ''(L) or (V)'' and inserting ''(F), (L), or (V)''; and

(2) in subsection (h), by striking ''(H)(i)(b) or (c)'' and inserting ''(F), (H)(i)(b), (H)(i)(c)''.

**SEC. 4104. H–1B FEE INCREASE.**

(a) IN GENERAL.—Section 214(c)(9) (8 U.S.C. 1184(c)(9)) is amended by striking subparagraphs (B) and (C) and inserting the following:

''(B) The amount of the fee imposed under subparagraph (A) shall be—

''(i) $2,500 for each such petition by an employer with more than 25 full-time equivalent employees who are employed in the United States, including any affiliate or subsidiary of such employer; or

''(ii) $1,250 for each such petition by any employer with not more than 25 full-time equivalent employees who are employed in the United States , including any affiliate or subsidiary of such employer.

''(C) Of the amounts collected under this paragraph—

''(i) 60 percent shall be deposited in the H–1B Nonimmigrant Petitioner Account in accordance with section 286(s); and

''(ii) 40 percent shall be deposited in the STEM Education and Training Account established under section 286(w).''.

(b) STEM EDUCATION AND TRAINING ACCOUNT.—Section 286 (8 U.S.C. 1356) is amended by adding at the end the following:

''(w) STEM EDUCATION AND TRAINING ACCOUNT.—

''(1) IN GENERAL.—There is established in the general fund of the Treasury a separate account, which shall be known as the 'STEM Education and Training Account' (referred to in this subsection as the 'Account').

''(2) DEPOSITS.—There shall be deposited as offsetting receipts into the Account 40 percent of the fees collected under section 214(c)(9)(B).

''(3) USE OF FUNDS.—Amounts deposited in the Account may be used to enhance the economic competitiveness of the United States by—

''(A) establishing a block grant program for States to promote STEM education; and

''(B) carrying out programs to bridge STEM education with employment, such as work-study program.''.

---

**SA 1588.** Mr. CARPER submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

Strike section 2108 and insert the following:

**SEC. 2108. HIRING.**

(a) HIRING RULES EXEMPTION.—The Secretary is authorized to make term, temporary limited, and part-time appointments of employees who will implement this title and the amendments made by this title without regard to the number of such employees, their ratio to permanent full-time employees, and the duration of their employment.

(b) AUTHORITY TO WAIVE ANNUITY LIMITATIONS.—Section 824(g)(2)(B) of the Foreign Service Act of 1980 (22 U.S.C. 4064(g)(2)(B)) is amended by striking ''2009'' and inserting ''2017''.

---

**SA 1589.** Mr. CARPER submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 56, strike line 1, and insert the following:

(d) OVERSIGHT OF TRUST FUND.—

(1) OFFICE OF INSPECTOR GENERAL.—

(A) PLAN.—Not later than 90 days after the date of enactment of this Act, the Inspector General of the Department, in consultation with the Inspectors General of other relevant agencies, shall submit a plan for oversight of the implementation of this Act and the amendments made by this Act. In developing the plan under this subparagraph, the Inspector General shall give particular emphasis to management of the Trust Fund and oversight of the deployment of resources, infrastructure, and funds under the Comprehensive Southern Border Security Strategy and the Southern Border Fencing Strategy and to implement the Employment Verification System established under section 274A(d)(1)(A) of the Immigration and Nationality Act (as amended by section 3101 of this Act).

(B) AVAILABILITY OF FUNDS.—In addition to the amounts made available under paragraph (3), there are authorized to be appropriated to the Inspector General of the Department such sums as are necessary to conduct oversight under the plan submitted under subparagraph (A).

(2) DEPARTMENT PLAN.—Not later than 90 days after the date of enactment of this Act, the Secretary shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives a plan that describes the actions the Department shall take, the employees the Department shall assign, and the procedures the Department shall implement to ensure that funds from the Trust Fund are—

(A) spent efficiently and effectively;

(B) well managed, including with respect to the awarding and administration of contracts and the validation of technology; and

(C) managed so as to comply with all applicable financial audit standards.

(3) AVAILABILITY OF FUNDS.—For the purposes of ensuring the funds in the Trust Fund are spent efficiently and effectively and are well managed and for the cost of conducting the audits required under subsection (c), 0.5 percent of funds deposited in the Trust Fund each fiscal year under subsection (a)(2) shall be provided in each such fiscal year to the Secretary, who shall transfer half of the amount received each fiscal year to the Inspector General of the Department. Amounts made available under this paragraph shall remain available until the end of the 10th fiscal year beginning after the date on which the amounts are made available to the Secretary.

(e) DETERMINATION OF BUDGETARY EFFECTS.—

---

**SA 1590.** Mr. CARPER submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 62, after line 23, add the following:

**SEC. 10. IMMIGRATION REFORM IMPLEMENTATION COUNCIL.**

(a) ESTABLISHMENT.—Not later than 30 days after the date of enactment of this Act, the Secretary shall establish a coordinating body, to be known as the Immigration Reform Implementation Council (in this section referred to as the ''Implementation Council''), to oversee implementation of those portions of this Act and the amendments made by this Act that lie within the responsibilities of the Department.

(b) CHAIRPERSON.—The Deputy Secretary of Homeland Security shall serve as Chairperson of the Implementation Council, reporting to and under the authority of the Secretary and in keeping with the authorities specified by the Homeland Security Act of 2002 (Public Law 107–296).

(c) MEMBERSHIP.—The members of the Implementation Council shall include the following:

(1) The Commissioner for Customs and Border Protection.

(2) The Assistant Secretary for Immigration and Customs Enforcement.

(3) The Director of U.S. Citizenship and Immigration Services.

(4) The Under Secretary for Management.

(5) The General Counsel of the Department.

(6) The Assistant Secretary for Policy.

(7) The Director of the Office of International Affairs.

(8) The Officer for Civil Rights and Civil Liberties.

(9) The Privacy Officer.

(10) The Director of the Office of Biometric Identity Management.

(11) Other appropriate officers or employees of the Department, as determined by the Secretary or the Chairperson of the Implementation Council.

(d) DUTIES.—The Implementation Council shall—

(1) meet regularly to coordinate implementation of this Act and the amendments made by this Act, with particular regard to—

(A) broad policy coordination of immigration reform under this Act and the amendments made by this Act;

(B) policy and operational concerns regarding the Comprehensive Immigration Reform Trust Fund established under section 6;

(C) timely development of regulations required by this Act or an amendment made by this Act and related guidance; and

(D) participating in interagency decision-making with the Executive Office of the President, the Office of Management and Budget, the Department of State, the Department of Justice, the Department of Labor, and other agencies regarding implementation of this Act and the amendments made by this Act;

(2) establish liaisons to other agencies responsible for implementing significant portions of this Act or the amendments made by this Act, including the Department of State, the Department of Justice, the Department of Labor;

(3) establish liaisons to key stakeholders, including employer associations and labor unions;

(4) provide regular briefings to the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Homeland Security of the House of Representatives, and other appropriate committees of Congress;

(5) provide timely information regarding Department-wide implementation of this Act and the amendments made by this Act through a single, centralized location on the website of the Department; and

(6) conduct such other activities as the Secretary or Chairperson of the Implementation Council determine appropriate.

(e) MAINTENANCE OF COUNCIL.—The Implementation Council shall terminate at the end of the period necessary for the Department to implement substantially the responsibilities of the Department under this Act and the amendments made by this Act, as determined by the Secretary, but in no event earlier than 10 years after the date of enactment of this Act.

(f) STAFF.—The Deputy Secretary of Homeland Security shall appoint a full-time executive director and such other employees as are necessary for the Implementation Council.

(g) AVAILABILITY OF FUNDS.—Amounts made available to the Secretary under section 6(b) may be used to support the activities of the Implementation Council in implementing this Act and the amendments made by this Act.

---

**SA 1591.** Mr. CARPER submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

After section 1123, insert the following:

**SEC. 1124. BETTER ENFORCEMENT THROUGH TRANSPARENCY AND ENHANCED REPORTING ON THE BORDER ACT.**

(a) SHORT TITLE.—This section may be cited as the ''Better Enforcement Through Transparency and Enhanced Reporting on the Border Act'' or the ''BETTER Border Act''.

(b) OFFICE OF HOMELAND SECURITY STATISTICS.—

(1) ESTABLISHMENT.—There is established within the Department an Office of Homeland Security Statistics (referred to in this section as the ''Office''), which shall be headed by a Director.

(2) TRANSFER OF FUNCTIONS.—

(A) ABOLISHMENT OF OFFICE OF IMMIGRATION STATISTICS.—The Office of Immigration Statistics of the Department is abolished.

(B) TRANSFER OF FUNCTIONS.—All functions and responsibilities of the Office of Immigration Statistics as of the day before the date of the enactment of this Act, including all of the personnel, assets, components, authorities, programs, and liabilities of the Office of Immigration Statistics, are transferred to the Office of Homeland Security Statistics.

(3) DUTIES.—The Director of the Office shall—

(A) collect information from agencies of the Department, including internal databases used to—

(i) undertake border inspections;

(ii) identify visa overstays;

(iii) undertake immigration enforcement actions; and

(iv) grant immigration benefits;

(B) produce the annual report required to be submitted to Congress under subsection (c); and

(C) collect the information described in section 103(d) of the Immigration and Nationality Act (8 U.S.C. 1103(d)) and disseminate such information to Congress and to the public;

(D) produce any other reports and conduct any other work that the Office of Immigration Statistics was required to produce or conduct before the date of the enactment of this Act; and

(E) produce such other reports or conduct such other work as the Secretary determines to be necessary.

(4) INTRADEPARTMENTAL DATA SHARING.—Agencies and offices of the Department shall share any data that is required to comply with this section.

(5) CONSULTATION.—In carrying out this subsection, the Director of the Office shall consult with the Ombudsman for Immigration Related Concerns to the greatest extent practicable.

(6) PLACEMENT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall notify Congress where the Office has been established within the Department.

(7) CONFORMING AMENDMENT.—Section 103(d) (8 U.S.C. 1103(d)) is amended by striking ''Commissioner'' and inserting ''Director of the Office of Homeland Security Statistics''.

(c) REPORT ON PERFORMANCE METRICS.—

(1) IN GENERAL.—In addition to any reports required to be produced by the Office of Immigration Statistics before the date of enactment of this Act, the Director, on an annual basis, shall submit to Congress a report on performance metrics that will enable—

(A) the Department to develop an understanding of—

(i) the security of the border;

(ii) efforts to enforce immigration laws within the United States; and

(iii) the overall working of the immigration system; and

(B) policy makers, including Congress—

(i) to make more effective investments in order to secure the border;

(ii) to enforce the immigration laws of the United States; and

(iii) to ensure that the Federal immigration system is working efficiently at every level.

(2) CONTENTS.—The report required under paragraph (1) shall contain outcome performance measures, for the year covered by the report, including—

(A) for the areas between ports of entry—

(i) the estimated number of attempted illegal entries, the estimated number of successful entries, and the number of apprehensions, categorized by sector;

(ii) the number of individuals that attempted to cross the border and information concerning how many times individuals attempted to cross, categorized by sector;

(iii) the number of individuals returned to Mexico voluntarily, criminally prosecuted, and receiving any other form of sanctions, categorized by sector; and

(iv) the recidivism rates for all classes of individuals apprehended, including individuals returned to Mexico voluntarily, criminally prosecuted, and receiving any other form of sanctions, categorized by sector;

(B) for ports of entry—

(i) the estimated number of attempted illegal entries, the number of apprehensions, and the estimated number of successful entries, categorized by field office; and

(ii) information compiled based on random samples of secondary inspections, including estimates of the effectiveness of inspectors in identifying civil and criminal immigration and customs violations, categorized by field office; and

(iii) enforcement outcomes for individuals denied admission, including the number of—

(I) individuals allowed to withdraw their application for admission or voluntarily return to their country of origin;

(II) individuals referred for criminal prosecution; and

(III) individuals receiving any other form of administrative sanction;

(C) for visa overstays—

(i) the number of people that overstay the terms of their admission into the United States, categorized by—

(I) nationality;

(II) type of visa or entry; and

(III) length of time an individual overstayed, including—

(aa) the number of individuals who overstayed less than 180 days;

(bb) the number of individuals who overstayed less than 1 year; and

(cc) the number of individuals who overstayed for 1 year or longer; and

(ii) estimates of the total number of unauthorized aliens in the United States that entered legally and overstayed the terms of their admission;

(D) for interior enforcement—

(i) the number of arrests made by U.S. Immigration and Customs Enforcement for civil violations of immigration laws and the number of arrests made for criminal violations, categorized by Special Agent in Charge field office;

(ii) the legal basis for the arrests pursuant to criminal statutes described in clause (i);

(iii) the ultimate disposition of the arrests described in clause (i);

(iv) the overall number of removals and the number of removals, by nationality;

(v) the overall average length of detention and the length of detention, by nationality; and

(vi) the number of referrals from U.S. Citizenship and Immigration Services to Immigration and Customs Enforcement, and the ultimate outcome of these referrals, including how many resulted in removal proceedings;

(E) for immigration benefits—

(i) the number of applications processed, rejected, and accepted each year for all categories of immigration benefits, categorized by visa type;

(ii) the mean and median processing times for all categories of immigration benefits, categorized by visa type; and

(iii) data relating to fraud uncovered in applications for all categories of immigration benefits, categorized by visa type; and

(F) for the Employment Verification System established under section 274A of the Immigration and Nationality Act (8 U.S.C. 1324a)—

(i) the total number of tentative nonconfirmations (further action notices);

(ii) the number of tentative nonconfirmations issued to workers who were subsequently found to be authorized for employment in the United States;

(iii) the total number of final nonconfirmations;

(iv) the number of final nonconfirmations issued to workers who were subsequently found to be authorized for employment in the United States;

(v) the total number of confirmations; and

(vi) the estimated number of confirmations issued to unauthorized workers.

(d) EARLY WARNING SYSTEM.—Using the data collected by the Office under this section, the Secretary shall establish an early warning system to estimate future illegal immigration, which shall monitor the outcome performance measures described in subsection (c)(2), along with political, economic, demographic, law enforcement, and other trends that may affect such outcomes.

(e) SYSTEMATIC MODELING OF ILLEGAL IMMIGRATION TRENDS.—The Secretary shall provide for the systematic modeling of illegal immigration trends to develop forecast models of illegal immigration flows and estimates for the undocumented population residing within the United States.

(f) EXTERNAL REVIEW OF HOMELAND SECURITY DATA.—

(1) IN GENERAL.—The Secretary, in consultation with the National Academy of Sciences, shall make raw data collected by the Department, including individual-level data subject to the requirements in paragraph (3), on border security, immigration

enforcement, and immigration benefits available for research on immigration trends, to—

(A) appropriate academic institutions and centers of excellence;

(B) the Congressional Research Service; and

(C) the Government Accountability Office.

(2) PUBLIC RELEASE OF DATA.—The Secretary shall ensure that data of the Department on border security, immigration enforcement, and immigration benefits is released to the public to the maximum degree permissible under Federal law to increase the confidence of the public in the credibility and objectivity of measurements related to the management and outcomes of immigration and border control processes.

(3) REQUIREMENTS.—In carrying out this subsection, the Secretary, in consultation with the National Academy of Sciences—

(A) shall ensure that the data described in paragraphs (1) and (2) is anonymized to safeguard individual privacy;

(B) may mask location data below the sector, district field office, or special agent in charge office level to protect national security; and

(C) shall not be required to provided classified information to individuals other than to those individuals who have appropriate security clearances.

(g) AVAILABILITY OF FUNDS.—The Secretary may use such sums as may be necessary from the Comprehensive Immigration Reform Trust Fund established under section 6(a)(1)—

(1) to establish the Office; and

(2) to produce reports related to securing the border and enforcing the immigration laws of the United States.

---

**SA 1592.** Mrs. BOXER (for herself, Ms. LANDRIEU, and Mrs. MURRAY) submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 91, line 21, insert after ''agents,'' the following: ''in consultation with the Secretary of Defense, National Guard personnel performing duty to assist U.S. Customs and Border Protection under section 1103(c)(6) of this Act, Coast Guard officers and agents assisting in maritime border enforcement efforts,''

---

**SA 1593.** Ms. HEITKAMP (for herself, Mr. LEVIN, Mr. TESTER, and Mr. BAUCUS) submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the end of title I, add the following:

**SEC. 1124. LIMITATION ON RESOURCE SHIFTING FROM NORTHERN BORDER TO SOUTHERN BORDER.**

(a) STUDY AND REPORT ON NORTHERN BORDER.—

(1) LIMITATION ON RESOURCE SHIFTING.—

(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), and notwithstanding section 1102(d)or any other provision of this Act, the Secretary may not reduce the levels of Department personnel, resources, technological assets or funding for operations on the Northern border below such levels as of the date of the enactment of this Act, including by reassigning or stationing U.S. Customs and Border Protection Officers and U.S. Border Patrol Agents from the Northern border to the Southern border.

(B) LIMITED PERSONNEL TRANSFER AUTHORITY.—Notwithstanding subparagraph (A), the Secretary may reassign or station personnel from a location along the Northern border to the Southern border if—

(i) the most recent report submitted under paragraph (3) indicates excess personnel exist at such Northern border location beyond what is needed to meet and maintain appropriate staffing levels; and

(ii) the Secretary notifies the appropriate congressional committees and the Governor of each State from which such personnel will be transferred.

(C) TEMPORARY EMERGENCY AUTHORITY.—

(i) IN GENERAL.—The Secretary may transfer personnel from along the Northern border if the Secretary notifies and provides justification to the appropriate congressional committees that an emergency need due to a critical personnel shortage exists in the location or locations where the Secretary proposes to transfer the personnel to, and that the location or locations from which the personnel are to be transferred, has at the time of the proposed transfer a level of personnel that is greater than the level needed to meet and maintain the mission of Department along the Northern Border.

(ii) DURATION OF AUTHORITY.—Any authority exercised under clause (i) shall extend until the next report required under paragraph (3) is submitted, but may be extended for the duration of one or more reporting periods provided that the most recent report so submitted states that the transfer was appropriate and that the border region from which the personnel were transferred currently has a sufficient level of personnel.

(2) STUDY REQUIRED.—

(A) IN GENERAL.—The Secretary shall conduct a study on the Northern border focusing on the following priorities:

(i) Ensuring the efficient flow of cross-border economic and personal traffic between States along the Northern border and Canada.

(ii) Preventing individuals from illegally crossing over the Northern border.

(iii) Preventing the flow of illegal goods and illicit drugs across the Northern Border.

(iv) Ensuring an appropriate level of national security measures is in place to thwart acts of terrorism.

(B) SCOPE.—The study required under this paragraph shall include the following:

(i) An examination of the strategies that the Department is using to secure the border, including an assessment of their current effectiveness and recommendations on how their effectiveness could be enhanced.

(ii) A determination of the appropriate personnel, resource, technological asset, and funding requirements for all Department elements deployed on the Northern border, including interior enforcement. This should include a description of measures the Department needs to take to either meet those needs or shift excess personnel, resources, technological assets, or funding to a different region as well as a description of the challenges the Department faces in meeting the identified needs or shifting excess personnel, resources, technological assets, or funding.

(iii) A State-by-State assessment of the Northern border States and a description of the personnel, resource, technological asset, and funding needs for each location as determined by the Department.

(iv) With respect to the four priorities described in subparagraph (A), a description of the following issues:

(I) The use of technology, including low-altitude radar, ground-based fiber optic sensors, and unmanned aircraft, for each of the Department elements involved in Northern border operations, including whether the elements need additional technological assets.

(II) The impact of operation and maintenance funds on Northern border protection, including whether elements have sufficient operation and maintenance funds to accomplish their missions, and if additional local flexibility regarding funds is needed to accomplish core Department missions.

(III) Strategies for dealing with smuggling operations of illegal goods and illicit drugs, both at ports and in non-port areas.

(IV) Options for the Department to develop and enhance local, State, and tribal partnerships along the Northern border.

(V) The geographic challenges of the Northern border.

(3) REPORT.—

(A) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, and every 180 days thereafter, the Secretary shall submit to the appropriate congressional committees a report on the study conducted under paragraph (2).

(B) CONTENT.—The report required under subparagraph (A) shall include the following elements:

(i) The findings of the study conducted under paragraph (2).

(ii) Input from other Federal agencies operating in the Northern border States, such as the Bureau of Indian Affairs, the Federal Bureau of Investigations, the Drug Enforcement Agency, the Food and Drug Administration, and the Bureau of Alcohol, Tobacco, Firearms and Explosives, that could be impacted by any reallocation, increase, or decrease of Department personnel, resources, technological assets, or funding along the Northern border.

(iii) A description of any changes along the Southern border that are impacting the Northern border.

(iv) Recommendations for enhancing security along the Northern border.

(v) An explanation of why the Department is not implementing any recommendations contained in the study.

(vi) Recommendations for additional legislation necessary to implement recommendations contained in the study.

(b) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term ''appropriate congressional committees'' means—

(1) the Committee on the Judiciary, the Committee on Homeland Security and Governmental Affairs, the Committee on Appropriations, and the Committee on Finance of the Senate; and

(2) the Committee on the Judiciary, the Committee on Homeland Security, the Committee on Appropriations, and the Committee on Ways and Means of the House of Representatives.

---

**SA 1594.** Mrs. FISCHER submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

In section 245B(b) of the Immigration and Nationality Act, as added by section 2101(a) of the amendment, insert after paragraph (3) the following:

''(4) ENGLISH SKILLS.—An alien is not eligible for registered provisional immigrant status unless the alien establishes that the alien meets the requirements of section 245C(b)(4).

**SA 1595.** Mr. UDALL of New Mexico (for himself and Mr. HEINRICH) submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the end of section 1104, add the following:

(e) BORDER ENFORCEMENT SECURITY TASK FORCE.—

(1) IN GENERAL.—The Secretary shall enhance law enforcement preparedness and operational readiness in the Southwest border region by expanding the Border Enforcement Security Task Force (referred to in this section as ''BEST''), established under section 432 of the Homeland Security Act of 2002 (6 U.S.C. 240).

(2) UNITS TO BE EXPANDED.—The Secretary shall expand the BEST units operating on the date of the enactment of this Act in New Mexico, Texas, Arizona, and California by increasing the funding available for operational, administrative, and technological costs associated with the participation of Federal, State, local, and tribal law enforcement agencies in BEST.

(3) FUNDING.—There are authorized to be appropriated, from the Comprehensive Immigration Reform Trust Fund established under section 6(a)(1), such sums as may be necessary to carry out this subsection.

---

**SA 1596.** Mr. UDALL of New Mexico (for himself and Mr. HEINRICH) submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 79, between lines 3 and 4, insert the following:

(e) ADDITIONAL PERMANENT DISTRICT COURT JUDGESHIPS IN NEW MEXICO.—

(1) IN GENERAL.—The President shall appoint, by and with the advice and consent of the Senate, 1 additional district judge for the district of New Mexico.

(2) CONVERSION OF TEMPORARY JUDGESHIP TO PERMANENT JUDGESHIP.—The existing judgeship for the district of New Mexico authorized by section 312(c) of the 21st Century Department of Justice Appropriations Authorization Act (28 U.S.C. 133 note; Public Law 107–273; 116 Stat. 1788), as of the effective date of this Act, shall be authorized under section 133 of title 28, United States Code, and the incumbent in that office shall hold the office under section 133 of title 28, United States Code, as amended by this Act.

(3) TECHNICAL AND CONFORMING AMENDMENT.—The table contained in section 133(a) of title 28, United States Code, is amended by striking the item relating to the district of New Mexico and inserting the following:

''New Mexico ..... 8''.

---

**SA 1597.** Mr. REID (for Mr. BROWN) submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle A of title I, add the following:

**SEC. 1124. USE OF AMERICAN IRON, STEEL, AND MANUFACTURED GOODS.**

(a) IN GENERAL.—None of the amounts appropriated or otherwise made available under this Act may be used for a project for the construction, alteration, maintenance, or repair of a fence along the Southern border unless all of the iron, steel, and manufactured goods used in the fence are produced in the United States.

(b) WAIVER.—Subsection (a) shall not apply in any case or category of cases in which the head of the Federal department or agency involved finds that—

(1) applying subsection (a) would be inconsistent with the public interest;

(2) iron, steel, and the relevant manufactured goods are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or

(3) inclusion of iron, steel, and manufactured goods produced in the United States will increase the cost of the overall project by more than 25 percent.

(c) PUBLICATION OF WAIVER JUSTIFICATION.—If the head of a Federal department or agency determines that it is necessary to waive the application of subsection (a) based on a finding under subsection (b), the head of the department or agency shall publish in the Federal Register a detailed written justification as to why the provision is being waived.

(d) SAVINGS PROVISION.—This section shall be applied in a manner consistent with United States obligations under international agreements.

---

**SA 1598.** Mr. THUNE submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 3, line 11, strike ''Act,'' and insert ''Act and carried out all the actions required by clauses (ii), (v), (i), (iii), (iv) of paragraph (2)(A),''.

---

**SA 1599.** Mr. TOOMEY submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

In section 220(g) of the Immigration and Nationality Act, as added by section 4703 of this amendment, strike paragraphs (1) and (2) and insert the following:

''(1) REGISTERED POSITIONS.—

''(A) IN GENERAL.—Subject to paragraphs (3) and (4), the maximum number of registered positions that may be approved by the Secretary for a year is as follows:

''(i) For the first year aliens are admitted as W nonimmigrants, 200,000.

''(ii) For the second such year, 250,000.

''(iii) For the third such year, 300,000.

''(iv) For the fourth such year, 350,000.

''(v) For each year after the fourth such year, the level calculated for that year under paragraph (2).

''(B) DATES.—The first year referred to in subparagraph (A)(i) shall begin on April 1, 2015, and end on March 31, 2016, unless the Secretary determines that such first year shall begin on October 1, 2015, and end on September 30, 2016.

''(2) YEARS AFTER YEAR 4.—

''(A) CURRENT YEAR AND PRECEDING YEAR.—In this paragraph—

''(i) the term current year shall refer to the 12-month period for which the calculation of the numerical limits under this paragraph is being performed; and

''(ii) the term preceding year shall refer to the 12-month period immediately preceding the current year.

''(B) NUMERICAL LIMITATION.—Subject to subparagraph (D), the number of registered positions that may be approved by the Secretary for a year after the fourth year referred to in paragraph (1)(A)(iv) shall be equal to the sum of—

''(i) the number of such registered positions available under this paragraph for the preceding year; and

''(ii) the product of—

''(I) the number of such registered positions available under this paragraph for the preceding year; multiplied by

''(II) the index for the current year calculated under subparagraph (C).

''(C) INDEX.—The index calculated under this subparagraph for a current year equals the sum of—

''(i) one-fifth of a fraction—

''(I) the numerator of which is the number of registered positions that registered employers applied to have approved under subsection (e)(1) for the preceding year minus the number of registered positions approved under subsection (e) for the preceding year; and

''(II) the denominator of which is the number of registered positions approved under subsection (e) for the preceding year;

''(ii) one-fifth of a fraction—

''(I) the numerator of which is the number of registered positions the Commissioner recommends be available under this subparagraph for the current year minus the number of registered positions available under this subsection for the preceding year; and

''(II) the denominator of which is the number of registered positions available under this subsection for the preceding year;

''(iii) three-tenths of a fraction—

''(I) the numerator of which is the number of unemployed United States workers for the preceding year minus the number of unemployed United States workers for the current year; and

''(II) the denominator of which is the number of unemployed United States workers for the preceding year; and

''(iv) three-tenths of a fraction—

''(I) the numerator of which is the number of job openings as set out in the Job Openings and Labor Turnover Survey of the Bureau of Labor Statistics for the current year minus such number of job openings for the preceding year; and

''(II) the denominator of which is the number of such job openings for the preceding year;

''(D) MINIMUM AND MAXIMUM LEVELS.—The number of registered positions calculated under subparagraph (B) for a 12-month period may not be less than 200,000 nor more than 400,000.''.

---

**SA 1600.** Mr. RISCH submitted an amendment intended to be proposed by him to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 1369, strike lines 1 through 16, and insert the following:

''(III) SYSTEM PARTICIPATION EXEMPTION FOR SMALL EMPLOYERS FOLLOWING PERSISTENT SYSTEM INACCURACIES.—Notwithstanding paragraph (2)(G), in any calendar year following a report by the Inspector General under subclause (I) that the System had an error rate higher than 0.3 percent for the previous fiscal year, employers with 50 or fewer employees shall not be required to participate in the System.

**SA 1601.** Mr. RISCH (for himself and Mr. COBURN) submitted an amendment intended to be proposed by him to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. _____. SMALL BUSINESS FAIRNESS AND REGULATORY TRANSPARENCY.**

Section 609(d) of title 5, United States Code, is amended—

(1) in paragraph (2), by striking ''and'' at the end;

(2) in paragraph (3), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(4) the Department of Homeland Security.''.

---

**SA 1602.** Mrs. MURRAY submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. _____. OFFICER FOR CIVIL RIGHTS AND CIVIL LIBERTIES.**

Section 705 of the Homeland Security Act of 2002 (6 U.S.C. 345) is amended—

(1) in subsection (a), by striking paragraph (6) and inserting the following:

''(6) investigate complaints and information indicating possible abuses of civil rights or civil liberties by employees and officials of the Department or that are related to Departmental activities (unless the Inspector General of the Department determines that such a complaint or such information should be investigated by the Inspector General) and, using the information gained by such investigations, make recommendations to the Secretary and directorates, offices, and other components of the Department for improvements in policy, supervision, training, and practice related to civil rights or civil liberties, or for the relevant office to review the matter and take appropriate disciplinary or other action.'';

(2) by redesignating subsection (b) as subsection (e);

(3) by inserting after subsection (a) the following:

''(b) INVESTIGATION OF COMPLAINTS.—The head of each directorate, office, or component of the Department and the head of any other executive agency shall ensure that the directorate, office, or component provides the Officer for Civil Rights and Civil Liberties with speedy access, and in no event later than 30 days after the date on which the directorate, office, or component receives a request from the Officer, to any information determined by the Officer to be relevant to the exercise of the duties and responsibilities under subsection (a) or to any investigation carried out under this section, whether by providing relevant documents or access to facilities or personnel.

''(c) SUBPOENAS.—

''(1) IN GENERAL.—In carrying out the duties and responsibilities under subsection (a) or as part of an investigation carried out under this section, the Officer for Civil Rights and Civil Liberties may require by subpoena access to—

''(A) any institution or entity outside of the Federal Government that is the subject of or related to an investigation under this section; and

''(B) any individual, document, record, material, file, report, memorandum, policy, procedure, investigation, video or audio recording or other media, or quality assurance report relating to any institution or entity outside of the Federal Government that is the subject of or related to an investigation under this section.

''(2) ISSUANCE AND SERVICE.—A subpoena issued under this subsection shall—

''(A) bear the signature of the Officer for Civil Rights and Civil Liberties; and

''(B) be served by any person or class of persons designated by the Officer or an officer or employee designated for that purpose.

''(3) ENFORCEMENT.—In the case of contumacy or failure to obey a subpoena issued under this subsection, the United States district court for the judicial district in which the institution, entity, or individual is located may issue an order requiring compliance. Any failure to obey the order of the court may be punished by the court as contempt of that court.

''(4) USE OF INFORMATION.—Any material obtained under a subpoena issued under this subsection—

''(A) may not be used for any purpose other than a purpose set forth in subsection (a);

''(B) may not be transmitted by or within the Department for any purpose other than a purpose set forth in subsection (a); and

''(C) shall be redacted, obscured, or otherwise altered if used in any publicly available manner to the extent necessary to prevent the disclosure of any personally identifiable information.

''(d) RECOMMENDATIONS.—For any final recommendation or finding made under this section by the Officer for Civil Rights and Civil Liberties to the Secretary or a directorate, office, or other component of the Department—

''(1) the Secretary shall ensure that the Department—

''(A) responds to the recommendation or finding within 30 days after the date on which the Officer communicates the recommendation or finding; and

''(B) within 60 days after the date on which the Officer communicates the recommendation or finding, provides the Officer with a plan for implementation of the recommendation or finding;

''(2) within 30 days after the date on which the Officer receives an implementation plan under paragraph (1), the Officer shall assess the plan and determine whether the plan sufficiently addresses the underlying recommendation;

''(3) if the Officer determines under paragraph (2) that an implementation plan is insufficient, the Secretary shall ensure that the Department submits a revised implementation plan that complies with the underlying recommendation within 30 days after the date on which the Officer communicates the determination; and

''(4) absent any provision of law to the contrary, the Officer shall provide the complainant with a summary of any findings or recommendations made under this section by the Officer, which shall be redacted, obscured, or otherwise altered to protect the disclosure of any personally identifiable information, other than the complainant's.''; and

(4) in subsection (e), as so redesignated—

(A) by striking ''The Secretary shall'' and inserting the following:

''(1) IN GENERAL.—The Secretary shall'';

(B) by striking ''and the appropriate committees and subcommittees of Congress'' and inserting ''the appropriate committees and subcommittees of Congress, and the Privacy and Civil Liberties Oversight Board established under section 1061 of the Intelligence Reform and Terrorism Prevention Act of 2004 (42 U.S.C. 2000ee)'';

(C) by striking '', and detailing any allegations'' and all that follows through ''such allegations.'' and inserting ''and a compilation of the information provided in the quarterly reports under paragraph (2).''; and

(D) by adding at the end the following:

''(2) QUARTERLY REPORTS.—

''(A) IN GENERAL.—The Officer for Civil Rights and Civil Liberties shall submit to the President of the Senate, the Speaker of the House of Representatives, the appropriate committees and subcommittees of Congress, and the Privacy and Civil Liberties Oversight Board established under section 1061 of the Intelligence Reform and Terrorism Prevention Act of 2004 (42 U.S.C. 2000ee), on a quarterly basis, a report detailing—

''(i) each nonfrivolous allegation of abuse received by the Officer during the quarter covered by the report; and

''(ii) each final recommendation made or carried out under subsection (a) that was completed during the quarter covered by the report.

''(B) CONTENTS.—Each report under this paragraph shall detail—

''(i) for each allegation described in subparagraph (A)(i) subject to a completed investigation, any final recommendation made by the Officer for Civil Rights and Civil Liberties and any action or response taken by the Department in response; and

''(ii) any matter or investigation carried out under this section that has been open or pending for more than 2 years.

''(3) INFORMING THE PUBLIC.—The Officer for Civil Rights and Civil Liberties shall—

''(A) make each report submitted under this subsection available to the public to the greatest extent that is consistent with the protection of classified information and applicable law; and

''(B) otherwise inform the public of the activities of the Officer, as appropriate and in a manner consistent with the protection of classified information and applicable law.''.

---

**SA 1603.** Mrs. MURRAY (for herself and Mr. CRAPO) submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. _____. PROHIBITION ON RESTRAINTS ON PREGNANT DETAINEES.**

(a) PROHIBITION ON RESTRAINT OF PREGNANT DETAINEES.—

(1) PROHIBITION.—A detention facility shall not use restraints on a detainee known to be pregnant, including during labor, transport to a medical facility or birthing center, delivery, and postpartum recovery, unless the facility administrator makes an individualized determination that the detainee presents an extraordinary circumstance as described in paragraph (2).

(2) EXTRAORDINARY CIRCUMSTANCE.—Restraints for an extraordinary circumstance are only permitted if a medical officer has directed the use of restraints for medical reasons or if the facility administrator makes an individualized determination that—

(A) credible, reasonable grounds exist to believe the detainee presents an immediate and serious threat of hurting herself, staff or others; or

(B) reasonable grounds exist to believe the detainee presents an immediate and credible

risk of escape that cannot be reasonably minimized through any other method.

(3) REQUIREMENT FOR LEAST RESTRICTIVE RESTRAINTS.—In the rare event that one of the extraordinary circumstances in paragraph (2) applies, medical staff shall determine the safest method and duration for the use of restraints and the least restrictive restraints necessary shall be used for a pregnant detainee, except that—

(A) if a doctor, nurse, or other health professional treating the detainee requests that restraints not be used, the detention officer accompanying the detainee shall immediately remove all restraints;

(B) under no circumstance shall leg or waist restraints be used;

(C) under no circumstance shall wrist restraints be used to bind the detainee's hands behind her back; and

(D) under no circumstances shall any restraints be used on any detainee in labor or childbirth.

(4) RECORD OF EXTRAORDINARY CIRCUMSTANCES.—

(A) REQUIREMENT.—If restraints are used on a detainee pursuant to paragraph (2), the facility administrator shall make a written finding within 10 days as to the extraordinary circumstance that dictated the use of the restraints.

(B) RETENTION.—A written find made under subparagraph (A) shall be kept on file by the detention facility for at least 5 years and be made available for public inspection, except that no individually identifying information of any detainee shall be made public without the detainee's prior written consent.

(b) PROHIBITION ON PRESENCE OF DETENTION OFFICERS DURING LABOR OR CHILDBIRTH.—Upon a detainee's admission to a medical facility or birthing center for labor or childbirth, no detention officer shall be present in the room during labor or childbirth, unless specifically requested by medical personnel. If a detention officer's presence is requested by medical personnel, the detention officer shall be female, if practicable. If restraints are used on a detainee pursuant to subsection (a)(2), a detention officer shall remain immediately outside the room at all times so that the officer may promptly remove the restraints if requested by medical personnel, as required by subsection (a)(3)(A).

(c) DEFINITIONS.—In this section:

(1) DETAINEE.—The term ''detainee'' includes any adult or juvenile person detained under the Immigration and Nationality Act (8 U.S.C. 1101) or held by any Federal, State, or local law enforcement agency under an immigration detainer.

(2) DETENTION FACILITY.—The term ''detention facility'' means a Federal, State, or local government facility, or a privately owned and operated facility, that is used, in whole or in part, to hold individuals under the authority of the Director of U.S. Immigration and Customs Enforcement or the Commissioner of U.S. Customs and Border Protection, including facilities that hold such individuals under a contract or agreement with the Director or Commissioner, or that is used, in whole or in part, to hold individuals pursuant to an immigration detainer.

(3) FACILITY ADMINISTRATOR.—The term ''facility administrator'' means the official that is responsible for oversight of a detention facility or the designee of such official.

(4) LABOR.—The term ''labor'' means the period of time before a birth during which contractions are of sufficient frequency, intensity, and duration to bring about effacement and progressive dilation of the cervix.

(5) POSTPARTUM RECOVERY.—The term ''postpartum recovery'' mean, as determined by her physician, the period immediately following delivery, including the entire period a woman is in the hospital or infirmary after birth.

(6) RESTRAINT.—The term ''restraint'' means any physical restraint or mechanical device used to control the movement of a detainee's body or limbs, including flex cuffs, soft restraints, hard metal handcuffs, a black box, Chubb cuffs, leg irons, belly chains, a security (tether) chain, or a convex shield.

(d) ANNUAL REPORT.—

(1) REQUIREMENT.—Not later than 30 days before the end of each fiscal year, the facility administrator of each detention facility in whose custody a pregnant detainee had been subject to the use of restraints during the previous fiscal year shall submit to the Secretary a written report that includes an account of every instance of such a use of restraints. No such report may contain any individually identifying information of any detainee.

(2) PUBLIC INSPECTION.—Each report submitted under paragraph (1) shall be made available for public inspection.

(e) RULEMAKING.—The Secretary shall adopt regulations or policies to carry out this section at every detention facility.

---

**SA 1604.** Mr. WICKER submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

In section 245B(d)(2)(A) of the Immigration and Nationality Act, as added by section 2101 of the bill, strike the matter preceding clause (i) and insert the following:

''(A) IN GENERAL.—The Secretary shall immediately revoke the status of a registered provisional immigrant, after providing appropriate notice to the alien, if the alien—

---

**SA 1605.** Mr. WICKER submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

In section 3701(c), strike paragraph (2) and insert the following:

(d) MANDATORY DETENTION AND EXPEDITED REMOVAL OF CERTAIN CRIMINAL ALIENS.—

(1) MANDATORY DETENTION.—Section 236(c) (8 U.S.C. 1226(c)) is amended—

(A) by striking ''Attorney General'' each place such term appears and inserting ''Secretary of Homeland Security''; and

(B) in paragraph (1)—

(i) in subparagraph (B), by striking ''section 237(a)(2)(A)(ii), (A)(iii), (B), (C), or (D),'' and inserting ''subparagraph (A)(ii), (A)(iii), (B), (C), (D), (E), or (G) of section 237(a)(2);''; and

(ii) in subparagraph (C), by striking ''sentence'' and inserting ''sentenced''.

(2) EXPEDITED REMOVAL.—Section 238 (8 U.S.C. 1228) is amended—

(A) by striking the section heading and inserting the following:

**''SEC. 238. EXPEDITED REMOVAL PROCEEDINGS FOR ALIENS CONVICTED OF SERIOUS CRIMINAL OFFENSES.'';**

(B) by striking ''Attorney General'' each place such term appears and insert ''Secretary of Homeland Security'';

(C) in subsection (a)—

(i) by striking paragraph (3);

(ii) by redesignating paragraph (2) as paragraph (3); and

(iii) by striking paragraph (1) and inserting the following:

''(1) IN GENERAL.—The Secretary of Homeland Security shall provide for special removal proceedings at certain Federal, State, and local correctional facilities for any alien convicted of—

''(A) any criminal offense set forth in subparagraph (A)(iii), (B), (C), (D), (E), or (G) of section 237(a)(2); or

''(B) 2 or more crimes involving moral turpitude, as described in clause (ii) of section 237(a)(2)(A), for which both predicate offenses are, without regard to the date of their commission, otherwise described in clause (i) of such section.

''(2) CONDUCT OF PROCEEDINGS.—

''(A) IN GENERAL.—Except as otherwise provided in this section, removal proceedings authorized under this section—

''(i) shall be conducted in accordance with section 240;

''(ii) shall eliminate the need for additional detention at any U.S. Immigration and Customs Enforcement processing center; and

''(iii) shall ensure the expeditious removal of the alien following the alien's incarceration for the underlying crime.

''(B) SAVINGS PROVISIONS.—Nothing in this paragraph may be construed—

''(i) to create any substantive or procedural right or benefit that is legally enforceable by any party against the United States, its agencies or officers, or any other person; or

''(ii) to require the Secretary of Homeland Security to effect the removal of any alien sentenced to actual incarceration before the alien is scheduled to be released from incarceration for the underlying crime.''; and

(D) by striking subsection (c), as redesignated by section 671(b)(13) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208), and inserting the following:

''(6) An alien convicted of an offense for which an element was active participation in a criminal street gang, an aggravated felony, or a crime of domestic violence or child abuse shall be conclusively presumed to be deportable from the United States.''.

(3) CLERICAL AMENDMENT.—The table of contents is amended by striking the item relating to section 238 and inserting the following:

''Sec. 238. Expedited removal proceedings for aliens convicted of serious criminal offenses.''.

---

**SA 1606.** Mr. WICKER submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle G of title III, add the following:

**SEC. 3722. LISTING OF IMMIGRATION VIOLATORS IN THE NATIONAL CRIME INFORMATION CENTER DATABASE.**

(a) PROVISION OF INFORMATION TO THE NCIC.—Not later than 180 days after the last day of the application period for registered provisional immigrant status, as specified in section 245B(c)(3) of the Immigration and Nationality Act, as added by section 2101 of this Act, and periodically thereafter as updates may require, the Secretary shall provide the National Crime Information Center of the Department of Justice with all the information in the possession of the Secretary regarding—

(1) any alien against whom a final order of removal has been issued;

(2) any alien who has entered into a voluntary departure agreement;

(3) any alien who has overstayed his or her authorized period of stay; and

(4) any alien whose visa has been revoked.

(b) INCLUSION OF INFORMATION IN IMMIGRATION VIOLATORS FILE.—The Secretary and the Attorney General shall establish a system for ensuring that the information provided pursuant to subsection (a) for entry into the Immigration Violators File of the National Crime Information Center database is updated regularly to reflect whether—

(1) the alien received notice of a final order of removal;

(2) the alien has already been removed; or

(3) the legal status of the alien has otherwise changed.

(c) CONFORMING AMENDMENT.—

(1) IN GENERAL.—Section 534(a) of title 28, United States Code, is amended—

(A) in paragraph (3), by striking ''and'' at the end;

(B) by redesignating paragraph (4) as paragraph (5); and

(C) by inserting after paragraph (3) the following:

''(4) acquire, collect, classify, and preserve records of violations by aliens of the immigration laws of the United States, regardless of whether any such alien has received notice of the violation or whether sufficient identifying information is available with respect to any such alien or whether any such alien has already been removed from the United States; and''.

(2) EFFECTIVE DATE.—The Attorney General and the Secretary shall ensure that the amendment made by paragraph (1) is implemented not later than 6 months after the last day of the application period for registered provisional immigrant status.

(d) TECHNOLOGY ACCESS.—States shall have access to Federal programs or technology directed broadly at identifying inadmissible or deportable aliens.

**SEC. 3723. STATE AND LOCAL LAW ENFORCEMENT PROVISION OF INFORMATION ABOUT APPREHENDED ALIENS.**

(a) PROVISION OF INFORMATION.—As a condition of receiving compensation for the incarceration of undocumented criminal aliens pursuant to section 241(i) of the Immigration and Nationality Act (8 U.S.C. 1231(i)), grants under the ''Cops on the Beat'' program authorized under part Q of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd et seq.), or other law enforcement grants from the Department or the Department of Justice, each State, and each political subdivision of a State, shall, in a timely manner, provide the Secretary with the information specified in subsection (b) with respect to each alien who is arrested by law enforcement officers in the course of carrying out the officers' routine law enforcement duties in the jurisdiction of the State, or in the political subdivision of the State, who is believed to be inadmissible or deportable.

(b) INFORMATION REQUIRED.—The information required under this subsection is—

(1) the alien's name;

(2) the alien's address or place of residence;

(3) a physical description of the alien;

(4) the date, time, and location of the encounter with the alien and the reason for arresting the alien;

(5) the alien's driver's license number, if applicable, and the State of issuance of such license;

(6) the type of any other identification document issued to the alien, if applicable, any designation number contained on the identification document, and the issuing entity for the identification document;

(7) the license plate number, make, and model of any automobile registered to, or driven by, the alien, if applicable;

(8) a photo of the alien, if available or readily obtainable; and

(9) the alien's fingerprints, if available or readily obtainable.

(c) ANNUAL REPORT ON REPORTING.—The Secretary shall maintain, and annually submit to the Congress, a detailed report listing the States, or the political subdivisions of States, that have provided information under subsection (a) in the preceding year.

(d) REIMBURSEMENT.—The Secretary shall reimburse States, and political subdivisions of a State, for all reasonable costs, as determined by the Secretary, incurred by the State, or the political subdivision of a State, as a result of providing information under subsection (a).

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

(f) RULE OF CONSTRUCTION.—Nothing in this section may be construed to require law enforcement officials of a State, or of a political subdivision of a State, to provide the Secretary with information related to a victim of a crime or witness to a criminal offense.

(g) EFFECTIVE DATE.—This section shall—

(1) take effect on the date that is 120 days after the last day of the application period for registered provisional immigrant status; and

(2) apply with respect to aliens apprehended on or after such date.

**SEC. 3724. STATE VIOLATIONS OF ENFORCEMENT OF IMMIGRATION LAWS.**

(a) IN GENERAL.—Section 642 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1373) is amended—

(1) by striking ''Immigration and Naturalization Service'' each place it appears and inserting ''Department of Homeland Security'';

(2) in subsection (a), by striking ''may'' and inserting ''shall'';

(3) in subsection (b)—

(A) by striking ''no person or agency may'' and inserting ''a person or agency shall not'';

(B) by striking ''doing any of the following with respect to information'' and inserting ''undertaking any of the following law enforcement activities''; and

(C) by striking paragraphs (1) through (3) and inserting the following:

''(1) Notifying the Federal Government regarding the presence of inadmissible and deportable aliens who are encountered by law enforcement personnel of a State or political subdivision of a State.

''(2) Complying with requests for immigration-related information from Federal law enforcement.

''(3) Complying with detainers issued by the Department of Homeland Security.

''(4) Issuing policies in the form of a resolutions, ordinances, administrative actions, general or special orders, or departmental policies that violate Federal immigration law or restrict a State or political subdivision of a State from complying with Federal immigration law or coordinating with Federal immigration law enforcement.''; and

(4) by adding at the end the following:

''(d) COMPLIANCE.—

''(1) IN GENERAL.—A State, or a political subdivision of a State, that has in effect a statute, policy, or practice that prohibits law enforcement officers of the State, or of a political subdivision of the State, from assisting or cooperating with Federal immigration law enforcement in the course of carrying out the officers' routine law enforcement duties shall not be eligible to receive, for a minimum period of 1 year—

''(A) any of the funds that would otherwise be allocated to the State or political subdivision under section 241(i) of the Immigration and Nationality Act (8 U.S.C. 1231(i)) or the 'Cops on the Beat' program under part Q of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd et seq.); or

''(B) any other law enforcement or Department of Homeland Security grant.

''(2) ANNUAL DETERMINATION AND REPORT.—The Secretary shall—

''(A) annually determine which States or political subdivisions of a State are ineligible for certain Federal funding pursuant to paragraph (1); and

''(B) submit a report to Congress by March 1st of each year that lists such States and political subdivisions.

''(3) OTHER REPORTS.—The Attorney General shall issue a report concerning the compliance of any particular State or political subdivision at the request of the Committee on the Judiciary of the Senate or the Committee on the Judiciary of the House of Representatives.

''(4) CERTIFICATION.—Any jurisdiction that is described in paragraph (1) shall be ineligible to receive Federal financial assistance described in paragraph (1) until after the Attorney General certifies that the jurisdiction no longer prohibits its law enforcement officers from assisting or cooperating with Federal immigration law enforcement.

''(5) REALLOCATION.—Any funds that are not allocated to a State or to a political subdivision of a State pursuant to paragraph (1) shall be reallocated to States, or to political subdivisions of States, that comply with such subsection.

''(e) CONSTRUCTION.—Nothing in this section shall require law enforcement officials from States, or from political subdivisions of States, to report or arrest victims or witnesses of a criminal offense.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act, except that subsection (d) of section 642 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1373), as added by this section, shall take effect beginning on the date that is 1 year after the date of the enactment of this Act.

---

**SA 1607.** Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

Strike section 3103 and inserting the following:

**SEC. 3103. EXTENSION OF IDENTITY THEFT OFFENSES.**

(a) FRAUD AND RELATED ACTIVITIES RELATING TO IDENTIFICATION DOCUMENTS.—Section 1028 of title 18, United States Code, is amended in subsection (a)(7), by striking ''of another person'' and inserting ''that is not his or her own''.

(b) AGGRAVATED IDENTITY THEFT.—Section 1028A(a) of title 18, United States Code, is amended by striking ''of another person'' both places it appears and inserting ''that is not his or her own''.

At the end of section 3301(b), add the following:

(8) $300,000,000 to carry out title III and subtitles D and G of title IV and the amendments made by title III and such subtitles.

At the end of subtitle C of title III, add the following:

**SEC. 3307. WAIVER OF FEDERAL LAWS WITH RESPECT TO BORDER SECURITY ACTIONS ON DEPARTMENT OF THE INTERIOR AND DEPARTMENT OF AGRICULTURE LANDS.**

(a) PROHIBITION ON SECRETARIES OF THE INTERIOR AND AGRICULTURE.—The Secretary of the Interior or the Secretary of Agriculture shall not impede, prohibit, or restrict activities of U.S. Customs and Border Protection on Federal land located within 100 miles of an international land border that is under the jurisdiction of the Secretary of the Interior or the Secretary of Agriculture, to execute search and rescue operations and to prevent all unlawful entries into the United States, including entries by terrorists, other unlawful aliens, instruments of terrorism, narcotics, and other contraband through the international land borders of the United States.

(b) AUTHORIZED ACTIVITIES OF U.S. CUSTOMS AND BORDER PROTECTION.—U.S. Customs and Border Protection shall have immediate access to Federal land within 100 miles of the international land border under the jurisdiction of the Secretary of the Interior or the Secretary of Agriculture for purposes of conducting the following activities on such land that prevent all unlawful entries into the United States, including entries by terrorists, other unlawful aliens, instruments of terrorism, narcotics, and other contraband through the international land borders of the United States:

(1) Construction and maintenance of roads.

(2) Construction and maintenance of barriers.

(3) Use of vehicles to patrol, apprehend, or rescue.

(4) Installation, maintenance, and operation of communications and surveillance equipment and sensors.

(5) Deployment of temporary tactical infrastructure.

(c) CLARIFICATION RELATING TO WAIVER AUTHORITY.—

(1) IN GENERAL.—Notwithstanding any other provision of law (including any termination date relating to the waiver referred to in this subsection), the waiver by the Secretary of Homeland Security on April 1, 2008, under section 102(c)(1) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1103 note; Public Law 104–208) of the laws described in paragraph (2) with respect to certain sections of the international border between the United States and Mexico and between the United States and Canada shall be considered to apply to all Federal land under the jurisdiction of the Secretary of the Interior or the Secretary of Agriculture within 100 miles of the international land borders of the United States for the activities of U.S. Customs and Border Protection described in subsection (c).

(2) DESCRIPTION OF LAWS WAIVED.—The laws referred to in paragraph (1) are limited to the Wilderness Act (16 U.S.C. 1131 et seq.), the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), the National Historic Preservation Act (16 U.S.C. 470 et seq.), Public Law 86–523 (16 U.S.C. 469 et seq.), the Act of June 8, 1906 (commonly known as the ''Antiquities Act of 1906''; 16 U.S.C. 431 et seq.), the Wild and Scenic Rivers Act (16 U.S.C. 1271 et seq.), the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd et seq.), the Fish and Wildlife Act of 1956 (16 U.S.C. 742a et seq.), the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.), subchapter II of chapter 5, and chapter 7, of title 5, United States Code (commonly known as the ''Administrative Procedure Act''), the National Park Service Organic Act (16 U.S.C. 1 et seq.), the General Authorities Act of 1970 (Public Law 91–383) (16 U.S.C. 1a-1 et seq.), sections 401(7), 403, and 404 of the National Parks and Recreation Act of 1978 (Public Law 95–625, 92 Stat. 3467), and the Arizona Desert Wilderness Act of 1990 (16 U.S.C. 1132 note; Public Law 101–628).

(d) PROTECTION OF LEGAL USES.—This section shall not be construed to provide—

(1) authority to restrict legal uses, such as grazing, hunting, mining, or public-use recreational and backcountry airstrips on land under the jurisdiction of the Secretary of the Interior or the Secretary of Agriculture; or

(2) any additional authority to restrict legal access to such land.

(e) EFFECT ON STATE AND PRIVATE LAND.—This Act shall—

(1) have no force or effect on State or private lands; and

(2) not provide authority on or access to State or private lands.

(f) TRIBAL SOVEREIGNTY.—Nothing in this section supersedes, replaces, negates, or diminishes treaties or other agreements between the United States and Indian tribes.

(g) REPORT.—Not later than 1 year after the date of the enactment of this Act, and annually thereafter, the Secretary of Homeland Security shall submit to the appropriate committees of Congress a report describing the extent to which implementation of this section has affected the operations of U.S. Customs and Border Protection in the year preceding the report.

Strike subtitle G of title III and insert the following:

## Subtitle G—Interior Enforcement

**SEC. 3700. SHORT TITLE.**

This subtitle may be cited as the ''Strengthen and Fortify Enforcement Act'' or the ''SAFE Act''.

## CHAPTER 1—IMMIGRATION LAW ENFORCEMENT BY STATES AND LOCALITIES

**SEC. 3701. DEFINITION AND SEVERABILITY.**

(a) STATE DEFINED.—For the purposes of this chapter, the term ''State'' has the meaning given to such term in section 101(a)(36) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(36)).

(b) SEVERABILITY.—If any provision of this chapter, or the application of such provision to any person or circumstance, is held invalid, the remainder of this chapter, and the application of such provision to other persons not similarly situated or to other circumstances, shall not be affected by such invalidation.

**SEC. 3702. IMMIGRATION LAW ENFORCEMENT BY STATES AND LOCALITIES.**

(a) IN GENERAL.—Subject to section 274A(h)(2) of the Immigration and Nationality Act (8 U.S.C. 1324a(h)(2)), States, or political subdivisions of States, may enact, implement and enforce criminal penalties that penalize the same conduct that is prohibited in the criminal provisions of immigration laws (as defined in section 101(a)(17) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(17))), as long as the criminal penalties do not exceed the relevant Federal criminal penalties. States, or political subdivisions of States, may enact, implement and enforce civil penalties that penalize the same conduct that is prohibited in the civil violations of immigration laws (as defined in such section 101(a)(17)), as long as the civil penalties do not exceed the relevant Federal civil penalties.

(b) LAW ENFORCEMENT PERSONNEL.—Law enforcement personnel of a State, or of a political subdivision of a State, may investigate, identify, apprehend, arrest, detain, or transfer to Federal custody aliens for the purposes of enforcing the immigration laws of the United States to the same extent as Federal law enforcement personnel. Law enforcement personnel of a State, or of a political subdivision of a State, may also investigate, identify, apprehend, arrest, or detain aliens for the purposes of enforcing the immigration laws of a State or of a political subdivision of State, as long as those immigration laws are permissible under this section. Law enforcement personnel of a State, or of a political subdivision of a State, may not remove aliens from the United States.

**SEC. 3703. LISTING OF IMMIGRATION VIOLATORS IN THE NATIONAL CRIME INFORMATION CENTER DATABASE.**

(a) PROVISION OF INFORMATION TO THE NCIC.—Not later than 180 days after the date of the enactment of this Act and periodically thereafter as updates may require, the Secretary shall provide the National Crime Information Center of the Department of Justice with all information that the Secretary may possess regarding any alien against whom a final order of removal has been issued, any alien who has entered into a voluntary departure agreement, any alien who has overstayed their authorized period of stay, and any alien whose visas has been revoked. The National Crime Information Center shall enter such information into the Immigration Violators File of the National Crime Information Center database, regardless of whether—

(1) the alien received notice of a final order of removal;

(2) the alien has already been removed; or

(3) sufficient identifying information is available with respect to the alien.

(b) INCLUSION OF INFORMATION IN THE NCIC DATABASE.—

(1) IN GENERAL.—Section 534(a) of title 28, United States Code, is amended—

(A) in paragraph (3), by striking ''and'' at the end;

(B) by redesignating paragraph (4) as paragraph (5); and

(C) by inserting after paragraph (3) the following:

''(4) acquire, collect, classify, and preserve records of violations by aliens of the immigration laws of the United States, regardless of whether any such alien has received notice of the violation or whether sufficient identifying information is available with respect to any such alien or whether any such alien has already been removed from the United States; and''.

(2) EFFECTIVE DATE.—The Attorney General and the Secretary shall ensure that the amendment made by paragraph (1) is implemented by not later than 6 months after the date of the enactment of this Act.

**SEC. 3704. TECHNOLOGY ACCESS.**

States shall have access to Federal programs or technology directed broadly at identifying inadmissible or deportable aliens.

**SEC. 3705. STATE AND LOCAL LAW ENFORCEMENT PROVISION OF INFORMATION ABOUT APPREHENDED ALIENS.**

(a) PROVISION OF INFORMATION.—In compliance with section 642(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1373) and section 434 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1644), each State, and each political subdivision of a State, shall provide the Secretary in a timely manner with the information specified in subsection (b) with respect to each alien apprehended in the jurisdiction of the State, or in the political subdivision of the State, who is believed to be inadmissible or deportable.

(b) INFORMATION REQUIRED.—The information referred to in subsection (a) is as follows:

(1) The alien's name.

(2) The alien's address or place of residence.

(3) A physical description of the alien.

(4) The date, time, and location of the encounter with the alien and reason for stopping, detaining, apprehending, or arresting the alien.

(5) If applicable, the alien's driver's license number and the State of issuance of such license.

(6) If applicable, the type of any other identification document issued to the alien, any designation number contained on the identification document, and the issuing entity for the identification document.

(7) If applicable, the license plate number, make, and model of any automobile registered to, or driven by, the alien.

(8) A photo of the alien, if available or readily obtainable.

(9) The alien's fingerprints, if available or readily obtainable.

(c) ANNUAL REPORT ON REPORTING.—The Secretary shall maintain and annually submit to the Congress a detailed report listing the States, or the political subdivisions of States, that have provided information under subsection (a) in the preceding year.

(d) REIMBURSEMENT.—The Secretary shall reimburse States, and political subdivisions of a State, for all reasonable costs, as determined by the Secretary, incurred by the State, or the political subdivision of a State, as a result of providing information under subsection (a).

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

(f) CONSTRUCTION.—Nothing in this section shall require law enforcement officials of a State, or of a political subdivision of a State, to provide the Secretary with information related to a victim of a crime or witness to a criminal offense.

(g) EFFECTIVE DATE.—This section shall take effect on the date that is 120 days after the date of the enactment of this Act and shall apply with respect to aliens apprehended on or after such date.

**SEC. 3706. FINANCIAL ASSISTANCE TO STATE AND LOCAL POLICE AGENCIES THAT ASSIST IN THE ENFORCEMENT OF IMMIGRATION LAWS.**

(a) GRANTS FOR SPECIAL EQUIPMENT FOR HOUSING AND PROCESSING CERTAIN ALIENS.—From amounts made available to make grants under this section, the Secretary shall make grants to States, and to political subdivisions of States, for procurement of equipment, technology, facilities, and other products that facilitate and are directly related to investigating, apprehending, arresting, detaining, or transporting aliens who are inadmissible or deportable, including additional administrative costs incurred under this chapter.

(b) ELIGIBILITY.—To be eligible to receive a grant under this section, a State, or a political subdivision of a State, must have the authority to, and shall have a written policy and a practice to, assist in the enforcement of the immigration laws of the United States in the course of carrying out the routine law enforcement duties of such State or political subdivision of a State. Entities covered under this section may not have any policy or practice that prevents local law enforcement from inquiring about a suspect's immigration status.

(c) FUNDING.—There is authorized to be appropriated for grants under this section such sums as may be necessary for fiscal year 2014 and each subsequent fiscal year.

(d) GAO AUDIT.—Not later than 3 years after the date of the enactment of this Act, the Comptroller General of the United States shall conduct an audit of funds distributed to States, and to political subdivisions of a State, under subsection (a).

**SEC. 3707. INCREASED FEDERAL DETENTION SPACE.**

(a) CONSTRUCTION OR ACQUISITION OF DETENTION FACILITIES.—

(1) IN GENERAL.—The Secretary shall construct or acquire, in addition to existing facilities for the detention of aliens, detention facilities in the United States, for aliens detained pending removal from the United States or a decision regarding such removal. Each facility shall have a number of beds necessary to effectuate this purposes of this chapter.

(2) DETERMINATIONS.—The location of any detention facility built or acquired in accordance with this subsection shall be determined by the Secretary.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

(c) TECHNICAL AND CONFORMING AMENDMENT.—Section 241(g)(1) of the Immigration and Nationality Act (8 U.S.C. 1231(g)(1)) is amended by striking ''may expend'' and inserting ''shall expend''.

**SEC. 3708. FEDERAL CUSTODY OF INADMISSIBLE AND DEPORTABLE ALIENS IN THE UNITED STATES APPREHENDED BY STATE OR LOCAL LAW ENFORCEMENT.**

(a) STATE APPREHENSION.—

(1) IN GENERAL.—Title II of the Immigration and Nationality Act (8 U.S.C. 1151 et seq.) is amended by inserting after section 240C the following:

''CUSTODY OF INADMISSIBLE AND DEPORTABLE ALIENS PRESENT IN THE UNITED STATES

''SEC. 240D. (a) TRANSFER OF CUSTODY BY STATE AND LOCAL OFFICIALS.—If a State, or a political subdivision of the State, exercising authority with respect with respect to the apprehension or arrest of an inadmissible or deportable alien submits to the Secretary of Homeland Security a request that the alien be taken into Federal custody, notwithstanding any other provision of law, regulation, or policy the Secretary—

''(1) shall take the alien into custody not later than 48 hours after the detainer has been issued following the conclusion of the State or local charging process or dismissal process, or if no State or local charging or dismissal process is required, the Secretary should issue a detainer and take the alien into custody not later than 48 hours after the alien is apprehended; and

''(2) shall request that the relevant State or local law enforcement agency temporarily hold the alien in their custody or transport the alien for transfer to Federal custody.

''(b) POLICY ON DETENTION IN FEDERAL, CONTRACT, STATE, OR LOCAL DETENTION FACILITIES.—In carrying out section 241(g)(1), the Attorney General or Secretary of Homeland Security shall ensure that an alien arrested under this title shall be held in custody, pending the alien's examination under this section, in a Federal, contract, State, or local prison, jail, detention center, or other comparable facility. Notwithstanding any other provision of law, regulation or policy, such facility is adequate for detention, if—

''(1) such a facility is the most suitably located Federal, contract, State, or local facility available for such purpose under the circumstances;

''(2) an appropriate arrangement for such use of the facility can be made; and

''(3) the facility satisfies the standards for the housing, care, and security of persons held in custody by a United States Marshal.

''(c) REIMBURSEMENT.—The Secretary of Homeland Security shall reimburse a State, and a political subdivision of a State, for all reasonable expenses, as determined by the Secretary, incurred by the State, or political subdivision, as a result of the incarceration and transportation of an alien who is inadmissible or deportable as described in subsections (a) and (b). Compensation provided for costs incurred under such subsections shall be the average cost of incarceration of a prisoner in the relevant State, as determined by the chief executive officer of a State, or of a political subdivision of a State, plus the cost of transporting the alien from the point of apprehension to the place of detention, and to the custody transfer point if the place of detention and place of custody are different.

''(d) SECURE FACILITIES.—The Secretary of Homeland Security shall ensure that aliens incarcerated pursuant to this title are held in facilities that provide an appropriate level of security.

''(e) TRANSFER.—

''(1) IN GENERAL.—In carrying out this section, the Secretary of Homeland Security shall establish a regular circuit and schedule for the prompt transfer of apprehended aliens from the custody of States, and political subdivisions of a State, to Federal custody.

''(2) CONTRACTS.—The Secretary may enter into contracts, including appropriate private contracts, to implement this subsection.''.

(2) CLERICAL AMENDMENT.—The table of contents of such Act is amended by inserting after the item relating to section 240C the following new item:

''Sec. 240D. Custody of aliens unlawfully present in the United States.''.

(b) GAO AUDIT.—Not later than 3 years after the date of the enactment of this Act, the Comptroller General of the United States shall conduct an audit of compensation to States, and to political subdivisions of a State, for the incarceration of inadmissible or deportable aliens under section 240D(a) of the Immigration and Nationality Act (as added by subsection (a)(1)).

(c) EFFECTIVE DATE.—Section 240D of the Immigration and Nationality Act, as added by subsection (a), shall take effect on the date of the enactment of this Act, except that subsection (e) of such section shall take effect on the date that is 120 day after the date of the enactment of this Act.

**SEC. 3709. TRAINING OF STATE AND LOCAL LAW ENFORCEMENT PERSONNEL RELATING TO THE ENFORCEMENT OF IMMIGRATION LAWS.**

(a) ESTABLISHMENT OF TRAINING MANUAL AND POCKET GUIDE.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall establish—

(1) a training manual for law enforcement personnel of a State, or of a political subdivision of a State, to train such personnel in the investigation, identification, apprehension, arrest, detention, and transfer to Federal custody of inadmissible and deportable aliens in the United States (including the transportation of such aliens across State lines to detention centers and the identification of fraudulent documents); and

(2) an immigration enforcement pocket guide for law enforcement personnel of a State, or of a political subdivision of a State, to provide a quick reference for such personnel in the course of duty.

(b) AVAILABILITY.—The training manual and pocket guide established in accordance with subsection (a) shall be made available to all State and local law enforcement personnel.

(c) APPLICABILITY.—Nothing in this section shall be construed to require State or local law enforcement personnel to carry the training manual or pocket guide with them while on duty.

(d) COSTS.—The Secretary shall be responsible for any costs incurred in establishing the training manual and pocket guide.

(e) TRAINING FLEXIBILITY.—

(1) IN GENERAL.—The Secretary shall make training of State and local law enforcement officers available through as many means as possible, including through residential training at the Center for Domestic Preparedness, onsite training held at State or local police agencies or facilities, online training courses by computer, teleconferencing, and videotape, or the digital video display (DVD) of a training course or courses. E-learning through a secure, encrypted distributed learning system that has all its servers based in the United States, is scalable, survivable, and can have a portal in place not later than 30 days after the date of the enactment of this Act, shall be made available by the Federal Law Enforcement Training Center Distributed Learning Program for State and local law enforcement personnel.

(2) FEDERAL PERSONNEL TRAINING.—The training of State and local law enforcement personnel under this section shall not displace the training of Federal personnel.

(3) CLARIFICATION.—Nothing in this chapter or any other provision of law shall be construed as making any immigration-related training a requirement for, or prerequisite to, any State or local law enforcement officer to assist in the enforcement of Federal immigration laws.

(4) PRIORITY.—In carrying out this subsection, priority funding shall be given for existing web-based immigration enforcement training systems.

**SEC. 3710. IMMUNITY.**

Notwithstanding any other provision of law, a law enforcement officer of a State or local law enforcement agency who is acting within the scope of the officer's official duties shall be immune, to the same extent as a Federal law enforcement officer, from personal liability arising out of the performance of any duty described in this chapter, including the authorities to investigate, identify, apprehend, arrest, detain, or transfer to Federal custody, an alien for the purposes of enforcing the immigration laws of the United States (as defined in section 101(a)(17) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(17)) or the immigration laws of a State or a political subdivision of a State.

**SEC. 3711. CRIMINAL ALIEN IDENTIFICATION PROGRAM.**

(a) CONTINUATION AND EXPANSION.—

(1) IN GENERAL.—The Secretary shall continue to operate and implement a program that—

(A) identifies removable criminal aliens in Federal and State correctional facilities;

(B) ensures such aliens are not released into the community; and

(C) removes such aliens from the United States after the completion of their sentences.

(2) EXPANSION.—The program shall be extended to all States. Any State that receives Federal funds for the incarceration of criminal aliens (pursuant to the State Criminal Alien Assistance Program authorized under section 241(i) of the Immigration and Nationality Act (8 U.S.C. 1231(i)) or other similar program) shall—

(A) cooperate with officials of the program;

(B) expeditiously and systematically identify criminal aliens in its prison and jail populations; and

(C) promptly convey such information to officials of such program as a condition of receiving such funds.

(b) AUTHORIZATION FOR DETENTION AFTER COMPLETION OF STATE OR LOCAL PRISON SENTENCE.—Law enforcement officers of a State, or of a political subdivision of a State, are authorized to—

(1) hold a criminal alien for a period of up to 14 days after the alien has completed the alien's sentence under State or local law in order to effectuate the transfer of the alien to Federal custody when the alien is inadmissible or deportable; or

(2) issue a detainer that would allow aliens who have served a prison sentence under State or local law to be detained by the State or local prison or jail until the Secretary can take the alien into custody.

(c) TECHNOLOGY USAGE.—Technology, such as video conferencing, shall be used to the maximum extent practicable in order to make the program available in remote locations. Mobile access to Federal databases of aliens and live scan technology shall be used to the maximum extent practicable in order to make these resources available to State and local law enforcement agencies in remote locations.

(d) EFFECTIVE DATE.—This section shall take effect of the date of the enactment of this Act, except that subsection (a)(2) shall take effect on the date that is 180 days after such date.

**SEC. 3712. CLARIFICATION OF CONGRESSIONAL INTENT.**

Section 287(g) of the Immigration and Nationality Act (8 U.S.C. 1357(g)) is amended—

(1) in paragraph (1) by striking ''may enter'' and all that follows through the period at the end and inserting the following: ''shall enter into a written agreement with a State, or any political subdivision of a State, upon request of the State or political subdivision, pursuant to which an officer or employee of the State or subdivision, who is determined by the Secretary to be qualified to perform a function of an immigration officer in relation to the investigation, apprehension, or detention of aliens in the United States (including the transportation of such aliens across State lines to detention centers), may carry out such function at the expense of the State or political subdivision and to extent consistent with State and local law. No request from a bona fide State or political subdivision or bona fide law enforcement agency shall be denied absent a compelling reason. No limit on the number of agreements under this subsection may be imposed. The Secretary shall process requests for such agreements with all due haste, and in no case shall take not more than 90 days from the date the request is made until the agreement is consummated.'';

(2) by redesignating paragraph (2) as paragraph (5) and paragraphs (3) through (10) as paragraphs (7) through (14), respectively;

(3) by inserting after paragraph (1) the following:

''(2) An agreement under this subsection shall accommodate a requesting State or political subdivision with respect to the enforcement model or combination of models, and shall accommodate a patrol model, task force model, jail model, any combination thereof, or any other reasonable model the State or political subdivision believes is best suited to the immigration enforcement needs of its jurisdiction.

''(3) No Federal program or technology directed broadly at identifying inadmissible or deportable aliens shall substitute for such agreements, including those establishing a jail model, and shall operate in addition to any agreement under this subsection.

''(4)(A) No agreement under this subsection shall be terminated absent a compelling reason.

''(B)(i) The Secretary shall provide a State or political subdivision written notice of intent to terminate at least 180 days prior to date of intended termination, and the notice shall fully explain the grounds for termination, along with providing evidence substantiating the Secretary's allegations.

''(ii) The State or political subdivision shall have the right to a hearing before an administrative law judge and, if the ruling is against the State or political subdivision, to appeal the ruling to the Federal Circuit Court of Appeals and, if the ruling is against the State or political subdivision, to the Supreme Court.

''(C) The agreement shall remain in full effect during the course of any and all legal proceedings.''; and

(4) by inserting after paragraph (5) (as redesignated) the following:

''(6) The Secretary of Homeland Security shall make training of State and local law enforcement officers available through as many means as possible, including through residential training at the Center for Domestic Preparedness and the Federal Law Enforcement Training Center, onsite training held at State or local police agencies or facilities, online training courses by computer, teleconferencing, and videotape, or the digital video display (DVD) of a training course or courses. Distance learning through a secure, encrypted distributed learning system that has all its servers based in the United States, is scalable, survivable, and can have a portal in place not later than 30 days after the date of the enactment of this Act, shall be made available by the COPS Office of the Department of Justice and the Federal Law Enforcement Training Center Distributed Learning Program for State and local law enforcement personnel. Preference shall be given to private sector-based web-based immigration enforcement training programs for which the Federal Government has already provided support to develop.''.

**SEC. 3713. STATE CRIMINAL ALIEN ASSISTANCE PROGRAM (SCAAP).**

Section 241(i) of the Immigration and Nationality Act (8 U.S.C. 1231(i)) is amended—

(1) by striking ''Attorney General'' the first place such term appears and inserting ''Secretary of Homeland Security'';

(2) by striking ''Attorney General'' each place such term appears thereafter and inserting ''Secretary'';

(3) in paragraph (3)(A), by inserting ''charged with or'' before ''convicted''; and

(4) by amending paragraph (5) to read as follows:

''(5) There are authorized to be appropriated to carry out this subsection such sums as may be necessary for fiscal year 2014 and each subsequent fiscal year.''.

**SEC. 3714. STATE VIOLATIONS OF ENFORCEMENT OF IMMIGRATION LAWS.**

(a) IN GENERAL.—Section 642 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1373) is amended—

(1) by striking ''Immigration and Naturalization Service'' in each place it appears and inserting ''Department of Homeland Security'';

(2) in subsection (a), by striking ''may'' and inserting ''shall'';

(3) in subsection (b)—

(A) by striking ''no person or agency may'' and inserting ''a person or agency shall not'';

(B) by striking ''doing any of the following with respect to information'' and inserting ''undertaking any of the following law enforcement activities''; and

(C) by striking paragraphs (1) through (3) and inserting the following:

''(1) Notifying the Federal Government regarding the presence of inadmissible and deportable aliens who are encountered by law enforcement personnel of a State or political subdivision of a State.

''(2) Complying with requests for information from Federal law enforcement.

''(3) Complying with detainers issued by the Department of Homeland Security.

''(4) Issuing policies in the form of a resolutions, ordinances, administrative actions, general or special orders, or departmental policies that violate Federal law or restrict a State or political subdivision of a State from complying with Federal law or coordinating with Federal law enforcement.''; and

(4) by adding at the end the following:

''(d) COMPLIANCE.—

''(1) IN GENERAL.—A State, or a political subdivision of a State, that has in effect a statute, policy, or practice that prohibits law enforcement officers of the State, or of a political subdivision of the State, from assisting or cooperating with Federal immigration law enforcement in the course of carrying out the officers' routine law enforcement duties shall not be eligible to receive—

''(A) any of the funds that would otherwise be allocated to the State or political subdivision under section 241(i) of the Immigration and Nationality Act (8 U.S.C. 1231(i)) or the 'Cops on the Beat' program under part Q of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd et seq.); or

''(B) any other law enforcement or Department of Homeland Security grant.

''(2) ANNUAL DETERMINATION.—The Secretary shall determine annually which State or political subdivision of a State are not in compliance with section and shall report such determinations to Congress on March 1 of each year.

''(3) REPORTS.—The Attorney General shall issue a report concerning the compliance of any particular State or political subdivision at the request of the House or Senate Judiciary Committee. Any jurisdiction that is found to be out of compliance shall be ineligible to receive Federal financial assistance as provided in paragraph (1) for a minimum period of 1 year, and shall only become eligible again after the Attorney General certifies that the jurisdiction is in compliance.

''(4) REALLOCATION.—Any funds that are not allocated to a State or to a political subdivision of a State, due to the failure of the State, or of the political subdivision of the State, to comply with subsection (c) shall be reallocated to States, or to political subdivisions of States, that comply with such subsection.

''(e) CONSTRUCTION.—Nothing in this section shall require law enforcement officials from States, or from political subdivisions of States, to report or arrest victims or witnesses of a criminal offense.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act, except that subsection (d) of section 642 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1373), as added by this section, shall take effect beginning one year after the date of the enactment of this Act.

**SEC. 3715. CLARIFYING THE AUTHORITY OF ICE DETAINERS.**

Except as otherwise provided by Federal law or rule of procedure, the Secretary shall execute all lawful writs, process, and orders issued under the authority of the United States, and shall command all necessary assistance to execute the Secretary's duties.

## CHAPTER 2—NATIONAL SECURITY

**SEC. 3721. REMOVAL OF, AND DENIAL OF BENEFITS TO, TERRORIST ALIENS.**

(a) ASYLUM.—Section 208(b)(2)(A) of the Immigration and Nationality Act (8 U.S.C. 1158(b)(2)(A)) is amended—

(1) by inserting ''or the Secretary of Homeland Security'' after ''if the Attorney General''; and

(2) by amending clause (v) to read as follows:

''(v) the alien is described in subparagraph (B)(i) or (F) of section 212(a)(3), unless, in the case of an alien described in subparagraph (IV), (V), or (IX) of section 212(a)(3)(B)(i), the Secretary of Homeland Security or the Attorney General determines, in the discretion of the Secretary or the Attorney General, that there are not reasonable grounds for regarding the alien as a danger to the security of the United States; or''.

(b) CANCELLATION OF REMOVAL.—Section 240A(c)(4) of such Act (8 U.S.C. 1229b(c)(4)) is amended—

(1) by striking ''inadmissible under'' and inserting ''described in''; and

(2) by striking ''deportable under'' and inserting ''described in''.

(c) VOLUNTARY DEPARTURE.—Section 240B(b)(1)(C) of such Act (8 U.S.C. 1229c(b)(1)(C)) is amended by striking ''deportable under section 237(a)(2)(A)(iii) or section 237(a)(4);'' and inserting ''described in paragraph (2)(A)(iii) or (4) of section 237(a);''.

(d) RESTRICTION ON REMOVAL.—Section 241(b)(3)(B) of such Act (8 U.S.C. 1231(b)(3)(B)) is amended—

(1) by inserting ''or the Secretary of Homeland Security'' after ''Attorney General'' wherever that term appears;

(2) in clause (iii), by striking ''or'' at the end;

(3) in clause (iv), by striking the period at the end and inserting ''; or'';

(4) by inserting after clause (iv) the following:

''(v) the alien is described in subparagraph (B)(i) or (F) of section 212(a)(3), unless, in the case of an alien described in subparagraph (IV), (V), or (IX) of section 212(a)(3)(B)(i), the Secretary of Homeland Security or the Attorney General determines, in discretion of the Secretary or the Attorney General, that there are not reasonable grounds for regarding the alien as a danger to the security of the United States.''; and

(5) by striking the final sentence.

(e) RECORD OF ADMISSION.—

(1) IN GENERAL.—Section 249 of such Act (8 U.S.C. 1259) is amended to read as follows:

''RECORD OF ADMISSION FOR PERMANENT RESIDENCE IN THE CASE OF CERTAIN ALIENS WHO ENTERED THE UNITED STATES PRIOR TO JANUARY 1, 1972

''SEC. 249. The Secretary of Homeland Security, in the discretion of the Secretary and under such regulations as the Secretary may prescribe, may enter a record of lawful admission for permanent residence in the case of any alien, if no such record is otherwise available and the alien—

''(1) entered the United States before January 1, 1972;

''(2) has continuously resided in the United States since such entry;

''(3) has been a person of good moral character since such entry;

''(4) is not ineligible for citizenship;

''(5) is not described in paragraph (1)(A)(iv), (2), (3), (6)(C), (6)(E), or (8) of section 212(a); and

''(6) did not, at any time, without reasonable cause fail or refuse to attend or remain in attendance at a proceeding to determine the alien's inadmissibility or deportability.

Such recordation shall be effective as of the date of approval of the application or as of the date of entry if such entry occurred prior to July 1, 1924.''.

(2) CLERICAL AMENDMENT.—The table of contents for such Act is amended by amending the item relating to section 249 to read as follows:

''Sec. 249. Record of admission for permanent residence in the case of certain aliens who entered the United States prior to January 1, 1972.''.

(f) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this Act and sections 208(b)(2)(A), 212(a), 240A, 240B, 241(b)(3), and 249 of the Immigration and Nationality Act, as so amended, shall apply to—

(1) all aliens in removal, deportation, or exclusion proceedings;

(2) all applications pending on, or filed after, the date of the enactment of this Act; and

(3) with respect to aliens and applications described in paragraph (1) or (2) of this subsection, acts and conditions constituting a ground for exclusion, deportation, or removal occurring or existing before, on, or after the date of the enactment of this Act.

**SEC. 3722. TERRORIST BAR TO GOOD MORAL CHARACTER.**

(a) DEFINITION OF GOOD MORAL CHARACTER.—Section 101(f) of the Immigration and Nationality Act (8 U.S.C. 1101(f)) is amended—

(1) by redesignating paragraphs (1) through (9) as paragraphs (2) through (10), respectively;

(2) by inserting after paragraph (1) the following:

''(2) one who the Secretary of Homeland Security or Attorney General determines to have been at any time an alien described in section 212(a)(3) or 237(a)(4), which determination may be based upon any relevant information or evidence, including classified, sensitive, or national security information;'';

(3) in paragraph (9) (as redesignated), by inserting '', regardless whether the crime was classified as an aggravated felony at the time of conviction, except that the Secretary of Homeland Security or Attorney General may, in the unreviewable discretion of the Secretary or Attorney General, determine that this paragraph shall not apply in the case of a single aggravated felony conviction (other than murder, manslaughter, homicide, rape, or any sex offense when the victim of such sex offense was a minor) for which completion of the term of imprisonment or the sentence (whichever is later) occurred 10 or more years prior to the date of application'' after ''(as defined in subsection (a)(43))''; and

(4) by striking the first sentence the follows paragraph (10) (as redesignated) and inserting following: ''The fact that any person is not within any of the foregoing classes shall not preclude a discretionary finding for other reasons that such a person is or was not of good moral character. The Secretary or the Attorney General shall not be limited to the applicant's conduct during the period for which good moral character is required, but may take into consideration as a basis for determination the applicant's conduct and acts at any time.''

(b) AGGRAVATED FELONS.—Section 509(b) of the Immigration Act of 1990 (8 U.S.C. 1101 note) is amended to read as follows:

''(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on November 29, 1990, and shall apply to convictions occurring before, on or after such date.''.

(c) TECHNICAL CORRECTION TO THE INTELLIGENCE REFORM ACT.—Section 5504(2) of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458) is amended by striking ''adding at the end'' and inserting ''inserting after paragraph (8)''.

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on the date of enactment of this Act, shall apply to any act that occurred before, on, or after such date and shall apply to any application for naturalization or any other benefit or relief, or any other case or matter under the immigration laws pending on or filed after such date. The amendments made

by subsection (c) shall take effect as if enacted in the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458).

**SEC. 3723. TERRORIST BAR TO NATURALIZATION.**

(a) NATURALIZATION OF PERSONS ENDANGERING THE NATIONAL SECURITY.—Section 316 of the Immigration and Nationality Act (8 U.S.C. 1426) is amended by adding at the end the following:

''(g) PERSONS ENDANGERING THE NATIONAL SECURITY.—No person shall be naturalized who the Secretary of Homeland Security determines to have been at any time an alien described in section 212(a)(3) or 237(a)(4). Such determination may be based upon any relevant information or evidence, including classified, sensitive, or national security information.''.

(b) CONCURRENT NATURALIZATION AND REMOVAL PROCEEDINGS.—Section 318 of the Immigration and Nationality Act (8 U.S.C. 1429) is amended by striking ''other Act;'' and inserting ''other Act; and no application for naturalization shall be considered by the Secretary of Homeland Security or any court if there is pending against the applicant any removal proceeding or other proceeding to determine the applicant's inadmissibility or deportability, or to determine whether the applicant's lawful permanent resident status should be rescinded, regardless of when such proceeding was commenced: *Provided*, That the findings of the Attorney General in terminating removal proceedings or in canceling the removal of an alien pursuant to the provisions of this Act, shall not be deemed binding in any way upon the Secretary of Homeland Security with respect to the question of whether such person has established his eligibility for naturalization as required by this title;''.

(c) PENDING DENATURALIZATION OR REMOVAL PROCEEDINGS.—Section 204(b) of the Immigration and Nationality Act (8 U.S.C. 1154(b)) is amended by adding at the end the following: ''No petition shall be approved pursuant to this section if there is any administrative or judicial proceeding (whether civil or criminal) pending against the petitioner that could (whether directly or indirectly) result in the petitioner's denaturalization or the loss of the petitioner's lawful permanent resident status.''.

(d) CONDITIONAL PERMANENT RESIDENTS.—Sections 216(e) and section 216A(e) of the Immigration and Nationality Act (8 U.S.C. 1186a(e) and 1186b(e)) are each amended by striking the period at the end and inserting '', if the alien has had the conditional basis removed pursuant to this section.''.

(e) DISTRICT COURT JURISDICTION.—Subsection 336(b) of the Immigration and Nationality Act, 8 U.S.C. 1447(b), is amended to read as follows:

''(b) If there is a failure to render a final administrative decision under section 335 before the end of the 180-day period after the date on which the Secretary of Homeland Security completes all examinations and interviews conducted under such section, as such terms are defined by the Secretary of Homeland Security pursuant to regulations, the applicant may apply to the district court for the district in which the applicant resides for a hearing on the matter. Such court shall only have jurisdiction to review the basis for delay and remand the matter to the Secretary of Homeland Security for the Secretary's determination on the application.''.

(f) CONFORMING AMENDMENT.—Section 310(c) of the Immigration and Nationality Act (8 U.S.C. 1421(c)) is amended—

(1) by inserting '', not later than the date that is 120 days after the Secretary of Homeland Security's final determination,'' after ''seek''; and

(2) by striking the second sentence and inserting the following: ''The burden shall be upon the petitioner to show that the Secretary's denial of the application was not supported by facially legitimate and bona fide reasons. Except in a proceeding under section 340, notwithstanding any other provision of law (statutory or nonstatutory), including section 2241 of title 28, United States Code, or any other habeas corpus provision, and sections 1361 and 1651 of such title, no court shall have jurisdiction to determine, or to review a determination of the Secretary made at any time regarding, whether, for purposes of an application for naturalization, an alien is a person of good moral character, whether the alien understands and is attached to the principles of the Constitution of the United States, or whether an alien is well disposed to the good order and happiness of the United States.''.

(g) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this Act, shall apply to any act that occurred before, on, or after such date, and shall apply to any application for naturalization or any other case or matter under the immigration laws pending on, or filed after, such date.

**SEC. 3724. DENATURALIZATION FOR TERRORISTS.**

(a) IN GENERAL.—Section 340 of the Immigration and Nationality Act is amended—

(1) by redesignating subsections (f) through (h) as subsections (g) through (i), respectively; and

(2) by inserting after subsection (e) the following:

''(f)(1) If a person who has been naturalized participates in any act described in paragraph (2), the Attorney General is authorized to find that, as of the date of such naturalization, such person was not attached to the principles of the Constitution of the United States and was not well disposed to the good order and happiness of the United States at the time of naturalization, and upon such finding shall set aside the order admitting such person to citizenship and cancel the certificate of naturalization as having been obtained by concealment of a material fact or by willful misrepresentation, and such revocation and setting aside of the order admitting such person to citizenship and such canceling of certificate of naturalization shall be effective as of the original date of the order and certificate, respectively.

''(2) The acts described in this paragraph are the following:

''(A) Any activity a purpose of which is the opposition to, or the control or overthrow of, the Government of the United States by force, violence, or other unlawful means.

''(B) Engaging in a terrorist activity (as defined in clauses (iii) and (iv) of section 212(a)(3)(B)).

''(C) Incitement of terrorist activity under circumstances indicating an intention to cause death or serious bodily harm.

''(D) Receiving military-type training (as defined in section 2339D(c)(1) of title 18, United States Code) from or on behalf of any organization that, at the time the training was received, was a terrorist organization (as defined in section 212(a)(3)(B)(vi)).''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply to acts that occur on or after such date.

**SEC. 3725. USE OF 1986 IRCA LEGALIZATION INFORMATION FOR NATIONAL SECURITY PURPOSES.**

(a) SPECIAL AGRICULTURAL WORKERS.—Section 210(b)(6) of the Immigration and Nationality Act (8 U.S.C. 1160(b)(6)) is amended—

(1) by striking ''Attorney General'' each place such term appears and inserting ''Secretary of Homeland Security'';

(2) in subparagraph (A), by striking ''Department of Justice,'' and inserting ''Department of Homeland Security,'';

(3) by redesignating subparagraphs (C) and (D) as subparagraphs (D) and (E), respectively;

(4) by inserting after subparagraph (B) the following:

''(C) AUTHORIZED DISCLOSURES.—

''(i) CENSUS PURPOSE.—The Secretary of Homeland Security may provide, in his discretion, for the furnishing of information furnished under this section in the same manner and circumstances as census information may be disclosed under section 8 of title 13, United States Code.

''(ii) NATIONAL SECURITY PURPOSE.—The Secretary of Homeland Security may provide, in his discretion, for the furnishing, use, publication, or release of information furnished under this section in any investigation, case, or matter, or for any purpose, relating to terrorism, national intelligence or the national security.''; and

(5) in subparagraph (D), as redesignated, by striking ''Service'' and inserting ''Department of Homeland Security''.

(b) ADJUSTMENT OF STATUS UNDER THE IMMIGRATION REFORM AND CONTROL ACT OF 1986.—Section 245A(c)(5) of the Immigration and Nationality Act (8 U.S.C. 1255a(c)(5)), is amended—

(1) by striking ''Attorney General'' each place such term appears and inserting ''Secretary of Homeland Security'';

(2) in subparagraph (A), by striking ''Department of Justice,'' and inserting ''Department of Homeland Security,'';

(3) by amending subparagraph (C) to read as follows:

''(C) AUTHORIZED DISCLOSURES.—

''(i) CENSUS PURPOSE.—The Secretary of Homeland Security may provide, in his discretion, for the furnishing of information furnished under this section in the same manner and circumstances as census information may be disclosed under section 8 of title 13, United States Code.

''(ii) NATIONAL SECURITY PURPOSE.—The Secretary of Homeland Security may provide, in his discretion, for the furnishing, use, publication, or release of information furnished under this section in any investigation, case, or matter, or for any purpose, relating to terrorism, national intelligence or the national security.''; and

(4) in subparagraph (D), striking ''Service'' and inserting ''Department of Homeland Security''.

**SEC. 3726. BACKGROUND AND SECURITY CHECKS.**

(a) REQUIREMENT TO COMPLETE BACKGROUND AND SECURITY CHECKS.—Section 103 of the Immigration and Nationality Act (8 U.S.C. 1103) is amended by adding at the end the following:

''(h) Notwithstanding any other provision of law (statutory or nonstatutory), including but not limited to section 309 of Public Law 107–173, sections 1361 and 1651 of title 28, United States Code, and section 706(1) of title 5, United States Code, neither the Secretary of Homeland Security, the Attorney General, nor any court may—

''(1) grant, or order the grant of or adjudication of an application for adjustment of status to that of an alien lawfully admitted for permanent residence;

''(2) grant, or order the grant of or adjudication of an application for United States citizenship or any other status, relief, protection from removal, employment authorization, or other benefit under the immigration laws;

''(3) grant, or order the grant of or adjudication of, any immigrant or nonimmigrant petition; or

''(4) issue or order the issuance of any documentation evidencing or related to any such grant, until such background and security checks as the Secretary may in his discretion require have been completed or updated to the satisfaction of the Secretary.

''(i) Notwithstanding any other provision of law (statutory or nonstatutory), including but not limited to section 309 of Public Law 107–173, sections 1361 and 1651 of title 28, United States Code, and section 706(1) of title 5, United States Code, neither the Secretary of Homeland Security nor the Attorney General may be required to—

''(1) grant, or order the grant of or adjudication of an application for adjustment of status to that of an alien lawfully admitted for permanent residence,

''(2) grant, or order the grant of or adjudication of an application for United States citizenship or any other status, relief, protection from removal, employment authorization, or other benefit under the immigration laws,

''(3) grant, or order the grant of or adjudication of, any immigrant or nonimmigrant petition, or

''(4) issue or order the issuance of any documentation evidencing or related to any such grant, until any suspected or alleged materially false information, material misrepresentation or omission, concealment of a material fact, fraud or forgery, counterfeiting, or alteration, or falsification of a document, as determined by the Secretary, relating to the adjudication of an application or petition for any status (including the granting of adjustment of status), relief, protection from removal, or other benefit under this subsection has been investigated and resolved to the Secretary's satisfaction.

''(j) Notwithstanding any other provision of law (statutory or nonstatutory), including section 309 of the Enhanced Border Security and Visa Entry Reform Act (8 U.S.C. 1738), sections 1361 and 1651 of title 28, United States Code, and section 706(1) of title 5, United States Code, no court shall have jurisdiction to require any of the acts in subsection (h) or (i) to be completed by a certain time or award any relief for failure to complete or delay in completing such acts.''.

(b) CONSTRUCTION.—

(1) IN GENERAL.—Chapter 4 of title III of the Immigration and Nationality Act (8 U.S.C. 1501 et seq.) is amended by adding at the end the following:

''CONSTRUCTION

''SEC. 362. (a) IN GENERAL.—Nothing in this Act or any other law, except as provided in subsection (d), shall be construed to require the Secretary of Homeland Security, the Attorney General, the Secretary of State, the Secretary of Labor, or a consular officer to grant any application, approve any petition, or grant or continue any relief, protection from removal, employment authorization, or any other status or benefit under the immigration laws by, to, or on behalf of—

''(1) any alien deemed by the Secretary to be described in section 212(a)(3) or section 237(a)(4); or

''(2) any alien with respect to whom a criminal or other proceeding or investigation is open or pending (including, but not limited to, issuance of an arrest warrant, detainer, or indictment), where such proceeding or investigation is deemed by the official described in subsection (a) to be material to the alien's eligibility for the status or benefit sought.

''(b) DENIAL OR WITHHOLDING OF ADJUDICATION.—An official described in subsection (a) may, in the discretion of the official, deny (with respect to an alien described in paragraph (1) or (2) of subsection (a)) or withhold adjudication of pending resolution of the investigation or case (with respect to an alien described in subsection (a)(2) of this section) any application, petition, relief, protection from removal, employment authorization, status or benefit.

''(c) JURISDICTION.—Notwithstanding any other provision of law (statutory or nonstatutory), including section 309 of the Enhanced Border Security and Visa Entry Reform Act (8 U.S.C. 1738), sections 1361 and 1651 of title 28, United States Code, and section 706(1) of title 5, United States Code, no court shall have jurisdiction to review a decision to deny or withhold adjudication pursuant to subsection (b) of this section.

''(d) WITHHOLDING OF REMOVAL AND TORTURE CONVENTION.—This section does not limit or modify the applicability of section 241(b)(3) or the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, subject to any reservations, understandings, declarations and provisos contained in the United States Senate resolution of ratification of the Convention, as implemented by section 2242 of the Foreign Affairs Reform and Restructuring Act of 1998 (Public Law 105–277) with respect to an alien otherwise eligible for protection under such provisions.''.

(2) CLERICAL AMENDMENT.—The table of contents for such Act is amended by inserting after the item relating to section 361 the following:

''362. Construction.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to applications for immigration benefits pending on or after such date.

**SEC. 3727. TECHNICAL AMENDMENTS RELATING TO THE INTELLIGENCE REFORM AND TERRORISM PREVENTION ACT OF 2004.**

(a) TRANSIT WITHOUT VISA PROGRAM.—Section 7209(d) of the Intelligence Reform and Terrorism Prevention Act of 2004 (8 U.S.C. 1185 note) is amended by striking ''the Secretary, in conjunction with the Secretary of Homeland Security,'' and inserting ''the Secretary of Homeland Security, in consultation with the Secretary of State,''.

(b) TECHNOLOGY ACQUISITION AND DISSEMINATION PLAN.—Section 7201(c)(1) of such Act is amended by inserting ''and the Department of State'' after ''used by the Department of Homeland Security''.

## CHAPTER 3—REMOVAL OF CRIMINAL ALIENS

**SEC. 3731. DEFINITION OF AGGRAVATED FELONY AND CONVICTION.**

(a) DEFINITION OF AGGRAVATED FELONY.—Section 101(a)(43) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(43)) is amended—

(1) by striking ''The term 'aggravated felony' means—'' and inserting ''Notwithstanding any other provision of law, the term 'aggravated felony' applies to an offense described in this paragraph, whether in violation of Federal or State law, or in violation of the law of a foreign country for which the term of imprisonment was completed within the previous 15 years, even if the length of the term of imprisonment for the offense is based on recidivist or other enhancements and regardless of whether the conviction was entered before, on, or after September 30, 1996, and means—'';

(2) in subparagraph (A), by striking ''murder, rape, or sexual abuse of a minor;'' and inserting ''murder, manslaughter, homicide, rape (whether the victim was conscious or unconscious), or any offense of a sexual nature involving a victim under the age of 18 years;'';

(3) in subparagraph (I), by striking ''or 2252'' and inserting ''2252, or 2252A''.

(4) in subparagraph (F), by striking ''at least one year;'' and inserting ''is at least one year, except that if the conviction records do not conclusively establish whether a crime constitutes a crime of violence, the Attorney General may consider other evidence related to the conviction that clearly establishes that the conduct for which the alien was engaged constitutes a crime of violence;''

(5) in subparagraph (N), by striking paragraph ''(1)(A) or (2) of'';

(6) in subparagraph (O), by striking ''section 275(a) or 276 committed by an alien who was previously deported on the basis of a conviction for an offense described in another subparagraph of this paragraph'' and inserting ''section 275 or 276 for which the term of imprisonment is at least 1 year'';

(7) in subparagraph (U), by striking ''an attempt or conspiracy to commit an offense described in this paragraph'' and inserting ''attempting or conspiring to commit an offense described in this paragraph, or aiding, abetting, counseling, procuring, commanding, inducing, or soliciting the commission of such an offense.''; and

(8) by striking the undesignated matter following subparagraph (U).

(b) DEFINITION OF CONVICTION.—Section 101(a)(48) of such Act (8 U.S.C. 1101(a)(48)) is amended by adding at the end the following:

''(C) Any reversal, vacatur, expungement, or modification to a conviction, sentence, or conviction record that was granted to ameliorate the consequences of the conviction, sentence, or conviction record, or was granted for rehabilitative purposes, or for failure to advise the alien of the immigration consequences of a determination of guilt or of a guilty plea (except in the case of a guilty plea that was made on or after March 31, 2010, shall have no effect on the immigration consequences resulting from the original conviction. The alien shall have the burden of demonstrating that any reversal, vacatur, expungement, or modification was not granted to ameliorate the consequences of the conviction, sentence, or conviction record, for rehabilitative purposes, or for failure to advise the alien of the immigration consequences of a determination of guilt or of a guilty plea (except in the case of a guilty plea that was made on or after March 31, 2010), except where the alien establishes a pardon consistent with section 237(a)(2)(A)(vi).''.

(c) EFFECTIVE DATE; APPLICATION OF AMENDMENTS.—

(1) IN GENERAL.—The amendments made by subsection (a)—

(A) shall take effect on the date of the enactment of this Act; and

(B) shall apply to any act or conviction that occurred before, on, or after such date.

(2) APPLICATION OF IIRIRA AMENDMENTS.—The amendments to section 101(a)(43) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(43)) made by section 321 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104-208; 110 Stat. 3009-627) shall continue to apply, whether the conviction was entered before, on, or after September 30, 1996.

**SEC. 3732. PRECLUDING ADMISSIBILITY OF ALIENS CONVICTED OF AGGRAVATED FELONIES OR OTHER SERIOUS OFFENSES.**

(a) INADMISSIBILITY ON CRIMINAL AND RELATED GROUNDS; WAIVERS.—Section 212 of the Immigration and Nationality Act (8 U.S.C. 1182) is amended—

(1) in subparagraph (a)(2)(A)(i)—

(A) in subclause (I), by striking ''or'' at the end;

(B) in subclause (II), by adding ''or'' at the end; and

(C) by inserting after subclause (II) the following:

''(III) a violation of (or a conspiracy or attempt to violate) an offense described in section 408 of title 42, United States Code (relating to social security account numbers or social security cards) or section 1028 of title 18, United States Code (relating to fraud and related activity in connection with identification documents, authentication features, and information);''.

(2) by adding at the end of subsection (a)(2) the following :

''(J) PROCUREMENT OF CITIZENSHIP OR NATURALIZATION UNLAWFULLY.—Any alien convicted of, or who admits having committed, or who admits committing acts which constitute the essential elements of, a violation of, or an attempt or a conspiracy to violate, subsection (a) or (b) of section 1425 of title 18, United States Code (relating to the procurement of citizenship or naturalization unlawfully) is inadmissible.

''(K) CERTAIN FIREARM OFFENSES.—Any alien who at any time has been convicted under any law of, or who admits having committed or admits committing acts which constitute the essential elements of, purchasing, selling, offering for sale, exchanging, using, owning, possessing, or carrying, or of attempting or conspiring to purchase, sell, offer for sale, exchange, use, own, possess, or carry, any weapon, part, or accessory which is a firearm or destructive device (as defined in section 921(a) of title 18, United States Code) in violation of any law is inadmissible.

''(L) AGGRAVATED FELONS.—Any alien who has been convicted of an aggravated felony at any time is inadmissible.

''(M) CRIMES OF DOMESTIC VIOLENCE, STALKING, OR VIOLATION OF PROTECTION ORDERS, CRIMES AGAINST CHILDREN.—

''(i) DOMESTIC VIOLENCE, STALKING, AND CHILD ABUSE.—Any alien who at any time is convicted of, or who admits having committed or admits committing acts which constitute the essential elements of, a crime of domestic violence, a crime of stalking, or a crime of child abuse, child neglect, or child abandonment is inadmissible. For purposes of this clause, the term 'crime of domestic violence' means any crime of violence (as defined in section 16 of title 18, United States Code) against a person committed by a current or former spouse of the person, by an individual with whom the person shares a child in common, by an individual who is cohabiting with or has cohabited with the person as a spouse, by an individual similarly situated to a spouse of the person under the domestic or family violence laws of the jurisdiction where the offense occurs, or by any other individual against a person who is protected from that individual's acts under the domestic or family violence laws of the United States or any State, Indian tribal government, or unit of local or foreign government.

''(ii) VIOLATORS OF PROTECTION ORDERS.—Any alien who at any time is enjoined under a protection order issued by a court and whom the court determines has engaged in conduct that violates the portion of a protection order that involves protection against credible threats of violence, repeated harassment, or bodily injury to the person or persons for whom the protection order was issued is inadmissible. For purposes of this clause, the term 'protection order' means any injunction issued for the purpose of preventing violent or threatening acts of domestic violence, including temporary or final orders issued by civil or criminal courts (other than support or child custody orders or provisions) whether obtained by filing an independent action or as a independent order in another proceeding.

''(iii) WAIVER AUTHORIZED.—The waiver authority available under section 237(a)(7) with respect to section 237(a)(2)(E)(i) shall be available on a comparable basis with respect to this subparagraph.

''(iv) CLARIFICATION.—If the conviction records do not conclusively establish whether a crime of domestic violence constitutes a crime of violence (as defined in section 16 of title 18, United States Code), the Attorney General may consider other evidence related to the conviction that clearly establishes that the conduct for which the alien was engaged constitutes a crime of violence.''; and

(3) in subsection (h)—

(A) by striking ''The Attorney General may, in his discretion, waive the application of subparagraphs (A)(i)(I), (B), (D), and (E) of subsection (a)(2)'' and inserting ''The Attorney General or the Secretary of Homeland Security may, in the discretion of the Attorney General or the Secretary, waive the application of subparagraphs (A)(i)(I), (III), (B), (D), (E), (K), and (M) of subsection (a)(2)'';

(B) by striking ''a criminal act involving torture.'' and inserting ''a criminal act involving torture, or has been convicted of an aggravated felony.'';

(C) by striking ''if either since the date of such admission the alien has been convicted of an aggravated felony or the alien'' and inserting ''if since the date of such admission the alien''; and

(D) by inserting ''or Secretary of Homeland Security'' after ''the Attorney General'' wherever that phrase appears.

(b) DEPORTABILITY; CRIMINAL OFFENSES.—Section 237(a)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(3)(B)) is amended—

(1) in clause (ii), by striking ''or'' at the end;

(2) in clause (iii), by inserting ''or'' at the end; and

(3) by inserting after clause (iii) the following:

''(iv) of a violation of, or an attempt or a conspiracy to violate, section 1425(a) or (b) of Title 18 (relating to the procurement of citizenship or naturalization unlawfully),''.

(c) DEPORTABILITY; CRIMINAL OFFENSES.—Section 237(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(2)) is amended by adding at the end the following:

''(G) Any alien who at any time after admission has been convicted of a violation of (or a conspiracy or attempt to violate) section 408 of title 42, United States Code (relating to social security account numbers or social security cards) or section 1028 of title 18, United States Code (relating to fraud and related activity in connection with identification) is deportable.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply—

(1) to any act that occurred before, on, or after the date of the enactment of this Act; and

(2) to all aliens who are required to establish admissibility on or after such date, and in all removal, deportation, or exclusion proceedings that are filed, pending, or reopened, on or after such date.

(e) CONSTRUCTION.—The amendments made by subsection (a) shall not be construed to create eligibility for relief from removal under former section 212(c) of the Immigration and Nationality Act where such eligibility did not exist before these amendments became effective.

**SEC. 3733. ESPIONAGE CLARIFICATION.**

Section 212(a)(3)(A) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(A)), is amended to read as follows:

''(A) Any alien who a consular officer, the Attorney General, or the Secretary of Homeland Security knows, or has reasonable ground to believe, seeks to enter the United States to engage solely, principally, or incidentally in, or who is engaged in, or with respect to clauses (i) and (iii) of this subparagraph has engaged in—

''(i) any activity—

''(I) to violate any law of the United States relating to espionage or sabotage; or

''(II) to violate or evade any law prohibiting the export from the United States of goods, technology, or sensitive information;

''(ii) any other unlawful activity; or

''(iii) any activity a purpose of which is the opposition to, or the control or overthrow of, the Government of the United States by force, violence, or other unlawful means;

is inadmissible.''.

**SEC. 3734. UNIFORM STATUTE OF LIMITATIONS FOR CERTAIN IMMIGRATION, NATURALIZATION, AND PEONAGE OFFENSES.**

Section 3291 of title 18, United States Code, is amended by striking ''No person'' through the period at the end and inserting the following: ''No person shall be prosecuted, tried, or punished for a violation of any section of chapters 69 (relating to nationality and citizenship offenses) and 75 (relating to passport, visa, and immigration offenses), or for a violation of any criminal provision of sections 243, 266, 274, 275, 276, 277, or 278 of the Immigration and Nationality Act, or for an attempt or conspiracy to violate any such section, unless the indictment is returned or the information is filed within ten years after the commission of the offense.''.

**SEC. 3735. CONFORMING AMENDMENT TO THE DEFINITION OF RACKETEERING ACTIVITY.**

Section 1961(1) of title 18, United States Code, is amended by striking ''section 1542'' through ''section 1546 (relating to fraud and misuse of visas, permits, and other documents)'' and inserting ''sections 1541-1548 (relating to passports and visas)''.

**SEC. 3736. CONFORMING AMENDMENTS FOR THE AGGRAVATED FELONY DEFINITION.**

(a) IN GENERAL.—Subparagraph (P) of section 101(a)(43) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(43)) is amended—

(1) by striking ''(i) which either is falsely making, forging, counterfeiting, mutilating, or altering a passport or instrument in violation of section 1543 of title 18, United States Code, or is described in section 1546(a) of such title (relating to document fraud) and (ii)'' and inserting ''which is described in any section of chapter 75 of title 18, United States Code,''; and

(2) by inserting after ''first offense'' the following: ''(i) that is not described in section 1548 of such title (relating to increased penalties), and (ii)''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply to acts that occur before, on, or after the date of the enactment of this Act.

**SEC. 3737. PRECLUDING REFUGEE OR ASYLEE ADJUSTMENT OF STATUS FOR AGGRAVATED FELONS.**

(a) IN GENERAL.—Section 209(c) of the Immigration and Nationality Act (8 U.S.C. 1159(c)) is amended by adding at the end thereof the following: ''However, an alien who is convicted of an aggravated felony is not eligible for a waiver or for adjustment of status under this section.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply—

(1) to any act that occurred before, on, or after the date of the enactment of this Act; and

(2) to all aliens who are required to establish admissibility on or after such date, and in all removal, deportation, or exclusion proceedings that are filed, pending, or reopened, on or after such date.

**SEC. 3738. INADMISSIBILITY AND DEPORTABILITY OF DRUNK DRIVERS.**

(a) IN GENERAL.—Section 101(a)(43) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(43)) is amended—

(1) in subparagraph (T), by striking ''and'';

(2) in subparagraph (U); by striking the period at the end and inserting ''; and''; and

(3) by inserting after subparagraph (U) the following:.

''(V) A second conviction for driving while intoxicated (including a conviction for driving while under the influence of or impaired by alcohol or drugs) without regard to whether the conviction is classified as a misdemeanor or felony under State law.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act and apply to convictions entered on or after such date.

**SEC. 3739. DETENTION OF DANGEROUS ALIENS.**

(a) IN GENERAL.—Section 241(a) of the Immigration and Nationality Act (8 U.S.C. 1231(a)) is amended—

(1) by striking ''Attorney General'' each place it appears, except for the first reference in paragraph (4)(B)(i), and inserting ''Secretary of Homeland Security'';

(2) in paragraph (1), by amending subparagraph (B) to read as follows:

''(B) BEGINNING OF PERIOD.—The removal period begins on the latest of the following:

''(i) The date the order of removal becomes administratively final.

''(ii) If the alien is not in the custody of the Secretary on the date the order of removal becomes administratively final, the date the alien is taken into such custody.

''(iii) If the alien is detained or confined (except under an immigration process) on the date the order of removal becomes administratively final, the date the alien is taken into the custody of the Secretary, after the alien is released from such detention or confinement.'';

(3) in paragraph (1), by amending subparagraph (C) to read as follows:

''(C) SUSPENSION OF PERIOD.—

''(i) EXTENSION.—The removal period shall be extended beyond a period of 90 days and the Secretary may, in the Secretary's sole discretion, keep the alien in detention during such extended period if—

''(I) the alien fails or refuses to make all reasonable efforts to comply with the removal order, or to fully cooperate with the Secretary's efforts to establish the alien's identity and carry out the removal order, including making timely application in good faith for travel or other documents necessary to the alien's departure or conspires or acts to prevent the alien's removal that is subject to an order of removal;

''(II) a court, the Board of Immigration Appeals, or an immigration judge orders a stay of removal of an alien who is subject to an administratively final order of removal;

''(III) the Secretary transfers custody of the alien pursuant to law to another Federal agency or a State or local government agency in connection with the official duties of such agency; or

''(IV) a court or the Board of Immigration Appeals orders a remand to an immigration judge or the Board of Immigration Appeals, during the time period when the case is pending a decision on remand (with the removal period beginning anew on the date that the alien is ordered removed on remand).

''(ii) RENEWAL.—If the removal period has been extended under clause (C)(i), a new removal period shall be deemed to have begun on the date—

''(I) the alien makes all reasonable efforts to comply with the removal order, or to fully cooperate with the Secretary's efforts to establish the alien's identity and carry out the removal order;

''(II) the stay of removal is no longer in effect; or

''(III) the alien is returned to the custody of the Secretary.

''(iii) MANDATORY DETENTION FOR CERTAIN ALIENS.—In the case of an alien described in subparagraphs (A) through (D) of section 236(c)(1), the Secretary shall keep that alien in detention during the extended period described in clause (i).

''(iv) SOLE FORM OF RELIEF.—An alien may seek relief from detention under this subparagraph only by filing an application for a writ of habeas corpus in accordance with chapter 153 of title 28, United States Code. No alien whose period of detention is extended under this subparagraph shall have the right to seek release on bond.'';

(4) in paragraph (3)—

(A) by adding after ''If the alien does not leave or is not removed within the removal period'' the following: ''or is not detained pursuant to paragraph (6) of this subsection''; and

(B) by striking subparagraph (D) and inserting the following:

''(D) to obey reasonable restrictions on the alien's conduct or activities that the Secretary prescribes for the alien, in order to prevent the alien from absconding, for the protection of the community, or for other purposes related to the enforcement of the immigration laws.'';

(5) in paragraph (4)(A), by striking ''paragraph (2)'' and inserting ''subparagraph (B)''; and

(6) by striking paragraph (6) and inserting the following:

''(6) ADDITIONAL RULES FOR DETENTION OR RELEASE OF CERTAIN ALIENS.—

''(A) DETENTION REVIEW PROCESS FOR COOPERATIVE ALIENS ESTABLISHED.—For an alien who is not otherwise subject to mandatory detention, who has made all reasonable efforts to comply with a removal order and to cooperate fully with the Secretary of Homeland Security's efforts to establish the alien's identity and carry out the removal order, including making timely application in good faith for travel or other documents necessary to the alien's departure, and who has not conspired or acted to prevent removal, the Secretary shall establish an administrative review process to determine whether the alien should be detained or released on conditions. The Secretary shall make a determination whether to release an alien after the removal period in accordance with subparagraph (B). The determination shall include consideration of any evidence submitted by the alien, and may include consideration of any other evidence, including any information or assistance provided by the Secretary of State or other Federal official and any other information available to the Secretary of Homeland Security pertaining to the ability to remove the alien.

''(B) AUTHORITY TO DETAIN BEYOND REMOVAL PERIOD.—

''(i) IN GENERAL.—The Secretary of Homeland Security, in the exercise of the Secretary's sole discretion, may continue to detain an alien for 90 days beyond the removal period (including any extension of the removal period as provided in paragraph (1)(C)). An alien whose detention is extended under this subparagraph shall have no right to seek release on bond.

''(ii) SPECIFIC CIRCUMSTANCES.—The Secretary of Homeland Security, in the exercise of the Secretary's sole discretion, may continue to detain an alien beyond the 90 days authorized in clause (i)—

''(I) until the alien is removed, if the Secretary, in the Secretary's sole discretion, determines that there is a significant likelihood that the alien—

''(aa) will be removed in the reasonably foreseeable future; or

''(bb) would be removed in the reasonably foreseeable future, or would have been removed, but for the alien's failure or refusal to make all reasonable efforts to comply with the removal order, or to cooperate fully with the Secretary's efforts to establish the alien's identity and carry out the removal order, including making timely application in good faith for travel or other documents necessary to the alien's departure, or conspires or acts to prevent removal;

''(II) until the alien is removed, if the Secretary of Homeland Security certifies in writing—

''(aa) in consultation with the Secretary of Health and Human Services, that the alien has a highly contagious disease that poses a threat to public safety;

''(bb) after receipt of a written recommendation from the Secretary of State, that release of the alien is likely to have serious adverse foreign policy consequences for the United States;

''(cc) based on information available to the Secretary of Homeland Security (including classified, sensitive, or national security information, and without regard to the grounds upon which the alien was ordered removed), that there is reason to believe that the release of the alien would threaten the national security of the United States; or

''(dd) that the release of the alien will threaten the safety of the community or any person, conditions of release cannot reasonably be expected to ensure the safety of the community or any person, and either (AA) the alien has been convicted of one or more aggravated felonies (as defined in section 101(a)(43)(A)) or of one or more crimes identified by the Secretary of Homeland Security by regulation, or of one or more attempts or conspiracies to commit any such aggravated felonies or such identified crimes, if the aggregate term of imprisonment for such attempts or conspiracies is at least 5 years; or (BB) the alien has committed one or more crimes of violence (as defined in section 16 of title 18, United States Code, but not including a purely political offense) and, because of a mental condition or personality disorder and behavior associated with that condition or disorder, the alien is likely to engage in acts of violence in the future; or

''(III) pending a certification under subclause (II), so long as the Secretary of Homeland Security has initiated the administrative review process not later than 30 days after the expiration of the removal period (including any extension of the removal period, as provided in paragraph (1)(C)).

''(iii) NO RIGHT TO BOND HEARING.—An alien whose detention is extended under this subparagraph shall have no right to seek release on bond, including by reason of a certification under clause (ii)(II).

''(C) RENEWAL AND DELEGATION OF CERTIFICATION.—

''(i) RENEWAL.—The Secretary of Homeland Security may renew a certification under subparagraph (B)(ii)(II) every 6 months, after providing an opportunity for the alien to request reconsideration of the certification and to submit documents or other evidence in support of that request. If the Secretary does not renew a certification, the Secretary may not continue to detain the alien under subparagraph (B)(ii)(II).

''(ii) DELEGATION.—Notwithstanding section 103, the Secretary of Homeland Security may not delegate the authority to make or renew a certification described in item (bb), (cc), or (dd) of subparagraph (B)(ii)(II) below the level of the Assistant Secretary for Immigration and Customs Enforcement.

''(iii) HEARING.—The Secretary of Homeland Security may request that the Attorney General or the Attorney General's designee provide for a hearing to make the determination described in item (dd)(BB) of subparagraph (B)(ii)(II).

''(D) RELEASE ON CONDITIONS.—If it is determined that an alien should be released from detention by a Federal court, the Board of Immigration Appeals, or if an immigration judge orders a stay of removal, the Secretary of Homeland Security, in the exercise of the Secretary's discretion, may impose conditions on release as provided in paragraph (3).

''(E) REDETENTION.—The Secretary of Homeland Security, in the exercise of the Secretary's discretion, without any limitations other than those specified in this section, may again detain any alien subject to a final removal order who is released from custody, if removal becomes likely in the reasonably foreseeable future, the alien fails to comply with the conditions of release, or to continue to satisfy the conditions described in subparagraph (A), or if, upon reconsideration, the Secretary, in the Secretary's sole discretion, determines that the alien can be detained under subparagraph (B). This section shall apply to any alien returned to custody pursuant to this subparagraph, as if the removal period terminated on the day of the redetention.

''(F) REVIEW OF DETERMINATIONS BY SECRETARY.—A determination by the Secretary under this paragraph shall not be subject to review by any other agency.''.

(b) DETENTION OF ALIENS DURING REMOVAL PROCEEDINGS.—

(1) CLERICAL AMENDMENT.—(A) Section 236 of the Immigration and Nationality Act (8 U.S.C. 1226) is amended by striking ''Attorney General'' each place it appears (except in the second place that term appears in section 236(a)) and inserting ''Secretary of Homeland Security''.

(B) Section 236(a) of such Act (8 U.S.C. 1226(a)) is amended by inserting ''the Secretary of Homeland Security or'' before ''the Attorney General—''.

(C) Section 236(e) of such Act (8 U.S.C. 1226(e)) is amended by striking ''Attorney General's'' and inserting ''Secretary of Homeland Security's''.

(2) LENGTH OF DETENTION.—Section 236 of such Act (8 U.S.C. 1226) is amended by adding at the end the following:

''(f) LENGTH OF DETENTION.—

''(1) IN GENERAL.—Notwithstanding any other provision of this section, an alien may be detained under this section for any period, without limitation, except as provided in subsection (h), until the alien is subject to a final order of removal.

''(2) CONSTRUCTION.—The length of detention under this section shall not affect detention under section 241.''.

(3) DETENTION OF CRIMINAL ALIENS.—Section 236(c)(1) of the Immigration and Nationality Act (8 U.S.C. 1226(c)(1)) is amended, in the matter following subparagraph (D) to read as follows:

''any time after the alien is released, without regard to whether an alien is released related to any activity, offense, or conviction described in this paragraph; to whether the alien is released on parole, supervised release, or probation; or to whether the alien may be arrested or imprisoned again for the same offense. If the activity described in this paragraph does not result in the alien being taken into custody by any person other than the Secretary, then when the alien is brought to the attention of the Secretary or when the Secretary determines it is practical to take such alien into custody, the Secretary shall take such alien into custody.''.

(4) ADMINISTRATIVE REVIEW.—Section 236 of the Immigration and Nationality Act (8 U.S.C. 1226), as amended by paragraph (2), is further amended by adding at the end the following:

''(g) ADMINISTRATIVE REVIEW.—

''(1) IN GENERAL.—The Attorney General's review of the Secretary's custody determinations under subsection (a) for the following classes of aliens shall be limited to whether the alien may be detained, released on bond (of at least $1,500 with security approved by the Secretary), or released with no bond:

''(A) Aliens in exclusion proceedings.

''(B) Aliens described in section 212(a)(3) or 237(a)(4).

''(C) Aliens described in subsection (c).

''(2) SPECIAL RULE.—The Attorney General's review of the Secretary's custody determinations under subsection (a) for aliens in deportation proceedings subject to section 242(a)(2) of the Act (as in effect prior to April 1, 1997, and as amended by section 440(c) of Public Law 104–132) shall be limited to a determination of whether the alien is properly included in such category.

''(h) RELEASE ON BOND.—

''(1) IN GENERAL.—An alien detained under subsection (a) may seek release on bond. No bond may be granted except to an alien who establishes by clear and convincing evidence that the alien is not a flight risk or a risk to another person or the community.

''(2) CERTAIN ALIENS INELIGIBLE.—No alien detained under subsection (c) may seek release on bond.''.

(5) CLERICAL AMENDMENTS.—(A) Section 236(a)(2)(B) of the Immigration and Nationality Act (8 U.S.C. 1226(a)(2)(B)) is amended by striking ''conditional parole'' and inserting ''recognizance''.

(B) Section 236(b) of such Act (8 U.S.C. 1226(b)) is amended by striking ''parole'' and inserting ''recognizance''.

(c) SEVERABILITY.—If any of the provisions of this section or any amendment by this section, or the application of any such provision to any person or circumstance, is held to be invalid for any reason, the remainder of this section and of amendments made by this section, and the application of the provisions and of the amendments made by this section to any other person or circumstance shall not be affected by such holding.

(d) EFFECTIVE DATES.—

(1) The amendments made by subsection (a) shall take effect upon the date of enactment of this Act, and section 241 of the Immigration and Nationality Act, as so amended, shall in addition apply to—

(A) all aliens subject to a final administrative removal, deportation, or exclusion order that was issued before, on, or after the date of the enactment of this Act; and

(B) acts and conditions occurring or existing before, on, or after such date.

(2) The amendments made by subsection (b) shall take effect upon the date of the enactment of this Act, and section 236 of the Immigration and Nationality Act, as so amended, shall in addition apply to any alien in detention under provisions of such section on or after such date.

**SEC. 3740. GROUNDS OF INADMISSIBILITY AND DEPORTABILITY FOR ALIEN GANG MEMBERS.**

(a) DEFINITION OF GANG MEMBER.—Section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)) is amended by adding at the end the following:

''(53)(A) The term 'criminal gang' means an ongoing group, club, organization, or association of 5 or more persons that has as one of its primary purposes the commission of 1 or more of the following criminal offenses and the members of which engage, or have engaged within the past 5 years, in a continuing series of such offenses, or that has been designated as a criminal gang by the Secretary of Homeland Security, in consultation with the Attorney General, as meeting these criteria. The offenses described, whether in violation of Federal or State law or foreign law and regardless of whether the offenses occurred before, on, or after the date of the enactment of this paragraph, are the following:

''(i) A 'felony drug offense' (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)).

''(ii) An offense under section 274 (relating to bringing in and harboring certain aliens), section 277 (relating to aiding or assisting certain aliens to enter the United States), or section 278 (relating to importation of alien for immoral purpose).

''(iii) A crime of violence (as defined in section 16 of title 18, United States Code).

''(iv) A crime involving obstruction of justice, tampering with or retaliating against a witness, victim, or informant, or burglary.

''(v) Any conduct punishable under sections 1028 and 1029 of title 18, United States Code (relating to fraud and related activity in connection with identification documents or access devices), sections 1581 through 1594 of such title (relating to peonage, slavery and trafficking in persons), section 1952 of such title (relating to interstate and foreign travel or transportation in aid of racketeering enterprises), section 1956 of such title (relating to the laundering of monetary instruments), section 1957 of such title (relating to engaging in monetary transactions in property derived from specified unlawful activity), or sections 2312 through 2315 of such title (relating to interstate transportation of stolen motor vehicles or stolen property).

''(vi) A conspiracy to commit an offense described in clauses (i) through (v).

''(B) Notwithstanding any other provision of law (including any effective date), the term applies regardless of whether the conduct occurred before, on, or after the date of the enactment of this paragraph.''.

(b) INADMISSIBILITY.—Section 212(a)(2) of such Act (8 U.S.C. 1182(a)(2)), as amended by section 302(a)(2) of this Act, is further amended by adding at the end the following:

''(N) ALIENS ASSOCIATED WITH CRIMINAL GANGS.—Any alien is inadmissible who a consular officer, the Secretary of Homeland Security, or the Attorney General knows or has reason to believe—

''(i) to be or to have been a member of a criminal gang (as defined in section 101(a)(53)); or

''(ii) to have participated in the activities of a criminal gang (as defined in section 101(a)(53)), knowing or having reason to know that such activities will promote, further, aid, or support the illegal activity of the criminal gang.''.

(c) DEPORTABILITY.—Section 237(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(2)), as amended by section 302(c) of this Act, is further amended by adding at the end the following:

''(H) ALIENS ASSOCIATED WITH CRIMINAL GANGS.—Any alien is deportable who the Secretary of Homeland Security or the Attorney General knows or has reason to believe—

''(i) is or has been a member of a criminal gang (as defined in section 101(a)(53)); or

''(ii) has participated in the activities of a criminal gang (as so defined), knowing or having reason to know that such activities will promote, further, aid, or support the illegal activity of the criminal gang.''.

(d) DESIGNATION.—

(1) IN GENERAL.—Chapter 2 of title II of the Immigration and Nationality Act (8 U.S.C. 1182) is amended by inserting after section 219 the following:

''DESIGNATION

''SEC. 220. (a) IN GENERAL.—The Secretary of Homeland Security, in consultation with the Attorney General, and the Secretary of State may designate a groups or association as a criminal street gangs if their conduct is described in section 101(a)(53) or if the group or association conduct poses a significant risk that threatens the security and the public safety of United States nationals or the national security, homeland security, foreign policy, or economy of the United States.

''(b) EFFECTIVE DATE.—Designations under subsection (a) shall remain in effect until the designation is revoked after consultation between the Secretary of Homeland Security, the Attorney General, and the Secretary of State or is terminated in accordance with Federal law.''.

(2) CLERICAL AMENDMENT.—The table of contents for such Act is amended by inserting after the item relating to section 219 the following:

''220. Designation.''.

(e) MANDATORY DETENTION OF CRIMINAL STREET GANG MEMBERS.—

(1) IN GENERAL.—Section 236(c)(1)(D) of the Immigration and Nationality Act (8 U.S.C. 1226(c)(1)(D)) is amended—

(A) by inserting ''or 212(a)(2)(N)'' after ''212(a)(3)(B)''; and

(B) by inserting ''or 237(a)(2)(H)'' before ''237(a)(4)(B)''.

(2) ANNUAL REPORT.—Not later than March 1 of each year (beginning 1 year after the date of the enactment of this Act), the Secretary of Homeland Security, after consultation with the appropriate Federal agencies, shall submit a report to the Committees on the Judiciary of the House of Representatives and of the Senate on the number of aliens detained under the amendments made by paragraph (1).

(f) ASYLUM CLAIMS BASED ON GANG AFFILIATION.—

(1) INAPPLICABILITY OF RESTRICTION ON REMOVAL TO CERTAIN COUNTRIES.—Section 241(b)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1251(b)(3)(B)) is amended, in the matter preceding clause (i), by inserting ''who is described in section 212(a)(2)(N)(i) or section 237(a)(2)(H)(i) or who is'' after ''to an alien''.

(2) INELIGIBILITY FOR ASYLUM.—Section 208(b)(2)(A) of such Act (8 U.S.C. 1158(b)(2)(A)) is amended—

(A) in clause (v), by striking ''or'' at the end;

(B) by redesignating clause (vi) as clause (vii); and

(C) by inserting after clause (v) the following:

''(vi) the alien is described in section 212(a)(2)(N)(i) or section 237(a)(2)(H)(i) (relating to participation in criminal street gangs); or''.

(g) TEMPORARY PROTECTED STATUS.—Section 244 of such Act (8 U.S.C. 1254a) is amended—

(1) by striking ''Attorney General'' each place it appears and inserting ''Secretary of Homeland Security'';

(2) in subparagraph (c)(2)(B), by adding at the end the following:

''(iii) the alien is, or at any time after admission has been, a member of a criminal gang (as defined in section 101(a)(53)).''; and

(3) in subsection (d)——

(A) by striking paragraph (3); and

(B) in paragraph (4), by adding at the end the following: ''The Secretary of Homeland Security may detain an alien provided temporary protected status under this section whenever appropriate under any other provision of law.''.

(h) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to acts that occur before, on, or after the date of the enactment of this Act.

**SEC. 3741. LAUNDERING OF MONETARY INSTRUMENTS.**

(a) ADDITIONAL PREDICATE OFFENSES.—Section 1956(c)(7)(D) of title 18, United States Code, is amended—

(1) by inserting ''section 1590 (relating to trafficking with respect to peonage, slavery, involuntary servitude, or forced labor),'' after ''section 1363 (relating to destruction of property within the special maritime and territorial jurisdiction),''; and

(2) by inserting ''section 274(a) of the Immigration and Nationality Act (8 U.S.C.1324(a)) (relating to bringing in and harboring certain aliens),'' after ''section 590 of the Tariff Act of 1930 (19 U.S.C. 1590) (relating to aviation smuggling),''.

(b) INTENT TO CONCEAL OR DISGUISE.—Section 1956(a) of title 18, United States Code, is amended—

(1) in paragraph (1) so that subparagraph (B) reads as follows:

''(B) knowing that the transaction—

''(i) conceals or disguises, or is intended to conceal or disguise, the nature, source, location, ownership, or control of the proceeds of some form of unlawful activity; or

''(ii) avoids, or is intended to avoid, a transaction reporting requirement under State or Federal law,''; and

(2) in paragraph (2) so that subparagraph (B) reads as follows:

''(B) knowing that the monetary instrument or funds involved in the transportation, transmission, or transfer represent the proceeds of some form of unlawful activity, and knowing that such transportation, transmission, or transfer—

''(i) conceals or disguises, or is intended to conceal or disguise, the nature, source, location, ownership, or control of the proceeds of some form of unlawful activity; or

''(ii) avoids, or is intended to avoid, a transaction reporting requirement under State or Federal law,''.

**SEC. 3742. INCREASED CRIMINAL PENALTIES RELATING TO ALIEN SMUGGLING AND RELATED OFFENSES.**

(a) IN GENERAL.—Section 274 of the Immigration and Nationality Act (8 U.S.C. 1324), is amended to read as follows:

**''SEC. 274. ALIEN SMUGGLING AND RELATED OFFENSES.**

''(a) CRIMINAL OFFENSES AND PENALTIES.—

''(1) PROHIBITED ACTIVITIES.—Except as provided in paragraph (3), a person shall be punished as provided under paragraph (2), if the person—

''(A) facilitates, encourages, directs, or induces a person to come to or enter the United States, or to cross the border to the United States, knowing or in reckless disregard of the fact that such person is an alien who lacks lawful authority to come to, enter, or cross the border to the United States;

''(B) facilitates, encourages, directs, or induces a person to come to or enter the United States, or to cross the border to the United States, at a place other than a designated port of entry or place other than as designated by the Secretary of Homeland Security, knowing or in reckless disregard of the fact that such person is an alien and regardless of whether such alien has official permission or lawful authority to be in the United States;

''(C) transports, moves, harbors, conceals, or shields from detection a person outside of the United States knowing or in reckless disregard of the fact that such person is an alien in unlawful transit from one country to another or on the high seas, under circumstances in which the alien is seeking to enter the United States without official permission or lawful authority;

''(D) encourages or induces a person to reside in the United States, knowing or in reckless disregard of the fact that such person is an alien who lacks lawful authority to reside in the United States;

''(E) transports or moves a person in the United States, knowing or in reckless disregard of the fact that such person is an alien who lacks lawful authority to enter or be in the United States, if the transportation or movement will further the alien's illegal entry into or illegal presence in the United States;

''(F) harbors, conceals, or shields from detection a person in the United States, knowing or in reckless disregard of the fact that such person is an alien who lacks lawful authority to be in the United States; or

''(G) conspires or attempts to commit any of the acts described in subparagraphs (A) through (F).

''(2) CRIMINAL PENALTIES.—A person who violates any provision under paragraph (1) shall, for each alien in respect to whom a violation of paragraph (1) occurs—

''(A) except as provided in subparagraphs (C) through (G), if the violation was not committed for commercial advantage, profit, or private financial gain, be fined under title 18, United States Code, imprisoned for not more than 5 years, or both;

''(B) except as provided in subparagraphs (C) through (G), if the violation was committed for commercial advantage, profit, or private financial gain—

''(i) be fined under such title, imprisoned for not more than 20 years, or both, if the violation is the offender's first violation under this subparagraph; or

''(ii) be fined under such title, imprisoned for not more than 25 years, or both, if the violation is the offender's second or subsequent violation of this subparagraph;

''(C) if the violation furthered or aided the commission of any other offense against the United States or any State that is punishable by imprisonment for more than 1 year, be fined under such title, imprisoned for not more than 20 years, or both;

''(D) be fined under such title, imprisoned not more than 20 years, or both, if the violation created a substantial and foreseeable risk of death, a substantial and foreseeable risk of serious bodily injury (as defined in section 2119(2) of title 18, United States Code), or inhumane conditions to another person, including—

''(i) transporting the person in an engine compartment, storage compartment, or other confined space;

''(ii) transporting the person at an excessive speed or in excess of the rated capacity of the means of transportation; or

''(iii) transporting the person in, harboring the person in, or otherwise subjecting the person to crowded or dangerous conditions;

''(E) if the violation caused serious bodily injury (as defined in section 2119(2) of title 18, United States Code) to any person, be fined under such title, imprisoned for not more than 30 years, or both;

''(F) be fined under such title and imprisoned for not more than 30 years if the violation involved an alien who the offender knew or had reason to believe was—

''(i) engaged in terrorist activity (as defined in section 212(a)(3)(B)); or

''(ii) intending to engage in terrorist activity;

''(G) if the violation caused or resulted in the death of any person, be punished by death or imprisoned for a term of years up to life, and fined under title 18, United States Code.

''(3) LIMITATION.—It is not a violation of subparagraph (D), (E), or (F) of paragraph (1)

for a religious denomination having a bona fide nonprofit, religious organization in the United States, or the agents or officers of such denomination or organization, to encourage, invite, call, allow, or enable an alien who is present in the United States to perform the vocation of a minister or missionary for the denomination or organization in the United States as a volunteer who is not compensated as an employee, notwithstanding the provision of room, board, travel, medical assistance, and other basic living expenses, provided the minister or missionary has been a member of the denomination for at least 1 year.

''(4) EXTRATERRITORIAL JURISDICTION.—There is extraterritorial Federal jurisdiction over the offenses described in this subsection.

''(b) SEIZURE AND FORFEITURE.—

''(1) IN GENERAL.—Any real or personal property used to commit or facilitate the commission of a violation of this section, the gross proceeds of such violation, and any property traceable to such property or proceeds, shall be subject to forfeiture.

''(2) APPLICABLE PROCEDURES.—Seizures and forfeitures under this subsection shall be governed by the provisions of chapter 46 of title 18, United States Code, relating to civil forfeitures, except that such duties as are imposed upon the Secretary of the Treasury under the customs laws described in section 981(d) shall be performed by such officers, agents, and other persons as may be designated for that purpose by the Secretary of Homeland Security.

''(3) PRIMA FACIE EVIDENCE IN DETERMINATIONS OF VIOLATIONS.—In determining whether a violation of subsection (a) has occurred, prima facie evidence that an alien involved in the alleged violation lacks lawful authority to come to, enter, reside in, remain in, or be in the United States or that such alien had come to, entered, resided in, remained in, or been present in the United States in violation of law may include:

''(A) any order, finding, or determination concerning the alien's status or lack of status made by a Federal judge or administrative adjudicator (including an immigration judge or immigration officer) during any judicial or administrative proceeding authorized under Federal immigration law;

''(B) official records of the Department of Homeland Security, the Department of Justice, or the Department of State concerning the alien's status or lack of status; and

''(C) testimony by an immigration officer having personal knowledge of the facts concerning the alien's status or lack of status.

''(c) AUTHORITY TO ARREST.—No officer or person shall have authority to make any arrests for a violation of any provision of this section except:

''(1) officers and employees designated by the Secretary of Homeland Security, either individually or as a member of a class; and

''(2) other officers responsible for the enforcement of Federal criminal laws.

''(d) ADMISSIBILITY OF VIDEOTAPED WITNESS TESTIMONY.—Notwithstanding any provision of the Federal Rules of Evidence, the videotaped or otherwise audiovisually preserved deposition of a witness to a violation of subsection (a) who has been deported or otherwise expelled from the United States, or is otherwise unavailable to testify, may be admitted into evidence in an action brought for that violation if:

''(1) the witness was available for cross examination at the deposition by the party, if any, opposing admission of the testimony; and

''(2) the deposition otherwise complies with the Federal Rules of Evidence.

''(e) DEFINITIONS.—In this section:

''(1) CROSS THE BORDER TO THE UNITED STATES.—The term 'cross the border' refers to the physical act of crossing the border, regardless of whether the alien is free from official restraint.

''(2) LAWFUL AUTHORITY.—The term 'lawful authority' means permission, authorization, or license that is expressly provided for in the immigration laws of the United States or accompanying regulations. The term does not include any such authority secured by fraud or otherwise obtained in violation of law or authority sought, but not approved. No alien shall be deemed to have lawful authority to come to, enter, reside in, remain in, or be in the United States if such coming to, entry, residence, remaining, or presence was, is, or would be in violation of law.

''(3) PROCEEDS.—The term 'proceeds' includes any property or interest in property obtained or retained as a consequence of an act or omission in violation of this section.

''(4) UNLAWFUL TRANSIT.—The term 'unlawful transit' means travel, movement, or temporary presence that violates the laws of any country in which the alien is present or any country from which or to which the alien is traveling or moving.''.

(b) CLERICAL AMENDMENT.—The table of contents for the Immigration and Nationality Act is amended by striking the item relating to section 274 and inserting the following:

''Sec. 274. Alien smuggling and related offenses.''.

(c) PROHIBITING CARRYING OR USING A FIREARM DURING AND IN RELATION TO AN ALIEN SMUGGLING CRIME.—Section 924(c) of title 18, United States Code, is amended—

(1) in paragraph (1)—

(A) in subparagraph (A)——

(i) by inserting '', alien smuggling crime,'' after ''any crime of violence''; and

(ii) by inserting '', alien smuggling crime,'' after ''such crime of violence''; and

(B) in subparagraph (D)(ii), by inserting '', alien smuggling crime,'' after ''crime of violence''; and

(2) by adding at the end the following:

''(6) For purposes of this subsection, the term 'alien smuggling crime' means any felony punishable under section 274(a), 277, or 278 of the Immigration and Nationality Act (8 U.S.C. 1324(a), 1327, and 1328).''.

**SEC. 3743. PENALTIES FOR ILLEGAL ENTRY OR PRESENCE.**

(a) IN GENERAL.—Section 275 of the Immigration and Nationality Act (8 U.S.C. 1325) is amended to read as follows:

''ILLEGAL ENTRY

''SEC. 275. (a) IN GENERAL.—

''(1) ILLEGAL ENTRY OR PRESENCE.—An alien shall be subject to the penalties set forth in paragraph (2) if the alien—

''(A) knowingly enters or crosses the border into the United States at any time or place other than as designated by the Secretary of Homeland Security;

''(B) knowingly eludes, at any time or place, examination or inspection by an authorized immigration, customs, or agriculture officer (including by failing to stop at the command of such officer);

''(C) knowingly enters or crosses the border to the United States and, upon examination or inspection, knowingly makes a false or misleading representation or the knowing concealment of a material fact (including such representation or concealment in the context of arrival, reporting, entry, or clearance requirements of the customs laws, immigration laws, agriculture laws, or shipping laws);

''(D) knowingly violates the terms or conditions of the alien's admission or parole into the United States; or

''(E) knowingly is unlawfully present in the United States (as defined in section 212(a)(9)(B)(ii) subject to the exceptions set forth in section 212(a)(9)(B)(iii)).

''(2) CRIMINAL PENALTIES.—Any alien who violates any provision under paragraph (1):

''(A) shall, for the first violation, be fined under title 18, United States Code, imprisoned not more than 6 months, or both;

''(B) shall, for a second or subsequent violation, or following an order of voluntary departure, be fined under such title, imprisoned not more than 2 years, or both;

''(C) if the violation occurred after the alien had been convicted of 3 or more misdemeanors or for a felony, shall be fined under such title, imprisoned not more than 10 years, or both;

''(D) if the violation occurred after the alien had been convicted of a felony for which the alien received a term of imprisonment of not less than 30 months, shall be fined under such title, imprisoned not more than 15 years, or both; and

''(E) if the violation occurred after the alien had been convicted of a felony for which the alien received a term of imprisonment of not less than 60 months, such alien shall be fined under such title, imprisoned not more than 20 years, or both.

''(3) PRIOR CONVICTIONS.—The prior convictions described in subparagraphs (C) through (E) of paragraph (2) are elements of the offenses described and the penalties in such subparagraphs shall apply only in cases in which the conviction or convictions that form the basis for the additional penalty are—

''(A) alleged in the indictment or information; and

''(B) proven beyond a reasonable doubt at trial or admitted by the defendant.

''(4) DURATION OF OFFENSE.—An offense under this subsection continues until the alien is discovered within the United States by an immigration, customs, or agriculture officer.

''(5) ATTEMPT.—Whoever attempts to commit any offense under this section shall be punished in the same manner as for a completion of such offense.

''(b) IMPROPER TIME OR PLACE; CIVIL PENALTIES.—

''(1) IN GENERAL.—Any alien who is apprehended while entering, attempting to enter, or knowingly crossing or attempting to cross the border to the United States at a time or place other than as designated by immigration officers shall be subject to a civil penalty, in addition to any criminal or other civil penalties that may be imposed under any other provision of law, in an amount equal to—

''(A) not less than $50 or more than $250 for each such entry, crossing, attempted entry, or attempted crossing; or

''(B) twice the amount specified in paragraph (1) if the alien had previously been subject to a civil penalty under this subsection.''.

(b) CLERICAL AMENDMENT.—The table of contents for the Immigration and Nationality Act is amended by striking the item relating to section 275 and inserting the following:

''275. Illegal entry.''.

**SEC. 3744. ILLEGAL REENTRY.**

Section 276 of the Immigration and Nationality Act (8 U.S.C. 1326) is amended to read as follows:

''REENTRY OF REMOVED ALIEN

''SEC. 276. (a) REENTRY AFTER REMOVAL.—Any alien who has been denied admission, excluded, deported, or removed, or who has departed the United States while an order of exclusion, deportation, or removal is outstanding, and subsequently enters, attempts to enter, crosses the border to, attempts to cross the border to, or is at any time found

in the United States, shall be fined under title 18, United States Code, imprisoned not more than 2 years, or both.

''(b) REENTRY OF CRIMINAL OFFENDERS.—Notwithstanding the penalty provided in subsection (a), if an alien described in that subsection was convicted before such removal or departure:

''(1) for 3 or more misdemeanors or for a felony, the alien shall be fined under title 18, United States Code, imprisoned not more than 10 years, or both;

''(2) for a felony for which the alien was sentenced to a term of imprisonment of not less than 30 months, the alien shall be fined under such title, imprisoned not more than 15 years, or both;

''(3) for a felony for which the alien was sentenced to a term of imprisonment of not less than 60 months, the alien shall be fined under such title, imprisoned not more than 20 years, or both;

''(4) for murder, rape, kidnapping, or a felony offense described in chapter 77 (relating to peonage and slavery) or 113B (relating to terrorism) of such title, or for 3 or more felonies of any kind, the alien shall be fined under such title, imprisoned not more than 25 years, or both.

''(c) REENTRY AFTER REPEATED REMOVAL.—Any alien who has been denied admission, excluded, deported, or removed 3 or more times and thereafter enters, attempts to enter, crosses the border to, attempts to cross the border to, or is at any time found in the United States, shall be fined under title 18, United States Code, imprisoned not more than 10 years, or both.

''(d) PROOF OF PRIOR CONVICTIONS.—The prior convictions described in subsection (b) are elements of the crimes described, and the penalties in that subsection shall apply only in cases in which the conviction or convictions that form the basis for the additional penalty are—

''(1) alleged in the indictment or information; and

''(2) proven beyond a reasonable doubt at trial or admitted by the defendant.

''(e) AFFIRMATIVE DEFENSES.—It shall be an affirmative defense to a violation of this section that—

''(1) prior to the alleged violation, the alien had sought and received the express consent of the Secretary of Homeland Security to reapply for admission into the United States; or

''(2) with respect to an alien previously denied admission and removed, the alien—

''(A) was not required to obtain such advance consent under the Immigration and Nationality Act or any prior Act; and

''(B) had complied with all other laws and regulations governing the alien's admission into the United States.

''(f) LIMITATION ON COLLATERAL ATTACK ON UNDERLYING REMOVAL ORDER.—In a criminal proceeding under this section, an alien may not challenge the validity of any prior removal order concerning the alien.

''(g) REENTRY OF ALIEN REMOVED PRIOR TO COMPLETION OF TERM OF IMPRISONMENT.—Any alien removed pursuant to section 241(a)(4) who enters, attempts to enter, crosses the border to, attempts to cross the border to, or is at any time found in, the United States shall be incarcerated for the remainder of the sentence of imprisonment which was pending at the time of deportation without any reduction for parole or supervised release unless the alien affirmatively demonstrates that the Secretary of Homeland Security has expressly consented to the alien's reentry. Such alien shall be subject to such other penalties relating to the reentry of removed aliens as may be available under this section or any other provision of law.

''(h) DEFINITIONS.—For purposes of this section and section 275, the following definitions shall apply:

''(1) CROSSES THE BORDER TO THE UNITED STATES.—The term 'crosses the border' refers to the physical act of crossing the border, regardless of whether the alien is free from official restraint.

''(2) FELONY.—The term 'felony' means any criminal offense punishable by a term of imprisonment of more than 1 year under the laws of the United States, any State, or a foreign government.

''(3) MISDEMEANOR.—The term 'misdemeanor' means any criminal offense punishable by a term of imprisonment of not more than 1 year under the applicable laws of the United States, any State, or a foreign government.

''(4) REMOVAL.—The term 'removal' includes any denial of admission, exclusion, deportation, or removal, or any agreement by which an alien stipulates or agrees to exclusion, deportation, or removal.

''(5) STATE.—The term 'State' means a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.''.

**SEC. 3745. REFORM OF PASSPORT, VISA, AND IMMIGRATION FRAUD OFFENSES.**

Chapter 75 of title 18, United States Code, is amended to read as follows:

**''CHAPTER 75—PASSPORTS AND VISAS**

''Sec.
''1541. Issuance without authority.
''1542. False statement in application and use of passport.
''1543. Forgery or false use of passport.
''1544. Misuse of a passport.
''1545. Schemes to defraud aliens.
''1546. Immigration and visa fraud.
''1547. Attempts and conspiracies.
''1548. Alternative penalties for certain offenses.
''1549. Definitions.

**''§ 1541. Issuance without authority**

''(a) IN GENERAL.—Whoever—

''(1) acting or claiming to act in any office or capacity under the United States, or a State, without lawful authority grants, issues, or verifies any passport or other instrument in the nature of a passport to or for any person; or

''(2) being a consular officer authorized to grant, issue, or verify passports, knowingly grants, issues, or verifies any such passport to or for any person not owing allegiance, to the United States, whether a citizen or not;

shall be fined under this title or imprisoned not more than 15 years, or both.

''(b) DEFINITION.—In this section, the term 'State' means a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

**''§ 1542. False statement in application and use of passport**

''Whoever knowingly—

''(1) makes any false statement in an application for passport with intent to induce or secure the issuance of a passport under the authority of the United States, either for his own use or the use of another, contrary to the laws regulating the issuance of passports or the rules prescribed pursuant to such laws; or

''(2) uses or attempts to use, or furnishes to another for use any passport the issue of which was secured in any way by reason of any false statement;

shall be fined under this title or imprisoned not more than 15 years, or both.

**''§ 1543. Forgery or false use of passport**

''Whoever—

''(1) falsely makes, forges, counterfeits, mutilates, or alters any passport or instrument purporting to be a passport, with intent that the same may be used; or

''(2) knowingly uses, or attempts to use, or furnishes to another for use any such false, forged, counterfeited, mutilated, or altered passport or instrument purporting to be a passport, or any passport validly issued which has become void by the occurrence of any condition therein prescribed invalidating the same;

shall be fined under this title or imprisoned not more than 15 years, or both.

**''§ 1544. Misuse of a passport**

''Whoever knowingly—

''(1) uses any passport issued or designed for the use of another;

''(2) uses any passport in violation of the conditions or restrictions therein contained, or in violation of the laws, regulations, or rules governing the issuance and use of the passport;

''(3) secures, possesses, uses, receives, buys, sells, or distributes any passport knowing it to be forged, counterfeited, altered, falsely made, procured by fraud, stolen, or produced or issued without lawful authority; or

''(4) violates the terms and conditions of any safe conduct duly obtained and issued under the authority of the United States;

shall be fined under this title, imprisoned not more than 15 years, or both.

**''§ 1545. Schemes to defraud aliens**

''Whoever inside the United States, or in or affecting interstate or foreign commerce, in connection with any matter that is authorized by or arises under the immigration laws of the United States or any matter the offender claims or represents is authorized by or arises under the immigration laws of the United States, knowingly executes a scheme or artifice—

''(1) to defraud any person, or

''(2) to obtain or receive money or anything else of value from any person by means of false or fraudulent pretenses, representations, or promises;

shall be fined under this title, imprisoned not more than 15 years, or both.

**''§ 1546. Immigration and visa fraud**

''Whoever knowingly—

''(1) uses any immigration document issued or designed for the use of another;

''(2) forges, counterfeits, alters, or falsely makes any immigration document;

''(3) mails, prepares, presents, or signs any immigration document knowing it to contain any materially false statement or representation;

''(4) secures, possesses, uses, transfers, receives, buys, sells, or distributes any immigration document knowing it to be forged, counterfeited, altered, falsely made, stolen, procured by fraud, or produced or issued without lawful authority;

''(5) adopts or uses a false or fictitious name to evade or to attempt to evade the immigration laws;

''(6) transfers or furnishes, without lawful authority, an immigration document to another person for use by a person other than the person for whom the immigration document was issued or designed; or

''(7) produces, issues, authorizes, or verifies, without lawful authority, an immigration document;

shall be fined under this title, imprisoned not more than 15 years, or both.

**''§ 1547. Attempts and conspiracies**

''Whoever attempts or conspires to violate this chapter shall be punished in the same manner as a person who completes that violation.

**''§ 1548. Alternative penalties for certain offenses**

''(a) TERRORISM.—Whoever violates any section in this chapter to facilitate an act of

international terrorism or domestic terrorism (as such terms are defined in section 2331), shall be fined under this title or imprisoned not more than 25 years, or both.

''(b) DRUG TRAFFICKING OFFENSES.—Whoever violates any section in this chapter to facilitate a drug trafficking crime (as defined in section 929(a)) shall be fined under this title or imprisoned not more than 20 years, or both.

**''§ 1549. Definitions**

''In this chapter:

''(1) An 'application for a United States passport' includes any document, photograph, or other piece of evidence attached to or submitted in support of the application.

''(2) The term 'immigration document' means any instrument on which is recorded, by means of letters, figures, or marks, matters which may be used to fulfill any requirement of the Immigration and Nationality Act.''.

**SEC. 3746. FORFEITURE.**

Section 981(a)(1) of title 18, United States Code, is amended by adding at the end the following:

''(I) Any property, real or personal, that has been used to commit or facilitate the commission of a violation of chapter 75, the gross proceeds of such violation, and any property traceable to any such property or proceeds.''.

**SEC. 3747. EXPEDITED REMOVAL FOR ALIENS INADMISSIBLE ON CRIMINAL OR SECURITY GROUNDS.**

(a) IN GENERAL.—Section 238(b) of the Immigration and Nationality Act (8 U.S.C. 1228(b)) is amended–

(1) in paragraph (1)—

(A) by striking ''Attorney General'' and inserting ''Secretary of Homeland Security in the exercise of discretion''; and

(B) by striking ''set forth in this subsection or'' and inserting ''set forth in this subsection, in lieu of removal proceedings under'';

(2) in paragraph (3), by striking ''paragraph (1) until 14 calendar days'' and inserting ''paragraph (1) or (3) until 7 calendar days'';

(3) by striking ''Attorney General'' each place it appears in paragraphs (3) and (4) and inserting ''Secretary of Homeland Security'';

(4) in paragraph (5)—

(A) by striking ''described in this section'' and inserting ''described in paragraph (1) or (2)''; and

(B) by striking ''the Attorney General may grant in the Attorney General's discretion'' and inserting ''the Secretary of Homeland Security or the Attorney General may grant, in the discretion of the Secretary or Attorney General, in any proceeding'';

(5) by redesignating paragraphs (3), (4), and (5) as paragraphs (4), (5), and (6), respectively; and

(6) by inserting after paragraph (2) the following new paragraph:

''(3) The Secretary of Homeland Security in the exercise of discretion may determine inadmissibility under section 212(a)(2) (relating to criminal offenses) and issue an order of removal pursuant to the procedures set forth in this subsection, in lieu of removal proceedings under section 240, with respect to an alien who

''(A) has not been admitted or paroled;

''(B) has not been found to have a credible fear of persecution pursuant to the procedures set forth in section 235(b)(1)(B); and

''(C) is not eligible for a waiver of inadmissibility or relief from removal.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act but shall not apply to aliens who are in removal proceedings under section 240 of the Immigration and Nationality Act as of such date.

**SEC. 3748. INCREASED PENALTIES BARRING THE ADMISSION OF CONVICTED SEX OFFENDERS FAILING TO REGISTER AND REQUIRING DEPORTATION OF SEX OFFENDERS FAILING TO REGISTER.**

(a) INADMISSIBILITY.—Section 212(a)(2)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(2)(A)(i)), as amended by section 302(a) of this Act, is further amended—

(1) in subclause (II), by striking ''or'' at the end;

(2) in subclause (III), by adding ''or'' at the end; and

(3) by inserting after subclause (III) the following:

''(IV) a violation of section 2250 of title 18, United States Code (relating to failure to register as a sex offender);''.

(b) DEPORTABILITY.—Section 237(a)(2) of such Act (8 U.S.C. 1227(a)(2)), as amended by sections 302(c) and 311(c) of this Act, is further amended—

(1) in subparagraph (A), by striking clause (v); and

(2) by adding at the end the following:

''(I) Any alien convicted of, or who admits having committed, or who admits committing acts which constitute the essential elements of a violation of section 2250 of title 18, United States Code (relating to failure to register as a sex offender) is deportable.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to acts that occur before, on, or after the date of the enactment of this Act.

**SEC. 3749. PROTECTING IMMIGRANTS FROM CONVICTED SEX OFFENDERS.**

(a) IMMIGRANTS.—Section 204(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)), is amended—

(1) in subparagraph (A), by amending clause (viii) to read as follows:

''(viii) Clause (i) shall not apply to a citizen of the United States who has been convicted of an offense described in subparagraph (A), (I), or (K) of section 101(a)(43), unless the Secretary of Homeland Security, in the Secretary's sole and unreviewable discretion, determines that the citizen poses no risk to the alien with respect to whom a petition described in clause (i) is filed.''; and

(2) in subparagraph (B)(i)—

(A) by redesignating the second subclause (I) as subclause (II); and

(B) by amending such subclause (II) to read as follows:

''(II) Subclause (I) shall not apply in the case of an alien admitted for permanent residence who has been convicted of an offense described in subparagraph (A), (I), or (K) of section 101(a)(43), unless the Secretary of Homeland Security, in the Secretary's sole and unreviewable discretion, determines that the alien lawfully admitted for permanent residence poses no risk to the alien with respect to whom a petition described in subclause (I) is filed.''.

(b) NONIMMIGRANTS.—Section 101(a)(15)(K) of such Act (8 U.S.C. 1101(a)(15)(K)), is amended by striking ''204(a)(1)(A)(viii)(I))'' each place such term appears and inserting ''204(a)(1)(A)(viii))''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to petitions filed on or after such date.

**SEC. 3750. CLARIFICATION TO CRIMES OF VIOLENCE AND CRIMES INVOLVING MORAL TURPITUDE.**

(a) INADMISSIBLE ALIENS.—Section 212(a)(2)(A) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(2)(A)) is amended by adding at the end the following:

''(iii) CLARIFICATION.—If the conviction records do not conclusively establish whether a crime constitutes a crime involving moral turpitude, the Attorney General may consider other evidence related to the conviction that clearly establishes that the conduct for which the alien was engaged constitutes a crime involving moral turpitude.''.

(b) DEPORTABLE ALIENS.—

(1) GENERAL CRIMES.—Section 237(a)(2)(A) of such Act (8 U.S.C. 1227(a)(2)(A)), as amended by section 320(b) of this Act, is further amended by inserting after clause (iv) the following:

''(v) CRIMES INVOLVING MORAL TURPITUDE.—If the conviction records do not conclusively establish whether a crime constitutes a crime involving moral turpitude, the Attorney General may consider other evidence related to the conviction that clearly establishes that the conduct for which the alien was engaged constitutes a crime involving moral turpitude.''.

(2) DOMESTIC VIOLENCE.—Section 237(a)(2)(E) of such Act (8 U.S.C. 1227(a)(2)(E)) is amended by adding at the end the following:

''(iii) CRIMES OF VIOLENCE.—If the conviction records do not conclusively establish whether a crime of domestic violence constitutes a crime of violence (as defined in section 16 of title 18, United States Code), the Attorney General may consider other evidence related to the conviction that clearly establishes that the conduct for which the alien was engaged constitutes a crime of violence.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to acts that occur before, on, or after the date of the enactment of this Act.

**SEC. 3751. PENALTIES FOR FAILURE TO OBEY REMOVAL ORDERS.**

(a) IN GENERAL.—Section 243(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1253(a)(1)) is amended—

(1) by inserting ''212(a) or'' before ''237(a),'' ; and

(2) by striking paragraph (3).

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply to acts that are described in subparagraphs (A) through (D) of section 243(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1253(a)(1)) that occur on or after the date of the enactment of this Act.

**SEC. 3752. PARDONS.**

(a) DEFINITION.—Section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)), as amended by section 311(a) of this Act, is further amended by adding at the end the following:

''(54) The term 'pardon' means a full and unconditional pardon granted by the President of the United States, Governor of any of the several States or constitutionally recognized body.''.

(b) DEPORTABILITY.—Section 237(a) of such Act (8 U.S.C. 1227(a)) is amended—

(1) in paragraph (2)(A), by striking clause (vi); and

(2) by adding at the end the following:

''(8) PARDONS.—

''(A) IN GENERAL.—In the case of an alien who has been convicted of a crime and is subject to removal due to that conviction, if the alien, subsequent to receiving the criminal conviction, is granted a pardon, the alien shall not be deportable by reason of that criminal conviction.

''(B) EXCEPTION.—Subparagraph (A) shall not apply in the case of an alien granted a pardon if the pardon is granted in whole or in part to eliminate that alien's condition of deportability.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall

apply to a pardon granted before, on, or after such date.

## CHAPTER 4—AID TO U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT OFFICERS

### SEC. 3761. ICE IMMIGRATION ENFORCEMENT AGENTS.

(a) IN GENERAL.—The Secretary shall authorize all immigration enforcement agents and deportation officers of the Department who have successfully completed basic immigration law enforcement training to exercise the powers conferred by—

(1) section 287(a)(5)(A) of the Immigration and Nationality Act to arrest for any offense against the United States;

(2) section 287(a)(5)(B) of such Act to arrest for any felony;

(3) section 274(a) of such Act to arrest for bringing in, transporting, or harboring certain aliens, or inducing them to enter;

(4) section 287(a) of such Act to execute warrants of arrest for administrative immigration violations issued under section 236 of the Act or to execute warrants of criminal arrest issued under the authority of the United States; and

(5) section 287(a) of such Act to carry firearms, provided that they are individually qualified by training and experience to handle and safely operate the firearms they are permitted to carry, maintain proficiency in the use of such firearms, and adhere to the provisions of the enforcement standard governing the use of force.

(b) PAY.—Immigration enforcement agents shall be paid on the same scale as Immigration and Customs Enforcement deportation officers and shall receive the same benefits.

### SEC. 3762. ICE DETENTION ENFORCEMENT OFFICERS.

(a) AUTHORIZATION.—The Secretary is authorized to hire 2,500 Immigration and Customs Enforcement detention enforcement officers.

(b) DUTIES.—Immigration and Customs Enforcement detention enforcement officers who have successfully completed detention enforcement officers' basic training shall be responsible for—

(1) taking and maintaining custody of any person who has been arrested by an immigration officer;

(2) transporting and guarding immigration detainees;

(3) securing Department detention facilities; and

(4) assisting in the processing of detainees.

### SEC. 3763. ENSURING THE SAFETY OF ICE OFFICERS AND AGENTS.

(a) BODY ARMOR.—The Secretary shall ensure that every Immigration and Customs Enforcement deportation officer and immigration enforcement agent on duty is issued high-quality body armor that is appropriate for the climate and risks faced by the agent. Enough body armor must be purchased to cover every agent in the field.

(b) WEAPONS.—Such Secretary shall ensure that Immigration and Customs Enforcement deportation officers and immigration enforcement agents are equipped with weapons that are reliable and effective to protect themselves, their fellow agents, and innocent third parties from the threats posed by armed criminals. Such weapons shall include, at a minimum, standard-issue handguns, M–4 (or equivalent) rifles, and Tasers.

(c) EFFECTIVE DATE.—This section shall take effect 90 days after the date of the enactment of this Act.

### SEC. 3764. ICE ADVISORY COUNCIL.

(a) ESTABLISHMENT.—An ICE Advisory Council shall be established not later than 3 months after the date of the enactment of this Act.

(b) MEMBERSHIP.—The ICE Advisory Council shall be comprised of 7 members.

(c) APPOINTMENT.—Members shall to be appointed in the following manner:

(1) One member shall be appointed by the President;

(2) One member shall be appointed by the Chairman of the Judiciary Committee of the House of Representatives;

(3) One member shall be appointed by the Chairman of the Judiciary Committee of the Senate;

(4) One member shall be appointed by the Local 511, the ICE prosecutor's union; and

(5) Three members shall be appointed by the National Immigration and Customs Enforcement Council.

(d) TERM.—Members shall serve renewable, 2-year terms.

(e) VOLUNTARY.—Membership shall be voluntary and non-remunerated, except that members will receive reimbursement from the Secretary for travel and other related expenses.

(f) RETALIATION PROTECTION.—Members who are employed by the Secretary shall be protected from retaliation by their supervisors, managers, and other Department employees for their participation on the Council.

(g) PURPOSE.—The purpose of the Council is to advise Congress and the Secretary on issues including the following:

(1) The current status of immigration enforcement efforts, including prosecutions and removals, the effectiveness of such efforts, and how enforcement could be improved;

(2) The effectiveness of cooperative efforts between the Secretary and other law enforcement agencies, including additional types of enforcement activities that the Secretary should be engaged in, such as State and local criminal task forces;

(3) Personnel, equipment, and other resource needs of field personnel;

(4) Improvements that should be made to the organizational structure of the Department, including whether the position of immigration enforcement agent should be merged into the deportation officer position; and

(5) The effectiveness of specific enforcement policies and regulations promulgated by the Secretary, and whether other enforcement priorities should be considered.

(h) REPORTS.—The Council shall provide quarterly reports to the Chairmen and Ranking Members of the Judiciary Committees of the Senate and the House of Representatives and to the Secretary. The Council members shall meet directly with the Chairmen and Ranking Members (or their designated representatives) and with the Secretary to discuss their reports every 6 months.

### SEC. 3765. PILOT PROGRAM FOR ELECTRONIC FIELD PROCESSING.

(a) IN GENERAL.—The Secretary shall establish a pilot program in at least five of the 10 Immigration and Customs Enforcement field offices with the largest removal caseloads to allow Immigration and Customs deportation officers and immigration enforcement agents to—

(1) electronically process and serve charging documents, including Notices to Appear, while in the field; and

(2) electronically process and place detainers while in the field.

(b) DUTIES.—The pilot program described in subsection (a) shall be designed to allow deportation officers and immigration enforcement agents to use handheld or vehicle-mounted computers to—

(1) enter any required data, including personal information about the alien subject and the reason for issuing the document;

(2) apply the electronic signature of the issuing officer or agent;

(3) set the date the alien is required to appear before an immigration judge, in the case of Notices to Appear;

(4) print any documents the alien subject may be required to sign, along with additional copies of documents to be served on the alien; and

(5) interface with the ENFORCE database so that all data is stored and retrievable.

(c) CONSTRUCTION.—The pilot program described in subsection (a) shall be designed to replace, to the extent possible, the current paperwork and data-entry process used for issuing such charging documents and detainers.

(d) DEADLINE.—The Secretary shall initiate the pilot program described in subsection (a) within 6 months of the date of enactment of this Act.

(e) REPORT.—The Government Accountability Office shall report to the Judiciary Committee of the Senate and the House of Representatives no later than 18 months after the date of enactment of this Act on the effectiveness of the pilot program and provide recommendations for improving it.

(f) ADVISORY COUNCIL.—The ICE Advisory Council established by section 3764 shall include an recommendations on how the pilot program should work in the first quarterly report of the Council, and shall include assessments of the program and recommendations for improvement in each subsequent report.

(g) EFFECTIVE DATE.—This section shall take effect 180 days after the date of the enactment of this Act.

### SEC. 3766. ADDITIONAL ICE DEPORTATION OFFICERS AND SUPPORT STAFF.

(a) IN GENERAL.—The Secretary shall, subject to the availability of appropriations for such purpose, increase the number of positions for full-time active-duty Immigration and Customs Enforcement deportation officers by 5,000 above the number of full-time positions for which funds were appropriated for fiscal year 2013.

(b) SUPPORT STAFF.—The Secretary shall, subject to the availability of appropriations for such purpose, increase the number of positions for full-time support staff for Immigration and Customs Enforcement deportation officers by 700 above the number of full-time positions for which funds were appropriated for fiscal year 2013.

### SEC. 3767. ADDITIONAL ICE PROSECUTORS.

The Secretary shall increase by 60 the number of full-time trial attorneys working for the Immigration and Customs Enforcement Office of the Principal Legal Advisor.

## CHAPTER 5—MISCELLANEOUS ENFORCEMENT PROVISIONS

### SEC. 3771. ENCOURAGING ALIENS TO DEPART VOLUNTARILY.

(a) IN GENERAL.—Section 240B of the Immigration and Nationality Act (8 U.S.C. 1229c) is amended—

(1) in subsection (a)—

(A) by amending paragraph (1) to read as follows:

''(1) INSTEAD OF REMOVAL PROCEEDINGS.—If an alien is not described in paragraph (2)(A)(iii) or (4) of section 237(a), the Secretary of Homeland Security may permit the alien to voluntarily depart the United States at the alien's own expense under this subsection instead of being subject to proceedings under section 240.'';

(B) by striking paragraph (3);

(C) by redesignating paragraph (2) as paragraph (3);

(D) by adding after paragraph (1) the following:

''(2) BEFORE THE CONCLUSION OF REMOVAL PROCEEDINGS.—If an alien is not described in paragraph (2)(A)(iii) or (4) of section 237(a), the Attorney General may permit the alien

to voluntarily depart the United States at the alien's own expense under this subsection after the initiation of removal proceedings under section 240 and before the conclusion of such proceedings before an immigration judge.'';

(E) in paragraph (3), as redesignated—

(i) by amending subparagraph (A) to read as follows:

''(A) INSTEAD OF REMOVAL.—Subject to subparagraph (C), permission to voluntarily depart under paragraph (1) shall not be valid for any period in excess of 120 days. The Secretary may require an alien permitted to voluntarily depart under paragraph (1) to post a voluntary departure bond, to be surrendered upon proof that the alien has departed the United States within the time specified.'';

(ii) by redesignating subparagraphs (B), (C), and (D) as paragraphs (C), (D), and (E), respectively;

(iii) by adding after subparagraph (A) the following:

''(B) BEFORE THE CONCLUSION OF REMOVAL PROCEEDINGS.—Permission to voluntarily depart under paragraph (2) shall not be valid for any period in excess of 60 days, and may be granted only after a finding that the alien has the means to depart the United States and intends to do so. An alien permitted to voluntarily depart under paragraph (2) shall post a voluntary departure bond, in an amount necessary to ensure that the alien will depart, to be surrendered upon proof that the alien has departed the United States within the time specified. An immigration judge may waive the requirement to post a voluntary departure bond in individual cases upon a finding that the alien has presented compelling evidence that the posting of a bond will pose a serious financial hardship and the alien has presented credible evidence that such a bond is unnecessary to guarantee timely departure.''.

(iv) in subparagraph (C), as redesignated, by striking ''subparagraphs (C) and(D)(ii)'' and inserting ''subparagraphs (D) and (E)(ii)'';

(v) in subparagraph (D), as redesignated, by striking ''subparagraph (B)'' each place that term appears and inserting ''subparagraph (C)'';

(vi) in subparagraph (E), as redesignated, by striking ''subparagraph (B)'' each place that term appears and inserting ''subparagraph (C)'';

(F) in paragraph (4), by striking ''paragraph (1)'' and inserting ''paragraphs (1) and (2)'';

(2) in subsection (b)(2), by striking ''a period exceeding 60 days'' and inserting ''any period in excess of 45 days'';

(3) by amending subsection (c) to read as follows:

''(c) CONDITIONS ON VOLUNTARY DEPARTURE.—

''(1) VOLUNTARY DEPARTURE AGREEMENT.—Voluntary departure may only be granted as part of an affirmative agreement by the alien. A voluntary departure agreement under subsection (b) shall include a waiver of the right to any further motion, appeal, application, petition, or petition for review relating to removal or relief or protection from removal.

''(2) CONCESSIONS BY THE SECRETARY.—In connection with the alien's agreement to depart voluntarily under paragraph (1), the Secretary of Homeland Security may agree to a reduction in the period of inadmissibility under subparagraph (A) or (B)(i) of section 212(a)(9).

''(3) ADVISALS.—Agreements relating to voluntary departure granted during removal proceedings under section 240, or at the conclusion of such proceedings, shall be presented on the record before the immigration judge. The immigration judge shall advise the alien of the consequences of a voluntary departure agreement before accepting such agreement.

''(4) FAILURE TO COMPLY WITH AGREEMENT.—

''(A) IN GENERAL.—If an alien agrees to voluntary departure under this section and fails to depart the United States within the time allowed for voluntary departure or fails to comply with any other terms of the agreement (including failure to timely post any required bond), the alien is—

''(i) ineligible for the benefits of the agreement;

''(ii) subject to the penalties described in subsection (d); and

''(iii) subject to an alternate order of removal if voluntary departure was granted under subsection (a)(2) or (b).

''(B) EFFECT OF FILING TIMELY APPEAL.—If, after agreeing to voluntary departure, the alien files a timely appeal of the immigration judge's decision granting voluntary departure, the alien may pursue the appeal instead of the voluntary departure agreement. Such appeal operates to void the alien's voluntary departure agreement and the consequences of such agreement, but precludes the alien from another grant of voluntary departure while the alien remains in the United States.

''(5) VOLUNTARY DEPARTURE PERIOD NOT AFFECTED.—Except as expressly agreed to by the Secretary in writing in the exercise of the Secretary's discretion before the expiration of the period allowed for voluntary departure, no motion, appeal, application, petition, or petition for review shall affect, reinstate, enjoin, delay, stay, or toll the alien's obligation to depart from the United States during the period agreed to by the alien and the Secretary.'';

(4) by amending subsection (d) to read as follows:

''(d) PENALTIES FOR FAILURE TO DEPART.—If an alien is permitted to voluntarily depart under this section and fails to voluntarily depart from the United States within the time period specified or otherwise violates the terms of a voluntary departure agreement, the alien will be subject to the following penalties:

''(1) CIVIL PENALTY.—The alien shall be liable for a civil penalty of $3,000. The order allowing voluntary departure shall specify the amount of the penalty, which shall be acknowledged by the alien on the record. If the Secretary thereafter establishes that the alien failed to depart voluntarily within the time allowed, no further procedure will be necessary to establish the amount of the penalty, and the Secretary may collect the civil penalty at any time thereafter and by whatever means provided by law. An alien will be ineligible for any benefits under this chapter until this civil penalty is paid.

''(2) INELIGIBILITY FOR RELIEF.—The alien shall be ineligible during the time the alien remains in the United States and for a period of 10 years after the alien's departure for any further relief under this section and sections 240A, 245, 248, and 249. The order permitting the alien to depart voluntarily shall inform the alien of the penalties under this subsection.

''(3) REOPENING.—The alien shall be ineligible to reopen the final order of removal that took effect upon the alien's failure to depart, or upon the alien's other violations of the conditions for voluntary departure, during the period described in paragraph (2). This paragraph does not preclude a motion to reopen to seek withholding of removal under section 241(b)(3) or protection against torture, if the motion—

''(A) presents material evidence of changed country conditions arising after the date of the order granting voluntary departure in the country to which the alien would be removed; and

''(B) makes a sufficient showing to the satisfaction of the Attorney General that the alien is otherwise eligible for such protection.''; and

(5) by amending subsection (e) to read as follows:

''(e) ELIGIBILITY.—

''(1) PRIOR GRANT OF VOLUNTARY DEPARTURE.—An alien shall not be permitted to voluntarily depart under this section if the Secretary of Homeland Security or the Attorney General previously permitted the alien to depart voluntarily.

''(2) RULEMAKING.—The Secretary may promulgate regulations to limit eligibility or impose additional conditions for voluntary departure under subsection (a)(1) for any class of aliens. The Secretary or Attorney General may by regulation limit eligibility or impose additional conditions for voluntary departure under subsections (a)(2) or (b) of this section for any class or classes of aliens.''.

(6) in subsection (f), by adding at the end the following: ''Notwithstanding section 242(a)(2)(D) of this Act, sections 1361, 1651, and 2241 of title 28, United States Code, any other habeas corpus provision, and any other provision of law (statutory or nonstatutory), no court shall have jurisdiction to affect, reinstate, enjoin, delay, stay, or toll the period allowed for voluntary departure under this section.''.

(b) RULEMAKING.—The Secretary shall within one year of the date of enactment of this Act promulgate regulations to provide for the imposition and collection of penalties for failure to depart under section 240B(d) of the Immigration and Nationality Act (8 U.S.C. 1229c(d)).

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply with respect to all orders granting voluntary departure under section 240B of the Immigration and Nationality Act (8 U.S.C. 1229c) made on or after the date that is 180 days after the enactment of this Act.

(2) EXCEPTION.—The amendment made by subsection (a)(6) shall take effect on the date of the enactment of this Act and shall apply with respect to any petition for review which is filed on or after such date.

**SEC. 3772. DETERRING ALIENS ORDERED REMOVED FROM REMAINING IN THE UNITED STATES UNLAWFULLY.**

(a) INADMISSIBLE ALIENS.—Section 212(a)(9)(A) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(9)(A)) is amended—

(1) in clause (i), by striking ''seeks admission within 5 years of the date of such removal (or within 20 years'' and inserting ''seeks admission not later than 5 years after the date of the alien's removal (or not later than 20 years after the alien's removal''; and

(2) in clause (ii), by striking ''seeks admission within 10 years of the date of such alien's departure or removal (or within 20 years of'' and inserting ''seeks admission not later than 10 years after the date of the alien's departure or removal (or not later than 20 years after''.

(b) BAR ON DISCRETIONARY RELIEF.—Section 274D of such Act (8 U.S.C. 324d) is amended—

(1) in subsection (a), by striking ''Commissioner'' and inserting ''Secretary of Homeland Security''; and

(2) by adding at the end the following:

''(c) INELIGIBILITY FOR RELIEF.—

''(1) IN GENERAL.—Unless a timely motion to reopen is granted under section 240(c)(6), an alien described in subsection (a) shall be ineligible for any discretionary relief from removal (including cancellation of removal

and adjustment of status) during the time the alien remains in the United States and for a period of 10 years after the alien's departure from the United States.

''(2) SAVINGS PROVISION.—Nothing in paragraph (1) shall preclude a motion to reopen to seek withholding of removal under section 241(b)(3) or protection against torture, if the motion—

''(A) presents material evidence of changed country conditions arising after the date of the final order of removal in the country to which the alien would be removed; and

''(B) makes a sufficient showing to the satisfaction of the Attorney General that the alien is otherwise eligible for such protection.''.

(c) EFFECTIVE DATES.—The amendments made by this section shall take effect on the date of the enactment of this Act with respect to aliens who are subject to a final order of removal entered before, on, or after such date.

**SEC. 3773. REINSTATEMENT OF REMOVAL ORDERS.**

(a) IN GENERAL.—Section 241(a)(5) of the Immigration and Nationality Act (8 U.S.C. 1231(a)(5)) is amended to read as follows:

''(5) REINSTATEMENT OF REMOVAL ORDERS AGAINST ALIENS ILLEGALLY REENTERING.—If the Secretary of Homeland Security finds that an alien has entered the United States illegally after having been removed, deported, or excluded or having departed voluntarily, under an order of removal, deportation, or exclusion, regardless of the date of the original order or the date of the illegal entry—

''(A) the order of removal, deportation, or exclusion is reinstated from its original date and is not subject to being reopened or reviewed notwithstanding section 242(a)(2)(D);

''(B) the alien is not eligible and may not apply for any relief under this Act, regardless of the date that an application or request for such relief may have been filed or made; and

''(C) the alien shall be removed under the order of removal, deportation, or exclusion at any time after the illegal entry.

Reinstatement under this paragraph shall not require proceedings under section 240 or other proceedings before an immigration judge''.

(b) JUDICIAL REVIEW.—Section 242 of the Immigration and Nationality Act (8 U.S.C. 1252) is amended by adding at the end the following:

''(h) JUDICIAL REVIEW OF REINSTATEMENT UNDER SECTION 241(A)(5).—

''(1) REVIEW OF REINSTATEMENT.—Judicial review of determinations under section 241(a)(5) is available in an action under subsection (a).

''(2) NO REVIEW OF ORIGINAL ORDER.—Notwithstanding any other provision of law (statutory or nonstatutory), including section 2241 of title 28, United States Code, any other habeas corpus provision, or sections 1361 and 1651 of such title, no court shall have jurisdiction to review any cause or claim, arising from, or relating to, any challenge to the original order.''.

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect as if enacted on April 1, 1997, and shall apply to all orders reinstated or after that date by the Secretary (or by the Attorney General prior to March 1, 2003), regardless of the date of the original order.

**SEC. 3774. CLARIFICATION WITH RESPECT TO DEFINITION OF ADMISSION.**

Section 101(a)(13)(A) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(13)(A)) is amended by adding at the end the following: ''An alien's adjustment of status to that of lawful permanent resident status under any provision of this Act, or under any other provision of law, shall be considered an 'admission' for any purpose under this Act, even if the adjustment of status occurred while the alien was present in the United States.''.

**SEC. 3775. REPORTS TO CONGRESS ON THE EXERCISE AND ABUSE OF PROSECUTORIAL DISCRETION.**

(a) IN GENERAL.—Not later than 180 days after the end of each fiscal year, the Secretary and the Attorney General shall each provide to the Committees on the Judiciary of the House of Representatives and of the Senate a report on the following:

(1) Aliens apprehended or arrested by State or local law enforcement agencies who were identified by the Department in the previous fiscal year and for whom the Department did not issue detainers and did not take into custody despite the Department's findings that the aliens were inadmissible or deportable.

(2) Aliens who were applicants for admission in the previous fiscal year but not clearly and beyond a doubt entitled to be admitted by an immigration officer and who were not detained as required pursuant to section 235(b)(2)(A) of the Immigration and Nationality Act (8 U.S.C. 1225(b)(2)(A)).

(3) Aliens who in the previous fiscal year were found by Department officials performing duties related to the adjudication of applications for immigration benefits or the enforcement of the immigration laws to be inadmissible or deportable who were not issued notices to appear pursuant to section 239 of such Act (8 U.S.C. 1229) or placed into removal proceedings pursuant to section 240 (8 U.S.C. 1229a), unless the aliens were placed into expedited removal proceedings pursuant to section 235(b)(1)(A)(i) (8 U.S.C. 1225(b)(1)(A)(5)) or section 238 (8 U.S.C. 1228), were granted voluntary departure pursuant to section 240B, were granted relief from removal pursuant to statute, were granted legal nonimmigrant or immigrant status pursuant to statute, or were determined not to be inadmissible or deportable.

(4) Aliens issued notices to appear that were cancelled in the previous fiscal year despite the Department's findings that the aliens were inadmissible or deportable, unless the aliens were granted relief from removal pursuant to statute, were granted voluntary departure pursuant to section 240B of such Act (8 U.S.C. 1229c), or were granted legal nonimmigrant or immigrant status pursuant to statute.

(5) Aliens who were placed into removal proceedings, whose removal proceedings were terminated in the previous fiscal year prior to their conclusion, unless the aliens were granted relief from removal pursuant to statute, were granted voluntary departure pursuant to section 240B, were granted legal nonimmigrant or immigrant status pursuant to statute, or were determined not to be inadmissible or deportable.

(6) Aliens granted parole pursuant to section 212(d)(5)(A) of such Act (8 U.S.C. 1182(d)(5)(A)).

(7) Aliens granted deferred action, extended voluntary departure or any other type of relief from removal not specified in the Immigration and Nationality Act or where determined not to be inadmissible or deportable.

(b) CONTENTS OF REPORT.—The report shall include a listing of each alien described in each paragraph of subsection (a), including when in the possession of the Department their names, fingerprint identification numbers, alien registration numbers, and reason why each was granted the type of prosecutorial discretion received. The report shall also include current criminal histories on each alien from the Federal Bureau of Investigation.

Strike section 4411 and insert the following:

**SEC. 4411. REQUIRING HEIGHTENED SCRUTINY OF APPLICATIONS FOR ADMISSION FROM PERSONS LISTED ON TERRORIST DATABASES.**

Section 222 (8 U.S.C. 1202), as amended by section 4410, is further amended by adding at the end the following:

''(j) REQUIRING HEIGHTENED SCRUTINY OF APPLICATIONS FOR ADMISSION FROM PERSONS LISTED ON TERRORIST DATABASES.—

''(1) REQUIREMENT FOR BIOGRAPHIC AND BIOMETRIC SCREENING.—Notwithstanding any other provision of this Act, the Secretary of State shall require every alien applying for admission to the United States to submit to biographic and biometric screening to determine whether the alien's name or biometric information is listed in any terrorist watch list or database maintained by any agency or department of the United States.

''(2) EXCLUSIONS.—No alien applying for a visa to the United States shall be granted such visa by a consular officer if the alien's name or biometric information is listed in any terrorist watch list or database referred to in paragraph (1) unless—

''(A) screening of the alien's visa application against interagency counterterrorism screening systems which compare the applicant's information against data in all counterterrorism watch lists and databases reveals no potentially pertinent links to terrorism;

''(B) the consular officer submits the application for further review to the Secretary of State and the heads of other relevant agencies, including the Secretary of Homeland Security and the Director of National Intelligence; and

''(C) the Secretary of State, after consultation with the Secretary of Homeland Security, the Director of National Intelligence, and the heads of other relevant agencies, certifies that the alien is admissible to the United States.''.

Section 4412 is amended by striking ''Section 428'' and insert the following:

(a) AUTHORITY OF THE SECRETARY OF HOMELAND SECURITY AND THE SECRETARY OF STATE.—

(1) IN GENERAL.—Section 428 of the Homeland Security Act of 2002 (6 U.S.C. 236) is amended by striking subsections (b) and (c) and inserting the following:

''(b) AUTHORITY OF THE SECRETARY OF HOMELAND SECURITY.—

''(1) IN GENERAL.—Notwithstanding section 104(a) of the Immigration and Nationality Act (8 U.S.C. 1104(a)) or any other provision of law, and except as provided in subsection (c) and except for the authority of the Secretary of State under subparagraphs (A) and (G) of section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)), the Secretary—

''(A) shall have exclusive authority to issue regulations, establish policy, and administer and enforce the provisions of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) and all other immigration or nationality laws relating to the functions of consular officers of the United States in connection with the granting and refusal of a visa; and

''(B) may refuse or revoke any visa to any alien or class of aliens if the Secretary, or designee, determines that such refusal or revocation is necessary or advisable in the security interests of the United States.

''(2) EFFECT OF REVOCATION.—The revocation of any visa under paragraph (1)(B)—

''(A) shall take effect immediately; and

''(B) shall automatically cancel any other valid visa that is in the alien's possession.

''(3) JUDICIAL REVIEW.—Notwithstanding any other provision of law, including section

2241 of title 28, United States Code, or any other habeas corpus provision, and sections 1361 and 1651 of such title, no court shall have jurisdiction to review a decision by the Secretary of Homeland Security to refuse or revoke a visa, and no court shall have jurisdiction to hear any claim arising from, or any challenge to, such a refusal or revocation.

''(c) AUTHORITY OF THE SECRETARY OF STATE.—

''(1) IN GENERAL.—The Secretary of State may direct a consular officer to refuse a visa requested by an alien if the Secretary of State determines such refusal to be necessary or advisable in the interests of the United States.

''(2) LIMITATION.—No decision by the Secretary of State to approve a visa may override a decision by the Secretary of Homeland Security under subsection (b).''.

(2) CONFORMING AMENDMENT.—Section 237(a)(1)(B) (8 U.S.C. 1227(a)(1)(B)) is amended by striking ''under section 221(i)''.

(3) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date of the enactment of this Act and shall apply to visa refusals and revocations occurring before, on, or after such date.

(b) TECHNICAL CORRECTIONS TO THE HOMELAND SECURITY ACT.—Section 428(a) of the Homeland Security Act of 2002 (6 U.S.C. 236) is amended by—

(1) striking ''subsection'' and inserting ''section''; and

(2) striking ''consular office'' and inserting ''consular officer''.

(c) VISA REVOCATION INFORMATION.—Section 428

At the end of subtitle D of title IV, add the following:

**SEC. 4418. CANCELLATION OF ADDITIONAL VISAS.**

(a) IN GENERAL.—Section 222(g) (8 U.S.C. 1202(g)) is amended—

(1) in paragraph (1)—

(A) by striking ''Attorney General'' and inserting ''Secretary''; and

(B) by inserting ''and any other nonimmigrant visa issued by the United States that is in the possession of the alien'' after ''such visa''; and

(2) in paragraph (2)(A), by striking ''(other than the visa described in paragraph (1)) issued in a consular office located in the country of the alien's nationality'' and inserting ''(other than a visa described in paragraph (1)) issued in a consular office located in the country of the alien's nationality or foreign residence''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply to a visa issued before, on, or after such date.

**SEC. 4419. VISA INFORMATION SHARING.**

(a) IN GENERAL.—Section 222(f) (8 U.S.C. 1202(f)(2)) is amended—

(1) by striking ''issuance or refusal'' and inserting ''issuance, refusal, or revocation'';

(2) in paragraph (2), by striking ''and on the basis of reciprocity'';

(3) in paragraph (2)(A)—

(A) by inserting '' (i)'' after ''for the purpose of''; and

(B) by striking ''illicit weapons; or'' and inserting ''illicit weapons, or (ii) determining a person's deportability or eligibility for a visa, admission, or other immigration benefit;'';

(4) in paragraph (2)(B)—

(A) by striking ''for the purposes'' and inserting ''for one of the purposes''; and

(B) by striking ''or to deny visas to persons who would be inadmissible to the United States'' and inserting ''; or''; and

(5) by adding before the period at the end the following:

''(C) with regard to any or all aliens in the database specified data elements from each record, if the Secretary of State determines that it is in the national interest to provide such information to a foreign government.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect 60 days after the date of the enactment of the Act.

**SEC. 4420. AUTHORIZING THE DEPARTMENT OF STATE TO NOT INTERVIEW CERTAIN INELIGIBLE VISA APPLICANTS.**

(a) IN GENERAL.—Section 222(h)(1) (8 U.S.C. 1202(h)(1)) is amended by inserting '' the alien is determined by the Secretary of State to be ineligible for a visa based upon review of the application or'' after ''unless''.

(b) GUIDANCE.—Not later than 90 days after the date of the enactment of this Act, the Secretary of State shall issue guidance to consular officers on the standards and processes for implementing the authority to deny visa applications without interview in cases where the alien is determined by the Secretary of State to be ineligible for a visa based upon review of the application.

(c) REPORTS.—Not less frequently than once each quarter, the Secretary of State shall submit to the Congress a report on the denial of visa applications without interview, including—

(1) the number of such denials; and

(2) a post-by-post breakdown of such denials.

**SEC. 4421. FUNDING FOR THE VISA SECURITY PROGRAM.**

(a) IN GENERAL.—The Department of State and Related Agency Appropriations Act, 2005 (title IV of division B of Public Law 108-447) is amended, in the fourth paragraph under the heading ''Diplomatic and Consular Programs'', by striking ''Beginning'' through the period at the end and inserting the following: ''Beginning in fiscal year 2005 and thereafter, the Secretary of State is authorized to charge surcharges related to consular services in support of enhanced border security that are in addition to the immigrant visa fees in effect on January 1, 2004: Provided, That funds collected pursuant to this authority shall be credited to the appropriation for U.S. Immigration and Customs Enforcement for the fiscal year in which the fees were collected, and shall be available until expended for the funding of the Visa Security Program established by the Secretary of Homeland Security under section 428(e) of the Homeland Security Act of 2002 (Public Law 107–296): Provided further, That such surcharges shall be 10 percent of the fee assessed on immigrant visa applications.''.

(b) REPAYMENT OF APPROPRIATED FUNDS.—Twenty percent of the funds collected each fiscal year under the heading ''Diplomatic and Consular Programs'' in the Department of State and Related Agency Appropriations Act, 2005 (title IV of division B of Public Law 108-447), as amended by subsection (a), shall be deposited into the general fund of the Treasury as repayment of funds appropriated pursuant to section 407(c) of this Act until the entire appropriated sum has been repaid.

**SEC. 4422. EXPEDITIOUS EXPANSION OF VISA SECURITY PROGRAM TO HIGH-RISK POSTS.**

(a) IN GENERAL.—Section 428(i) of the Homeland Security Act of 2002 (6 U.S.C. 236(i)) is amended to read as follows:

''(i) VISA ISSUANCE AT DESIGNATED HIGH-RISK POSTS.—Notwithstanding any other provision of law, the Secretary of Homeland Security shall conduct an on-site review of all visa applications and supporting documentation before adjudication at the top 30 visa-issuing posts designated jointly by the Secretaries of State and Homeland Security as high-risk posts.''.

(b) ASSIGNMENT OF PERSONNEL.—Not later than one year after the date of enactment of this section, the Secretary of Homeland Security shall assign personnel to the visa-issuing posts referenced in section 428(i) of the Homeland Security Act of 2002 (6 U.S.C. 236(i)), as amended by this section, and communicate such assignments to the Secretary of State.

(c) APPROPRIATIONS.—There is authorized to be appropriated $60,000,000 for each of the fiscal years 2014 and 2015, which shall be used to expedite the implementation of section 428(i) of the Homeland Security Act, as amended by this section.

**SEC. 4423. EXPEDITED CLEARANCE AND PLACEMENT OF DEPARTMENT OF HOMELAND SECURITY PERSONNEL AT OVERSEAS EMBASSIES AND CONSULAR POSTS.**

Section 428 of the Homeland Security Act of 2002 (6 U.S.C. 236) is amended by adding at the end the following:

''(j) EXPEDITED CLEARANCE AND PLACEMENT OF DEPARTMENT OF HOMELAND SECURITY PERSONNEL AT OVERSEAS EMBASSIES AND CONSULAR POSTS.—Notwithstanding any other provision of law, and the processes set forth in National Security Defense Directive 38 (dated June 2, 1982) or any successor Directive, the Chief of Mission of a post to which the Secretary of Homeland Security has assigned personnel under subsection (e) or (i) shall ensure, not later than one year after the date on which the Secretary of Homeland Security communicates such assignment to the Secretary of State, that such personnel have been stationed and accommodated at post and are able to carry out their duties.''.

**SEC. 4424. INCREASED CRIMINAL PENALTIES FOR STUDENT VISA INTEGRITY.**

Section 1546 of title 18, United States Code, is amended by striking ''10 years'' and inserting ''15 years (if the offense was committed by an owner, official, or employee of an educational institution with respect to such institution's participation in the Student and exchange Visitor Program), 10 years''.

**SEC. 4425. VISA FRAUD.**

(a) TEMPORARY SUSPENSION OF SEVIS ACCESS.—Section 641(d) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1372(d)) is amended—

(1) in paragraph (1)(A), by striking ''institution,,'' and inserting ''institution,''; and

(2) by adding at the end the following:

''(3) EFFECT OF REASONABLE SUSPICION OF FRAUD.—If the Secretary of Homeland Security has reasonable suspicion that an owner of, or a designated school official at, an approved institution of higher education, an other approved educational institution, or a designated exchange visitor program has committed fraud or attempted to commit fraud relating to any aspect of the Student and Exchange Visitor Program, the Secretary may immediately suspend, without notice, such official's or such school's access to the Student and Exchange Visitor Information System (SEVIS), including the ability to issue Form I–20s, pending a final determination by the Secretary with respect to the institution's certification under the Student and Exchange Visitor Program.''.

(b) EFFECT OF CONVICTION FOR VISA FRAUD.—Such section 641(d), as amended by subsection (a)(2), is further amended by adding at the end the following:

''(4) PERMANENT DISQUALIFICATION FOR FRAUD.—A designated school official at, or an owner of, an approved institution of higher education, an other approved educational institution, or a designated exchange visitor program who is convicted for fraud relating to any aspect of the Student and Exchange Visitor Program shall be permanently disqualified from filing future petitions and from having an ownership interest or a management role, including serving as a principal, owner, officer, board member, general

partner, designated school official, or any other position of substantive authority for the operations or management of the institution, in any United States educational institution that enrolls nonimmigrant alien students described in subparagraph (F) or (M) of section 101(a)(15) the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)).''.

**SEC. 4426. BACKGROUND CHECKS.**

(a) IN GENERAL.—Section 641(d) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1372(d)), as amended by section 411(b) of this Act, is further amended by adding at the end the following:

''(5) BACKGROUND CHECK REQUIREMENT.—

''(A) IN GENERAL.—An individual may not serve as a designated school official or be granted access to SEVIS unless the individual is a national of the United States or an alien lawfully admitted for permanent residence and during the most recent 3-year period—

''(i) the Secretary of Homeland Security has—

''(I) conducted a thorough background check on the individual, including a review of the individual's criminal and sex offender history and the verification of the individual's immigration status; and

''(II) determined that the individual has not been convicted of any violation of United States immigration law and is not a risk to national security of the United States; and

''(ii) the individual has successfully completed an on-line training course on SEVP and SEVIS, which has been developed by the Secretary.

''(B) INTERIM DESIGNATED SCHOOL OFFICIAL.—

''(i) IN GENERAL.—An individual may serve as an interim designated school official during the period that the Secretary is conducting the background check required by subparagraph (A)(i)(I).

''(ii) REVIEWS BY THE SECRETARY.—If an individual serving as an interim designated school official under clause (i) does not successfully complete the background check required by subparagraph (A)(i)(I), the Secretary shall review each Form I–20 issued by such interim designated school official.

''(6) FEE.—The Secretary is authorized to collect a fee from an approved school for each background check conducted under paragraph (6)(A)(i). The amount of such fee shall be equal to the average amount expended by the Secretary to conducted such background checks.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date that is 1 year after the date of the enactment of this Act.

**SEC. 4427. FLIGHT SCHOOLS NOT CERTIFIED BY FAA.**

(a) IN GENERAL.—Except as provided in subsection (b), the Secretary of Homeland Security shall prohibit any flight school in the United States from accessing SEVIS or issuing a Form I–20 to an alien seeking a student visa pursuant to subparagraph (F)(i) or (M)(i) of section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)) if the flight school has not been certified to the satisfaction of the Secretary and by the Federal Aviation Administration pursuant to part 141 or part 142 of title 14, Code of Federal Regulations (or similar successor regulations).

(b) TEMPORARY EXCEPTION.—During the 5-year period beginning on the date of the enactment of this Act, the Secretary may waive the requirement under subsection (a) that a flight school be certified by the Federal Aviation Administration if such flight school—

(1) was certified under the Student and Exchange Visitor Program on the date of the enactment of this Act;

(2) submitted an application for certification with the Federal Aviation Administration during the 1-year period beginning on such date; and

(3) continues to progress toward certification by the Federal Aviation Administration.

**SEC. 4428. REVOCATION OF ACCREDITATION.**

At the time an accrediting agency or association is required to notify the Secretary of Education and the appropriate State licensing or authorizing agency of the final denial, withdrawal, suspension, or termination of accreditation of an institution pursuant to section 496 of the Higher Education Act of 1965 (20 U.S.C. 1099b), such accrediting agency or association shall notify the Secretary of Homeland Security of such determination and the Secretary of Homeland Security shall immediately withdraw the school from the SEVP and prohibit the school from accessing SEVIS.

**SEC. 4429. REPORT ON RISK ASSESSMENT.**

Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives a report that contains the risk assessment strategy that will be employed by the Secretary to identify, investigate, and take appropriate action against schools and school officials that are facilitating the issuance of Form I–20 and the maintenance of student visa status in violation of the immigration laws of the United States.

**SEC. 4430. IMPLEMENTATION OF GAO RECOMMENDATIONS.**

Not later than 180 days after the date of the enactment of this act, the Secretary of Homeland Security shall 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—

(1) the process in place to identify and assess risks in the SEVP;

(2) a risk assessment process to allocate SEVP's resources based on risk;

(3) the procedures in place for consistently ensuring a school's eligibility, including consistently verifying in lieu of letters;

(4) how SEVP identified and addressed missing school case files;

(5) a plan to develop and implement a process to monitor state licensing and accreditation status of all SEVP-certified schools;

(6) whether all flight schools that have not been certified to the satisfaction of the Secretary and by the Federal Aviation Administration have been removed from the program and have been restricted from accessing SEVIS;

(7) the standard operating procedures that govern coordination among SEVP, Counterterrorism and Criminal Exploitation Unit, and U.S. Immigration and Customs Enforcement field offices; and

(8) the established criteria for referring cases of a potentially criminal nature from SEVP to the counterterrorism and intelligence community.

**SEC. 4431. IMPLEMENTATION OF SEVIS II.**

Not later than 2 years after the date of the enactment of this Act, the Secretary of Homeland Security shall complete the deployment of both phases of the 2nd generation Student and Exchange Visitor Information System (commonly known as ''SEVIS II'').

**SEC. 4432. DEFINITIONS.**

(a) DEFINITIONS.—In this subtitle:

(1) SEVIS.—The term ''SEVIS'' means the Student and Exchange Visitor Information System of the Department.

(2) SEVP.—The term ''SEVP'' means the Student and Exchange Visitor Program of the Department.

Strike section 4904 and insert the following:

**SEC. 4904. ACCREDITATION REQUIREMENTS.**

(a) COLLEGES, UNIVERSITIES, AND LANGUAGE TRAINING PROGRAMS.—Section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)) is amended—

(1) in paragraph (15)(F)(i)—

(A) by striking ''section 214(1) at an established college, university, seminary, conservatory or in an accredited language training program in the United States'' and inserting ''section 214(m) at an accredited college, university, or language training program, or at an established seminary, conservatory, academic high school, elementary school, or other academic institution in the United States''; and

(B) by striking ''Attorney General'' each place such term appears and inserting ''Secretary of Homeland Security''; and

(C) by amending paragraph (52) to read as follows:

''(52) Except as provided in section 214(m)(4), the term 'accredited college, university, or language training program' means a college, university, or language training program that is accredited by an accrediting agency recognized by the Secretary of Education.''.

(b) OTHER ACADEMIC INSTITUTIONS.—Section 214(m) (8 U.S.C. 1184(m)) is amended by adding at the end the following:

''(3) The Secretary of Homeland Security shall require accreditation of an academic institution (except for seminaries or other religious institutions) for purposes of section 101(a)(15)(F) if—

''(A) that institution is not already required to be accredited under section 101(a)(15)(F)(i); and

''(B) an appropriate accrediting agency recognized by the Secretary of Education is able to provide such accreditation.

''(4) The Secretary of Homeland Security, in the Secretary's discretion, may waive the accreditation requirement in paragraph (3) or section 101(a)(15)(F)(i) with respect to an institution if such institution—

''(A) is otherwise in compliance with the requirements of section 101(a)(15)(F)(i); and

''(B) has been a candidate for accreditation for at least 1 year and continues to progress toward accreditation by an accrediting agency recognized by the Secretary of Education.''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall—

(A) take effect on the date that is 180 days after the date of enactment of this Act; and

(B) apply with respect to applications for nonimmigrant visas that are filed on or after the effective date described in subparagraph (A).

(2) TEMPORARY EXCEPTION.—During the 3-year period beginning on the effective date described in paragraph (1)(A), an institution that is newly required to be accredited under this section may continue to participate in the Student and Exchange Visitor Program notwithstanding the institution's lack of accreditation if the institution—

(A) was certified under the Student and Exchange Visitor Program on such date;

(B) submitted an application for accreditation to an accrediting agency recognized by the Secretary of Education during the 6-month period ending on such date; and

(C) continues to progress toward accreditation by such accrediting agency.

Strike section 4907 and insert the following:

**SEC. 4907. VISA FRAUD.**

(a) TEMPORARY SUSPENSION OF SEVIS ACCESS.—Section 641(d) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1372(d)) is amended—

(1) in paragraph (1)(A), by striking ''institution,,'' and inserting ''institution,''; and

(2) by adding at the end the following:

''(3) EFFECT OF REASONABLE SUSPICION OF FRAUD.—If the Secretary of Homeland Security has reasonable suspicion that an owner of, or a designated school official at, an approved institution of higher education, an other approved educational institution, or a designated exchange visitor program has committed fraud or attempted to commit fraud relating to any aspect of the Student and Exchange Visitor Program, the Secretary may immediately suspend, without notice, such official's or such school's access to the Student and Exchange Visitor Information System (SEVIS), including the ability to issue Form I–20s, pending a final determination by the Secretary with respect to the institution's certification under the Student and Exchange Visitor Program.''.

(b) EFFECT OF CONVICTION FOR VISA FRAUD.—Such section 641(d), as amended by subsection (a)(2), is further amended by adding at the end the following:

''(4) PERMANENT DISQUALIFICATION FOR FRAUD.—A designated school official at, or an owner of, an approved institution of higher education, an other approved educational institution, or a designated exchange visitor program who is convicted for fraud relating to any aspect of the Student and Exchange Visitor Program shall be permanently disqualified from filing future petitions and from having an ownership interest or a management role, including serving as a principal, owner, officer, board member, general partner, designated school official, or any other position of substantive authority for the operations or management of the institution, in any United States educational institution that enrolls nonimmigrant alien students described in subparagraph (F) or (M) of section 101(a)(15) the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)).''.

---

**SA 1608.** Mr. REED submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. ___. CLARIFICATION REGARDING MERIT-BASED IMMIGRANT VISA PHYSICAL PRESENCE REQUIREMENTS.**

For purposes of section 2302(c)(3)(B), an alien shall be deemed to be lawfully present in the United States in a status that allows for employment authorization during such time as the alien is in Deferred Enforcement Departure pursuant to a presidential directive that was issued on or before April 16, 2013.

---

**SA 1609.** Mr. REED submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle C of title II, insert the following:

**SEC. 2324. INADMISSIBILITY OF INDIVIDUALS WHO RENOUNCE CITIZENSHIP TO AVOID TAXES.**

Section 212(a)(10)(E) (8 U.S.C. 1182(a)(10)(E)) is amended to read as follows:

''(E) FORMER CITIZENS WHO RENOUNCED CITIZENSHIP TO AVOID TAXATION.—

''(i) INADMISSIBILITY.—The following aliens are inadmissible:

''(I) Any alien who is a former citizen of the United States who officially renounces United States citizenship and who is determined by the Secretary of Homeland Security to have renounced United States citizenship for the purpose of avoiding taxation by the United States.

''(II) Subject to clause (ii), any alien who is a former citizen of the United States and who is a covered expatriate.

''(ii) REVIEW FOR COVERED EXPATRIATES.—A covered expatriate shall not be inadmissible under clause (i)(II) if the Secretary determines that the covered expatriate has established by clear and convincing evidence that avoiding taxation by the United States was not one of the principle purposes that the covered expatriate renounced United States citizenship.

''(iii) COVERED EXPATRIATE DEFINED.—In this subparagraph, the term 'covered expatriate' means an individual described in section 877A(g)(1) of the Internal Revenue Code of 1986 and to whom section 877A(a) of such Code applies.''.

---

**SA 1610.** Mr. REED submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. _____. USE OF PUBLIC LIBRARIES FOR THE IMMIGRANT INTEGRATION.**

(a) APPLICATION ASSISTANCE GRANTS.—Notwithstanding section 2106, a public library with staff who have the qualifications, experience, and expertise described in subsection (b) of that section shall be considered an eligible nonprofit organization for purposes of that section.

(b) TASK FORCE ON NEW AMERICANS.—

(1) MEMBERSHIP.—In addition to the individuals listed in section 2523(a), the Director of the Institute of Museum and Library Services shall also be a member of the Task Force on New Americans.

(2) FUNCTIONS.—As part of the coordinated Federal response to issues that impact the lives of new immigrants and receiving communities described in section 2524(b)(1), the Task Force on New Americans shall include civics education.

(c) UNITED STATES CITIZENSHIP FOUNDATION.—In addition to the activities authorized under section 2534, the United States Citizenship Foundation shall enter into agreements with other Federal agencies to promote and assist eligible organizations and authorized activities.

(d) INITIAL ENTRY, ADJUSTMENT, AND CITIZENSHIP ASSISTANCE GRANTS.—Grants authorized under section 2537 shall be awarded to eligible nonprofit organizations (as defined in section 2106(b)).

(e) PILOT PROGRAM TO PROMOTE IMMIGRANT INTEGRATION AT STATE AND LOCAL LEVELS.—In addition to the activities authorized under subsection (d) of section 2538, grants authorized under that section may be used to provide subgrants to public libraries.

---

**SA 1611.** Mr. COBURN submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

In section 245B(c), as added by section 2101(a) of this amendment, strike paragraph (6) and insert the following:

''(6) ELIGIBILITY AFTER DEPARTURE.—An alien who departed from the United States, while subject to an order of exclusion, deportation, or removal, or pursuant to an order of voluntary departure, who is outside of the United States, or who has reentered the United States illegally after December 31, 2011 without receiving the Secretary's consent to reapply for admission under section 212(a)(9), shall not be eligible to file an application for registered provisional immigrant status.

---

**SA 1612.** Mr. COBURN submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

In section 245B(b) of the Immigration and Nationality Act, as added by section 2101(a) of this amendment, strike paragraph (3) and insert the following:

''(3) GROUNDS FOR INELIGIBILITY.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), an alien is ineligible for registered provisional immigrant status if the Secretary determines that the alien—

''(i) has a conviction for—

''(I) an offense classified as a felony in the convicting jurisdiction (other than a State or local offense for which an essential element was the alien's immigration status, or a violation of this Act);

''(II) an aggravated felony (as defined in section 101(a)(43) at the time of the conviction);

''(III) an offense (unless the applicant demonstrates, by clear and convincing evidence, that he or she is innocent of the offense, that he or she is the victim of such offense, or that no offense occurred), which is classified as a misdemeanor in the convicting jurisdiction, and which involved—

''(aa) domestic violence or child abuse and neglect (as such terms are defined in section 40002(a) of the Violence Against Women Act of 1994 (42 U.S.C. 13925(a)));

''(bb) assault resulting in bodily injury or the violation of a protection order (as such terms are defined in section 2266 of title 18, United States Code); or

''(cc) driving while intoxicated (as defined in section 164 of title 23, United States Code);

''(IV) 2 or more misdemeanor offenses (other than minor traffic offenses or State or local offenses for which an essential element was the alien's immigration status or violations of this Act);

''(V) any offense under foreign law, except for a purely political offense, which, if the offense had been committed in the United States, would render the alien inadmissible under section 212(a) (excluding the paragraphs set forth in clause (ii)) or removable under section 237(a), except as provided in paragraph (3) of section 237(a); or

''(VI) unlawful voting (as defined in section 237(a)(6));

''(ii) is inadmissible under section 212(a), except that in determining an alien's inadmissibility—

''(I) paragraphs (4), (5), (7), and (9)(B) of section 212(a) shall not apply;

''(II) subparagraphs (A), (C), (D), (F), and (G) of section 212(a)(6) and paragraphs (9)(C) and (10)(B) of section 212(a) shall not apply unless based on the act of unlawfully entering the United States after the date of the enactment of the Border Security, Economic Opportunity, and Immigration Modernization Act; and

''(III) paragraphs (6)(B) and (9)(A) of section 212(a) shall not apply unless the relevant conduct began on or after the date on which the alien files an application for registered provisional immigrant status under this section;

''(iii) is an alien who the Secretary knows or has reasonable grounds to believe, is engaged in or is likely to engage after entry in any terrorist activity (as defined in section 212(a)(3)(B)(iv)); or

''(iv) was, on April 16, 2013—

''(I) an alien lawfully admitted for permanent residence;

''(II) an alien admitted as a refugee under section 207 or granted asylum under section 208; or

''(III) an alien who, according to the records of the Secretary or the Secretary of State, is lawfully present in the United States in any nonimmigrant status (other than an alien considered to be a nonimmigrant solely due to the application of section 244(f)(4) or the amendment made by section 702 of the Consolidated Natural Resources Act of 2008 (Public Law 110–229)), notwithstanding any unauthorized employment or other violation of nonimmigrant status.

''(B) WAIVER.—

''(i) IN GENERAL.—The Secretary may waive the application of any provision of section 212(a) that is not listed in clause (ii) on behalf of an alien for humanitarian purposes, to ensure family unity, or if such a waiver is otherwise in the public interest. Any discretionary authority to waive grounds of inadmissibility under section 212(a) conferred under any other provision of this Act shall apply equally to aliens seeking registered provisional status under this section.

''(ii) EXCEPTIONS.—The discretionary authority under clause (i) may not be used to waive—

''(I) subparagraph (B), (C), (D)(ii), (E), (G), (H), or (I) of section 212(a)(2);

''(II) section 212(a)(3);

''(III) subparagraph (A), (C), (D), or (E) of section 212(a)(10); or

''(IV) with respect to misrepresentations relating to the application for registered provisional immigrant status, section 212(a)(6)(C)(i).

''(C) CONVICTION EXPLAINED.—For purposes of this paragraph, the term 'conviction' does not include a judgment that has been expunged, set aside, or the equivalent.

''(D) RULE OF CONSTRUCTION.—Nothing in this paragraph may be construed to require the Secretary to commence removal proceedings against an alien.

---

**SA 1613.** Mr. COBURN submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

In section 245B(b) of the Immigration and Nationality Act, as added by section 2101(a) of this amendment, strike paragraphs (3) and (4) and insert the following:

''(3) GROUNDS FOR INELIGIBILITY.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), an alien is ineligible for registered provisional immigrant status if the Secretary determines that the alien—

''(i) has a conviction for—

''(I) an offense classified as a felony in the convicting jurisdiction (other than a State or local offense for which an essential element was the alien's immigration status, or a violation of this Act);

''(II) an aggravated felony (as defined in section 101(a)(43) at the time of the conviction);

''(III) an offense (unless the applicant demonstrates, by clear and convincing evidence, that he or she is innocent of the offense, that he or she is the victim of such offense, or that no offense occurred), which is classified as a misdemeanor in the convicting jurisdiction, and which involved—

''(aa) domestic violence or child abuse and neglect (as such terms are defined in section 40002(a) of the Violence Against Women Act of 1994 (42 U.S.C. 13925(a)));

''(bb) assault resulting in bodily injury or the violation of a protection order (as such terms are defined in section 2266 of title 18, United States Code); or

''(cc) driving while intoxicated (as defined in section 164 of title 23, United States Code);

''(IV) 2 or more misdemeanor offenses (other than minor traffic offenses or State or local offenses for which an essential element was the alien's immigration status or violations of this Act);

''(V) any offense under foreign law, except for a purely political offense, which, if the offense had been committed in the United States, would render the alien inadmissible under section 212(a) (excluding the paragraphs set forth in clause (ii)) or removable under section 237(a), except as provided in paragraph (3) of section 237(a); or

''(VI) unlawful voting (as defined in section 237(a)(6));

''(ii) is inadmissible under section 212(a);

''(iii) is an alien who the Secretary knows or has reasonable grounds to believe, is engaged in or is likely to engage after entry in any terrorist activity (as defined in section 212(a)(3)(B)(iv)); or

''(iv) was, on April 16, 2013—

''(I) an alien lawfully admitted for permanent residence;

''(II) an alien admitted as a refugee under section 207 or granted asylum under section 208; or

''(III) an alien who, according to the records of the Secretary or the Secretary of State, is lawfully present in the United States in any nonimmigrant status (other than an alien considered to be a nonimmigrant solely due to the application of section 244(f)(4) or the amendment made by section 702 of the Consolidated Natural Resources Act of 2008 (Public Law 110–229)), notwithstanding any unauthorized employment or other violation of nonimmigrant status.

''(B) CONVICTION EXPLAINED.—For purposes of this paragraph, the term 'conviction' does not include a judgment that has been expunged, set aside, or the equivalent.

''(C) RULE OF CONSTRUCTION.—Nothing in this paragraph may be construed to require the Secretary to commence removal proceedings against an alien.

---

**SA 1614.** Mr. COBURN submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. ____. REPORT BY THE CHIEF ACTUARY OF THE CENTERS FOR MEDICARE & MEDICAID SERVICES ON ANY INCREASED COSTS TO THE MEDICARE PROGRAM THAT WILL RESULT FROM THE PROVISIONS OF, AND THE AMENDMENTS MADE BY, THIS ACT.**

(a) IN GENERAL.—Not later than one year after the date of the enactment of this Act, the Chief Actuary of the Centers for Medicare & Medicaid Services shall submit to Congress a report on any increased costs to the Medicare program under title XVIII of the Social Security Act that will result from the provisions of, and the amendments made by, this Act (including regulations to carry out such provisions and amendments).

(b) CONTENTS.—

(1) IN GENERAL.—The report under subsection (a) shall include—

(A) an estimate by the Chief Actuary of any increased costs to the Medicare program that will result from such provisions and amendments during—

(i) the 10-year period that begins on the date that is 10 years after the date of the enactment of this Act; and

(ii) the 75-year period that begins on such date of enactment; and

(B) any other items determined appropriate by the Secretary.

(2) REQUIREMENT.—The estimates under paragraph (1)(A) shall include the total impact on the Medicare program (dedicated revenues less expenditures), including the impact of individuals made newly-eligible for benefits under the Medicare program by reason of such provisions and amendments.

---

**SA 1615.** Mr. COBURN (for himself and Mr. JOHNSON of Wisconsin) submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 222, strike line 7 and all that follows through ''Notwithstanding'' on page 223, lines 11 and 12, and insert the following:

(a) EXEMPTION FROM HIRING RULES.—Notwithstanding

---

**SA 1616.** Mr. COBURN submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

Strike sections 3502 and 3503 and insert the following:

**SEC. 3502. IMPROVING IMMIGRATION COURT EFFICIENCY AND REDUCING COSTS BY INCREASING ACCESS TO LEGAL INFORMATION.**

(a) RIGHT TO REVIEW CERTAIN DOCUMENTS IN REMOVAL PROCEDINGS.—Section 240(b) (8 U.S.C. 1229a(b)) is amended—

(1) in paragraph (4)—

(A) in subparagraph (A), by striking the comma at the end and inserting a semicolon;

(B) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively; and

(C) by inserting after subparagraph (A) the following:

''(B) the alien shall, at the beginning of the proceedings or at a reasonable time thereafter, automatically receive a complete copy of all relevant documents in the possession of the Department of Homeland Security, including all documents (other than documents protected from disclosure by privilege, including national security information

referenced in subparagraph (C), law enforcement sensitive information, and information prohibited from disclosure pursuant to any other provision of law) contained in the file maintained by the Government that includes information with respect to all transactions involving the alien during the immigration process (commonly referred to as an 'A-file') and all documents pertaining to the alien that the Department of Homeland Security has obtained or received from other government agencies, unless the alien waives the right to receive such documents by executing a knowing and voluntary waiver in a language that he or she understands fluently;''; and

(2) by adding at the end the following:

''(8) FAILURE TO PROVIDE ALIEN REQUIRED DOCUMENTS.—In the absence of a waiver under paragraph (4)(B), a removal proceeding may not commence until the alien has received the documents required under such subparagraph.''.

(b) CLARIFICATION REGARDING PROVISION OF COUNSEL TO ALIENS IN IMMIGRATION PROCEEDINGS.—Section 292 (8 U.S.C. 1362) is amended—

(1) by inserting ''(a)'' before ''In any'';

(2) by striking ''he shall'' and inserting ''the person shall''; and

(3) by adding at the end the following:

''(b) The Government is not required to provide counsel to aliens under subsection (a).''.

(c) REPEAL.—Subsections (b), (c), and (d) of section 2104 of this Act and the amendments to section 242 of the Immigration and Nationality Act, which were made by section 2104(b) of this Act, are repealed.

**SA 1617.** Mrs. FEINSTEIN (for herself, Mr. KIRK, Mr. COONS, Mr. UDALL of New Mexico, Mr. BLUNT, and Mr. CORNYN) submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 49, strike lines 20 through 23 and insert the following:

Act;

(xviii) costs to the Judiciary estimated to be caused by the implementation of this Act and the amendments made by this Act, as the Secretary and the Judicial Conference of the United States shall jointly determine in consultation with the Attorney General; and

(xix) the operations and maintenance costs associated with the implementation of clauses (i) through (xvii).

**SA 1618.** Mr. NELSON submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle A of title I, add the following:

**SEC. 1124. MARITIME BORDER SECURITY ENHANCEMENTS.**

(a) U.S. CUSTOMS AND BORDER PROTECTION.—The Commissioner of U.S. Customs and Border Protection, working through the Office of Air and Marine, shall—

(1) acquire and deploy such additional vessels and aircraft as may be necessary to provide for enhanced maritime border security along—

(A) the coastal areas of the Southeastern United States, including Florida, Puerto Rico, the United States Virgin Islands, and the Gulf Coast; and

(B) the California coast;

(2) increase unarmed, unmanned aircraft deployments to the Caribbean region;

(3) acquire, upgrade, and maintain sensor systems for the aircraft and vessel fleet;

(4) increase air and maritime patrols to gain and enhance maritime domain awareness;

(5) increase and upgrade facilities, as necessary, to accommodate personnel and asset needs;

(6) perform whatever additional maintenance as may be necessary to preserve the operational capability of any additional air or marine assets;

(7) modernize and appropriately staff the Air and Marine Operations Center in order to enhance maritime domain awareness; and

(8) hire and deploy such personnel as may be necessary to provide maritime border security along—

(A) the coastal areas of the Southeastern United States, including Florida, Puerto Rico, the United States Virgin Islands, and the Gulf Coast; and

(B) the California coast.

(b) COAST GUARD.—The Commissioner of U.S. Customs and Border Protection shall work with the Secretary and shall coordinate with the Coast Guard to secure the maritime borders of the United States.

(c) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts otherwise authorized to be appropriated, there is authorized to be appropriated, for fiscal years 2014 through 2018—

(1) such sums as may be necessary to U.S. Customs and Border Protection to carry out subsection (a); and

(2) such sums as may be necessary to the Coast Guard to carry out subsection (b).

**SA 1619.** Mr. CORNYN submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment, add the following:

**SEC. ___. PROTECTION OF NATIONAL SECURITY AND PUBLIC SAFETY.**

(a) DISCLOSURES.—Section 245E(a) (as amended by section 2104(a)) is amended by striking paragraphs (2) and (3) and inserting the following:

''(2) REQUIRED DISCLOSURES.—The Secretary shall provide the information furnished in an application filed under section 245B, 245C, 245D, or 245F of this Act or section 2211 of the Border Security, Economic Opportunity, and Immigration Modernization Act, and any other information derived from such furnished information to—

''(A) a law enforcement agency, intelligence agency, national security agency, a component of the Department of Homeland Security, court, or grand jury, in each instance about an individual suspect or group of suspects, consistent with law, in connection with—

''(i) a criminal investigation or prosecution;

''(ii) a national security investigation or prosecution; or

''(iii) a duly authorized investigation of a civil violation; and

''(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 limitations set forth in paragraph (1)—

''(A) shall apply only until—

''(i) an application filed under section 245B, 245C, 245D, or 245F of this Act or section 2211 of the Border Security, Economic Opportunity, and Immigration Modernization Act is denied; and

''(ii) all opportunities for administrative appeal of the denial have been exhausted; and

''(B) shall not apply to the 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 CONVICTIONS.—Notwithstanding any other provision of this section, information concerning whether the applicant has, at any time, been convicted of a crime may be used or released for immigration enforcement and law enforcement purposes.

''(5) AUDITING AND EVALUATION OF INFORMATION.—The Secretary may—

''(A) audit and evaluate information furnished as part of any application filed under section 245B, 245C, 245D, or 245F for purposes of identifying immigration fraud or fraud schemes; and

''(B) use any evidence detected by means of audits and evaluations for purposes of investigating, prosecuting, referring for prosecution, or denying or terminating immigration benefits.

''(6) USE OF INFORMATION IN PETITIONS AND APPLICATIONS SUBSEQUENT TO ADJUSTMENT OF STATUS.—If the Secretary has adjusted an alien's status to that of an alien lawfully admitted for permanent residence pursuant to section 245C, 245D, or 245F, the Secretary, at any time thereafter, may use the information furnished by the alien in the application for adjustment of status or in an application for status under section 245B, 245C, 245D, or 245F to make a determination on any petition or application.

''(7) CONSTRUCTION.—Nothing in this section may be construed to limit the use or release, for immigration enforcement purposes, of information contained in files or records of the Secretary or the Attorney General pertaining to applications filed under section 245B, 245C, 245D, or 245F other than information furnished by an applicant in the application, or any other information derived from the application, that is not available from any other source.''.

(b) VISA INFORMATION SHARING.—Section 222(f) (8 U.S.C. 1202(f)) is amended—

(1) in the matter preceding paragraph (1), by striking ''issuance or refusal'' and inserting ''issuance, refusal, or revocation''; and

(2) in paragraph (2)—

(A) in the matter preceding subparagraph (A), by striking ''discretion and on the basis of reciprocity,'' and inserting ''discretion,'';

(B) by striking subparagraph (A) and inserting the following:

''(A) with regard to individual aliens, at any time on a case-by-case basis for the purpose of—

''(i) preventing, investigating, or punishing acts that would constitute a crime in the United States, including terrorism or trafficking in controlled substances, persons, or illicit weapons; or

''(ii) determining a person's removability or eligibility for a visa, admission, or other immigration benefit;'';

(C) in subparagraph (B)—

(i) by striking ''for the purposes'' and inserting ''for one of the purposes''; and

(ii) by striking ''or to deny visas to persons who would be inadmissible to the United States.'' and inserting ''; or''; and

(D) by adding at the end the following:

''(C) with regard to any or all aliens in the database-specified data elements from each record, if the Secretary of State determines that it is in the national interest to provide such information to a foreign government.''.

---

**SA 1620.** Mr. CORNYN submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. _____. PROTECTING AMERICAN BUSINESSES.**

(a) DUTIES OF COMMISSIONER.—Notwithstanding section 4701(d)(6), the Commissioner of the Bureau of Immigration and Labor Market Research is not authorized to conduct a quarterly survey of unemployment rates in construction occupations.

(b) ADMISSION OF W NONIMMIGRANT WORKERS.—Section 220, as added by section 4703(a) of this Act, is amended—

(1) in subsection (a), by striking paragraph (4);

(2) in subsection (e)(5), by striking subparagraph (B) and inserting the following:

''(B) RETURNING WORKER AND RENEWING EMPLOYER EXEMPTION.—Renewals of approved job slots and W visas by employers or workers in good standing shall not be counted toward the limits established under subsection (g)(1)(A) or factored into the formulaic determinations made under subparagraphs (A) through (D) of subsection (g)(2).

''(C) INTENDING IMMIGRANTS.—

''(i) EXTENSION OF PERIOD.—A registered visa holder shall continue to be a registered visa holder at the end of the 3-year period referred to in subparagraph (A) if the W nonimmigrant is the beneficiary of a petition for immigrant status filed pursuant to this Act.

''(ii) TERMINATION OF PERIOD.—The term of a registration position extended under clause (i) shall terminate on the date that is the earlier of—

''(I) the date an application or petition by or for a W nonimmigrant to obtain immigrant status is approved or denied by the Secretary; or

''(II) the date of the termination of such W nonimmigrant's employment with the registered employer.''; and

(3) in subsection (h), by striking paragraph (5).

---

**SA 1621.** Mr. CORNYN submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle B of title I of the amendment, add the following:

**SEC. 1204. EMERGENCY PORT OF ENTRY PERSONNEL AND INFRASTRUCTURE FUNDING.**

(a) STAFF ENHANCEMENTS.—In addition to positions authorized before the date of the enactment of this Act and any existing officer vacancies within U.S. Customs and Border Protection on such date, the Secretary shall, by not later than September 30, 2018, and subject to the availability of appropriations for such purpose, hire, train, and assign to duty 1,500 additional U.S. Customs and Border Protection officers (not less than 50 percent of which shall be designated to serve on all inspection lanes (primary, secondary, incoming, and outgoing) and enforcement teams at land ports of entry on the Northern border and the Southern border) and 350 additional full-time support staff, compared to the number of such officers and employees on the date of the enactment of this Act, to be distributed among all United States ports of entry.

(b) WAIVER OF PERSONNEL LIMITATION.—The Secretary may waive any limitation on the number of full-time equivalent personnel assigned to the Department in order to fulfill the requirements under subsection (a).

(c) REPORTS TO CONGRESS.—

(1) OUTBOUND INSPECTIONS.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall submit to the appropriate committees of Congress a report containing the Department's plans for ensuring the placement of sufficient officers of U.S. Customs and Border Protection on outbound inspections, and adequate outbound infrastructure, at all Southern and Northern border land ports of entry.

(2) AGRICULTURAL SPECIALISTS.—Not later than 90 days after the date of the enactment of this Act, the Secretary, in consultation with the Secretary of Agriculture, shall submit to the appropriate committees of Congress a report that contains the Department's plans for ensuring the placement of sufficient agriculture specialists at all Southern border and Northern border land ports of entry.

(3) ANNUAL IMPLEMENTATION REPORT.—Not later than 1 year after the date of the enactment of this Act, and annually thereafter, the Secretary shall submit to the appropriate committees of Congress a report that—

(A) describes in detail the Department's implementation plan for staff enhancements required under subsection (a);

(B) includes the number of additional personnel assigned to duty at land ports of entry by location; and

(C) describes the methodology used to determine the distribution of additional personnel to address northbound and southbound cross-border inspections.

(4) APPROPRIATE COMMITTEES OF CONGRESS.—In this subsection, the term ''appropriate committees of Congress'' means—

(A) the Committee on the Judiciary and the Committee on Homeland Security and Governmental Affairs of the Senate; and

(B) the Committee on the Judiciary and the Committee on Homeland Security of the House of Representatives.

(d) SECURE COMMUNICATION.—The Secretary shall ensure that each officer of U.S. Customs and Border Protection is equipped with a secure 2-way communication and satellite-enabled device, supported by system interoperability, that allows such officers to communicate between ports of entry and inspection stations, and with other Federal, State, local, and tribal law enforcement entities.

(e) BORDER AREA SECURITY INITIATIVE GRANT PROGRAM.—The Secretary shall establish a grant program for the purchase of detection equipment at land ports of entry and mobile, hand-held, 2-way communication and biometric devices for State and local law enforcement officers serving on the Southern border and Northern border.

(f) PORT OF ENTRY INFRASTRUCTURE IMPROVEMENTS.—In order to aid in the enforcement of Federal customs, immigration, and agriculture laws, the Commissioner responsible for U.S. Customs and Border Protection may—

(1) design, construct, and modify United States ports of entry, living quarters for officers, agents, and personnel, and other structures and facilities, including those owned by municipalities, local governments, or private entities located at land ports of entry;

(2) acquire, by purchase, donation, exchange, or otherwise, land or any interest in land determined to be necessary to carry out the Commissioner's duties under this section; and

(3) construct additional ports of entry along the Southern border and the Northern border.

(g) CONSULTATION.—

(1) LOCATIONS FOR NEW PORTS OF ENTRY.—The Secretary shall consult with the Secretary of the Interior, the Secretary of Agriculture, the Secretary of State, the International Boundary and Water Commission, the International Joint Commission, and appropriate representatives of States, local governments, Indian tribes, and property owners—

(A) to determine locations for new ports of entry; and

(B) to minimize adverse impacts from such ports on the environment, historic and cultural resources, commerce, and quality of life for the communities and residents located near such ports.

(2) SAVINGS PROVISION.—Nothing in this subsection may be construed—

(A) to create any right or liability of the parties described in paragraph (1);

(B) to affect the legality and validity of any determination under this Act by the Secretary; or

(C) to affect any consultation requirement under any other law.

(h) AUTHORITY TO ACQUIRE LEASEHOLDS.—Notwithstanding any other provision of law, the Secretary may acquire a leasehold interest in real property, and may construct or modify any facility on the leased property, if the Secretary determines that the acquisition of such interest, and such construction or modification, are necessary to facilitate the implementation of this Act.

(i) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, for each of the fiscal years 2014 through 2018, $1,000,000,000, of which $5,000,000 shall be used for grants authorized under subsection (e).

(j) OFFSET; RESCISSION OF UNOBLIGATED FEDERAL FUNDS.—

(1) IN GENERAL.—There is hereby rescinded, from appropriated discretionary funds that remain available for obligation as of the date of the enactment of this Act (other than the unobligated funds described in paragraph (4)), amounts determined by the Director of the Office of Management and Budget such that the aggregate amount of the rescission equals the amount authorized to be appropriated under subsection (i).

(2) IMPLEMENTATION.—The Director of the Office of Management and Budget shall determine and identify—

(A) the appropriation accounts from which the rescission under paragraph (1) shall apply; and

(B) the amount of the rescission that shall be applied to each such account.

(3) REPORT.—Not later than 60 days after the date of the enactment of this Act, the Director of the Office of Management and Budget shall submit a report to Congress and to the Secretary of the Treasury that describes the accounts and amounts determined and identified under paragraph (2) for rescission under paragraph (1).

(4) EXCEPTIONS.—This subsection shall not apply to unobligated funds of—

(A) the Department of Defense;

(B) the Department of Veterans Affairs; or

(C) the Department of Homeland Security.

**SEC. 1205. CROSS-BORDER TRADE ENHANCEMENT.**

(a) DEFINITIONS.—In this section:

(1) ADMINISTRATION.—The term ''Administration'' means the General Services Administration.

(2) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the General Services Administration.

(3) PERSON.—The term ''person'' means an individual or any corporation, partnership, trust, association, or any other public or private entity, including a State or local government.

(b) AGREEMENTS AUTHORIZED.—Notwithstanding any other provision of law, upon the request of any persons, the Administrator may, for purposes of facilitating construction, alteration, operation or maintenance of a new or existing facility or other infrastructure at a port of entry, enter into cost-sharing or reimbursement agreements or accept a donation of real and personal property (including monetary donations) and nonpersonal services.

(c) EVALUATION PROCEDURES.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Administrator, in consultation with the Secretary, shall establish procedures for evaluating a proposal submitted by any person under subsection (b)—

(A) to enter into a cost-sharing or reimbursement agreement with the Administration to facilitate the construction, alteration, operation, or maintenance of a new or existing facility or other infrastructure at a land border port of entry; or

(B) to provide the Administration with a donation of real and personal property (including monetary donations) and nonpersonal services to be used in the construction, alteration, operation, or maintenance of a facility or other infrastructure at a land border port of entry under the control of the Administration.

(2) SPECIFICATION.—Donations made under paragraph (1)(B) may specify—

(A) the land port of entry facility or facilities in support of which the donation is being made; and

(B) the time frame in which the donated property or services shall be used.

(3) RETURN OF DONATION.—If the Administrator does not use the property or services donated pursuant to paragraph (1)(B) for the specific facility or facilities designated pursuant to paragraph (2)(A) or within the time frame specified pursuant to paragraph (2)(B), such donated property or services shall be returned to the person that made the donation.

(4) DETERMINATION AND NOTIFICATION.—

(A) IN GENERAL.—Not later than 90 days after receiving a proposal pursuant to subsection (b) with respect to the construction or maintenance of a facility or other infrastructure at a land border port of entry, the Administrator shall—

(i) make a determination with respect to whether or not to approve the proposal; and

(ii) notify the person that submitted the proposal of—

(I) the determination; and

(II) if the Administrator did not approve the proposal, the reasons for such disapproval.

(B) CONSIDERATIONS.—In determining whether or not to approve a proposal under this subsection, the Administrator shall consider—

(i) the impact of the proposal on reducing wait times at that port of entry and other ports of entry on the same border;

(ii) the potential of the proposal to increase trade and travel efficiency through added capacity; and

(iii) the potential of the proposal to enhance the security of the port of entry.

(d) DELEGATION.—For facilities where the Administrator has delegated or transferred to the Secretary, operations, ownership, or other authorities over land border ports of entry, the authorities and requirements of the Administrator under this section shall be deemed to apply to the Secretary.

---

**SA 1622.** Mr. CORNYN submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 131, strike line 8 and all that follows through page 140, line 19 and insert the following:

''(III) an offense, unless the applicant demonstrates, by clear and convincing evidence, that the applicant is innocent of the offense, that applicant is the victim of such offense, or that no offense occurred, which is classified as a misdemeanor in the convicting jurisdiction which involved—

''(aa) domestic violence (as defined in section 40002(a) of the Violence Against Women Act of 1994 (42 U.S.C. 13925(a));

''(bb) child abuse and neglect (as defined in section 40002(a) of the Violence Against Women Act of 1994 (42 U.S.C. 13925(a));

''(cc) assault resulting in bodily injury (as defined in section 2266 of title 18, United States Code);

''(dd) the violation of a protection order (as defined in section 2266 of title 18, United States Code); or

''(ee) driving while intoxicated (as defined in section 164 of title 23, United States Code);

''(IV) 3 or more misdemeanor offenses (other than minor traffic offenses or State or local offenses for which an essential element was the alien's immigration status, or a violation of this Act);

''(V) any offense under foreign law, except for a purely political offense, which, if the offense had been committed in the United States, would render the alien inadmissible under section 212(a) (excluding the paragraphs set forth in clause (ii)) or removable under section 237(a), except as provided in paragraph (3) of section 237(a); or

''(VI) unlawful voting (as defined in section 237(a)(6));

''(ii) is inadmissible under section 212(a), except that in determining an alien's inadmissibility—

''(I) paragraphs (4), (5), (7), and (9)(B) of section 212(a) shall not apply;

''(II) subparagraphs (A), (C), (D), (F), and (G) of section 212(a)(6) and paragraphs (9)(C) and (10)(B) of section 212(a) shall not apply unless based on the act of unlawfully entering the United States after the date of the enactment of the Border Security, Economic Opportunity, and Immigration Modernization Act; and

''(III) paragraphs (6)(B) and (9)(A) of section 212(a) shall not apply unless the relevant conduct began on or after the date on which the alien files an application for registered provisional immigrant status under this section;

''(iii) is an alien who the Secretary knows or has reasonable grounds to believe, is engaged in or is likely to engage after entry in any terrorist activity (as defined in section 212(a)(3)(B)(iv)); or

''(iv) was, on April 16, 2013—

''(I) an alien lawfully admitted for permanent residence;

''(II) an alien admitted as a refugee under section 207 or granted asylum under section 208; or

''(III) an alien who, according to the records of the Secretary or the Secretary of State, is lawfully present in the United States in any nonimmigrant status (other than an alien considered to be a nonimmigrant solely due to the application of section 244(f)(4) or the amendment made by section 702 of the Consolidated Natural Resources Act of 2008 (Public Law 110–229)), notwithstanding any unauthorized employment or other violation of nonimmigrant status.

''(B) WAIVER.—

''(i) IN GENERAL.—The Secretary may waive the application of any provision of section 212(a) that is not listed in clause (ii) on behalf of an alien for humanitarian purposes, to ensure family unity, or if such a waiver is otherwise in the public interest. Any discretionary authority to waive grounds of inadmissibility under section 212(a) conferred under any other provision of this Act shall apply equally to aliens seeking registered provisional status under this section.

''(ii) EXCEPTIONS.—The discretionary authority under clause (i) may not be used to waive—

''(I) subparagraph (B), (C), (D)(ii), (E), (G), (H), or (I) of section 212(a)(2);

''(II) section 212(a)(3);

''(III) subparagraph (A), (C), (D), or (E) of section 212(a)(10); or

''(IV) with respect to misrepresentations relating to the application for registered provisional immigrant status, section 212(a)(6)(C)(i).

''(C) CONVICTION EXPLAINED.—For purposes of this paragraph, the term 'conviction' does not include a judgment that has been expunged, set aside, or the equivalent.

''(D) RULE OF CONSTRUCTION.—Nothing in this paragraph may be construed to require the Secretary to commence removal proceedings against an alien.

''(4) APPLICABILITY OF OTHER PROVISIONS.—Sections 208(d)(6) and 240B(d) shall not apply to any alien filing an application for registered provisional immigrant status under this section.

''(5) DEPENDENT SPOUSE AND CHILDREN.—

''(A) IN GENERAL.—Notwithstanding any other provision of law, the Secretary may classify the spouse or child of a registered provisional immigrant as a registered provisional immigrant dependent if the spouse or child—

''(i) was physically present in the United States on or before December 31, 2012, and has maintained continuous presence in the United States from that date until the date on which the registered provisional immigrant is granted such status, with the exception of absences from the United States that are brief, casual, and innocent, whether or not such absences were authorized by the Secretary; and

''(ii) meets all of the eligibility requirements set forth in this subsection, other than the requirements of clause (ii) or (iii) of paragraph (2)(A).

''(B) EFFECT OF TERMINATION OF LEGAL RELATIONSHIP OR DOMESTIC VIOLENCE.—If the spousal or parental relationship between an alien who is granted registered provisional immigrant status under this section and the alien's spouse or child is terminated due to death or divorce or the spouse or child has been battered or subjected to extreme cruelty by the alien (regardless of whether the legal relationship terminates), the spouse or child may apply for classification as a registered provisional immigrant.

''(C) EFFECT OF DISQUALIFICATION OF PARENT.—Notwithstanding subsection (c)(3), if the application of a spouse or parent for registered provisional immigrant status is terminated or revoked, the husband, wife, or child of that spouse or parent shall be eligible to apply for registered provisional immigrant status independent of the parent or spouse.

''(c) APPLICATION PROCEDURES.—

''(1) IN GENERAL.—An alien, or the dependent spouse or child of such alien, who meets

the eligibility requirements set forth in subsection (b) may apply for status as a registered provisional immigrant or a registered provisional immigrant dependent, as applicable, by submitting a completed application form to the Secretary during the application period set forth in paragraph (3), in accordance with the final rule promulgated by the Secretary under the Border Security, Economic Opportunity, and Immigration Modernization Act. An applicant for registered provisional immigrant status shall be treated as an applicant for admission.

''(2) PAYMENT OF TAXES.—

''(A) IN GENERAL.—An alien may not file an application for registered provisional immigrant status under paragraph (1) unless the applicant has satisfied any applicable Federal tax liability.

''(B) DEFINITION OF APPLICABLE FEDERAL TAX LIABILITY.—In this paragraph, the term 'applicable Federal tax liability' means all Federal income taxes assessed in accordance with section 6203 of the Internal Revenue Code of 1986.

''(C) DEMONSTRATION OF COMPLIANCE.—An applicant may demonstrate compliance with this paragraph by submitting appropriate documentation, in accordance with regulations promulgated by the Secretary, in consultation with the Secretary of the Treasury.

''(3) APPLICATION PERIOD.—

''(A) INITIAL PERIOD.—Except as provided in subparagraph (B), the Secretary may only accept applications for registered provisional immigrant status from aliens in the United States during the 1-year period beginning on the date on which the final rule is published in the Federal Register pursuant to paragraph (1).

''(B) EXTENSION.—If the Secretary determines, during the initial period described in subparagraph (A), that additional time is required to process applications for registered provisional immigrant status or for other good cause, the Secretary may extend the period for accepting applications for such status for an additional 18 months.

''(4) APPLICATION FORM.—

''(A) REQUIRED INFORMATION.—

''(i) IN GENERAL.—The application form referred to in paragraph (1) shall collect such information as the Secretary determines to be necessary and appropriate, including, for the purpose of understanding immigration trends—

''(I) an explanation of how, when, and where the alien entered the United States;

''(II) the country in which the alien resided before entering the United States; and

''(III) other demographic information specified by the Secretary.

''(ii) PRIVACY PROTECTIONS.—Information described in subclauses (I) through (III) of clause (i), which shall be provided anonymously by the applicant on the application form referred to in paragraph (1), shall be subject to the same confidentiality provisions as those set forth in section 9 of title 13, United States Code.

''(iii) REPORT.—The Secretary shall submit a report to Congress that contains a summary of the statistical data about immigration trends collected pursuant to clause (i).

''(B) FAMILY APPLICATION.—The Secretary shall establish a process through which an alien may submit a single application under this section on behalf of the alien, his or her spouse, and his or her children who are residing in the United States.

''(C) INTERVIEW.—In order to determine whether an applicant meets the eligibility requirements set forth in subsection (b), the Secretary—

''(i) shall interview each applicant who—

''(I) has been convicted of any criminal offense;

''(II) has previously been deported; or

''(III) without just cause, has failed to respond to a notice to appear as required under section 239; and

''(ii) may, in the sole discretion of the Secretary, interview any other applicant for registered provisional immigrant status under this section.

---

**SA 1623.** Mr. CORNYN submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

Strike title V of the amendment.

---

**SA 1624.** Mr. CORNYN submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. _____. TARGETING TRANSNATIONAL CRIMINAL ORGANIZATIONS THAT ENGAGE IN MONEY LAUNDERING.**

Section 1956(c)(7) of title 18, United States Code, is amended—

(1) in subparagraph (E), by striking ''or'' after the semicolon;

(2) in subparagraph (F), by inserting ''or'' after the semicolon; and

(3) by adding at the end the following:

''(G) any act that is indictable under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), including section 274 of such Act (relating to bringing in and harboring certain aliens), section 277 of such Act (relating to aiding or assisting certain aliens to enter the United States), or section 278 of such Act (relating to importation of an alien for an immoral purpose);''.

**SEC. _____. DANGEROUS HUMAN SMUGGLING, HUMAN TRAFFICKING, AND HUMAN RIGHTS VIOLATIONS.**

(a) BRINGING IN AND HARBORING CERTAIN ALIENS.—Section 274 (8 U.S.C. 1324) is amended—

(1) in subsection (a)(1)(B)—

(A) by redesignating clauses (iii) and (iv) as clauses (vi) and (vii), respectively;

(B) by inserting after clause (ii) the following:

''(iii) in the case of a violation of subparagraph (A)(i), (ii), (iii), (iv), or (v) that is the third or subsequent offense committed by such person under this section, be fined under title 18, United States Code, imprisoned not less than 5 years and not more than 25 years, or both;

''(iv) in the case of a violation of subparagraph (A)(i), (ii), (iii), (iv), or (v) that negligently, recklessly, knowingly, or intentionally results in a victim being involuntarily forced into labor or prostitution, be fined under title 18, United States Code, imprisoned not less than 5 years and not more than 25 years, or both;

''(v) in the case of a violation of subparagraph (A)(i),(ii),(iii),(iv),or (v) during and in relation to which any person is subjected to an involuntary sexual act (as defined in section 2246(2) of title 18, United States Code), be fined under title 18, United States Code, imprisoned for not less than 5 years and not more than 25 years, or both;'' and

(C) in clause (vi), as redesignated, by striking inserting ''and not less than 10'' before ''years''; and

(2) by amending subsection (b)(1) to read as follows:

''(1) IN GENERAL.—Any property, real or personal, involved in or used to facilitate the commission of a violation or attempted violation of subsection (a), the gross proceeds of such violation or attempted violation, and any property traceable to such property or proceeds, shall be seized and subject to forfeiture.''.

**SEC. _____. RESPECT FOR VICTIMS OF HUMAN SMUGGLING.**

(a) VICTIM REMAINS.—The Attorney General shall appoint an official to ensure that information regarding missing aliens and unidentified remains found in the covered area are included in a database of the National Missing and Unidentified Persons System.

(b) REIMBURSEMENT.—The Secretary shall reimburse county, municipal, and tribal governments in the United States that are located in the covered area for costs associated with the transportation and processing of unidentified remains, found in the desert or on ranch lands, on the condition that the remains are transferred either to an official medical examiner's office, or a local university with the capacity to analyze human remains using forensic best practices.

(c) BORDER CROSSING DATA.—The National Institute of Justice shall encourage genetic laboratories receiving Federal grant monies to process samples from unidentified remains discovered within the covered area and compare the resulting genetic profiles against samples from the relatives of any missing individual, including those provided by foreign consulates or authorized entities.

(d) COVERED AREA DEFINED.—In this section, the term ''covered area'' means the area of United States within 200 miles of the international border between the United States and Mexico.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2014 through 2018 to carry out this section.

**SEC. _____. PUTTING THE BRAKES ON HUMAN SMUGGLING ACT.**

(a) SHORT TITLE.—This section may be cited as the ''Putting the Brakes on Human Smuggling Act''.

(b) FIRST VIOLATION.—Paragraph (1) of section 31310(b) of title 49, United States Code, is amended—

(1) in subparagraph (D), by striking the ''or'' at the end;

(2) in subparagraph (E), by striking the period at the end and inserting a semicolon and ''or''; and

(3) by adding at the end the following:

''(F) using a commercial motor vehicle in willfully aiding or abetting an alien's illegal entry into the United States by transporting, guiding, directing, or attempting to assist the alien with the alien's entry in violation of section 275 of the Immigration and Nationality Act (8 U.S.C. 1325), regardless of whether the alien is ultimately fined or imprisoned for an act in violation of such section.''.

(c) SECOND OR MULTIPLE VIOLATIONS.—Paragraph (1) of section 31310(c) of title 49, United States Code, is amended—

(1) in subparagraph (E), by striking the ''or'' at the end;

(2) by redesignating subparagraph (F) as subparagraph (G);

(3) in subparagraph (G), as so redesignated, by striking ''(E)'' and inserting ''(F)''; and

(4) by inserting after subparagraph (E) the following:

''(F) using a commercial motor vehicle on more than one occasion in willfully aiding or abetting an alien's illegal entry into the United States by transporting, guiding, directing and attempting to assist the alien

with alien's entry in violation of section 275 of the Immigration and Nationality Act (8 U.S.C. 1325), regardless of whether the alien is ultimately fined or imprisoned for an act in violation of such section; or''.

(d) LIFETIME DISQUALIFICATION.—Subsection (d) of section 31310 of title 49, United States Code, is amended to read as follows:

''(d) LIFETIME DISQUALIFICATION.—The Secretary shall disqualify from operating a commercial motor vehicle for life an individual who uses a commercial motor vehicle—

''(1) in committing a felony involving manufacturing, distributing, or dispensing a controlled substance, or possessing with the intent to manufacture, distribute, or dispense a controlled substance; or

''(2) in committing an act for which the individual is convicted under—

''(A) section 274 of the Immigration and Nationality Act (8 U.S.C. 1324); or

''(B) section 277 of such Act (8 U.S.C. 1327).''.

(e) REPORTING REQUIREMENTS.—

(1) COMMERCIAL DRIVER'S LICENSE INFORMATION SYSTEM.—Paragraph (1) of section 31309(b) of title 49, United States Code, is amended—

(A) in subparagraph (E), by striking ''and'' at the end;

(B) in subparagraph (F), by striking the period at the end and inserting a semicolon and ''and''; and

(C) by adding at the end the following new subparagraph:

''(G) whether the operator was disqualified, either temporarily or for life, from operating a commercial motor vehicle under section 31310, including under subsection (b)(1)(F), (c)(1)(F), or (d) of such section.''.

(2) NOTIFICATION BY THE STATE.—Paragraph (8) of section 31311(a) of title 49, United States Code, is amended by inserting ''including such a disqualification, revocation, suspension, or cancellation made pursuant to a disqualification under subsection (b)(1)(F), (c)(1)(F), or (d) of section 31310,'' after ''60 days,''.

**SEC. _____. FREEZING BANK ACCOUNTS OF INTERNATIONAL CRIMINAL ORGANIZATIONS AND MONEY LAUNDERERS.**

Section 981(b) of title 18, United States Code, is amended by adding at the end the following:

''(5)(A) If a person is arrested or charged in connection with an offense described in subparagraph (C) involving the movement of funds into or out of the United States, the Attorney General may apply to any Federal judge or magistrate judge in the district in which the arrest is made or where the charges are filed for an ex parte order restraining any account held by the person arrested or charged for not more than 30 days, except that such 30-day time period may be extended for good cause shown at a hearing conducted in the manner provided in Rule 43(e) of the Federal Rules of Civil Procedure. The court may receive and consider evidence and information submitted by the Government that would be inadmissible under the Federal Rules of Evidence.

''(B) The application for the restraining order referred to in subparagraph (A) shall—

''(i) identify the offense for which the person has been arrested or charged;

''(ii) identify the location and description of the accounts to be restrained; and

''(iii) state that the restraining order is needed to prevent the removal of the funds in the account by the person arrested or charged, or by others associated with such person, during the time needed by the Government to conduct such investigation as may be necessary to establish whether there is probable cause to believe that the funds in the accounts are subject to forfeiture in connection with the commission of any criminal offense.

''(C) A restraining order may be issued pursuant to subparagraph (A) if a person is arrested or charged with any offense for which forfeiture is authorized under this title, title 31, or the Controlled Substances Act (21 U.S.C. 801 et seq.).

''(D) For purposes of this section—

''(i) the term 'account' includes any safe deposit box and any account (as defined in paragraphs (1) and (2) of section 5318A(e) of title 31, United States Code) at any financial institution; and

''(ii) the term 'account held by the person arrested or charged' includes an account held in the name of such person, and any account over which such person has effective control as a signatory or otherwise.

''(E) Restraint pursuant to this paragraph shall not be deemed a 'seizure' for purposes of subsection 983(a) of this title.

''(F) A restraining order issued pursuant to this paragraph may be executed in any district in which the subject account is found, or transmitted to the central authority of any foreign State for service in accordance with any treaty or other international agreement.''.

**SEC. _____. CRIMINAL PROCEEDS LAUNDERED THROUGH PREPAID ACCESS DEVICES, DIGITAL CURRENCIES, OR OTHER SIMILAR INSTRUMENTS.**

(a) IN GENERAL.—Section 5312(a) of title 31, United States Code, is amended—

(1) by striking paragraph (2)(K) and inserting the following:

''(K) an issuer, redeemer, or cashier or travelers' checks, checks, money orders, prepaid access devices, digital currencies, or other similar instruments;'';

(2) in paragraph (3)(B), by inserting ''prepaid access devices,'' after ''delivery,'';

(3) by redesignating paragraph (6) as paragraph (7); and

(4) by inserting after paragraph (5) the following:

''(6) 'prepaid access device' means an electronic device or vehicle, such as a card, plate, code, number, electronic serial number, mobile identification number, personal identification number, or other instrument that provides a portal to funds or the value of funds that have been paid in advance and can be retrievable and transferable at some point in the future.''.

(b) GAO REPORT.—Not later than 18 months after the date of enactment of this Act, the Comptroller General of the United States shall submit to Congress a report on—

(1) the impact the amendments made by subsection (a) has had on law enforcement, the prepaid access industry, and consumers; and

(2) the implementation and enforcement by the Department of Treasury of the final rule on Definitions and Other Regulations Relating to Prepaid Access (76 Fed. Reg. 45403), issued July 26, 2011.

(c) CUSTOMS AND BORDER PROTECTION STRATEGY FOR PREPAID ACCESS DEVICES.—Not later than 18 months after the date of the enactment of this Act, the Secretary of Homeland Security, in consultation with the Commissioner responsible for U.S. Customs and Border Protection, shall submit to Congress a report detailing a strategy to interdict and detect prepaid access devices, digital currencies, or other similar instruments, at border crossings and other ports of entry for the United States. The report shall include an assessment of infrastructure needs to carry out the strategy detailed in the report.

**SEC. _____. FIGHTING MONEY SMUGGLING THROUGH BLANK CHECKS IN BEARER FORM.**

Section 5316 of title 31, United States Code, is amended by adding at the end the following:

''(e) MONETARY INSTRUMENTS WITH AMOUNT LEFT BLANK.—For purposes of this section, a monetary instrument in bearer form that has the amount left blank, such that the amount could be filled in by the bearer, shall be considered to have a value in excess of $10,000 if the instrument was drawn on an account that contained or was intended to contain more than $10,000 at the time the instrument was transported or the time period it was negotiated or was intended to be negotiated.''.

**SEC. _____. CLOSING THE LOOPHOLE ON DRUG CARTEL ASSOCIATES ENGAGED IN MONEY LAUNDERING.**

(a) PROCEEDS OF A FELONY.—Section 1956(c)(1) of title 18, United States Code, is amended by inserting '', and regardless of whether or not the person knew that the activity constituted a felony'' before the semicolon at the end.

(b) INTENT TO CONCEAL OR DISGUISE.—Section 1956(a) of title 18, United States Code, is amended—

(1) in paragraph (1)(B), by striking ''(B) knowing that'' and all that follows through ''Federal law,'' and inserting the following:

''(B) knowing that the transaction—

''(i) conceals or disguises, or is intended to conceal or disguise, the nature, source, location, ownership, or control of the proceeds of some form of unlawful activity; or

''(ii) avoids, or is intended to avoid, a transaction reporting requirement under State or Federal law,''; and

(2) in paragraph (2)(B), by striking ''(B) knowing that'' and all that follows through ''Federal law,'' and inserting the following:

''(B) knowing that the monetary instrument or funds involved in the transportation, transmission, or transfer represent the proceeds of some form of unlawful activity, and knowing that such transportation, transmission, or transfer—

''(i) conceals or disguises, or is intended to conceal or disguise, the nature, source, location, ownership, or control of the proceeds of some form of unlawful activity; or

''(ii) avoids, or is intended to avoid, a transaction reporting requirement under State or Federal law,''.

**SEC. _____. DIRECTIVE TO UNITED STATES SENTENCING COMMISSION; EMERGENCY AUTHORITY.**

(a) IN GENERAL.—The United States Sentencing Commission shall review and, if appropriate, amend the Federal sentencing guidelines and policy statements as the Commission considers appropriate to respond to this Act.

(b) EMERGENCY AUTHORITY.—In carrying out subsection (a), the Commission may promulgate amendments to the Federal sentencing guidelines and policy statements in accordance with the procedures set forth in section 21(a) of the Sentencing Act of 1987 (28 U.S.C. 994 note), as though the authority under that Act had not expired.

---

**SA 1625.** Ms. LANDRIEU (for herself, Mr. COATS, Mrs. SHAHEEN, and Mr. FRANKEN) submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

In section 3101 of the amendment, strike subsections (c) and (d), and insert the following:

(c) REPORT ON IMPACT OF THE SYSTEM ON EMPLOYERS.—Not later than 18 months after the date of the enactment of this Act, the Secretary, in consultation with the Chief

Counsel of the Office of Advocacy of the Small Business Administration, shall submit to Congress a report that assesses—

(1) the implementation of the Employment Verification System established under section 274A(d) of the Immigration and Nationality Act, as amended by subsection (a), by employers;

(2) any adverse impact on the revenues, business processes, or profitability of employers required to use such System; and

(3) the economic impact of such System on small businesses.

(d) GOVERNMENT ACCOUNTABILITY OFFICE STUDY OF THE EFFECTS OF DOCUMENT REQUIREMENTS ON EMPLOYMENT AUTHORIZED PERSONS AND EMPLOYERS.—

(1) STUDY.—The Comptroller General of the United States shall carry out a study of—

(A) the effects of the documentary requirements of section 274A of the Immigration and Nationality Act, as amended by subsection (a), on employers, naturalized United States citizens, nationals of the United States, and individuals with employment authorized status; and

(B) the challenges such employers, citizens, nationals, or individuals may face in obtaining the documentation required under that section.

(2) REPORT.—Not later than 4 years after the date of the enactment of this Act, the Comptroller General shall submit to Congress a report containing the findings of the study carried out under paragraph (1). Such report shall include, at a minimum, the following:

(A) An assessment of available information regarding the number of working age nationals of the United States and individuals who have employment authorized status who lack documents required for employment by such section 274A.

(B) A description of the additional steps required for individuals who have employment authorized status and do not possess the documents required by such section 274A to obtain such documents.

(C) A general assessment of the average financial costs for individuals who have employment authorized status who do not possess the documents required by such section 274A to obtain such documents.

(D) A general assessment, conducted in consultation with the Chief Counsel of the Office of Advocacy of the Small Business Administration, of the average financial costs and challenges for employers who have been required to participate in the Employment Verification System established by subsection (d) of such section 274A.

(E) A description of the barriers to individuals who have employment authorized status in obtaining the documents required by such section 274A, including barriers imposed by the executive branch of the Government.

(F) Any particular challenges facing individuals who have employment authorized status who are members of a federally recognized Indian tribe in complying with the provisions of such section 274A.

(e) EARLY ADOPTION FOR SMALL EMPLOYERS.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall create a mobile application and utilize other available smart-phone technology for employers utilizing the System, to encourage small employers to utilize the System prior to the time at which utilization becomes mandatory for all employers.

(2) MARKETING.—Not later than 1 year after the date of enactment of this Act, the Secretary shall, in consultation with the Administrator of the Small Business Administration, make available marketing and other incentives to small business concerns to encourage small employers to utilize the System prior to the time at which utilization of the System becomes mandatory for all employers.

---

**SA 1626.** Ms. LANDRIEU (for herself, Mr. CARPER, and Mr. BEGICH) submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

In section 1104 of the amendment, insert after subsection (c) the following:

(d) DONATIONS FOR LAND PORTS OF ENTRY FACILITIES.—

(1) DONATIONS PERMITTED.—Notwithstanding any other provision of law, including chapter 33 of title 40, United States Code, the Secretary, for purposes of constructing, altering, operating, or maintaining a new or existing land port of entry facility, may accept donations of real and personal property (including monetary donations) and nonpersonal services from private parties and State and local government entities.

(2) ALLOWABLE USES OF DONATIONS.—The Secretary, with respect to any donation provided pursuant to paragraph (1), may—

(A) use such property or services for necessary activities related to the construction, alteration, operation, or maintenance of a new or existing land port of entry facility under the custody and control of the Secretary, including expenses related to—

(i) land acquisition, design, construction, repair and alteration;

(ii) furniture, fixtures, and equipment;

(iii) the deployment of technology and equipment; and

(iv) operations and maintenance; or

(B) transfer such property or services to the Administrator of General Services for necessary activities described in paragraph (1) related to a new or existing land port of entry facility under the custody and control of the Administrator.

(3) EVALUATION PROCEDURES.—Not later than 180 days after the date of the enactment of this Act, the Secretary, in consultation with the Administrator, shall establish procedures for evaluating a proposal submitted by any person described in paragraph (1) to make a donation of real or personal property (including monetary donations) or nonpersonal services to facilitate the construction, alteration, operation, or maintenance of a new or existing land port of entry facility under the custody and control of the Secretary.

(4) CONSIDERATIONS.—In determining whether or not to approve a proposal described in paragraph (3), the Secretary or the Administrator shall consider—

(A) the impact of the proposal on reducing wait times at that port of entry and other ports of entry on the same border;

(B) the potential of the proposal to increase trade and travel efficiency through added capacity;

(C) the potential of the proposal to enhance the security of the port of entry; and

(D) other factors that the Secretary determines to be relevant.

(5) CONSULTATION.—

(A) LOCATIONS FOR NEW PORTS OF ENTRY.—The Secretary is encouraged to consult with the Secretary of the Interior, the Secretary of Agriculture, the Secretary of State, the International Boundary and Water Commission, and appropriate representatives of States, local governments, Indian tribes, and property owners—

(i) to determine locations for new ports of entry; and

(ii) to minimize the adverse impacts from such ports on the environment, historic and cultural resources, commerce, and the quality of life for the communities and residents located near such ports.

(B) SAVINGS PROVISION.—Nothing in this paragraph may be construed—

(i) to create any right or liability of the parties described in subparagraph (A); and

(ii) to affect any consultation requirement under any other law.

(6) SUPPLEMENTAL FUNDING.—Property (including monetary donations) and services provided pursuant to paragraph (1) may be used in addition to any other funding (including appropriated funds), property, or services made available for the same purpose.

(7) UNCONDITIONAL DONATIONS.—A donation provided pursuant to paragraph (1) shall be made unconditionally, although the donor may specify—

(A) the land port of entry facility or facilities to be benefitted from such donation; and

(B) the timeframe during which the donated property or services shall be used.

(8) RETURN OF DONATIONS.—If the Secretary or the Administrator does not use the property or services donated pursuant to paragraph (1) for the specific land port of entry facility or facilities designated by the donor or within the timeframe specified by the donor, such donated property or services shall be returned to the entity that made the donation. No interest shall be owed to the donor with respect to any donation of funding provided under paragraph (1) that is returned pursuant to this paragraph.

(9) REPORT.—

(A) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, and annually thereafter, the Secretary, in consultation with the Administrator, shall submit a report to the congressional committees listed in subparagraph (B) that describes—

(i) the accepted donations received under this subsection;

(ii) the ports of entry that received such donations; and

(iii) how each donation helped facilitate the construction, alteration, operation, or maintenance of a new or existing land port of entry.

(B) CONGRESSIONAL COMMITTEES.—The congressional committees listed in this subparagraph are—

(i) the Committee on Appropriations of the Senate;

(ii) the Committee on Homeland Security and Governmental Affairs of the Senate;

(iii) the Committee on Finance of the Senate;

(iv) the Committee on Appropriations of the House of Representatives;

(v) the Committee on Homeland Security of the House of Representatives; and

(vi) the Committee on Ways and Means of the House of Representatives.

(10) SAVINGS PROVISION.—Nothing in this subsection may be construed to affect or alter the existing authority of the Secretary or the Administrator of General Services to construct, alter, operate, and maintain land port of entry facilities.

---

**SA 1627.** Ms. LANDRIEU (for herself and Mr. COCHRAN) submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the end of section 4806, add the following:

(j) REPORTS.—

(1) REQUIREMENT FOR REPORTS.—Not later than 90 days after the date of the enactment of this Act, and every 180 days thereafter, the Secretary shall submit to the Committee on the Judiciary and the Committee on Appropriations of the Senate and the Committee on the Judiciary and the Committee on Appropriations of the House of Representatives a report on the EB-5 program carried out pursuant to section 203(b)(5) of the Immigration and Nationality (8 U.S.C. 1153(b)(5)), as amended by this section.

(2) CONTENT.—Each report required by paragraph (1) shall include the following:

(A) The number of applications pending for an immigrant visa described in section 203(b)(5) of the Immigration and Nationality Act (8 U.S.C. 1153(b)(5)), disaggregated by State.

(B) The period of time each such application has been pending.

(C) The average length of time required to conduct an economic evaluation of a project and suitability of a petitioner for such a visa and the Secretary's goals for these timeframes.

(D) A description of any additional resources necessary to efficiently administer the EB-5 program carried out pursuant to such section 203(b)(5).

(E) The number of applications that have been approved or denied for such a visa in the most recent reporting period with an accompanying explanation of reasons for such approval or denial, disaggregated by State.

(F) The number of jobs created by such EB-5 program in each 180-day period, disaggregated by State.

(G) The types of projects proposed and the number of aliens granted such a visa in each 180-day period, disaggregated by State and by North American Industry Classification System (NAICS) code.

---

**SA 1628.** Ms. LANDRIEU submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

After section 3716, insert the following:

**SEC. 3717. COST EFFECTIVENESS IN DETENTION FACILITY CONTRACTING.**

The Director of U.S. Immigration and Customs Enforcement shall take appropriate measures to minimize, and if possible reduce, the daily bed rate charged to the Federal Government through a competitive process in contracting for or otherwise obtaining detention beds while ensuring that the most recent detention standards, including health standards, and management practices employed by the agency are met.

---

**SA 1629.** Ms. LANDRIEU (for herself and Mr. KIRK) submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

In title IV of the amendment, insert after section 4224 the following:

**SEC. 4225. SMALL BUSINESS EXPRESS LANE.**

Section 212(n) of the Immigration and Nationality Act (8 U.S.C. 1182(n)), as amended by section 4231, is amended by adding at the end the following:

''(8)(A) The Secretary shall establish a small business express lane for the H-1B visa application process, under which the Secretary—

''(i) may waive the fee for premium processing under section 286(u) for a business that—

''(I) is considered a small business with not more than 25 employees;

''(II) is not considered an H-1B dependent employer; and

''(III) reports a business income on the tax filings for the previous year of not more than $250,000; and

''(ii) shall, to the extent practicable, create or modify an online interface capable of providing real time feedback and error mitigation technology that can be used by small businesses and other employers with the purpose of increasing employer access in streamlining the H-1B visa application process.

''(B) The total amount of fees waived during a fiscal year by the Secretary under subparagraph (A)(i) shall be added to the projected cost for the service in the following fiscal year and a revised fee shall be established based on the projected cost.

''(C) The Secretary shall, to the extent practicable, create an online interface and mobile application that can be used by small businesses and other employers with the purpose of increasing employer access in streamlining the H-1B visa application process.

''(D)(i) The Secretary, in coordination with the Administrator of the Small Business Administration, shall set a goal of not less than 30 percent of H-1B visas being awarded to small businesses.

''(ii) Of the goal amount described in clause (i)—

''(I) 1/3 of the goal shall be reserved for businesses with not more than 25 employees; and

''(II) 2/3 of the goal may be used by businesses with not more than 500 employees.

''(iii) The goal described in clause (i) may be modified by the Secretary, in consultation with the Administrator of the Small Business Administration, based on any feedback provided by the Office of Advocacy of the Small Business Administration.

''(E) The Bureau of Immigration and Labor Market Research shall submit a report, on an annual basis, to the Committee on the Judiciary of the Senate, the Small Business and Entrepreneurship Committee of the Senate, the Committee on the Judiciary of the House of Representatives, and the Small Business and Entrepreneurship Committee of the House of Representatives that contains—

''(i) the total number of H-1B visa applications broken down by business size category and expressed as a percentage of the total—

''(I) 0–25 employees;

''(II) 26–50 employees;

''(III) 50–100 employees;

''(IV) 100–500 employees; or

''(V) more than 500 employees;

''(ii) the total number of H-1B visa applications broken down by North American Industry Classification System (NAICS) Code and expressed as a percentage of the total; and

''(iii) the percentage and number of—

''(I) small businesses to apply for H-1B visas;

''(II) small businesses awarded H-1B visas;

''(III) small businesses that used the premium processing service;

''(IV) all businesses that used the premium processing service and were awarded H-1B visas; and

''(V) all businesses that did not use the premium processing service and were awarded H-1B visas; and

''(iv) a longitudinal and graphical view of the small business percentages described in subparagraph (D) and this subparagraph.

''(F) Beginning 4 years after the date of enactment of the Border Security, Economic Opportunity, and Immigration Modernization Act, and every 4 years thereafter, as part of the report submitted under subparagraph (E), the Bureau of Immigration and Labor Market Research shall include description of the impact of the application process on the on small business, which shall take into consideration—

''(i) the cost to apply for the visas;

''(ii) the impact of the fee waiver under subparagraph (A)(i) on small businesses; and

''(iii) recommendations for streamlining the application process, including recommended modifications and updates to the online user interface and mobile application.''.

---

**SA 1630.** Ms. LANDRIEU (for herself, Ms. HIRONO, and Mr. FRANKEN) submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. _____. BEST INTEREST OF THE CHILD.**

(a) IN GENERAL.—In all procedures and decisions concerning unaccompanied alien children that are made by a Federal agency or a Federal court pursuant to the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) or regulations implementing the Act, the best interests of the child shall be a primary consideration.

(b) DETERMINATIONS RELATED TO SECTION 101(A)(27)(J) OF THE IMMIGRATION AND NATIONALITY ACT.—Best interests determinations made in administrative or judicial proceedings described in section 101(a)(27)(J) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)(J)) shall be conclusive in assessing the best interests of the child under this section.

(c) FACTORS.—In assessing the best interests of the child, the entities referred to in subsection (a) shall consider, in the context of the child's age and maturity, the following factors:

(1) The views of the child.

(2) The safety and security considerations of the child.

(3) The mental and physical health of the child.

(4) The parent-child relationship and family unity, and the potential effect of separating the child from the child's parent or legal guardian, siblings, and other members of the child's extended biological family.

(5) The child's sense of security, familiarity, and attachments.

(6) The child's well-being, including the need of the child for education and support related to child development.

(7) The child's ethnic, religious, and cultural and linguistic background.

---

**SA 1631.** Ms. LANDRIEU submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. _____. PROHIBITION ON WAIVER OF SMALL BUSINESS PROCUREMENT PROVISIONS.**

Part 19 of the Federal Acquisition Regulation, section 15 of the Small Business Act (15 U.S.C. 644), and any other applicable laws or

regulations establishing procurement requirements relating to small business concerns (as defined in section 3 of the Small Business Act (15 U.S.C. 632)) may not be waived with respect to any contract awarded under any program or other authority under this Act or an amendment made by this Act, other than as provided under subsection (a)(2) or (c) of section 2108 of this Act.

**SA 1632.** Ms. LANDRIEU (for herself and Mr. MORAN) submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle A of title IV of the amendment, insert the following:

**SEC. 4106. ADDITIONAL REQUIREMENTS FOR STEM EDUCATION PROGRAMS.**

(a) LOW-INCOME STEM SCHOLARSHIP PROGRAM.—For purposes of paragraph (3)(B) of 286(s) of the Immigration and Nationality Act, as added by section 4104(b), the Director of the National Science Foundation shall consider veterans to be an underrepresented group.

(b) NATIONAL EVALUATION.—In conducting the annual evaluation of the implementation and impact of the activities funded by the STEM Education and Training Account under section 4104(d), the Secretary of Education shall include an assessment of—

(1) engagement in STEM fields of underrepresented groups such as women and minorities; and

(2) achievement in STEM fields of underrepresented groups such as women and minorities.

(c) IDENTIFYING AND DISSEMINATING BEST PRACTICES.—The Secretary of Education shall, directly or through a grant or contract, identify State best practices with respect to STEM education and share that information broadly.

**SEC. 4107. USE OF H–1B VISA FEES.**

(a) IN GENERAL.—Section 214(c)(9)(C) (8 U.S.C. 1184(c)(9)(C)) is amended to read as follows:

''(C) Fees collected under this paragraph shall be deposited in the Treasury as follows:

''(i) Until the amount collected for a fiscal year under this paragraph equals $275,000,000, in the H–1B Nonimmigrant Petitioner Account for use in accordance with section 286(s).

''(ii) After the amount collected for a fiscal year under this paragraph exceeds $275,000,000—

''(I) 5 percent shall be deposited in the H–1B Nonimmigrant Petitioner Account for use as described in paragraph (5) of section 286(s);

''(II) 5 percent shall be deposited in the H–1B Nonimmigrant Petitioner Account for use as described in paragraph (6) of section 286(s); and

''(III) 90 percent shall be deposited in the STEM Education and Training Account for use as described in section 286(w).''.

(b) CONFORMING AMENDMENT.—Section 286(s)(1) (8 U.S.C. 1356(s)(1)) is amended by striking ''collected under paragraphs (9) and (11) of section 214(c).'' and inserting ''described in clause (i), (ii)(I), and (ii)(II) of paragraph (9)(C) of section 214(c) and collected under paragraph (11) of such section.''.

**SA 1633.** Ms. LANDRIEU submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle A of title IV of the amendment, insert the following:

**SEC. 4106. ADDITIONAL REQUIREMENTS FOR STEM EDUCATION PROGRAMS.**

(a) LOW-INCOME STEM SCHOLARSHIP PROGRAM.—For purposes of paragraph (3)(B) of 286(s) of the Immigration and Nationality Act, as added by section 4104(b), the Director of the National Science Foundation shall consider veterans to be an underrepresented group.

(b) NATIONAL EVALUATION.—In conducting the annual evaluation of the implementation and impact of the activities funded by the STEM Education and Training Account under section 4104(d), the Secretary of Education shall include an assessment of—

(1) engagement in STEM fields of underrepresented groups such as women and minorities; and

(2) achievement in STEM fields of underrepresented groups such as women and minorities.

(c) IDENTIFYING AND DISSEMINATING BEST PRACTICES.—The Secretary of Education shall, directly or through a grant or contract, identify State best practices with respect to STEM education and share that information broadly.

**SA 1634.** Mr. PORTMAN (for himself and Mr. TESTER) submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. _____. EMPLOYMENT VERIFICATION SYSTEM IMPROVEMENTS.**

(a) TRIGGER.—In addition to the conditions set forth in section 3(c)(2)(A), the Secretary may not adjust the status of aliens who have been granted registered provisional immigrant status, except for aliens granted blue card status under section 2201 of this Act or described in section 245D(b) of the Immigration and Nationality Act, unless the Secretary, after consultation with the Comptroller General of the United States, and as part of the written certification submitted to the President and Congress pursuant to section 3(c)(2)(A), certifies that the Secretary has implemented the mandatory employment verification system, including the full incorporation of the photo tool and additional security measures, required by section 274A of the Immigration and Nationality Act (8 U.S.C. 1324a), as amended by section 3101, and has required the system's use by all employers to prevent unauthorized workers from obtaining employment in the United States.

(b) EMPLOYMENT VERIFICATION SYSTEM.—Section 274A (8 U.S.C. 1324a), as amended by section 3101, is further amended—

(1) in subsection (a)(5)(A)(ii), by inserting '', by clear and convincing evidence,'' after demonstrates; and

(2) by striking subsections (c) and (d) and inserting the following:

''(c) DOCUMENT VERIFICATION REQUIREMENTS.—Any employer hiring an individual for employment in the United States shall comply with the following requirements and the requirements under subsection (d) to verify that the individual has employment authorized status.

''(1) ATTESTATION AFTER EXAMINATION OF DOCUMENTATION.—

''(A) IN GENERAL.—

''(i) EXAMINATION BY EMPLOYER.—An employer shall attest, under penalty of perjury on a form prescribed by the Secretary, that the employer has verified the identity and employment authorization status of the individual—

''(I) by examining—

''(aa) a document specified in subparagraph (C); or

''(bb) a document specified in subparagraph (D) and a document specified in subparagraph (E); and

''(II) by utilizing an identity authentication mechanism described in clause (iii) or (iv) of subparagraph (F).

''(ii) PUBLICATION OF DOCUMENTS.—The Secretary shall publish a picture of each document specified in subparagraphs (C) and (E) on the U.S. Citizenship and Immigration Services website.

''(B) REQUIREMENTS.—

''(i) FORM.—The form referred to in subparagraph (A)(i)—

''(I) shall be prescribed by the Secretary not later than 6 months after the date of the enactment of the Border Security, Economic Opportunity, and Immigration Modernization Act;

''(II) shall be available as—

''(aa) a paper form;

''(bb) a form that may be completed by an employer via telephone or video conference;

''(cc) an electronic form; and

''(dd) a form that is integrated electronically with the requirements under subparagraph (F) and subsection (d).

''(ii) ATTESTATION.—Each such form shall require the employer to sign an attestation with a handwritten, electronic, or digital signature, according to standards prescribed by the Secretary.

''(iii) COMPLIANCE.—An employer has complied with the requirements under this paragraph with respect to examination of the documents included in subclauses (I) and (II) of subparagraph (A)(i) if—

''(I) the employer has, in good faith, followed applicable regulations and any written procedures or instructions provided by the Secretary; and

''(II) a reasonable person would conclude that the documentation is genuine and relates to the individual presenting such documentation.

''(C) DOCUMENTS ESTABLISHING IDENTITY AND EMPLOYMENT AUTHORIZED STATUS.—A document is specified in this subparagraph if the document is unexpired (unless the validity of the document is extended by law) and is 1 of the following:

''(i) A United States passport or passport card issued to an individual pursuant to the Secretary of State's authority under the Act entitled An Act to regulate the issue and validity of passports, and for other purposes, approved July 3, 1926 (22 U.S.C. 211a).

''(ii) A document issued to an alien evidencing that the alien is lawfully admitted for permanent residence or another document issued to an individual evidencing the individual's employment authorized status, as designated by the Secretary, if the document—

''(I) contains a photograph of the individual, or such other personal identifying information relating to the individual as the Secretary determines, by regulation, to be sufficient for the purposes of this subparagraph;

''(II) is evidence of employment authorized status; and

''(III) contains security features to make the document resistant to tampering, counterfeiting, and fraudulent use.

''(iii) An enhanced driver's license or identification card issued to a national of the

United States by a State, an outlying possession of the United States, or a federally recognized Indian tribe that—

''(I) meets the requirements under section 202 of the REAL ID Act of 2005 (division B of Public Law 109–13; 49 U.S.C. 30301 note); and

''(II) the Secretary has certified by notice published in the Federal Register and through appropriate notice directly to employers registered in the System 3 months prior to publication that such enhanced license or card is suitable for use under this subparagraph based upon the accuracy and security of the issuance process, security features on the document, and such other factors as the Secretary may prescribe.

''(iv) A passport issued by the appropriate authority of a foreign country accompanied by a Form I–94 or Form I–94A (or similar successor record), or other documentation as designated by the Secretary that specifies the individual's status in the United States and the duration of such status if the proposed employment is not in conflict with any restriction or limitation specified on such form or documentation.

''(v) A passport issued by the Federated States of Micronesia or the Republic of the Marshall Islands with evidence of nonimmigrant admission to the United States under the Compact of Free Association between the United States and the Federated States of Micronesia or the Republic of the Marshall Islands.

''(D) DOCUMENTS ESTABLISHING IDENTITY OF INDIVIDUAL.—A document is specified in this subparagraph if the document is unexpired (unless the validity of the document is extended by law) and is 1 of the following:

''(i) A driver's license or identity card that is not described in subparagraph (C)(iii) and is issued to an individual by a State or an outlying possession of the United States, a federally recognized Indian tribe, or an agency (including military) of the Federal Government if the driver's license or identity card includes, at a minimum—

''(I) the individual's photograph, name, date of birth, gender, and driver's license or identification card number; and

''(II) security features to make the license or card resistant to tampering, counterfeiting, and fraudulent use.

''(ii) A voter registration card.

''(iii) A document that complies with the requirements under section 7209(b)(1) of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 8 U.S.C. 1185 note).

''(iv) For individuals under 18 years of age who are unable to present a document listed in clause (i) or (ii), documentation of personal identity of such other type as the Secretary determines will provide a reliable means of identification, which may include an attestation as to the individual's identity by a parent or legal guardian under penalty of perjury.

''(E) DOCUMENTS EVIDENCING EMPLOYMENT AUTHORIZATION.—A document is specified in this subparagraph if the document is unexpired (unless the validity of the document is extended by law) and is 1 of the following:

''(i) A social security account number card issued by the Commissioner, other than a card which specifies on its face that the card is not valid to evidence employment authorized status or has other similar words of limitation.

''(ii) Any other documentation evidencing employment authorized status that the Secretary determines and publishes in the Federal Register and through appropriate notice directly to employers registered within the System to be acceptable for purposes of this subparagraph if such documentation, including any electronic security measures linked to such documentation, contains security features to make such documentation resistant to tampering, counterfeiting, and fraudulent use.

''(F) IDENTITY AUTHENTICATION MECHANISM.—

''(i) DEFINITIONS.—In this subparagraph:

''(I) COVERED IDENTITY DOCUMENT.—The term 'covered identity document' means a valid—

''(aa) United States passport, passport card, or a document evidencing lawful permanent residence status or employment authorized status issued to an alien;

''(bb) enhanced driver's license or identity card issued by a participating State or an outlying possession of the United States; or

''(cc) photograph and appropriate identifying information provided by the Secretary of State pursuant to the granting of a visa.

''(II) PARTICIPATING STATE.—The term 'participating State' means a State that has an agreement with the Secretary to provide the Secretary, for purposes of identity verification in the System, with photographs and appropriate identifying information maintained by the State.

''(ii) REQUIREMENT FOR IDENTITY AUTHENTICATION.—In addition to verifying the documents specified in subparagraph (C), (D), or (E), the System shall require each employer to verify the identity of each new hire using the identity authentication mechanism described in clause (iii) or, for an individual whose identity is not able to be verified using that mechanism, to use the additional security measures provided in clause (iv) after such measures become available. A failure of the System to verify the identity of an individual due to the use of an identity authentication mechanism shall result in a further action notice under subsection (d)(4)(C)(iii).

''(iii) PHOTO TOOL.—

''(I) USE REQUIREMENT.—An employer that hires an individual who has a presented a covered identity document to establish his or her identity and employment authorization under subsection (c) shall verify the identity of such individual using the photo tool described in subclause (II).

''(II) DEVELOPMENT REQUIREMENT.—The Secretary shall develop and maintain a photo tool that enables employers to match the photo on a covered identity document provided to the employer to a photo maintained by a U.S. Citizenship and Immigration Services or other appropriate database.

''(III) INDIVIDUAL QUERIES.—The photo tool capability shall be incorporated into the System and made available to employers not later than 1 year after the date on which regulations are published implementing subsection (d).

''(IV) LIMITATIONS ON USE OF INFORMATION.—Information and images acquired from State motor vehicle databases through the photo tool developed under subclause (II)—

''(aa) may only be used for matching photos to a covered identity document for the purposes of employment verification;

''(bb) shall not be collected or stored by the Federal Government; and

''(cc) may only be disseminated in response to an individual photo tool query.

''(iv) ADDITIONAL SECURITY MEASURES.—

''(I) USE REQUIREMENT.—An employer seeking to hire an individual whose identity is not able to be verified using the photo tool described in clause (iii), because the employee did not present a covered document for employment eligibility verification purposes, shall verify the identity of such individual using the additional security measures described in subclause (II).

''(II) DEVELOPMENT REQUIREMENT.—The Secretary shall develop, after publication in the Federal Register and an opportunity for public comment, specific and effective additional security measures to adequately verify the identity of an individual whose identity is not able to be verified using the photo tool described in clause (iii). Such additional security measures—

''(aa) shall be kept up-to-date with technological advances;

''(bb) shall provide a means of identity authentication in a manner that provides a high level of certainty as to the identity of such individual, using immigration and identifying information that may include review of identity documents or background screening verification techniques using publicly available information; and

''(cc) shall be incorporated into the System and made available to employers not later than 1 year after the date on which regulations are published implementing subsection (d).

''(III) COMPREHENSIVE USE.—An employer may employ the additional security measures set forth in this clause with respect to all individuals the employer hires if the employer notifies the Secretary of such election at the time the employer registers for use of the System under subsection (d)(4)(A)(i) or anytime thereafter. An election under this subclause may be withdrawn 90 days after the employer notifies the Secretary of the employer's intent to discontinue such election.

''(v) AUTOMATED VERIFICATION.—The Secretary—

''(I) may establish a program, in addition to the identity authentication mechanism described in subparagraph (F)(iii), in which the System automatically verifies information contained in a covered identity document issued by a participating State, which is presented under subparagraph (D)(i), including information needed to verify that the covered identity document matches the State's records;

''(II) may not maintain information provided by a participating State in a database maintained by U.S. Citizenship and Immigration Services; and

''(III) may not utilize or disclose such information, except as authorized under this section.

''(G) AUTHORITY TO PROHIBIT USE OF CERTAIN DOCUMENTS.—If the Secretary determines, after publication in the Federal Register and an opportunity for public comment, that any document or class of documents specified in subparagraph (B), (C), or (D) does not reliably establish identity or that employment authorized status is being used fraudulently to an unacceptable degree, the Secretary—

''(i) may prohibit or restrict the use of such document or class of documents for purposes of this subsection; and

''(ii) shall directly notify all employers registered within the System of the prohibition through appropriate means.

''(H) AUTHORITY TO ALLOW USE OF CERTAIN DOCUMENTS.—If the Secretary has determined that another document or class of documents, such as a document issued by a federally recognized Indian tribe, may be used to reliably establish identity or employment authorized status, the Secretary—

''(i) may allow the use of that document or class of documents for purposes of this subsection after publication in the Federal Register and an opportunity for public comment;

''(ii) shall publish a description of any such document or class of documents on the U.S. Citizenship and Immigration Services website; and

''(iii) shall directly notify all employers registered within the System of the addition through appropriate means.

''(2) INDIVIDUAL ATTESTATION OF EMPLOYMENT AUTHORIZATION.—An individual, upon

commencing employment with an employer, shall—

''(A) attest, under penalty of perjury, on the form prescribed by the Secretary, that the individual is—

''(i) a citizen of the United States;

''(ii) an alien lawfully admitted for permanent residence;

''(iii) an alien who has employment authorized status; or

''(iv) otherwise authorized by the Secretary to be hired for such employment;

''(B) provide such attestation by a handwritten, electronic, or digital signature; and

''(C) provide the individual's social security account number to the Secretary, unless the individual has not yet been issued such a number, on such form as the Secretary may require.

''(3) RETENTION OF VERIFICATION RECORD.—

''(A) IN GENERAL.—After completing a form for an individual in accordance with paragraphs (1) and (2), the employer shall retain a version of such completed form and make such form available for inspection by the Secretary or the Office of Special Counsel for Immigration-Related Unfair Employment Practices of the Department of Justice during the period beginning on the hiring date of the individual and ending on the later of—

''(i) the date that is 3 years after such hiring date; or

''(ii) the date that is 1 year after the date on which the individual's employment with the employer is terminated.

''(B) REQUIREMENT FOR ELECTRONIC RETENTION.—The Secretary—

''(i) shall permit an employer to retain the form described in subparagraph (A) in electronic form; and

''(ii) shall permit an employer to retain such form in paper, microfiche, microfilm, portable document format, or other media.

''(4) COPYING OF DOCUMENTATION AND RECORDKEEPING.—The Secretary may promulgate regulations regarding—

''(A) copying documents and related information pertaining to employment verification presented by an individual under this subsection; and

''(B) retaining such information during a period not to exceed the required retention period set forth in paragraph (3).

''(5) PENALTIES.—An employer that fails to comply with any requirement under this subsection may be penalized under subsection (e)(4)(B).

''(6) PROTECTION OF CIVIL RIGHTS.—

''(A) IN GENERAL.—Nothing in this section may be construed to diminish any rights otherwise protected by Federal law.

''(B) PROHIBITION ON DISCRIMINATION.—An employer shall use the procedures for document verification set forth in this paragraph for all employees without regard to race, color, religion, sex, national origin, or, unless specifically permitted in this section, to citizenship status.

''(7) RECEIPTS.—The Secretary may authorize the use of receipts for replacement documents, and temporary evidence of employment authorization by an individual to meet a documentation requirement under this subsection on a temporary basis not to exceed 1 year, after which time the individual shall provide documentation sufficient to satisfy the documentation requirements under this subsection.

''(8) NO AUTHORIZATION OF NATIONAL IDENTIFICATION CARDS.—Nothing in this section may be construed to directly or indirectly authorize the issuance, use, or establishment of a national identification card.

''(d) EMPLOYMENT VERIFICATION SYSTEM.—

''(1) IN GENERAL.—

''(A) ESTABLISHMENT.—The Secretary, in consultation with the Commissioner, shall establish the Employment Verification System.

''(B) MONITORING.—The Secretary shall create the necessary processes to monitor—

''(i) the functioning of the System, including the volume of the workflow, the speed of processing of queries, the speed and accuracy of responses;

''(ii) the misuse of the System, including the prevention of fraud or identity theft;

''(iii) whether the use of the System results in wrongful adverse actions or discrimination based upon a prohibited factor against citizens or nationals of the United States or individuals who have employment authorized status; and

''(iv) the security, integrity, and privacy of the System.

''(C) PROCEDURES.—The Secretary—

''(i) shall create processes to provide an individual with direct access to the individual's case history in the System, including—

''(I) the identities of all persons or entities that have queried the individual through the System;

''(II) the date of each such query; and

''(III) the System response for each such query; and

''(ii) in consultation with the Commissioner, shall develop—

''(I) protocols to notify an individual, in a timely manner through the use of electronic correspondence or mail, that a query for the individual has been processed through the System; or

''(II) a process for the individual to submit additional queries to the System or notify the Secretary of potential identity fraud.

''(2) PARTICIPATION REQUIREMENTS.—

''(A) FEDERAL GOVERNMENT.—Except as provided in subparagraph (B), all agencies and departments in the executive, legislative, or judicial branches of the Federal Government shall participate in the System beginning on the earlier of—

''(i) the date of the enactment of the Border Security, Economic Opportunity, and Immigration Modernization Act, to the extent required under section 402(e)(1) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208; 8 U.S.C. 1324a) and as already implemented by each agency or department; or

''(ii) the date that is 90 days after the date of the enactment of the Border Security, Economic Opportunity, and Immigration Modernization Act.

''(B) FEDERAL CONTRACTORS.—Federal contractors shall participate in the System as provided in the final rule relating to employment eligibility verification published in the Federal Register on November 14, 2008 (73 Fed. Reg. 67,651), or any similar subsequent regulation, for which purpose references to E-Verify in the final rule shall be construed to apply to the System.

''(C) CRITICAL INFRASTRUCTURE.—

''(i) IN GENERAL.—Beginning on the date that is 1 year after the date on which regulations are published implementing this subsection, the Secretary may authorize or direct any employer, person, or entity responsible for granting access to, protecting, securing, operating, administering, or regulating part of the critical infrastructure (as defined in section 1016(e) of the Critical Infrastructure Protection Act of 2001 (42 U.S.C. 5195c(e))) to participate in the System to the extent the Secretary determines that such participation will assist in the protection of the critical infrastructure.

''(ii) NOTIFICATION TO EMPLOYERS.—The Secretary shall notify an employer required to participate in the System under this subparagraph not later than 90 days before the date on which the employer is required to participate.

''(D) EMPLOYERS WITH MORE THAN 10,000 EMPLOYEES.—Not later than 1 year after regulations are published implementing this subsection, all employers with more than 10,000 employees shall participate in the System with respect to all newly hired employees and employees with expiring temporary employment authorization documents.

''(E) EMPLOYERS WITH MORE THAN 500 EMPLOYEES.—Not later than 2 years after regulations are published implementing this subsection, all employers with more than 500 employees shall participate in the System with respect to all newly hired employees and employees with expiring temporary employment authorization documents.

''(F) EMPLOYERS WITH MORE THAN 20 EMPLOYEES.—Not later than 3 years after regulations are published implementing this subsection, all employers with more than 20 employees shall participate in the System with respect to all newly hired employees and employees with expiring temporary employment authorization documents.

''(G) AGRICULTURAL EMPLOYMENT.—Not later than 4 years after regulations are published implementing this subsection, employers of employees performing agricultural employment (as defined in section 218A of this Act and section 2202 of the Border Security, Economic Opportunity, and Immigration Modernization Act) shall participate in the System with respect to all newly hired employees and employees with expiring temporary employment authorization documents. An agricultural employee shall not be counted for purposes of subparagraph (D), (E), or (F).

''(H) ALL EMPLOYERS.—Not later than 4 years after regulations are published implementing this subsection, all employers shall participate in the System with respect to all newly hired employees and employees with expiring temporary employment authorization documents.

''(I) TRIBAL GOVERNMENT EMPLOYERS.—

''(i) RULEMAKING.—In developing regulations to implement this subsection, the Secretary shall—

''(I) consider the effects of this section on federally recognized Indian tribes and tribal members; and

''(II) consult with the governments of federally recognized Indian tribes.

''(ii) REQUIRED PARTICIPATION.—Not later than 4 years after regulations are published implementing this subsection, all employers owned by, or entities of, the government of a federally recognized Indian tribe shall participate in the System with respect to all newly hired employees and employees with expiring temporary employment authorization documents.

''(J) IMMIGRATION LAW VIOLATORS.—

''(i) ORDERS FINDING VIOLATIONS.—An order finding any employer to have violated this section or section 274C may, in the Secretary's discretion, require the employer to participate in the System with respect to newly hired employees and employees with expiring temporary employment authorization documents, if such employer is not otherwise required to participate in the System under this section. The Secretary shall monitor such employer's compliance with System procedures.

''(ii) PATTERN OR PRACTICE OF VIOLATIONS.—The Secretary may require an employer that is required to participate in the System with respect to newly hired employees to participate in the System with respect to the employer's current employees if the employer is determined by the Secretary or other appropriate authority to have engaged in a pattern or practice of violations of the immigration laws of the United States.

''(K) VOLUNTARY PARTICIPATION.—The Secretary may permit any employer that is not

required to participate in the System under this section to do so on a voluntary basis.

''(3) CONSEQUENCE OF FAILURE TO PARTICIPATE.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the failure, other than a de minimis or inadvertent failure, of an employer that is required to participate in the System to comply with the requirements of the System with respect to an individual—

''(i) shall be treated as a violation of subsection (a)(1)(B) with respect to that individual; and

''(ii) creates a rebuttable presumption that the employer has violated paragraph (1)(A) or (2) of subsection (a).

''(B) EXCEPTION.—

''(i) IN GENERAL.—Subparagraph (A) shall not apply in a criminal prosecution.

''(ii) USE AS EVIDENCE.—Nothing in this paragraph may be construed to limit the use in the prosecution of a Federal crime, in a manner otherwise consistent with Federal criminal law and procedure, of evidence relating to the employer's failure to comply with requirements of the System.

''(4) PROCEDURES FOR PARTICIPANTS IN THE SYSTEM.—

''(A) IN GENERAL.—An employer participating in the System shall register such participation with the Secretary and, when hiring any individual for employment in the United States, shall comply with the following:

''(i) REGISTRATION OF EMPLOYERS.—The Secretary, through notice in the Federal Register, shall prescribe procedures that employers shall be required to follow to register with the System.

''(ii) UPDATING INFORMATION.—The employer is responsible for providing notice of any change to the information required under subclauses (I), (II), and (III) of clause (v) before conducting any further inquiries within the System, or on such other schedule as the Secretary may prescribe.

''(iii) TRAINING.—The Secretary shall require employers to undergo such training as the Secretary determines to be necessary to ensure proper use, protection of civil rights and civil liberties, privacy, integrity, and security of the System. To the extent practicable, such training shall be made available electronically on the U.S. Citizenship and Immigration Services website.

''(iv) NOTIFICATION TO EMPLOYEES.—The employer shall inform individuals hired for employment that the System—

''(I) will be used by the employer;

''(II) may be used for immigration enforcement purposes; and

''(III) may not be used to discriminate or to take adverse action against a national of the United States or an alien who has employment authorized status.

''(v) PROVISION OF ADDITIONAL INFORMATION.—The employer shall obtain from the individual (and the individual shall provide) and shall record in such manner as the Secretary may specify—

''(I) the individual's social security account number;

''(II) if the individual does not attest to United States citizenship or status as a national of the United States under subsection (c)(2), such identification or authorization number established by the Department as the Secretary shall specify; and

''(III) such other information as the Secretary may require to determine the identity and employment authorization of an individual.

''(vi) PRESENTATION OF DOCUMENTATION.—The employer, and the individual whose identity and employment authorized status are being confirmed, shall fulfill the requirements under subsection (c).

''(B) SEEKING CONFIRMATION.—

''(i) IN GENERAL.—An employer shall use the System to confirm the identity and employment authorized status of any individual during—

''(I) the period beginning on the date on which the individual accepts an offer of employment and ending 3 business days after the date on which employment begins; or

''(II) such other reasonable period as the Secretary may prescribe.

''(ii) LIMITATION.—An employer may not make the starting date of an individual's employment or training or any other term and condition of employment dependent on the receipt of a confirmation of identity and employment authorized status by the System.

''(iii) REVERIFICATION.—If an individual has a limited period of employment authorized status, the individual's employer shall reverify such status through the System not later than 3 business days after the last day of such period.

''(iv) OTHER EMPLOYMENT.—For employers directed by the Secretary to participate in the System under paragraph (2)(C)(i) to protect critical infrastructure or otherwise specified circumstances in this section to verify their entire workforce, the System may be used for initial verification of an individual who was hired before the employer became subject to the System, and the employer shall initiate all required procedures on or before such date as the Secretary shall specify.

''(v) NOTIFICATION.—

''(I) IN GENERAL.—The Secretary shall provide, and the employer shall utilize, as part of the System, a method of notifying employers of a confirmation or nonconfirmation of an individual's identity and employment authorized status, or a notice that further action is required to verify such identity or employment eligibility (referred to in this subsection as a further action notice).

''(II) PROCEDURES.—The Secretary shall—

''(aa) directly notify the individual and the employer, by means of electronic correspondence, mail, text message, telephone, or other direct communication, of a nonconfirmation or further action notice;

''(bb) provide information about filing an administrative appeal under paragraph (6) and a filing for review before an administrative law judge under paragraph (7); and

''(cc) establish procedures to directly notify the individual and the employer of a confirmation.

''(III) IMPLEMENTATION.—The Secretary may provide for a phased-in implementation of the notification requirements under this clause, as appropriate. The notification system shall cover all inquiries not later than 1 year from the date of the enactment of the Border Security, Economic Opportunity, and Immigration Modernization Act.

''(C) CONFIRMATION OR NONCONFIRMATION.—

''(i) INITIAL RESPONSE.—

''(I) IN GENERAL.—Except as provided in subclause (II), the System shall provide—

''(aa) a confirmation of an individual's identity and employment authorized status or a further action notice at the time of the inquiry; and

''(bb) an appropriate code indicating such confirmation or such further action notice.

''(II) ALTERNATIVE DEADLINE.—If the System is unable to provide immediate confirmation or further action notice for technological reasons or due to unforeseen circumstances, the System shall provide a confirmation or further action notice not later than 3 business days after the initial inquiry.

''(ii) CONFIRMATION UPON INITIAL INQUIRY.—If the employer receives an appropriate confirmation of an individual's identity and employment authorized status under the System, the employer shall record the confirmation in such manner as the Secretary may specify.

''(iii) FURTHER ACTION NOTICE AND LATER CONFIRMATION OR NONCONFIRMATION.—

''(I) NOTIFICATION AND ACKNOWLEDGMENT THAT FURTHER ACTION IS REQUIRED.—Not later than 3 business days after an employer receives a further action notice of an individual's identity or employment eligibility under the System, or during such other reasonable time as the Secretary may prescribe, the employer shall notify the individual for whom the confirmation is sought of the further action notice and any procedures specified by the Secretary for addressing such notice. The further action notice shall be given to the individual in writing and the employer shall acknowledge in the System under penalty of perjury that it provided the employee with the further action notice. The individual shall affirmatively acknowledge in writing, or in such other manner as the Secretary may specify, the receipt of the further action notice from the employer. If the individual refuses to acknowledge the receipt of the further action notice, or acknowledges in writing that the individual will not contest the further action notice under subclause (II), the employer shall notify the Secretary in such manner as the Secretary may specify.

''(II) CONTEST.—Not later than 10 business days after receiving notification of a further action notice under subclause (I), the individual shall contact the appropriate Federal agency and, if the Secretary so requires, appear in person for purposes of verifying the individual's identity and employment eligibility. The Secretary, in consultation with the Commissioner and other appropriate Federal agencies, shall specify an available secondary verification procedure to confirm the validity of information provided and to provide a confirmation or nonconfirmation. Any procedures for reexamination shall not limit in any way an employee's right to appeal a nonconfirmation.

''(III) NO CONTEST.—If the individual refuses to acknowledge receipt of the further action notice, acknowledges that the individual will not contest the further action notice as provided in subclause (I), or does not contact the appropriate Federal agency within the period specified in subclause (II), following expiration of the period specified in subclause (II), a nonconfirmation shall be issued. The employer shall record the nonconfirmation in such manner as the Secretary may specify and terminate the individual's employment. An individual's failure to contest a further action notice shall not be considered an admission of guilt with respect to any violation of this section or any provision of law.

''(IV) CONFIRMATION OR NONCONFIRMATION.—Unless the period is extended in accordance with this subclause, the System shall provide a confirmation or nonconfirmation not later than 10 business days after the date on which the individual contests the further action notice under subclause (II). If the Secretary determines that good cause exists, after taking into account adverse impacts to the employer, and including time to permit the individual to obtain and provide needed evidence of identity or employment eligibility, the Secretary shall extend the period for providing confirmation or nonconfirmation for stated periods beyond 10 business days. When confirmation or nonconfirmation is provided, the confirmation system shall provide an appropriate code indicating such confirmation or nonconfirmation.

''(V) REEXAMINATION.—Nothing in this section shall prevent the Secretary from establishing procedures to reexamine a case where a confirmation or nonconfirmation has been

provided if subsequently received information indicates that the confirmation or nonconfirmation may not have been correct. Any procedures for reexamination shall not limit in any way an employee's right to appeal a nonconfirmation.

''(VI) EMPLOYEE PROTECTIONS.—An employer may not terminate employment or take any other adverse action against an individual solely because of a failure of the individual to have identity and employment eligibility confirmed under this subsection until—

''(aa) a nonconfirmation has been issued;

''(bb) if the further action notice was contested, the period to timely file an administrative appeal has expired without an appeal or the contestation to the further action notice is withdrawn; or

''(cc) if an appeal before an administrative law judge under paragraph (7) has been filed, the nonconfirmation has been upheld or the appeal has been withdrawn or dismissed.

''(iv) NOTICE OF NONCONFIRMATION.—Not later than 3 business days after an employer receives a nonconfirmation, or during such other reasonable time as the Secretary may provide, the employer shall notify the individual who is the subject of the nonconfirmation, and provide information about filing an administrative appeal pursuant to paragraph (6) and a request for a hearing before an administrative law judge pursuant to paragraph (7). The nonconfirmation notice shall be given to the individual in writing and the employer shall acknowledge in the System under penalty of perjury that it provided the notice (or adequately attempted to provide notice, but was unable to do so despite reasonable efforts). The individual shall affirmatively acknowledge in writing, or in such other manner as the Secretary may prescribe, the receipt of the nonconfirmation notice from the employer. If the individual refuses or fails to acknowledge the receipt of the nonconfirmation notice, the employer shall notify the Secretary in such manner as the Secretary may prescribe.

''(D) CONSEQUENCES OF NONCONFIRMATION.—

''(i) TERMINATION OF CONTINUED EMPLOYMENT.—Except as provided in clause (iii), an employer that has received a nonconfirmation regarding an individual and has made reasonable efforts to notify the individual in accordance with subparagraph (C)(iv) shall terminate the employment of the individual upon the expiration of the time period specified in paragraph (7).

''(ii) CONTINUED EMPLOYMENT AFTER NONCONFIRMATION.—If the employer continues to employ an individual after receiving nonconfirmation and exhaustion of all appeals or expiration of all rights to appeal if not appealed, in violation of clause (i), a rebuttable presumption is created that the employer has violated paragraphs (1)(A) and (2) of subsection (a). Such presumption shall not apply in any prosecution under subsection (k)(1).

''(iii) EFFECT OF ADMINISTRATIVE APPEAL OR REVIEW BY ADMINISTRATIVE LAW JUDGE.—If an individual files an administrative appeal of the nonconfirmation within the time period specified in paragraph (6)(A), or files for review with an administrative law judge specified in paragraph (7)(A), the employer shall not terminate the individual's employment under this subparagraph prior to the resolution of the administrative appeal unless the Secretary or Commissioner terminates the stay under paragraph (6)(B) or (7)(B).

''(iv) WEEKLY REPORT.—The Director of U.S. Citizenship and Immigration Services shall submit a weekly report to the Assistant Secretary for Immigration and Customs Enforcement that includes, for each individual who receives final nonconfirmation through the System—

''(I) the name of such individual;

''(II) his or her social security number or alien file number;

''(III) the name and contact information for his or her current employer; and

''(IV) any other critical information that the Assistant Secretary determines to be appropriate.

''(v) OTHER REFERRAL.—The Director of U.S. Citizenship and Immigration Services shall refer to the Assistant Secretary for Immigration and Customs Enforcement for appropriate action by the Assistant Secretary or for referral by the Assistant Secretary to another law enforcement agency, as appropriate—

''(I) any case in which the Director believes that a social security number has been falsely or fraudulently used; and

''(II) any case in which a false or fraudulent document is used by an employee who has received a further action notice to resolve such notice.

''(E) OBLIGATION TO RESPOND TO QUERIES AND ADDITIONAL INFORMATION.—

''(i) IN GENERAL.—Employers shall comply with requests for information from the Secretary and the Special Counsel for Immigration-Related Unfair Employment Practices of the Department of Justice, including queries concerning current and former employees, within the time frame during which records are required to be maintained under this section regarding such former employees, if such information relates to the functioning of the System, the accuracy of the responses provided by the System, or any suspected misuse, discrimination, fraud, or identity theft in the use of the System. Failure to comply with a request under this clause constitutes a violation of subsection (a)(1)(B).

''(ii) ACTION BY INDIVIDUALS.—

''(I) IN GENERAL.—Individuals being verified through the System may be required to take further action to address questions identified by the Secretary or the Commissioner regarding the documents relied upon for purposes of subsection (c).

''(II) NOTIFICATION.—Not later than 3 business days after the receipt of such questions regarding an individual, or during such other reasonable time as the Secretary may prescribe, the employer shall—

''(aa) notify the individual of any such requirement for further actions; and

''(bb) record the date and manner of such notification.

''(III) ACKNOWLEDGMENT.—The individual shall acknowledge the notification received from the employer under subclause (II) in writing, or in such other manner as the Secretary may prescribe.

''(iii) RULEMAKING.—

''(I) IN GENERAL.—The Secretary, in consultation with the Commissioner and the Attorney General, is authorized to issue regulations implementing, clarifying, and supplementing the requirements under this subparagraph—

''(aa) to facilitate the functioning, accuracy, and fairness of the System;

''(bb) to prevent misuse, discrimination, fraud, or identity theft in the use of the System; or

''(cc) to protect and maintain the confidentiality of information that could be used to locate or otherwise place at risk of harm victims of domestic violence, dating violence, sexual assault, stalking, and human trafficking, and of the applicant or beneficiary of any petition described in section 384(a)(2) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1367(a)(2)).

''(II) NOTICE.—The regulations issued under subclause (I) shall be—

''(aa) published in the Federal Register; and

''(bb) provided directly to all employers registered in the System.

''(F) DESIGNATED AGENTS.—The Secretary shall establish a process—

''(i) for certifying, on an annual basis or at such times as the Secretary may prescribe, designated agents and other System service providers seeking access to the System to perform verification queries on behalf of employers, based upon training, usage, privacy, and security standards prescribed by the Secretary;

''(ii) for ensuring that designated agents and other System service providers are subject to monitoring to the same extent as direct access users; and

''(iii) for establishing standards for certification of electronic I–9 programs.

''(G) REQUIREMENT TO PROVIDE INFORMATION.—

''(i) IN GENERAL.—No later than 3 months after the date of the enactment of the Border Security, Economic Opportunity, and Immigration Modernization Act, the Secretary, in consultation with the Secretary of Labor, the Secretary of Agriculture, the Commissioner, the Attorney General, the Equal Employment Opportunity Commission, and the Administrator of the Small Business Administration, shall commence a campaign to disseminate information respecting the procedures, rights, and remedies prescribed under this section.

''(ii) CAMPAIGN REQUIREMENTS.—The campaign authorized under clause (i)—

''(I) shall be aimed at increasing the knowledge of employers, employees, and the general public concerning employer and employee rights, responsibilities, and remedies under this section; and

''(II) shall be coordinated with the public education campaign conducted by U.S. Citizenship and Immigration Services.

''(iii) ASSESSMENT.—The Secretary shall assess the success of the campaign in achieving the goals of the campaign.

''(iv) AUTHORITY TO CONTRACT.—In order to carry out and assess the campaign under this subparagraph, the Secretary may, to the extent deemed appropriate and subject to the availability of appropriations, contract with public and private organizations for outreach and assessment activities under the campaign.

''(v) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this paragraph $40,000,000 for each of the fiscal years 2014 through 2016.

''(H) AUTHORITY TO MODIFY INFORMATION REQUIREMENTS.—Based on a regular review of the System and the document verification procedures to identify misuse or fraudulent use and to assess the security of the documents and processes used to establish identity or employment authorized status, the Secretary, in consultation with the Commissioner, after publication of notice in the Federal Register and an opportunity for public comment, may modify, if the Secretary determines that the modification is necessary to ensure that the System accurately and reliably determines the identity and employment authorized status of employees and maintain existing protections against misuse, discrimination, fraud, and identity theft—

''(i) the information that shall be presented to the employer by an individual;

''(ii) the information that shall be provided to the System by the employer; and

''(iii) the procedures that shall be followed by employers with respect to the process of verifying an individual through the System.

''(I) SELF-VERIFICATION.—Subject to appropriate safeguards to prevent misuse of the system, the Secretary, in consultation with

the Commissioner, shall establish a secure self-verification procedure to permit an individual who seeks to verify the individual's own employment eligibility to contact the appropriate agency and, in a timely manner, correct or update the information contained in the System.

''(5) PROTECTION FROM LIABILITY FOR ACTIONS TAKEN ON THE BASIS OF INFORMATION PROVIDED BY THE SYSTEM.—An employer shall not be liable to a job applicant, an employee, the Federal Government, or a State or local government, under Federal, State, or local criminal or civil law for any employment-related action taken with respect to a job applicant or employee in good faith reliance on information provided by the System.

''(6) ADMINISTRATIVE APPEAL.—

''(A) IN GENERAL.—An individual who is notified of a nonconfirmation may, not later than 10 business days after the date that such notice is received, file an administrative appeal of such nonconfirmation with the Commissioner if the notice is based on records maintained by the Commissioner, or in any other case, with the Secretary. An individual who did not timely contest a further action notice timely received by that individual for which the individual acknowledged receipt may not be granted a review under this paragraph.

''(B) ADMINISTRATIVE STAY OF NONCONFIRMATION.—The nonconfirmation shall be automatically stayed upon the timely filing of an administrative appeal, unless the nonconfirmation resulted after the individual acknowledged receipt of the further action notice but failed to contact the appropriate agency within the time provided. The stay shall remain in effect until the resolution of the appeal, unless the Secretary or the Commissioner terminates the stay based on a determination that the administrative appeal is frivolous or filed for purposes of delay.

''(C) REVIEW FOR ERROR.—The Secretary and the Commissioner shall develop procedures for resolving administrative appeals regarding nonconfirmations based upon the information that the individual has provided, including any additional evidence or argument that was not previously considered. Any such additional evidence or argument shall be filed within 10 business days of the date the appeal was originally filed. Appeals shall be resolved within 20 business days after the individual has submitted all evidence and arguments the individual wishes to submit, or has stated in writing that there is no additional evidence that the individual wishes to submit. The Secretary and the Commissioner may, on a case by case basis for good cause, extend the filing and submission period in order to ensure accurate resolution of an appeal before the Secretary or the Commissioner.

''(D) PREPONDERANCE OF EVIDENCE.—Administrative appeal under this paragraph shall be limited to whether a nonconfirmation notice is supported by a preponderance of the evidence.

''(E) DAMAGES, FEES, AND COSTS.—No money damages, fees or costs may be awarded in the administrative appeal process under this paragraph.

''(7) REVIEW BY ADMINISTRATIVE LAW JUDGE.—

''(A) IN GENERAL.—Not later than 30 days after the date an individual receives a final determination on an administrative appeal under paragraph (6), the individual may obtain review of such determination by filing a complaint with a Department of Justice administrative law judge in accordance with this paragraph.

''(B) STAY OF NONCONFIRMATION.—The nonconfirmation related to such final determination shall be automatically stayed upon the timely filing of a complaint under this paragraph, and the stay shall remain in effect until the resolution of the complaint, unless the administrative law judge determines that the action is frivolous or filed for purposes of delay.

''(C) SERVICE.—The respondent to complaint filed under this paragraph is either the Secretary or the Commissioner, but not both, depending upon who issued the administrative order under paragraph (6). In addition to serving the respondent, the plaintiff shall serve the Attorney General.

''(D) AUTHORITY OF ADMINISTRATIVE LAW JUDGE.—

''(i) RULES OF PRACTICE.—The Secretary shall promulgate regulations regarding the rules of practice in appeals brought pursuant to this subsection.

''(ii) AUTHORITY OF ADMINISTRATIVE LAW JUDGE.—The administrative law judge shall have power to—

''(I) terminate a stay of a nonconfirmation under subparagraph (B) if the administrative law judge determines that the action is frivolous or filed for purposes of delay;

''(II) adduce evidence at a hearing;

''(III) compel by subpoena the attendance of witnesses and the production of evidence at any designated place or hearing;

''(IV) resolve claims of identity theft; and

''(V) enter, upon the pleadings and any evidence adduced at a hearing, a decision affirming or reversing the result of the agency, with or without remanding the cause for a rehearing.

''(iii) SUBPOENA.—In case of contumacy or refusal to obey a subpoena lawfully issued under this section and upon application of the administrative law judge, an appropriate district court of the United States may issue an order requiring compliance with such subpoena and any failure to obey such order may be punished by such court as a contempt of such court.

''(iv) TRAINING.—An administrative law judge hearing cases shall have special training respecting employment authorized status verification.

''(E) ORDER BY ADMINISTRATIVE LAW JUDGE.—

''(i) IN GENERAL.—The administrative law judge shall issue and cause to be served to the parties in the proceeding an order which may be appealed as provided in subparagraph (G).

''(ii) CONTENTS OF ORDER.—Such an order shall uphold or reverse the final determination on the request for reconsideration and order lost wages and other appropriate remedies as provided in subparagraph (F).

''(F) COMPENSATION FOR ERROR.—

''(i) IN GENERAL.—In cases in which the administrative law judge reverses the final determination of the Secretary or the Commissioner made under paragraph (6), and the administrative law judge finds that—

''(I) the nonconfirmation was due to gross negligence or intentional misconduct of the employer, the administrative law judge may order the employer to pay the individual lost wages, and reasonable costs and attorneys' fees incurred during administrative and judicial review; or

''(II) such final determination was erroneous by reason of the negligence of the Secretary or the Commissioner, the administrative law judge may order the Secretary or the Commissioner to pay the individual lost wages, and reasonable costs and attorneys' fees incurred during the administrative appeal and the administrative law judge review.

''(ii) CALCULATION OF LOST WAGES.—Lost wages shall be calculated based on the wage rate and work schedule that prevailed prior to termination. The individual shall be compensated for wages lost beginning on the first scheduled work day after employment was terminated and ending 120 days after completion of the administrative law judge's review described in this paragraph or the day after the individual is reinstated or obtains employment elsewhere, whichever occurs first. If the individual obtains employment elsewhere at a lower wage rate, the individual shall be compensated for the difference in wages for the period ending 120 days after completion of the administrative law judge review process. No lost wages shall be awarded for any period of time during which the individual was not in employment authorized status.

''(iii) PAYMENT OF COMPENSATION.—Notwithstanding any other law, payment of compensation for lost wages, costs, and attorneys' fees under this paragraph, or compromise settlements of the same, shall be made as provided by section 1304 of title 31, United States Code. Appropriations made available to the Secretary or the Commissioner, accounts provided for under section 286, and funds from the Federal Old-Age and Survivors Insurance Trust Fund or the Federal Disability Insurance Trust Fund shall not be available to pay such compensation.

''(G) APPEAL.—No later than 45 days after the entry of such final order, any person adversely affected by such final order may seek review of such order in the United States Court of Appeals for the circuit in which the violation is alleged to have occurred or in which the employer resides or transacts business.

''(8) MANAGEMENT OF THE SYSTEM.—

''(A) IN GENERAL.—The Secretary is authorized to establish, manage, and modify the System, which shall—

''(i) respond to inquiries made by participating employers at any time through the internet, or such other means as the Secretary may designate, concerning an individual's identity and whether the individual is in employment authorized status;

''(ii) maintain records of the inquiries that were made, of confirmations provided (or not provided), and of the codes provided to employers as evidence of their compliance with their obligations under the System; and

''(iii) provide information to, and require action by, employers and individuals using the System.

''(B) DESIGN AND OPERATION OF SYSTEM.—The System shall be designed and operated—

''(i) to maximize its reliability and ease of use by employers consistent with protecting the privacy and security of the underlying information, and ensuring full notice of such use to employees;

''(ii) to maximize its ease of use by employees, including direct notification of its use, of results, and ability to challenge results;

''(iii) to respond accurately to all inquiries made by employers on whether individuals are authorized to be employed and to register any times when the system is unable to receive inquiries;

''(iv) to maintain appropriate administrative, technical, and physical safeguards to prevent unauthorized disclosure of personal information, misuse by employers and employees, and discrimination;

''(v) to require regularly scheduled refresher training of all users of the System to ensure compliance with all procedures;

''(vi) to allow for auditing of the use of the System to detect misuse, discrimination, fraud, and identity theft, to protect privacy and assess System accuracy, and to preserve the integrity and security of the information in all of the System, including—

''(I) to develop and use tools and processes to detect or prevent fraud and identity theft, such as multiple uses of the same identifying information or documents to fraudulently gain employment;

''(II) to develop and use tools and processes to detect and prevent misuse of the system by employers and employees;

''(III) to develop tools and processes to detect anomalies in the use of the system that may indicate potential fraud or misuse of the system;

''(IV) to audit documents and information submitted by employees to employers, including authority to conduct interviews with employers and employees, and obtain information concerning employment from the employer;

''(vii) to confirm identity and employment authorization through verification and comparison of records as determined necessary by the Secretary;

''(viii) to confirm electronically the issuance of the employment authorization or identity document and—

''(I) if such photograph is available, to display the digital photograph that the issuer placed on the document so that the employer can compare the photograph displayed to the photograph on the document presented by the employee; or

''(II) if a photograph is not available from the issuer, to confirm the authenticity of the document using additional security measures set forth in subsection (c)(1)(F)(iv);

''(ix) to employ specific and effective additional security measures set forth in subsection (c)(1)(F)(iv) to adequately verify the identity of an individual that are designed and operated—

''(I) to use state-of-the-art technology to determine to a high degree of accuracy whether an individual presenting biographic information is the individual with that true identity;

''(II) to retain under the control of the Secretary the use of all determinations communicated by the System, regardless of the entity operating the system pursuant to a contract or other agreement with a nongovernmental entity or entities to the extent helpful in acquiring the best technology to implement the additional security measures;

''(III) to be integrated with the System so that employment authorizations will be determined for all individuals identified as presenting their true identities through the databases maintained by the Commissioner of Social Security and the Secretary;

''(IV) to use tools and processes to detect and prevent further action notices and final nonconfirmations that are not correlated to fraud or identity theft;

''(V) to make risk-based assessments regarding the reliability of a claim of identity made by an individual presenting biographic information and to tailor the identity determination in accordance with those assessments;

''(VI) to permit queries to be presented to individuals subject to identity verification at the time their identities are being verified in a manner that permits rapid communication through Internet, mobile phone, and landline telephone connections to facilitate identity proofing;

''(VII) to generate queries that conform to the context of the identity verification process and the circumstances of the individual whose identity is being verified;

''(VIII) to use publicly available databases and databases under the jurisdiction of the Commissioner of Social Security, the Secretary, and the Secretary of State to formulate queries to be presented to individuals whose identities are being verified, as appropriate;

''(IX) to not retain data collected by the System within any database separate from the database in which the operating system is located and to limit access to the existing databases to a reference process that shields the operator of the System from acquiring possession of the data beyond the formulation of queries and verification of responses;

''(X) to not permit individuals or entities using the System to access any data related to the individuals whose identities are being verified beyond confirmations, further action notices, and final nonconfirmations of identity;

''(XI) to include, if feasible, a capability for permitting document or other inputs that can be offered to individuals and entities using the System and that may be used at the option of employees to facilitate identity verification, but would not be required of either employers or employees; and

''(XII) to the greatest extent possible, in accordance with the time frames specified in this section; and

''(x) to provide appropriate notification directly to employers registered with the System of all changes made by the Secretary or the Commissioner related to allowed and prohibited documents, and use of the System.

''(C) SAFEGUARDS TO THE SYSTEM.—

''(i) REQUIREMENT TO DEVELOP.—The Secretary, in consultation with the Commissioner and other appropriate Federal and State agencies, shall develop policies and procedures to ensure protection of the privacy and security of personally identifiable information and identifiers contained in the records accessed or maintained by the System. The Secretary, in consultation with the Commissioner and other appropriate Federal and State agencies, shall develop and deploy appropriate privacy and security training for the Federal and State employees accessing the records under the System.

''(ii) PRIVACY AUDITS.—The Secretary, acting through the Chief Privacy Officer of the Department, shall conduct regular privacy audits of the policies and procedures established under clause (i) and the Department's compliance with the limitations set forth in subsection (c)(1)(F)(iii)(IV), including any collection, use, dissemination, and maintenance of personally identifiable information and any associated information technology systems, as well as scope of requests for this information. The Chief Privacy Officer shall review the results of the audits and recommend to the Secretary any changes necessary to improve the privacy protections of the program.

''(iii) ACCURACY AUDITS.—

''(I) IN GENERAL.—Not later than November 30 of each year, the Inspector General of the Department of Homeland Security shall submit a report to the Secretary, with a copy to the President of the Senate and the Speaker of the House of Representatives, that sets forth the error rate of the System for the previous fiscal year and the assessments required to be submitted by the Secretary under subparagraphs (A) and (B) of paragraph (10). The report shall describe in detail the methodology employed for purposes of the report, and shall make recommendations for how error rates may be reduced.

''(II) ERROR RATE DEFINED.—In this clause, the term error rate means the percentage determined by dividing—

''(aa) the number of employment authorized individuals who received further action notices, contested such notices, and were subsequently found to be employment authorized; by

''(bb) the number of System inquiries submitted for employment authorized individuals.

''(III) ERROR RATE DETERMINATION.—The audits required under this clause shall—

''(aa) determine the error rate for identity determinations pursuant to subsection (c)(1)(F) for individuals presenting their true identities in the same manner and applying the same standards as for employment authorization; and

''(bb) include recommendations, as provided in subclause (I), but no reduction in fines pursuant to subclause (IV).

''(IV) REDUCTION OF PENALTIES FOR RECORD-KEEPING OR VERIFICATION PRACTICES FOLLOWING PERSISTENT SYSTEM INACCURACIES.—Notwithstanding subsection (e)(4)(C)(i), in any calendar year following a report by the Inspector General under subclause (I) that the System had an error rate higher than 0.3 percent for the previous fiscal year, the civil penalty assessable by the Secretary or an administrative law judge under that subsection for each first-time violation by an employer who has not previously been penalized under this section may not exceed $1,000.

''(iv) RECORDS SECURITY PROGRAM.—Any person, including a private third party vendor, who retains document verification or System data pursuant to this section shall implement an effective records security program that—

''(I) ensures that only authorized personnel have access to document verification or System data; and

''(II) ensures that whenever such data is created, completed, updated, modified, altered, or corrected in electronic format, a secure record is created that establishes the date of access, the identity of the individual who accessed the electronic record, and the particular action taken.

''(v) RECORDS SECURITY PROGRAM.—In addition to the security measures described in clause (iv), a private third party vendor who retains document verification or System data pursuant to this section shall implement an effective records security program that—

''(I) provides for backup and recovery of any records maintained in electronic format to protect against information loss, such as power interruptions; and

''(II) ensures that employees are trained to minimize the risk of unauthorized or accidental alteration or erasure of such data in electronic format.

''(vi) AUTHORIZED PERSONNEL DEFINED.—In this subparagraph, the term authorized personnel means anyone registered as a System user, or anyone with partial or full responsibility for completion of employment authorization verification or retention of data in connection with employment authorization verification on behalf of an employer.

''(D) AVAILABLE FACILITIES AND ALTERNATIVE ACCOMMODATIONS.—The Secretary shall make appropriate arrangements and develop standards to allow employers or employees, including remote hires, who are otherwise unable to access the System to use electronic and telephonic formats (including video conferencing, scanning technology, and other available technologies), Federal Government facilities, public facilities, or other available locations in order to utilize the System.

''(E) RESPONSIBILITIES OF THE SECRETARY.—

''(i) IN GENERAL.—As part of the System, the Secretary shall maintain a reliable, secure method, which, operating through the System and within the time periods specified, compares the name, alien identification or authorization number, or other information as determined relevant by the Secretary, provided in an inquiry against such information maintained or accessed by the Secretary in order to confirm (or not confirm) the validity of the information provided, the correspondence of the name and number, whether the alien has employment authorized status (or, to the extent that the Secretary determines to be feasible and appropriate, whether the records available to the Secretary verify the identity or status of a national of the United States), and such

other information as the Secretary may prescribe.

''(ii) PHOTOGRAPH DISPLAY.—As part of the System, the Secretary shall establish a reliable, secure method, which, operating through the System, displays the digital photograph described in subparagraph (B)(viii)(I).

''(iii) TIMING OF NOTICES.—The Secretary shall have authority to prescribe when a confirmation, nonconfirmation, or further action notice shall be issued.

''(iv) USE OF INFORMATION.—The Secretary shall perform regular audits under the System, as described in subparagraph (B)(vi) and shall utilize the information obtained from such audits, as well as any information obtained from the Commissioner pursuant to part E of title XI of the Social Security Act (42 U.S.C. 1301 et seq.), for the purposes of this section and to administer and enforce the immigration laws.

''(v) IDENTITY FRAUD PROTECTION.—To prevent identity fraud, not later than 18 months after the date of the enactment of the Border Security, Economic Opportunity, and Immigration Modernization Act, the Secretary shall—

''(I) in consultation with the Commissioner, establish a program to provide a reliable, secure method for an individual to temporarily suspend or limit the use of the individual's social security account number or other identifying information for verification by the System; and

''(II) for each individual being verified through the System—

''(aa) notify the individual that the individual has the option to limit the use of the individual's social security account number or other identifying information for verification by the System; and

''(bb) provide instructions to the individuals for exercising the option referred to in item (aa).

''(vi) ALLOWING PARENTS TO PREVENT THEFT OF THEIR CHILD'S IDENTITY.—The Secretary, in consultation with the Commissioner, shall establish a program that provides a reliable, secure method by which parents or legal guardians may suspend or limit the use of the social security account number or other identifying information of a minor under their care for the purposes of the System. The Secretary may implement the program on a limited pilot program basis before making it fully available to all individuals.

''(vii) PROTECTION FROM MULTIPLE USE.—The Secretary and the Commissioner shall establish a procedure for identifying and handling a situation in which a social security account number has been identified to be subject to unusual multiple use in the System or is otherwise suspected or determined to have been compromised by identity fraud. Such procedure shall include notifying the legitimate holder of the social security number at the appropriate time.

''(viii) MONITORING AND COMPLIANCE UNIT.—The Secretary shall establish or designate a monitoring and compliance unit to detect and reduce identity fraud and other misuse of the System.

''(ix) CIVIL RIGHTS AND CIVIL LIBERTIES ASSESSMENTS.—

''(I) REQUIREMENT TO CONDUCT.—The Secretary shall conduct regular civil rights and civil liberties assessments of the System, including participation by employers, other private entities, and Federal, State, and local government entities.

''(II) REQUIREMENT TO RESPOND.—Employers, other private entities, and Federal, State, and local entities shall timely respond to any request in connection with such an assessment.

''(III) ASSESSMENT AND RECOMMENDATIONS.—The Officer for Civil Rights and Civil Liberties of the Department shall review the results of each such assessment and recommend to the Secretary any changes necessary to improve the civil rights and civil liberties protections of the System.

''(F) GRANTS TO STATES.—

''(i) IN GENERAL.—The Secretary shall create and administer a grant program to help provide funding for reimbursement of the actual costs to States that grant—

''(I) the Secretary access to driver's license information as needed to confirm that a driver's license presented under subsection (c)(1)(D)(i) confirms the identity of the subject of the System check, and that a driver's license matches the State's records; and

''(II) such assistance as the Secretary may request in order to resolve further action notices or nonconfirmations relating to such information.

''(ii) CONSTRUCTION WITH THE DRIVER'S PRIVACY PROTECTION ACT OF 1994.—The provision of a photograph to the Secretary as described in clause (i) may not be construed as a violation of section 2721 of title 18, United States Code, and is a permissible use under subsection (b)(1) of that section.

''(iii) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary, from the Comprehensive Immigration Reform Trust Fund established under section 6(a)(1), $500,000,000 to carry out this subparagraph.

''(G) RESPONSIBILITIES OF THE SECRETARY OF STATE.—As part of the System, the Secretary of State shall provide to the Secretary access to passport and visa information as needed to confirm that a passport, passport card, or visa presented under subsection (c)(1)(C) confirms the identity of the subject of the System check, and that a passport, passport card, or visa photograph matches the Secretary of State's records, and shall provide such assistance as the Secretary may request in order to resolve further action notices or nonconfirmations relating to such information.

''(H) UPDATING INFORMATION.—The Commissioner, the Secretary, and the Secretary of State shall update their information in a manner that promotes maximum accuracy and shall provide a process for the prompt correction of erroneous information.

''(9) LIMITATION ON USE OF THE SYSTEM.—Notwithstanding any other provision of law, no department, bureau, or other agency of the United States Government or any other entity shall utilize, share, or transmit any information, database, or other records assembled under this subsection for any purpose other than for employment verification or to ensure secure, appropriate and nondiscriminatory use of the System.

''(10) ANNUAL REPORT AND CERTIFICATION.—Not later than 18 months after the promulgation of regulations to implement this subsection, and annually thereafter, the Secretary shall submit to Congress a report that includes the following:

''(A) An assessment, as submitted to the Secretary by the Inspector General of the Department of Homeland Security pursuant to paragraph (8)(C)(iii)(I), of the accuracy rates of further action notices and other System notices provided by employers to individuals who are authorized to be employed in the United States.

''(B) An assessment, as submitted to the Secretary by the Inspector General of the Department of Homeland Security pursuant to paragraph (8)(C)(iii)(I), of the accuracy rates of further action notices and other System notices provided directly (by the System) in a timely fashion to individuals who are not authorized to be employed in the United States.

''(C) An assessment of any challenges faced by small employers in utilizing the System.

''(D) An assessment of the rate of employer noncompliance (in addition to failure to provide required notices in a timely fashion) in each of the following categories:

''(i) Taking adverse action based on a further action notice.

''(ii) Use of the System for nonemployees or other individuals before they are offered employment.

''(iii) Use of the System to reverify employment authorized status of current employees except if authorized to do so.

''(iv) Use of the System selectively, except in cases in which such use is authorized.

''(v) Use of the System to deny employment or post-employment benefits or otherwise interfere with labor rights.

''(vi) Requiring employees or applicants to use any self-verification feature or to provide self-verification results.

''(vii) Discouraging individuals who receive a further action notice from challenging the further action notice or appealing a determination made by the System.

''(E) An assessment of the rate of employee noncompliance in each of the following categories:

''(i) Obtaining employment when unauthorized with an employer complying with the System in good faith.

''(ii) Failure to provide required documents in a timely manner.

''(iii) Attempting to use fraudulent documents or documents not related to the individual.

''(iv) Misuse of the administrative appeal and judicial review process.

''(F) An assessment of the amount of time taken for—

''(i) the System to provide the confirmation or further action notice;

''(ii) individuals to contest further action notices;

''(iii) the System to provide a confirmation or nonconfirmation of a contested further action notice;

''(iv) individuals to file an administrative appeal of a nonconfirmation; and

''(v) resolving administrative appeals regarding nonconfirmations.

''(11) ANNUAL GAO STUDY AND REPORT.—

''(A) REQUIREMENT.—The Comptroller General shall, for each year, undertake a study to evaluate the accuracy, efficiency, integrity, and impact of the System.

''(B) REPORT.—Not later than 18 months after the promulgation of regulations to implement this subsection, and yearly thereafter, the Comptroller General shall submit to Congress a report containing the findings of the study carried out under this paragraph. Each such report shall include, at a minimum, the following:

''(i) An assessment of System performance with respect to the rate at which individuals who are eligible for employment in the United States are correctly approved within the required periods, including a separate assessment of such rate for naturalized United States citizens, nationals of the United States, and aliens.

''(ii) An assessment of the privacy and confidentiality of the System and of the overall security of the System with respect to cybertheft and theft or misuse of private data.

''(iii) An assessment of whether the System is being implemented in a manner that is not discriminatory or used for retaliation against employees.

''(iv) An assessment of the most common causes for the erroneous issuance of nonconfirmations by the System and recommendations to correct such causes.

''(v) The recommendations of the Comptroller General regarding System improvements.

''(vi) An assessment of the frequency and magnitude of changes made to the System and the impact on the ability for employers to comply in good faith.

''(vii) An assessment of the direct and indirect costs incurred by employers in complying with the System, including costs associated with retaining potential employees through the administrative appeals process and receiving a nonconfirmation.

''(viii) An assessment of any backlogs or delays in the System providing the confirmation or further action notice and impacts to hiring by employers.

''(ix) An assessment of the effect of the identity authentication mechanism and any other security measures set forth in subsection (c)(1)(F)(iv) to verify identity incorporated into the System or otherwise used by employers on employees.

''(12) OUTREACH AND PARTNERSHIP.—

''(A) OUTREACH.—The Secretary is authorized to conduct outreach and establish programs to assist employers in verifying employment authorization and preventing identity fraud.

''(B) PARTNERSHIP INITIATIVE.—The Secretary may establish partnership initiatives between the Federal Government and private sector employers to foster cooperative relationships and to strengthen overall hiring practices.''.

(c) TAXPAYER ADDRESS INFORMATION.—Section 6103(m) of the Internal Revenue Code of 1986 is amended by adding at the end the following:

''(8) TAXPAYER ADDRESS INFORMATION FURNISHED TO SECRETARY OF HOMELAND SECURITY.—Upon written request from the Secretary of Homeland Security, the Secretary shall disclose the mailing address of any taxpayer who is entitled to receive a notification from the Secretary of Homeland Security pursuant to paragraphs (1)(C) and (8)(E)(vii) of section 274A(d) of the Immigration and Nationality Act (8 U.S.C. 1324a(d)) for use only by employees of the Department of Homeland for the purpose of mailing such notification to such taxpayer.''.

(d) SOCIAL SECURITY ACCOUNT STATEMENTS.—Section 1143(a)(2) of the Social Security Act (8 U.S.C. 1320b–13(a)(2)) is amended—

(1) in subparagraph (D), by striking ''and'' at the end;

(2) in subparagraph (E), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(F) to the extent resources are available, information in the Commissioner's records indicating that a query was submitted to the employment verification system established under section 274A (d) of the Immigration and Nationality Act (8 U.S.C. 1324a(d)) under that individual's name or social security number; and

''(G) a toll-free telephone number operated by the Department of Homeland Security for employment verification system inquiries and a link to self-verification procedure established under section 274A(d)(4)(I) of such Act.''.

(e) GOOD FAITH COMPLIANCE.—Section 274B(a) (8 U.S.C. 1324b(a)), as amended by section 3105(a) of this Act, is further amended by adding at the end the following:

''(10) TREATMENT OF CERTAIN VIOLATIONS AFTER REASONABLE STEPS IN GOOD FAITH.—Notwithstanding paragraphs (4), (6), and (7), a person, other entity, or employment agency shall not be liable for civil penalties described in section 274B(g)(2)(B)(iv) that are related to a violation of any such paragraph if the person, entity, or employment agency has taken reasonable steps, in good faith, to comply with such paragraphs at issue, unless the person, other entity, or employment agency—

''(A) was, for similar conduct, subject to—

''(i) a reasonable cause determination by the Office of Special Counsel for Immigration Related Unfair Employment Practices; or

''(ii) a finding by an administrative law judge that a violation of this section has occurred; or

''(B) committed the violation in order to interfere with 'workplace rights' (as defined in section 274A(b)(8)).

''(11) GOOD FAITH.—As used in paragraph (10), the term 'good faith' shall not include any action taken in order to interfere with 'workplace rights' (as defined in section 274A(b)(8)). Neither the Office of Special Counsel nor an administrative law judge hearing a claim under this section shall have any authority to assess workplace rights other than those guaranteed under this section.

''(12) RULES OF CONSTRUCTION.—Nothing in this section may be construed—

''(A) to permit the Office of Special Counsel for Immigration-Related Unfair Employment Practices or an administrative law judge hearing a claim under this Section to enforce any workplace rights other than those guaranteed under this section; or

''(B) to prohibit any person, other entity, or employment agency from using an identity verification system, service, or method (in addition to the employment verification system described in section 274A(d)), until the date on which the employer is required to participate in the System under section 274A(d)(2) and the additional security measures mandated by section 274A(c)(F)(iv) have become available to verify the identity of a newly hired employee, if such system—

''(i) is used in a uniform manner for all newly hired employees;

''(ii) is not used for the purpose or with the intent of discriminating against any individual;

''(iii) provides for timely notice to employees run through the system of a mismatch or failure to confirm identity; and

''(iv) sets out procedures for employees run through the system to resolve a mismatch or other failure to confirm identity.

''(13) LIABILITY.—A person, entity, or employment agency that uses an identity verification system, service, or method in a way that conflicts with the requirements set forth in paragraph (10) shall be subject to liability under paragraph (4)(I).''.

(f) MAINTENANCE OF REASONABLE LEVELS OF SERVICE AND ENFORCEMENT.—Notwithstanding section 3301(b)(1), amounts appropriated pursuant to such section shall be used to maintain reasonable levels of service and enforcement rather than a specific numeric increase in the number of Department personnel dedicated to administering the Employment Verification System.

---

**SA 1635.** Mr. WYDEN (for himself and Mrs. BOXER) submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 7, line 23, insert after the period at the end the following: ''In this subsection, the term 'physical tactical infrastructure' means roads, vehicle and pedestrian fences, port of entry barriers, lights, bridges, and towers for technology and surveillance.''.

---

**SA 1636.** Mr. BLUMENTHAL (for himself and Ms. MURKOWSKI) submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

In title II, beginning on page 187, strike line 13 and all that follows through page 188, line 13, and insert the following:

''(ii) was younger than 16 years of age on the date on which the alien initially entered the United States; and

''(iii)(I)(aa) has earned a high school diploma, a commensurate alternative award from a public or private high school or secondary school, or has obtained a general education development certificate recognized under State law, or a high school equivalency diploma in the United States and has provided a list of each secondary school (as that term is defined in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801)) that the alien attended in the United States; and

''(bb)(AA) has acquired a degree from an institution of higher education or has completed at least 2 years, in good standing, in a program for a bachelor's degree or higher degree in the United States; or

''(BB) has served in the Uniformed Services for at least 4 years and, if discharged, received an honorable discharge; or

''(II) is under 18 years of age on the date the immigrant submits an application for such adjustment and is enrolled in school or has completed a general education development certificate on the date the immigrant submits an application for adjustment.

''(B) SPECIAL PROVISIONS.—

''(i) EXCEPTION TO AGE REQUIREMENT.—An alien lawfully admitted for permanent residence pursuant to subparagraph (A)(iii)(II) may be naturalized notwithstanding the age requirements in section 334.

''(ii) REQUIREMENTS UNDER SECTION 316.—An alien may naturalize under section 316 no sooner than 5 years after the date on which the alien was lawfully admitted for permanent residence pursuant to subparagraph (A)(iii)(II).

''(C) HARDSHIP EXCEPTION.—''.

---

**SA 1637.** Mr. WICKER submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

In section 6(a)(2), strike subparagraph (C) and insert the following:

(C) ANNUAL INFLATION ADJUSTMENT REQUIRED.—The Secretary shall adjust each of the fees and penalties specified in clauses (ii), (iii), (iv), (v), (vi), and (xviii) of subparagraph (B) on October 1, 2014, and annually thereafter, to reflect the inflation rate during the most recent 12-month period, as measured by such price index as the Secretary considers appropriate, rounded to the nearest dollar.

---

**SA 1638.** Mr. WICKER submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

In section 245B(b) of the Immigration and Nationality Act, as added by section 2101(a) of this amendment, strike paragraph (4).

---

**SA 1639.** Mr. WICKER submitted an amendment intended to be proposed to

amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle A of title II, add the following:

**SEC. 2112. INCREASED PENALTIES.**

Chapter 5 (8 U.S.C. 1255 et seq.), as amended by sections 2101 and 2102 of this Act, is further amended—

(1) in section 245B(c)(10)(C)(i), by striking ''$1,000'' and insert ''$2,000''; and

(2) in section 245C(c)(5)(B)(i), by striking ''$1,000'' and insert ''$2,000''.

---

**SA 1640.** Mr. WYDEN submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. ___. IMPROVED COLLECTION AND USE OF LABOR MARKET INFORMATION.**

(a) IN GENERAL.—Section 1137 of the Social Security Act (42 U.S.C. 1320b–7) is amended—

(1) in subsection (a)—

(A) in paragraph (2), by inserting ''(including the occupational information under subsection (g))'' after ''paragraph (3) of this subsection''; and

(B) in paragraph (3), by striking ''employers (as defined'' and inserting ''subject to subsection (g), employers (as defined''; and

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

''(g)(1) Beginning January 1, 2016, each quarterly wage report required to be submitted by an employer under subsection (a)(3) shall include such occupational information with respect to each employee of the employer that permits the classification of such employees into occupational categories as found in the Standard Occupational Classification (SOC) system.

''(2) The State agency receiving the occupational information described in paragraph (1) shall make such information available to the Secretary of Labor pursuant to procedures established by the Secretary of Labor.

''(3)(A)(i) The Secretary of Labor shall make occupational information submitted under paragraph (2) available to other State and Federal agencies, including the United States Census Bureau, the Bureau of Labor Statistics, and other State and Federal research agencies.

''(ii) Disclosure of occupational information under clause (i) shall be subject to the agency having safeguards in place that meet the requirements under paragraph (4).

''(4) The Secretary of Labor shall establish and implement safeguards for the dissemination and, subject to paragraph (5), the use of occupational information received under this subsection.

''(5) Occupational information received under this subsection shall only be used to classify employees into occupational categories as found in the Standard Occupational Classification (SOC) system and to analyze and evaluate occupations in order to improve the labor market for workers and industries.

''(6) The Secretary of Labor shall establish procedures to verify the accuracy of information received under paragraph (2).''.

(b) ADVISORY COMMITTEE.—

(1) ESTABLISHMENT.—Not later than one year after the date of the enactment of this Act, the Secretary of Labor shall establish an advisory committee to advise the Secretary on the implementation of subsection (g) of section 1137 of the Social Security Act, as added by subsection (a).

(2) MEMBERSHIP.—The advisory committee shall include—

(A) State government officials, representatives of small, medium, and large businesses, representatives of labor organizations, labor market analysts, privacy and data experts, and non-profit stakeholders; and

(B) such other individuals determined appropriate by the Secretary of Labor.

(3) MEETINGS.—The advisory committee shall meet no less than annually.

(4) TERMINATION.—The advisory committee shall terminate on the date that is 3 years after the date of the first meeting of the committee.

---

**SA 1641.** Mr. WYDEN submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 426, strike line 21, and all that follows through page 427, line 7, and insert the following:

(d) WAIVERS OF INADMISSABILITY.—

(1) IN GENERAL.—Section 212 (8 U.S.C. 1182) is amended—

(A) in subsection (l)—

(i) by amending the subsection heading to read as follows: ''GUAM, NORTHERN MARIANA ISLANDS, AND VIRGIN ISLANDS VISA WAIVER PROGRAMS.—''; and

(ii) by adding at the end the following:

''(7) VIRGIN ISLANDS VISA WAIVER PROGRAM.—

''(A) IN GENERAL.—The requirement of subsection (a)(7)(B)(i) may be waived by the Secretary of Homeland Security, in the case of an alien who is a national of a country described in subparagraph (B) and who is applying for admission as a nonimmigrant visitor for business or pleasure and solely for entry into and stay in the United States Virgin Islands for a period not to exceed 30 days, if the Secretary of Homeland Security, after consultation with the Secretary of the Interior, the Secretary of State, the Governor of the United States Virgin Islands, determines that such a waiver does not represent a threat to the welfare, safety, or security of the United States or its territories and commonwealths.

''(B) COUNTRIES.—A country described in this subparagraph is a country that—

''(i) is a member or an associate member of the Caribbean Community (CARICOM); and

''(ii) is listed in the regulations described in subparagraph (D).

''(C) ALIEN WAIVER OF RIGHTS.—An alien may not be provided a waiver under this paragraph unless the alien has waived any right—

''(i) to review or appeal under this Act an immigration officer's determination as to the admissibility of the alien at the port of entry into the United States Virgin Islands; or

''(ii) to contest, other than on the basis of an application for withholding of removal under section 241(b)(3) of this Act or under the Convention Against Torture, or an application for asylum if permitted under section 208, any action for removal of the alien.

''(D) REGULATIONS.—All necessary regulations to implement this paragraph shall be promulgated by the Secretary of Homeland Security, in consultation with the Secretary of the Interior and the Secretary of State, on or before the date that is 1 year after the date of enactment of the Virgin Islands Visa Waiver Act of 2013. The promulgation of such regulations shall be considered a foreign affairs function for purposes of section 553(a) of title 5, United States Code. At a minimum, such regulations should include, but not necessarily be limited to—

''(i) a listing of all member or associate member countries of the Caribbean Community (CARICOM) whose nationals may obtain, on a country by country basis, the waiver provided by this paragraph, except that such regulations shall not provide for a listing of any country if the Secretary of Homeland Security determines that such country's inclusion on such list would represent a threat to the welfare, safety, or security of the United States or its territories and commonwealths; and

''(ii) any bonding requirements for nationals of some or all of those countries who may present an increased risk of overstays or other potential problems, if different from such requirements otherwise provided by law for nonimmigrant visitors.

''(E) FACTORS.—In determining whether to grant or continue providing the waiver under this paragraph to nationals of any country, the Secretary of Homeland Security, in consultation with the Secretary of the Interior and the Secretary of State, shall consider all factors that the Secretary deems relevant, including electronic travel authorizations, procedures for reporting lost and stolen passports, repatriation of aliens, rates of refusal for nonimmigrant visitor visas, overstays, exit systems, and information exchange.

''(F) SUSPENSION.—The Secretary of Homeland Security shall monitor the admission of nonimmigrant visitors to the United States Virgin Islands under this paragraph. If the Secretary determines that such admissions have resulted in an unacceptable number of visitors from a country remaining unlawfully in the United States Virgin Islands, unlawfully obtaining entry to other parts of the United States, or seeking withholding of removal or asylum, or that visitors from a country pose a risk to law enforcement or security interests of the United States Virgin Islands or of the United States (including the interest in the enforcement of the immigration laws of the United States), the Secretary shall suspend the admission of nationals of such country under this paragraph. The Secretary of Homeland Security may in the Secretary's discretion suspend the United States Virgin Islands visa waiver program at any time, on a country-by-country basis, for other good cause.

''(G) ADDITION OF COUNTRIES.—The Governor of the United States Virgin Islands may request the Secretary of the Interior and the Secretary of Homeland Security to add a particular country to the list of countries whose nationals may obtain the waiver provided by this paragraph, and the Secretary of Homeland Security may grant such request after consultation with the Secretary of the Interior and the Secretary of State, and may promulgate regulations with respect to the inclusion of that country and any special requirements the Secretary of Homeland Security, in the Secretary's sole discretion, may impose prior to allowing nationals of that country to obtain the waiver provided by this paragraph.''; and

(B) by adding at the end the following:

''(v) CONTINUED WAIVER ELIGIBILITY FOR WIDOWS, WIDOWERS, AND ORPHANS.—In the case of an alien who would have been statutorily eligible for any waiver of inadmissibility under this Act but for the death of a qualifying relative, the eligibility of such alien shall be preserved as if the death had not occurred and the death of the qualifying relative shall be the functional equivalent of

hardship for purposes of any waiver of inadmissibility which requires a showing of hardship.''.

(2) CONFORMING AMENDMENTS.—

(A) DOCUMENTATION REQUIREMENTS.—Section 212(a)(7)(iii) (8 U.S.C. 1182(a)(7)(iii)) is amended to read as follows:

''(iii) SPECIAL VISA WAIVER PROGRAMS.—For a provision authorizing waiver of clause (i) in the case of visitors to Guam, the Commonwealth of the Northern Mariana Islands, or the United States Virgin Islands, see subsection (l).''.

(B) ADMISSION OF NONIMMIGRANTS.—Section 214(a)(1) (8 U.S.C. 1184(a)(1)) is amended by inserting before the final sentence the following: ''No alien admitted to the United States Virgin Islands without a visa pursuant to section 212(l)(7) may be authorized to enter or stay in the United States other than in United States Virgin Islands or to remain in the United States Virgin Islands for a period exceeding 30 days from date of admission to the United States Virgin Islands.''.

**SA 1642.** Mr. HOEVEN submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 30, line 6, before ''is at least'' insert the following: '', including any technology already available to, or in use by, the Department as of the date of enactment of this Act,''.

On page 82, beginning on line 3, strike '', working through U.S. Border Patrol,''.

**SA 1643.** Mr. COBURN submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

In section 245B(c) of the Immigration and Nationality Act, as added by section 2101(a) of this amendment, strike paragraphs (8) through (10) and insert the following:

''(8) SECURITY AND LAW ENFORCEMENT CLEARANCES.—

''(A) BIOMETRIC AND BIOGRAPHIC DATA.—The Secretary may not grant registered provisional immigrant status to an alien or an alien dependent spouse or child under this section unless such alien submits biometric and biographic data in accordance with procedures established by the Secretary.

''(B) ALTERNATIVE PROCEDURES.—The Secretary shall provide an alternative procedure for applicants who cannot provide the biometric data required under subparagraph (A) because of a physical impairment.

''(C) CLEARANCES AND OTHER PREREQUISITES.—

''(i) IN GENERAL.—Before any alien may be granted registered provisional immigrant status, the Secretary shall—

''(I) enable all aliens applying for such status to file applications electronically;

''(II) ensure that in addition to the submission of biometric and biographic data under subparagraph (A), an alien applying for such status submits to national security and law enforcement clearances, which shall be paid for with the fees collected under paragraph (10)(A) and shall include—

''(aa) a State and local criminal background check through the National Law Enforcement Telecommunication System, including the exchange of interstate driver license photos, if available;

''(bb) a fingerprint check by the Federal Bureau of Investigation;

''(cc) verification that the alien is not listed on the consolidated terrorist watch list of the Federal Government;

''(dd) screening by the Office of Biometric and Identity Management (formerly known as 'US-VISIT'); and

''(ee) a check against the TECS system (formerly known as the 'Treasury Enforcement Communications System');

''(III) ensure that an official of the agency performing each such clearance documents the results of the clearance; and

''(IV) establish procedures to ensure that a minimum of 5 percent of the aggregate pool of applicants for registered provisional immigrant status at any time are randomly selected for interviews.

''(ii) ADDITIONAL SECURITY SCREENING.—The Secretary, in consultation with the Secretary of State and other interagency partners, shall conduct an additional security screening upon determining, in the Secretary's opinion based upon information related to national security, that an alien or alien dependent spouse or child is or was a citizen or long-term resident of a region or country known to pose a threat, or that contains groups or organizations that pose a threat, to the national security of the United States.

''(iii) PREREQUISITE.—The required clearances and screenings described in clauses (i)(I) and (ii) shall be completed before the alien may be granted registered provisional immigrant status.

''(9) DURATION OF STATUS AND EXTENSION.—

''(A) IN GENERAL.—The initial period of authorized admission for a registered provisional immigrant—

''(i) shall remain valid for 6 years unless revoked pursuant to subsection (d)(2); and

''(ii) may be extended for additional 6-year terms if—

''(I) the alien remains eligible for registered provisional immigrant status;

''(II) the alien meets the employment requirements set forth in subparagraph (B);

''(III) the alien has successfully passed background checks that are equivalent to the background checks described in section 245D(b)(1)(E); and

''(IV) such status was not revoked by the Secretary for any reason.

''(B) EMPLOYMENT OR EDUCATION REQUIREMENT.—Except as provided in subparagraphs (D) and (E) of section 245C(b)(3), an alien may not be granted an extension of registered provisional immigrant status under this paragraph unless the alien establishes that, during the alien's period of status as a registered provisional immigrant, the alien—

''(i)(I) was regularly employed throughout the period of admission as a registered provisional immigrant, allowing for brief periods lasting not more than 60 days; and

''(II) is not likely to become a public charge (as determined under section 212(a)(4)); or

''(ii) is able to demonstrate average income or resources that are not less than 100 percent of the Federal poverty level throughout the period of admission as a registered provisional immigrant.

''(C) PAYMENT OF TAXES.—An applicant may not be granted an extension of registered provisional immigrant status under subparagraph (A)(ii) unless the applicant has satisfied any applicable Federal tax liability in accordance with paragraph (2).

''(10) FEES AND PENALTIES.—

''(A) STANDARD PROCESSING FEE.—

''(i) IN GENERAL.—Aliens who are 16 years of age or older and are applying for registered provisional immigrant status under paragraph (1), or for an extension of such status under paragraph (9)(A)(ii), shall pay a processing fee to the Department of Homeland Security in an amount determined by the Secretary.

''(ii) RECOVERY OF COSTS.—The processing fee authorized under clause (i) shall be set at a level that is sufficient to recover the full costs of processing the application, including any costs incurred—

''(I) to adjudicate the application;

''(II) to take and process biometrics;

''(III) to perform national security and criminal checks, clearances, and other prerequisites required under paragraph (8)(C), including adjudication;

''(IV) to prevent and investigate fraud; and

''(V) to administer the collection of such fee.

''(iii) AUTHORITY TO LIMIT FEES.—The Secretary, by regulation, may—

''(I) limit the maximum processing fee payable under this subparagraph by a family, including spouses and unmarried children younger than 21 years of age; and

''(II) exempt defined classes of individuals, including individuals described in section 245B(c)(13), from the payment of the fee authorized under clause (i).

''(B) DEPOSIT AND USE OF PROCESSING FEES.—Fees collected under subparagraph (A)(i)—

''(i) shall be deposited into the Immigration Examinations Fee Account pursuant to section 286(m); and

''(ii) shall remain available until expended pursuant to section 286(n).

''(C) PENALTY.—

''(i) PAYMENT.—In addition to the processing fee required under subparagraph (A), aliens not described in section 245D(b)(A)(ii) who are 21 years of age or older and are filing an application under this subsection shall pay a $1,000 penalty to the Department of Homeland Security.

''(ii) INSTALLMENTS.—The Secretary shall establish a process for collecting payments required under clause (i) that permits the penalty under that clause to be paid in periodic installments that shall be completed before the alien may be granted an extension of status under paragraph (9)(A)(ii).

''(iii) DEPOSIT.—Penalties collected pursuant to this subparagraph shall be deposited into the Comprehensive Immigration Reform Trust Fund established under section 6(a)(1) of the Border Security, Economic Opportunity, and Immigration Modernization Act.''.

**SA 1644.** Mr. COBURN submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle G of title III, add the following:

**SEC. 3722. REMOVAL OF NONIMMIGRANTS WHO OVERSTAY THEIR VISAS.**

(a) IN GENERAL.—Not later than 120 days after the date of the enactment of this Act, the Secretary shall immediately initiate removal proceedings, in accordance with chapter 4 of title II of the Immigration and Nationality Act (8 U.S.C. 1221 et seq.), against not fewer than 90 percent of the aliens who—

(1) were admitted as nonimmigrants after such date of enactment; and

(2) have exceeded their authorized period of admission.

(b) REPORT.—At the end of each calendar quarter, the Secretary shall submit a report to Congress that identifies—

(1) the total number of aliens who exceeded their authorized period of stay as nonimmigrants during that quarter;

(2) the total number of aliens described in paragraph (1) against whom the Secretary has initiated removal proceedings; and

(3) statistics about aliens who lawfully entered the United States and exceeded their authorized period of admission, categorized by visa type and nation of origin.

---

**SA 1645.** Mr. COBURN submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

In section 245B(c)(4) of the Immigration and Nationality Act, as added by section 2101(a) of this amendment, strike subparagraph (C) and insert the following:

''(C) INTERVIEWS.—

''(i) MANDATORY INTERVIEWS.—Before granting a waiver of ineligibility for registered provisional immigrant status under this section, the Secretary, through U.S. Citizenship and Immigration Services, shall conduct an in-person interview if the applicant is present in the United States and is described in paragraph (2) or (6)(B) of section 212(a) (relating to criminal aliens and aliens who failed to appear at prior removal hearings).

''(ii) PERMITTED INTERVIEWS.—The Secretary, through U.S. Citizenship and Immigration Services, may interview applicants for registered provisional immigrant status not described in clause (i) to determine whether they meet the eligibility requirements set forth in subsection (b).

---

**SA 1646.** Mr. CHAMBLISS submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 255, strike lines 3–14, and insert the following:

''(1) QUALIFYING EMPLOYMENT.—Except as provided in paragraph (3), during the 8-year period beginning on the date of the enactment of the Border Security, Economic Opportunity, and Immigration Modernization Act the alien performed not less than 180 work days of agricultural employment during each of 5 years.

---

**SA 1647.** Mr. CHAMBLISS submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 233, line 5, add after the period the following: ''The Secretary shall ensure that those aliens residing outside of the United States who are eligible to submit an application are able to do so through the United States Consulate in the alien's country of residence.''.

---

**SA 1648.** Mr. CHAMBLISS submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 331, line 19, strike ''1 year'' and insert ''3 years''.

On page 331, strike lines 22 through 25.

On page 332, line 19, strike ''1 year'' and insert ''3 years''.

---

**SA 1649.** Mr. CHAMBLISS submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 315, between lines 8 and 9, insert the following:

''(ii) LIMITATION.—Notwithstanding clause (i), an alien who is or was a nonimmigrant agricultural worker is not eligible for legal services under the Legal Services Corporation Act (42 U.S.C. 2996 et seq.) if such alien is located outside the United States.

Beginning on page 316, strike lines 7 through 15 and insert the following:

''(iv) 90-DAY LIMIT.—The Federal Mediation and Conciliation Service may conduct mediation or other binding dispute resolution activities for a period not to exceed 90 days beginning on the date on which the Federal Mediation and Conciliation Service receives a request for assistance under clause (ii) unless the parties agree to an extension of such period.

''(v) BINDING MEDIATION.—Mediation or other dispute resolution activities carried out under this subparagraph shall be binding on the parties.

---

**SA 1650.** Mr. CHAMBLISS submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 306, strike line 18 and all that follows through page 309, line 12, and insert the following:

''(2) JOB CATEGORIES.—

''(A) IN GENERAL.—For purposes of paragraph (1), each nonimmigrant agricultural worker employed by such employer shall be assigned to 1 of the following occupational classifications:

''(i) High-skilled agricultural workers, including the following, as defined by the Bureau of Labor Statistics:

''(I) Agricultural equipment operators (45–2091).

''(II) Farmworkers, Farm, Ranch, and Aquacultural Animals (45–2093).

''(ii) Low-skilled agricultural workers, including the following, as defined by the Bureau of Labor Statistics:

''(I) Graders and Sorters, Agricultural Products (45–2041).

''(II) Farmworkers and Laborers, Crops, Nursery, and Greenhouse (45–2092).

''(B) DETERMINATION OF CLASSIFICATION.—A nonimmigrant agricultural worker is employed in an occupational classification described in clause (i) or (ii) of subparagraph (A) if the worker performs activities associated with that occupational classification, as specified on the employee's petition, for at least 75 percent of the time in a semiannual employment period.

''(3) DETERMINATION OF WAGE RATE.—

''(A) CALENDAR YEARS 2014 THROUGH 2016.—The wage rate under this paragraph for calendar years 2014 through 2016 shall be the following:

''(i) For the category described in paragraph (2)(A)(i)—

''(I) $11.06 for calendar year 2014;

''(II) $11.34 for calendar year 2015; and

''(III) $11.62 for calendar year 2016.

''(ii) For the category described in paragraph (2)(A)(ii)—

''(I) $9.27 for calendar year 2014;

''(II) $9.50 for calendar year 2015; and

''(III) $9.74 for calendar year 2016.

''(B) SUBSEQUENT YEARS.—The Secretary shall increase the hourly wage rates set forth in clause (i) and (ii) of subparagraph (A), for

---

**SA 1651.** Mr. CHAMBLISS submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 273, strike lines 10–18 and insert the following:

''(B) ALLOCATION OF VISAS.—

''(i) IN GENERAL.—The allocation of visas described in subparagraph (A) for a year shall be allocated as follows:

''(I) 70 percent shall be available January 1.

''(II) 30 percent shall be available July 1.

''(ii) UNUSED VISAS.—Any visas available on January 1 of a year under clause (i)(I) that are unused as of July 1 of that year shall be added to the allocation available to allocation available on July 1 of that year under clause (i)(II).

---

**SA 1652.** Mr. CHAMBLISS submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 254, line 20, strike ''5 years'' and insert ''7 years''.

---

**SA 1653.** Mr. CHAMBLISS submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 252 after line 7 insert: ''An employer shall not be required to provide such written record to the alien or to the Secretary of Agriculture more than once per year.''

---

**SA 1654.** Mr. CHAMBLISS submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 232, lines 2 and 3, strike ''575 hours or 100 work days'' and insert ''1000 hours or 180 work days''.

On page 262, strike lines 7–13 and insert the following:

''(C) SUFFICIENT EVIDENCE.—An alien who cannot meet the burden of proof otherwise required by subparagraph (A) may, in an interview with the Secretary, establish that the alien has performed the days or hours of work referred to in subparagraph (A) by producing sufficient evidence to show the extent of that employment as a matter of just and reasonable inference.

**SA 1655.** Mr. CHAMBLISS submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 293, line 20, add ''and'' after the semicolon.

On page 293, strike lines 23 through page 294, and insert the following: ''recent 4-year period.''.

---

**SA 1656.** Mr. CHAMBLISS submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 244, line 17, strike ''$100'' and insert ''$500''.

On page 257, line 14, strike ''$400'' and insert ''$500''.

---

**SA 1657.** Mrs. FEINSTEIN (for herself, Mr. KIRK, Mr. COONS, Mr. UDALL of New Mexico, Mr. CORNYN, and Mr. BLUNT) submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 49, strike lines 20 through 23 and insert the following:

Act;

(xviii) costs to the Judiciary estimated to be caused by the implementation of this Act and the amendments made by this Act, as the Secretary and the Judicial Conference of the United States shall jointly determine in consultation with the Attorney General; and

(xix) the operations and maintenance costs associated with the implementation of clauses (i) through (xvii).

---

**SA 1658.** Mrs. MURRAY submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 863 of the amendment, after line 21, insert the following:

**SEC. 3912. PROTECTION OF DOMESTIC VIOLENCE SURVIVORS.**

(a) RELIEF FROM CERTAIN RESTRICTIONS ON ADJUSTMENT OF STATUS.—

(1) RELIEF FROM CERTAIN RESTRICTIONS FOR DOMESTIC VIOLENCE SURVIVORS.—Section 245(d) (8 U.S.C. 1255(d)), as amended by section 2310(c) of this Act, is amended in paragraph (1) in the second sentence by striking the period at the end and inserting '', unless the alien is the spouse of an alien lawfully admitted for legal permanent residence or of a citizen of the United States and is a VAWA self-petitioner.''.

(2) CONFORMING APPLICATION IN CANCELLATION OF REMOVAL.—Section 240A(b)(2)(A)(i) (8 U.S.C. 1229b(b)(2)(A)(i)) is amended—

(A) in subclause (II), by striking ''or'' at the end;

(B) in subclause (III), by adding ''or'' at the end; and

(C) by adding at the end the following:

''(IV) the alien entered the United States as an alien described in section 101(a)(15)(K) with the intent to enter into a valid marriage and the alien (or the child of the alien who is described in such section) was battered or subject to extreme cruelty by the United States citizen who filed the petition to accord status under such section;''.

(3) APPLICATION UNDER SUSPENSION OF DEPORTATION FOR DOMESTIC VIOLENCE SURVIVORS.—The Secretary or the Attorney General may suspend the deportation of an alien who is in deportation proceedings initiated prior to March 1, 1997 and adjust to the status of an alien lawfully admitted for permanent residence, if the alien—

(A) has been physically present in the United States for a continuous period of not less than 3 years immediately preceding the date of such suspension;

(B) has been battered or subjected to extreme cruelty in the United States by a spouse or immediate family member who is a United States citizen or a lawful permanent resident, or the alien entered the United States as an alien described in section 101(a)(15)(K) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(K)) with the intent to enter into a valid marriage and the alien was battered or subject to extreme cruelty by the United States citizen who filed the petition to accord status under such section, or the child of the alien who is described in this subparagraph;

(C) demonstrates that during all of such time in the United States the alien was and is a person of good moral character; and

(D) is a person whose deportation would, in the opinion of the Secretary or Attorney General, result in extreme hardship to the alien or the alien's parent or child.

(4) EFFECTIVE DATE.—This subsection and the amendments made by this subsection shall take effect on the date of the enactment of this Act and shall apply to aliens admitted before, on, or after such date.

(b) RELIEF FOR DOMESTIC VIOLENCE SURVIVOR VISA WAIVER ENTRANTS.—

(1) IN GENERAL.—Section 217(b)(2) (8 U.S.C. 1187(b)(2)) is amended by inserting '', as a VAWA self-petitioner or for relief under section 101(a)(15)(T), section 101(a)(15)(U), section 240A(b)(2), or under any prior statute providing comparable relief, notwithstanding any other provision of law,'' after ''asylum,''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date of the enactment of this Act and shall apply to waivers provided under section 217(b)(2) of the Immigration and Nationality Act before, on, or after such date as if it had been included in such waivers.

(c) APPLICABILITY OF SECTION 212(E) TO SPOUSES AND CHILDREN OF J–1 EXCHANGE VISITORS.—In addition to the individuals described in section 2405(c) of this Act, applicants approved for nonimmigrant status under subparagraph (T) or (U) of section 101(a)(15) of the Immigration and Nationality Act and VAWA self-petitioners, as defined in section 101(a)(51) of such Act, shall not be subject to the requirements of section 212(e) of such Act (8 U.S.C. 1182(e)).

(d) WAIVER RELATING TO CERTAIN CRIMES.—Section 212(h), as amended by section 3711(c)(1)(B), is amended by striking ''and (E)'' and inserting ''(E), and (K)''.

---

**SA 1659.** Mr. KAINE submitted an amendment intended to be proposed to amendment SA 1183 submitted by Mr. LEAHY (for himself and Mr. HATCH) to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 273, between lines 13 and 14, insert the following:

(3) NOTARIO FRAUD.—The term ''notario fraud'' means immigration service providers engaging in fraudulent conduct or willful misrepresentation of the provider's legal authority to provide representation to immigrant clientele and in Federal immigration proceedings.

(d) COMBATING NOTARIO FRAUD GRANT PROGRAM.—

(1) ESTABLISHMENT.—Not later than 180 days after the date of the enactment of this Act, the Attorney General shall establish a program, to be known as the ''Combating Notario Fraud Grant Program'', under which the Attorney General shall award incentive grants to eligible entities to support the adoption of dual scheme of State criminal laws and Board of Law Examiners authorization to combat notario fraud.

(2) ELIGIBLE ENTITIES.—In this subsection, an ''eligible entity'' is—

(A) a State; or

(B) a regional partnership.

(3) MAXIMUM AMOUNT.—An incentive grant awarded by the Attorney General may not exceed $25,000,000.

(4) APPLICATION.—

(A) IN GENERAL.—An eligible entity seeking an incentive grant under this subsection shall submit an application to the Attorney General at such time, in such form, and in such manner as the Attorney General may require.

(B) CONTENTS.—Each application submitted under subparagraph (A) shall include—

(i) the current enforcement scheme to combat notario fraud under the laws of the State or States represented by the eligible entity;

(ii) the additional changes to the criminal laws of the State, the State Board of Law Examiners authority, and staffing levels to better address notario fraud in the State or States represented by the eligible entity; and

(iii) such other information as the Attorney General considers appropriate.

(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this subsection.

---

**SA 1660.** Mr. KAINE submitted an amendment intended to be proposed by him to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**TITLE ____—ANALYSIS OF MIGRATION TRENDS AND FOREIGN ASSISTANCE PRIORITIZATION**

**SEC. ____01. DEVELOPMENT OF ASSESSMENT AND STRATEGY ADDRESSING FACTORS DRIVING MIGRATION.**

(a) DEVELOPMENT OF ASSESSMENT.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Comptroller General of the United States shall submit to Congress a report on migration to the United States from the countries specified in paragraph (2) that includes—

(A) a baseline assessment of the primary factors driving migration from those countries;

(B) an assessment of the impact of United States foreign assistance, trade, and foreign policy on migration trends in those countries; and

(C) an assessment of ongoing migrant protection issues and measures to address humanitarian and safety concerns in current migration flows, particularly such measures

taken by the United States, the Government of Mexico, and the governments of countries in Central America to address such issues in Mexico and on the Southern border of the United States.

(2) COUNTRIES SPECIFIED.—The countries specified in this paragraph are the 10 countries determined by the Comptroller Genera to have the highest rates of irregular migration to the United States.

(3) CONSULTATIONS.—In preparing the report required by paragraph (1), the Comptroller General may consult with civil society organizations in the United States and the countries specified in paragraph (2).

(b) STRATEGY TO ADDRESS FACTORS DRIVING IMMIGRATION.—

(1) IN GENERAL.—The Secretary of State, working with the Administrator of the United States Agency for International Development, and in consultation with the entities specified in paragraph (2), shall submit to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives a strategy for addressing the economic, social, and security factors driving high rates of irregular migration from the countries specified in subsection (a)(2).

(2) ENTITIES SPECIFIED.—The entities specified in this paragraph are the following:

(A) The Millennium Challenge Corporation.

(B) The Bureau of Population, Refugees, and Migration of the Department of State.

(C) The Department of Homeland Security.

(D) The Department of Labor.

(E) The Department of Agriculture.

(F) The Office of the United States Trade Representative.

(G) Civil society organizations in the United States.

(H) Civil society organizations in the countries specified in subsection (a)(2).

(3) ELEMENTS OF STRATEGY.—The strategy required paragraph (1) shall include—

(A) a summary and evaluation of current assistance provided by the United States to the countries specified in subsection (a)(2);

(B) an identification of the regions and municipalities in those countries experiencing the highest emigration rates and the current level of United States assistance or investment in those regions and municipalities; and

(C) recommendations for future United States Government assistance and technical support to address key economic, social, and development factors identified in those countries that are designed to ensure appropriate engagement of national and local governments and civil society organizations.

**SEC. ____02. PRIORITIZATION OF MIGRATION SOURCE COUNTRIES BY THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT.**

(a) IN GENERAL.—The Administrator of the United States Agency for International Development (in this section referred to as the ''Administrator'') shall coordinate with relevant agencies of the United States and agencies of the countries specified in section ____01(a)(2) to promote public policies that prioritize inclusive growth, poverty reduction, and sustainable alternatives to emigration.

(b) MIGRATION AND DEVELOPMENT PROGRAMMING.—The Administrator shall provide migration and development programming to assist communities and economic sectors in the countries specified in section ____01(a)(2), including communities—

(1) that currently experience, or are projected to soon experience, high rates of population loss due to international migration to the United States;

(2) experiencing or at high risk of trafficking in persons;

(3) that are receiving high rates of returned or deported migrants from the United States;

(4) affected by destabilizing levels of generalized violence, or violence associated with gangs, drug trafficking, or other criminal activity; and

(5) that currently have developed partnerships with migrant associations and federations based in the United States.

(c) TARGETED ASSISTANCE.—The Secretary of State and the Administrator shall work with the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives to increase, beginning in fiscal year 2014, financial assistance to the communities described in subsection (b) with the goal of—

(1) alleviating rural poverty and revitalizing agricultural production by supporting public and private investment in comprehensive rural development strategies, which should include—

(A) strengthening the quality and sustainability of rural extension services;

(B) expansion of agro-enterprise and agricultural value chain initiatives;

(C) investment in farm-to-market roads and storage facilities for small farmers and cooperatives; and

(D) assistance to protect the environment, promote safe and sustainable natural resource development, strengthen climate change adaptation, and expand access to credit and micro-finance opportunities for small farmers;

(2) fully funding micro-finance and micro-enterprise initiatives, ensuring mechanisms for access to rural credit and micro-insurance, and targeting available funding to traditionally marginalized groups and at risk populations, particularly youth and indigenous populations;

(3) promoting public-private partnerships for income generation, employment, and violence reduction, and prioritizing urban youth;

(4) incorporating mechanisms to adapt and expand financial (savings and credit) and non-financial (property and livelihood insurance) opportunities for vulnerable families in disaster risk reduction and recovery strategies; and

(5) increasing public-private diaspora partnerships for development in the Western Hemisphere, through the United States Agency for International Development's Global Development Alliance model and multilateral initiatives.

**SEC. ____03. SENSE OF CONGRESS ON INCREASED UNITED STATES FOREIGN POLICY COHERENCE IN THE WESTERN HEMISPHERE.**

(a) FINDINGS.—Congress makes the following findings:

(1) More than 80 percent of the current unauthorized immigration to the United States originates in Latin America, primarily in Mexico and Central America.

(2) Mexico and Central America have made strides in economic growth in recent years, but the majority of their populations, particularly in the rural sector, live in poverty, a factor that continues to drive emigration.

(3) The Mexico and Central America migration corridor maintains strong historic and current ties to the United States through trade and economic integration, labor flows, and geographic proximity, and will require particular bilateral and multilateral efforts to address shared concerns and promote shared opportunities.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of State should review United States foreign policy toward Latin America in order to strengthen hemispheric security through the reduction of poverty and inequality, expansion of equitable trade, and support for democratic institutions, citizen security, and the rule of law, as essential elements of a consolidated and well-managed regional migration policy.

---

**SA 1661.** Mr. KAINE submitted an amendment intended to be proposed by him to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. ____. PRECERTIFICATION PROCEDURES FOR EMPLOYERS.**

Section 214(c) of the Immigration and Nationality Act (8 U.S.C. 1184(c)), as amended by section 4103(a), is further amended by adding at the end the following new paragraph:

''(16)(A) PRECERTIFICATION PROCEDURES FOR EMPLOYERS.—Not later than 180 days after the date of the enactment of the Border Security, Economic Opportunity, and Immigration Modernization Act, the Secretary of Homeland Security shall establish and implement a precertification 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 criteria relating to the employer and the offered employment opportunity through a single filing.

''(B) FEES.—(i) The Secretary shall impose a fee on each employer that uses the precertification procedure under subparagraph (A).

''(ii) In determining the amount of the fee to be imposed under clause (i), the Secretary shall establish a lower rate for small business concerns (as defined by section 3(a) of the Small Business Act (15 U.S.C. 632(a))).

''(iii) Fees collected under this subparagraph shall be available to reimburse the Secretary for the costs of the precertification procedure.''.

---

**SA 1662.** Mr. KAINE submitted an amendment intended to be proposed by him to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page ____, between lines ____ and ____, insert the following:

(3) NOTARIO FRAUD.—The term ''notario fraud'' means immigration service providers engaging in fraudulent conduct or willful misrepresentation of the provider's legal authority to provide representation to immigrant clientele and in Federal immigration proceedings.

(d) COMBATING NOTARIO FRAUD GRANT PROGRAM.—

(1) ESTABLISHMENT.—Not later than 180 days after the date of the enactment of this Act, the Attorney General shall establish a program, to be known as the ''Combating Notario Fraud Grant Program'', under which the Attorney General shall award incentive grants to eligible entities to support the adoption of dual scheme of State criminal laws and Board of Law Examiners authorization to combat notario fraud.

(2) ELIGIBLE ENTITIES.—In this subsection, an ''eligible entity'' is—

(A) a State; or

(B) a regional partnership.

(3) MAXIMUM AMOUNT.—An incentive grant awarded by the Attorney General may not exceed $25,000,000.

(4) APPLICATION.—

(A) IN GENERAL.—An eligible entity seeking an incentive grant under this subsection

shall submit an application to the Attorney General at such time, in such form, and in such manner as the Attorney General may require.

(B) CONTENTS.—Each application submitted under subparagraph (A) shall include—

(i) the current enforcement scheme to combat notario fraud under the laws of the State or States represented by the eligible entity;

(ii) the additional changes to the criminal laws of the State, the State Board of Law Examiners authority, and staffing levels to better address notario fraud in the State or States represented by the eligible entity; and

(iii) such other information as the Attorney General considers appropriate.

(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this subsection.

## NOTICE OF HEARING

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. HARKIN. Mr. President, I wish to announce that the Committee on Health, Education, Labor, and Pensions will meet in open session on Tuesday, June 25, 2013, at 2:30 p.m. in room 430 of the Dirksen Senate Office Building to conduct a hearing entitled ''Building a Foundation of Fairness: 75 Years of the Federal Minimum Wage.''

For further information regarding this meeting, please contact Sarah Cupp of the committee staff on (202) 224–5441.

## AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. LEAHY. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet during the session of the Senate on June 24, 2013, at 5:30 p.m.

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

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. LEAHY. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet during the session of the Senate on June 24, 2013, at 3 p.m. to conduct a hearing entitled ''Curbing Prescription Drug Abuse in Medicare.''

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

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. LEAHY. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet during the session of the Senate on June 24, 2013 at approximately 5:30 p.m.

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

The PRESIDING OFFICER. The majority leader.

## WORLD REFUGEE DAY

Mr. REID. I ask unanimous consent to proceed to S. Res. 184.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The bill clerk read as follows:

A resolution (S. Res. 184) recognizing refugee women and girls on World Refugee Day.

There being no objection, the Senate proceeded to consider the resolution.

Mr. REID. I ask unanimous consent the resolution be agreed to, the preamble be agreed to, the motions to reconsider be considered made and laid on the table, with no intervening action or debate.

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

The resolution (S. Res. 184) was agreed to.

The preamble was agreed to.

(The resolution, with its preamble, is printed in today's RECORD under ''Submitted Resolutions.'')

## AUTHORIZING LEGAL COUNSEL

Mr. REID. Mr. President, I ask unanimous consent we now proceed to S. Res. 185.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The bill clerk read as follows:

A resolution (S. Res. 185) to authorize representation by the Senate legal counsel in the case of R. Wayne Patterson v. United States Senate, et al.

There being no objection, the Senate proceeded to consider the resolution.

Mr. REID. Mr. President, this resolution concerns a pro se civil action filed in California Federal District Court against the Senate, the Vice President, and the Parliamentarian of the Senate. Plaintiff claims that the Senate cloture rule is unconstitutional.

This lawsuit, like previous suits challenging the cloture rule, is subject to jurisdictional defenses requiring dismissal. This resolution would authorize the Senate Legal Counsel to represent the Senate, the Vice President, and the Senate Parliamentarian to seek dismissal of this suit.

Mr. President, I ask unanimous consent the resolution be agreed to, the preamble be agreed to, the motions to reconsider be considered made and laid on the table, with no intervening action or debate.

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

The resolution (S. Res. 185) was agreed to.

The preamble was agreed to.

(The resolution, with its preamble, is printed in today's RECORD under ''Submitted Resolutions.'')

## ORDERS FOR TUESDAY, JUNE 25, 2013

Mr. REID. Mr. President, I now ask unanimous consent that when the Senate completes its business today, it adjourn until 10 a.m. tomorrow, Tuesday, June 25; 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 for their use later in the day; that following any leader remarks, the Senate be in a period of morning business for 1 hour with Senators permitted to speak therein for up to 10 minutes each, with the time equally divided and controlled between the two leaders or their designees, with the majority controlling the first half and the Republicans controlling the final; and that following morning business, the Senate resume consideration of S. 744, the comprehensive immigration reform bill; that the filing deadline for first-degree amendments to the committee-reported substitute and the bill be at 12 p.m. tomorrow; further, that the Senate recess from 12:30 p.m. until 2:15 p.m. to allow for the weekly caucus meetings; and all time during adjournment, recess, morning business, and executive session count toward postcloture on the Leahy amendment, No. 1183, as modified.

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

## ORDER FOR ADJOURNMENT

Mr. REID. If there is no further business to come before the Senate, I ask unanimous consent that it adjourn under the previous order following the remarks of Mr. PORTMAN.

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

## IMMIGRATION REFORM

Mr. PORTMAN. Mr. President, I rise today to talk about the immigration bill that is before the Senate this week. We just had a vote on the Corker-Hoeven amendment. I wish to talk about why it is so important to fix our broken immigration system, but also about a critical issue that I believe has to be addressed in order for the proposed reforms to work.

I wish to begin by acknowledging the hard work of a number of my colleagues, including four Republicans and four Democrats who came together and spent months negotiating the bill we are now considering. They showed a lot of courage in addressing a tough issue. It is a tough issue politically, and it is a difficult issue in terms of the policies.

I also wish to recognize Senators Hoeven and Corker who offered that amendment today. The changes they made in that amendment are a step in the right direction because they provide more enforcement for immigration laws, and we have to guarantee there is meaningful enforcement that is coupled with any legal status for people who are now living in the shadows. I think that enforcement must include strong border protections. That was talked about a lot on the floor today.

It also has to include enforcement of the visa system so an entry-exit system for visas is effective. Finally, it has to include workplace enforcement.

In my view, the enforcement policies in the underlying bill and in the amendment we just voted on are still insufficient to ensure that we ultimately resolve our illegal immigration crisis. Much of the debate over the past week has been about border security, and the most significant provisions in today's amendment are focused on the border. So much so it was described today as being a border surge—employing an additional 20,000 Border Patrol agents and completing 700 miles of fencing that will no doubt make it harder for people to cross the southern border illegally.

Again, I think it is important we have a secure border. But, in reality, no matter how many miles of fence we build and no matter how many agents we station along the border, I truly believe people will continue to come to this country illegally as long as they believe America offers them a better life and a better job.

As we see on subsections of the border where fences have already been constructed, determined people find ways to go under, over, and around it. Some go around those parts of the border altogether to enter our country through a coastline or other less secure parts of the border. We also have to acknowledge that even if we were to prevent every single unauthorized entry at the border, such enforcement would not solve the problem of illegal immigration. Why? Because we are told that 40 percent of those here illegally are visa overstays. In other words, they came legally. They didn't come illegally across the border; they came legally and they have overstayed. They never tumbled a border fence or evaded a Border Patrol agent; instead, they came here legally and simply overstayed their visas.

Having a secure border is important for our immigration system, as I have said. It is also important because of the illegal drug traffic, because of the concern about terrorists coming over our border. So I do support having a more secure border, but I do not think it is sufficient.

Today I want to talk about an issue I think should receive more attention. It has received a lot less than border security over the past few weeks, as we have talked about this legislation. But I think it is even more important to the ultimate success of comprehensive immigration reform, and it is about turning off the jobs magnet—the jobs magnet for those who come here illegally for a better way of life and a better job. It is about effective enforcement of the workplace that I think is absolutely essential to bringing people out of the shadows and to preventing future flows of illegal immigration.

The only way to do that at the workplace is through effective employment verification—a topic that has received little attention during our debate thus far, an area where I believe the current bill and the amendment we voted on tonight fall short.

Policy efforts to eliminate this jobs magnet have been part of the discussion about immigration for decades. Yet our current employment enforcement system has failed to stem the tide of unauthorized workers. I am pleased the underlying bill would mandate the use of an electronic employment verification system called E-Verify. But the bill does little to address the inadequacies of the E-Verify system itself, including the widespread use of false documents.

An effective employment verification system must first verify authorization to work by connecting a worker's name and biographical information to a legal status, and then, second, it has to ensure the worker is who he or she says he or she is—in other words, connecting an individual to a specific name and identity record.

The goal of E-Verify should be to provide for a simple, reliable way for employers to confirm a new employee's work eligibility and to identify that person to prevent illegal immigrants from getting jobs in this country. Until we do that, and deal with the magnet, I do not think we are going to be able to get the kind of enforcement we need.

The current voluntary E-Verify pilot program—this is the pilot program that is out there now that is mandatory in the underlying legislation, but in the pilot program, there is a way to reliably verify authorization to work. I think that actually is fairly effective. But where it has not been successful is in authenticating a worker's identity because it lacks a universal and secure system of verification. The best recent study of the E-Verify pilot, by the way, shows that 55 percent—54 percent—of unauthorized workers are getting through the system. In other words, more than half of those who are here illegally, processed through the E-Verify system, are erroneously found to be eligible for work. The reason is straightforward: Many unauthorized workers obtain employment by committing identity fraud that cannot be detected by E-Verify. So my primary focus over the past few weeks has been on working constructively to develop a bipartisan E-Verify amendment to strengthen the employment verification provisions in S. 744 to help curtail the widespread unauthorized employment that fuels most illegal immigration.

Along with my colleague from Montana Senator TESTER, I have submitted an amendment today that strengthens E-Verify in five key respects—first, by enhancing protections against Social Security number fraud and identity theft.

A critical challenge in implementing mandatory E-Verify throughout the country will be combating the fraudulent use of other people's identities in seeking employment authorization. S. 744 seeks to address this challenge by allowing individuals to lock their Social Security numbers for purposes of E-Verify and requiring audits of suspicious E-Verify activities.

The amendment also requires the Social Security Administration to include in all of our annual statements we get from Social Security information about all E-Verify queries that have been placed during that year and for us to have a toll-free telephone number to be able to call folks if there has been a misuse of that number. This will allow us to be on guard against unauthorized workers fraudulently using our personal information to seek and obtain work.

Our amendment also requires the Department of Homeland Security to notify individuals when they identify suspected Social Security number fraud in the E-Verify system.

The amendment also allows the Department of Homeland Security to build on successful pilots programs in Florida and Mississippi to allow E-Verify to validate drivers' licenses and State-issued ID cards with information provided by the State motor vehicle administrations. This step is critical to stopping the pervasive use of fake drivers' licenses in the E-Verify process. But in doing so, we must also protect personal privacy, so the Portman-Tester amendment prohibits DHS from maintaining this information in a Federal database or transmitting that information except for the purposes of E-Verify.

Our amendment also requires regular referrals from the U.S. Citizenship and Immigration Services, USCIS, to Immigration and Customs Enforcement, ICE, identifying fraudulent Social Security number use and fake documents presented during the E-Verify process for investigation and appropriate enforcement action. And it provides for DHS outreach and training to assist employers in preventing identity fraud and strengthening hiring practices. Only with all these tools and efforts can we expect to curtail the widespread use of identity fraud and help prevent unauthorized employment.

The second focus of our amendment is to strengthen the identity authentication aspects of E-Verify and ensure that the system includes robust data privacy protections.

To improve the accuracy of E-Verify, the underlying bill expands the use of a new photo-matching process called Photo Tool, which enables employers to match a new employee's photo ID with a digital E-Verify image. Currently, photo matching is limited to documents for which there is a verified photo in the E-Verify system. Unfortunately, for more than 60 percent of us—60 percent of Americans—there is no such data in a file because we do not have a passport, we do not have an immigration document. The bill, therefore, relies on States to give the Department of Homeland Security access to drivers' license photos. But based on our experience with the REAL ID Act

of 2005, very few States are likely to comply.

There is no assurance that all or even most States will voluntarily participate in this kind of a program. So while the underlying bill provides some funding and grants to ease State compliance, we believe the amount they provide may understate the cost to most States.

To help make Photo Tool actually work, our amendment doubles the available grant moneys for States that share department of motor vehicle information and photos, and it ensures the States are fully reimbursed for whatever their actual compliance and participation costs are, providing incentives for States to participate. It also clarifies that Photo Tool will be fully integrated into the E-Verify system and that it must be implemented in time for the rollout of the mandatory E-Verify throughout the country. So it brings Photo Match into the E-Verify system to provide for better enforcement at a time when some workers are going to be provided a legal status.

Senator TESTER and I want to be sure the bill's Photo Tool provisions do not lead to the establishment of a Federal database containing additional personal information and photographs of individual Americans. In fact, this will be another thing that is important to States because many States will only participate if assured the data they share will not be misused. So our amendment provides robust data privacy protections, one, clarifying that Photo Tool will be implemented so that E-Verify ''pings'' State DMV databases with individual queries rather than storing such State-provided information—so only when there is an individual request do they ping the DMV, and the DMV provides the photo; two, providing that the State DMV images and information may not be collected, may not be stored, may not be used for any other purpose other than for E-Verify, and may not be disseminated in any way beyond a response to an individual Photo-Tool query; and, three, providing for periodic DHS audits to ensure that the Photo Tool data is not being collected, stored, or improperly disseminated.

To make E-Verify work, we have to be certain employers are able to authenticate the true identify of new hires accurately, quickly, and easily. But in doing so through methods such as Photo Tool match, we must protect privacy and safeguard personal information. We have done that in this amendment.

The third way our amendment strengthens E-Verify is by enhancing additional security measures for identity verification. For new employees whose identity cannot be verified using Photo Tool, which we talked about, the underlying bill provides for the Secretary of Homeland Security to develop ''additional security measures'' designed to authenticate identity. But there is no specified timeframe for implementation and little or no guidance in the way of standards for these additional security measures.

Our amendment clarifies that the additional security measures must be integrated into the E-Verify system for workers who present a document without a corresponding Photo Tool image, that the timing of their implementation is tied to the rollout of mandatory E-Verify, and that failure to verify an identity with the additional security measures results in what is called a Further Action Notice in the E-Verify process, allowing employees to appeal through the established appeals process, where they have to prove they are authorized to work.

Our amendment also specifies standards for design and operation of the additional security measures that are provided to include state-of-the-art technology structured to provide prompt determinations and minimize employer and employee burdens. These specifications are designed to safeguard employee privacy and maximize the accuracy and efficiency of identity determinations. And the amendment permits employers to choose, with advance notice to DHS, to use the additional authentication measures on all new hires rather than only in cases where no digital image is available for a Photo Tool match. For a number of employers that is important.

A fourth section of our amendment clarifies protections for employers who seek to comply with E-Verify procedures in good faith. The underlying bill mandates nationwide rollout of E-Verify and also increases employer sanctions—penalties for employers who do not comply with the mandated employment verification process. The bill's provisions seek to ensure that employers will not engage in unfair immigration-related employment practices, expanding both the grounds and penalties for such practices.

Employers will therefore face the often challenging task of ensuring compliance with these new employment verification obligations while simultaneously avoiding an expanded set of unfair immigration-related employment practices.

Our amendment simply provides that there is a safe harbor, a safe harbor protection to employers that comply in good faith with the requirements of the mandatory employment verification system. The amendment provides that the government must demonstrate by clear and convincing evidence that the employer had knowingly hired an unauthorized worker and employers that take reasonable steps in good faith to avoid unfair immigration-related employment practices are not subject to liability. Again, it is very important for employers to have this be a simple system and one where, if they follow the rules, they have a safe harbor.

Finally, our amendment expedites the E-Verify mandatory rollout to American employers, while preserving the full 5-year timeline for the smallest businesses to make sure we begin rigorous enforcement efforts at the same time millions of current illegal immigrants begin to shift to a legal status.

Our amendment ensures that most American jobs are covered by E-Verify as soon as it is feasible, applying to large employers as early as 2 years after enactment, which is speeding up and expediting the coverage of E-Verify. It includes a new strengthened trigger to ensure timely and full implementation of mandatory E-Verify to all employers, including integrated Photo Tool and additional security measures prior to any adjustment to green card status. So it also has a stronger, more comprehensive trigger.

In each of these ways, this amendment presents an opportunity for this Senate to put forth good policy that will make a real difference if implemented. The amendment's provisions were drafted with input from both Republicans and Democrats. They are the product of a lot of negotiations regarding business groups, labor interests. They were developed and vetted in consultation with the administration and the officials who will actually be tasked with developing and implementing this new system of mandatory employment verification.

I am pleased Senator TESTER has joined me in this effort. I know the provisions in our amendment enjoy broad bipartisan support in this Chamber and I think across the Nation. There is a recent poll, for instance, that showed that 82 percent of likely voters think businesses should be required to use E-Verify to determine if a new employee is legal.

The question before this body is a simple one: Will our comprehensive immigration reforms include serious, meaningful, and effective E-Verify provisions that along with the border security measures will actually stem the tide of illegal immigration or will we fail to eliminate the jobs magnet that makes it harder to bring people out of the shadows and continue to provide a strong incentive for people to come here illegally.

Today, I am simply asking for a debate and a vote on this critical amendment. My request does not have a political motivation. It is not about whether I support the legislation, although I will not be able to support it without it. It is about making this reform work. If this amendment is not adopted, I do not believe the reforms are going to work, and thus I would not be in a position to support final passage.

I was there during the immigration commission that came up with the proposals that led to the 1986 law, which was the last comprehensive effort that Congress made to overhaul our immigration system. I was a young staffer on what was called the Select Commission on Immigration and Refugee Policy. I spent 2 years there working on

these issues and have followed them since and have been involved in immigration policy both in the Congress and in the administration since then.

But back in 1986, I saw the work that went into crafting that legislation and the hope it gave everyone that we were actually going to solve the problem of illegal immigration. Then I saw those hopes dashed, as the reforms failed to work. They failed to address illegal immigration, in part, because they did not effectively implement the workplace enforcement provisions, despite, by the way, strong recommendations from the Commission on which I served. Congress simply—and the administration—subsequently did not implement the kinds of employer sanctions at the time and the kind of enforcement at the workplace that was necessary.

Therefore, they left intact that jobs magnet that has driven so many to come here illegally in the past decades since. I do not want to see a repeat of that failure. That is why I cannot support the legislation without these changes.

We have before us a historic opportunity. We have a real chance to fix this broken system and help curtail illegal immigration. It goes without saying that in the world of partisan politics, such opportunities are pretty rare. Time and again, we have seen reform efforts held hostage by politics. During the last few weeks, we have been reminded once again how difficult it is to achieve consensus on issues relating to immigration reform.

But this system is broken, the legal system and the illegal system. So we ought to take this opportunity to fix it, but we have to really fix it. It is our responsibility to ensure that the reform legislation passed by the Senate includes policies that will actually work. We are not operating in a vacuum. Not only are the people of this country watching us, but the House of Representatives is watching too.

To ensure that effective workplace enforcement provisions actually become law, E-Verify must be prominent in our efforts and central to our debate. We must make certain the House understands that a more effective E-Verify is perhaps the most crucial element of successful reform and that real workplace enforcement remains a priority during their deliberations, as well as an eventual conference between the House and Senate to work out a final package.

A separate debate and a vote on this amendment is essential to sending that strong message to the House. They need to know one way or the other whether there is strong bipartisan support for E-Verify. I believe there will be. I believe, therefore, that maximizes the chance of it being in the final product. Politically, if supporters want this legislation to have a chance at passing the House and becoming law, we have to make sure it is focused on preventing new illegal immigration as much as it is on adjusting the status of those currently living in the shadows. I do not see how we can make that claim if E-Verify is not strengthened, if it is included only in passing, if turning off the jobs magnet is treated as an afterthought.

That is the sort of thinking that doomed the 1986 reform. It is this sort of approach that may doom this reform before it has even had a chance to be enacted. I am certain everyone engaged in this debate has the best of intentions, but we have to ensure those intentions do not lead us down a path that we repeat the mistakes of 1986.

That is why we have to have a vote on this amendment. The Portman-Tester E-Verify strengthening amendment is critical to the success of this bill. I would like to be able to support reform of a broken immigration system. An immigration system that invites the best and brightest to come to our shores and seek a better life is what this country is all about. It is part of our promise. It is one of the reasons the United States has long been called a beacon of hope and opportunity for the rest of the world.

But I have given assurances to my constituents, the same assurances I know many in this Chamber have made; that is, that I cannot vote for this legislation unless I am convinced it will work. I cannot support reform that does not adequately address the problem of illegal immigration and provides adequate enforcement; at the border, yes, but also at the workplace. Without a stronger E-Verify system, I am convinced this legislation will ultimately fail.

I know many of my colleagues feel the same way. That is why I believe if this amendment were brought up for a vote, it would not only pass, but it would pass with a strong bipartisan vote. I am simply asking for that vote. Let's make strong and effective E-Verify part of immigration reform. Let's accomplish something of which we can be proud, something that fixes the problem this country has struggled with for decades, something we can hold up to the American people of how Washington is supposed to work, as proof the Republicans and Democrats, working together with mutual respect and in a bipartisan fashion, can achieve meaningful results.

That is what this amendment is all about. I certainly hope it can become part of this legislation.

I yield the floor.

## ADJOURNMENT UNTIL 10 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands adjourned until 10 a.m. tomorrow.

Thereupon, the Senate, at 7:44 p.m., adjourned until Tuesday, June 25, 2013, at 10 a.m.

## NOMINATIONS

Executive nominations received by the Senate:

### CORPORATION FOR PUBLIC BROADCASTING

LORETTA CHERYL SUTLIFF, OF NEVADA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CORPORATION FOR PUBLIC BROADCASTING FOR A TERM EXPIRING JANUARY 31, 2018. (REAPPOINTMENT)

### FEDERAL TRADE COMMISSION

TERRELL MCSWEENY, OF THE DISTRICT OF COLUMBIA, TO BE A FEDERAL TRADE COMMISSIONER FOR THE UNEXPIRED TERM OF SEVEN YEARS FROM SEPTEMBER 26, 2010, VICE JON D. LEIBOWITZ, RESIGNED.

### DEPARTMENT OF STATE

DENISE CAMPBELL BAUER, OF CALIFORNIA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO BELGIUM.

MORRELL JOHN BERRY, OF MARYLAND, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO AUSTRALIA.

JAMES WALTER BREWSTER, JR., OF ILLINOIS, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE DOMINICAN REPUBLIC.

REUBEN EARL BRIGETY, II, OF FLORIDA, TO BE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE AFRICAN UNION, WITH THE RANK AND STATUS OF AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY.

DANIEL A. CLUNE, 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 LAO PEOPLE'S DEMOCRATIC REPUBLIC.

DAVID HALE, OF NEW JERSEY, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER–COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF LEBANON.

MICHAEL A. HAMMER, OF THE DISTRICT OF COLUMBIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER–COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF CHILE.

TERENCE PATRICK MCCULLEY, OF WASHINGTON, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER–COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF COTE D'IVOIRE.

BRIAN A. NICHOLS, OF RHODE ISLAND, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER–COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF PERU.

DAVID D. PEARCE, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF CAREER MINISTER, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO GREECE.

LINDA THOMAS–GREENFIELD, OF LOUISIANA, TO BE AN ASSISTANT SECRETARY OF STATE (AFRICAN AFFAIRS), VICE JOHNNIE CARSON.

### FEDERAL ELECTION COMMISSION

ANN MILLER RAVEL, OF CALIFORNIA, TO BE A MEMBER OF THE FEDERAL ELECTION COMMISSION FOR A TERM EXPIRING APRIL 30, 2017, VICE CYNTHIA L. BAUERLY, RESIGNED.

LEE E. GOODMAN, OF VIRGINIA, TO BE A MEMBER OF THE FEDERAL ELECTION COMMISSION FOR A TERM EXPIRING APRIL 30, 2015, VICE DONALD F. MCGAHN, TERM EXPIRED.

### DEPARTMENT OF DEFENSE

JON T. RYMER, OF TENNESSEE, TO BE INSPECTOR GENERAL, DEPARTMENT OF DEFENSE, VICE GORDON S. HEDDELL, RESIGNED.

### FOREIGN SERVICE

THE FOLLOWING–NAMED PERSONS OF THE DEPARTMENT OF COMMERCE FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF THE CLASSES STATED.

FOR APPOINTMENT AS FOREIGN SERVICE OFFICER OF CLASS THREE, CONSULAR OFFICER AND SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

SCOTT THOMAS BRUNS, OF THE DISTRICT OF COLUMBIA
KEENTON CHIANG, OF CALIFORNIA
ALFRED LANDON LOOMIS, OF LOUISIANA
MIGUEL A. HERNANDEZ, OF CALIFORNIA
HENLEY K. JONES, OF FLORIDA

FOR APPOINTMENT AS FOREIGN SERVICE OFFICER OF CLASS FOUR, CONSULAR OFFICER AND SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

NICOLE DESILVIS, OF PENNSYLVANIA
KENNETH WALSH, OF MISSOURI

THE FOLLOWING–NAMED PERSONS TO BE CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

FRED AZIZ, OF VIRGINIA
JOEL BLANK, OF THE DISTRICT OF COLUMBIA
TIMOTHY BROWNING, OF VIRGINIA
DAWN BRUNO, OF NEW YORK
JOSEPH CARREIRO, OF VIRGINIA
CALLIE H. CONROY, OF MARYLAND
THOMAS MUENZBERG, OF COLORADO
PAUL OLIVA, OF CALIFORNIA
WILLIAM QUIGLEY, OF THE DISTRICT OF COLUMBIA
MICHAEL ROGERS, OF MICHIGAN
ARTHUR ROY, OF CALIFORNIA
AISHA SALEM, OF FLORIDA

NATHALIE SCHARF, OF KANSAS
NATHAN SEIFERT, OF UTAH
REBECCA TORRES, OF FLORIDA
JANELLE WEYEK, OF WISCONSIN

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. MICHAEL S. TUCKER

THE FOLLOWING NAMED OFFICER FOR REAPPOINTMENT AS THE CHAIRMAN OF THE JOINT CHIEFS OF STAFF AND APPOINTMENT TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTIONS 152 AND 601:

*To be general*

GEN. MARTIN E. DEMPSEY

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR REAPPOINTMENT AS THE VICE CHAIRMAN OF THE JOINT CHIEFS OF STAFF AND APPOINTMENT TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTIONS 601 AND 154:

*To be admiral*

ADM. JAMES A. WINNEFELD, JR.

IN THE ARMY

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

*To be colonel*

JOSEPH L. BIEHLER
BRIAN T. CONNELLY
ZANE A. LANCE
BIENVENIDO SERRANOCASTRO

IN THE NAVY

THE FOLLOWING NAMED INDIVIDUAL FOR APPOINTMENT TO THE GRADE INDICATED IN THE REGULAR NAVY UNDER TITLE 10, U.S.C., SECTION 531:

*To be commander*

JACKIE S. FANTES